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HOUSE OF REPRESENTATIVES—*Tuesday, March 30, 2004*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. CHOCOLA).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 30, 2004.

I hereby appoint the Honorable CHRIS CHOCOLA to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of March 29, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 25 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes each, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Ohio (Mr. BROWN) for 5 minutes.

CRANE-RANGEL PROVIDES INCENTIVES TO KEEP MANUFACTURING IN U.S.

Mr. BROWN of Ohio. Mr. Speaker, last week, Vice President CHENEY was in Dayton, Ohio, to try to argue for the President's economic budget plan, to try to justify the economic devastation that his administration's policies have wreaked on the American people. In Ohio alone, one out of six manufacturing jobs has simply disappeared since President Bush took office; 300,000 jobs have been lost in my home State of Ohio. That is 2,000 jobs a week have vanished; that is 260 jobs every single day in Ohio, jobs that have been lost every single day of the Bush administration.

Now, I wish that Vice President CHENEY had been with me earlier this month. I was speaking to the Akron machine shop owners and operators; and before I spoke to this group, about 60 men and women who own small tool and die, fabricating machine shops, companies of 5 to 200 employees, a gentleman walked forward and handed me this stack of leaflets, pamphlets, and flyers. I did not initially know what they were. He explained, these are auctions, going-out-of-business, fire-sale equipment sales at plants all over the United States. For instance, auction, family facility closed, Medina, Ohio. Absolute auction, Cuyehoga Falls, no minimums, no reserves, high dollar buys regardless of price. Another going out, complete shop closeout auction, Marion, Ohio. High-tech manufacturing plant closing, Chicago, Illinois. Large capacity fabricating machine shop closing, Hingham, Massachusetts. Two complete stamping machine tool shops going out of business, 2-day auction, Northbrook, Illinois. Precision CNC Job Shop, Scottsboro, Alabama.

The problem is, Mr. Speaker, I do not think President Bush and Vice President CHENEY, I just do not think they see this. I think that the people who run our government seem so out of touch with what is happening to manufacturing in this country, what is happening to employment in this country, what is happening to our economy. Every time they hear bad economic news, they have two answers. One is tax cuts for the most privileged in society with the hope that some of it will trickle down to the rest of society, and the other answer is trade agreements, more North American free trade agreements, NAFTA-like trade agreements that continue to ship jobs overseas, that continue to hemorrhage manufacturing jobs in this country.

From the President and Vice President, that is always the response. It is tax cuts, trickle down economics, tax cuts for the most privileged, and trade agreements that ship jobs overseas. But now there seems to be a third answer that some Republican legislative leaders have brought forth.

I would cite from CNN. Paula Zahn asked the question of one Republican leader, saying, Why have 2.5 million jobs been lost during the Bush administration; and this Republican leader said, Well, Paula, in this 21st-century economy, jobs that are not reflected in the establishment payroll survey take on different forms. Then he went on to say, this is a leader in the Republican Party in the House, There are 430,000 Americans who make their full-time living selling on eBay.

That is not in any way reflected in the numbers.

So the Bush administration's answer has been tax cuts for the most privileged and trickle down economics, trade agreements, and now I guess they are saying that jobs on eBay are making a difference. I do not think those jobs are paying health care benefits. I do not think those jobs are the kind of jobs that we want to build our economy on.

Unfortunately, Mr. Speaker, the leaders in this government are so out of touch with economic reality in this country, instead of tax cuts for the most privileged and trickle down economics, instead of trade agreements that ship jobs overseas, instead of relying on eBay as an engine of economic growth, this Congress needs to pass the bipartisan Crane-Rangel bill. It rewards those companies with tax incentives who manufacture in the United States and, at the same time that, in essence, penalizes those companies that ship jobs overseas, those companies that move offshore to the Bahamas, continue to get government contracts, and avoid taxes in the United States; those companies like Halliburton, which get billions of dollars in unbid contracts, yet end up oftentimes with their subsidiary avoiding taxes, while continuing to pay the Vice President of the United States $3,000 a week. That is not good economic policy. Our incentives should be given to those companies that manufacture in the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

United States, that provide jobs for American workers, not the kind of plans that the President of the United States has thrust on the American people.

Mr. Speaker, this job loss, this erosion of our manufacturing base must be turned around, not with old tired solutions, but with aggressive incentives to keep manufacturing in this country.

NEGLECT OF NATION'S FINANCES THREATENS AMERICA

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, this year we celebrate Abraham Lincoln's 195th birthday. In his famous address at Gettysburg, he noted that "our fathers brought forth on this continent a new Nation conceived in liberty and dedicated to the proposition that all men are created equal." The Civil War was "testing whether that Nation, our Nation or any Nation so conceived and so dedicated can long endure."

Now, that challenge is with us. Today, we face a threat to the country that may well be as serious. It lies not in the dramatic clash of arms, but in neglect of our Nation's finances, especially our long-term finances.

Voters vote for benefits, and politicians promise them without knowing how to pay for it. Just 4 months ago, Congress voted for a prescription drug benefit that adds $16 trillion to the program's unfunded liability. That is over two times our total national entire debt, and it was done mostly for short-term political gain with little reform of the underlying program. There is now a call from some Members proclaiming that the budget we are now working on for 2005 that is actually twice an increase in government, twice the rate of inflation is not enough and we should have more spending to increase taxes eventually. There are very few in Congress who are willing to resist the continual pressure to spend; and I think part of that, Mr. Speaker, is because of the fact that most citizens today now pay less in income tax than they get from government services, so it is easy to ask for more.

From the founding of this country, it took until 1975 to amass a debt of $500 billion. Unfortunately, we are now adding more debt to our books every year than we did over the first 199-year history of this country. The deficit for fiscal year 2003 was $536 billion, $631 billion this year, and another $534 billion expected for next year. We have never run a deficit this high, and we need to take decisive action in this budget to address our overspending.

This kind of spending means that higher taxes are coming, maybe not in the next year or two, but eventually. The same Congress that could not bring itself to add a few real reforms to Medicare in a gigantic benefit expansion bill is not likely to cut benefits to the degree necessary to head off financial crisis until the disaster is on us.

I take some comfort from a new willingness among many members of the Republican Conference to tighten our line on spending. Though some Members expressed concern about cuts in an election year, a strong majority have insisted that we reduce spending. There is general cooperation and agreement that we should spend less, not tax more, and we will see if that determination translates into effective spending restraint.

Joining with colleagues who share our concern about government overspending, we will reimpose discretionary spending caps which were in effect from the early 1980s through the surplus period of the late 1990s. It is important, Mr. Speaker, that Congress work hard to cut out unnecessary waste and abuse. We also need to make very hard decisions to prioritize spending.

Another aspect of the solution, I think, is improving the honesty of government accounting. I have a bill to require the CBO and the OMB to include unfunded liabilities in their budget projections. This unfunded liability is now projected to be $71 trillion, $71 trillion that our kids and our grandkids are eventually going to have to finance, pay the interest on, and start paying it back.

Some people have said that we should not worry so much about unfunded liability because it can be wiped out by reforms, but Congress has shown little political will to deal with the problem. Perhaps making it more visible will help bring about some of the reforms that will be necessary to come to grips with the problem.

Congress and the President can redeem their record on spending to a large degree if they push hard for Social Security reform. It would be nice to do it before the election. Maybe we can do it after the election, but it remains to be seen whether we will take on that fight. It will be a fight because steeply progressive taxes and big government have combined to form a powerful electoral block. Here, again, the bottom 50 percent of earners now pay virtually no income tax and, therefore, have little will.

Empires decline when they fail to act on fundamental problems, and I wonder at times if we are not too distracted by the endless scandals and the horse race politics of our media culture to grab what is best for our country.

REAUTHORIZATION OF SURFACE TRANSPORTATION ACT

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, this week, the House will be considering the most important economic and environmental bill of this session. It is the reauthorization of the Surface Transportation Act.

It has been fascinating to watch the broadest coalition in memory be assembled in support of this important legislation to rightsize our investment in America's transportation system. This coalition ranges from the Sierra Club to the chamber of commerce, from the bicyclists to the truckers, people who lay down asphalt to those who care about historic preservation, all are on record as supporting an investment that is rightsized for America's future.

The number that has been identified by the administration from the Department of Transportation is on the order of magnitude of $375 billion over the next 6 years. It does not appear, sadly, as though this House is going to be able to consider an appropriately sized piece of legislation to meet those needs. The bill that is coming forward is at $275 billion. Our colleagues in the Senate passed overwhelmingly a proposal for $318 billion.

It is important not to fixate just on the amount of money, although that is not insignificant. What we want to do is make it so that it is appropriate for the needs that America has now.

These are jobs that are not going to be outsourced to India or China. There are between 20,000 and 50,000 jobs that are created for each billion dollars of investment. And this is an investment that has a huge return beyond simply family-wage jobs. Each dollar that is invested back in our communities under this legislation will be investing in rebuilding America's crumbling bridges. It will be revitalizing streets. It will be enhancing the environment.

The framework of these choices for American communities will inspire other private investment that will significantly enhance the Federal money.

This legislation has a number of innovations that give more choices to States and localities.

☐ 0915

One is a "Small Starts" project for transit that can be commuter rail, streetcar, or bus rapid transit to be able to allow communities to have more cost-effective, simple, direct investments that can revitalize neighborhoods. After all, most American cities were built up around streetcar and urban electric systems in the past.

This will be the best bill in history for cycling, in no small measure due to the efforts of the ranking member, the gentleman from Minnesota (Mr. OBERSTAR). There is a program for safe routes to schools so our children can bike and walk to school safely at a time when we are concerned about morbidly obese junior high students. The fact that most communities are finding fewer and fewer children can get to school safely on their own, these will be welcome additions indeed.

This is the time for the House of Representatives to do its job. We need to send a clear signal that we support investing in America's transportation future. We need to make sure that we protect the basic framework of the ISTEA legislation so that it enhances the choices that communities have and provides incentives to properly plan it.

It is important that we think of this as the beginning of the reauthorization for TEA–4 because this framework is going to provide a floor. It is going to provide direction not just for this next 6-year reauthorization but it will be the framework to launch what happens in the subsequent reauthorizations as well. We do not want to be 6 years from now in the place where we have an administration that is threatening to veto even a modestly sized piece of legislation for America's future.

I urge my colleagues to support a motion to recommit this bill to establish the $318 billion threshold the same as the Senate. I look forward to a debate this week that will help move America's economic and environmental program forward.

REQUIRE OPEC TO FOLLOW THE LAW

The SPEAKER pro tempore (Mr. CHOCOLA). Pursuant to the order of the House of January 20, 2004, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, tomorrow the OPEC nations will meet to seal the deal on their collusion to restrict production of oil and drive up the price, damaging the U.S. economy, devastating U.S. consumers and other countries around the world.

Now, the Bush administration thus far has taken no action. Perhaps not too strange when you read about the long-enduring links between the Bush family and the rulers of Saudi Arabia, but still I would think in an election year we could at least get some modicum of action out of this administration.

Now Energy Secretary Abraham recently said the U.S. is not going to beg OPEC for oil. I agree. We should not beg. We should make them follow the law. This is an administration that is so big on the WTO and rules-based trade. I opposed the WTO. But when you are stuck in it, like we are, you ought to at least then use the rules that would be to the advantage of your people and your economy.

And the rules, there are rules in OPEC that prohibit what is being done in the WTO by the OPEC countries. There are 11 OPEC countries, six are members of the WTO, and two have applied to join. Therefore, since they are violating the rules of the WTO, the Bush administration should file a complaint.

It is quite easy to read. Article 11. "No prohibitions or restrictions other than duties, taxes, or other charges whether made effective through quotas, import or export licenses or other measures shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party."

Now that is legalese, but the bottom line it says is what those OPEC countries who are members of the WTO are doing to collude, to restrict production, to drive up the price of oil, to price-gouge Americans, violates the rules; and the Bush administration should file a complaint in the WTO on that issue.

I corresponded with the Bush administration last year. They came back after 6 months and said, well, there is an exclusion for a conservation of exhaustible natural resources. Well, that is true, except nobody in OPEC alleges that they are conserving exhaustible natural resources. They are very up front about it. They are trying to drive up the price. There is no conservation ethic there.

So that exclusion does not apply, particularly since the rules go on to say, disguised restrictions on international trade are prohibited. That is what this is. It is not a conservation exception.

So the Bush administration could use its favorite entity, the WTO, which it frequently uses for multinational corporations to enhance their profits, to degrade consumer protections, labor protections. They could use it now to protect the American economy, American consumers against price-gouging. They are not doing that, and one has to wonder why. I think it is because so they are so tight with the oil industry.

People say, wait a minute. The oil industry is buying oil. No, the oil industry has all these special deals with the OPEC countries. If the OPEC countries make big headlines and say they are rising the price of oil by 4 bucks a barrel, the oil industry applauds. Because what they then do is at the pump they raise it effectively 8 bucks a barrel; and then when American consumers, they complain, they point to OPEC and say we cannot do anything about it. It is those OPECers. They raised it. They raised it.

Well, if you look at the profits of the oil industry, they are up, phenomenal, yet the Republicans are proposing an energy bill that would subsidize the oil, gas, and coal industries, all of whom are recognizing record profits. And they say that would be the solution.

Well, you are already subsidizing them by not taking action in the interest of the American people against the colluders, the price-fixers, at OPEC. There is no explanation for the inactivity of the Bush administration on this other than they are getting the support of that industry for their reelection. That is the only potential explanation of why they would abandon the American economy.

Because they are talking about the recovery is fragile, and it is just starting. Well, you heard from the gentleman from Ohio (Mr. BROWN) earlier on that. There is not much of a recovery for most Americans. There is some recovery in profits, but with the outsourcing of jobs there are no new jobs here in the United States. But now they are sticking it to consumers and the few businesses that we have left that are trying to produce goods to export and every other business that is based in this country through these extortionate gasoline prices and the Bush administration has done nothing, zero, nada, zilch. Not one thing, not one action has been taken.

They are buying oil at these extortionate prices to put in the reserve, and they will not do anything about the high price. So they are gouging both taxpayers and consumers. It is a twofer for the Bush administration.

THE BUDGET

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Illinois (Mr. EMANUEL) is recognized during morning hour debates for 5 minutes.

Mr. EMANUEL. Mr. Speaker, later this week the House is on the verge of passing a $2.3 trillion budget with a $500 billion deficit, showing that it is impossible to finance three wars with three tax cuts.

This budget repeats the same mistakes that have resulted in a jobless economy and a wage recession here in America, with the lowest growth in wages in a period of economic growth ever in American history.

This budget continues the status quo economy, an administration that refuses to budge and change its failed policies that have led to nearly 3 million Americans unemployed since it has taken office, 43 million Americans who are working without health care, 4 additional million since they have taken office, 2 million Americans who moved from the middle class to poverty, nearly $1 trillion worth of corporate individual bankruptcies and stagnant wages.

During the 2000 presidential campaign, President Bush declared that he opposed nation-building. Who knew it was America he was talking about. You would think if your results of your economic policies led to 3 or more million Americans without work, 43 million Americans without health insurance, $1 trillion dollars worth of foreclosed corporate assets, poverty rolls increasing, you would change direction. What are we about to do with this budget? Put our foot on the accelerator and do the same old thing that will result in the same policies.

In 3 years we have added $3 trillion to the Nation's deficit, and nearly 3 million Americans have lost their jobs. Three wars, three tax cuts, $500 billion in deficits. That has been the result of the economic policies of this administration; and this budget that we are going to vote on will continue the policies that have given America woefully inadequate services on health care, college education, jobs, retirement security, and also economic security.

This budget and the President's economic vision is really the tale of two budgets, one for America, one for Iraq. We have spent well over $100 billion on Iraq's occupation but without promising the same future that we are promising the Iraqi children and families.

Let us just go through it.

When we talk about universal health care in Iraq and free job training to Iraqis, 44 million Americans go without health insurance and 8.2 million Americans are without jobs.

In the area of health care, 2,200 Iraqi health officials are being trained by the United States, and 8,000 volunteers in Iraq are receiving free training. In America, under the budget being proposed, we have cut health training funds by 64 percent here at home.

One hundred fifty clinics and hospitals in Iraq have been rebuilt, serving 3 million Iraqis. One hundred percent prenatal and infant coverage in Iraq. In America, community health clinics cut by 91 percent. Maternal and Child Health Care, Healthy Start, family planning, all frozen resulting from cuts in those budgets.

In the area of jobs, in Iraq $60 million is being spent to train Iraqi veterans for past wars; and yet in this budget we gut veterans and veteran health care, resulting in every veterans organization opposing the budget we are going to vote on.

In the area of education in Iraq, we have built 2,300 schools for the Iraqi children but have underfunded Leave No Child Behind by $8 billion here at home. Iraqi universities are getting $20 million for higher ed partnerships. In America, we have cut $91 million from the Perkins loans and frozen Pell Grants for college education.

In the area of police and security, $470 billion is being spent, $500 billion is being spent for Iraqi police. Yet the COPS, Community Police Program, $659 million in this budget is cut from the police that we put on our streets here at home.

In the area of housing, $470 million is being spent for Iraq public housing. Yet we have cut in this budget that the President proposes and the Republicans are going to vote on $791 million from section 8 public housing vouchers.

In the area of environment, in Iraq, $3.6 billion in waters and sewer improvement; in America, a $500 million cut from the Clean Water State Revolving Fund that provides drinking water for every American.

In the area of ports, the Port of Umm Qasar in Iraq was completely rebuilt for economic development. The Army Corps of Engineers here in the United States, a 63 percent cut for port security upgrades.

Roads. We spent $240 million on roads and bridges for the Iraqi infrastructure, and yet mass transit here in the United States in the budget will be frozen.

As the President seeks reelection he will be running on a pledge that he kept. He was opposed to nation-building, and he has kept his pledge. The problem is he is opposed to nation-building here at home in America. We can do in it in Iraq, but we should not leave America behind.

MEDICARE

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Missouri (Mr. BLUNT) is recognized during morning hour debates for 5 minutes.

Mr. BLUNT. Mr. Speaker, I want to talk briefly this morning about what is happening with Medicare. We are approaching a time when seniors will have an option for the transitional card that allows them to have immediate help with their prescription drug benefits.

At CMS they are working right now on a plan where seniors will be able to call in, talk about the drugs that they personally are taking, and for that 18 months or so of transition receive the help that they initially can get as we are putting this first major change since 1965 of Medicare into place.

Seniors across the country have been waiting for too long for Medicare to cover life-saving prescription drugs, not the fault of this House which for three Congresses now has tried to solve this problem and has voted to solve this problem.

In 1965, when President Johnson signed Medicare into law, prescription drugs were not a big part of health care. In 2003, President Bush understood that they had become a big part of health care. The Congress understood that as well, and we have strengthened that program for millions of seniors to be able to rely on new coverage in the future.

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For the first time in Medicare's history, a prescription drug benefit will be offered to all 40 million seniors and disabled Americans to help them afford the cost of their medicines. No senior has to take this benefit, no senior has to make a choice about changing their Medicare if they do not want to, but this offer is available to all seniors and, again, available to all who have Medicare coverage because of a disability.

Americans of all ages can benefit from the creation of health savings accounts, which will give individuals more control over the cost of their health care and access to affordable, flexible coverage; and for the 888,126 beneficiaries in my State of Missouri who will have access to a Medicare prescription drug benefit for the first time in history, help is on the way.

In fact, 214,754 Missouri seniors will have drug coverage they otherwise would not have, and almost 270,000 beneficiaries in Missouri who have limited savings and low incomes, generally low income in that case would be for individuals with income below $12,123 a year or for couples with income below $16,232 a year, those individuals have even more benefits.

Initially, they get the card for free. They get $600 of credit toward their drug bill on the card that they will receive this year and another $600 next year. They will pay no premium when it comes time for the prescription drug coverage, if they opt to take that coverage; and they will be responsible only for a very small copayment, no more than $2 for generic drugs, $5 for brand-name drugs.

For people who have been struggling to pay for the drugs that their doctors told them they needed for their own health, this makes a huge difference in their ability now to have the kind of health care that they deserve, the kind of health care that is available, the kind of health care that will be covered under Medicare.

Mr. Speaker, all these numbers add up to savings. They add up to access to life-saving drugs. They add up to better health care for seniors of this country. This is a huge and important change.

I am pleased that this House could be part of it, that our friends on the other side of the building would join us and that the President signed this important legislation into law.

HONORING JOSEPH FORD

The SPEAKER pro tempore (Mr. CHOCOLA). Pursuant to the order of the House of January 20, 2004, the gentleman from New Hampshire (Mr. BRADLEY) is recognized during morning hour debates for 5 minutes.

Mr. BRADLEY of New Hampshire. Mr. Speaker, it is with a heavy heart that I rise today to pay tribute to the life and the memory of a great American, Mr. Joseph Ford. Following a brief illness, Joe passed away on March 16. His death, a loss to us all.

As the veterans community in New Hampshire and throughout the Nation celebrates the life of this exceptional person, I would like to take an opportunity to honor a beloved New Hampshire resident.

Joe served our country valiantly in the United States Air Force and retired after more than 20 years of service. Following his service, Joe became an active member of the New Hampshire chapter of the Disabled American Veterans and was to be installed as the next DAV commander at the State convention in June.

Recently, Joe received letters of encouragement and appreciation from President George W. Bush, Secretary of Defense Donald Rumsfeld, and New Hampshire Governor Craig Benson for his work within the veterans community.

Mr. Speaker, we are all at a great loss because of Joe Ford's passing, but can be comforted by knowing he made a lasting impact through his life's work. I am honored to bring his life to the attention of this body of Congress and to our Nation today.

My thoughts are with Joe's wife, Lillian; his two children, Paul and Mary; and all those who knew Joe, especially those throughout the veterans community during this difficult time of bereavement.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 35 minutes a.m.), the House stood in recess until 10 a.m. today.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, You speak to Your people through prophets and leaders as of old. Be with Your people now and guide the leaders of this government as You did in the days of Habakkuk, the prophet.

When the cry for help was raised, You did not seem to listen. When the shout of violence was heard in the streets, You seemed not to intervene. But then You, O Lord, answered and said through the prophet, "The vision still has its time. Press on to its fulfillment and it will not disappoint. The just man because of his faith shall live."

Help us never to lose vision which provides hope. The value of such faith does not depend on fulfillment of expectation, but gives power to transform the lives of the faithful, to wait, to work with faith both today and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mrs. BLACKBURN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. BLACKBURN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. THOMPSON) come forward and lead the House in the Pledge of Allegiance.

Mr. THOMPSON of California led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SALUTING CITIZENS OF PRINCE EDWARD COUNTY, VIRGINIA, ON THE 250TH ANNIVERSARY OF ITS FOUNDING

(Mr. GOODE asked and was given permission to address the House for 1 minute.)

Mr. GOODE. Mr. Speaker, Prince Edward County is marking the 250th anniversary of its founding on January 1, 1754, by act of the Virginia General Assembly. Prince Edward County played a vital role in the early days of the history of this Nation as an agricultural and major shipping distribution center.

Prince Edward County is the home to two premier institutions of higher learning, Hampden-Sydney College and Longwood University. Prince Edward County counts among its most honored natives two men who held governorships of other States, Henry Watkins Allen in Louisiana and Sterling Price in Missouri. Also, General Joseph E. Johnston of the Confederate Army is a native son as well as civil rights leader Dr. Vernon Johns; J. B. Fuqua, philanthropist; and the first African American United States Senator, Blanche K. Bruce; as well as Lieutenant General Sam V. Wilson, former president of Hampden-Sydney College.

Prince Edward County has also been called home by such noted persons as Virginia Governor Phillip McKinney; civil rights leader Reverend L. Francis Griffin; president of Tuskegee Institute, Robert Russa Moton; and medical researcher D. Walter Reed.

Prince Edward County also played a pivotal role in the civil rights movement of the 1950s as part of the Brown v. Board of Education suit.

In closing, I salute the citizens of Prince Edward County in recognition of their 250th anniversary.

KICKING THE RECOVERY INTO HIGH GEAR

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, during this final week before the spring break, the House will cap off a strong winter of work helping the American people grow the economy and create jobs. With positive economic news continuing to come in, we can be sure times are good, yet equally sure they are not perfect.

More Americans are working today than at any time in our history. Unemployment and interest rates remain low, the budget we passed last week is pointing the way toward fiscal accountability, and every day that passes brings us another day closer to victory in the war on terror.

But, Mr. Speaker, our manufacturing industry continues to feel the squeeze of outsourcing; and certain segments of the population have not yet come to fully enjoy the economic recovery evidenced in all this economic data. People are still hurting. But thankfully, more help will soon be on the way. This week the House will consider the long-awaited Federal highway reauthorization bill, which will set and deliver on the highway transportation investment priorities for the rest of the decade. It is estimated that every billion dollars spent on highways creates 47,500 jobs. The TEA-LU bill we will take up this week will authorize $275 billion over the next 6 years.

This is a jobs bill, plain and simple. When a new highway is built, new neighborhoods follow, then businesses to serve those neighborhoods, and then businesses to serve those businesses. A highway does not just mean asphalt. It means families and car pools and schools and office parks and grocery stores and shopping malls. It means more new jobs, from waiters and convenience store clerks to doctors and stockbrokers. Added to the tax relief Congress passed in 2001 and 2003, the highway bill will further grow the American economy, creating jobs, expanding opportunity, and changing lives along the way.

Less than a week since we passed one of the strongest, most pro-growth budgets in history and less than a week before we receive March job creation numbers, now is the perfect time for us to move on the highway bill. It is time, Mr. Speaker, to help the American people kick our economic recovery into high gear.

WE HAVE REASON TO BE SKEPTICAL OF RICHARD CLARKE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I want to know which Richard Clarke we are supposed to believe. On his watch for 8 years our country suffered four terrorist attacks: in 1993 the New York World Trade Center, the Khobar Towers in 1996, in 1998 two African U.S. embassies, and in 2000 they attacked the USS *Cole*. Then in 2001, the 9/11 attacks occurred. The Clinton administration did nothing. It merely attacked some empty tents and a Sudan aspirin factory with a few cruise missiles. Richard Clarke himself admitted to PBS in 2002 that they should have taken out terrorist camps in Afghanistan in the 90s; but, according to him, there were "other considerations" that prevented this action.

Now Clarke attacks the Bush administration. Now he is suggesting that going into Iraq has diverted us from the more important goal of defeating al Qaeda, that we cannot do both. He is wrong. When we were attacked on 9/11, President Bush did not waste any time. He used the full power of our Nation to take out the Taliban and hunt down terrorists. Clarke even praised the President for his leadership.

Richard Clarke is guilty of the worst kind of spin, changing his story to avoid blame and make a profit on his new book.

HEALTH SAVINGS ACCOUNTS AN IMPORTANT COMPONENT OF MEDICARE MODERNIZATION ACT

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I am here today to talk on the Medicare Modernization Act. Tax-free health savings accounts that are accumulative allows the individual to pick up basic health care costs and shop around for quality and service, one of the great benefits of the Medicare Modernization Act. The other thing is then moving individuals into catastrophic health insurance plans which will be, obviously, in essence a lot lower than health care costs today. What people fear is the ability to lose their life savings on catastrophic illnesses. By having the catastrophic health insurance account, that will not occur and it will be at a cost that people can assume. But the only way we are going to bring down health care costs in America is to make sure that the consumer is involved in choosing their services based upon quality and service. No middlemen, the consumer. That is the benefit of the health savings account. The Medicare Modernization Act was real reform, and I am proud to have supported it.

MEDICARE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I was at home this weekend in the good Seventh District of Tennessee reading the Nashville Tennessean and there on the front page of the business section was a story with the headline, "Some Seniors Begin to See Benefit From Medicare."

Mr. Speaker, if you had been listening to the Democrats for the past 6 months, you would be stunned that the seniors were going to see benefits from Medicare. But here it is in black and white. This is what the story says:

"Seniors who do belong to a Medicare HMO have been showered with new benefits thanks to the Medicare Modernization Act Congress passed last year."

And this is all before the prescription drug card and the eventual prescription drug benefit even take place. Clearly, the Medicare reform President Bush and this Congress passed is helping seniors and that is exactly what it is supposed to do.

PRESCRIPTION DRUG PRICES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, when we were off a couple of months ago debating the Medicare bill, we were told it was going to cost $400 billion. We found out all along everybody knew it would cost $550 billion, and nobody was told the absolute truth. Most importantly, you were not told. Not a single new benefit has gone to a senior citizen and the taxpayers are stuck with another $150 billion hit. Now everybody wants to talk about the benefit that is going to come with a discount card giving a 25 percent discount. The costs of prescription drugs at the pharmacy are rising on average 19 percent a year for the last 7 years. So what you are going to see is what we all know happens at Neiman Marcus right before a sale, prices get jacked up as high as they can and then they offer a sale to give you a discount from the inflated prices. That is what is happening to prescription drugs right now at the pharmacy.

Seniors on average pay 40 to 50 percent more for their prescription drugs than people in Canada and Europe for the same drugs that have been developed here in the United States. What we need is a reimportation bill to bring the prices down, make them competitive, and get world-class drugs at world market prices rather than the 50 percent inflated prices that we pay here in America.

UNBORN VICTIMS OF VIOLENCE ACT HEADING TO PRESIDENT'S DESK

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, when a woman is attacked and her child is killed, there is presently no penalty for the death of the child. Until now. Just last week, the Senate passed the Unborn Victims of Violence Act, also known as Laci and Conner's Law. It is on its way to the President's desk. Laci and Conner's Law declares that in an assault on a pregnant woman when a child is injured or killed, there are two victims. It makes the killing of an unborn child a prosecutable offense while specifically exempting abortions that are currently protected under Roe v. Wade.

The overwhelming majority, 80 percent of Americans, support the idea this law represents. They believe there are two victims, and they are right. Criminals are getting away with killing children, in many cases just days before delivery. This new law will put America back on record as valuing the lives of its children.

I want to again thank President Bush for his unwavering leadership on protecting and educating all of America's children.

PRICE OF GAS HITS ALL-TIME HIGH

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Ladies and gentlemen, America now has the highest gasoline prices in history. OPEC is meeting once again to cut the amount of oil it is providing to the United States even as we have 130,000 young men and women over in the Middle East. That is a disgrace.

President Bush must insist that OPEC increase its production of oil. We should not suffer. The Christians had a better chance against the lions than the American consumer has against the OPEC cartel. We need a President who is not going to allow OPEC to tip us upside down and shake money out of the pockets of the American consumer. President Bush must insist that OPEC give to the United States what it deserves, an economy which is not harmed by OPEC with these rising oil prices which make it impossible for consumers to pay their bills or businesses to invest in any other service or product with the exception of their oil bill.

Tomorrow is the day, Mr. President. Let us have some relief for the American consumer and for the American businessman so our economy can grow.

□ 1015

IN SUPPORT OF AMENDMENT TO THE TRANSPORTATION BILL

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, I come to speak about a very disturbing trend that we have here in Congress that both parties are guilty of perpetuating.

In 1982, in the Surface Transportation Assistance Act, when it was passed, there were just 10 earmarks with a total value of $385 million. In 1987, the bill contained 157 earmarks; and it grew to $1.4 billion. In 1991, there were 538 earmarks at a cost of $6 billion; in 1998, 1,800 earmarks at a cost of $9 billion. This year, there are 2,300 earmarks in the transportation bill that we will be discussing this week.

When that happens, when there are earmarks, it takes away from the high-priority projects that the States have identified and instead puts money toward low-priority projects that are identified by a specific Member of Congress. That is simply wrong to take money from Arizona or California or Texas from that formula to fund an earmark in West Virginia or Alaska or Minnesota or elsewhere. We need to change this process now, and I urge adoption of an amendment which will do that.

APPOINTMENT OF CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, with the House amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Iowa?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. THOMPSON OF CALIFORNIA

Mr. THOMPSON of California. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

> Mr. THOMPSON of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the concurrent resolution S. Con. Res. 95 be instructed to agree to the pay-as-you-go enforcement provisions within the scope of the conference regarding direct spending increases and tax cuts in the House and Senate. In complying with this instruction, such managers shall be instructed to recede to the Senate on the provisions contained in section 408 of the Senate concurrent resolution (relating to the pay-as-you-go point of order regarding all legislation increasing the deficit as a result of direct spending increases and tax cuts).

The SPEAKER pro tempore. The gentleman from California (Mr. THOMPSON) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. NUSSLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Speaker, I yield myself such time as I may consume.

Last week, the House passed a budget resolution for fiscal year 2005. They did so on a straight party-line vote. But it was the alternative with the strongest budget enforcement provisions, the Blue Dog budget, that got the bipartisan support. Budget enforcement received bipartisan support in the Senate, also. They passed an amendment extending PAYGO rules to both revenue and spending measures with the support of a bipartisan majority.

Common ground, bipartisan ground, can be found on the issue of budget enforcement; and if we are really going to reduce the deficit, bipartisanship is a must.

Spring is a time of March Madness and the basketball tournament. But when it comes to responsible budgeting, I feel like it is baseball season around here.

On March 17, the House Committee on the Budget voted down a PAYGO amendment on a straight party-line vote. Strike one.

On March 24, the House Committee on Rules ruled out of order a PAYGO amendment on a straight party-line vote. Strike two.

And on March 25, the House approved a budget that had no PAYGO rules by a straight party-line vote. Three strikes, and we were out.

When it comes to budget enforcement, the House of Representatives struck out, but, unfortunately, it is our constituents that are the real losers here today. And our constituents understand that deficits impact them directly. They know that a $477 billion deficit means that we are borrowing money from the Social Security Trust Fund to pay our bills. They understand that a $7 trillion national debt means that $50 billion of their hard-earned tax dollars are being sent to other countries every single year in interest payments on that national debt. Our constituents understand that Washington expects them to balance their budgets and to pay their bills. What they do not understand is why Washington does not require the same of ourselves.

Families across America sit down every week to balance their checkbooks. Our government, unfortunately, has not balanced its budget in 3 years. We have maxed out our national credit cards not once but twice; and instead of paying down the debt, we have increased our spending limit on that national credit card.

Today, we can send a clear message that Congress needs to hold itself to the same standards that it holds American families. Congress needs to pay for what it does. It does not matter if it is an increase in spending or a reduction in revenue. If it is important enough to become law, we should be required to pay for it. That is the motion to instruct that is before us today.

The motion instructs the conferees to agree to the strongest possible enforcement rules for all spending increases and tax cut legislation in the House and Senate, and it instructs conferees to adopt the Senate amendment on PAYGO as applied to all legislation that increases the deficit.

Members of the Blue Dog Coalition have been calling for the reinstatement of PAYGO on both revenue and spending since the Budget Enforcement Act expired in 2002. And it is not a partisan concept. As a matter of fact, in its original form, PAYGO was part of a bipartisan budget agreement between the first President Bush and a Democratic Congress. A Democratic President and Congress extended PAYGO in 1993, and a Democratic President and Republican Congress extended it again in 1997.

Members of both parties have long appreciated the PAYGO rules as an enforcement tool that helps Congress achieve and maintain a balanced budget.

Today, I urge Members of both parties to vote yes on this motion to instruct. Such a vote will tell our constituents that this House of Representatives understands that we are not sent here to play games with the budget, but we are sent here to balance the budget. It will say that we are serious about deficit reductions and that we are willing to reach that goal in a bipartisan fashion.

Mr. Speaker, I urge the Members to please vote "yes" on this motion to instruct.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

First of all, I join the gentleman when it comes to paying for things as we go. Every family, as the gentleman from California said, has to pay for things as they go. When they have a bill come in from the light company or from the gas company or from the city, from the city office, to pay for the water or the garbage collection, they have got to pay as they go. When we go to the grocery store and buy the milk and buy the bread and buy the eggs, we have got to pay as we go.

Spending should be paid as we go. There is no question about that. There is bipartisan agreement, I think, for that. Spending should be paid for. It is an important concept. And the gentleman spoke about the outrages of government on the spending side.

But the argument gets a little bit fuzzy when we start talking about the income side or the revenue side. The gentleman wants budget enforcement. He has got a partner over here in the Committee on the Budget chairman. I certainly want and expect that we will have budget enforcement and an opportunity for Members to vote on budget enforcement this year. In fact, we passed a bill out of the Committee on the Budget together with the budget that was for the purpose of enforcement. When we pass a spending plan, we ought to enforce it so that there are not increases in spending.

Unfortunately, the Spending Control Act that the gentleman supports and that I support and that I think we have bipartisan agreement on supporting has been murkied. There has been some murkiness applied to it. Because now, all of a sudden, people want to apply the same controls on spending over on the tax cut side. And why do they want to do that? Because they do not support tax cuts, pure and simple.

If one comes to the floor today and they vote for this, it basically tells all of us that they do not support reducing the tax burden on Americans.

It would be one thing if for some reason the Federal Government was running out of taxes. I mean, if we came here today learning for the first time that the government was running out of money for some reason or another, that there were not taxes coming into the Federal Treasury, then I could see why people might be nervous and might say we ought to apply some kind of concern or more controls on the tax reform side of the debate. But, unfortunately, this is an arbitrary decision that comes in that sets yet again another 60-vote point of order on a Senate which already has the ability to enforce reduction in taxes with a 60-vote point of order, meaning that the way this bill or this rule would work is if they want to cut taxes in the Senate, they would have to get 60 votes to waive the rule that the gentleman is promoting today.

That is exactly what they would have to do if they wanted to pass a tax cut. So, instead of one vote, what the gentleman wants is two votes. Well, what is wrong with two votes?

The point of it is that why do we want to murky up the debate about controlling spending, about paying for things as we go by having yet another rule that comes in that will be gladly waived by everybody who wants to waive it, which has been cheerfully done time and time again not only in the other body but also in this body. Instead, what we should be doing is we should be controlling spending.

We passed a budget last week that controls that spending side, that says we should begin to pay as we go, but, unfortunately, what this motion does is it says that somehow the government should pay for taxes.

Think about that for a moment. We are coming up on April 15, a lot of people are going to be doing something very interesting about that point in time. They are going to be sending in a check to the Federal Government. And what does that do? It pays for taxes. So who pays for taxes in this country? The American people pay for taxes. How does the government pay for taxes? Seriously, think about that. How does the government pay for taxes? Does the government pay taxes? No. Each of us individually, I presume, pay taxes. I know I am going to be paying my fair share, and I am sure the gentleman from California and many other people who will come down here today will be paying for taxes. But does the government pay for taxes? No.

Now, if they come here today and they say they do not like the Tax Code, again I agree with them. The Tax Code is convoluted. Many of us on our side believe we ought to throw it out and start all over with a new Tax Code. If they say they want to close loopholes, they should vote for the budget when it comes back. Because loophole closing will be part of that for corporations or for anybody who is trying to take advantage of a loophole within the Tax Code.

So if they do not like the Tax Code, if they do not like loopholes that are in the Tax Code, if they want to control taxes, if they want to use taxes as a way to stimulate investment, stimulate savings, stimulate job creation in this country, then that is something that we should be doing.

But to pay for taxes, there is only one group that pays for taxes, and those are taxpayers. We have an income side, and we have an expense side. The expense side we should pay as we go, but the income side, how do we pay for income as we go? It does not make any sense.

So the entire debate today is not a debate about some responsible decision about paying for tax cuts. It is a direct attempt to eliminate any discussion this year of tax cuts. And if that is what they want to do, if they do not want to cut taxes on the job creators in this country, if they do not want to cut taxes on farmers, if they do not want to allow for married people who were penalized for many years to continue under a regime that allows them to finally not be penalized for their marriage, if they want to continue the tax relief that was provided to families with children, if they want to continue the tax relief to small businesses that create most of the jobs in this country, then they will come down here and say, no, no, no, they are just trying to prevent us from cutting taxes.

□ 1030

It sounds very responsible, "pay-as-you-go." But remember who pays in this country: Taxpayers pay for taxes. The government does not pay for taxes. The government does not pay taxes.

One last thing that I want to say before I turn it back to my friend from California. As I was saying before, it would be one thing if the government was running out of money. If the debate today was, oh, my gosh, somehow tax cuts are irresponsible, because the government is running out of money. You allowed taxpayers to keep so much money that we are running out of money.

But here are the line items, and, since we are in the House, I will include this for the record, this revenue stream from the Congressional Budget Office, so that everyone can see this. But every single year under the budget, including tax relief, the amount of money that comes out here to Washington increases.

You might say to yourself, how is that possible? Do you mean to tell me if we pass tax relief, on the one hand, more money is coming in to the Federal Government? Is this done by magicians?

No, this is called an American economy that is now $11 trillion and growing, and when it grows and when it surges, when jobs are created and when people are working and when taxpayers pay taxes, and that is who pays for taxes, more money comes in to the Treasury.

Just listen to this: This year we estimate $1.8 trillion of taxes will be coming in to the Federal Government; next year it will be $2 trillion; then $2.2 trillion; then $2.35 trillion; then $2.475 trillion; then $2.6 trillion.

That is growing by about $150 billion a year, and that is a net figure. That is including us saying, taxpayers, keep your taxes; married people, keep those taxes you were being penalized; parents with children, keep that extra money for your kids. That includes us saying to small businesses, we do not want all that extra money, we want you to keep your jobs. That includes us saying to all those people, keep your taxes in your pocket. Do not send it out here in the first place, is what we are saying.

Every year more money comes in to the Federal Treasury. Not by JIM NUSSLE's account, not by any of us as Members, partisan or nonpartisan, but by the Congressional Budget Office. The Congressional Budget Office, which has the job of, in a nonpartisan way, looking at all of the statistics and giving us an idea of exactly how this is going to work.

People will come down here and say, do not believe figures 5 years from now. Just take this year to next, a $200 billion increase in taxes coming in to the Federal Treasury, and we are assuming as part of that that we want to reduce taxes.

Again, the whole point of this is, who pays for taxes? My friends on the other side come rushing down here today with a motion saying the government pays for taxes. That is wrong. There is only one entity in America that pays for taxes, and that is taxpayers. And as taxpayers, they constantly tell us, time and time again, we spend our money more wisely, you should worry about how you spend your money.

Taxes are doing just fine. We are sending more money every year, as I just explained, to the Federal Government. What you need to control is spending. You ought to pay-as-you-go for spending. You ought to make sure that you are paying for that increase in spending. That is where you ought to worry about that, and you ought to control spending in order to accomplish getting back to a balanced budget, which ours does.

Our budget that we passed last week, on a party line vote, unfortunately, does just that. It controls spending, it gets us back to a balanced budget, and it does it by reducing the tax burden on Americans, by a small amount, in order to allow them to keep that money and allow them to spend that money more wisely.

Taxes are paid by taxpayers. Taxes are not paid by the government.

Mr. Speaker, I include for the RECORD the document referred to earlier.

FISCAL YEAR 2005 BUDGET RESOLUTION—TOTAL SPENDING AND REVENUES

[In billions of dollars]

Fiscal year	2004	2005	2006	2007	2008	2009	2005–2009
SUMMARY							
Spending:							
Total:							
BA	2,338.157	2,410.054	2,479.999	2,613.497	2,744.808	2,881.038	13,129.396
OT	2,295.012	2,406.565	2,492.322	2,590.618	2,711.444	2,844.614	13,045.563
On-Budget:							
BA	1,952.701	2,009.554	2,069.485	2,189.682	2,306.882	2,426.182	11,001.785
OT	1,911.236	2,008.020	2,084.056	2,169.193	2,276.173	2,392.699	10,930.141
Off-Budget:							
BA	385.456	400.500	410.514	423.815	437.926	454.856	2,127.611
OT	383.776	398.545	408.266	421.425	435.271	451.915	2,115.422
Revenues:							
Total	1,817.359	2,028.881	2,220.056	2,350.204	2,475.522	2.609.451	11,684.114
On-budget	1,272.787	1,456.452	1,618.994	1,720.721	1,816.661	1,919.701	8,532.529
Off-budget	544.572	572.429	601.062	629.483	658.861	689.750	3,151.585
Deficit (–):							
Total	– 477.653	– 377.684	– 272.226	– 240.414	– 235.922	– 235.163	– 1,361.449
On-budget	– 638.449	– 551.568	– 465.062	– 448.472	– 459.512	– 472.998	– 2,397.612
Off-budget	160.796	173.884	192.796	208.058	223.590	237.835	1,036.163
Debt Held by the Public (end of year)	4,386	4,776	5,062	5,315	5,564	5,812	na
Debt Subject to Limit (end of year)	7,436	8,088	8,677	9,246	9,827	10,424	na
BY FUNCTION							
National Defense (050):							
BA	461.544	419.634	442.400	464.000	486.149	508.369	2,320.552
OT	451.125	447.114	439.098	445.927	465.542	487.186	2,284.867
Homeland Security (100):							
BA	29.559	34.102	33.548	35.160	36.520	40.420	179.750
OT	24.834	29.997	33.298	35.635	36.979	38.401	174.310
International Affairs (150):							
BA	43.604	26.529	27.776	27.927	28.077	28.228	138.537
OT	29.281	32.848	30.017	26.714	25.323	25.099	140.001
General Science, Space, and Technology (250):							
BA	22.822	22.813	22.927	23.042	23.157	23.274	115.213
OT	21.897	22.453	22.683	22.743	22.763	22.863	113.505
Energy (270):							
BA	2.323	2.863	2.604	2.583	2.629	2.285	12.964
OT	0.059	1.201	1.397	1.040	0.662	0.891	5.191
Natural Resources and Environment (300):							
BA	32.021	31.212	31.568	31.897	32.101	32.777	159.555
OT	30.210	30.868	31.911	32.153	22.128	32.804	159.864
Agriculture (350):							
BA	19.908	21.087	23.374	24.278	24.042	24.903	117.684
OT	18.434	20.501	22.310	23.199	22.957	23.956	112.923
Commerce and Housing Credit (370):							
Total							
BA	14.577	8.692	7.442	6.827	6.405	6.080	35.446
OT	10.248	3.682	4.042	1.869	– 0.011	– 0.760	8.723
On-budget							
BA	17.077	10.792	10.242	9.727	9.705	9.580	50.046
OT	12.748	5.782	6.842	4.769	3.190	2.740	23.323
Off-budget							
BA	– 2.500	– 2.100	– 2.800	– 2.900	– 3.300	– 3.500	– 14.600
OT	– 2.500	– 2.100	– 2.800	– 2.900	– 3.300	– 3.500	– 14.600
Transportation (400):							
BA	62.937	64.216	64.311	64.442	64.539	64.638	322.146
OT	59.280	62.061	64.287	65.770	66.496	66.998	325.612

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of California. Mr. Speaker, I yield myself 15 seconds to respond briefly to my friend.

Mr. Speaker, this motion to instruct is not about tax cuts, it is about balancing the budget. In 1993, when we had PAYGO rules, we passed tax cuts. In 1997, with PAYGO rules, we passed tax cuts. This is merely saying if a bill is important enough to pass, it ought to be important enough to pay for. The American people deserve it.

Mr. Speaker, I yield 5 minutes to my friend, the gentleman from South Carolina (Mr. SPRATT), the distinguished ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I thank my good friend and fellow colleague on the Committee on the Budget for bringing this motion to instruct to the floor, and I rise to urge support amongst all Members, both sides of the aisle, for this motion to instruct conferees.

What does this motion do? It simply directs the conferees, who will be appointed today, to accept the pay-as-you-go provisions included in the Senate-passed budget resolution, which would make PAYGO applicable to both entitlement spending increases and tax decreases. It would make those steps on either side of the ledger deficit neutral in order to pass.

Let us not forget that we have a deficit this year of $521 billion, and if you take the President's budget as projected by the Congressional Budget Office, the deficits over the next 10 years will accumulate to $5.132 trillion. That is why this motion is necessary.

The Senate resolution creates a PAYGO point of order against any tax cut or any entitlement increase that adds to the deficit, the bottom line of the budget. That point of order can only be overridden by the vote of 60 Senators.

The gentleman here says, well, it takes 60 votes because of the filibuster rule to pass anything in the Senate. But there is a way around the filibuster rule in the budget process called reconciliation. If a tax cut is included in the reconciliation provisions of a budget resolution which is passed by majority vote, by one vote is all that is necessary, then reconciliation can dispense with the 60-vote requirement.

So, in order to have at least 60 Senators stiffen their spines and stand up and say, and I would like to see the same procedures in the House, no, we are not going to commit this act of further increasing the deficit, this rule would apply.

In contrast to the PAYGO provision in the Senate budget, the House budget resolution which we passed last week by a narrow margin contains what I can best describe as a half measure. It is nonbinding language. It endorses a single-edge PAYGO rule, by which I mean it applies only to entitlement spending and not at all to revenues. The one-sided PAYGO rule in the House Resolution would make no effort whatsoever, none, to temper tax cuts, although, since 2001, tax cuts have added four times as much to the deficit, mounting deficit, as entitlement increases have.

Ironically, ironically, this form of PAYGO would also open the way to initiatives that might otherwise be spending entitlements. That is because it could allow them to become law as tax expenditures, put in the Tax Code, called tax cuts, without being offset, and this could actually worsen the deficit and further complicate the Tax Code.

The original PAYGO legislation was part of a budget summit agreement that was reached between the first President Bush and Congress in 1990. That rule was extended in 1993 and 1997 but allowed by Congress and the second President Bush to expire in 2002.

The original PAYGO rule cut both ways. It applied to both revenue decreases and entitlement increases, and it worked, Mr. Speaker, it worked. It was one of the basic steps that we took in a long, arduous journey that moved the government out of mammoth deficits, $290 billion in 1992, to huge surpluses, $236 billion in 2000.

The Senate version simply restores the rule to its original form, that is all. In the House Committee on the Budget, the renewal of PAYGO in its original form was explicitly endorsed by none other than the chairman of the Federal Reserve, Mr. Greenspan.

I asked him myself, Mr. Chairman, do you support the restoration of the PAYGO rule in its original form?

He said, absolutely, I do.

I asked, Mr. Chairman, would you apply it to expiring tax provisions?

Yes, sir, I certainly would.

He was unequivocal in his support for it.

So also is the AARP, the Concord Coalition, the Committee For Responsible budget, anybody who is a responsible, informed observer of the budget process, who knows what PAYGO did for the 1990s, it stiffened our spine and helped us put the budget into balance for the first time in 30 years. We need it today more than we did then, because we have, as I said, a deficit of $521 billion. We have a cumulative deficit over the next 10 years of $5.136 trillion if you do not include Social Security.

We need the PAYGO rule with both edges applicable today as like never before in both houses, the House and the Senate. If nothing else, if nothing else, this can be the one bold step we take in a budget that otherwise does very little to move us out of deficit.

So I urge everyone, vote for the motion to instruct, vote for PAYGO in its original proven-to-work form, applicable both to entitlement increases and tax decreases, vote for this motion, and reinstate one of the best rules we have ever had for putting the budget in balance.

Mr. NUSSLE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we buy and they pay. We buy and taxpayers pay. This is an attempt, in my view, to look for a tax increase. That is what this is about, increasing taxes.

We should not allow the Senate to impose a rule on the House. Sixty votes in the Senate just makes it harder to jump through yet another hoop in the Senate, and then I suppose one 60-vote hoop is more than enough. But we should not allow the Senate to impose those rules on the House.

If we are here to talk about rules of the other body, I could think of some good rules. How about a 51-vote rule for judges? We have got a lot of judges we need to appoint in this country. How about 51 votes? How about a new rule that says for voting on judges, it only takes 51 votes instead of 60?

How about a rule for the other body that says all bills shall be debated for not longer than 100 hours? That would be a pretty good rule. Not for the people watching C–SPAN necessarily, who would have to sit through a 100-hour debate, but do you not think one hour per senator would be enough to debate just about any bill? You would think so.

But, unfortunately, the way it works right now, it is unlimited. They could take up a bill and filibuster it for the rest of their lives, as long as they could stand on their feet.

So, there are a lot of rules that I would like to impose on the other body, if we wanted to talk about imposing rules.

I do not want to have the other body imposing rules on us. If we are serious about budget enforcement, we should pass a law, and that is the reason that we passed a very strong budget enforcement law on spending out of committee at the same time we passed the budget resolution.

That stronger bill is a bill that will be coming to the floor after we come back from the Easter recess, the district work period. It is not just a rule that can be waived, either by the House or by the other body, but it is a rule, it is a law, that is in statute, that actually helps us control spending. If you need to stiffen someone's spine, there is nothing like a law, rather than a rule, which have been traditionally and, unfortunately, waived.

It seems to me that, and parenthetically I would say to my good friend from South Carolina, we do not have a rule within the resolution with regard to spending, pay-as-you-go spending. The House did not pass a similar rule with regard to spending. But we do have a bill that we want to come to the floor after the district work period.

Again, the reason is because we believe on this side that spending is the concern, that is what you pay for, and that is what we should make sure we pay for, not reducing taxes to taxpayers.

Mr. THOMPSON of California. Mr. Speaker, I yield 3 minutes to my distinguished Blue Dog colleague, the gentleman from Hawaii (Mr. CASE).

□ 1045

Mr. CASE. Mr. Speaker, I rise in full and unqualified support of my colleague from California's motion, a motion that asks this House to do what the Senate, on a bipartisan basis, has already done, a motion that Democrat and Republican Presidents, Democrat and Republican colleagues of Congress have passed; that the conservative Concord Coalition as well as Federal Reserve chair Alan Greenspan supports; a motion that any business, family, or consumer can understand and has to live by and, frankly, a motion that most Republicans in this Chamber would probably love to vote for, if only they could. It is a motion that stands for this basic principle: when you balance a budget, it is not balanced unless and until you balance it all.

Mr. Speaker, what is so hard about PAYGO? Why can my House colleagues on the other side of the aisle, in the party that professes budget discipline, not see what their own colleagues in the Senate see clearly? Is it a failure to understand, is it a failure to agree, or is it a denial of reality?

I cannot believe it is a failure to understand. My own teenage son understands that when he balances his budget, he cannot leave out any part of it. He cannot leave out the spending. He cannot leave out any potential reductions in income. My neighbors and I understand that there is a difference between a budget that has a home mortgage payment in it and a budget that does not. If my wife comes to me tomorrow and says, I am going to be making less next year than I made this year, do I ignore it in my budget calculations? No.

The States understand it. Every State understands PAYGO and practices it. Why? Because they have something that we do not have here: they have a balanced budget requirement. When they have a balanced budget requirement, they have to balance all of their budget.

It cannot be a failure to understand. If it is, we are all in trouble. I would like to believe it is a failure to agree; but then I would like to have a conversation, substantively, about what we do not agree on. No, I think it is a conscious failure to accept reality or, perhaps worse, an attempt to spin, to deceive, to accomplish a result by means other than up front.

Mr. Speaker, this is not about the substance of whether to reduce or increase taxes. This is not about the substance of whether to reduce or increase spending. This is about the consequences of actions. This is about the consequences of whether we reduce or increase taxes. This is about the consequences of reducing or increasing spending.

My colleagues are telling me that there are no consequences of a $2 trillion aggregate tax cut. That is like saying there are no consequences of increasing our budget by $2 trillion. Of course there are consequences. Do we want to talk about it in a budget context? Okay, fine. Let us talk about the tax cut. Let us talk about the dynamic impact. Let us talk about jobs that may or may not be created, income coming in. But let us calculate it, factor it into a balanced budget. That is all this motion does. Let us live within our means and pay as we go.

Mr. NUSSLE. Mr. Speaker, I yield myself 1 minute to respond.

The gentleman used an excellent example about his son; and the next time he has this allowance conversation with his son, because I have a son and I have this conversation once in a while as well, I want the gentleman to tell him that he actually does not get an allowance. He actually pays for an allowance. Is that not interesting? Do we think that would go over very well? I know it would not go over very well with my 13-year-old son. He would not understand how in the world he pays for an allowance. I pay his allowance. The gentleman from Hawaii pays his son's allowance. The taxpayers pay the Federal Government's allowance, called taxes. They pay. We buy, they pay. People should not have to pay for taxes when they have already been paid for by the taxpayers, and that is the whole discussion that we are having here today.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. PUTNAM), a member of the Committee on the Budget.

Mr. PUTNAM. Mr. Speaker, I thank the gentleman from Iowa for yielding me this time, as it is a very important debate that we have here today.

The gentleman from Hawaii referred to consequences, and that is important. As a younger Member of the House, I like to view things for the long haul. We talk about the consequences of the decisions that are made here, not just for the next election cycle or the next fiscal year, or to put a Band-Aid on this budget, but the long-term fiscal consequences.

Frankly, I have been encouraged by a great deal of the debate that took place throughout the budget hearings and throughout the debate on the floor, because the positive consequence of this rising Federal deficit has been that we have attracted a good deal more fiscal conservatives to the cause. But the consequences of the Democratic amendments in committee were 28 billion new dollars in new spending. The consequences of the amendments in that markup were nearly 30 billion new dollars added to the Federal deficit, the consequences that would be borne by the next generation of Americans and taxpayers.

This debate centers around core values. Everyone, I think, is coming around to the idea that the deficit is a great, great problem that has to be dealt with. But when we get down into the details, the other team's plan wants to focus on making it more difficult to lower the tax burden on the American citizen, the American entrepreneur, the American homeowner, investor, worker; make it easier to increase the tax burden on that same group of hard-working, hard-charging, thoughtful, innovative Americans, and not deal with the real issue, which is spending. Nearly two-thirds of the Federal budget now is mandatory spending. It is on auto pilot. The debate, the fights, the arguments, the outstanding eloquent rhetorical discussions that take place on this floor are about over one-third of the Federal budget. That is it.

Our plan and the Spending Control Act, which has the force of law that was marked up in the Committee on the Budget and will be on this floor before Memorial Day, deals with mandatory spending. It deals with the fact that Congress has failed to make some of the tough decisions over the past generations to get their arms around spending; and as a consequence, we have been far outpacing the spending of the American household.

Now is not the time, when we have a dual challenge, the challenge of getting the economy going, putting people back to work, bringing small businesses the opportunity to have a piece of the American dream, now is not the time to make it easier to raise taxes. And for us to adopt as a consequence, for us to adopt the other body's half-baked, cockamamie, crazy schemes to deal with this issue is nuts.

All of us have a difficult time explaining why the other body's rules require us to phase down the death tax on farmers and small businesses and then, boom, miraculously it is reborn 10 years from now in its old, in its old full, former glory of the highest rate possible. All of us have a difficult time explaining why it was such a great idea to end the marriage penalty, but we have to vote on it again this year; otherwise, it comes back, or that the American people will lose the expanded child tax credit. It is because of the other body's cockamamie rules that we do that, and now we want to adopt another one of their cockamamie rules and make it even easier to raise taxes on the American people.

Now is not the time to turn back that clock, Mr. Speaker.

Mr. THOMPSON of California. Mr. Speaker, I yield myself 30 seconds to respond.

Mr. Speaker, first I want to just make sure everybody understands, this does not make it more difficult to raise taxes. This merely makes it honest to raise taxes. My friend from Iowa is correct, taxpayers pay all right. They pay $1 billion a day in interest on the national debt, $50 billion a year in interest to countries like China and Japan and the OPEC nations.

When budgets do not balance, taxpayers do pay. That is why we need PAYGO.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in strong support of this motion to instruct the conferees offered by my colleague on the Committee on the Budget, the gentleman from California (Mr. THOMPSON).

We are on the verge of passing a $2.4 trillion budget with a $550 billion hole in it. Mr. Speaker, a $2.4 trillion budget with a $550 billion hole, showing that it is impossible to finance three wars with three tax cuts and get any other result. It has never been done in history. We are trying to do it now. What do we get for three wars and three tax cuts? A $550 billion deficit.

This budget by the Republicans perpetuates the President's economic policies of the status quo, failed policies that have led to a jobless economy and a wage recession. Nearly 3 million Americans have lost their jobs since he has been President; 43 million Americans are without health care, of which 33 million Americans work full-time and have no health care; 2 million Americans who, prior to this administration were in the middle class, are now in poverty; and nearly $1 trillion worth of corporate and individual assets have been foreclosed on in the last 3 years. What do they recommend doing? The same thing: put your foot on the accelerator and see if we can rush forward. And those are the results of the Bush economic policies.

What this PAYGO rule would be, just to be straight about it and not get into the, as some would say, cockamamie, arcane rules of the Congress, what this would do would force this Congress to pay for its policies. That is what this PAYGO rule would do, as cockamamie as it may sound; and it would change the economic direction of this Congress and this administration so we do not have the results of unemployment, lack of health insurance, lack of affordability on college education. That is what this would do.

It is a commonsense approach. It adopts what businesses do, families do, State governments do, and that is pay for the way you go. If you want to pay for more education, you have to do it.

Let me remind everybody, in the 1990s when we created 22 million jobs, poverty was cut in half, health care costs were contained, and we insured more Americans. This was part of that economic strategy that led to the greatest period of economic growth ever in American history. That was a piece, a central piece of the economic strategy. So it is about economic philosophy and strategy, but the results are in: one failed economic policies that have left more people without jobs, without health care, without the ability to afford college education; and one that had the greatest period of economic growth, greatest period of employment, and greatest period of poverty rates in the history of this country.

So that is what this debate is. I urge my colleagues to support the motion of the gentleman from California.

Mr. THOMPSON of California. Mr. Speaker, again, I yield myself such time as I may consume. In 1997, we cut taxes by $100 billion as part of the Balanced Budget Agreement. This does not do anything to hamper tax cuts. It just says we have to be honest. We have to pay for them. Pass the tax cuts, but pay for them.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM), the distinguished policy chair of the Blue Dog Coalition.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me this time. I would again point out, this motion is based on a simple philosophy that when you find yourself in a hole, the first rule is to quit digging. Take the shovels away from Congress and the President.

The budget enforcement rules Congress and the President enacted in 1990 were an important part of getting a handle on the deficits in the early 1990s and getting the budget back into balance. They have been tested and they have worked. There is no question that they significantly improve the responsibility and accountability of the budget process and were instrumental in going from large deficits in the 1980s to surpluses in the 1990s.

The principle of PAYGO, if we want to reduce our revenues or increase our spending, we need to say how we would pay for it within our budget, something all families have to do, because they understand it. If a family wants to give up a second job, they must first cut spending of what the second job is providing income for. That is so simple. Why is it so difficult for the majority to understand that?

If we want to reduce our revenues, we need to say what spending we will do without. If we want to increase spending, we need to say where it will come from. If we want to decrease revenues, where will it come from? If we are truly serious about restoring fiscal discipline, budget rules must apply to all legislation which would increase the deficit, both increased spending or reductions in revenues. All parts of the budget must be on the table.

Applying pay-as-you-go rules to tax cuts do not prevent Congress from passing more tax cuts, just the opposite. All it says is that if we are going to reduce our revenues, we need to reduce our spending by the same amount, just like families do.

□ 1100

Those who want to extend expiring tax cuts or make the tax cuts personal should be willing to put forward the spending cuts or other offsets necessary to pay for them.

My Republican colleagues continue to argue that budget rules should not apply to tax cuts because tax cuts will not increase the deficit. I wish they would actually look at the facts of what is happening.

To paraphrase Will Rogers, it is not what my Republican colleagues, particularly the budget chairman, do not know about the budget, because he knows a lot, that bothers me; it is them knowing so much that ain't so and continuing to come to this floor and saying it.

We have enacted now three tax cuts based on the theory that tax cuts will stimulate the economy and pay for themselves as a result of economic growth, and yet the deficit continues to grow. That is what we are here talking about: the deficit.

The budget written by the gentleman from Iowa (Mr. NUSSLE) that Congress passed last year said that revenues would be $1.9 trillion in 2004. The President's budget came forward and said $1.8. That is $100 billion difference in estimates. That is all we are saying, that what do we do with that $100 billion? We borrow it. We continue to pass on all of these debt and deficits to our children and grandchildren.

If my Republican colleagues actually mean what they say about controlling spending, they should have no problem with applying pay-as-you-go to tax cuts. Because it would force Congress to control spending when we pass the tax cuts instead of just promising to do so in the future.

The problem is, the actions of my Republican colleagues have not matched their rhetoric. If they match their rhetoric and actions, they will find significant bipartisan support to get our fiscal house back in order. That is what they are not doing. That is why we should support this motion to instruct.

Mr. NUSSLE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we borrow it because we keep spending. The gentleman from Texas (Mr. STENHOLM) said, "What happens? It is because we keep spending. We keep spending."

I mean, the gentleman, I know he wants to respond, so let me just get in a couple of other jabs here, too, because he made some good points. But the gentleman said that, just like a family, if they reduce their income, they got to figure out how they are going to make ends meet. I agree with the gentleman.

The difference is, our income is not being reduced. Our income to the Federal Government, which comes from taxpayers who pay the taxes, and I know the gentleman knows that, but I am going to keep stressing it, they are paying more and more and more even with the tax relief that we have provided under this budget being made, as we say around here, permanent, which only means until the Senate figures out some cockamamie rule, as the gentleman from Florida said, that makes them all of a sudden snap back. They are only permanent until the Senate allows them to snap back under their rule.

So that is the problem we have got. We do not want another rule to make them just more difficult to be made permanent.

But, as the gentleman said, if there was less income coming in every year, the gentleman's points would be much stronger. But there is not less income. From this year to next year, first of all, $1.8 trillion. Next year, it will be $2 trillion. $200 billion more will come in next year than this year, even with the tax relief packaging made permanent.

So why do we keep borrowing? Because we keep spending. That is what this is all about. There are two sides of the ledger. There is an expense side and an income side. We do not pay for the income side. There is no reason for us to pay for the income side. Because that income side comes from taxpayers. The pay-as-you-go is from them.

The gentleman very eloquently said, when you are in a hole, stop digging. And my retort back to the gentleman from Texas (Mr. STENHOLM) is, when you are in a hole, stop digging in the pockets of taxpayers. That is the point that we are trying to make. They pay the taxes. Congress does not need a rule in order to have some kind of mechanism to pay for something we do not pay for.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of California. Mr. Speaker, I yield 15 seconds to the gentleman from Texas (Mr. STENHOLM) to respond.

Mr. STENHOLM. Mr. Speaker, my friend, the budget chairman, again continues to listen to only part of what I say. The revenue is not meeting the estimates of what he is saying in his budget, therefore, we had to borrow another $110 billion in order to make up for it because his guesstimates are not, in fact, doing what is being said on this floor.

And spending is not my fault. The majority is the one that is spending all of this money they are talking about. It is time they take the responsibility for their own record on spending. They are spending it, not the minority.

Mr. THOMPSON of California. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. COOPER), a distinguished Blue Dog colleague and member on the Budget Committee.

Mr. COOPER. Mr. Speaker, the last point made by my friend from Texas (Mr. STENHOLM) is entirely true. The House and the Senate have been under Republican control for some time now. The spending that has occurred on their watch exceeds the highest levels previously in American history, exceeded spending rate of growth under LBJ.

It is wrong for them to deny responsibility for the spending surge that has occurred. The Heritage Foundation, the CATO Institute, other conservative Republican think tanks have pointed out the spending explosion has taken place under their watch, under their leadership, with their votes. The vote we are about to cast on the motion to instruct is one of the most important votes that we will cast in this Congress or in many people's careers in this Congress because PAYGO, pay-as-you-go, is one of the most important principles that we have in this body to control spending and to get our deficit under control.

This is not a theory. It has worked and worked well beginning with the first President Bush through the Clinton administration to tame budget deficits.

But now we are faced with the largest budget deficit in American history. We need that same spending control device. It is not theory. Ask Chairman Greenspan, one of the great economists of our time. He could remember the very day that the previous PAYGO requirement expired, September 30, 2002, because that was a black day in modern American history. It basically told this Congress and the Republican majority, spend as you will.

We need PAYGO back and we need real PAYGO, not fake PAYGO, not play-go, not pretend-as-you-go. We need real PAYGO, the way our bipartisan Senate has passed it, so that we can get our budget deficit under control.

This is a kitchen-table issue. People back home understand it. I am happy to defend this in any civic club in America, because small business men and women, they understand they have to pay their bills. One has to pay their bills. They cannot understand why this Congress gets so wrapped up in some sort of ideology or something we forget to pay our bills, and that is why we have the largest budget deficit in American history going on today under Republican leadership.

We have to have PAYGO. It should have been passed in the budget last week. It was not. This is a chance to try to correct that mistake.

So I would urge my colleagues, men and women of goodwill on both sides of the aisle, to set partisanship aside, to think common sense again, to think kitchen table, to follow the advice of Alan Greenspan, to follow the leadership of the bipartisan Senate vote on this issue and have real PAYGO again. Pay as you go so that we will not increase our deficit anymore.

As my friend, the gentleman from Texas (Mr. STENHOLM) said, we will stop digging the hole that we are in. It is already $521 billion deep. It is not just a 1-year hole. We are facing such a massive structural budget deficit that the President's own budget as submitted to this Congress said that the current path we are on is unsustainable.

Mr. THOMPSON of California. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. TURNER), our Blue Dog colleague.

Mr. TURNER of Texas. Mr. Speaker, we are on this floor today trying to get our financial house back in order, trying to get this House to adopt a very simple, straightforward rule requiring us to pay as we go that has already been adopted by the Senate.

And it is really hard for me to understand why our Republican colleagues do not want to do this. I always thought they were the party of fiscal conservatism. They always wanted to balance a budget. Yet now they come to the floor and claim that the only remedy here is to cut spending when, in fact, they control both Houses of the Congress and they control the White House. So if they think that is the answer, why do not they get on with it?

We just simply believe that you have got to run the Congress and the Federal Government like we do any household or any business. We have got to pay our bills. We have got to pay as we go. And why do we think that is so important? We think it is important because next year it is projected we will have the largest Federal deficit in the history of this country, over half a trillion.

We are going to come to this floor, and we are going to vote on 13 appropriations bills as we do every year to fund this government, and we are going to borrow 60 percent of that total of those 13 appropriations bills. One could not get by with that at home. One could not get by with that in their business. One cannot get by with it at city government, county government, State government. Why do they think we can do it here in Washington?

My colleagues act like it just does not matter anymore, that somehow they can just say it is all going to work out when they presented a budget that never even purports to get back into balance.

And deficits do matter. They are making this country weaker. How can we defend against terrorism if we do not have any cushion to fall back on financially? How can we expect to get this economy going again and how can we expect to avoid the high interest rates that everyone projects in the future that will be contributed to by the fact that the Federal Government is borrowing all these billions of dollars?

Deficits do matter. That is a simple rule adopted by the Senate to try to impose a little discipline on this Congress, on this House. And the truth of the matter is, if you vote with us, the Committee on Rules majority can waive this rule any time they get ready and my colleagues can do whatever they want to out here.

All we are trying to do is send a clear message that this Congress and the fiscal conservatives in this Congress believe we need to get back to balancing our budget, paying as we go, and recognizing that deficits do matter because they make this country weaker, they make us have an inability to have a strong economy, they make it impossible for us to be able to have a strong national defense.

And it is morally irresponsible to pass on debts created by this generation to the next generation. We have got soldiers today in Iraq fighting for this country that are going to come home and enter the private sector and get to pay the bills for the war that they are fighting that we refuse to pay for.

There has never been a war in the history of our country where the American people did not step forward and pay the bills for the war. This is the first. We want fiscal discipline. We believe it is important for this country.

Mr. NUSSLE. Mr. Speaker, I yield myself 30 seconds to respond.

Mr. Speaker, first and foremost, let me say to the gentleman from Texas (Mr. TURNER) there is not a Member on this side that is refusing to pay for the bill for the war. And if we want to roll out the record votes in not only this body but also the other body for who paid for our men and women over in the field, I will be glad to do that. Because there will be a very interesting name that is left off the list. He happens to be running for President right now.

The second thing the gentleman said is that we have to pay our bills, and we agree. Who gets the bill for taxes? Taxpayers get the bill for taxes. They pay the taxes. Nobody else.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on the Budget.

Mr. PORTMAN. Mr. Speaker, I thank my friend, the gentleman from Iowa (Mr. NUSSLE), the Committee on the Budget chairman, for bringing forward a budget that this House could support which does, in fact, get spending under control and does grow the economy.

And let me respond briefly to my friend from Texas who just spoke and my friend from Tennessee who spoke before that about spending. Because they seem to be saying that somehow the Republicans do not care about deficits, do not care about spending. Nothing could be further from the truth.

Let us talk about the truth. The Democratic substitute, which my friends on the other side of the aisle voted for, has not less spending, it has more spending. In fact, in 2005 alone it has $21.6 billion more spending. Over 5 years, it has $135 billion more spending. And that is more spending on education, they want more spending on the environment, they want more spending on health care, they want more spending on science, they want more spending on homeland security, they want more spending on international commitments. More spending, not less spending.

Now, they will say in response, well, we pay for our spending. How do they pay for it? By raising taxes. And who do they raise taxes on? They raise taxes on what they say are the wealthy. Turns out a lot of the wealthy are small businesses. Because most small businesses in this country pay their taxes through the individual tax system. Therefore, you are not an entrepreneur. You are an innovator. You are the person out there creating jobs. Because most jobs are created by small businesses, you are going to get taxed for more spending.

Now, I know people do not like to hear the tax and spend characterization, but that is what it is. It is more spending, and it is more taxes. And all the budget enforcement in the world is not going to help if you take this approach of more taxes and more spending. That is what they have chosen to take. That is the honest truth. That is the difference that we are talking about here.

Now the question is, how should we enforce whatever budget we think is right? We think there ought to be less spending, and we think there ought to be a continuation of the tax relief. And, incidentally, we think that for a very simple reason, because we know when we look back at history the only way to get the deficit under control is by growing the economy and restraining spending.

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That is exactly what the gentleman from Iowa (Chairman NUSSLE) has rolled out in his budget that this House has supported. It is the only way it works.

In 1997 we learned that. On a bipartisan basis we stood together and said we are going to get this budget under control. We said we will get it under control within 5 or 6 years, by 2001 or 2002. It happened in 2 years. Why? Because the economy grew.

Getting the economy to grow is absolutely the reason we put the tax relief in place in the first place and it is working. We had the fastest economic growth in the last 6 months in the most recent data we have than we had in 20 years. Jobs are coming back, not as fast as we would like; but jobs are coming back as we see the economy is growing. It is working

Why would we want to at this point go back to raising taxes just as things are beginning to turn around, as we are getting the economy back on its feet? As the economy grows and as you keep spending under control, you get the deficit down. It is a very simple calculation. It happens to be one that works, and we know it works.

I would just like to say, with regard to the concerns about then how do we enforce the budget, and I have explained why I think our budget is better than the approach that my friends on the other side of the aisle have proposed, how do you enforce it, absolutely we should enforce it. I am all for PAYGO, as are the Members of my side of the aisle; and we have a commitment, as my colleagues know, from our leadership to bring a PAYGO bill, meaning you pay for spending as you go, before Memorial Day. We will do that, and that is very important. If you do not have a budget, though, you have nothing to enforce.

What we are saying is we ought to have a budget that allows the economic growth to continue, that restrains spending and then put in place the PAYGO rules.

They would like to have PAYGO rules include taxes. I would ask my colleagues, let us say a few years from now we go into another economic slump, as this President inherited from his predecessor. Would we not want to be able to put in place pro-growth tax relief as we have done three times in the last 3 years? I think we should be able to do that. I think we should be able to do that in a way that indicates that tax relief, appropriate tax relief is the way we grow the economy. So we need to be very careful not to equate spending and taxes.

I commend, again, my friend, the gentleman from Iowa (Mr. NUSSLE), for a great budget; and I commend him for encouraging our leadership to bring a PAYGO provision to the floor which will happen before Memorial Day.

Mr. THOMPSON of California. Mr. Speaker, I briefly yield 15 seconds to the gentleman from Texas (Mr. TURNER), ranking member of the Select Committee on Homeland Security, to respond to some comments that were made regarding national defense.

Mr. TURNER of Texas. Mr. Speaker, I want to respond to the chairman of the Committee on the Budget's comments.

We simply looked at our budget today, and we see that if we take all nondiscretionary spending that we are going to vote on in the 13 appropriations bills and we just eliminate all nondefense homeland security, we are not paying for the defense of homeland security portion of our budget. That is how bad a shape we are in.

So I would say it is fair to say we are not paying for defense, we are not paying for the conflicts that we are facing.

Mr. THOMPSON of California. Mr. Speaker, I yield 15 seconds to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, in the Democratic budget resolution, let me remind the gentleman, we incur a lower deficit than their resolution.

Every year for 10 years, we incur $1.2 trillion less debt than the President's resolution, and we merely bring spending back to baseline so that we can restore what is needed for priorities like education and veterans health care.

Mr. THOMPSON of California. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from California (Mr. THOMPSON) has 4½ minutes remaining. The gentleman from Iowa (Mr. NUSSLE) has 3½ minutes remaining. The gentleman from California has the right to close.

Mr. THOMPSON of California. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, this chart tells an important story about pay-as-you-go rules, about the importance of the real pay-as-you-go rule that was adopted as part of the bipartisan budget agreement in 1990 and the folly, as our budget goes back into deep deficits, of adopting a phony pay-as-you-go rule going forward.

Members who were here in the 1980s remember the well-intentioned, but ineffectual, Gramm-Rudman-Hollings procedures, where there was rampant gaming of the budget process, all kinds of rosy scenarios that ultimately failed to mask rising deficits.

Finally, in 1990, the first President Bush—who, unlike the present President Bush, understood the first rule of holes, which is if you are in one, stop digging—the first President Bush joined with the then-Democratic congressional leadership to conclude a courageous 1990 budget agreement which put the pay-as-you-go rule in effect. That proved to be very hard to game. It proved to be effective, along with the statutory caps on discretionary spending. And so, along with the 1993 Clinton budget plan passed with Democratic votes alone, the two budget plans, 1990 and 1993, with tough pay-as-you-go rules, produced the reduced deficits throughout the 1990s and actually took us into surpluses, now only a fond memory, surpluses that enabled us to pay off almost $500 billion of the national debt.

In 1997, we concluded another bipartisan budget agreement. Our friend, the chairman of the Committee on the Budget, was one of 219 Republicans who voted for the renewal of the 1990 pay-as-you-go rule, a real pay-as-you-go rule, the one that they now disparage.

We are now going back into deep deficits. What an inopportune time, not only to let the pay-as-you-go rule expire, which our friends on the other side of the aisle did a couple of years ago, but now to propose a defective rule that has no promise for getting ahold of this situation!

It is like trying to fill a bucket with water when there is a hole in that bucket. We can simply not balance the budget with constraint on the entitlement side alone.

Our friend Mr. NUSSLE has talked about the revenues that are going to be coming in future years. What he did not mentioned was the revenue picture from 2000 to the present, where we have each year had reduced revenues coming in, the price of tax cuts that were not paid for.

So we need a real pay-as-you-go rule that follows the formula that worked so well in the 1990s. The Republican proposal is a sham, and I urge my colleagues to vote for the motion to instruct.

Mr. NUSSLE. Mr. Speaker, could I inquire how much time is left.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. NUSSLE) has 3½ minutes remaining. The gentleman from California (Mr. THOMPSON) has 2½ minutes remaining.

Mr. NUSSLE. Mr. Speaker, I would say to my friend from California, I have no other speakers; and I am prepared to close if the gentleman is.

Mr. THOMPSON of California. We are prepared to close.

Mr. NUSSLE. Mr. Speaker, I yield myself the balance of the time.

There was a gentleman earlier who indicated that this may be the most important, the most important vote in a congressional career. I have to say to the gentleman, I doubt it. This is a motion to instruct conferees. The conferees were just appointed, and it is what we refer to around here as a nonbinding resolution. Okay. I think we probably have had a few other votes that are more important than a nonbinding resolution to tell conferees to do something in the other body and apply a rule to our body, but I will play along just for the sake of the debate because I think it is an important debate, even though it may not be the most important vote.

Our friends on the other side have, as I said, during the budget they have learned the words of fiscal responsibility, but they have not yet learned the music. The words are real easy to say, When you are in a hole stop digging. Well, of course, when you are in a hole stop digging, but stop digging in the pockets of the American people for more of their money so that you can keep digging, which is exactly what they did.

They presented a budget alternative on the floor that kept digging, and what did they do in order to stop the digging? They were digging in the pockets of the American people for more of their money called taxes. Why do they do that? Because they know who pays taxes. We do not pay taxes. The Federal Government does not pay taxes. The Congress, as a body, pays taxes individually but not the Congress, the House of Representatives or the other body. The only people in this country that pay taxes are taxpayers, and so when we apply a pay-as-you-go and increase spending, guess who pays. We go and they pay. We buy and they pay. All the time, more spending, they pay.

The second thing the gentleman from other side said, well, you have got to pay your bills. We agree and we will be bringing a bill to the floor that says you should pay your bills. Now you should not have to bring a law to the floor that says pay your bills. I would agree with the gentlemen on the other side that have said we have lost that discipline and we need to get that back on the spending side. There is no question, and we will do that; and we will have a debate on spending and paying your bills, and we should have that debate. But who gets the tax bill?

When a bill is presented, you pay it. Who is presented the bill for taxes? The taxpayers, that is who pays. So by saying we should have pay-as-you-go for taxes, my colleagues are basically saying we want to take more money from the American people.

We have heard about children's allowances. I want my colleagues to apply this principle to their kids and actually go to them and say, guess what, Johnny, you did not know this, but you pay for your own allowance. I mean, that is not only a head scratcher for them, but if a family was faced with this, we have heard a lot about families and kitchen tables today. If a family found out that the amount of money they were bringing in was increasing, all right, every year, their income, what would they do in order to deal with the hole that they were in? They would tighten their belt, and this is exactly what we have done. They would not say, all of the sudden, let us pay for an increase in taxes by some offsetting income. That is a goofy rule.

You pay for taxes as a taxpayer, not as the government. The government pays for spending. That is where the rules should apply. Let us vote down this motion to instruct.

Mr. THOMPSON of California. Mr. Speaker, I yield myself the balance of the time.

This has been a very interesting and very telling debate. It has been a debate about paying our bills. Unfortunately, our colleagues across the aisle have tried to make this into some bogeyman about tax cuts, and there is nothing, nothing that could be further from the truth.

This is about balancing our budget and paying for what we spend. My friend from Iowa's constituents in his district and my constituents on the north coast, if they go in to get a farm loan or a car loan or a home mortgage loan, the bank looks at both their spending patterns and their revenue source. That is because they understand that the difference between spending and revenue is the deficit, something we all agree we have to get under control.

The chairman and the gentleman from Ohio (Mr. PORTMAN) understood this, too, back in 1997 when they joined 217 other Republicans to vote for a measure that put PAYGO in place; and I might add that PAYGO that they voted for in 1997 was actually stronger than the language that we are voting on today. It was statutory and they voted on a measure with Democrats, bipartisan measure, that passed a $100 billion tax cut as part of that budget agreement.

I would be interested in knowing what has changed today other than the fact that our deficit and our debt is much higher than it was back then.

Mr. Speaker, if this Congress is serious about deficit reduction, this Congress needs to stand together, and we need to vote to support the PAYGO rules that apply to both revenue and spending. Our constituents today deserve it, and future generations deserve it. I urge my colleagues to vote "yes" on this motion to instruct.

Mr. MICHAUD. Mr. Speaker, the motion before the House today is very simple. The question is: Do we want to pay for spending and tax cuts or do we want to pass this burden off on our children?

Will we run the government like there is no limit to our debts or will we act responsibly, and work to balance our books?

The other body has passed responsible pay as you go rules thanks to bipartisan support, especially from the delegation representing my home State of Maine.

The State of Maine is full of small business owners, farmers, and fishermen—working families that must balance their own books.

Before my time here, I spent 22 years in the Maine Legislature. We always worked together in a bipartisan way to pass balanced budgets.

Pay as you go budget rules should allow us the opportunity to work in that same bipartisan way here in Washington.

Nearly all of us can agree that we need to return the budget to balance. The American people know, and we know that we cannot run deficits in excess of $230 billion year after year.

The best way that we can do this is to make sure that any policy that would increase the deficit is paid for.

The American people want to run our own government responsibly.

I urge my colleagues in both parties to pass this motion and show the American people that we will work to balance the books.

The SPEAKER pro tempore. All time for debate has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. THOMPSON).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. THOMPSON of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NUSSLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This vote will be followed by a 5-minute vote on the motion to instruct conferees on Senate Concurrent Resolution 95.

The vote was taken by electronic device, and there were—yeas 353, nays 55, answered "present" 1, not voting 24, as follows:

[Roll No. 96]

YEAS—353

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cox
Cramer
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Sullivan
Sweeney
Tauscher
Terry
Thomas
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—55

Ackerman
Baird
Baldwin
Ballance
Brady (PA)
Capuano
Cardoza
Cooper
Costello
Crane
Davis (TN)
DeFazio
English
Filner
Ford
Gillmor
Graves
Green (TX)
Gutknecht
Hart
Hefley
Hinchey
Johnson, E. B.
Larsen (WA)
Larson (CT)
Latham
LoBiondo
McDermott
McGovern
McNulty
Miller, George
Moore
Oberstar
Olver
Otter
Pastor
Peterson (MN)
Platts
Ramstad
Sabo
Schakowsky
Sherwood
Stenholm
Strickland
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Turner (TX)

Udall (CO)
Udall (NM)
Visclosky
Waters
Weller
Wu

ANSWERED “PRESENT”—1

Tancredo

NOT VOTING—24

Barton (TX)
Bell
Berman
Blackburn
Conyers
Culberson
DeMint
Dingell
Fossella
Frank (MA)
Gephardt
Harris
Houghton
Hoyer
Hulshof
Knollenberg
Neal (MA)
Sanders
Stark
Tanner
Tauzin
Taylor (NC)
Thornberry
Waxman

□ 1153

Mr. BLUNT and Ms. McCARTHY of Missouri changed their vote from “nay” to “yea.”

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KNOLLENBERG. Mr. Speaker, on March 29, 2004 and the morning of March 30, 2004, I was unavoidably absent and missed rollcall Vote Nos. 94, 95, and 96. For the record, had I been present, I would have voted: Rollcall Vote No. 94—“Yea”; rollcall Vote No. 95—“Yea”; rollcall Vote No. 96—“Yea.”

MOTION TO INSTRUCT CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

The SPEAKER pro tempore (Mr. SIMPSON). The pending business is the question on the motion to instruct conferees on the Senate concurrent resolution, S. Con. Res. 95.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. THOMPSON) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 209, nays 209, not voting 16, as follows:

[Roll No. 97]

YEAS—209

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Bereuter
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—209

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—16

Bell
Berman
Burton (IN)
Conyers
Culberson
DeMint
Fossella
Frank (MA)
Gephardt
Houghton
Hoyer
Hulshof
Neal (MA)
Tanner
Tauzin
Taylor (NC)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

PARLIAMENTARY INQUIRY

Mr. THOMPSON of California (during the vote). Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman may inquire.

Mr. THOMPSON of California. Mr. Speaker, everyone has voted. How long does the Chair plan to keep the roll open?

The SPEAKER pro tempore. It is a minimum 5-minute vote.

Mr. THOMPSON of California. So what is the maximum, Mr. Speaker?

The SPEAKER pro tempore. There is no maximum.

Mr. THOMPSON of California. Mr. Speaker, I thought that we had House rules that limited the time that the roll could be kept open.

The SPEAKER pro tempore. There is no House rule that limits the time. Rule XX provides a minimum time.

Mr. THOMPSON of California. Mr. Speaker, how long will the Chair keep the role open on this particular vote?

The SPEAKER pro tempore. Until all the Members wishing to vote have voted.

Mr. THOMPSON of California. Mr. Speaker, how long has the roll been open?

Mr. Speaker, I have a point of parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. THOMPSON of California. Mr. Speaker, how long has the roll been open on this 5-minute vote?

The SPEAKER pro tempore. Thirteen minutes on this minimum 5-minute vote.

Mr. THOMPSON of California. How much longer does the Chair plan to keep the roll open?

PARLIAMENTARY INQUIRIES

Mr. SPRATT (during the vote). Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his inquiry.

Mr. SPRATT. Mr. Speaker, if the purpose of setting the vote at 5 minutes was to save time, the House's time, what purpose is served by allowing the roll to stay open for more than 20 minutes?

The SPEAKER pro tempore. The Chair is exercising his discretion.

Mr. SPRATT. Mr. Speaker, but if the original purpose was to save time, why are we now extending time?

The SPEAKER pro tempore. The Chair is exercising his discretion and can do so under the rule.

Mr. SPRATT. Can the Chair give us an estimate of when he expects to close the roll and announce the vote?

The SPEAKER pro tempore. The Chair cannot predict the future.

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. RANGEL. Mr. Speaker, could the brilliant Chair share with us the basis of his discretionary decision on this most important vote?

The SPEAKER pro tempore. The Chair has the discretion as to when to close a vote.

Mr. RANGEL. I know that, Mr. Speaker.

The SPEAKER pro tempore. After the minimum time has expired.

Mr. RANGEL. Mr. Speaker, we will never challenge the Chair's discretion, because we appreciate the intelligence which he brings to this august body. So that is the reason why we should like to support the Chair if he could only share with us the basis of his decision.

The SPEAKER pro tempore. Another Member has entered the Chamber to vote.

Mr. RANGEL. Mr. Speaker, I think this one vote has answered my question. The Chair wanted just one more affirmative vote.

□ 1222

Messrs. DUNCAN, OSE, SMITH of Michigan and WHITFIELD changed their vote from "yea" to "nay."

Mr. OWENS changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HOYER. Mr. Speaker, I was unavoidably detained on rollcall 97, the motion to instruct conferees. I was attending a memorial service for the wife of a very dear friend and, therefore, could not attend. Had I been in attendance, I would have voted for the motion to instruct, which I understand would have made the tally 210 for and 209 against.

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the Chair appoints the following conferees: For consideration of the Senate concurrent resolution and the House amendment, and modifications committed to conference: Messrs. NUSSLE, PORTMAN and SPRATT.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6, rule XX.

RECORD votes on postponed questions will be taken later today.

WELCOMING THE ACCESSION OF BULGARIA, ESTONIA, LATVIA, LITHUANIA, ROMANIA, SLOVAKIA, AND SLOVENIA TO THE NORTH ATLANTIC TREATY ORGANIZATION

Mr. BEREUTER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 558) welcoming the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization (NATO), and for other purposes, as amended.

The Clerk read as follows:

H. RES. 558

Whereas since 1949 the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its allies in Europe and North America;

Whereas since 1994 Congress has repeatedly endorsed the enlargement of NATO through the NATO Participation Act of 1994, the NATO Enlargement Facilitation Act of 1996, the European Security Act of 1998, the Gerald B. H. Solomon Freedom Consolidation Act of 2002, the Transatlantic Security and NATO Enhancement Resolution of 2002, and House Concurrent Resolution 209 (2003);

Whereas NATO heads of state and government, meeting in Prague on November 21, 2002, invited Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to commence accession negotiations with NATO;

Whereas on March 26, 2003, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia signed accession protocols to the Washington Treaty of 1949;

Whereas on May 8, 2003, the Senate voted 96–0 to give its advice and consent to ratification by the United States of the seven accession protocols;

Whereas on March 2, 2004, NATO Secretary General Jaap de Hoop Scheffer announced that all 19 NATO members had deposited with the United States Government their instruments of ratification of the accession protocols;

Whereas Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have reformed their political and economic systems in preparation for NATO membership;

Whereas Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have undertaken defense reform programs that will enable each country to contribute to NATO operations and are working to meet the financial responsibilities of NATO membership by spending or committing to spend at least two percent of their gross domestic product on defense;

Whereas Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia have contributed to military operations in Bosnia and Herzegovina, Kosovo, Afghanistan, and Iraq;

Whereas Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia became members of NATO on March 29, 2004, and are expected to be welcomed by NATO heads of state and government when they meet in Istanbul on June 28 and 29, 2004;

Whereas Albania, Croatia, and Macedonia, the remaining countries currently in NATO's Membership Action Plan, signed the United States-Adriatic Charter on May 2, 2003, thereby affirming their commitment to the values and principles of NATO, their willingness to contribute to the peace and security of southeast Europe, and their desire to join the Alliance at the earliest possible time;

Whereas in 2003 Congress, in House Concurrent Resolution 209, urged NATO to invite Albania, Croatia, and Macedonia to join NATO as soon as each of these countries respectively demonstrates the ability to assume the responsibilities of NATO membership through the Membership Action Plan;

Whereas the Governments of Albania and Macedonia supported Operation Iraqi Freedom and are contributing forces to stabilization operations in Iraq and to the NATO-led International Security Assistance Force in Afghanistan; and

Whereas the Government of Croatia elected in November 2003 has demonstrated its commitment to implementing reforms and meeting conditions for integration into Euro-Atlantic institutions, including the defense reforms necessary for NATO membership, and has contributed forces to the NATO-led International Security Assistance Force in Afghanistan: Now, therefore, be it

Resolved, That the House of Representatives—

(1) welcomes with enthusiasm the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization (NATO);

(2) reaffirms that the process of NATO enlargement enhances the security of the United States and the entire North Atlantic area;

(3) agrees that the process of NATO enlargement should remain open to potential membership by any interested European democracy that meets the criteria for NATO membership as set forth in the 1995 Study on NATO Enlargement and whose admission would further the principles of the Washington Treaty of 1949 and would enhance security in the North Atlantic area; and

(4) recommends that NATO heads of state and government, meeting at Istanbul on June 28 and 29, 2004, should agree to review the enlargement process, including the applications of Albania, Croatia, and Macedonia, at a summit meeting to be held no later than 2007.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

GENERAL LEAVE

Mr. BEREUTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 558, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this Member is extremely pleased to offer this resolution welcoming the accession to NATO membership of seven Central European democracies: Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia.

Yesterday, these seven nations became America's newest allies when their prime ministers presented Secretary of State Powell with their instruments of accession. Secretary Powell recalled their struggle for freedom and promised that "by joining NATO's bond of collective security, Article 5 and all, you will remain free."

Later, President Bush yesterday publicly welcomed their leaders to the alliance on the south lawn of the White House. In his remarks, the President noted, "The countries we welcome today were friends before they were allies, and they were allies in action before becoming allies by treaty."

The decision to admit former communist nations from Central and Eastern Europe, Madam Speaker, into the Atlantic Alliance, is one of the great successes of American and Alliance foreign policy since the end of the Cold War. It is a bipartisan success promoted by Republicans and Democrats in the Congress and by both the Clinton and Bush administrations. It is also a success in which the House of Representatives has played an important role.

Since 1994, the House has repeatedly declared its support for NATO enlargement and the fundamental role of NATO in transatlantic security. We recognize that throughout its history NATO has succeeded not only in keeping its MEMBERS free, but in extending that freedom to new lands that have long yearned for freedom's blessings.

Already, the three nations that joined NATO in 1999, Poland, Hungary and the Czech Republic, have been contributing to the Alliance and its operations in Bosnian and Herzegovina, Kosovo and Afghanistan. Furthermore, Poland has been a major contributor to Operation Iraqi Freedom and currently commands a multinational force in south central Iraq.

The current round of enlargement, the fifth in NATO's history, will further erase the dividing lines across Europe that were drawn at Yalta and will further extend the zone of peace and security in the North Atlantic region.

Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia are already contributing to the Alliance, with each of these new allies contributing to one or more of NATO's ongoing operations. In addition, six of them have forces on the ground in Iraq.

That is far from their only contribution. Last year as president of the NATO Parliamentary Assembly, this Member traveled to all seven of these countries; and after those visits, this Member is confident that they and their membership will reinvigorate the Alliance. In fact, the new vigor is already being felt.

Because the citizens of these new MEMBER countries have recent memories of living under oppressive dictatorships, they are especially committed to NATO and its collective defense guarantee.

Having fought so long and hard to gain their freedom, they know how precious freedom is and how fundamentally important the defense of freedom remains. They have pledged that they are ready to defend their freedom and ours, and we are very fortunate to be able to call them our allies.

In addition to noting the accomplishments of the incoming NATO members and welcoming their accession to the Alliance, this resolution also reaffirms the support of the House for the process of NATO enlargement and for keeping NATO's doors open.

Finally, this resolution expresses our support for the remaining candidates for NATO membership, at this point, Albania, Croatia, and Macedonia.

To ensure that the enlargement process continues after the accession of the seven new members, the resolution recommends that the leaders of the NATO nations at this summer's Istanbul Summit "should agree to review the enlargement process, including the applications of Albania, Croatia and Macedonia, at a summit meeting to be held no later than 2007."

This language is consistent with the language of the relevant communique from the 1999 Washington Summit at which Alliance leaders welcomed Poland, Hungary, and the Czech Republic to NATO membership. That communique called for a summit meeting to review the enlargement process to be held "no later than 2002," that is, 3 years after that summit.

Scheduling a 2007 enlargement summit would also establish a 5-year cycle for NATO enlargement. Three nations received invitations in 1997 at Madrid, and seven nations were invited in 2002 in Prague. This Member believes that this is a reasonable timetable, one that gives NATO time to incorporate the seven new members, while absolutely ensuring that the three remaining candidates are not forgotten and that they have met the necessary requirements to be full-fledged partners in NATO.

Madam Speaker, yesterday was a historic day for America's seven newest allies as they joined the most successful Alliance in history and thereby secured the freedom that they had fought so hard to gain. This Member urges his colleagues to vote for this resolution in order to welcome these countries to NATO and to ensure that NATO's door remains open to Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia, and probably to countries to follow.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this resolution.

Madam Speaker, first I want to commend my friend, the distinguished gentleman from Nebraska (Mr. BEREUTER), for his outstanding leadership as the current president of the NATO Parliamentary Assembly and as a longtime champion of NATO in our Congress over many years. He is serious and thoughtful in his leadership, and he has served our Nation well through his commitment to NATO and in many other ways.

Madam Speaker, it gives me pleasure and a sense of personal delight to welcome seven new members to NATO. I passionately believe that in NATO we have a powerful group of allies who share our democratic values and objectives.

Congress has consistently led the way in supporting NATO enlargement and in promoting a strong and robust role for NATO. NATO is the longest effective alliance in our time, and it has endured because it is comprised of free and democratic nations. No country was ever forced to join the Alliance by a larger and stronger power. There can be no better endorsement of NATO's success than the eagerness of the newly emerging Central and East European democracies to be part of it.

□ 1230

The accession of seven countries is a milestone in Central and Eastern Europe where, not long ago, some people were skeptical about the fate of democracy and human rights. Some argued that the American emphasis on democracy in this region was misplaced and that our Nation's efforts would fail. We proved the skeptics wrong.

These new NATO allies have taken positive steps to advance their integration into Europe, and they have already contributed to the security and the stability of that continent. They have acted as de facto NATO allies by contributing forces to both peacekeeping and other military operations, both within and outside of Europe, in Afghanistan and in Iraq.

So today, Madam Speaker, as we raise seven European flags at NATO headquarters, we again reaffirm the close friendship and partnership we have with Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia; and we express our desire that this friendship grows stronger and even more vibrant within NATO.

Madam Speaker, let me just say a few words about Russia's relationship to NATO. It is evident that as Russia strives to join the international community of democracies, it is in Russia's interests to have the arena of stability and prosperity in Europe expanded to Russia's borders. It is clear that if democratic forces gain strength within Russia, these democratic forces will welcome the enlargement of NATO and the growth of stable democracies in adjacent countries. It is not in Russia's interests to have a country on its border which is a totalitarian and authoritarian state, like Belarus. It is in Russia's interests to have countries nearby which are democratic, such as Estonia, Latvia and Lithuania, prosperous, free, and proud members of NATO.

During the Cold War, Madam Speaker, I never accepted the notion that NATO threatened Russia, and I do not accept it now. There is no NATO leader who has the slightest ambition to invade or act in a way that is contrary to Russia's long-term interests. NATO's leadership hopes for the evolution of a democratic and prosperous and stable Russia. The leadership and the members of NATO want nothing more for the Russia people than an improvement in their economic conditions and an improvement in their political and civil liberties.

In conclusion, let me just say a word about the responsibility of NATO out of area. When NATO was established, Madam Speaker, it was designed as a shield against the Soviet Union. Thanks to our efforts, the Soviet Union no longer exists, and NATO must find for itself a new raison d'etre. That new raison d'etre is in places like Afghanistan and Iraq, where the free and democratic way of life we enjoy and other NATO members enjoy is threatened.

Now, NATO today performs a very limited function in Afghanistan. I call upon NATO leadership to dramatically increase its presence in Afghanistan. Short of that happening, the new Afghanistan will collapse, and we will have countless hearings as to the reasons why. Well, we know what the reasons would be. It is the failure of NATO members to have a presence in Afghanistan commensurate with the need.

In Iraq, NATO has a profound responsibility. While NATO members were divided initially with respect to moving into Iraq, today there is not a NATO member who has not benefited by the establishment of stability in that country. I call upon the leaders of all NATO countries, old NATO countries and the seven new ones, to recognize that for NATO to have any reason for existence, it must be present in a robust way in places that can desperately use NATO's presence. I call upon our leadership and the leadership of all NATO countries to recognize this. And I look forward to the time in the very near future when NATO will be present in both Afghanistan and in Iraq, in a major and robust way, that can guarantee success in these two important areas.

Madam Speaker, I reserve the balance of my time.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume for a brief set of comments, and I want to thank the gentleman for his outstanding statement and for his generous remarks directed toward this Member.

I would say to the gentleman with respect to Iraq and with respect to Afghanistan, the two subjects that the gentleman addressed towards the remaining part of his time, I certainly am in absolute agreement. The gentleman will recall, of course, that the House and the Senate have both expressed their view that NATO should take a larger role in Iraq and that, in fact, we should call upon the resources of the United Nations where appropriate. I am sure the gentleman is concerned about the lack of resources from NATO countries being directed towards Afghanistan at this critical time.

Madam Speaker, it is now my pleasure to yield time shortly to the distinguished gentleman from Illinois (Mr. SHIMKUS), who is a graduate of the U.S. Military Academy and who had the experience of being an infantry officer in a combat unit stationed on the Czechoslovakian border before, in fact, the Wall came down and before we moved to now admit, some 3 or 4 years ago, the Czech Republic to NATO. The gentleman has taken an outstanding interest and involvement in the NATO Parliamentary Assembly as a rapporteur or co-rapporteur on a number of important reports for the Defense and Security committee and, I might also say, he has a special interest in our Baltic neighbors who are, by actions yesterday, joining NATO.

Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Madam Speaker, it is a wonderful day. Actually, the great day was yesterday, and it is an honor to be here on the floor with the gentleman from Nebraska (Chairman BEREUTER) and the gentleman from California (Ranking Member LANTOS), who have become great friends in this battle. It is a battle that I have really been fortunate to join, really at the closing of it. It is an important step forward to President Bush's goal and others within the administration's goal of a Europe whole, free, and at peace.

It was great at the ceremonies yesterday when, on the lawn, on the east lawn, not only was the current administration there, but representatives of previous administrations: the Honorable Jeane Kirkpatrick was there, the Honorable Madeleine Albright was there, Sandy Berger was there. So it really shows that NATO enlargement is really something that has lasted the test of time.

At a time in our country where there seems to be great divisiveness, one unifying aspect is NATO enlargement. I am proud to be a Member of the House where I think all enlargements, actually, the momentum has always started, I think from the Madrid enlargement to even this most recent round. I think the other body gets a lot of credit because of their votes, but we do not want to shy away or take a second seat to anybody in our position and our push for NATO enlargement.

I have enjoyed the relationship with the American citizens who still have a great respect and honor for their ethnic heritage and their home countries. These American citizens, who have fought in our wars and have given their lives for freedom and democracy, really ask their government to do a simple thing and help return that type of stability, peace, and freedom to their home countries, the countries of their birth, the countries of their forefathers. NATO does that.

The North Atlantic Treaty Organization brings a collective self-defense mission to again address that area of a Europe whole and free, so it is just a very important and exciting day. So I appreciate the resolution, because we should be part of the celebratory aspect and make sure that we are on record saying a job well done.

There is still much work to go before us, as both the gentleman from Nebraska (Chairman BEREUTER) and the gentleman from California (Mr. LANTOS) have mentioned. But we are going to be much stronger as a united world, united under basic principles of freedom and democracy and the rule of law when we address totalitarian regimes than we would be to continue to have a fractured environment in Europe.

We know what these new entrants are already doing. Actually, they have come through the membership action plan, which was not an easy task. When we have these democracies move from a centralized market economy to a free market economy, that creates a lot of stress on the way that the government used to provide services. These governments had to decide whether they needed to move aggressively with large parts of their dollars to transform themselves to be prepared to enter NATO. That is not easy, when you are changing from a system where the government is providing for all of the basic needs and now you are taking money away to increase the ability for self-defense. So they need to be applauded. They have gone through the process of reform in the military, in the economy, the rule of law; and the membership action plan really helped do that.

Now they have also come to the forefront in the war on international terrorism. I know a lot of folks understand that it is important what they have given after September 11, their involvement in Afghanistan and for many their involvement in Iraq; and it is not a small task to ask these new emerging democracies to send their sons and daughters overseas for a cause of freedom, peace, and security in the world.

So this is really appropriate that we do this. Bulgaria is focused on engineers and mine-sweepers; Romania on unmanned aerial vehicles and mountain troops; Slovakia, nuclear, biological, and chemical defense units; Slovenia, mountain warfare troops; Estonia, military divers and mine countermeasures; Latvia, explosive ordnance disposal; and Lithuania, Bulgaria, Latvia, Slovakia, and Slovenia will provide special operations forces.

So they are going to be additive to NATO. But where they are really going to be more additive, actually a multiplier, is really their heart and soul. These countries still have the scars of totalitarian regimes. They still hurt as they look at what has occurred to their countries over the decades. They bring an understanding of the cause for freedom and democracy. That is a message that sometimes those of us who have experienced and benefited from democratic governance for many years, we sort of take for granted and forget. Not after September 11, of course. But they are reenergizing NATO. They are bringing their commitment, their heart and soul.

I wholly applaud, really, the international community, the United States for our leadership, and really the membership countries for saying, this is the right thing to do at the right time. The world will be stronger and more at peace because of the most historical organization in the history of the world that has kept the peace for over 50 years, the North Atlantic Treaty Organization. I am honored to have the chance to be on the floor to recognize them. I look forward to their added power as we move forward in this very dangerous and difficult time in this world.

Mr. LANTOS. Madam Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE), our distinguished colleague and my good friend.

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman from California (Mr. LANTOS), and the gentleman from Nebraska (Mr. BEREUTER) as well.

I represent an enormously diverse district. I am reminded of the Kosovo war and the refugees that wound up in Albania. We found ourselves in Houston hosting a number of those individuals who had come for refuge during that terrible time of ethnic cleansing. As I reflect upon that, I reflect on how important it is for this Nation to remain engaged internationally and to be able to promote democratization and collaboration.

□ 1245

My first introduction to this was joining the gentleman from California (Mr. LANTOS) and the gentleman from Nebraska (Mr. BEREUTER) at the European Union. I want to acknowledge their leadership, the respect that they receive internationally, and certainly in that body, when we discussed the opportunities for Central and Eastern European countries to be part of the NATO Alliance.

I recall visiting the NATO Alliance, which is a very, if you will, strong structure and I think has a very deliberative leadership at that Alliance and noted the importance of that institution to Europe's safety. But, as we spoke, we recognized that, as these nations would attempt to join the Alliance, there were several things that they had to engage in. As my good friend who just spoke on the floor of the House acknowledged, they had to overcome the scars of the kind of dictatorships and the kinds of governments that they had had in the past.

I was very proud to note that they were eager to do so, to diversify their economy, to begin to look at opportunities for all of their citizens to be part of the dream of promoting a diverse economy and a diverse political system.

They are now welcomed into the NATO family because they want to stand united against the war on terrorism or with us on the war on terrorism. They are eager, I think, to find a way to democratize, and I use that word in quotes, as it fits both their culture and their understanding. They desire to be allies.

And I would, just as I welcome them, extend this welcome on the grounds that we all work together for peace in this world. It is easy to enter into conflict and war but not so easy to extract oneself and to promote peace.

Because they have experienced the devastation of a divided and devisive government, bloodshed, rebellions through a long history, it is a very fine statement of the NATO Alliance and the United States that we have worked closely with them to bring them to this point and that they have joined and accepted the criteria for admission into NATO.

I thank with great enthusiasm the number of Members of Congress who independently through their interaction on international parliamentarian exchange have been at the forefront of working with these particular nations and to bring them to this point. So my hat is off to the gentleman from Nebraska (Mr. BEREUTER) for his continued leadership and interest in collaboration and as well continued exchange in promoting democracy, peace and freedom, and certainly to my good friend, the gentleman from California (Mr. LANTOS), the ranking member, who has steadfastly been a member of the Human Rights Caucus, ranking member on the Committee on International Relations in the House, and a continued voice for promoting democracy and justice. I want to applaud him for what he has been persistent in, the bringing to the table, if you will, of these nations to the table of equality and to the table of peace and to the table of discussion and to the table of strength, and that is with the North Atlantic Treaty Organization.

I ask my colleagues to enthusiastically support this legislation, H. Res. 558, as a commitment to the friendship that now exists with these countries in the North Atlantic Treaty Organization.

Mr. SMITH of New Jersey. Madam Speaker, I join my colleagues in strong support of House Resolution 558, welcoming the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization.

During my tenure in Congress, I have had considerable interaction with the leaders of these countries, as well as the opportunity to witness the transitions which have occurred. For several of our new NATO allies I first encountered as one-party communist states, as Warsaw Pact adversaries and as "captive nations." As Chairman of the Helsinki Commission, I have closely monitored their human rights performance and encouraged their democratic development. The transition for some has been particularly difficult, particularly with the effects of regional conflicts, political or economic crises. Throughout, their peoples have been our friends. Now, they become our allies.

While we must congratulate these countries, first and foremost, on the progress which brought them to this historic point, we can also take some credit for the investments we decided to make, through the human resources and bilateral assistance which planted the democratic ideals that now have triumphed. In my view, the returns on those investments have been notable.

In addition to these seven new NATO members, the resolution before the House also encourages the three members of the Adriatic Charter to continue their efforts toward eventual NATO membership. I particularly want to comment on Croatia. That country has had a particular challenge since 1990. As Yugoslavia fell apart and Croatia asserted its independence, the country faced not only the challenges of democratic transition but of surviving the Yugoslav conflict. From 1991 to 1995, significant portions of the country were destroyed or occupied. The conflict in neighboring Bosnia led to massive inflows of refugees. Croatia itself was vulnerable to those leaders with highly nationalist and less than democratic instincts.

While all of this slowed their transition, Croatia has rapidly moved—especially since 2000—to meet their democratic potential. In the last elections, a smooth transition in government took place, and we have a bilateral relationship which continues to strengthen over time. In addition, Croatia has become a key contributor to stability in a part of Europe where stability is highly fragile.

It is my hope, Madam Speaker, that we recognize this progress as Croatia seeks membership in NATO. Once Croatia meets the criteria for membership, the invitation to join should be extended. I would hope that the upcoming Istanbul summit will make this clear and mandate an assessment of Croatia's progress in this regard. It would be wrong and counter to U.S. interests to leave Croatia or any other country otherwise qualifying for NATO membership waiting unnecessarily.

I believe that taking this action would also encourage its Adriatic Charter partners, Albania and Macedonia, in meeting the criteria for membership more quickly. Rather than abandon its partners, Croatia will help them make progress as well. Albania and Macedonia are also good friends of the United States and would benefit from this encouragement. Ultimately, Bosnia and Herzegovina and Serbia and Montenegro would benefit as well, all in the interest of European security and, therefore, U.S. security interests.

Mr. STUPAK. Madam Speaker, thank you for this opportunity to welcome the nine new members of the North Atlantic Treaty Organization (NATO).

For the last 55 years, the United States and its allies have worked through NATO to "make the world safe for democracy." The accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to full NATO membership will further strengthen this alliance and enhance the security of the United States and all NATO countries.

I would like to extend an especially warm welcome to Slovakia. In the 107th Congress, I introduced, and the House passed, H. Res. 253 to commend the Slovak Republic for its progress toward political and economic liberty and efforts to meet the guidelines for prospective NATO members.

Slovakia, a once authoritarian regime, embraced a pro-Western government in 1998 and freed its citizens from international isolation. Since independence, the Slovak government has successfully held free and fair elections three times. In their last elections, over 70 percent of eligible voters turned out to express their newfound democratic right.

I am certain that as a member of NATO, Slovakia will contribute to the protection of member states and significantly benefit the security and peace of Europe and the region as a whole. Slovakia's leaders value their participation in our military alliance, and its citizens align themselves with NATO's common values and democratic mission.

The resolution we are voting on today "reaffirms that NATO's enlargement enhances United States and North Atlantic area security, and agrees that NATO's enlargement should be open to membership by any European democracy that meets NATO membership criteria and whose admission would further the principles of the Washington Treaty of 1949 and enhance North Atlantic area security."

I am proud to vote for this resolution, and I believe that Slovakia, and the other new members, will greatly enhance our alliance's security and further its principles. I am pleased to be able to welcome them to NATO.

Mr. CARDIN. Madam Speaker, I rise in strong support of H. Res. 558, which welcomes the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization (NATO).

Earlier this month I celebrated the 86th anniversary of the declaration of independence of Lithuania with my constituents and the Lithuanian Society in Baltimore. I am very enthusiastic about the accomplishments of the Lithuanian people and my optimism for that nation's future. As you know, I am of Lithuanian heritage and share your special interest in Lithuania's development.

I am proud of the United States' strong support for Lithuania through the extension of membership to the NATO alliance, and the continued endorsement for the nation's integration into the European Union. In 2003 the U.S. Senate unanimously ratified Lithuania's inclusion into NATO, and praised Lithuania for "serving as an example to emerging democracies worldwide."

As as an invited member of NATO and the European Union, the Republic of Lithuania plays a role in promoting security abroad and in combating international threats. Since 1994, the Lithuanian Armed Forces have demonstrated this commitment by deploying over 1,300 servicemen on missions to the Balkans and, most recently, Afghanistan and Iraq.

Lithuania's accession to NATO really marks the return of Lithuania to the Euro-Atlantic partnership and alliance, as we face the new challenges of the global war on terrorism.

Lithuania has made considerable progress towards a functioning market economy, and has enjoyed some of the highest domestic product growth rates in all of Europe. I am therefore pleased to see that Lithuania will shortly be joining the European Union (EU), which will grow from 15 to 25 members on May 1, 2004.

By joining the EU, the nation will greatly benefit from a larger, more integrated European marketplace. We should continue our partnership to further strengthen Lithuania's economic growth.

I am also pleased to report that in the last decade Lithuania has made great progress in the area of human rights, rule of law, and religious freedom all while pursuing further integration into European political, economic, and security organizations. As a member of Congress, I serve on the Commission on Security and Cooperation in Europe, commonly known as the Helsinki Commission. I also serve as the Chairman of the Economic Committee of the OSCE Parliamentary Assembly. Lithuania, among other countries, has agreed to the terms of the Helsinki Final Act, which calls upon governments to respect religious freedom and minority rights as well as guarantee free speech and political dissent. Lithuania has successfully moved to establish a strong democratic government, holding fair elections since 1991 and supporting an independent judiciary—both of which are critical components for maintaining rule of law and fighting corruption in any country.

Madam Speaker, I am pleased to join my colleagues in supporting this resolution, in saluting the accomplishments of Lithuania and looking forward with great pride and expectation to the future. I urge my colleagues to take a moment to reflect on the unique Lithuanian culture and its contribution to the world.

Mr. LANTOS. Madam Speaker, we have no additional speakers, and I yield back the balance of our time.

Mr. BEREUTER. Madam Speaker, I want to thank the gentlewoman from Texas (Ms. JACKSON-LEE) for her kind remarks and knowledgeable comments. I thank my colleague from California (Mr. LANTOS) again for his continued interest and leadership in this subject area.

Madam Speaker, I urge all Members to support this resolution. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, H. Res. 558, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2004 THROUGH 2006

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3036) to authorize appropriations for the Department of Justice for fiscal years 2004 through 2006, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Justice Appropriations Authorization Act, Fiscal Years 2004 through 2006".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of appropriations for fiscal year 2004.
Sec. 102. Authorization of appropriations for fiscal year 2005.
Sec. 103. Authorization of appropriations for fiscal year 2006.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

Sec. 201. Merger of Byrne grant program and Local Law Enforcement Block Grant program.
Sec. 202. Clarification of number of recipients who may be selected in a given year to receive Public Safety Officer Medal of Valor.
Sec. 203. Congressional medal and plaque for public safety officers who responded to the attacks on the United States on September 11, 2001.
Sec. 204. Clarification of official to be consulted by Attorney General in considering application for emergency Federal law enforcement assistance.
Sec. 205. Clarification of uses for regional information sharing system grants.
Sec. 206. Integrity and enhancement of national criminal record databases.
Sec. 207. Extension of matching grant program for law enforcement armor vests.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

Sec. 211. Office of Weed and Seed Strategies.

Subtitle C—Assisting Victims of Crime

Sec. 221. Grants to local nonprofit organizations to improve outreach services to victims of crime.
Sec. 222. Clarification and enhancement of certain authorities relating to Crime Victims Fund.
Sec. 223. Amounts received under crime victim grants may be used by State for training purposes.
Sec. 224. Clarification of authorities relating to Violence Against Women formula and discretionary grant programs.
Sec. 225. Expansion of grant programs assisting enforcement of domestic violence cases to also assist enforcement of sexual assault cases.
Sec. 226. Change of certain reports from annual to biennial.
Sec. 227. Clarification of recipients and programs eligible for grants under Rural Domestic Violence and Child Abuse Enforcement Assistance program.

Subtitle D—Preventing Crime

Sec. 231. Clarification of definition of violent offender for purposes of juvenile drug courts.
Sec. 232. Changes to distribution and allocation of grants for drug courts.
Sec. 233. Eligibility for grants under drug court grants program extended to courts that supervise non-offenders with substance abuse problems.
Sec. 234. Term of Residential Substance Abuse Treatment program for local facilities.

Subtitle E—Other Matters

Sec. 241. Changes to certain financial authorities.
Sec. 242. Coordination duties of Assistant Attorney General.
Sec. 243. Simplification of compliance deadlines under sex-offender registration laws.
Sec. 244. Repeal of certain programs.
Sec. 245. Elimination of certain notice and hearing requirements.
Sec. 246. Amended definitions for purposes of Omnibus Crime Control and Safe Streets Act of 1968.
Sec. 247. Clarification of authority to pay subsistence payments to prisoners for health care items and services.
Sec. 248. Office of Audit, Assessment, and Management.
Sec. 249. Community Capacity Development Office.
Sec. 250. Office of Applied Law Enforcement Technology.
Sec. 251. Availability of funds for grants.
Sec. 252. Consolidation of financial management systems of Office of Justice Programs.
Sec. 253. Authorization and change of COPS program to single grant program.
Sec. 254. Clarification of persons eligible for benefits under Public Safety Officers' Death Benefits programs.
Sec. 255. Research-based bullying prevention programs.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Technical amendments relating to Public Law 107–56.
Sec. 302. Miscellaneous technical amendments.
Sec. 303. Minor substantive amendment relating to contents of FBI annual report.
Sec. 304. Use of Federal training facilities.
Sec. 305. Privacy officer.
Sec. 306. Bankruptcy crimes.
Sec. 307. Report to Congress on status of United States persons or residents detained on suspicion of terrorism.
Sec. 308. Technical correction relating to definition used in "terrorism transcending national boundaries" statute.
Sec. 309. Increased penalties and expanded jurisdiction for sexual abuse offenses in correctional facilities.
Sec. 310. Expanded jurisdiction for contraband offenses in correctional facilities.
Sec. 311. Magistrate judge's authority to continue preliminary hearing.
Sec. 312. Recognizing the 40th anniversary of the founding of the Lawyers' Committee for Civil Rights Under Law and supporting the designation of an Equal Justice Day.

TITLE IV—KOBY MANDELL ACT

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Establishment of an Office in the Department of Justice to undertake specific steps to facilitate the capture of terrorists who have harmed American citizens overseas and to ensure that all American victims of overseas terrorism are treated equally.
Sec. 404. Authorization of appropriations.

TITLE V—MATTERS RELATING TO INTELLIGENCE AND COUNTERINTELLIGENCE

Sec. 501. FBI Office of Counterintelligence.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2004.

There are authorized to be appropriated for fiscal year 2004, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $133,772,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $197,420,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $70,000,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $665,346,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(C) such sums as may be necessary for administrative expenses in accordance with the Radiation Exposure Compensation Act.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $141,898,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,556,784,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes, crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147), and violations of laws prohibiting unsolicited commercial e-mail: *Provided*, That such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $4,639,569,000, which shall include—

(A) not to exceed $11,174,000 for construction, to remain available until expended;

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character; and

(C) such sums as may be necessary to assign employees to the Terrorism Threat Integration Center: *Provided*, That such amounts may only be expended for analyzing intelligence information.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $733,843,000, which shall include not to exceed $14,066,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,677,214,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,601,327,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of

Alcohol, Tobacco, Firearms and Explosives: $851,987,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include not to exceed $6,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $550,609,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,212,000.

(15) COMMUNITY RELATIONS SERVICE.— For the Community Relations Service: $9,526,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,051,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $814,097,000.

(19) IDENTIFICATION SYSTEMS INTEGRATION.—For expenses necessary for the operation of the Identification System Integration: $34,077,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $140,083,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Community Oriented Policing Services program, the following sums:

(A) $106,016,000 for the Office of Justice Programs.

(B) $13,622,000 for the Office on Violence Against Women.

(C) $29,684,000 for the Community Oriented Policing Services program.

(22) LEGAL ACTIVITIES OFFICE AUTOMATION.—For necessary expenses related to office automation: $33,240,000.

(23) COUNTERTERRORISM FUND.—For necessary expenses of the Counterterrorism Fund: $1,000,000.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2005.

There are authorized to be appropriated for fiscal year 2005, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $186,551,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $202,518,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $71,400,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $657,135,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(C) such sums as may be necessary for administrative expenses in accordance with the Radiation Exposure Compensation Act.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $136,463,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,547,519,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes, crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147), and violations of law, against unsolicited commercial e-mail: *Provided*, That such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $5,058,921,000, which shall include—

(A) not to exceed $1,250,000 for construction, to remain available until expended;

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character; and

(C) such sums as may be necessary to assign employees to the Terrorism Threat Integration Center: *Provided*, That such amounts may only be expended for analyzing intelligence information.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $743,441,000, which shall include not to exceed $1,371,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,706,232,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,661,503,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $868,857,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $177,585,000 to remain available until expended, which shall include not to exceed $6,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $580,632,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,220,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $9,833,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $21,759,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $10,650,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $938,810,000.

(19) JOINT AUTOMATED BOOKING SYSTEM.—For the necessary expenses of the Joint Automated Booking System: $20,309,000.

(20) INTEGRATED AUTOMATED FINGERPRINT.—For the expenses necessary for Integrated Automated Fingerprint activities: $5,054,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $101,971,000.

(22) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Community Oriented Policing Services program, the following sums:

(A) $118,730,000 for the Office of Justice Programs.

(B) $13,894,000 for the Office on Violence Against Women.

(C) $30,278,000 for the Community Oriented Policing Services program.

(23) LEGAL ACTIVITIES OFFICE AUTOMATION.—For necessary expenses related to office automation: $80,510,000.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

There are authorized to be appropriated for fiscal year 2006, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $190,282,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $206,568,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $72,828,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $670,278,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(C) such sums as may be necessary for administrative expenses in accordance with the Radiation Exposure Compensation Act.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $139,192,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,578,469,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes, crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147), and violations of law, against unsolicited commercial e-mail: *Provided*, That such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $5,160,099,000, which shall include—

(A) not to exceed $1,250,000 for construction, to remain available until expended;

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character; and

(C) such sums as may be necessary to assign employees to the Terrorism Threat Integration Center: *Provided*, That such amounts may only be expended for analyzing intelligence information.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $758,310,000, which shall include not to exceed $1,371,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,800,357,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,694,733,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $886,234,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $181,137,000 to remain available until expended, which shall include not to exceed $6,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $592,245,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,244,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,030,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,194,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $10,863,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $957,586,000.

(19) JOINT AUTOMATED BOOKING SYSTEM.—For the necessary expenses of the Joint Automated Booking System: $20,715,000.

(20) INTEGRATED AUTOMATED FINGERPRINT.—For the expenses necessary for Integrated Automated Fingerprint activities: $5,155,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $104,010,000.

(22) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Community Oriented Policing Services program, the following sums:

(A) $121,105,000 for the Office of Justice Programs.

(B) $14,172,000 for the Office on Violence Against Women.

(C) $31,343,000 for the Community Oriented Policing Services program.

(23) LEGAL ACTIVITIES OFFICE AUTOMATION.—For necessary expenses related to office automation: $82,120,000.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

SEC. 201. MERGER OF BYRNE GRANT PROGRAM AND LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) Subpart 1 of such part (42 U.S.C. 3751–3759) is repealed.

(2) Such part is further amended—

(A) by inserting before section 500 (42 U.S.C. 3750) the following new heading:

"Subpart 1—Edward Byrne Memorial Justice Assistance Grant Program";

(B) by amending section 500 to read as follows:

"SEC. 500. NAME OF PROGRAM.

"(a) IN GENERAL.—The grant program established under this subpart shall be known as the 'Edward Byrne Memorial Justice Assistance Grant Program'.

"(b) REFERENCES TO FORMER PROGRAMS.—Any reference in a law, regulation, document, paper, or other record of the United States to the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, or to the Local Government Law Enforcement Block Grants program, shall be deemed to be a reference to the grant program referred to in subsection (a)."; and

(C) by inserting after section 500 the following new sections:

"SEC. 501. DESCRIPTION.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available to carry out this subpart, the Attorney General may, in accordance with the formula established under section 505, make grants to States and units of local government, for use by the State or unit of local government to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following programs:

"(A) Law enforcement programs.

"(B) Prosecution and court programs.

"(C) Prevention and education programs.

"(D) Corrections and community corrections programs.

"(E) Drug treatment programs.

"(F) Planning, evaluation, and technology improvement programs.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall be construed to ensure that a grant under that paragraph may be used for any purpose for which a grant was authorized to be used under either or both of the programs specified in section 500(b), as those programs were in effect immediately before the enactment of this paragraph.

"(b) CONTRACTS AND SUBAWARDS.—A State or unit of local government may, in using a grant under this subpart for purposes authorized by subsection (a), use all or a portion of that grant to contract with or make one or more subawards to one or more—

"(1) neighborhood or community-based organizations that are private and nonprofit;

"(2) units of local government; or

"(3) tribal governments.

"(c) PROGRAM ASSESSMENT COMPONENT; WAIVER.—

"(1) Each program funded under this subpart shall contain a program assessment component, developed pursuant to guidelines established by the Attorney General, in coordination with the National Institute of Justice.

"(2) The Attorney General may waive the requirement of paragraph (1) with respect to a program if, in the opinion of the Attorney General, the program is not of sufficient size to justify a full program assessment.

"(d) PROHIBITED USES.—Notwithstanding any other provision of this Act, no funds provided under this subpart may be used, directly or indirectly, to provide any of the following matters:

"(1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

"(2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—

"(A) vehicles, vessels, or aircraft;

"(B) luxury items;

"(C) real estate;

"(D) construction projects (other than penal or correctional institutions); or

"(E) any similar matters.

"(e) ADMINISTRATIVE COSTS.—Not more than 10 percent of a grant made under this subpart may be used for costs incurred to administer such grant.

"(f) PERIOD.—The period of a grant made under this subpart shall be four years, except that renewals and extensions beyond that period may be granted at the discretion of the Attorney General.

"(g) RULE OF CONSTRUCTION.—Subparagraph (d)(1) shall not be construed to prohibit the use, directly or indirectly, of funds provided under this subpart to provide security at a public event, such as a political convention or major sports event, so long as such security is provided under applicable laws and procedures.

"SEC. 502. APPLICATIONS.

"To request a grant under this subpart, the chief executive officer of a State or unit of local government shall submit an application to the Attorney General within 90 days after the date on which funds to carry out this subpart are appropriated for a fiscal year, in such form as the Attorney General may require. Such application shall include the following:

"(1) A certification that Federal funds made available under this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

"(2) An assurance that, not fewer than 30 days before the application (or any amendment to the application) was submitted to the Attorney General, the application (or amendment) was submitted for review to the governing body of the State or unit of local government (or to an organization designated by that governing body).

"(3) An assurance that, before the application (or any amendment to the application) was submitted to the Attorney General—

"(A) the application (or amendment) was made public; and

"(B) an opportunity to comment on the application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure makes such an opportunity available.

"(4) An assurance that, for each fiscal year covered by an application, the applicant shall maintain and report such data, records, and information (programmatic and financial) as the Attorney General may reasonably require.

"(5) A certification, made in a form acceptable to the Attorney General and executed by the chief executive officer of the applicant (or by another officer of the applicant, if qualified under regulations promulgated by the Attorney General), that—

"(A) the programs to be funded by the grant meet all the requirements of this subpart;

"(B) all the information contained in the application is correct;

"(C) there has been appropriate coordination with affected agencies; and

"(D) the applicant will comply with all provisions of this subpart and all other applicable Federal laws.

"SEC. 503. REVIEW OF APPLICATIONS.

"The Attorney General shall not finally disapprove any application (or any amendment to that application) submitted under this subpart without first affording the applicant reasonable notice of any deficiencies in the application and opportunity for correction and reconsideration.

"SEC. 504. RULES.

"The Attorney General shall issue rules to carry out this subpart. The first such rules shall be issued not later than one year after the date on which amounts are first made available to carry out this subpart.

"SEC. 505. FORMULA.

"(a) Allocation Among States.—

"(1) In general.—Of the total amount appropriated for this subpart, the Attorney General shall, except as provided in paragraph (2), allocate—

"(A) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

"(i) the total population of a State to—

"(ii) the total population of the United States; and

"(B) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

"(i) the average annual number of part 1 violent crimes of the Uniform Crime Reports of the Federal Bureau of Investigation reported by such State for the three most recent years reported by such State to—

"(ii) the average annual number of such crimes reported by all States for such years.

"(2) Minimum allocation.—If carrying out paragraph (1) would result in any State receiving an allocation less than 0.25 percent of the total amount (in this paragraph referred to as a "minimum allocation State"), then paragraph (1), as so carried out, shall not apply, and the Attorney General shall instead—

"(A) allocate 0.25 percent of the total amount to each State; and

"(B) using the amount remaining after carrying out subparagraph (A), carry out paragraph (1) in a manner that excludes each minimum allocation State, including the population of and the crimes reported by such State.

"(b) Allocation Between States and Units of Local Government.—Of the amounts allocated under subsection (a)—

"(1) 60 percent shall be for direct grants to States, to be allocated under subsection (c); and

"(2) 40 percent shall be for grants to be allocated under subsection (d).

"(c) Allocation for State Governments.—

"(1) In general.—Of the amounts allocated under subsection (b)(1), each State may retain for the purposes described in section 501 an amount that bears the same ratio of—

"(A) total expenditures on criminal justice by the State government in the most recently completed fiscal year to—

"(B) the total expenditure on criminal justice by the State government and units of local government within the State in such year.

"(2) Remaining amounts.—Except as provided in subsection (e)(1), any amounts remaining after the allocation required by paragraph (1) shall be made available to units of local government by the State for the purposes described in section 501.

"(d) Allocations to Local Governments.—

"(1) In general.—Of the amounts allocated under subsection (b)(2), grants for the purposes described in section 501 shall be made directly to units of local government within each State in accordance with this subsection, subject to subsection (e).

"(2) Allocation.—

"(A) In general.—From the amounts referred to in paragraph (1) with respect to a State (in this subsection referred to as the 'local amount'), the Attorney General shall allocate to each unit of local government an amount which bears the same ratio to such share as the average annual number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available bears to the number of part 1 violent crimes reported by all units of local government in the State in which the unit is located to the Federal Bureau of Investigation for such years.

"(B) Transitional rule.—Notwithstanding subparagraph (A), for fiscal years 2005, 2006, and 2007, the Attorney General shall allocate the local amount to units of local government in the same manner that, under the Local Government Law Enforcement Block Grants program in effect immediately before the date of the enactment of this section, the reserved amount was allocated among reporting and nonreporting units of local government.

"(3) Annexed units.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

"(4) Resolution of disparate allocations.—(A) Notwithstanding any other provision of this subpart, if—

"(i) the Attorney General certifies that a unit of local government bears more than 50 percent of the costs of prosecution or incarceration that arise with respect to part 1 violent crimes reported by a specified geographically constituent unit of local government; and

"(ii) but for this paragraph, the amount of funds allocated under this section to—

"(I) any one such specified geographically constituent unit of local government exceeds 150 percent of the amount allocated to the unit of local government certified pursuant to clause (i); or

"(II) more than one such specified geographically constituent unit of local government exceeds 400 percent of the amount allocated to the unit of local government certified pursuant to clause (i),

then in order to qualify for payment under this subsection, the unit of local government certified pursuant to clause (i), together with any such specified geographically constituent units of local government described in clause (ii), shall submit to the Attorney General a joint application for the aggregate of funds allocated to such units of local government. Such application shall specify the amount of such funds that are to be distributed to each of the units of local government and the purposes for which such funds are to be used. The units of local government involved may establish a joint local advisory board for the purposes of carrying out this paragraph.

"(B) In this paragraph, the term 'geographically constituent unit of local government' means a unit of local government that has jurisdiction over areas located within the boundaries of an area over which a unit of local government certified pursuant to clause (i) has jurisdiction.

"(e) Limitation on Allocations to Units of Local Government.—

"(1) Maximum allocation.—No unit of local government shall receive a total allocation under this section that exceeds such unit's total expenditures on criminal justice services for the most recently completed fiscal year for which data are available. Any amount in excess of such total expenditures shall be allocated proportionally among units of local government whose allocations under this section do not exceed their total expenditures on such services.

"(2) Allocations under $10,000.—If the allocation under this section to a unit of local government is less than $10,000 for any fiscal year, the direct grant to the State under subsection (c) shall be increased by the amount of such allocation, to be distributed (for the purposes described in section 501) among State police departments that provide criminal justice services to units of local government and units of local government whose allocation under this section is less than $10,000.

"(3) Non-reporting units.—No allocation under this section shall be made to a unit of local government that has not reported at least three years of data on part 1 violent crimes of the Uniform Crime Reports to the Federal Bureau of Investigation within the immediately preceding 10 years.

"(f) Funds not Used by the State.—If the Attorney General determines, on the basis of information available during any grant period, that any allocation (or portion thereof) under this section to a State for such grant period will not be required, or that a State will be unable to qualify or receive funds under this subpart, or that a State chooses not to participate in the program established under this subpart, then such State's allocation (or portion thereof) shall be awarded by the Attorney General to units of local government, or combinations thereof, within such State, giving priority to those jurisdictions with the highest annual number of part 1 violent crimes of the Uniform Crime Reports reported by the unit of local government to the Federal Bureau of Investigation for the three most recent calendar years for which such data are available.

"(g) Special Rules for Puerto Rico.—

"(1) All funds set aside for Commonwealth government.—Notwithstanding any other provision of this subpart, the amounts allocated under subsection (a) to Puerto Rico, 100 percent shall be for direct grants to the Commonwealth government of Puerto Rico.

"(2) No local allocations.—Subsections (c) and (d) shall not apply to Puerto Rico.

"(h) Units of Local Government in Louisiana.—In carrying out this section with respect to the State of Louisiana, the term 'unit of local government' means a district attorney or a parish sheriff.

"SEC. 506. RESERVED FUNDS.

"Of the total amount made available to carry out this subpart for a fiscal year, the

Attorney General shall reserve not more than—

“(1) $20,000,000, for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement, of which $1,000,000 shall be for use by the Bureau of Justice Statistics to collect data necessary for carrying out this subpart; and

“(2) $20,000,000, to be granted by the Attorney General to States and units of local government to develop and implement antiterrorism training programs.

“SEC. 507. INTEREST-BEARING TRUST FUNDS.

“(a) TRUST FUND REQUIRED.—A State or unit of local government shall establish a trust fund in which to deposit amounts received under this subpart.

“(b) EXPENDITURES.—

“(1) IN GENERAL.—Each amount received under this subpart (including interest on such amount) shall be expended before the date on which the grant period expires.

“(2) REPAYMENT.—A State or unit of local government that fails to expend an entire amount (including interest on such amount) as required by paragraph (1) shall repay the unexpended portion to the Attorney General not later than 3 months after the date on which the grant period expires.

“(3) REDUCTION OF FUTURE AMOUNTS.—If a State or unit of local government fails to comply with paragraphs (1) and (2), the Attorney General shall reduce amounts to be provided to that State or unit of local government accordingly.

“(c) REPAID AMOUNTS.—Amounts received as repayments under this section shall be subject to section 108 of this title as if such amounts had not been granted and repaid. Such amounts shall be deposited in the Treasury in a dedicated fund for use by the Attorney General to carry out this subpart. Such funds are hereby made available to carry out this subpart.

“SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this subpart $1,095,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

(b) REPEALS OF CERTAIN AUTHORITIES RELATING TO BYRNE GRANTS.—

(1) DISCRETIONARY GRANTS TO PUBLIC AND PRIVATE ENTITIES.—Chapter A of subpart 2 of Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760–3762) is repealed.

(2) TARGETED GRANTS TO CURB MOTOR VEHICLE THEFT.—Subtitle B of title I of the Anti Car Theft Act of 1992 (42 U.S.C. 3750a–3750d) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) CRIME IDENTIFICATION TECHNOLOGY ACT.—Subsection (c)(2)(G) of section 102 of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601) is amended by striking “such as” and all that follows through “the M.O.R.E. program” and inserting “such as the Edward Byrne Justice Assistance Grant Program and the M.O.R.E. program”.

(2) SAFE STREETS ACT.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in section 517 (42 U.S.C. 3763), in subsection (a)(1), by striking “pursuant to section 511 or 515” and inserting “pursuant to section 515”;

(B) in section 520 (42 U.S.C. 3766)—

(i) in subsection (a)(1), by striking “the program evaluations as required by section 501(c) of this part” and inserting “program evaluations”;

(ii) in subsection (a)(2), by striking “evaluations of programs funded under section 506 (formula grants) and sections 511 and 515 (discretionary grants) of this part” and inserting “evaluations of programs funded under section 505 (formula grants) and section 515 (discretionary grants) of this part”; and

(iii) in subsection (b)(2), by striking “programs funded under section 506 (formula grants) and section 511 (discretionary grants)” and inserting “programs funded under section 505 (formula grants)”;

(C) in section 522 (42 U.S.C. 3766b)—

(i) in subsection (a), in the matter preceding paragraph (1), by striking “section 506” and inserting “section 505”; and

(ii) in subsection (a)(1), by striking “an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503” and inserting “an assessment of the impact of such activities on meeting the purposes of subpart 1”;

(D) in section 801(b) (42 U.S.C. 3782(b)), in the matter following paragraph (5)—

(i) by striking “the purposes of section 501 of this title” and inserting “the purposes of such subpart 1”; and

(ii) by striking “the application submitted pursuant to section 503 of this title” and inserting “the application submitted pursuant to section 502 of this title”;

(E) in section 808 (42 U.S.C. 3789), by striking “the State office described in section 507 or 1408” and inserting “the State office responsible for the trust fund required by section 507, or the State office described in section 1408,”;

(F) in section 901 (42 U.S.C. 3791), in subsection (a)(2), by striking “for the purposes of section 506(a)” and inserting “for the purposes of section 505(a)”;

(G) in section 1502 (42 U.S.C. 3796bb–1)—

(i) in paragraph (1), by striking “section 506(a)” and inserting “section 505(a)”;

(ii) in paragraph (2)—

(I) by striking “section 503(a)” and inserting “section 502”; and

(II) by striking “section 506” and inserting “section 505”;

(H) in section 1602 (42 U.S.C. 3796cc–1), in subsection (b), by striking “The office designated under section 507 of title I” and inserting “The office responsible for the trust fund required by section 507”;

(I) in section 1702 (42 U.S.C. 3796dd–1), in subsection (c)(1), by striking “and reflects consideration of the statewide strategy under section 503(a)(1)”; and

(J) in section 1902 (42 U.S.C. 3796ff–1), in subsection (e), by striking “The Office designated under section 507” and inserting “The office responsible for the trust fund required by section 507”.

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to the first fiscal year beginning after the date of the enactment of this Act and each fiscal year thereafter.

SEC. 202. CLARIFICATION OF NUMBER OF RECIPIENTS WHO MAY BE SELECTED IN A GIVEN YEAR TO RECEIVE PUBLIC SAFETY OFFICER MEDAL OF VALOR.

Section 3(c) of the Public Safety Officer Medal of Valor Act of 2001 (42 U.S.C. 15202(c)) is amended by striking “more than 5 recipients” and inserting “more than 5 individuals, or groups of individuals, as recipients”.

SEC. 203. CONGRESSIONAL MEDAL AND PLAQUE FOR PUBLIC SAFETY OFFICERS WHO RESPONDED TO THE ATTACKS ON THE UNITED STATES ON SEPTEMBER 11, 2001.

(a) PURPOSE.—It is the purpose of this section—

(1) to commemorate the sacrifices made and service rendered to the United States by those public safety officers who responded to the attacks on the United States on September 11, 2001; and

(2) to honor those public safety officers on the third anniversary of those attacks.

(b) PRESENTATION AUTHORIZED.—

(1) IN GENERAL.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized jointly to present, on behalf of the Congress—

(A) to individuals certified by the Attorney General pursuant to subsection (e), a bronze medal 1½ inches in diameter commemorating the service to the United States of those individuals; and

(B) to public agencies certified by the Attorney General pursuant to subsection (e), a plaque commemorating the service to the United States of the officers, employees, or agents of those agencies.

(2) DATE.—The presentation shall be made as close as feasible to the third anniversary of the attacks on the United States on September 11, 2001.

(3) NEXT OF KIN.—In the case of an individual certified by the Attorney General pursuant to subsection (e), the medal may be accepted by the next of kin of any such individual.

(c) DESIGN AND STRIKING.—

(1) CONSULTATION.—The Attorney General shall consult with the Institute of Heraldry of the Department of Defense regarding the design and artistry of the medal and the plaque authorized by this section. The Attorney General may also consider suggestions received by the Department of Justice regarding the design and artistry of the medal and the plaque, including suggestions made by persons not employed by the Department of Justice.

(2) STRIKING.—After such consultation, the Attorney General shall strike such medals and produce such plaques as may be required to carry out this section.

(d) ELIGIBILITY REQUIREMENTS.—

(1) INDIVIDUALS.—

(A) IN GENERAL.—To be eligible to be presented the medal referred to in subsection (b), an individual must have been a public safety officer (as defined in section 5 of the Public Safety Officer Medal of Valor Act of 2001 (42 U.S.C. 15204))—

(i) who was present in New York, Virginia, or Pennsylvania on September 11, 2001;

(ii) who participated in the response that day to the terrorist attacks on the World Trade Center, the terrorist attack on the Pentagon, or the terrorist attack that resulted in the crash of the fourth airplane in Pennsylvania; and

(iii) who died as a result of such participation.

(B) RULE OF CONSTRUCTION.—An individual who was killed in one of the attacks referred to in subparagraph (A)(ii) shall be deemed, for purposes of that subparagraph, to have participated in the response.

(2) AGENCIES.—To be eligible to be presented the plaque referred to in subsection (b), a public agency must have had at least one officer, employee, or agent who is eligible under paragraph (1) or who would be so eligible but for the requirement of subparagraph (A)(iii) of that paragraph.

(3) APPLICATION; DETERMINATION.—To establish the eligibility required by paragraphs (1) or (2), the head of a public agency must present to the Attorney General an application with such supporting documentation as the Attorney General may require to support such eligibility and, in the case of the eligibility of an individual, with information on

next of kin. The Attorney General shall determine, through the documentation provided and, if necessary, independent investigation, whether the requirements of paragraphs (1) or (2) have been established.

(e) CERTIFICATION.—The Attorney General shall, within 12 months after the date of the enactment of this Act, certify to the Speaker of the House of Representatives and the President pro tempore of the Senate the names of individuals eligible to receive the medal and public agencies eligible to receive the plaque.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 204. CLARIFICATION OF OFFICIAL TO BE CONSULTED BY ATTORNEY GENERAL IN CONSIDERING APPLICATION FOR EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE.

Section 609M(b) of the Justice Assistance Act of 1984 (42 U.S.C. 10501(b)) is amended by striking “the Director of the Office of Justice Assistance” and inserting “the Assistant Attorney General for the Office of Justice Programs”.

SEC. 205. CLARIFICATION OF USES FOR REGIONAL INFORMATION SHARING SYSTEM GRANTS.

Section 1301(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h(b)), as most recently amended by section 701 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 374), is amended—

(1) in paragraph (1), by inserting “regional” before “information sharing systems”;

(2) by amending paragraph (3) to read as follows:

“(3) establishing and maintaining a secure telecommunications system for regional information sharing between Federal, State, and local law enforcement agencies;”; and

(3) by striking “(5)” at the end of paragraph (4).

SEC. 206. INTEGRITY AND ENHANCEMENT OF NATIONAL CRIMINAL RECORD DATABASES.

(a) DUTIES OF DIRECTOR.—Section 302 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (b), by inserting after the third sentence the following new sentence: “The Director shall be responsible for the integrity of data and statistics and shall protect against improper or illegal use or disclosure.”;

(2) by amending paragraph (19) of subsection (c) to read as follows:

“(19) provide for improvements in the accuracy, quality, timeliness, immediate accessibility, and integration of State criminal history and related records, support the development and enhancement of national systems of criminal history and related records including the National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center, facilitate State participation in national records and information systems, and support statistical research for critical analysis of the improvement and utilization of criminal history records;”; and

(3) in subsection (d)—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting “; and”; and

(C) by adding at the end the following:

“(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this part, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.”.

(b) USE OF DATA.—Section 304 of such Act (42 U.S.C. 3735) is amended by striking “particular individual” and inserting “private person or public agency”.

(c) CONFIDENTIALITY OF INFORMATION.—Section 812(a) of such Act (42 U.S.C. 3789g(a)) is amended by striking “Except as provided by Federal law other than this title, no” and inserting “No”.

SEC. 207. EXTENSION OF MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking “2004” and inserting “2007”.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

SEC. 211. OFFICE OF WEED AND SEED STRATEGIES.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after section 102 (42 U.S.C. 3712) the following new sections:

“SEC. 103. OFFICE OF WEED AND SEED STRATEGIES.

“(a) ESTABLISHMENT.—There is established within the Office an Office of Weed and Seed Strategies, headed by a Director appointed by the Attorney General.

“(b) ASSISTANCE.—The Director may assist States, units of local government, and neighborhood and community-based organizations in developing Weed and Seed strategies, as provided in section 104.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $58,265,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 and 2006, to remain available until expended.

“SEC. 104. WEED AND SEED STRATEGIES.

“(a) IN GENERAL.—From amounts made available under section 103(c), the Director of the Office of Weed and Seed Strategies may implement strategies, to be known as Weed and Seed strategies, to prevent, control, and reduce violent crime, criminal drug-related activity, and gang activity in designated Weed-and-Seed communities. Each such strategy shall involve both of the following activities:

“(1) WEEDING.—Activities, to be known as Weeding activities, which shall include promoting and coordinating a broad spectrum of community efforts (especially those of law enforcement agencies and prosecutors) to arrest, and to sanction or incarcerate, persons in that community who participate or engage in violent crime, criminal drug-related activity, and other crimes that threaten the quality of life in that community.

“(2) SEEDING.—Activities, to be known as Seeding activities, which shall include promoting and coordinating a broad spectrum of community efforts (such as drug abuse education, mentoring, and employment counseling) to provide—

“(A) human services, relating to prevention, intervention, or treatment, for at-risk individuals and families; and

“(B) community revitalization efforts, including enforcement of building codes and development of the economy.

“(b) GUIDELINES.—The Director shall issue guidelines for the development and implementation of Weed and Seed strategies under this section. The guidelines shall ensure that the Weed and Seed strategy for a community referred to in subsection (a) shall—

“(1) be planned and implemented through and under the auspices of a steering committee, properly established in the community, comprised of—

“(A) in a voting capacity, representatives of—

“(i) appropriate law enforcement agencies; and

“(ii) other public and private agencies, and neighborhood and community-based organizations, interested in criminal justice and community-based development and revitalization in the community; and

“(B) in a voting capacity, both—

“(i) the Drug Enforcement Administration's special agent in charge for the jurisdiction encompassing the community; and

“(ii) the United States Attorney for the District encompassing the community;

“(2) describe how law enforcement agencies, other public and private agencies, neighborhood and community-based organizations, and interested citizens are to cooperate in implementing the strategy; and

“(3) incorporate a community-policing component that shall serve as a bridge between the Weeding activities under subsection (a)(1) and the Seeding activities under subsection (a)(2).

“(c) DESIGNATION.—For a community to be designated as a Weed-and-Seed community for purposes of subsection (a)—

“(1) the United States Attorney for the District encompassing the community must certify to the Director that—

“(A) the community suffers from consistently high levels of crime or otherwise is appropriate for such designation;

“(B) the Weed and Seed strategy proposed, adopted, or implemented by the steering committee has a high probability of improving the criminal justice system within the community and contains all the elements required by the Director; and

“(C) the steering committee is capable of implementing the strategy appropriately; and

“(2) the community must agree to formulate a timely and effective plan to independently sustain the strategy (or, at a minimum, a majority of the best practices of the strategy) when assistance under this section is no longer available.

“(d) APPLICATION.—An application for designation as a Weed-and-Seed community for purposes of subsection (a) shall be submitted to the Director by the steering committee of the community in such form, and containing such information and assurances, as the Director may require. The application shall propose—

“(1) a sustainable Weed and Seed strategy that includes—

“(A) the active involvement of the United States Attorney for the District encompassing the community, the Drug Enforcement Administration's special agent in charge for the jurisdiction encompassing the community, and other Federal law enforcement agencies operating in the vicinity;

“(B) a significant community-oriented policing component; and

“(C) demonstrated coordination with complementary neighborhood and community-based programs and initiatives; and

“(2) a methodology with outcome measures and specific objective indicia of performance to be used to evaluate the effectiveness of the strategy.

“(e) GRANTS.—

“(1) IN GENERAL.—In implementing a strategy for a community under subsection (a), the Director may make grants to that community.

“(2) USES.—For each grant under this subsection, the community receiving that grant—

“(A) shall use not less than 40 percent of the grant amounts for Seeding activities under subsection (a)(2); and

“(B) may not use any of the grant amounts for construction, except that the Assistant Attorney General may authorize use of grant amounts for incidental or minor construction, renovation, or remodeling.

“(3) LIMITATIONS.—A community may not receive grants under this subsection (or fall within such a community)—

“(A) for a period of more than 10 fiscal years;

“(B) for more than 5 separate fiscal years, except that the Assistant Attorney General may, in single increments and only upon a showing of extraordinary circumstances, authorize grants for not more than 3 additional separate fiscal years; or

“(C) in an aggregate amount of more than $1,000,000, except that the Assistant Attorney General may, upon a showing of extraordinary circumstances, authorize grants for not more than an additional $500,000.

“(4) DISTRIBUTION.—In making grants under this subsection, the Director shall ensure that—

“(A) to the extent practicable, the distribution of such grants is geographically equitable and includes both urban and rural areas of varying population and area; and

“(B) priority is given to communities that clearly and effectively coordinate crime prevention programs with other Federal programs in a manner that addresses the overall needs of such communities.

“(5) FEDERAL SHARE.—(A) Subject to subparagraph (B), the Federal share of a grant under this subsection may not exceed 75 percent of the total costs of the projects described in the application for which the grant was made.

“(B) The requirement of subparagraph (A)—

“(i) may be satisfied in cash or in kind; and

“(ii) may be waived by the Assistant Attorney General upon a determination that the financial circumstances affecting the applicant warrant a finding that such a waiver is equitable.

“(6) SUPPLEMENT, NOT SUPPLANT.—To receive a grant under this subsection, the applicant must provide assurances that the amounts received under the grant shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs or services provided in the community.”.

(b) ABOLISHMENT OF EXECUTIVE OFFICE OF WEED AND SEED; TRANSFERS OF FUNCTIONS.—

(1) ABOLISHMENT.—The Executive Office of Weed and Seed is abolished.

(2) TRANSFER.—There are hereby transferred to the Office of Weed and Seed Strategies all functions and activities performed immediately before the date of the enactment of this Act by the Executive Office of Weed and Seed Strategies.

(c) EFFECTIVE DATE.—This section and the amendments made by this section take effect 90 days after the date of the enactment of this Act.

Subtitle C—Assisting Victims of Crime

SEC. 221. GRANTS TO LOCAL NONPROFIT ORGANIZATIONS TO IMPROVE OUTREACH SERVICES TO VICTIMS OF CRIME.

Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)), as most recently amended by section 623 of the USA PATRIOT Act (Public Law 107-56; 115 Stat. 372), is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking the comma after “Director”;

(B) in subparagraph (A), by striking “and” at the end;

(C) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following new subparagraph:

“(C) for nonprofit neighborhood and community-based victim service organizations and coalitions to improve outreach and services to victims of crime.”;

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “paragraph (1)(A)” and inserting “paragraphs (1)(A) and (1)(C)”;

(ii) by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) not more than $10,000 shall be used for any single grant under paragraph (1)(C).”.

SEC. 222. CLARIFICATION AND ENHANCEMENT OF CERTAIN AUTHORITIES RELATING TO CRIME VICTIMS FUND.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended as follows:

(1) AUTHORITY TO ACCEPT GIFTS.—Subsection (b)(5) of such section is amended by striking the period at the end and inserting the following: “, which the Director is hereby authorized to accept for deposit into the Fund, except that the Director is not hereby authorized to accept any such gift, bequest, or donation that—

“(A) attaches conditions inconsistent with applicable laws or regulations; or

“(B) is conditioned upon or would require the expenditure of appropriated funds that are not available to the Office for Victims of Crime.”.

(2) AUTHORITY TO REPLENISH ANTITERRORISM EMERGENCY RESERVE.—Subsection (d)(5)(A) of such section is amended by striking “expended” and inserting “obligated”.

(3) AUTHORITY TO MAKE GRANTS TO INDIAN TRIBES FOR VICTIM ASSISTANCE PROGRAMS.—Subsection (g) of such section is amended—

(A) in paragraph (1), by striking “, acting through the Director,”;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) The Attorney General may use 5 percent of the funds available under subsection (d)(2) (prior to distribution) for grants to Indian tribes to establish victim assistance programs, as appropriate.”.

SEC. 223. AMOUNTS RECEIVED UNDER CRIME VICTIM GRANTS MAY BE USED BY STATE FOR TRAINING PURPOSES.

(a) CRIME VICTIM COMPENSATION.—Section 1403(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(3)) is amended by inserting after “may be used for” the following: “training purposes and”.

(b) CRIME VICTIM ASSISTANCE.—Section 1404(b)(3) of such Act (42 U.S.C. 10603(b)(3)) is amended by inserting after “may be used for” the following: “training purposes and”.

SEC. 224. CLARIFICATION OF AUTHORITIES RELATING TO VIOLENCE AGAINST WOMEN FORMULA AND DISCRETIONARY GRANT PROGRAMS.

(a) CLARIFICATION OF SPECIFIC PURPOSES.—Section 2001(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended in the matter preceding paragraph (1) by inserting after “violent crimes against women” the following: “to develop and strengthen victim services in cases involving violent crimes against women”.

(b) TECHNICAL AMENDMENT RELATING TO MISDESIGNATED SECTIONS.—Section 402(2) of Public Law 107-273 (116 Stat. 1789) is amended by striking “as sections 2006 through 2011, respectively” and inserting “as sections 2007 through 2011, respectively”.

(c) CLARIFICATION OF STATE GRANTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1), as redesignated pursuant to the amendment made by subsection (b), is amended—

(1) in subsection (a), by striking “to States” and all that follows through “tribal governments”;

(2) in subsection (b)—

(A) in each of paragraphs (2) and (3), by striking “$1/54$” and inserting “$1/53$”; and

(B) in paragraph (4), by striking “in Indian country”;

(3) in subsection (c)(3)(A), by striking “police” and inserting “law enforcement”; and

(4) in subsection (d)—

(A) in the second sentence, by inserting after “each application” the following: “submitted by a State”; and

(B) in the third sentence, by striking “An application” and inserting “In addition, each application submitted by a State or tribal government”.

(d) CHANGE FROM ANNUAL TO BIENNIAL REPORTING.—Section 2009(b) of such Act (42 U.S.C. 3796gg-3), as redesignated pursuant to the amendment made by subsection (b), is amended by striking “Not later than” and all that follows through “the Attorney General shall submit” and inserting the following: “Not later than one month after the end of each even-numbered fiscal year, the Attorney General shall submit”.

(e) AVAILABILITY OF FORENSIC MEDICAL EXAMS.—Section 2010 of such Act (42 U.S.C. 3796gg-4), as redesignated pursuant to the amendment made by subsection (b), is amended by adding at the end the following new subsections:

“(c) USE OF FUNDS.—A State or Indian tribal government may use Federal grant funds under this part to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State or Indian tribal government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.”.

(f) TECHNICAL AMENDMENT.—The heading for Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended to read as follows:

“PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN”.

SEC. 225. EXPANSION OF GRANT PROGRAMS ASSISTING ENFORCEMENT OF DOMESTIC VIOLENCE CASES TO ALSO ASSIST ENFORCEMENT OF SEXUAL ASSAULT CASES.

(a) GRANTS TO ENCOURAGE DOMESTIC VIOLENCE ARREST POLICIES.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (a), by striking “to treat domestic violence as a serious violation” and inserting “to treat domestic violence and sexual assault as serious violations”;

(2) in subsection (b)—

(A) in each of paragraphs (2) and (5), by striking "domestic violence and dating violence" and inserting "domestic violence, sexual assault, and dating violence";

(B) in paragraph (3), by striking "domestic violence cases" and inserting "domestic violence and sexual assault cases"; and

(C) in paragraph (6), by striking "about domestic violence" and inserting "about domestic violence and sexual assault"; and

(3) in subsection (d), by striking "In this section, the term" and inserting "In this part—

"(1) the term 'sexual assault' has the meaning given the term in section 2008; and

"(2) the term".

(b) Applications.—Section 2102(b) of such Act (42 U.S.C. 3796hh–1(b)) is amended in each of paragraphs (1) and (2) by inserting after "involving domestic violence" the following: "or sexual assault".

(c) Rural Domestic Violence and Child Abuse Enforcement Assistance.—Section 40295(a) of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 13971(a)) is amended in each of paragraphs (1) and (2) by striking "domestic violence and dating violence (as defined in section 2003" and inserting "domestic violence, sexual assault, and dating violence (as such terms are defined in section 2008".

SEC. 226. CHANGE OF CERTAIN REPORTS FROM ANNUAL TO BIENNIAL.

(a) Stalking and Domestic Violence.—Section 40610 of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 14039) is amended by striking "The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides" and inserting "Each even-numbered fiscal year, the Attorney General shall submit to the Congress a biennial report that provides".

(b) Safe Havens for Children.—Section 1301(d)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420(d)(1)) is amended in the matter preceding subparagraph (A) by striking "Not later than 1 year after the last day of the first fiscal year commencing on or after the date of the enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter," and inserting "Not later than one month after the end of each even-numbered fiscal year,".

SEC. 227. CLARIFICATION OF RECIPIENTS AND PROGRAMS ELIGIBLE FOR GRANTS UNDER RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE PROGRAM.

Section 40295 of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 13971) is amended as follows:

(1) in subsection (a), in the matter preceding paragraph (1), by striking "to States, Indian tribal governments, and local governments of rural States, and to other public or private entities of rural States" and inserting "to States, Indian tribal governments, local governments, and public or private entities, for programs serving rural areas or rural communities"; and

(2) in subsection (b)—

(A) by inserting "(1) the term" before "'Indian tribe' means";

(B) by striking "Indians." and all that follows through the period at the end and inserting "Indians; and

"(2) the terms 'rural area' and 'rural community' have the meanings given those terms in section 491(k)(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(k)(2)).".

Subtitle D—Preventing Crime

SEC. 231. CLARIFICATION OF DEFINITION OF VIOLENT OFFENDER FOR PURPOSES OF JUVENILE DRUG COURTS.

Section 2953(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–2(b)) is amended in the matter preceding paragraph (1) by striking "an offense that" and inserting "a felony-level offense that".

SEC. 232. CHANGES TO DISTRIBUTION AND ALLOCATION OF GRANTS FOR DRUG COURTS.

(a) Minimum Allocation Repealed.—Section 2957 of such Act (42 U.S.C. 3797u–6) is amended by striking subsection (b).

(b) Technical Assistance and Training.—Such section is further amended by adding at the end the following new subsection:

"(b) Technical Assistance and Training.—Unless one or more applications submitted by any State or unit of local government within such State (other than an Indian tribe) for a grant under this part has been funded in any fiscal year, such State, together with eligible applicants within such State, shall be provided targeted technical assistance and training by the Community Capacity Development Office to assist such State and such eligible applicants to successfully compete for future funding under this part.".

SEC. 233. ELIGIBILITY FOR GRANTS UNDER DRUG COURT GRANTS PROGRAM EXTENDED TO COURTS THAT SUPERVISE NON-OFFENDERS WITH SUBSTANCE ABUSE PROBLEMS.

Section 2951(a)(1) of such Act (42 U.S.C. 3797u(a)(1)) is amended by striking "offenders with substance abuse problems" and inserting "offenders, and other individuals under the jurisdiction of the court, with substance abuse problems".

SEC. 234. TERM OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM FOR LOCAL FACILITIES.

Section 1904 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–3) is amended by adding at the end the following new subsection:

"(d) Definition.—In this section, the term 'jail-based substance abuse treatment program' means a course of individual and group activities, lasting for a period of not less than 3 months, in an area of a correctional facility set apart from the general population of the correctional facility, if those activities are—

"(1) directed at the substance abuse problems of the prisoners; and

"(2) intended to develop the cognitive, behavioral, and other skills of prisoners in order to address the substance abuse and related problems of prisoners.".

Subtitle E—Other Matters

SEC. 241. CHANGES TO CERTAIN FINANCIAL AUTHORITIES.

(a) Certain Programs That Are Exempt From Paying States Interest on Late Disbursements Also Exempted From Paying Charge to Treasury for Untimely Disbursements.—Section 204(f) of such Act (116 Stat. 1776; 31 U.S.C. 6503 note) is amended—

(1) by striking "section 6503(d)" and inserting "sections 3335(b) or 6503(d)"; and

(2) by striking "section 6503" and inserting "sections 3335(b) or 6503".

(b) Southwest Border Prosecutor Initiative Included Among Such Exempted Programs.—Section 204(f) of such Act is further amended by striking "pursuant to section 501(a)" and inserting "pursuant to the Southwest Border Prosecutor Initiative (as carried out pursuant to paragraph (3) (117 Stat. 64) under the heading relating to Community Oriented Policing Services of the Department of Justice Appropriations Act, 2003 (title I of division B of Public Law 108–7), or as carried out pursuant to any subsequent authority) or section 501(a)".

(c) Funds Available for ATFE May Be Used for Aircraft, Boats, Ammunition, Firearms, Firearms Competitions, and Any Authorized Activity.—Section 530C(b) of title 28, United States Code, is amended—

(1) in paragraph (2), in each of subparagraphs (A) and (B), by inserting "for the Bureau of Alcohol, Tobacco, Firearms, and Explosives," before "for the Drug Enforcement Administration,"; and

(2) by adding at the end the following new paragraph:

"(8) Bureau of Alcohol, Tobacco, Firearms, and Explosives.—Funds available to the Attorney General for the Bureau of Alcohol, Tobacco, Firearms, and Explosives may be used for the conduct of all its authorized activities.".

(d) Audits and Reports on ATFE Undercover Investigative Operations.—Section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (28 U.S.C. 533 note), as in effect pursuant to section 815(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 533 note) shall apply with respect to the Bureau of Alcohol, Tobacco, Firearms, and Explosives and the undercover investigative operations of the Bureau on the same basis as such section applies with respect to any other agency and the undercover investigative operations of such agency.

SEC. 242. COORDINATION DUTIES OF ASSISTANT ATTORNEY GENERAL.

(a) Coordinate and Support Office for Victims of Crime.—Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting after "the Bureau of Justice Statistics," the following: "the Office for Victims of Crime,".

(b) Setting Grant Conditions and Priorities.—Such section is further amended in subsection (a)(6) by inserting ", including placing special conditions on all grants, and determining priority purposes for formula grants" before the period at the end.

SEC. 243. SIMPLIFICATION OF COMPLIANCE DEADLINES UNDER SEX-OFFENDER REGISTRATION LAWS.

(a) Compliance Period.—A State shall not be treated, for purposes of any provision of law, as having failed to comply with section 170101 (42 U.S.C. 14071) or 170102 (42 U.S.C. 14072) of the Violent Crime Control and Law Enforcement Act of 1994 until 36 months after the date of the enactment of this Act, except that the Attorney General may grant an additional 24 months to a State that is making good faith efforts to comply with such sections.

(b) Time for Registration of Current Address.—Subsection (a)(1)(B) of such section 170101 is amended by striking "unless such requirement is terminated under" and inserting "for the time period specified in".

SEC. 244. REPEAL OF CERTAIN PROGRAMS.

(a) Safe Streets Act Programs.—The following provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968 are repealed:

(1) Criminal justice facility construction pilot program.—Part F (42 U.S.C. 3769–3769d).

(2) Matching grant program for school security.—Part AA (42 U.S.C. 3797a–3797e).

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT PROGRAMS.—The following provisions of the Violent Crime Control and Law Enforcement Act of 1994 are repealed:

(1) LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM.—Subtitle B of title III (42 U.S.C. 13751–13758).

(2) ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH.—Subtitle G of title III (42 U.S.C. 13801–13802).

(3) IMPROVED TRAINING AND TECHNICAL AUTOMATION.—Subtitle E of title XXI (42 U.S.C. 14151).

(4) OTHER STATE AND LOCAL AID.—Subtitle F of title XXI (42 U.S.C. 14161).

SEC. 245. ELIMINATION OF CERTAIN NOTICE AND HEARING REQUIREMENTS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT.—Section 802 (42 U.S.C. 3783) of such part is amended—

(A) by striking subsections (b) and (c); and

(B) by striking “(a)” before “Whenever,”.

(2) FINALITY OF DETERMINATIONS.—Section 803 (42 U.S.C. 3784) of such part is amended—

(A) by striking “, after reasonable notice and opportunity for a hearing,”; and

(B) by striking “, except as otherwise provided herein”.

(3) REPEAL OF APPELLATE COURT REVIEW.—Section 804 (42 U.S.C. 3785) of such part is repealed.

SEC. 246. AMENDED DEFINITIONS FOR PURPOSES OF OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended as follows:

(1) INDIAN TRIBE.—Subsection (a)(3)(C) of such section is amended by striking “(as that term is defined in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603))”.

(2) COMBINATION.—Subsection (a)(5) of such section is amended by striking “program or project” and inserting “program, plan, or project”.

(3) NEIGHBORHOOD OR COMMUNITY-BASED ORGANIZATIONS.—Subsection (a)(11) of such section is amended by striking “which” and inserting “, including faith-based, that”.

(4) INDIAN TRIBE; PRIVATE PERSON.—Subsection (a) of such section is further amended—

(A) in paragraph (24) by striking “and” at the end;

(B) in paragraph (25) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

“(26) the term ‘Indian Tribe’ has the meaning given the term ‘Indian tribe’ in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

“(27) the term ‘private person’ means any individual (including an individual acting in his official capacity) and any private partnership, corporation, association, organization, or entity (or any combination thereof).”.

SEC. 247. CLARIFICATION OF AUTHORITY TO PAY SUBSISTENCE PAYMENTS TO PRISONERS FOR HEALTH CARE ITEMS AND SERVICES.

Section 4006 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after “The Attorney General” the following: “or the Secretary of Homeland Security, as applicable,”; and

(2) in subsection (b)(1)—

(A) by striking “the Immigration and Naturalization Service” and inserting “the Department of Homeland Security”;

(B) by striking “shall not exceed the lesser of the amount” and inserting “shall be the amount billed, not to exceed the amount”;

(C) by striking “items and services” and all that follows through “the Medicare program” and inserting “items and services under the Medicare program”; and

(D) by striking “; or” and all that follows through the period at the end and inserting a period.

SEC. 248. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 104, as added by section 211 of this Act, the following new section:

“SEC. 105. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established within the Office an Office of Audit, Assessment, and Management, headed by a Director appointed by the Attorney General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

“(2) PURPOSE.—The purpose of the Office shall be to carry out and coordinate performance audits of, take actions to ensure compliance with the terms of, and manage information with respect to, grants under programs covered by subsection (b).

“(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice, other than the Inspector General, performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities, other than functions and activities of the Inspector General, for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department.

“(b) COVERED PROGRAMS.—The programs referred to in subsection (a) are the following:

“(1) The program under part Q of this title.

“(2) Any grant program carried out by the Office of Justice Programs.

“(3) Any other grant program carried out by the Department of Justice that the Attorney General considers appropriate.

“(c) PERFORMANCE AUDITS REQUIRED.—

“(1) IN GENERAL.—The Director shall select grants awarded under the programs covered by subsection (b) and carry out performance audits on such grants. In selecting such grants, the Director shall ensure that the aggregate amount awarded under the grants so selected represent not less than 10 percent of the aggregate amount of money awarded under all such grant programs.

“(2) RELATIONSHIP TO NIJ EVALUATIONS.—This subsection does not affect the authority or duty of the Director of the National Institute of Justice to carry out overall evaluations of programs covered by subsection (b), except that such Director shall consult with the Director of the Office in carrying out such evaluations.

“(3) TIMING OF PERFORMANCE AUDITS.—The performance audit required by paragraph (1) of a grant selected under paragraph (1) shall be carried out—

“(A) not later than the end of the grant period, if the grant period is not more than 1 year; and

“(B) at the end of each year of the grant period, if the grant period is more than 1 year.

“(d) COMPLIANCE ACTIONS REQUIRED.—The Director shall take such actions to ensure compliance with the terms of a grant as the Director considers appropriate with respect to each grant that the Director determines (in consultation with the head of the element of the Department of Justice concerned), through a performance audit under subsection (a) or other means, is not in compliance with such terms. In the case of a misuse of more than 1 percent of the grant amount concerned, the Director shall, in addition to any other action to ensure compliance that the Director considers appropriate, ensure that the entity responsible for such misuse ceases to receive any funds under any program covered by subsection (b) until such entity repays to the Attorney General an amount equal to the amounts misused. The Director may, in unusual circumstances, grant relief from this requirement to ensure that an innocent party is not punished.

“(e) GRANT MANAGEMENT SYSTEM.—The Director shall establish and maintain, in consultation with the chief information officer of the Office, a modern, automated system for managing all information relating to the grants made under the programs covered by subsection (b).

“(f) AVAILABILITY OF FUNDS.—Not to exceed 5 percent of all funding made available for a fiscal year for the programs covered by subsection (b) shall be reserved for the activities of the Office of Audit, Assessment, and Management as authorized by this section.”.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 249. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 105, as added by section 248 of this Act, the following new section:

“SEC. 106. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established within the Office a Community Capacity Development Office, headed by a Director appointed by the Attorney General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

“(2) PURPOSE.—The purpose of the Office shall be to provide training to actual and prospective participants under programs covered by section 105(b) to assist such participants in understanding the substantive and procedural requirements for participating in such programs.

“(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department.

“(b) MEANS.—The Director shall, in coordination with the heads of the other elements of the Department, carry out the purpose of the Office through the following means:

“(1) Promoting coordination of public and private efforts and resources within or available to States, units of local government, and neighborhood and community-based organizations.

"(2) Providing information, training, and technical assistance.

"(3) Providing support for inter- and intra-agency task forces and other agreements and for assessment of the effectiveness of programs, projects, approaches, or practices.

"(4) Providing in the assessment of the effectiveness of neighborhood and community-based law enforcement and crime prevention strategies and techniques, in coordination with the National Institute of Justice.

"(5) Any other similar means.

"(c) Locations.—Training referred to in subsection (a) shall be provided on a regional basis to groups of such participants. In a case in which remedial training is appropriate, as recommended by the Director or the head of any element of the Department, such training may be provided on a local basis to a single such participant.

"(d) Best Practices.—The Director shall—

"(1) identify grants under which clearly beneficial outcomes were obtained, and the characteristics of those grants that were responsible for obtaining those outcomes; and

"(2) incorporate those characteristics into the training provided under this section.

"(e) Availability of Funds.—Not to exceed 5 percent of all funding made available for a fiscal year for the programs covered by section 105(b) shall be reserved for the activities of the Community Capacity Development Office as authorized by this section.".

(b) Effective Date.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 250. OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

(a) In General.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 106, as added by section 249 of this Act, the following new section:

"SEC. 107. OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

"(a) Establishment.—There is established within the Office an Office of Applied Law Enforcement Technology, headed by a Director appointed by the Attorney General. The purpose of the Office shall be to provide leadership and focus to those grants of the Department of Justice that are made for the purpose of using or improving law enforcement computer systems.

"(b) Duties.—In carrying out the purpose of the Office, the Director shall—

"(1) establish clear minimum standards for computer systems that can be purchased using amounts awarded under such grants; and

"(2) ensure that recipients of such grants use such systems to participate in crime reporting programs administered by the Department.".

(b) Effective Date.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 251. AVAILABILITY OF FUNDS FOR GRANTS.

(a) In General.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 107, as added by section 250 of this Act, the following new section:

"SEC. 108. AVAILABILITY OF FUNDS.

"(a) Period for Awarding Grant Funds.—

"(1) In general.—Unless otherwise specifically provided in an authorization, DOJ grant funds for a fiscal year shall remain available to be awarded and distributed to a grantee only in that fiscal year and the three succeeding fiscal years, subject to paragraphs (2) and (3). DOJ grant funds not so awarded and distributed shall revert to the Treasury.

"(2) Treatment of reprogrammed funds.—DOJ grant funds for a fiscal year that are reprogrammed in a later fiscal year shall be treated for purposes of paragraph (1) as DOJ grant funds for such later fiscal year.

"(3) Treatment of deobligated funds.—If DOJ grant funds were obligated and then deobligated, the period of availability that applies to those grant funds under paragraph (1) shall be extended by a number of days equal to the number of days from the date on which those grant funds were obligated to the date on which those grant funds were deobligated.

"(b) Period for Expending Grant Funds.—DOJ grant funds for a fiscal year that have been awarded and distributed to a grantee may be expended by that grantee only in the period permitted under the terms of the grant. DOJ grant funds not so expended shall revert to the Treasury.

"(c) Definition.—In this section, the term 'DOJ grant funds' means, for a fiscal year, amounts appropriated for activities of the Department of Justice in carrying out grant programs for that fiscal year.

"(d) Applicability.—This section applies to DOJ grant funds for fiscal years beginning with fiscal year 2004.".

(b) Effective Date.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 252. CONSOLIDATION OF FINANCIAL MANAGEMENT SYSTEMS OF OFFICE OF JUSTICE PROGRAMS.

(a) Consolidation of Accounting Activities and Procurement Activities.—The Assistant Attorney General of the Office of Justice Programs shall ensure that—

(1) all accounting activities for all elements of the Office of Justice Programs are carried out under the direct management of the Office of the Comptroller; and

(2) all procurement activities for all elements of the Office are carried out under the direct management of the Office of Administration.

(b) Further Consolidation of Procurement Activities.—The Assistant Attorney General shall ensure that, on and after September 30, 2007—

(1) all procurement activities for all elements of the Office are carried out through a single management office; and

(2) all contracts and purchase orders used in carrying out those activities are processed through a single procurement system.

(c) Consolidation of Financial Management Systems.—The Assistant Attorney General shall ensure that, on and after September 30, 2010, all financial management activities (including human resources, payroll, and accounting activities, as well as procurement activities) of all elements of the Office are carried out through a single financial management system.

(d) Achieving Compliance.—

(1) Schedule.—The Assistant Attorney General shall undertake a scheduled consolidation of operations to achieve compliance with the requirements of this section.

(2) Specific requirements.—With respect to achieving compliance with the requirements of—

(A) subsection (a), the consolidation of operations shall be initiated not later than 90 days after the date of the enactment of this Act; and

(B) subsections (b) and (c), the consolidation of operations shall be initiated not later than September 30, 2005, and shall be carried out by the Office of Administration, in consultation with the Chief Information Officer and the Office of Audit, Assessment, and Management.

SEC. 253. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) In General.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Grant Authorization.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).";

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking "Additional Grant Projects.—Grants made under subsection (a) may include programs, projects, and other activities to—" and inserting "Uses of Grant Amounts.—The purposes for which grants made under subsection (a) may be made are—";

(B) by redesignating paragraphs (1) through (12) as paragraphs (5) through (16), respectively;

(C) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

"(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

"(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

"(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

"(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

"(B) security assessments;

"(C) security training of personnel and students;

"(D) coordination with local law enforcement; and

"(E) any other measure that, in the determination of the Attorney General, may provide a significant improvement in security;"; and

(D) by amending paragraph (8) (as so redesignated) to read as follows:

"(8) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;";

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively;

(5) in subsection (c) (as so redesignated) by striking "subsection (i)" and inserting "subsection (g)"; and

(6) by adding at the end the following new subsection:

"(j) Matching Funds for School Security Grants.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

“(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

“(2) any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection; and

“(3) the Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.”.

(b) CONFORMING AMENDMENT.—Section 1702 of title I of such Act (42 U.S.C. 3796dd-1) is amended in subsection (d)(2) by striking “section 1701(d)” and inserting “section 1701(b)”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking clause (i) and all that follows through the period at the end and inserting the following:

“(i) $1,007,624,000 for fiscal year 2004;

“(ii) $1,027,176,000 for fiscal year 2005; and

“(iii) $1,047,119,000 for fiscal year 2006.”; and

(2) in subparagraph (B)—

(A) by striking “section 1701(f)” and inserting “section 1701(d)”; and

(B) by striking the third sentence.

SEC. 254. CLARIFICATION OF PERSONS ELIGIBLE FOR BENEFITS UNDER PUBLIC SAFETY OFFICERS' DEATH BENEFITS PROGRAMS.

(a) PERSONS ELIGIBLE FOR DEATH BENEFITS.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), as most recently amended by section 2(a) of the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002 (Public Law 107–196; 116 Stat. 719), is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

“(7) ‘member of a rescue squad or ambulance crew’ means an officially recognized or designated public employee member of a rescue squad or ambulance crew;”; and

(3) in paragraph (4) by striking “and” and all that follows through the end and inserting a semicolon.

(b) CLARIFICATION OF LIMITATION ON PAYMENTS IN NON-CIVILIAN CASES.—Section 1202(5) of such Act (42 U.S.C. 3796a(5)) is amended by inserting “with respect” before “to any individual”.

(c) WAIVER OF COLLECTION IN CERTAIN CASES.—Section 1201 of such Act (42 U.S.C. 3796) is amended by adding at the end the following:

“(k) In any case in which the Bureau paid, before the date of the enactment of Public Law 107–196, any benefit under this part to an individual who—

“(1) before the enactment of that law was entitled to receive that benefit; and

“(2) by reason of the retroactive effective date of that law is no longer entitled to receive that benefit,

“the Bureau may suspend or end activities to collect that benefit if the Bureau determines that collecting that benefit is impractical or would cause undue hardship to that individual.”.

(d) DESIGNATION OF BENEFICIARY.—Section 1201(a)(4) of such Act (42 U.S.C. 3796(a)(4)) is amended to read as follows:

“(4) if there is no surviving spouse or surviving child—

“(A) in the case of a claim made on or after the date that is 90 days after the date of the enactment of this subparagraph, to the individual designated by such officer as beneficiary under this section in such officer's most recently executed designation of beneficiary on file at the time of death with such officer's public safety agency, organization, or unit, provided that such individual survived such officer; or

“(B) if there is no individual qualifying under subparagraph (A), to the individual designated by such officer as beneficiary under such officer's most recently executed life insurance policy, provided that such individual survived such officer; or”.

SEC. 255. RESEARCH-BASED BULLYING PREVENTION PROGRAMS.

Paragraph (13) of section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended by inserting before the semicolon at the end the following: “, which may include research-based bullying prevention programs”.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. TECHNICAL AMENDMENTS RELATING TO PUBLIC LAW 107-56.

(a) STRIKING SURPLUS WORDS.—

(1) Section 2703(c)(1) of title 18, United States Code, is amended by striking “or” at the end of subparagraph (C).

(2) Section 1960(b)(1)(C) of title 18, United States Code, is amended by striking “to be used to be used” and inserting “to be used”.

(b) PUNCTUATION AND GRAMMAR CORRECTIONS.—Section 2516(1)(q) of title 18, United States Code, is amended—

(1) by striking the semicolon after the first close parenthesis; and

(2) by striking “sections” and inserting “section”.

(c) CROSS REFERENCE CORRECTION.—Section 322 of Public Law 107–56 is amended, effective on the date of the enactment of that section, by striking “title 18” and inserting “title 28”.

(d) CAPITALIZATION CORRECTION.—Subsections (a) and (b) of section 2703 of title 18, United States Code, are each amended by striking “CONTENTS OF WIRE OR ELECTRONIC” and inserting “CONTENTS OF WIRE OR ELECTRONIC”.

SEC. 302. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) PUNCTUATION CORRECTIONS.—The heading for section 1591 of title 18, United States Code, is amended by inserting a comma after “**fraud**”.

(b) DUPLICATE SECTION NUMBERS.—The second section 540C in chapter 33 of title 28, United States Code, is redesignated as section 540D, and the item relating to that section in the table of sections at the beginning of that chapter is redesignated accordingly and transferred so as to be placed after the item relating to section 540C.

(c) TABLE OF SECTIONS OMISSION.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3050 the following new item:

“3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.”.

(d) REPEAL OF DUPLICATIVE PROGRAM.—Section 316 of Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d), as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922), is repealed.

SEC. 303. MINOR SUBSTANTIVE AMENDMENT RELATING TO CONTENTS OF FBI ANNUAL REPORT.

Section 540D(b)(1)(A) of title 28, United States Code, as redesignated by section 302(b), is further amended by inserting “and the number of such personnel who receive danger pay under section 151 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (5 U.S.C. 5928 note)” after “year”.

SEC. 304. USE OF FEDERAL TRAINING FACILITIES.

(a) FEDERAL TRAINING FACILITIES.—Unless specifically authorized in writing by the Attorney General, the Department of Justice (and each entity within it) shall use for any predominately internal training or conference meeting only a facility that does not require a payment to a private entity for use of the facility.

(b) ANNUAL REPORT.—The Attorney General shall prepare an annual report to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives that details each training and conference meeting that requires specific authorization under subsection (a). The report shall include an explanation of why the facility was chosen, and a breakdown of any expenditures incurred in excess of the cost of conducting the training or meeting at a facility that did not require such authorization.

SEC. 305. PRIVACY OFFICER.

(a) IN GENERAL.—The Attorney General shall designate a senior official in the Department of Justice to assume primary responsibility for privacy policy.

(b) RESPONSIBILITIES.—The responsibilities of such official shall include—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personally identifiable information;

(2) assuring that personally identifiable information contained in systems of records is handled in full compliance with fair information practices as set out in section 552a of title 5, United States Code;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personally identifiable information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department on the privacy of personally identifiable information, including the type of personally identifiable information collected and the number of people affected;

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of section 552a of title 5, United States Code, internal controls, and other relevant matters;

(6) ensuring that the Department protects personally identifiable information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(B) confidentially, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

(C) availability, which means ensuring timely and reliable access to and use of that information; and

(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access; and

(7) advising the Attorney General and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems.

(c) REVIEW.—The Department of Justice shall review its policies to assure that the Department treats personally identifiable information in its databases in a manner that complies with applicable Federal law on privacy.

SEC. 306. BANKRUPTCY CRIMES.

The Director of the Executive Office for United States Trustees shall prepare an annual report to the Congress detailing—

(1) the number and types of criminal referrals made by the United States Trustee Program;

(2) the outcomes of each criminal referral;

(3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and

(4) the United States Trustee Program's efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor's failure to disclose all assets.

SEC. 307. REPORT TO CONGRESS ON STATUS OF UNITED STATES PERSONS OR RESIDENTS DETAINED ON SUSPICION OF TERRORISM.

Not less often than once every 12 months, the Attorney General shall submit to Congress a report on the status of United States persons or residents detained, as of the date of the report, on suspicion of terrorism. The report shall—

(1) specify the number of persons or residents so detained; and

(2) specify the standards developed by the Department of Justice for recommending or determining that a person should be tried as a criminal defendant or should be designated as an enemy combatant.

SEC. 308. TECHNICAL CORRECTION RELATING TO DEFINITION USED IN "TERRORISM TRANSCENDING NATIONAL BOUNDARIES" STATUTE.

Section 1958 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "facility in" and inserting "facility of"; and

(2) in subsection (b)(2), by inserting "or foreign" after "interstate".

SEC. 309. INCREASED PENALTIES AND EXPANDED JURISDICTION FOR SEXUAL ABUSE OFFENSES IN CORRECTIONAL FACILITIES.

(a) EXPANDED JURISDICTION.—The following provisions of title 18, United States Code, are each amended by inserting "or in the custody of the Attorney General or the Bureau of Prisons or any institution or facility in which the person is confined by direction of the Attorney General," after "in a Federal prison,":

(1) Subsections (a) and (b) of section 2241.

(2) The first sentence of subsection (c) of section 2241.

(3) Section 2242.

(4) Subsections (a) and (b) of section 2243.

(5) Subsections (a) and (b) of section 2244.

(b) INCREASED PENALTIES.—

(1) SEXUAL ABUSE OF A WARD.—Section 2243(b) of such title is amended by striking "one year" and inserting "five years".

(2) ABUSIVE SEXUAL CONTACT.—Section 2244 of such title is amended by striking "six months" and inserting "two years" in each of subsections (a)(4) and (b).

SEC. 310. EXPANDED JURISDICTION FOR CONTRABAND OFFENSES IN CORRECTIONAL FACILITIES.

Section 1791(a) of title 18, United States Code, is amended in each of paragraphs (1) and (2) by inserting "or an individual in the custody of the Attorney General or the Bureau of Prisons or any institution or facility in which the person is confined by direction of the Attorney General" after "an inmate of a prison".

SEC. 311. MAGISTRATE JUDGE'S AUTHORITY TO CONTINUE PRELIMINARY HEARING.

The second sentence of section 3060(c) of title 18, United States Code, is amended to read as follows: "In the absence of such consent of the accused, the judge or magistrate judge may extend the time limits only on a showing that extraordinary circumstances exist and justice requires the delay.".

SEC. 312. RECOGNIZING THE 40TH ANNIVERSARY OF THE FOUNDING OF THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW AND SUPPORTING THE DESIGNATION OF AN EQUAL JUSTICE DAY.

(a) FINDINGS.—Congress finds that—

(1) on June 21, 1963, President John F. Kennedy and Attorney General Robert F. Kennedy convened 244 members of the National, State, and local private bar to provide legal representation to remedy racial discrimination against minority communities;

(2) without President Kennedy's vision for racial justice, the bar would have remained silent in the face of vocal resistance by Southern State legislatures against desegregation;

(3) for more than 4 decades, the Lawyers' Committee for Civil Rights Under Law (hereinafter in this section referred to as "Lawyers' Committee") has worked to advance the civil rights of African-Americans and other racial and ethnic minority communities in the areas of environmental protection, employment, affirmative action, fair housing, education, and voting;

(4) the Lawyers' Committee operated an office in Jackson, Mississippi, from 1964 through 1984, which filed numerous cases that transformed the State, including the defense of civil rights demonstrators, desegregation of many public institutions and workforces, reformation of the notorious Parchman Prison, and numerous voting rights cases resulting in a revolution in the number of African-American elected officials in State positions and Congress;

(5) the Lawyers' Committee fought for passage of the Civil Rights Act of 1964, Voting Rights Act of 1965 and the 1982 Amendments, Fair Housing Act of 1988, Civil Rights Act of 1991, and National Voter Registration Act of 1993;

(6) the Lawyers' Committee secured a landmark, unanimous United States Supreme Court decision that strengthened first amendment protections for peaceful political boycotts in Claiborne Hardware Co. v. NAACP;

(7) the Lawyers' Committee created a police community relations program in 1965 that recruited African-Americans for law enforcement positions and eased tensions between law enforcement officers and African-American communities;

(8) the Lawyers' Committee defended the students of Jackson State University following police shootings upon a peaceful demonstration that killed 2 persons and wounded a dozen others;

(9) the Lawyers' Committee operated its Cairo, Illinois office from 1969 through 1972 in response to intense racial unrest and police brutality in the city;

(10) the Lawyers' Committee recruited attorneys from the local bar to represent African-Americans who could not obtain legal counsel during the 1960s;

(11) the Lawyers' Committee transformed African-American voting strength by litigating critical cases throughout the South to oppose archaic voter discrimination laws, poll taxes, and literacy tests that prevented African-Americans from registering and voting;

(12) the Lawyers' Committee launched the Urban Areas Project in 1968, which resulted in local independent Lawyers' Committee offices in Philadelphia, Los Angeles, Boston, Chicago, San Francisco, Denver, San Antonio, and Washington, D.C.;

(13) the Lawyers' Committee developed the Southern African Project, which provided legal assistance to thousands of political detainees and technical assistance in resisting pro-apartheid legislation for more than 20 years and which monitored elections in Namibia in 1989 and elections in South Africa in 1994;

(14) the Lawyers' Committee led the defense of Executive Order 11246 when it was attacked during the Reagan Administration in the 1980s;

(15) the Lawyers' Committee litigated a series of cases from the 1970s to the present that desegregated police and fire departments throughout the Nation, notably in the State of Mississippi and in Miami, Birmingham, Cleveland, Nassau County, Buffalo, and Houston;

(16) in Givens v. Hamlet Estates, the Lawyers' Committee acquired the first seizure order in a fair housing case that led to the exposure of a decade old racial coding system that denied apartments to 6,000 African-Americans and Hispanics in Miami, Florida;

(17) the Lawyers' Committee obtained victories in 3 cases before the United States Supreme Court in 1996–1997 involving the Voting Rights Act, including Young v. Fordice, Lawyer v. United States, and King v. State Board of Elections;

(18) the Lawyers' Committee persuaded the Environmental Protection Agency to relocate 358 African-American families living around the Escambia toxic Superfund site in Pensacola, Florida;

(19) the Lawyers' Committee coordinated a Church Burning Project in the 1990s to provide free legal assistance to churches that were destroyed during a bitter rampage of racially motivated church burnings;

(20) in Washington Park Land Committee v. Portsmouth, the Lawyers' Committee secured a case settlement that led to the relocation of 185 families from toxic lead poisoned segregated public housing in Portsmouth, Virginia, to new integrated housing opportunities; and

(21) June 21, 2003 is the 40th anniversary of the founding of the Lawyers' Committee.

(b) RECOGNITION.—Pursuant to the findings in subsection (a), Congress—

(1) recognizes that these accomplishments of the Lawyers' Committee reflect the tremendous commitment to implementing justice that President Kennedy embarked on 40 years ago;

(2) recognizes the achievements of the Lawyers' Committee, as its staff and pro bono attorneys, clients, and friends commemorate and celebrate its 40th anniversary; and

(3) supports the designation of an appropriate day as "Equal Justice Day" in honor

of the dedicated work of the Lawyers' Committee and the many hours of pro bono service offered by lawyers and law firms throughout this country to secure justice and equal opportunity for all.

TITLE IV—KOBY MANDELL ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Koby Mandell Act of 2003".

SEC. 402. FINDINGS.

The Congress finds the following:

(1) Numerous American citizens have been murdered or maimed by terrorists around the world.

(2) Some American citizens who have been victims of terrorism overseas have not received from the United States Government services equal to those received by other such victims of overseas terrorism.

(3) The United States Government has not devoted adequate efforts or resources to the apprehension of terrorists who have harmed American citizens overseas. Monetary rewards for information leading to the capture of terrorists overseas, which the government advertises in regions where the terrorists are believed to be hiding, have not been advertised adequately.

(4) To remedy these and related problems, an office should be established within the Department of Justice for the purpose of ensuring equally vigorous efforts to capture all terrorists who have harmed American citizens overseas and equal treatment for all American victims of overseas terrorism.

SEC. 403. ESTABLISHMENT OF AN OFFICE IN THE DEPARTMENT OF JUSTICE TO UNDERTAKE SPECIFIC STEPS TO FACILITATE THE CAPTURE OF TERRORISTS WHO HAVE HARMED AMERICAN CITIZENS OVERSEAS AND TO ENSURE THAT ALL AMERICAN VICTIMS OF OVERSEAS TERRORISM ARE TREATED EQUALLY.

The President shall establish within the Department of Justice an office (hereinafter in this title the "Office") to carry out the following activities:

(1) The Office shall create the Bringing Terrorists to Justice program, and in so doing will ensure that—

(A) rewards are offered to capture all terrorists involved in harming American citizens overseas, regardless of the terrorists' country of origin or residence;

(B) such rewards are prominently advertised in the mass media and public sites in all countries or regions where such terrorists reside;

(C) the names and photographs and suspects in all such cases are included on a web site; and

(D) the names of the specific organizations claiming responsibility for terrorist attacks mentioned on the site are included in the descriptions of those attacks.

(2) The Office shall establish and administer a program which will provide notification for American victims of overseas terrorism or their immediate family to update them on the status of efforts to capture the terrorists who harmed them.

(3) The Office shall work with the other United States government agencies to expand legal restrictions on the ability of murderers to reap profits from books or movies concerning their crimes—the "Son of Sam" laws that currently exist in many States, so as to ensure that terrorists who harm American citizens overseas are unable to profit from book or movie sales in the United States.

(4) The Office shall endeavor to determine if terrorists who have harmed American citizens overseas are serving in their local police or security forces. Whenever it is found that terrorists who have harmed American citizens overseas are serving in their local police or security forces, the Office shall alert those United States Government agencies involved in providing assistance, directly or indirectly, to those forces, and shall request of those agencies that all such assistance be halted until the aforementioned terrorists are removed from their positions.

(5) The Office shall undertake a comprehensive assessment of the pattern of United States indictments and prosecution of terrorists who have harmed American citizens overseas, in order to determine the reasons for the absence of indictments of terrorists residing in some regions. The Office's assessment shall then be provided to the Attorney General, together with its recommendations.

(6) The Office shall endeavor to monitor public actions by governments and regimes overseas pertaining to terrorists who have harmed American citizens, such as naming of schools, streets, or other public institutions or sites after such terrorists. In such instances, the Office shall encourage other United States Government agencies to halt their provision of assistance, directly or indirectly, to those institutions.

(7) In cases where terrorists who have harmed Americans overseas, and are subsequently released from incarceration abroad, are eligible for further prosecution in the United States, the Office shall coordinate with other government agencies to seek the transfer of those terrorists to the United States for further prosecution.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for fiscal year 2004 and subsequent fiscal years such sums as may be necessary to carry out this title.

(b) AVAILABILITY.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

TITLE V—MATTERS RELATING TO INTELLIGENCE AND COUNTERINTELLIGENCE

SEC. 501. FBI OFFICE OF COUNTERINTELLIGENCE.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by inserting after section 535 the following new section:

"§ 535A. Office of Counterintelligence

"Subject to the supervision of the Attorney General, the Director of the Federal Bureau of Investigation may establish an Office of Counterintelligence within the Bureau to investigate potential espionage activities within the Bureau.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 535 the following new item:

"535A. Office of Counterintelligence.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. WEINER) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3036 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 3036, the Department of Justice Appropriations Authorization Act for Fiscal Years 2004 through 2006.

During the 107th Congress, I was pleased to secure bipartisan passage of the 21st century Department of Justice Authorization Appropriations Act, which comprehensibly reauthorized the Department of Justice for the first time since 1979. During consideration of that legislation, I committed to pursuing a regular authorization process to ensure that the Committee on the Judiciary provides the Department of Justice with clear guidance and continuing oversight.

With an annual budget of around $20 billion and a workforce of more than 100,000 employees, the Department of Justice is an enormous institution. Its importance has only increased since the tragic events of September 11, 2001.

As chairman of the Committee on the Judiciary, I have worked to provide the Department with the necessary resources to assess, prevent, and punish terrorist acts that threaten America's domestic security while preserving our civil liberties. The committee has also worked to ensure that the Department's structure, management, and priorities are tailored to best fulfill its numerous other missions.

Over the last several months, the committee has conducted several hearings to identify the needs and priorities of the department. These hearings reflected the committee's continuing commitment to oversee all of the Department's activities. This bill reflects the information obtained in those hearings.

H.R. 3036 is divided into five titles. The first title authorizes the Department of Justice appropriations for fiscal years 2004 through 2006. With minor exceptions, these authorizations generally reflect the President's budget request.

Title II makes numerous improvement and upgrades to the Department's grant program. Most importantly, it combines the current Byrne formula grant, Byrne discretionary grant, and Local Law Enforcement Block Grant programs into one Byrne Memorial Justice Assistance Grant Program with an authorization similar to the amount appropriated for all three programs in recent years and a formula that closely follows current law. The administration has requested this consolidation as a way of better serving State and local governments.

It reauthorizes the COPS program while recasting it as one single block grant program covering all of its current purposes so local governments will need only to file one COPS application for any of these purposes. I believe that this will greatly improve the efficiency of the COPS program.

Among other changes, title II provides for new auditing and training capacity for all DOJ grant programs to eliminate waste, fraud, and abuse. It provides the first statutory authorization for the Weed and Seed Program. It establishes a congressional medal and plaque for individuals in units that responded to the 9/11 attacks. And, finally, this reauthorizes the bulletproof vest program.

Title III makes a variety of miscellaneous changes to other aspects of the Department of Justice. It requires DOJ to use existing Federal facilities for training and conferences as opposed to paying for private facilities. It also establishes a dedicated privacy officer at the Department to ensure that the Department utilizes technologies that do not erode privacy protection relating to the use, collection and disclosure of personally identifiable information.

Modeled after the privacy officer this committee established in the Department of Homeland Security, this provision advances the committee's uncompromising commitment to the preservation of civil liberties at the Department.

Title IV establishes a new office within DOJ designed to assist in the capture of terrorists who harm Americans overseas.

Title V provides a statutory authorization to the already existing FBI Office of Counterintelligence.

I introduce this legislation with the support of the gentleman from Michigan (Mr. CONYERS), and I have worked closely with him on it in every step of the way. Bipartisan cooperation was the hallmark of this legislation in the last Congress, and I am pleased that this spirit of bipartisanship continued in this Congress. We have also worked closely with the appropriators to meet their concerns.

H.R. 3036 provides the Department with the tools, resources and direction necessary to operate efficiently and effectively. By identifying solutions to the growing challenges faced by Federal law enforcement, this committee and Congress will be the strong partner the Department needs as we work for the safety and security of all Americans.

I urge my colleagues to support this bill.

Madam Speaker, I reserve the balance of my time.

Mr. WEINER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, first I would like to extend my thanks and gratitude to the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for making this part of the hallmark of the Committee on the Judiciary that we are going to start to continue to have reauthorization bills on the floor for DOJ. I think that is an important thing. For too long it has gone without.

This is a large, important bill and an important part of our government. Now the next step is to have it under regular orders, to have the bill open for amendments, to have the people have the opportunity to offer suggestions. They are a diverse element of this bill. I think it would serve this body well to have an active debate about some of the elements therein and be able to go through the regular process of amendments to perfect the bill even further.

This bill has some very excellent provisions, not the least of which, as the chairman mentioned, is the reauthorization for the first time in a while of the COPS program. The COPS program is by just about every measure a success. It is one of those programs that is extraordinarily democratic, with a small D. Small towns, big cities have all benefited from the police hirings that have gone on.

This is something that transcends politics. It transcends regions. While we can have a debate, and we often do, where criminologists suggest why crime might be going down nationwide, we have academics that have taken a look at it, at the end of the day I believe it is because we in the Federal Government got off the sidelines with the COPS program and started to provide funding for States and localities to provide law enforcement officials.

Now we have a situation where there are over 110,000 cops presently funded to walk the beat all over the country with funding provided by this Congress. This bill would reauthorize it and improve it.

It is not an accident that this has broad bipartisan support. A coalition of Members just recently wrote to the Appropriations Committee urging that the COPS components be fully funded. It includes the gentleman from Michigan (Mr. STUPAK), the gentleman from Minnesota (Mr. RAMSTAD), the gentleman from New Jersey (Mr. ANDREWS), the gentleman from Pennsylvania (Mr. PLATTS), the gentleman from Pennsylvania (Mr. HOLDEN), the gentleman from Florida (Mr. KELLER), the gentleman from New York (Mr. QUINN), and myself.

It should be pointed out, though, that the President for the second year in a row included zero dollars and zero cents in his budget for the hiring components of the COPS program.

We have heard over and over again the Attorney General and the Deputy of Homeland Security Secretary say homeland security starts in our home towns. We go periodically to higher levels of alert where we tell our local law enforcement officials, our local first responders, you have got to absorb more responsibility. Yet, at the same time, we in the Federal Government have been reluctant to provide that funding. This authorization bill changes that with a program that would provide over the course of the bill $3 billion worth of funding.

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Another provision that is included in this bill that is long overdue is getting our Department of Justice off the sidelines in another issue, and that is, that increasingly, by dint of terrorism overseas, U.S. citizens are dying. And simply put, the enforcement, the indictment, the investigation of those crimes is not happening.

We have seen 36 Americans murdered by Palestinian terrorists alone since the Oslo Accords have been signed; yet there have been zero indictments. There have been no real rewards. Suspects' names and faces have not been listed by the Justice Department. The Koby Mandell Act, which was authored by the gentleman from New Jersey (Mr. ANDREWS) and included in this bill, changes that; but there are things that are not included in this bill that if it would have been open rule, we would have had an opportunity to include

In 2000, we in this Congress recognized that we had a real problem after a GAO study showed that increasingly very realistic-looking badges were falling into the hands of those that should not have them. This is before September 11. A person can today go on to the Internet and search for collectible badges, and they can find realistic ones that are so realistic that they can pass for NYPD badges, Customs Department, FBI and all kinds of others. The reason is, although it is illegal to possess a badge like that, there are some very big loopholes that you can drive a truck through.

For example, if you are a collector and you certify that you are, you can purchase one of these badges. If you are someone that is using it for a movie or an entertainment purpose, you can get one of these badges. There is even an exemption in the law, a loophole in the law, if you want to use the badge for recreational purposes. Now I do not know how sophisticated a game of cops and robbers someone is interested in playing, but this is a very serious issue in the context of so many check points that we have now, so many security lines that people have to cross. These badges have caused a problem.

Over 1,200 times in New York City alone, someone has used a fake badge for illicit purposes. This is a very easy loophole to close. I would have liked the provision to have been included in the bill. It would have been a nice thing to offer, and I believe it would have had the support of this House.

If you are a collector, you can still get a badge. It has to be encased in Lucite, very simple. If you are someone who is in a movie or a film production, you have to go to the law enforcement authority wherever you are shooting and get them to sign off that you are using this badge for that purpose, and there absolutely should not be an exemption for "recreational purposes." These badges are being used in some cases by true collectors; but in many cases, they are being used for illegal and illicit purposes.

Madam Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I rise today in strong support of the Department of Justice Reauthorization Act, which includes the text of H.R. 1708, the Bulletproof Vest Partnership Grant program.

I would begin my remarks by thanking my dear colleague, the gentleman from New Jersey (Mr. LOBIONDO), the sponsor of H.R. 1708. I have given him my heartfelt gratitude for his leadership on this issue.

I also want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from South Carolina (Chairman COBLE), the gentleman from Michigan (Mr. CONYERS), the ranking members, as well as the gentleman from Virginia (Mr. SCOTT), for all of their support and cooperation in this endeavor.

Madam Speaker, I first authored and introduced the Bulletproof Vest Partnership Grant Act with the gentleman from New Jersey (Mr. LOBIONDO) in 1997 after meeting with northwest Indiana police officers and hearing that many gang members and drug dealers had the bulletproof vests while many police officers did not. I was even more troubled to learn that the reasons so many officers did not have access to bulletproof vests was because of their prohibitive expense.

As my colleagues know, the purpose of the Bulletproof Vest Partnership Grant program is to protect the lives of law enforcement officers by helping States and local governments equip them with vests. Many departments simply cannot afford to purchase vests for all of their officers, a fact which sometimes forces officers to purchase their own.

Unfortunately, between 1992 and the year 2001, 594 police officers were shot and killed in the line of duty. Of those slain, roughly half were not wearing bulletproof vests because their departments could not afford them.

This act, among other things, recognizes that the lack of protective body armor is even more evident not only in large cities, but in small rural departments. Statistics show that officers in smaller departments are much less likely to have vests than their counterparts in large metropolitan departments. That is why, in order to make sure that no community is left out, half of the funds in the vest partnership act are reserved for jurisdictions with fewer than 100,000 residents.

In closing, the police officers who risk their lives for all of us are mothers and fathers. They are sons and daughters. It is our obligation to the officers and their families to give them access to the equipment that will safeguard them; and, again, I appreciate the gentleman from New Jersey's (Mr. LOBIONDO) leadership and the chairman's leadership on this issue and ask for support of the legislation.

Mr. SENSENBRENNER. Madam Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. LOBIONDO).

Mr. LOBIONDO. Madam Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) very much for his leadership on this, and I thank the gentleman from Indiana (Mr. VISCLOSKY) for his partnership.

We joined in 1997 after similar incidents in our districts, totally separated, joined us together on this particular issue. I urge my colleagues to support this. It is something that will make a difference in real terms in people's lives.

The legislation reauthorizes the grant program until 2007. The current authorization is set to expire this year.

Congress has overwhelmingly approved the program twice before, first in the 105th and then in the 106th. In the 105th Congress, at that point in time, I had two groups within my district, Vest-A-Cop and Shield of Blue, that were raising money to provide vests for police officers basically by sub sales and bake sales and raising a dollar at a time. We recognized through a very tragic incident where a corrections officer at Bayside State Prison, Officer Fred Baker, while on duty was stabbed in the back by an inmate. He did not have a protective vest. We can only speculate if Officer Baker would be alive today, but many of us believe that he would be.

After that incident, the gentleman from Indiana (Mr. VISCLOSKY) and I got together, drafted the legislation and went to work on it; and we are very pleased that our colleagues were able to support it.

This Bulletproof Vest Partnership Act program has directly benefited every U.S. State and territory. A bulletproof vest is one of the most important pieces of equipment an officer can have. Many times, it can mean the difference between life and death.

Every day, law enforcement officers are confronted by violent criminals armed with deadly weapons. While many officers wear vests to protect themselves, an alarming number of officers across the United States are not afforded the same protection because of budget constraints.

The Bulletproof Vest Partnership Act Grant program has helped State and local law enforcement purchase these vests and in response has saved countless thousands of lives. In 2002 alone, the Bulletproof Vest Partnership Grant Act has provided $25 million to State law enforcement agencies across America. This program has provided more than 700,000 of these life-saving vests since its inception in the beginning of the program; and in turn, in this last year, the program has helped fund more than 188,000 new vests, giving vital protection to thousands of law enforcement officers nationwide.

I again thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his support and the gentleman from Indiana (Mr. VISCLOSKY), and I urge my colleagues to support the legislation.

Mr. WEINER. Madam Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman from New York for yielding me the time.

I rise only to speak to the COPS program that over the years we have seen, not only has it been enthusiastically received by the Members of Congress, but it has been received enthusiastically where it counts, in the local municipalities, counties, cities and rural areas where, had it not been for the COPS program implemented under the Clinton administration, many of these individuals would be without the necessary security and law enforcement that they need.

In the backdrop of 9/11, many of us view the COPS program as a rainy-day umbrella, if you will, of local communities in providing them with the resources that they could not pay for themselves.

Particularly, in large cities, even cities like Houston, we are finding that increasingly large numbers of our police officers are reaching retirement age, and we are not able to fill those spots as quickly as we would like. Particularly after 9/11, and even in the last couple of weeks and days, we have noted a high number of reported terrorist activity, some that has been intercepted, which of course, as a member of the Select Committee on Homeland Security, I am gratified for; but we are seeing a large amount of those activities occurring around the world.

Certainly the United States is equally vulnerable; and I believe in this time it is important that we promote a program that has proven to be successful, and that is, the utilization of Federal dollars to supplement the hiring of those in local communities that are part of law enforcement.

The other issue that comes up repeatedly now in these recent days after 9/11 is a large amount of dollars that local law enforcement are spending when the alerts go up and the delay in the reimbursement money sometimes promised by the Federal Government.

It would certainly be helpful if they already had the necessary police officers already staffed, as opposed to using excessive overtime.

So I just ask my colleagues that as we proceed with this legislation that we look to promote that language to provide for more support of the COPS program.

I do want to note, however, the importance of language dealing with the assistance of victims of crime, particular grants to local nonprofit organizations to improve outreach to services to victims of crime.

In my own community right now, there is a terrible trial proceeding with the allegations of a mother that bludgeoned to death two of her children and wounded an infant child of hers on the basis of allegations and defense that she is making, but the point is that family is in disarray, and they are victims of crime; and they will need the outreach services, particularly now for the injured child, remaining child that is alive and the father and family members that are suffering from this terrible, terrible crime that has occurred. Victims are lonely, isolated; and this particular provision in order to outreach to those victims is very, very important.

I would ask my colleagues to consider these matters and ask that we work on these points as we move through the legislation.

Madam Speaker, I rise in support of this legislation, H.R. 3036, to Authorize Appropriations for the Department of Justice for Fiscal Year 2004–2006. I contributed in marking this bill up in Full Judiciary Committee in September of last year.

I firmly believe that the Department of Justice should receive the full support of Congress and should be properly funded to provide essential protection for the American people. The missions of the various branches of the Department of Justice are even more important since September 11, 2001. This important Federal agency must have our full support to adequately carry out its mission.

My staunch support of the Department of Justice and all agencies that also carry out duties essential to our homeland security and public safety does not imply that I believe these agencies should not adhere to strict standards and be asked to live up to lofty goals that should be standard for our nation. The Law Enforcement and Criminal Justice Agencies, Bureau of Justice Statistics, the Office of Justice Programs, and the Criminal Division must comport themselves with expert efficiency.

The Office of Justice Programs, OJP, is responsible for a variety of criminal justice programs including several that are of particular interest to me: juvenile justice, violence against women and crime prevention related to homeland security. OJP assumes the important responsibility of preventing and controlling crimes. I am a firm believer in eliminating crime before it starts. I applaud OJP's efforts to cooperate with many Federal agencies to rebuild neighborhoods, control gang activity, and prevent drug trafficking.

With these objectives are commendable there is a need to get results. There is still high incidence of drug trafficking, gang membership, juvenile crime, and violent crime. For example, according to the Bureau of Justice statistics in my home State of Texas in 2000, there were 122,155 violent crimes. Of which, 77,306 were aggravated assaults, 35,348 were robberies, and 8,169 were forcible rapes. These numbers need to decline. I look forward to hearing the testimony from the Office of Justice Programs to hear we can reduce these high crime rates.

Finally, the Criminal Division of the Department of Justice is also a multi-faceted criminal justice organization with a homeland security segment. Within the many organizations of the criminal division is a counterterrorism and domestic security section. The Criminal Division also handles cases related to child obscenity and international crime.

The many criminal areas investigated by the Department of Justice Criminal Division and the other agencies we are hearing testimony from today are prime possibilities for discrimination and violations of civil liberties. For example, within each of these organizations there are disparities in minority hiring.

In the U.S. Marshal, for instance, 35 of the current 94 Marshals are women or minorities, and there are currently lawsuits pending against the Marshals regarding discrimination, although women and minorities do comprise a substantial portion of the leadership committees within the Marshals. There also needs to be a greater effort in racial sensitivity training.

We also need to do more to hire more minorities and women in the Department of Justice. For example, a recent OPM study found that while African-Americans generally exceeded their relevant civilian labor force representation in 16 Federal executive departments, less than 16 percent of those employed by the DOJ were African-American. And while the DOJ consisted of 37.7 percent women, that number was over 9 percent unrepresentative of what it should have been based on hiring practices of women in the civilian work force.

As we consider authorizing these various agencies, we must ensure they are not guilty of violating civil liberties in the course of their duties. Racial profiling is one example of an unacceptable criminal investigation technique. Racial profiling is a very serious problem in our criminal justice system. Although African-Americans make up only 14 percent of the population nationwide, they account for 72 percent of all routine traffic stops.

An ACLU analysis of Maryland State Police data showed that 73 percent of cars stopped and searched on Interstate 95 between Baltimore and Delaware from January 1995 through September 1997 were those of African-Americans, despite the fact that only 14 percent of those driving along that stretch were Black. Moreover, police found nothing in 70 percent of those searches. Similarly, in Florida, 70 percent of the persons stopped on I–95 were African-American, even though they made up less than 10 percent of the driving population. Data also shows that Hispanics are similarly targeted disproportionately by law enforcement agencies across the Nation.

For the reasons above-stated, I support this bill, Madam Speaker.

Mr. SENSENBRENNER. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. COX), the chairman of the Select Committee on Homeland Security.

Mr. COX. Madam Speaker, I rise in strong support of the Department of Justice authorization bill, and I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Michigan (Ranking Member CONYERS) for their leadership and their bipartisan cooperation on this vital function of our national government.

Madam Speaker, I also rise for the purpose of engaging in a colloquy with my good friend, the chairman of the Committee on the Judiciary.

The Department of Justice bill contains a provision which limits the Federal Bureau of Investigation's participation in the Terrorism Threat Integration Center as follows: the provision states that funding will be provided "as may be necessary to assign employees to the Terrorism Threat Integration Center: provided, that such amounts may only be expended for analyzing intelligence information."

I understand the intent of this language is to ensure that TTIC does not become a domestic surveillance or collection agency. However, I want to be clear that there was no intention to create barriers to information sharing between the FBI and TTIC and between and among other partners in TTIC, such as the Department of Homeland Security.

Since September 11, Congress and the gentleman from Wisconsin (Chairman SENSENBRENNER) have worked tirelessly to tear down these information-sharing barriers. I want to be sure that this provision will in no way interfere with TTIC's right to receive information from the FBI or its responsibility to provide information to the FBI and the Department of Homeland Security. TTIC's partnership with DHS is critical to the Department's mission to prevent terrorist attacks.

In addition, it may be appropriate for the FBI to assign employees to TTIC to assist in the administration and management of TTIC, and I understand that it is not the chairman's intent through this language to limit such FBI's participation and assistance. Is my understanding of this provision accurate?

Mr. SENSENBRENNER. Madam Speaker, will the gentleman yield?

Mr. COX. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. The answer to the gentleman's question is yes.

Mr. COX. Madam Speaker, I thank the chairman.

Mr. WEINER. Madam Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Madam Speaker, I thank my friend from New York for yielding me the time.

I would like to express my appreciation to the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member CONYERS), and especially the gentleman from New York (Mr. WEINER) for the outstanding efforts in including in this worthy piece of legislation a provision that has been called the Koby Mandell Act.

Koby Mandell was a 13-year-old boy in May of 2001 who until he was in fourth grade had lived in the United States in Maryland and his family moved to Israel. In May of 2001, Kolbe and a friend of his went hiking, and they were never to return.

During their youthful enjoyment of a hiking outing, Kolbe and his friend were stoned to death by Palestinian terrorists. Now, when an American citizen leaves this country for purposes of living somewhere else, he or she certainly should not leave behind the protection of justice.

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Unfortunately for Koby Mandell and his family, the concept that passes for justice in the occupied territories did not protect him. Because since the time of his murder, there has been no meaningful investigation or prosecution to bring to justice those who committed this murder. When our citizens travel around the world and are not protected by the law of other places, it is our responsibility to step forward and protect them. That is what this language does.

I especially want to thank the gentleman from New York (Mr. WEINER), without whose active participation this would not have happened. He used his considerable legislative skills to shepherd through the committee, with the cooperation of the chairman and ranking member, this language.

Here is what it means. The Department of Justice will set up an office that will offer and enforce rewards for those who murder Americans when they are on foreign soil, irrespective of where they are on foreign soil. This office will monitor the outcome of any prosecution or incarceration of a person who has murdered an American citizen. If such a person is released from a prison in another land or is not properly dealt with in another land, this office will have responsibility to extradite and bring to trial in this country a person who has committed a crime against an American citizen, to the extent that our laws would permit such a prosecution.

This office will be, further, responsible for making sure that if any official authorities that may have been complicit in the murder of the American are still in place, that is to say, if people who are security agents or police officers responsible for the murder of an American citizen are still in place, that appropriate diplomatic and economic actions would be taken against the government that sponsors those authorities. Sadly, in many parts of the world, those who wear the cloak of authority are responsible for criminal acts, murderous acts against Americans and other innocent people.

This provision will by no means stop the murder of innocent Americans when they travel abroad, but it will provide us with a new and meaningful tool that will bring to justice those who would commit such heinous acts against innocent people. It is sad that a 13-year-old boy had to give his life, but it is inspiring that his sacrifice of his life has led this institution to consider this very worthy provision.

Again, I am very grateful to the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), to the ranking member, the gentleman from Michigan (Mr. CONYERS), and especially to the gentleman from New York (Mr. WEINER) for their skill in including this measure in the underlying legislation. I hope that we will continue to work together as Republicans and Democrats to see that this newly created office will be properly funded so that it may do the job I just talked about.

No American should be without the protection of justice, irrespective of where he or she travels in the world. I believe this is an important provision to help ensure that promise. Once again, I thank the leaders for including it in the bill.

Mr. WEINER. Madam Speaker, I yield myself such time as I may consume.

I wanted to conclude the way I began, by offering my thanks to Chairman SENSENBRENNER. He has made this Committee on the Judiciary one that functions in a no-nonsense fashion. We legislate. We very often disagree on issues, but they are all heard. And I think he has also done an excellent job in protecting the prerogatives of the committee, making sure that important things like the funding of the Judiciary, of the Justice Department, is not left entirely to the appropriators and that we have an opportunity to craft a bill.

I would now encourage our colleagues in the other body to get going. They have many of these provisions they are also looking at. I understand they are going to take up this bill. I would urge them to do so quickly. And I think that we should, as the chairman said, get in the habit of treating this agency like others. There are sticky issues, but I think we have shown in the Committee on the Judiciary that we can navigate them.

I do want to make reference to one point, because many of my colleagues have mentioned it in passing. There is a great deal of controversy, I think much of it overblown, about the PATRIOT Act. I think supporters of the PATRIOT Act have wildly overstated its impact, and detractors have wildly overstated the impositions put on Americans. But I think the chairman deserves credit for fully funding the Inspector General's Office, with particular attention being paid to making sure that PATRIOT Act investigations are being done in an aboveboard way that does not violate the rights of Americans and that as we review the PATRIOT Act as it prepares to sunset that we have a full arsenal of information at our disposal.

I wanted to also offer my thanks to some members of the staff here at the on the Democratic side of the Committee on the Judiciary, Sampak Garg, Perry Apelbaum, Ted Kalo, Bobby Vassar, Greg Barnes, and Marc Dunkelman of my staff. In particular, I would like to offer my gratitude to Lamar Robertson, who has been my counsel on the Committee on the Judiciary for years now and has done so with remarkable aplomb, remarkable intellect, with a great sense of humor. He will be missed by those of us with whom he serves in the House, and this part in particular that deals with the COPS program is a testament to his hard work.

With that, I offer my thanks to the chairman, and I urge a "yes" vote.

Madam Speaker, I have no further requests for time. I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield myself the balance of my time.

Madam speaker, I, too, would like to thank the staff that worked very hard to negotiate this bill to get the overwhelming bipartisan support that it receives.

Let me say that this is a work in progress, as was the DOJ reauthorization bill that the Congress passed and the President signed last Congress, which was the first Department of Justice reauthorization that had been done since 1979.

The gentleman from New York has a legitimate concern about the sale of fake law enforcement badges. Let me say that we had hoped to include some language relative to that issue in this bill, but the devil was in the details and we could not agree upon the details before the bill came to the floor.

That does not put the issue to bed forever. When we deal with this issue in conference, I am hopeful that we will be able to get some language inserted into the final bill that goes down to the White House that deals with fake badges, because this is a very legitimate issue and there ought to be additional penalties for those who use fake badges over and above the penalties for impersonating a police officer.

So I am hopeful that the other body will deal with this issue promptly.

It does make some very beneficial improvements to how the Department of Justice deals with its grant programs, particularly with relationship to law enforcement. It does reauthorize the bulletproof vest program. And the material that has been inserted in the bill that the gentleman from New Jersey (Mr. ANDREWS) talked about, about an extraterritorial application when crimes are committed against a United States citizen and the law enforcement of the host country will not deal with that issue, I think are vitally important.

So this bill is a tremendous step in the right direction. It is a good bill. It will be made better as we continue working on it, and I am hopeful that before this Congress adjourns that it will be signed into law. I urge a "yes" vote.

Mr. VISCLOSKY. Madam Speaker. I rise today in strong support of H.R. 3036, the Department of Justice Reauthorization Act, which includes the text of my legislation, H.R. 1708, the reauthorization of the successful Bulletproof Vest Partnership Grant Program.

At the outset of my remarks, I would like to thank Chairman SENSENBRENNER and Chairman COBLE as well as Ranking Member of the full Committee Mr. CONYERS and the Ranking Member of the Crime Subcommittee Mr. SCOTT for their past support and efforts on behalf of this important legislation. I would also be remiss if I did not express my heartfelt gratification and thanks to the gentleman from New Jersey, Mr. LOBIONDO, the lead cosponsor of H.R. 1708.

Madam Speaker, I am very excited to be on the floor of the House once again to reauthorize the Bulletproof Vest Partnership Grant Act for a second time. As you know, the original measure was approved by this body with an overwhelming majority in the 105th Congress. Due to the success of the program, it was reauthorized for an additional 3 years in the 106th Congress. Section 207 of today's measure will reauthorize this program, once again, through fiscal year 2007.

If could take a step back Mr. Speaker, I first authored and introduced the Bulletproof Vest Partnership Grant Act in November 1997 after meeting with Northwest Indiana police chiefs and hearing that many gang members and drug dealers had the protection of bulletproof vests, while many police officers did not. I was even more troubled to learn the reason why so many officers do not have access to bulletproof vests. During a visit I made to the local chapter of the Fraternal Order of Police in Dyer, Indiana, officers explained to me that bulletproof vests are prohibitively expensive. A good vest can cost upwards of $500. Many small departments, as well as some larger ones, simply cannot afford to purchase vests for all of their officers, a fact which sometimes forces officers to purchase their own. My original legislation quickly gained overwhelming bipartisan support in this body, due to the fact that similar problems were being experienced by local police departments all across the United States and President Clinton signed the legislation into law in June of 1998 as P.L. 105–181.

Northwest Indiana's police officers work hard to keep the public safe, often at great personal risk to themselves. I am committed to securing the safety equipment these brave men and women need, so they can do their jobs and keep our communities safe. The Bulletproof Vest Partnership Grant Program has been effective in saving the lives of law enforcement officers. According to statistics provided by the Lake County, Indiana, Sheriff's Department, bulletproof vests secured under this program have saved the lives of 18 police officers in that county alone.

Between 1999 through the end of 2003, 23 different law enforcement entities throughout my District have purchased a total of 1,119 vests to protect their police officers. Whether it is the largest city in my District, Gary, with a population of nearly 103,000 people and a current force of 296 police officers purchasing 678 vests, the Town of Merrillville, with a population of 30,500 and a current force of 52 police officers purchasing 89 vests, or in the cases of a smaller police department, like St. John Indiana, with a population of 8,300 and a force of 14 fulltime officers purchasing 34 vests for their officers, this program has worked to protect the lives of those who protect us.

As you know, the purpose of the Bulletproof Vest Partnership Grant Program is to protect the lives of law enforcement officers by helping States and local governments equip them with bulletproof vests. Bulletproof vests and body armor have saved thousands of lives since the introduction of the modern bulletproof material, however, they cannot protect the lives of those who do not have access to them. Unfortunately, between 1992 and 2001, 594 police officers were gunned down in the line of duty. Of those slain, roughly half were not wearing bulletproof vests because sadly, their departments could not afford to provide them with these lifesaving pieces of equipment. The Federal Bureau of Investigation has estimated that the risk of fatality from a firearm for officers not wearing body armor is 14 times higher than for officers wearing body armor. The Fraternal Order of Police have stated that, "body armor is one of the most important pieces of equipment an officer can have and often mean the difference between life and death." According to the IACP/Dupont Kevlar Survivors Club, there are over 2,750 law enforcement officers in the United States who are alive today thanks to the bulletproof vests they were wearing.

The Bulletproof Vest Partnership Grant Program has directly benefited every State and territory of the United States. This critical program provides State, local, and tribal law enforcement officers with needed protection by aiding the purchase of protective equipment. More than 700,000 bulletproof vests are worn today as a direct result of this program.

The Act also recognizes that the lack of protective body armor is even more evident in small, rural police departments. Statistics show that officers in smaller departments are much less likely to have vests than their counterparts in large metropolitan departments. H.R. 1708, the text of which is included in Section 207 of this legislation, would meet the goal of saving officers' lives by reauthorizing the current grant program within the Justice Department for an additional 3 years, providing 50–50 matching grants to State and local law enforcement agencies. These grants are targeted to jurisdictions where most officers do not currently have access to vests, and they are designed to be free of the red tape that often characterizes other grant programs. That is why, in order to make sure that no community is left out of the program, half of the funds are reserved for jurisdictions with fewer than 100,000 residents.

In closing, the police officers who risk their lives are mothers and fathers, and they are sons and daughters. It is our obligation, to the officers and their families, to give them access to the equipment that will safeguard their lives. This legislation is intended to create a partnership with State and local law enforcement agencies in order to make sure that every police officer who needs a bulletproof vest gets one.

I thank Madam Speaker and urge my colleagues to support the underlying bill.

Mr. CONYERS. Madam Speaker, I rise in support of this legislation. I first would like to commend Chairman SENSENBRENNER for reasserting the Judiciary Committee's jurisdiction over the Department of Justice with this bill. In the past few years, the Justice Department has become increasingly resistant to congressional oversight, either refusing to answer questions or answering them vaguely at best. Fortunately, we worked together at the Committee level to address our concerns with the Department and arrived at the bill before us today.

While the bill has numerous provisions that are worth notice, I would like to concentrate on a few. First, the bill reauthorizes the COPS office. We all know that this Clinton administration program has been increasingly vital in day-to-day crime prevention and crime solving. That is why COPS has received the praise of the Fraternal Order of Police, the largest law enforcement organization in the country. Local policing also is the backbone in our war on terrorism, as community officers are more likely to know the witnesses and more likely to be trusted by community residents who have information about potential attacks. This bill provides over $1 billion per year for three fiscal years for this important program.

The bill also includes language offered by my colleague Rep. ADAM SCHIFF to require the Attorney General to submit reports to Congress on the number of persons detained on suspicion of terrorism. This is important because the Department has thwarted congressional and judicial efforts to obtain justification for terrorism detainees. In the past few years, the Department's Office of the Inspector General has found that the Department and its components had abused terrorism suspects, pushing them into walls, leaving them in legal limbo, and depriving them of access to family or counsel. With these reports, elected representatives can better determine whether the Department is overstepping its bounds again.

Third, the bill gives the Office of the Inspector General over $70 million for its responsibilities. In the past few years, the OIG has been diligent in overseeing the Department's war on terrorism, issuing reports on 9/11 detainees and pushing the Department to change how its procedures for handling terrorism suspects. The bill provides that the increased funding should be used largely for continuing their PATRIOT Act-related functions.

Finally, the bill recognizes the 40th anniversary of the founding of the Lawyers' Committee for Civil Rights Under Law. It was President Kennedy's vision that brought members of the bar together to fight for the civil rights of all Americans. The Lawyers' Committee continues that fight and deserves our recognition and thanks.

I urge my colleagues to vote "yes" on this legislation.

Mr. ACEVEDO-VILÁ. Madam Speaker, I rise in strong support of the Department of Justice Reauthorization Act. I commend Judiciary Chairman SENSENBRENNER, Ranking Member CONYERS, and other members of the Judiciary Committee for their diligent work on this bill. This bill makes important changes and adjustments to current law, which I believe will bring greater safety to our communities and ensure better and more efficient administration of crime-fighting programs.

There are two specific provisions of this Act that I would like to highlight.

The Reauthorization of the Bulletproof Vest Partnership Grant Act is an important step in assuring the safety of law enforcement officers throughout the Nation. It has been through this program that thousands of police officers, including many in Puerto Rico, have received the critical personal safety protection of bulletproof vests. While the threat of gun violence will continue to endanger our police, the reauthorization of this grant program will continue the reduction of firearms injuries and deaths to our Nation's law enforcement officers.

Additionally, there is language in H.R. 3036 that is of great importance to Puerto Rico. Unlike in the States, the Commonwealth government centrally carries out the vast majority of law enforcement functions. The Commonwealth's budget for 2005 calls for $752 million to support the 22,500 Commonwealth police officers who have the primary responsibility for law enforcement on the island, and they are joined by approximately 4,000 officers at the municipal level. For this reason, the disbursement of funds under law enforcement grant programs, such as the local law enforcement block grant and the Byrne Memorial Justice Assistance Grant, should be to the Commonwealth government. Under this scenario, the Commonwealth government then disburses funds to the municipal police forces as appropriate. This bill recognizes this unique structure, and includes language that appropriately directs the local law enforcement grants to the Commonwealth government.

Again, I greatly appreciate the leadership of Chairman SENSENBRENNER and his colleagues on the Judiciary Committee in bringing this important bill to the floor. I strongly support this legislation, and urge my colleagues to do likewise.

Mr. SENSENBRENNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3036, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WELFARE REFORM EXTENSION ACT OF 2004

Mr. HERGER. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2231) to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes.

The Clerk read as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Welfare Reform Extension Act of 2004".

SEC. 2. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH JUNE 30, 2004.

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through June 30, 2004, in the manner authorized for fiscal year 2002, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the third quarter of fiscal year 2004 at the level provided for such activities through the third quarter of fiscal year 2002.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking "March 31" and inserting "June 30".

SEC. 3. EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH JUNE 30, 2004.

Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through June 30, 2004, in the manner authorized for fiscal year 2002, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the third quarter of fiscal year 2004 at the level provided for such activities through the third quarter of fiscal year 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HERGER).

Mr. HERGER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 2231, the Welfare Reform Extension Act of 2004. This legislation is a straight 3-month extension of key parts of the Nation's welfare system.

Madam Speaker, the historic welfare reform law we passed in 1996 is working. Since 1996, more than 2 million children have been lifted from poverty, millions of families have left or remain off welfare, cutting welfare dependence in half, child well-being has dramatically improved, and record numbers of low-income parents are working.

But, Madam Speaker, that is not enough. Despite our progress, 2 million American families still remain dependent on welfare today. More than half of welfare recipients do not participate in any work or job training to prepare them for the future. Every year, millions of families break up or never form, risking welfare dependence for years to come. We must do more to assist these families.

Madam Speaker, that is why it is unfortunate that we are here today to approve yet another straight extension instead of an agreement on more long-term improvements. The House passed such comprehensive reform bills in 2002 and a year later in 2003, but the Senate still has not passed a companion bill, although one is being debated now.

Madam Speaker, in an effort to promote at least some reforms in recent weeks I have introduced two alternatives to a straight extension. Both of these alternatives would continue welfare funding at current levels, just like the bill before us today, but these alternatives would also provide more to help low-income families.

My first alternative would expect more welfare recipients to engage in work, a proven path out of poverty, or help more families avoid welfare dependence altogether.

My second alternative also would continue current programs while redirecting a small portion of welfare bonus funds to promote more healthy married families. Both policies are drawn straight from the reforms that passed the House last year as part of our welfare reform bill, H.R. 4.

I introduced these alternatives because, after 18 months of simply maintaining the status quo, we must do more to help low-income families. I wish we were debating either of these extension bills today. The simple fact is that every day that passes without comprehensive agreement means more low-income families depending on welfare. It means less work and job preparation by parents. It means fewer child care and child support resources available to help families. It means more poverty, and it means more families breaking up or never forming.

Madam Speaker, there is real danger in continued delay as well. The House-passed welfare bill proposes $1 billion more in mandatory child care funding during the next 5 years. It proposes billions more in discretionary child care funding. It proposes full funding for TANF programs.

□ 1330

Will those dollars be available in future years? Perhaps. But as time continues to pass and funding becomes tighter, the assurance that increased or even current Federal funding for these programs will remain available becomes more tenuous. For the past several years, Members on this side of the aisle have resisted proposals to reduce welfare funding knowing that these programs are working and recognizing the need for sufficient funds to make further reforms successful. But that case becomes harder to make, for example, if there is no real work requirement for welfare benefits for yet another year as further reforms fall by the wayside.

Madam Speaker, I encourage all Members to support the bill before us today. The bill will continue current funding for key welfare programs through June 30, 2004. It has already passed the other body, and I know the President will sign it immediately. As I have said during prior extension debates, it is my sincere hope that this will be the final extension needed and that the next 3 months will result in a final agreement that will help millions more families achieve independence and a brighter future. I urge my colleagues to support this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. CARDIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise also in support of this legislation, which would extend the TANF and related programs for 3 additional months. It is important that these programs continue uninterrupted. They provide the wherewithal that our States can deal with some very vulnerable populations and help people restore their lives and help people be able to work. The bill is important, the program is important, and we need to pass it. It also provides for the extension of transitional Medicaid which provides health care benefits to people who are coming off welfare. These are important programs that need to continue uninterrupted.

Madam Speaker, I share the disappointment of the gentleman from California that we are not considering a long-term extension of TANF and related programs. I think we need to do that. However, I disagree with my chairman as to the reason why we have been unable to do that. In the other body, they are now working on a bill, and I hope they are successful in bringing forward legislation. They are working, Democrats and Republicans, to try to produce a good bill. I am very happy that an amendment was adopted today that increases the amount of money in child care by $6 billion. We are starting to get towards a true bipartisan bill that will provide the resources that the States desperately need in order to move welfare reform to the next plateau, and that is getting families out of poverty, because we have not been very successful in achieving that plateau of getting families out of poverty.

The reason I disagree with the gentleman from California as to why we are at this point where we are asking for another short-term extension, I do not believe it is the other body's fault. I think it is this body's fault, because the legislation that we passed, and I might say without any deliberation in this body, we just rubber-stamped the bill that was passed in the last Congress. The bill was not a bipartisan bill, it was a bill that was not favored by our States, it was a bill that goes backwards on welfare rather than continuing reform by being so prescriptive to our States, telling our States what they have to do. Unfunded mandates on our States. It is estimated that to implement the requirements that we placed in this bill would cost our States at least another $11 billion in child care alone, let alone some of the other expenses. The worst part about the bill was that it provides for make-work activities, not real jobs. It does not take America's families out of poverty who are leaving welfare.

The reason we were unable to accomplish that, there was no effort to reach out, to bring out a bill that was truly bipartisan like they are trying to do in the other body. As a result of the action of this body, we made it very difficult to get a long-term extension enacted. I regret that.

I wish Members would listen to some of the experts in this field. We just got a letter from David Hage from the Star Tribune, who has written a book titled, "Reforming Welfare By Rewarding Work." That is exactly what we want to do. He talks about the Minnesota example. Let me just quote from Mr. Hage, if I might:

"In a recent conference call with journalists, Assistant Health and Human Services Secretary, Wade Horn, said the next steps in welfare reform should be reducing poverty and improving the well-being of families and children.

"Yet the White House and House proposals for TANF reauthorization would do little to accomplish these goals and might in fact subvert them."

Then he goes on to tell why the prescriptive nature of the bill that was passed by the House makes it difficult for States to adopt the type of programs necessary so that families can get the skills they need, the education they need, the training they need, so they can not only get a job but they can move up the economic ladder of success. That is what TANF reauthorization should be about. It should not be moving backwards to penalize people and to make it difficult for them to be able to succeed and, worse than that, making it very difficult for our States to comply with our laws without spending a lot more money, and not the way they think it is best to spend that money.

Madam Speaker, I support this bill because we need to continue this program; but as I have said, I think this is my sixth time on the floor on a temporary extension during the last year and a half. Once again speaking for the Members on this side of the aisle, we are ready to sit down today to work out a true bipartisan multi-year TANF reauthorization bill and to consider the issues so that we can really improve our welfare system, help our States and deal with those families that need our help today. If the leadership on the other side is willing to do that, we would not have to be doing these short-term extensions. We could, in fact, be voting on not only in this body but we could be sending to the President a good multi-year reauthorization of the TANF programs to help American families get out of poverty and find real employment.

Madam Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the committee who was very instrumental in the 1996 TANF legislation.

Mr. LEVIN. Madam Speaker, the gentleman from Maryland as usual has put his finger on what the issue is here, that is, whether we want to move forward with welfare reform or we want to move backwards.

The problem with the approach taken by the Republican majority here has been, instead of trying to reach out and move welfare reform to another stage, they have instead decided, on a very partisan basis essentially, to craft their own bill that really moves this backwards.

Let me just indicate why. The gentleman from Maryland has pointed out a number of ways. We need to accentuate this. The gentleman from California says we have to help families who are still on welfare, but the child care provision in their bill is very, very inadequate. The literature is not complete, we do not have all the data, but it is very clear that one of the reasons welfare reform has worked is because there has been considerable money set aside for child care. Indeed, President Clinton, who brought this issue to the fore many years ago, vetoed bills originally passed in this House because there was inadequate money for child care. Eventually this House, on a bipartisan basis, stood up and was counted on this issue; and we passed many, many more moneys for child care and eventually President Clinton signed the bill.

The contrast between the House and the Senate on child care moneys is very striking. The gentleman from Maryland mentioned that the Senate has now passed a $6 billion proposal, and I think it was a vote overwhelmingly in favor, while the gentleman from California and others get up here and defend a child care provision in the bill that was passed here on a partisan basis that is minor compared to what is needed.

Health care is another problem. If we want to help families move off welfare, we should provide adequate health care coverage during the transition period. The Republican majority here has absolutely refused to step up to the plate on transitional Medicaid. Absolutely refused.

And then as to the families on welfare, the gentleman from California mentioned they are moving out of poverty. An essential ingredient of that is some training so people are trained to be able to move up the economic ladder. But, instead, what they did in their bill was essentially to take out the training element as one of the ingredients of a successful effort by people on welfare.

Those are just three of the reasons. By the way, this training aspect is so vital, and I think the Republican majority in the House and the President of the United States have failed to understand, to face up to this fact: poverty is increasing in the United States of America under their domain. It is increasing. We do not have all the figures; but it is clear, I think, that many of those still in poverty are people who have moved off of welfare, who have not had the adequate training to be able to move up the ladder and still remain in minimum wage jobs. By the way, they refuse to raise the minimum wage, too.

We need to extend the present system, but we also need to move on to the second phase of welfare reform. I am hopeful if there is a bill that passes the Senate that there can then be a conference and you will not on the Republican House majority side be so recalcitrant and insist on taking good elements out of welfare reform, one, and also refuse to put some added ingredients into welfare reform, two.

You have stonewalled. It is not the Senate. They are now moving ahead. The question is whether you are going to be willing to be a partner with them and with Democrats in moving this ahead instead of moving backwards. Partisanship in welfare reform is a dead end. I hope you get off it and we can move as we did many years ago on a bipartisan basis and make a further improvement so people who are now on welfare indeed can move off it, can have the training, can have the child care, can have the health care so they and their kids can move out of poverty.

Mr. HERGER. Madam Speaker, I yield myself such time as I may consume.

Just in response, the gentleman mentioned that the bill was inadequate in terms of funding. I would like to remind the gentleman to consider that the States have been offered some $2 billion more in child care, that is in our bill, and that is on top of the $170 billion of State and Federal welfare/child care funds currently available over the next 5 years. Also, there is some $4 billion in TANF surplus that is available. I might also mention that another comment was made that there were unfunded mandates. The fact is that in this legislation, there are no unfunded mandates in H.R. 4.

Madam Speaker, I reserve the balance of my time.

Mr. CARDIN. Madam Speaker, I yield myself 30 seconds just to respond to the gentleman from California to point out that the only new money in this bill that passed this body, the only new money is some small dollars in regards to marriage promotion and $1 billion guaranteed for child care. That will not even keep up with the current purchasing power, let alone provide the needed resources to deal with the new work requirements. In my own State of Maryland, we have frozen new enrollments into child care because of a lack of resources.

Madam Speaker, I am pleased to yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY), who has been one of the leaders in this body on welfare reform, children's issues, and family issues.

Ms. WOOLSEY. Madam Speaker, I rise in support of S. 2231 because to do anything else would be irresponsible. We must continue assistance to those who need help getting back on their feet, and we must continue that assistance through the TANF program. But, Madam Speaker, we can do much better.

I speak from whence I came. I know about welfare. I lived it. Over 30 years ago as a young mother with three children, they were aged 1, 3, and 5 years old, my husband left us. I immediately went to work full time; but to keep it all together, I went on welfare, aid for dependent children, while I continued my full-time work so that my children could have the health care and the child care that they needed.

□ 1345

Because I was educated, because I had good job skills and good job experience, because I was healthy and my children were healthy, lucky me, and the Members know I was assertive, eventually, I worked my way out of poverty. But it would have been almost impossible without the help of the Federal Government; and, believe me, I think that others should have the same opportunities that I did.

I know that we need to make education and training count as work activity for welfare recipients so mothers will have access to educational opportunities and job training to give them the skills they need so that they can get jobs that pay a livable wage, so that they can actually take care of their families. I know that quality child care, child care that actually includes infant and weekend and evening work, helps parents keep their jobs so that they can become self-sufficient and that these programs are essential to any welfare plan to give support to families in need.

Madam Speaker, as Congress continues to debate welfare reauthorization, we have to remember that the goal of welfare is to move women and their families from welfare to self-sufficiency, not from welfare to poverty as it is now. Therefore, we in this body must do a lot more to make this a true bipartisan bill so that families can get the real help that they need. In the meantime, I urge my colleagues to join me in continuing under S. 2231 what is going on now, so that we can improve the safety net for families in need.

Mr. CARDIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the very first words in the TANF program are: "The purpose of this part is to increase the flexibility of the States . . . " The law then highlights several purposes such as helping needy families and promoting work.

My concern is that the legislation that passed this body takes a major step backwards in our stated goal of giving State flexibility.

The House bill reduces State flexibility on providing education and training by removing it from a core work activity. This is an issue for the States to decide, but, no, in our legislation we make it a Federal issue.

The House bill reduces States' flexibility in addressing the individual needs of welfare recipients by doubling the number of required work hours for mothers with children under the age of 6 required in the legislation that passed this body. This should be up to the States to make those judgments. That is what State flexibility is about.

The House bill reduces the flexibility of States to design programs that focus on moving people from welfare to work by increasing work participation rates without providing an employment credit for those individuals who leave welfare for a wage-paying job. Once again, the States should be able to tailor their own programs to meet their needs. That was the commitment we made in 1996.

And the House bill reduces State flexibility by imposing full sanctions, not giving States the opportunity to have their own sanctions system, once again taking away flexibility from the States. That is not what we should be doing.

The 1996 welfare reform worked because we trusted our States, we gave them the tools, and they developed programs that made sense to get people off of welfare and to get people employed. That is what we need to do again in the next chapter of welfare reform by not only empowering our States but making it easier for them to get families out of poverty.

I urge my colleagues to support this legislation so that we can continue the current program, but I also urge my colleagues, particularly on the other side of the aisle, to sit down with us and let us work out a sensible bipartisan bill that really will continue the commitment we made in 1996 to our families of America and to our States, giving the States the resources and the flexibility to get the job done.

Madam Speaker, I yield back the balance of my time.

Mr. HERGER. Madam Speaker, I yield myself such time as I may consume.

The comment was made that somehow we are not funding as much or funding is less. Not only is this not accurate, the exact opposite in fact is the truth. In terms of case welfare, child care funds available per person on welfare, there is twice as much funding available today as there was in 1996 because the rolls have been cut in half and yet the funding has remained constant.

For example, in 1996 the average amount of money available per welfare family was about $7,000. Today, the average amount available for each family is $16,000, from $7,000 to $16,000, that is available.

Madam Speaker, again, as I have said during prior extension debates, it is my sincere hope that this will be the final extension needed and that the next 3 months will result in a final agreement that will help millions more families achieve independence and a brighter future. I urge my colleagues to support this legislation.

Mr. BOEHNER. Madam Speaker, I rise today in support of S. 2231, but I am discouraged that we find ourselves needing to pass this legislation.

The bill before us today will extend the Federal welfare law, the Temporary Assistance for Needy Families program, or TANF, for another 3 months. This is the sixth time we have come to the floor to extend this program since its authorization expired in September 2002.

The 1996 welfare reform law is one of the most successful social policy initiatives in recent memory. However, we know there is more work to be done. A majority of TANF recipients—approximately 60 percent—still are not working for benefits.

To put even more Americans on the path to self-sufficiency and independence, the House passed H.R. 4 in February 2003. H.R. 4 strengthens current work requirements by asking welfare recipients to engage in work-related activities for 40 hours a week—16 of which could be in education, job training, or other constructive activities as defined by States.

The House-passed bill would ensure that no needy family would fall through the cracks. H.R. 4 creates a policy of universal engagement so that all families receiving welfare benefits must be in work or other activities leading to self-sufficiency. The House reauthorization measure also gradually increases to 70 percent the work participation rate required by States.

Moreover, the House reauthorization bill makes significant improvements to the Child Care and Development Block Grant. It adds $1 billion in discretionary funding to the program over 5 years and requires States to devote more money to improving child care quality. These provisions will ensure that low-income parents have access to safe, quality child care as they move into work.

This week the other body is considering full welfare reauthorization. I am encouraged that the other body may soon pass its welfare reauthorization bill, and hope we will be able to resolve our differences quickly in a conference committee.

The millions of Americans still seeking to move off of the welfare rolls deserve no less. Those continuing to struggle to attain self-sufficiency need the assistance that H.R. 4 would provide.

While I hope this will be the last extension of current law we must pass, I urge my colleagues to support the bill before us today.

Mr. HERGER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the Senate bill, S. 2231.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS REAUTHORIZATION

Mr. CASTLE. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2241) to reauthorize certain school lunch and child nutrition programs through June 30, 2004.

The Clerk read as follows:

S. 2241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.

Section 9(b)(7) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(7)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

SEC. 2. CHILD AND ADULT CARE FOOD PROGRAM.

Section 17(a)(2)(B)(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2)(B)(i)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

SEC. 3. REIMBURSEMENT TO STATES UNDER COMMODITY DISTRIBUTION PROGRAMS.

Section 15(e) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237) is amended by striking "April 1, 2004" and inserting "July 1, 2004".

SEC. 4. FUNDING MAINTENANCE OF COMMODITY DISTRIBUTION PROGRAMS.

Section 14(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

SEC. 5. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13(q) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

(b) PILOT PROJECTS.—Section 18(f)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)(2)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2241.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Delaware?

There was no objection.

Mr. CASTLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support bipartisan legislation that extends certain child nutrition provisions, that are set to expire at the end of this month, through June 30, 2004. This extension is vital to ensure that low-income children have access to safe and nutritious food in school, after school, and during the summer months.

The National School Lunch and Breakfast Programs, WIC, the Child and Adult Care Food, After School Snack, and Summer Food Service Programs, together make up a network of Federal child nutrition programs that are a critical part of our Nation's effort to ensure that needy children in America do not go hungry.

One week ago, the House passed H.R. 3873, the Child Nutrition Improvement and Integrity Act, with overwhelming bipartisan support. H.R. 3873 significantly improves Federal child nutrition programs by increasing program access for eligible children, enhancing program integrity, and emphasizing the importance of nutrition education, balanced diets, and physical activity to reduce the incidence of childhood obesity.

I urge the other body to pass companion legislation to reauthorize child nutrition programs soon so that children and their families can take advantage of these and other improvements to current law contained in H.R. 3873.

The extensions included in today's legislation are a temporary measure to assure the continuation of current law until final legislation is signed into law. S. 2241 will assure us that millions of needy children will not lose access to meals and snacks that are needed for their healthy growth and development and academic success in school.

Millions of children, including many whose mothers and fathers serve in

America's armed services, rely on these programs each day. Without this legislation, many children who reside with their parents in privatized military housing would lose the benefit of free- or reduced-price school meals. In Delaware, approximately 250 children will benefit from this extension and up to 100,000 children nationwide. Taking these subsidies from children when many of their mothers and fathers are fighting for our Nation's security at home and abroad would have a devastating effect on these families.

This legislation would also continue the availability of healthy meals and snacks to low-income children enrolled in for-profit child care centers. Additionally, this legislation would allow schools, churches, and community organizations to operate summer food service program sites and, in 14 States, continue special pilot programs to reduce paperwork and thereby increase the number of disadvantaged children who receive free meals and snacks during the summer months.

Madam Speaker, there are just a few reasons why S. 2241 should be approved today with unanimous support. The child nutrition provisions that would be extended through this legislation benefit America's most vulnerable children. It is our duty as lawmakers to ensure that these at-risk children and their families can continue to receive the benefits for which they have been deemed eligible until the Congress can complete its work on legislation reauthorizing both the Child Nutrition Act and Richard B. Russell National School Lunch Act. I conclude by asking that my fellow colleagues to please join me in support of S. 2241.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join my colleagues in urging passage of S. 2241 to extend the authority for important child nutrition programs. I was pleased to stand on this floor last week with the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Chairman CASTLE), the gentleman from California (Mr. GEORGE MILLER), ranking member, and our entire committee to pass H.R. 3873, the Child Nutrition Improvement and Integrity Act, the House bill which both authorizes and makes some important improvements to the Federal child nutrition program.

H.R. 3873 improves accuracy in the school meals program without dropping eligible children. It makes it easier for eligible students to get free and reduced meals by making the application process easier.

H.R. 3873 makes homeless and migrant youth and children whose families receive food stamps automatically eligible for free meals. It allows youth up to age 18 to participate in meals programs if they are living in domestic violence or homeless shelters. It increases startup and expansion grants for the School Breakfast Program and includes a study of the best ways to overcome common barriers to offering breakfasts at all schools for all students.

H.R. 3873 helps students make better food choices and fight obesity with team nutrition which provides nutrition education to students and training and support to improve the nutrition of food sold in schools. It requires school districts to develop a local wellness policy which addresses both what students eat at school and the role that physical activity plays in good health. It creates greater opportunities for schools.

It includes fresh and dried fruits and fresh vegetables in school meals, gets our very youngest children off to a healthy start with the new WIC Fruit and Vegetable Pilot Program that will study the benefits of including fruit and vegetables in the WIC food package.

When we passed H.R. 3873 last week, Mr. Speaker, we proved that child nutrition truly is a bipartisan priority here in the House of Representatives. I urge my colleagues in the other body to make it a priority as well so that we can get child nutrition reauthorization and the improvements we need into law.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

The primary goal of all of the Federal child nutrition programs is to increase opportunities for low-income infants and children so that they will eat nutritious food. Anytime the economy takes a turn for the worse, as it has done for a while now, we can see it first in the number of low-income children who do not have enough to eat.

□ 1400

The 2003 Key National Indicators of Children's Well-Being reports that nearly 46 percent of American children who live in poverty were in "food insecure" households, households that reported difficulty in obtaining enough food and increased use of emergency food sources, resulting in reduced food intake and resulting in hunger.

WIC and the School Lunch and Breakfast Programs and the Child and Adult Care Food Program are our very best weapons in the fight against childhood hunger. These programs ensure that every eligible infant and child in this Nation has access to nutritious food: at home, through the WIC Program; in child care, through the Child and Adult Food Program; in school, through the School Breakfast and Lunch Programs; during out-of-school time, through After School and Summer Programs; and in homeless and domestic violence shelters.

Another way to get more food to hungry kids, particularly kids in working poor families, would be to pass the bill of the gentleman from Connecticut (Mr. SHAYS), of which I am a cosponsor, to phase out the reduced price category in school lunch and breakfast.

The 40 cents fee for reduced school price lunch is a major barrier for children of the working poor. While 40 cents may not seem like much money to us, if your income is between 130 percent and 185 percent of the poverty line and you have more than one child, it is often more than you can afford to spend.

Eliminating the reduced price category would save schools immeasurable time and money, because it would reduce their paperwork burdens and greatly simplify the eligibility program in the process.

Eliminating reduced prices works for schools, it works for hungry kids, and it should be something we start immediately.

Another change for the better would be to improve the nutrition quality of all of the food sold in our schools. Today, one out of every six children is overweight; and childhood obesity raises special concerns. It places children at high risk for disease and conditions previously only associated with adults. Nearly two-thirds of obese 5- to 10-year-olds have at least one additional risk factor for cardiovascular disease. There has been a dramatic increase in the numbers of children with Type II diabetes, the form of the disease directly linked to overweight adults.

In addition, childhood obesity is a strong predictor of adult obesity. A recent study found that 77 percent of children with a body mass index greater than the 95th percentile remained obese as adults.

A study just released by the Centers for Disease Control and Prevention found that, if current trends continue, obesity will become the leading cause of preventible death by next year; not in the future, next year.

Over-consumption of low nutrition soft drinks and snacks plays a key role in childhood obesity. Yet 43 percent of elementary schools, 74 percent of middle schools, and 98 percent of high schools have vending machines, school stores or snack bars that sell soft drinks, candy, salty snacks and baked goods that are at high risk and high in fat, while, at the same time, not providing healthy snacks as a balance.

We need a good, scientifically-based study on what is a healthy school environment; and then we need to help schools create that environment for their students. The child nutrition bill that we passed last week takes some good first steps with the local wellness policy and team nutrition, but we need to be doing much, much more.

In addition to that, we should be trying to help all children make healthy eating choices. I certainly do not mean that we or should anyone else should become food policemen or policewomen, but schools can be offered incentives to make healthy foods available, and children can be educated to choose those healthy foods.

Mr. Speaker, I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is all pretty simple. We are passing this Senate bill to extend these programs from the end of March, which is tomorrow, until June 30. Hopefully, in that time the other body will take up the full reauthorization of these various nutrition programs.

I think the gentlewoman from California stated it correctly in terms of the benefit of those programs. It is my hope, frankly, that they use our bill as the base bill for what they are going to do. I think we are pretty much in unanimous consent in this House that what is in there makes a lot of sense. That is the reason we need to pass this today.

Mr. BOEHNER. Mr. Speaker, I rise in support of S. 2241, which extends the authorization for the expiring portions of federal child nutrition programs for an additional three months.

The child nutrition programs include the National School Lunch and Breakfast Programs; the Special Supplemental Nutrition Program for Women, Infants, and Children (or WIC); the Child and Adult Care Food Program; the After School Snack Program; and the Summer Food Service Program.

These invaluable programs—which are responsible for providing nutritious meals to millions of children and adults every day—are due for reauthorization this year. I am pleased to note that the House acted decisively last week to approve comprehensive reauthorization legislation, showing overwhelming support for a bill that includes positive reforms to improve program integrity and ensure services for eligible children. Unfortunately we have not had the opportunity to complete the reauthorization process with our friends on the other side of the Capitol, and for that reason, we are here today seeking to extend the current authorization an additional three months.

This bill contains one provision of particular importance to our Nation's soldiers, sailors and airmen. If this legislation is not approved, the children of Armed Forces members who live in privatized military housing and who are eligible for free and reduced-price lunch will lose their school meal subsidies. This would be an insult to these parents who work every day to secure our Nation's freedom.

In addition, this legislation contains a provision that allows for-profit child care centers to continue to participate in the Child and Adult Care Food Program, and to continue to provide meals and snacks to centers where at least 25 percent of the children enrolled meet the income eligibility requirements for free and reduced-price lunch.

Parents will always bear primary responsibility for their children's health and nutrition, but this bill provides assistance for those who are having trouble making ends meet. The overall goal of all of the child nutrition programs is to make sure that low-income children and families have access to low-cost meals and snacks that are safe and nutritious.

The Child Nutrition Improvement & Integrity Act approved by the House last week includes important steps to ensure effective and efficient use of federal resources dedicated to child nutrition programs. The bipartisan bill, authored by Representative MIKE CASTLE (R–DE), would significantly enhance integrity in how the child nutrition programs are administered, and would ensure vulnerable children and families have improved access to nutritional services. I am eager to move forward with the Child Nutrition Improvement & Integrity Act, and I believe the extension before us will allow the Congress to complete a thorough and comprehensive reauthorization process that includes the positive reforms approved by the House last week.

This bipartisan bill is a simple, straightforward tool to make sure we are serving the millions of low-income children who depend upon the programs contained in the Child Nutrition and Richard B. Russell National School Lunch Acts. Mr. Speaker, I strongly support the bill before us today and I encourage the House to act once again in a bipartisan show of support for federal child nutrition programs by voting "yes" on S. 2241.

Mr. CASTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the Senate bill, S. 2241.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2231.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

REIMBURSING MEMBERS OF UNITED STATES ARMED FORCES FOR CERTAIN TRANSPORTATION EXPENSES

Mr. BRADLEY of New Hampshire. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2057) to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

The Clerk read as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Hampshire (Mr. BRADLEY) and the gentleman from Arkansas (Mr. SNYDER) each will control 20 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BRADLEY).

GENERAL LEAVE

Mr. BRADLEY of New Hampshire. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2057.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise in support of S. 2057, which would retroactively reimburse 38,000 service members for their travel expenses incurred while on R&R, rest and recuperation leave. I would like to recognize and commend the majority for bringing this bill to the floor.

Last year, the United States Army issued a policy that will require both Active and Reserve forces to spend one year boots on the ground overseas. To improve morale and address the concerns expressed by commanders and troops in the field, the Department of Defense established a rest and recuperation program for those service members with 12-months tours.

Initially, the program allowed service members to travel from Kuwait to Germany and Baltimore, Maryland. Subsequently, they expanded that to two other airports, one in Atlanta and one in Dallas; and from these airports service members were then required to pay for their continued travel home.

Subsequent to this, the Department of Defense also established a similar program for our fine men and women on duty as part of Operation Enduring Freedom in Afghanistan. As part of this program, these service members were required to pay for the continued flight to their final destination, to their home.

Last year, Congress recognized the unfair burden this policy placed on service members and sought to rectify it. However, in the course of doing that, the new benefit did not really kick in with the regulations until December 19, 2003. This was 3 months after the program started.

So we have approximately 38,000 troops who had to pay for their own travel expenses from their points of arrival in the United States to home. This amounts to about $13 million. If my math is correct, that is an average of about $342 for each one of those service members.

This is a small price to pay to restore fairness amongst the troops for this very important moral effort.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. RAMSTAD).

Mr. RAMSTAD. I thank my friend from New Hampshire for yielding.

Mr. Speaker, last year, the U.S. military began employing its first rest and recuperation program, known as R&R, since the Vietnam War. Soldiers who have served 12 straight months in a combat zone qualify for R&R.

Sadly, however, we all remember the televised interviews of combat-weary American soldiers back from Iraq on R&R and stranded at Baltimore-Washington International Airport, unable to afford a plane ticket home.

Sad but true, Mr. Speaker, too many of our brave and battle-fatigued soldiers were unable to get to their hometowns to see their loved ones because same-day airfare was too expensive for many of our troops to afford.

That is why last fall I introduced an amendment with my friend, the gentleman from Kansas (Mr. MOORE), to make money available to cover troops' travel costs to their hometowns. With the support of the gentleman from California (Mr. LEWIS), chairman of the Committee on Appropriations Subcommittee on Defense, our amendment was passed and the Pentagon began paying our troops' airfare all the way home.

Unfortunately, though, Mr. Speaker, the Pentagon did not implement this program retroactively, which means the first wave of troops who came back from Iraq for R&R and who managed to scrape up the cash for airfare home are still to this day stuck with the tab to see their families.

So, today, Mr. Speaker, I rise in strong support of S. 2057, which will cover retroactively the domestic travel costs our brave troops incurred while on R&R leave.

Mr. Speaker, the Ramstad-Moore amendment put the House on record that the Federal Government should cover all travel and transportation costs necessary to return our brave troops home. That is why passage of this bill is so important. Now Congress must finish the job it began last fall, to make sure none of our troops fall between the cracks and are forced to pay their own transportation costs to get home.

Let us show today that we support our troops. Let us cover the costs that enabled our troops to return home for R&R, briefly reuniting wives and husbands, parents and children and other loved ones.

I urge all my colleagues to support this important bill.

I want to thank the gentleman from California (Chairman HUNTER) of the Committee on Armed Services and the gentleman from New Hampshire (Chairman BRADLEY) for their support of this legislation, as well the gentleman from California (Chairman LEWIS) of the Committee on Appropriations Subcommittee on Defense, for their continued support of covering troop travel costs, and also want to thank the majority leader for allowing this legislation to come to the floor.

Mr. SNYDER. Mr. Speaker, I thank the gentleman from Minnesota (Mr. RAMSTAD) for his fine words and support.

Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman from Minnesota (Mr. RAMSTAD) for his remarks and the gentleman from Arkansas (Mr. SNYDER) as well.

Last September, I heard a National Public Radio story about troops coming back from Afghanistan and Iraq. They were being deposited at Baltimore and Atlanta, and from there forced to pay their own way home or stay in Baltimore and Atlanta. I could not believe this. I checked with my staff and found out it was in fact true.

I drafted a bill which, within 8 days, I think, got 155 Republican and Democrat cosponsors. I teamed up with the gentleman from Minnesota (Mr. RAMSTAD) who just spoke, and we put our bills together. He had a similar vote which passed by voice vote.

Unfortunately, it only went back, according to the Department of Defense, to December 19. Our intention was clearly that this be retroactive back to the date when this program started, the rest and recuperation, bringing our troops home to be reunited with their families and loved ones for 2 weeks before they went back to Afghanistan or Iraq to finish their tour of duty.

Now, I am very, very pleased that Senate S. 2057, the Senate companion to H.R. 2731 that the gentleman from Minnesota (Mr. RAMSTAD) and I had, will complete the job; and if the House passes this today, we will in fact ensure that the troops are entitled to be reimbursed for their travel prior to December 19 and will in fact be reimbursed. That is the right thing to do for our troops and country.

We talk so much in this body about how much we value our troops, and it was simply, simply wrong that we would ask those folks coming home from Iraq and Afghanistan to pay their own way back to their homes and then back to the coastal port for deployment again to finish their tour of duty.

There is a little bit of dispute about the number of troops. My figures were 29,000, those of the gentleman from Arkansas (Mr. SNYDER) were a bit more, and there is a little bit of dispute about the cost of the reimbursement for travel for these troops.

But I think the intention of Congress here is very, very clear, and it is really, really nice when Republicans and Democrats can come together and the people out there in the country can see that in fact we are not just talking about supporting our troops, but we are putting our money where our mouth is. It is exactly the right thing to do.

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Mr. BRADLEY of New Hampshire. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I had the opportunity in late October and early November to travel to Iraq to visit our troops and to assess the rebuilding of that troubled nation. The first stop, Mr. Speaker, that we made was in Kuwait in the desert at one of the camps, and we saw the actual R&R facility where members of our military were being processed. We had the chance to talk firsthand to people that were about to leave the theater and go home and, boy, let me tell my colleagues, they were very excited, Mr. Speaker, to be able to come home and visit loved ones. We know this was during the time when they had to pay their own way; but, nevertheless, they were pleased to be able to do it.

Then we traveled in and out of Baghdad with members coming on some of the C–130 transport planes. Once again, the same thing, they were very anxious to be able to come home for a couple of weeks and to be able to reunite with their families.

So, Mr. Speaker, I salute our military for authorizing this. Obviously, this legislation corrects an inequity, where those members of our military who wanted to travel home prior to December 19 are now going to be reimbursed for their expenses. Mr. Speaker, as indicated by the previous speaker, the gentleman from Kansas (Mr. MOORE), this was done in a bipartisan fashion. I salute not only the gentleman from California (Chairman HUNTER), the gentleman from California (Chairman Lewis), but certainly the gentleman from Arkansas (Mr. SNYDER), the gentleman from Kansas (Mr. MOORE), and the gentleman from

Connecticut (Mr. SIMMONS) for their hard work on this very important piece of legislation that will deal with all of our troops fairly and will encourage this type of R&R in the future, which is so important to our troops in so many far-flung areas of the world.

Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Arkansas for yielding me this time.

On Saturday of last week, I attended the funeral of Sergeant Phipps, who had been killed in Iraq in the line of duty. And, of course, as one could expect, it was a very solemn period, and there were thousands of people from his community who came to pay their last respects.

It occurred to me as this bill was coming to the floor that individuals should have the opportunity certainly to come home and visit for rest, recuperation, and to see their families and friends while they are alive and healthy.

So I simply came down to urge passage of this legislation and to indicate my support for it and to suggest that all soldiers who give of themselves should have the opportunity to experience interaction with their family.

I thank the sponsors of this legislation, and I urge its strong support.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from New Hampshire (Mr. BRADLEY) for his work on behalf of this bill; along with the gentleman from Minnesota (Mr. RAMSTAD), the gentleman from California (Chairman HUNTER), and the gentleman from Missouri (Ranking Member SKELTON) also for their fine work. I think this is a fine bill that will be much appreciated by our men and women in uniform and their families.

Mr. MATHESON. Mr. Speaker, as a long-time supporter of the military, I was dismayed to learn that U.S. troops were forced to pay their way home from Baltimore-Washington International Airport, while on rest and recuperation leave.

Late last year, Congress enacted legislation, which I supported, requiring the Department of Defense to provide travel and transportation allowances to military personnel serving in support of Operation Iraqi Freedom. As of December 19, 2003, the Department began covering these costs. Unfortunately, a number of soldiers who were issued leave beginning on September 25, 2003 were not eligible for travel reimbursement. Today, the Congress has rectified this discrepancy by ensuring that all of our soldiers will be reimbursed for their travel while on leave.

I am well aware of the current demands faced by American soldiers and the sacrifices made by family members and loved ones. American soldiers have always excelled in their military duties and at a time when many of our troops are deployed for a year or more, it is imperative that Congress and the federal government adequately provide for them.

Mr. SNYDER. Mr. Speaker, I yield back the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Speaker, I have no further speakers, so I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentleman from New Hampshire (Mr. BRADLEY) that the House suspend the rules and pass the Senate bill, S. 2057.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BRADLEY of New Hampshire. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ESTABLISHING CAMPAIGN MEDALS TO BE AWARDED TO MEMBERS OF THE ARMED FORCES PARTICIPATING IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM

Mr. SIMMONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3104) to provide for the establishment of campaign medals to be awarded to members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom, as amended.

The Clerk read as follows:

H.R. 3104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SEPARATE MILITARY CAMPAIGN MEDALS TO RECOGNIZE SERVICE IN OPERATION ENDURING FREEDOM AND SERVICE IN OPERATION IRAQI FREEDOM.

(a) REQUIREMENT.—The President shall establish a campaign medal specifically to recognize service by members of the uniformed services in Operation Enduring Freedom and a separate campaign medal specifically to recognize service by members of the uniformed services in Operation Iraqi Freedom.

(b) ELIGIBILITY.—Subject to such limitations as may be prescribed by the President, eligibility for a campaign medal established pursuant to subsection (a) shall be set forth in regulations to be prescribed by the Secretary concerned (as defined in section 101 of title 10, United States Code). In the case of regulations prescribed by the Secretaries of the military departments, the regulations shall be subject to approval by the Secretary of Defense and shall be uniform throughout the Department of Defense.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from Arkansas (Mr. SNYDER) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SIMMONS).

GENERAL LEAVE

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to share my support for H.R. 3104. I was pleased to join my colleagues, the gentleman from Arkansas (Mr. SNYDER) and the gentleman from Texas (Mr. REYES), in introducing this legislation last September.

The legislation we are considering today authorizes campaign medals for military personnel who have been participating in the war on terror. Essentially, the legislation would authorize separate medals to be awarded for service in Iraq and in Afghanistan. The President and the Pentagon would be charged with determining who would receive the medals.

Mr. Speaker, those of us who have served in the military realize that the medals awarded and the ribbons worn on the uniform are essentially a biographic statement of the service of the military officer or NCO. Speaking for myself, when I take the ribbons that I have earned after over 30 years of military service and I look at them, I can recall where I was, what I was doing, and what I received credit for from my military chain of command.

By the same token, military officers and NCOs observing each other in uniform with their decorations on their uniform realize whether an individual served in a theater of operations where they served. That is one of the reasons why we think it is important to differentiate between service in Iraq or service in Afghanistan, even though service in both locations involves the war on terrorism.

Looking at the charts that I have here today on display, my colleagues will notice that there are certain other occasions where individual medals are awarded, even though the campaign has one consistent objective. For example, we have a Cuban Occupation Medal and a Puerto Rican Occupation Medal, as well as a Spanish War Medal and the Philippine campaign. Some would argue that each of these decorations goes to the issue of one concerted effort by the United States, yet service in those different locations has previously been determined to result in a specific or a special award.

On another chart over here, we have, for example, the Korean War decoration, and I do not see it in front of me, but we all know that those members of the armed services who served in Korea were given a special award for that; but also if one served in Vietnam, as I did, one gets a special award, right here, the Vietnam campaign ribbon. As well, those who served in the liberation of Kuwait 10 years ago and those who served physically in Saudi Arabia, as those who participated in the liberation of Kuwait and were actually in Kuwait, have two different decorations, which are indicated here.

So the point I am trying to make, Mr. Speaker, is that in the past, it has not been unusual to provide awards and decorations that are specific to a particular theater or country in which a military officer or NCO has served, even though those campaigns and those activities may have been part of a larger enterprise.

It is on this basis, Mr. Speaker, that I believe that this legislation has great merit. I commend my colleagues on both sides of the aisle for supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

I also rise in support of H.R. 3104, which requires the President to establish separate campaign medals for servicemembers who participate in Operation Enduring Freedom in Afghanistan and then a separate medal for Operation Iraqi Freedom. I would like to thank the gentleman from Connecticut (Mr. SIMMONS) for the work he has done on this bill. As a career military officer, he recognizes the importance of providing proper recognition to our men and women in uniform.

The bill we originally introduced allowed members of the armed services to receive separate campaign medals for Operation Iraqi Freedom and Operation Enduring Freedom. As amended on the floor today, it also includes all members of uniformed services.

Let me say, Mr. Speaker, the intent of our bill is not to replace the administration's Global War on Terrorism Expeditionary Medal, nor the Global War on Terrorism Service Medal, rather, to provide separate campaign medals to recognize folks who have participated in the Iraq campaign and in the Afghanistan campaign. This follows the pattern that this country has done before in honoring its men and women in uniform.

For example, we have a World War II Victory Medal, but then we also had separate theater campaign medals, such as the Asiatic Pacific Campaign Medal; and this bill leaves the regulations and eligibility for these two medals to be determined by the President and the Department of Defense.

One of the issues that has come up is, well, who is the responsible party for establishing these kinds of medals? In fact, Congress has often taken the lead to do that. I would like to go through some of these bills, if I might.

The battle of Manila Bay Medal, also called the Dewey Medal, was established by Congress in 1898. The Spanish War Medal authorized by Congress in 1918; the Mexican Border Service Medal authorized by Congress in 1918; the Philippine Congressional Medal authorized by Congress in 1906; the World War I Victory Medal in 1919, authorized by Congress; the Army Occupation of Germany, World War I, authorized by Congress in 1941; the Spanish Campaign Medal authorized by Congress in 1905; the World War II Victory Medal authorized by Congress in 1945; the Prisoner of War Medal authorized by Congress in 1985; the Medal for Humane Action also known as the Berlin Airlift authorized by Congress in 1949.

I would like to recognize another one too. In 1956, the Congress authorized the Civil War Campaign Medal, and the reason it was taken up in 1956, so many years after the Civil War, is because the Army had had a Civil War campaign badge, but a judge advocate general in the Army in 1905 thought that the Army probably did not have the authority, that only Congress had the authority to do a campaign medal, and Congress rectified this in 1956 by authorizing the Civil War Campaign Medal.

My point, Mr. Speaker, is that I believe the record is very clear that Congress not only has the authority to do this but, in fact, that has been the history of establishment of a lot of our medals.

I would like to recognize too the leadership of the Committee on Armed Services who helped bring this bill forward. The gentleman from California (Chairman HUNTER) has been a forceful advocate, both publicly and privately, in support of this bill, as has the gentleman from Missouri (Ranking Member SKELTON).

Mr. Speaker, I reserve the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield 3 minutes to my colleague, the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Speaker, I rise today in strong support of H.R. 3104. This bill will establish separate campaign medals for Operations Enduring Freedom and Iraqi Freedom.

I want to thank the gentleman from Arkansas. (Mr. SNYDER), the gentleman from Missouri (Mr. SKELTON), the gentleman from Connecticut (Mr. SIMMONS), and the gentleman from Texas (Mr. REYES) for their hard work, the Committee on Armed Services for reporting this bill to the full House, and the leadership for getting it to the floor so expeditiously.

Upon returning from Iraq last fall, I introduced a similar bill to the one before us today. After visiting with soldiers on that trip, I became convinced that we needed to establish separate medals for service in Afghanistan and Iraq in order to give our troops the recognition they deserve. A number of the troops mentioned that they have served in both countries and would appreciate separate medals to distinguish their service. Many of our servicemen and -women who have served in these two very different campaigns in the war on terrorism feel the same way, and they deserve the recognition.

Currently, the Department of Defense has established the Global War on Terrorism Expeditionary Medal for those who have deployed to Operation Enduring Freedom and Iraqi Freedom. The Global War on Terrorism Service Medal is for those who have served in support roles since September 11. Our troops can only be issued these medals once, even if they have served in both operations.

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I do not think these medals go far enough. The war on terrorism will be a long struggle with many major military campaigns and fronts.

In my opinion, this fact warrants separate medals for the war's first two major campaigns. There is also precedent for these medals. During World War II, for example, three campaign medals were issued to recognize the different fronts of the war: the American Campaign Service Medal, the Asiatic-Pacific Campaign Medal, and the European-African-Middle Eastern Campaign Medal.

During the 1990s, DOD issued the Southwest Asia Service Medal for the Persian Gulf war in 1991 and the Kosovo Campaign Medal for the 1999 U.S.-led war in Kosovo.

By awarding separate medals we simply recognize the specific contribution our servicemen and women have made in Afghanistan and Iraq. These medals would not take away from the significance of the global war on terrorism medal.

I also think DOD should establish separate medals for future major campaigns in the war on terrorism.

I want to conclude my remarks by saying thank you to the men and women of our armed services for their service and sacrifice. Moments like these always remind me that freedom is not free. Thank God we have men and women who are willing to volunteer their service to protect and fight for our great Nation. These medals are just one of the many ways we should recognize them.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentlewoman from Texas (Ms. GRANGER) for her leadership on this bill. She has been working on this issue for some time, also.

I neglected to mention the gentleman from Texas (Mr. REYES) who has his own Vietnam Service Campaign Medal for his work as a helicopter crew chief and is now a fine member of the Committee on Armed Services. And I thank the gentleman from Connecticut (Mr. SIMMONS) for his work.

Let me repeat in closing that those of us who have worked on this bill, have sponsored and cosponsored this bill, do not at all intend this as a replacement for the global war on terrorism service medals and expeditionary medals. We support those medals. What we think, though, is we need to recognize that contribution, that camaraderie that comes from our men and women in uniform that are serving in Iraq so they can have their own campaign medal and our men and women in Afghanistan so they can have their own campaign medal in addition to the Global War on Terrorism Expeditionary Medal.

So I urge support of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

George S. Patton, Jr., once said, quote, "The results of decorations works two ways: It makes the men who get them proud and determined to get more, and it makes the men who have not received them jealous and determined to get some in order to even up. It is the greatest thing we have for building a fighting heart." I would only correct the great General Patton today by saying the men and women who receive them. Because, as we know, in today's military forces men and women are providing an equal contribution.

As my colleague has indicated, service in uniform and service in a war zone is not simply about awards and decorations, it is about our national policy, and it is about working as a team with other men and women in uniform. But the awards and decorations they receive provide them with incentive and provide them with a living history which becomes their career in service to their country. That is why refreshing and upgrading the medals that are offered to our servicemen and women is so important.

Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I thank the gentleman from Arkansas (Mr. SNYDER), my friend, for yielding and for giving me this time.

Actually, this is a very, very important bill; and I speak in favor of it. As you know, we have two major, ongoing conflicts in the Middle East regarding the American forces. The first is a guerrilla warfare in Iraq and the second is going after the genesis and the home of the terrorists in Afghanistan that caused us so much and continues to cause us so much international terror.

I voted for the resolution regarding conflict in Iraq because I felt it was necessary, based upon the weapons of mass destruction allegation. We went in there; and, as a result of the very tremendous military field victory of our troops, we stayed. The ongoing guerrilla warfare has erupted which is an effort to do away with the stability and do away with transferring sovereignty to a stable, representative Iraq. The purpose of those are, whether they be Baathist or Fedayeen or jihadists or remnants of Afghanistan's al Qaeda, trying to destabilize that government. That is the purpose of guerrilla warfare. That is one war in and of itself.

The second in Afghanistan, the purpose there, of course, was going after those who have been causing terror to the United States for quite some time, beginning 1993 in the World Trade Center; 1996, the Khobar Towers bombing; in 1998, the simultaneous bombing of the embassies in Tanzania and Kenya; and then the boat bombing of the USS *Cole* in the harbor at Yemen; and, of course, September 11, 2001, came along, was the culmination. The terrorists home base is Afghanistan.

I think there should be separate ribbons for those separate conflicts, and I think this is very good. I compliment the gentleman from Arkansas (Mr. SNYDER) for introducing this. I thank the gentleman from Connecticut (Mr. SIMMONS) for the strong support. I think it is the right thing to do. It should happen. So then when we see someone in uniform wearing either or both of these ribbons, we can recognize it and say thank you.

Mr. SPRATT. Mr. Speaker, I rise today in strong support of S. 2057 and H.R. 3104. S. 2057 provides retroactive travel reimbursements for troops who returned home before December 19, 2003 from Iraq and Afghanistan for rest and recuperation leave. H.R. 3104 provides separate combat medals for the operations in Iraq and Afghanistan. I think you would be hard pressed to find a Member of Congress who opposes these low cost bills to benefit our troops. The only question is: What took us so long?

During debate on the $87 billion Iraq supplemental last October, I introduced an amendment that would have provided for free travel all the way home from Iraq and Afghanistan for troops on R&R leave, and would have required separate campaign medals be issued for service in Iraq and Afghanistan, among other important personnel benefits. The Republican leadership in the House would not even let this amendment on the floor for a vote. So here we are six months later, and we are only just now revisiting the issues.

Why so long? Quite simply, the Bush Administration opposed separate war medals for Iraq and Afghanistan, preferring instead to issue one service medal for the Global War on Terror. I understand the Administration's desire to put these operations in a larger context, but that does not translate to our troops on the ground. Circumstances leading up to and in Iraq and Afghanistan were very different, as are the challenges our troops face on the ground today. Furthermore, the Pentagon policy not only authorized a single medal for OEF and OIF, it does not prescribe service stars to reflect service in both conflicts or multiples tours of duty in the same conflict. This is blatantly wrong. Campaign and service medals proudly reflect military service in a particular conflict, enhance esprit-de-corps, and are a strong part of military history. It means a great deal to an infantryman to look at his fellow soldiers and say "Iraq—yes sir, I was there."

The British established the Iraq Campaign Medal to recognize service in, and in support of, operations in Iraq. Australia established separate "Afghanistan" and "Iraq" clasp for their Active Service Medal to reward OEF and OIF service. So why would we deny our servicemen, who are sacrificing so much for our country, separate medals that can boost morale for such a small price?

And if the Global War on Terror continues for many years on many fronts as the President has suggested it might, are we to expect that the Administration would prefer that we issue no new campaign medals in perpetuity? H.R. 3104 makes sure this will not be the case.

S. 2057 and H.R. 3104 are low cost, long needed morale boosts for our troops in the field, and though it has taken us too long to get to them, I wholeheartedly urge their passage today.

Mr. SNYDER. Mr. Speaker, I yield back the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentleman from Connecticut (Mr. SIMMONS) that the House suspend the rules and pass the bill, H.R. 3104, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SIMMONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONGRATULATING THE UNITED STATES AIR FORCE ACADEMY ON ITS 50TH ANNIVERSARY

Mrs. WILSON of New Mexico. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 386) congratulating the United States Air Force Academy on its 50th Anniversary and recognizing its contributions to the Nation.

The Clerk read as follows:

H. CON. RES. 386

Whereas on April 1, 1954, President Dwight D. Eisenhower signed legislation establishing the United States Air Force Academy to prepare young men for careers as Air Force officers;

Whereas in July 1955, the first class entered the Air Force Academy, attending classes in temporary facilities at Lowry Air Force Base in Denver, Colorado;

Whereas the Air Force Academy moved to its permanent home near Colorado Springs, Colorado in August 1958;

Whereas the first class of 207 cadets graduated in June 1959;

Whereas in 1964, President Lyndon B. Johnson signed legislation authorizing each of the Service Academies to expand enrollment from 2,529 to 4,417 students, and today, 4,000 cadets attend the Air Force Academy;

Whereas women were first admitted to the Air Force Academy in June 1976, and the first class that included women graduated in June 1980;

Whereas 44 classes and 35,000 cadets have graduated from the Air Force Academy in its 50-year history;

Whereas the mission of the Air Force Academy is to inspire and teach outstanding young men and women to become Air Force officers and to prepare and motivate them to lead the Air Force in its service to the Nation;

Whereas the Air Force Academy is recognized worldwide as the premier developer of aerospace officers and leaders with impeccable character and knowledge; and

Whereas April 1, 2004 marks the 50th anniversary of the founding of the Air Force Academy: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) congratulates the United States Air Force Academy on its 50th Anniversary;

(2) acknowledges the continued excellence of the United States Air Force Academy and its critical role in the defense of the United States; and

(3) recognizes the outstanding service to the Nation that graduates from the United States Air Force Academy have provided.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Mexico (Mrs. WILSON) and the gentleman from Arkansas (Mr. SNYDER) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Mexico (Mrs. WILSON).

GENERAL LEAVE

Mrs. WILSON of New Mexico. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Mexico?

There was no objection.

Mrs. WILSON of New Mexico. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentlewoman from New Mexico (Mrs. WILSON) for her leadership in proposing this resolution. I urge my colleagues to support H. Con. Res. 386 which congratulates the U.S. Air Force Academy on its 50th anniversary and recognizing its contributions to the Nation.

It is particularly meaningful to me to be here today. I have several perspectives. In addition to being a Member of Congress, I am a veteran myself. I served 31 years in the Army National Guard. But I greatly appreciate the service of the Air Force. It has been extraordinary, the military professionalism that truly has been generated by the Air Force Academy.

I had the extraordinary opportunity firsthand to accompany the gentleman from Missouri (Mr. SKELTON), as the ranking member of the Committee on Armed Services, to visit Iraq last September; and I saw firsthand the success of the precision bombing which protected the civilian population and protected the schools and the mosques while the military targets were utterly destroyed in one of the most successful military operations in the history of the United States, protecting the American people from the terrorists by going after them in Afghanistan, going after them in Iraq. And American families are safer.

Additionally, I am grateful to be a service academy parent. I know firsthand how academies promote the high standards of academics. Actually, my son went to an academy which is in the State of Maryland, not in the State of Colorado, but I do have great appreciation for the Academy.

There are facts that should be known, that 32 cadets have been selected as Rhodes Scholars, including our colleague, the gentlewoman from New Mexico (Mrs. WILSON), who also has, I think, the great distinction of being the first female graduate of the Air Force Academy serving in Congress.

Additionally, six cadets have accepted Marshall scholarships; nine cadets have received the Harry S. Truman scholarship; 92 cadets have been accepted as Guggenheim Fellows. There is so much to be appreciative of of the military service, the academic success of the Air Force Academy.

Mr. Speaker, I urge support of the resolution.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 386 introduced by the gentlewoman from New Mexico (Mrs. WILSON) and my colleague on the Committee on Armed Services; and I commend her on your efforts to recognize the 50th anniversary of the United States Air Force Academy.

On April 1, 1954, President Dwight D. Eisenhower signed into the law a bill that established the United States Air Force Academy; and this Thursday, April 1, 2004, the Nation will recognize the 50th anniversary of this Academy and its efforts to inspire and develop outstanding young men and women as Air Force officers.

However, the history of the Academy began long before the bill was signed by President Eisenhower. One of the first to recognize the need and to advocate for an air service academy was Brigadier General Billy Mitchell, often considered to be the father of the United States Air Force. He was an outspoken advocate of strategic air power, and he had attempted to establish an air school for many years.

Progress on the Air Force Academy began in 1949 when Secretary of Defense James Forrestal established a board of military and civilian educators to recommend a general system of education for the services. The board, which was headed by Dwight D. Eisenhower, then president of Colombia University, and Robert L. Stearns, then president of the University of Colorado, recommended that an Air Force Academy be established; and this was done in 1954 under President Eisenhower's signature.

The Academy's commitment to excellence began with its first class in July of 1955, which was comprised of 306 men who lived in temporary facilities at Lowry Air Force Base in Denver, Colorado. Lieutenant General Hubert R. Harmon, recalled from retirement, became the first superintendent. The Cadet Wing moved to its current location 3 years later in 1958, and the first class graduated in 1959.

In 1964, the academies were allowed to nearly double their enrollment to over 4,400 cadets. In 1976, the first class of women was allowed to attend the service academies, including the Air Force Academy. Since then, more than 35,000 cadets have graduated from the Air Force Academy, including 196 international cadets.

The gentleman from South Carolina (Mr. WILSON) recognized several of the scholarly attributes of cadet graduates, including 32 cadets who have been selected as Rhodes Scholars. I want to call attention to the fact that one of those is my colleague, the gentlewoman from New Mexico (Mrs. WILSON), who was also a Rhodes Scholar.

I also want to recognize 31 cadets have accepted Fulbright-Hays scholarships. Probably even more importantly, Air Force cadet graduates are not only accomplished scholars but have also distinguished themselves on the battlefield. One hundred and twenty-nine graduates have been killed in combat; 36 graduates were prisoners of war; two were combat aces; and one academy graduate, Captain Lance P. Sijan, received the Congressional Medal of Honor for his extraordinary heroism in Vietnam.

Mr. Speaker, let me congratulate the United States Air Force Academy on its 50th anniversary and recognize the outstanding service that these graduates have provided to our country's defense.

Once again, Mr. Speaker, let me thank my very special colleague, the gentlewoman from New Mexico (Mrs. WILSON), for her efforts to bring this bill forward as an Air Force Academy graduate.

Mr. Speaker, I reserve the balance of my time.

□ 1445

Mrs. WILSON of New Mexico. Mr. Speaker, I yield myself such time as I may consume, and I thank my colleague for his kind words.

This resolution is cosponsored by 22 Members of the House, including the gentleman from Colorado (Mr. HEFLEY) in whose district the academy is located, and a man named SAM JOHNSON who was honored in the library of the academy. It is a very young version of SAM JOHNSON that is honored there because he was one of the prisoners of war who served in the Air Force and was a prisoner of war during Vietnam; and, of course, the gentleman from Texas (Mr. SAM JOHNSON) is now one of our colleagues here in the House of Representatives.

The gentleman from California (Mr. HUNTER), who is chairman of the Committee on Armed Services, and the gentleman from Pennsylvania (Mr. MURTHA) has been a long-time leader in defense in the House of Representatives, and of course, the gentleman from California (Mr. CUNNINGHAM). I was a little surprised that the gentleman from California (Mr. CUNNINGHAM) cosponsored with me because he has always given me a hard time for being, I think he calls me an Air Force puke, which I take in a polite way. Of course, Duke was one of only two aces in the Vietnam War. Duke was a Navy pilot. The other one was Steve Ritchie, a graduate of the United States Air Force Academy.

Thursday is the Air Force Academy's golden anniversary. It has been 50 years since the President of the United States, Dwight David Eisenhower, established the Air Force Academy. It is in the Rampart Range of the Rocky Mountains at over 7,000 feet of altitude, over 18,000 acres of campus in that beautiful State; but it was not for sure that it was going to be located in what seems now the perfect location for an air academy. St. Louis and Wisconsin were also finalists, and I think Colorado is now glad that they agreed to have the Aluminum University north of Colorado Springs.

The mission of the Air Force Academy is to inspire and develop outstanding young men and women to become Air Force officers with knowledge and discipline, motivated to lead the world's greatest aerospace force in service to the Nation; and for 50 years, that is what the Air Force Academy has done.

It has given us graduates who have known that maybe the real mission of the Air Force is to fly, fight, and win. It has given us graduates who have been distinguished in science, graduates who have earned the Medal of Honor, graduates who have been prisoners of war and returned home, graduates who did not return home.

There are 4,000 cadets in the corps of cadets at the Air Force Academy, and every one of them applies to Members of this body, to the people's House, for the opportunity to attend that great institution and to become part of the long blue line. They accept the challenges not only of academics and of leadership, but also of ethics and character embodied in the honor code; and among graduates of the Air Force Academy, it is the honor code which to us sets the academy apart. We will not lie, steal, cheat, or tolerate among us anyone who does. That standard of ethics is the foundation of character for our military officers, and it is something that all of us as graduates are proud of.

So, today, I hope that this House will join me and my colleagues in congratulating the Air Force Academy on its 50th anniversary and recognizing its service to the Nation. They have given us leaders of character for the Nation. I thank all of them for their service.

Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. REYES), a member of the Committee on Armed Services and a Vietnam veteran helicopter crew chief.

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me the time, and I am here to support and endorse this bill to congratulate the Air Force Academy.

My first term in Congress I was a member of the Visitors Board of the Academy; but most importantly, the Air Force Academy offered my son an appointment. He wound up going to West Point, but it was not an easy decision for him to make; and it was always, for us, a great point of honor to have that offered to my son and, also, more than that, to see the quality of young men and women that come through that great facility.

The academy, I think, symbolizes the best that this country has to offer through its national defense and its military.

I also, if I could, would like to mention that I strongly endorse the bill that reimburses our military personnel for their R&R expenses, travel expenses here as they come back from Operation Iraqi Freedom and the operations in Afghanistan; and in addition to that, I think it is vitally important that this people's House endorses and supports awarding a different campaign medal for Afghanistan from one for Operation Iraqi Freedom and the battle in Iraq. Those are all important issues for all our military personnel.

With that, I thank the gentleman for yielding me the time.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume. I have no further speakers and would close if it is appropriate.

Mr. Speaker, I think this must be a special day for the gentlewoman from New Mexico (Mrs. WILSON) today, as an Air Force Academy graduate, to be able to carry this bill on the House floor commending the 50th anniversary of the Air Force Academy; and it is a pleasure to be here with her.

I recognize the strong tradition of service that the Air Force Academy has had to this country, and I am proud to support and endorse this bill.

Mr. Speaker, I yield back the balance of my time.

Mrs. WILSON of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

On Thursday, at the Air Force Academy, the cadet area of the Air Force Academy is going to be designated as a national historic landmark; and for the 35,000 Americans who have walked around the corners of that terrazzo, it will be a special day.

It is really a privilege and an honor to be here today to honor the Air Force Academy and to wish them all the best on the next 50 years.

Mrs. MALONEY. Mr. Speaker, at a time when our men and women in uniform are deployed overseas, it is especially appropriate to acknowledge the contributions of the institution that has trained so many of our Air Force leaders. I join my fellow Americans in celebrating the United States Air Force Academy on its 50th anniversary.

While the vast majority of cadets at this institution have gone on to distinguished careers of service that have made us all proud, it is unfortunate that the Academy's ineffective approach to the problem of sexual assault has tarnished the reputation of the Air Force Academy in the past decade. An investigation commissioned by Congress—chaired by former Congresswoman Tillie Fowler—made recommendations less than a year ago on how to improve the culture at the Air Force Academy to support victims of sexual assault.

Mr. Speaker, the report makes clear that the recommendations made in the report are only a beginning to solving the problem of sexual assault at the U.S. Air Force Academy. It states that the common failure in each of the many efforts made to address this problem over the past decade was the "absence of sustained attention to the problem and follow-up on the effectiveness of the solution."

It is essential that we, as Members of Congress, follow up on the recommendations made to ensure that the culture of the Air Force Academy does not tolerate sexual assault, perpetrators are punished, and victims are supported. The reputation of such a distinguished institution should not continue to be frayed by its failure to effectively address this one important issue.

Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentlewoman from New Mexico (Mrs. WILSON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 386.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. WILSON of New Mexico. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 3966, ROTC AND MILITARY RECRUITER EQUAL ACCESS TO CAMPUS ACT OF 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 580 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 580

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order (except those arising under the Congressional Budget Act of 1974) to consider in the House the bill (H.R. 3966) to amend title 10, United States Code, and the Homeland Security Act of 2002 to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

On Thursday, March 25, 2004, the Committee on Rules announced that it may meet the week of March 29 to grant a rule which could limit the amendment process for floor consideration of H.R. 3966. The announcement further stated that any Member wishing to offer an amendment submit the amendment to the Committee on Rules by 1 p.m. on Monday, March 29, 2004. No amendments were submitted to the Committee on Rules for their consideration.

H.R. 3966 is based on a simple principle. Colleges and universities that accept Federal funding should also be willing to provide military recruiters the same access as other prospective employers to students in ROTC scholarship programs.

This legislation would improve the ability of the Department of Defense to establish and maintain ROTC detachments and ensure that military recruiters have access to college campuses and students.

Successful recruitment for our military relies heavily on the ability of these recruiters to have access to the students and the students to be able to have access to the recruiter easily.

This bill also requires an annual verification of colleges and universities who already support ROTC that they will continue to do so in the upcoming academic year.

The Department of Defense seeks nothing more than the opportunity to compete for students on an equal footing with other prospective employers. At no time since World War II has our Nation's freedom and security relied more upon our military than now as we engage in the global war on terrorism.

Our Nation's all-volunteer armed services have been called upon to serve, and they are performing their mission with the highest standards. The military's ability to perform at this standard can only be maintained with effective and uninhibited recruitment programs.

As many of my colleagues know, the Armed Forces face a constant challenge in recruiting top-quality personnel, and I believe that ROTC programs are ideally suited to meet those needs. To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume, and I would like to thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes.

Mr. Speaker, we are considering this bill, surprise, surprise, under a closed rule. Once again, the Republican majority has decided that thoughtful debate and the ability for Members to offer amendments is too much of a bother.

We learned that the underlying bill, H.R. 3966, was going to be on the floor at the end of last week when Members left Washington to return to their districts. Most Members did not arrive back in Washington until yesterday afternoon, which is exactly the time the Committee on Rules was meeting to report out this closed rule. So, once again, the majority has gone out of its way to stifle debate, prevent amendments, and rush legislation through the House before people know what hit them.

Mr. Speaker, one of these days, and I hope it is soon, this kind of heavy-handed use of power is going to backfire, especially when there is so much important work that is not being done.

At the end of the debate on this rule, I will urge a "no" vote on the previous question so that the House can consider the critical issue of unemployment insurance for the estimated 1.1 million jobless workers who will have exhausted their regular unemployment benefits without receiving additional aid. This is the largest number of exhaustees in over 30 years, and this figure will only continue to grow when 80,000 more jobless workers exhaust their regular benefits and go without any additional aid each week.

As for the underlying bill, H.R. 3966, it is my view that it should be defeated. In 1995 and 1996, Congress passed legislation to deny Defense Department funding to colleges and universities that failed to give military recruiters access to their campus and students. Known as the Solomon Law, this legislation was passed to respond to efforts by several colleges and universities to protest the discriminatory policies of the Pentagon against gay men and women. Over time, the law was expanded to prohibit funding a university might receive from nearly every Federal agency.

□ 1500

H.R. 3966 would round out that list by expanding it to include the CIA and the National Nuclear Security Administration at the Department of Energy. The bill would also restate the Department of Transportation which was inadvertently deleted 2 years ago.

Now I am grateful that this law does not apply to student financial aid, but, unfortunately, it does apply to all other grants, including research grants.

Last November, a U.S. District Court in New Jersey upheld the constitutionality of the Solomon Law, but the court also determined that the Solomon Law does not give the Pentagon any basis for asserting, as it has in the regulations on implementing the Solomon Law, that universities and colleges must give military recruiters the same degree of access to campuses and students provided to other employers.

Ironically, Mr. Speaker, the Solomon Law is not about equal access at all but about special access for the Pentagon. As the Servicemembers Legal

Defense Network states, and I quote, "There is no lack of equal access for military recruiters and ROTCs on America's college campuses. Any access for an employer that fails to meet schools' nondiscrimination policies is special access. The Solomon Amendment is about giving the military a special right to discriminate in a way other employers may not."

So, Mr. Speaker, this House is being asked to use the blunt force of legislation to expand the Solomon Law to include equal treatment and scope for military recruiters who already have access to every campus and every student in the land.

It is my understanding, Mr. Speaker, that the Pentagon sent a list to the Committee on Armed Services regarding a handful of colleges and universities that the Pentagon has predetermined do not provide them with equal treatment and quality of access to students. Now, let me emphasize, these are all colleges and universities that fully comply with the existing Solomon Law. They include several of our premier academic and research universities.

And who gets to make this determination, this judgment, as to whether a college or university is in compliance with this new law? The Secretary of Defense and the Pentagon. And who gets to determine and implement the punishment? That same Secretary of Defense and the Pentagon, with no independent or neutral arbiter and no genuine right to appeal. So in these cases the Pentagon serves as prosecutor, judge, jury, and appeals court. That is not how it is supposed to work in this country, Mr. Speaker.

Until I have a better understanding as to why these colleges and universities are on some predetermined watch list from the Pentagon that could strip them of all their Federal funding and research grants, I cannot support this expansion of the Solomon Law, a law which itself is grounded in discrimination.

Now, Mr. Speaker, every Member of this House, including myself, supports the ability of our Armed Forces to encourage the best educated and best minds of our Nation to consider the military as a career, especially in these perilous times. But, Mr. Speaker, the military already has that ability. It simply does not want to accept "yes" as an answer from 100 percent of our colleges and universities regarding access to campuses and students. What the Pentagon wants is 100 percent access on their terms and their terms alone.

It is true that the military has a problem with recruitment and retention, a serious situation when our troops are stretched so thin around the globe. As the resolution says, the Armed Forces face a constant challenge in recruiting top-quality personnel. But, Mr. Speaker, perhaps if the Pentagon truly addressed the serious issues of discrimination against women and against gays and against minorities, more of these top-quality personnel would be willing to serve.

Mr. Speaker, I want to conclude my opening statement by asking: Are there not more urgent issues to consider before Congress adjourns for spring recess? The extension of unemployment benefits genuinely is an urgent issue, increasingly a life-and-death issue for many families, and it seems to me like a far more important issue for this House to consider before we recess on Friday than the bill that is before us this morning.

As I noted earlier, at the end of this debate I will be calling for a "no" vote on the previous question so that this House can take up the urgent issue of extending unemployment benefits to the 1.1 million needy Americans whose benefits have been exhausted.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I want to rise today to defend the thousands of people in the State of Washington who have no job and no unemployment benefits. Thousands more in our State face the same dire circumstances over the next 3 months.

The Washington State unemployment rate is the fourth worst in the United States. The United States Department of Agriculture Household Food Security Report ranks Washington as the fifth most hungry State in America. The National Law and Employment project says that at least half the people unemployed are putting off needed medical and dental treatment because they cannot pay for it. Half the personal bankruptcies in this country are the result of medical bills people cannot afford to pay.

Time and time again the Democrats have asked the Republicans to show a little compassion and extend a lifeline out to these people who are calling out for help. Republicans and the administration have a deaf ear. Again today we call on the Republicans and we urge the administration to stop pretending that economic recovery is at hand.

In the month of February, there were 21,000 jobs created in the United States. That is 400 for each State and not a single one in the private sector. All of them were government jobs. If you call that a recovery just around the corner, you have a different definition than I do. If that is recovery on the horizon, so the sun is setting on the hopes of average Americans.

No American should face alone at a time like this the problems of the unemployed. And we can change it. We can change it. The money is there. We do not have to raise taxes or do anything. We can change it. No American should feel they have no place to turn and no one to turn to. We can change that, and no American should find the country's leaders listening but not hearing. We can change that today.

Today, we can take a real step toward economic recovery by extending unemployment benefits. America is only as strong as its will to defend its people at home against economic adversity. We need to speak out loud and clear in a voice of unshakable compassion, commitment and concern. Let us extend the unemployment benefits. We have been talking about this since December. Thousands of people have lost their jobs. They have quit looking. The numbers seem to be going down only because they have quit looking because there are three people looking for every job that is out there.

This bill is sort of directed at maybe we should keep them out there, keep them hungry, keep them desperate, and maybe they will go in the military. That is what this is about, perhaps.

The fact that we cannot deal with this issue suggests that the President, who talked about compassionate conservatism, has no idea what it is like to be without a job. If your dad can buy you a company or your father's friends can give you a baseball team, I suppose you really would not understand what it is like to be without a job.

I remember when my father was. He was an insurance man, lost his job, went out and was driving a cab. I used to go down and open the cab company at 5:30 in the morning with him. I know what it is like to see what that does to somebody and how desperately they look. But today they cannot find it. And the Republicans just sit there look at the ceiling and twiddle their thumbs.

Well, the workers in this country and the unemployed in this country are not going to twiddle their thumbs on November 2. They are going to compassionately give Mr. Bush a one-way ticket to Crawford, Texas.

Vote against this bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

Right now, Oregon has 7.7 percent unemployment, the highest in the country. Since January, 2001, the State has lost over 50,000 jobs. These are hard-working men and women, not statistics. They are real people with real lives and families, and right now they are facing the prospect of not having enough money to put food on the table or enough money to pay for their medical bills if someone should get sick.

I have talked to people who are unemployed. They have sold their homes trying to live off the profit. They said, I do not know what is going to happen when this money runs out.

Unemployment benefits are supposed to be a safety net to get you from one job to the next job. They do not provide 100 percent of the person's previous salaries, but those benefits are absolutely vital for families to make ends meet. They are not out there not going to work because they want to. They are out there because they cannot find a job.

I talked to one gentleman, 52 years old, daughter in high school, and he talks about how bright his daughter is and that he would like to send her to college. He said, I cannot even pay for my mortgage. What am I going to do for my daughter?

Not only do these benefits provide a level of security for families, unemployment benefits are also stimulants for the economy. For every dollar we spend in unemployment benefits, we put $1.73 back into the economy. That is good for business as well as people. These benefits are not used for luxury items. They are used to pay the rent, food, and utility bills.

The President talks about marriage promotion programs costing in the billions of dollars, but it is a scientific fact that poverty and homelessness directly increase the rate of divorce. Unemployment benefits, which keep families together and keep them temporarily off the streets until they find a new job, should be considered the best marriage promotion program of all, yet these benefits have been ignored by Congress and this administration.

Some have raised concerns that extending unemployment benefits would bankrupt the system. Guess what? We have $18 billion sitting in the unemployment trust fund. That is more than enough to continue this program and extend the current benefits. These funds were paid into this unemployment compensation system for the purpose of helping dislocated workers during difficult economic times.

In short, there is not a legitimate argument towards not extending the unemployment benefits.

Again, people talk about stimulating economy. These benefits stimulate the economy. People say, well, we do not have enough money, yet we have $18 billion sitting in that account for that purpose. People talk about promoting marriage and families. Preventing financial crisis is the number one way to keep families together.

Frankly, it is a no-brainer. I urge my colleagues to defeat the previous question so we can extend unemployment benefits for the thousands of suffering Oregonians and Americans.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentlewoman for yielding me this time. I rise in strong support of H.R. 3966, and I want to commend the gentleman from Alabama (Mr. ROGERS) for his leadership and hard work on this issue. The rule that will bring this bill to the floor is, therefore, very important.

This bill is named the ROTC and Military Recruiter Equal Access to Campus Act of 2004, but it might just as well as be called the Harvard Act, because it squarely addresses the scandal of Harvard University and other schools' banishing ROTC and military recruiters from campus while turning around and cashing Uncle Sam's checks for billions of dollars each year from the Department of Defense and other Federal agencies that are fighting the global war on terror.

The attacks on America, on the World Trade Center, and on the Pentagon should serve as a wake-up call to schools such as Harvard which banished ROTC from campus 35 years ago.

□ 1515

As our Nation wages an aggressive campaign to stop global terrorism, President Kennedy's call to young people to ask what you can do for your country is more important than ever. America's Armed Forces are hunting down al Qaeda and other supporters of terrorism in Afghanistan, in Iraq, and on every continent around the globe. Never in recent history have Americans asked more of members of the Armed Forces, and never have we had a greater need for well-educated leaders in our military.

Today, successful recruitment of exceptional officers depends heavily on the Reserve Officers' Training Corps. This past year, for instance, 70 percent of the Army's newly commissioned officers came from ROTC. Through ROTC, students receive generous scholarship assistance in return for agreeing to serve their country following graduation. As chairman of the Select Committee on Homeland Security, I have been gratified and humbled to see how many of the best and brightest in America have been willing to enlist in the fight against terrorism both through ROTC and by choosing the armed services as a career upon their graduation. Yet I am very troubled that a number of America's most prestigious colleges and universities, including Harvard, Yale, Stanford and Columbia, continue to officially ban ROTC from campus. Many of these same schools deny students the opportunity to interview on-campus with military recruiters. These policies have been successful in discouraging young adults from choosing a career in the military.

The legislation before us today makes several important reforms to protect taxpayers, to protect students' freedom of choice and to protect our armed services from discrimination. The premise of the bill is a simple one: colleges that discriminate against the United States armed services should not receive United States taxpayer funds related to national defense and homeland security.

Specifically, H.R. 3966 makes three major reforms. First, it will stop the current abusive practice under which schools ban ROTC and military recruiting, but then turn around and cash enormous checks from the Department of Defense, the Department of Homeland Security, and other Federal agencies fighting the war on terror. For example, the Homeland Security Act created several new science and technology research programs for which colleges and universities are eligible. This law will say that these funds should not go to schools that discriminate against ROTC or military recruiters.

Second, this legislation will require schools that accept national security and homeland security funds to certify that they do not discriminate against ROTC and that they do permit on-campus ROTC programs if requested by the Department of Defense. Current law, which already requires schools accepting defense funds to accommodate on-campus ROTC programs if requested by the Department of Defense, is not enforced against elite schools such as Harvard, Yale, Stanford, Columbia and others that have banned ROTC on campus. This bill will change that.

Third, this legislation will ensure that schools accepting national security and homeland security funding provide access to military recruiters that is "equal in quality and scope" to the access provided to other campus recruiters. At Harvard, even military recruiters who are themselves Harvard graduates are not permitted to meet students on campus like other employers. A Harvard grad that has stained himself in the view of the faculty by participating in the U.S. military cannot visit campus and cannot stuff mailboxes, even though virtually every other group and every other employer is permitted to do so.

On the Harvard campus in Memorial Church, the names of Harvard alums who died in service to this country are inscribed on the wall and there is this inscription by former Harvard President Lawrence Lowell:

"While a bright future beckoned, they freely gave their lives and fondest hopes for us and our allies, that we might learn from them courage in peace to spend our lives making a better world for others."

Today, as our Nation calls for able new leaders in the war on terror, will Harvard and our Nation's other elite universities step forward and live up to that legacy? It has been a long time since 1969 and Vietnam, John Kerry notwithstanding, when Harvard's faculty, of which I am a former member, banished ROTC. It has been 2½ short years since our Nation was attacked by terrorists who still make war on our Nation. It is time for universities that accept national security and homeland security funding to support and encourage, not undermine, this Nation's call to service. That is the message of H.R. 3966.

I urge my colleagues to join with me in supporting this important legislation and the rule that will bring it to the floor.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just simply say to the gentleman that Harvard does have an ROTC unit. One thing I suggested in my opening remarks, and I would suggest it again, is that probably the best way to kind of put this controversy to rest is for the military to deal with some of the discriminatory practices that currently exist. Some of these colleges have nondiscrimination policies that, quite frankly, conflict with some of the blatantly discriminatory policies that we now see happening in the Pentagon. I would simply say to the gentleman that maybe a way to resolve this, we can also deal with some of the underlying issues that continue to exist.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from California.

Mr. COX. It is true that there are a handful of brave students at Harvard that are ROTC scholars, and it is true that Harvard is happy to cash their scholarship checks; but Harvard refuses to permit the ROTC program on campus and, therefore, the students have to go down the road to MIT, which will accept them as the gentleman knows. As a result, the discrimination against Harvard students is very real. Furthermore, as the Wall Street Journal has outlined, not on their editorial page but in news articles, there is on campus a very hostile attitude toward students in uniform. That needs to be changed.

Mr. McGOVERN. I appreciate the gentleman's answer. I would also say to my colleagues on the other side of the aisle, when we talk about the importance of people standing up to their responsibilities during this difficult time, I hope that there will be equal passion that will be brought to demanding that some of these Benedict Arnold companies that, quite frankly, take U.S. tax dollars and are engaged in contracts involving the reconstruction of Iraq and they do not pay U.S. taxes, I hope that there will be some accountability there.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank my friend from Massachusetts for yielding me this time.

Mr. Speaker, I do not object to this rule; but I do strongly object to congressional inaction on an issue of daily importance to millions of Americans, that is, the extension of unemployment benefits for workers who have lost their jobs through no fault of their own. Federal Reserve Chairman Alan Greenspan said earlier this month, "I think considering the possibility of extending unemployment benefits is not a bad idea in times like this."

Congress allowed the temporary extended unemployment compensation program to expire at the end of last year despite a tremendous need for these extended benefits. Many of us have been trying to extend the program ever since, but the Republican leadership in Congress has continually blocked those attempts. This obstructionism has occurred even though majorities in both the House and the Senate have voted to extend unemployment benefits. This obstructionism has gone on despite the fact that the average duration of unemployment has reached its highest level in over 20 years. This obstructionism continues even after we have heard our economy had a zero private sector growth in jobs last month. This obstructionism blocks action even as more than 1 million Americans have run out of unemployment benefits without finding work in just the last 3 months. And this obstructionism continues even after the Secretary of the Treasury indicated the President is finally willing to say he would sign an unemployment extension bill if it is sent to his desk.

Mr. Speaker, enough is enough. Congress needs to act to help the unemployed as it has during every other time when jobs were scarce. If the previous question is defeated on this rule, the next order of business before the House will be the consideration of an unemployment extension. More specifically, the House would debate a 6-month extension of the expired temporary extended unemployment compensation program. This extension would help nearly 3 million jobless workers pay their mortgages, put food on the table, and deal with these very difficult economic times.

I, therefore, strongly urge my colleagues to defeat the previous question so that we can provide the necessary assistance to those who are unemployed and cannot find employment.

Mrs. MYRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I had not planned to come to the floor and debate this resolution. This resolution actually deals with the Homeland Security Act of 2002 to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officers' Training Corps units at institutions of higher learning. That is the subject of this particular measure. This is the rule, or the resolution, by which we consider that particular bill.

The other side of the aisle, unfortunately, is using this as an opportunity to bash our side of the aisle and also the administration. They are also using it as a vehicle to try to attach a nongermane amendment dealing with extension of unemployment benefits. It may well be necessary to do that, but let me say that I have heard some of the comments that have been made. I disagree with those comments. I come from the business sector. If we want to see jobs created and opportunities for people, we do not want to leave one option and that is extended unemployment benefits. I know the other side is well intended here. But if the other side is truly well intended, they need to take some time and look at pending legislation and proposals that would create jobs. Maybe some on the other side have not had enough familiarity with what a businessperson goes through today. Litigation, taxation, and government regulation are job suppressers in this economy. I challenge the other side, instead of offering a handout or an extended unemployment check, to offer a job and pass some of the legislation that is pending.

If you are going into business today, you take a great chance. I am glad I am out of the business world, because you are sued at every turn. If you want to see why jobs are going overseas, it is because of litigation. We do not even produce in this country anymore a ladder. There are no ladders produced in the United States because people would be sued to where they cannot afford to produce or manufacture in the United States, so they take those jobs and opportunity overseas.

If you are compassionate about people, do not give them just one option. They want a good-paying job, and they want to be able to compete in a global market. Try to go open a business, and I challenge Members of Congress to get back in business. Some of them should return to the private sector and see what it is like. I am so pleased that my wife and I, we are approaching April 15, that we do not have to fill out the mounds of forms and tax returns and comply with all the regulations. And health care, give some options in health care. Talk to a small businessperson. That is where jobs are in this country. Jobs are with small business in this country. They create more than all the big corporations. But you ask a small businessperson if he is going to expand jobs and he will say, it is very difficult. His taxes are high. In fact, taxes on business in the United States are the highest in almost any nation in the world. So would you go overseas, or would you create jobs here in the United States? You cannot afford to have health care.

I challenge the Members. Look at your pay stubs. There is $2,700 going out for health care. That is our part of the equation. The total cost is $9,000, $10,000 a person. How would a small businessperson deal with that for health insurance for themselves or to create jobs? So here we have presented today, they are taking time from another piece of legislation, one option, a handout, a check which people may need, that is true, but they want a good-paying job.

□ 1530

So stop blocking legislation like Head Start that will give our young people some quality in a very expensive program to our neediest students who go on to become failures in our schools and in our system. Stop blocking job-training programs and initiatives by the President, because everyone is not going to college, community colleges, where we need to train people for changing jobs in technology opportunities that we are missing and helping small business, not hurting small business to create jobs so we can have people working in the future. So I urge the passage of the rule.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I do want to talk about the pending legislation, so I do not have time to comment on all the odd things that the previous speaker talked about, but a couple must be mentioned.

This assertion that we in the minority are blocking legislation has to be one of the most bizarre misrepresentations of the actual situation I have ever heard. We have no control over the agenda. We are not blocking anything. I wish we could block some of the stuff that has happened.

But this challenge to us to stop blocking Head Start, I have looked all over. I could not find Head Start laying anywhere here. We have not hidden it under our chairs. We are not blocking Head Start.

Job training, stop blocking job training. Job training is not being held hostage in the Democratic cloakroom. All of the scheduling is up to the majority.

So this arm-waving about stop blocking things when the majority is entirely in control does not make a great deal of sense.

I, on the other hand, did appreciate the honesty of the gentleman when he sneeringly referred to unemployment compensation as a handout. He said, if people are in business, they understand that that is not the way to go.

I had thought Secretary Snow, the Secretary of Treasury appointed by the President, former head of CSX, had some business experience. I was pleased last week when he supported the extension of unemployment benefits. Yes, we should do more about job creation, but there are people who are not going to get those jobs over the next few months who have been on extended unemployment. The refusal to extend unemployment compensation, and it is not the administration we are criticizing here, it is the majority in this House, because they are the ones who will not do it, over the objection of us, the refusal to extend unemployment compensation causes real injury to working families. And then when the gentleman says that is just a handout, he literally adds insult to injury.

But now I want to talk about this pending legislation. It is not aimed at providing more people for the military. There is not an argument that they do not have enough people in the Officers Club. There is not an argument that there are not enough ROTCs around to service the military. That is not this legislation's purpose.

This legislation is to punish those institutions which have said, as a matter of principle, we do not want them recruiting on their campus unless everybody is eligible. We do not want them restricting on irrelevant grounds people because of their race or their religion or their gender or their sexual orientation.

As long as the military says that gay and lesbian people are not suitable to serve, although, as we have seen now, during wartime they stopped throwing people out quite as much because it turns out gay and lesbian military people, as we know, are quite capable of doing the job and when they are needed, they are kept on. But the purpose of this is to penalize those principled institutions that say we dislike this discrimination.

Indeed, this legislation helps restrict the number of people who join the military. We have a shortage of people who speak Arabic working for the United States in the military and elsewhere. About 1½ or 2 years ago, seven members of the military who were doing very well learning Arabic were kicked out because they were discovered to be gay or lesbian.

So with your policy of "don't ask, don't tell and, by God, don't translate" because somehow they will undermine the security of this country, you are restricting the entry into the military of qualified people. And this legislation does not expand the pool of people. It is in the service of a policy that unduly and unwisely and unnecessarily restricts the access, and it does it in a punitive way.

It could be changed. For example, it says, well, wait a minute, if we are going to take money for national security, then they cannot stand up for their principle of nondiscrimination. When did the Department of Transportation get involved there? I am all for public transportation. I had not thought it was a matter of national security.

This legislation also says, the gentleman from California alluded to, a situation where students at Harvard have to go to MIT, and he said that is inappropriate. On Page 6 of the bill, it says that if the Secretary of the Military Department refuses to allow an ROTC in a particular school, he can authorize or she can authorize those students to go elsewhere. Why is that compromise not good enough for the school? This bill calls for the use of a system the gentleman from California said was discriminatory.

I want to just repeat the main point, because no one really believes and the military has not said, oh, we are being so hindered by these recruitment restrictions that we cannot get enough people. This is to penalize those institutions that are just standing up particularly for the principle of nondiscrimination and particularly for the principle that qualified members of their university communities ought not to be discriminated against and punishing them to reinforce an unfair policy hurts the military. It does not help it.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, we are asking that the previous question be defeated and that we be allowed to bring up unemployment compensation to extend it; and here is the reason:

I am glad we are debating this because the gentleman from Florida, by his discussion, has exposed exactly what is the thinking of the majority in this House.

Last Friday, I met a fellow, 55, an electrician, working for more than 30 years. He told me he was going to take his retirement, his pension, from the Electrical Workers Union. He was going to do so even though he lost a level of benefits. And I said why?

He said, because I have only 2 weeks of unemployment compensation left and if I do not take early retirement, I am going to lose my house.

And you on the majority side call unemployment compensation a handout? It is part of the employment structure of this country because with employment sometimes comes unemployment.

And you say get a job? You in the majority, who have been in the majority in this city, in the Senate, and occupying the White House, under whose dominion three million jobs have been lost, tell this fellow, and there are hundreds of thousands of men and women like him, get a job? That is an insult to the working people of this country.

So we are bringing this up because you will not bring this bill up for a straight "yes" or "no" vote. If you brought it up, you know we would carry our position.

The gentleman from Massachusetts (Mr. FRANK) has mentioned it was said by Mr. Snow, the Secretary, that the

President would sign an extension when there are $18, $19 billion in funds set-aside for this purpose. We do not want a President to passively say he will sign it. We want some leadership from the President of the United States for the millions of people who are unemployed and the hundreds of thousands of people who exhaust their benefits every month. Defeat the previous question.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will urge a "no" vote on the previous question; and if the previous question is defeated, I will offer an amendment to the rule which will provide that, immediately after the House passes H.R. 3966, it will take up legislation to extend Federal unemployment benefits to the end of September of this year.

Mr. Speaker, last week during testimony before the House Committee on Financial Services, the Secretary of the Treasury said the President would sign legislation to extend Federal unemployment if it reached his desk. The bill that I will attempt to make in order would give the President that opportunity. It is a simple extension of the current program through September 30, nothing more, nothing less. If the President is willing to sign this badly needed bill, then we should get it to him immediately; and if we defeat the previous question, we can get the process started right away.

From late December through the end of March, an estimated 1.1 million jobless workers will have exhausted their regular unemployment benefits without receiving additional aid. This is the largest number of exhaustees in over 30 years. This figure will continue to grow, with 80,000 more jobless workers exhausting their regular benefits and going without any additional aid each week. Despite this, the Republican leadership in this House refuses to extend this program.

Mr. Speaker, today's unemployment numbers are devastating. With no private sector jobs created last month and only 21,000 jobs created overall, all of them public sector or government jobs, unemployed Americans today are facing insurmountable odds. Today, 8.2 million Americans are unemployed, and 3 million private sector jobs have been lost since President Bush took office. On top of the millions of unemployed, there are 4.4 million people who are working part time, which is an increase of 33 percent since the beginning of this administration. The average length of unemployment hovers at the highest level in almost 20 years; and, worst of all, Mr. Speaker, there is no relief in sight. Yet this Congress cannot seem to find a will or the time to extend unemployment benefits to those workers who have exhausted their benefits but still cannot find work.

What are their families supposed to do, Mr. Speaker? Where will the money come from to pay the rent or the mortgage, to buy medicine, food, or gas for the car? Does this House simply not care about these families and their children?

Mr. Speaker, the extension of unemployment benefits is an urgent issue for many families; and it seems to me like a far more important issue for this House to consider than the bill that we are considering right at this point. Let me be very clear that a "no" vote on the previous question will not stop consideration of H.R. 3966. But a "no" vote will allow the House to vote on legislation to help provide some much-needed relief to our Nation's unemployed workers, many of whom have not had a paycheck for months. However, a "yes" vote on the previous question will prevent the House from passing this desperately needed extension of Federal unemployment benefits to our jobless workers.

Mr. Speaker, let us show the American people that we get it, that we understand what the real problems are facing the people of this country and that this House deliberates on issues that really matter, that make a difference to people's lives.

So vote "no" on the previous question and vote to extend unemployment benefits.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

I would just like to note, Mr. Speaker, that Albania is a country that is a NATO aspirant and Albania's Prime Minister Fatos Nano is visiting Washington today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

These votes will be followed by 5-minute votes on House Resolution 558 and S. 2057 under suspension of the rules.

The vote was taken by electronic device, and there were—yeas 223, nays 202, not voting 8, as follows:

[Roll No. 98]

YEAS—223

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—202

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio

DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Culberson
DeMint
Gephardt
Hulshof
Jones (OH)
Serrano
Tanner
Tauzin

☐ 1608

Mr. MURTHA and Mr. RUPPERSBERGER changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on two motions to suspend the rules previously postponed.

Votes will be taken in the following order: House Resolution 558 and S. 2057. These electronic votes will be conducted as 5-minute votes.

Votes postponed on H.R. 3104 and H. Con. Res. 386 will be taken later today.

WELCOMING THE ACCESSION OF BULGARIA, ESTONIA, LATVIA, LITHUANIA, ROMANIA, SLOVAKIA AND SLOVENIA TO THE NORTH ATLANTIC TREATY ORGANIZATION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 558, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, H. Res. 558, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 2, not voting 9, as follows:

[Roll No. 99]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Bartlett (MD)
Paul

NOT VOTING—9

Carter
Culberson
DeMint
Gephardt
Hulshof
Jones (OH)
Serrano
Tanner
Tauzin

☐ 1618

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REIMBURSING MEMBERS OF UNITED STATES ARMED FORCES FOR CERTAIN TRANSPORTATION EXPENSES

The SPEAKER pro tempore (Mr. ADERHOLT). The pending business is the question of suspending the rules and passing the Senate bill, S. 2057.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Hampshire (Mr. BRADLEY) that the House suspend the rules and pass the Senate bill, S. 2057, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 100]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Cardoza
Chocola
Conyers
Culberson
DeMint
Gephardt
Hulshof
Jones (OH)
Tanner
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain on this vote.

□ 1627

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ROTC AND MILITARY RECRUITER EQUAL ACCESS TO CAMPUS ACT OF 2004

Mr. ROGERS of Alabama. Mr. Speaker, pursuant to House Resolution 580, I call up the bill (H.R. 3966) to amend title 10, United States Code, and the Homeland Security Act of 2002 to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officers Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. OSE). Pursuant to House Resolution 580, the bill is considered read for amendment.

The text of H.R. 3966 is as follows:

H.R. 3966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "ROTC and Military Recruiter Equal Access to Campus Act of 2004".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Reserve Officers Training Corps (ROTC) program is the most common path for undergraduates to become United States military officers.

(2) The inclusion of both public and private undergraduate institutions in the ROTC program insures a more racially, ethnically, and socially diverse pool for leadership in the higher ranks of the Armed Forces.

(3) The majority of both minority officers and female officers in the Armed Forces are acquired through undergraduate ROTC programs.

(4) The presence of ROTC programs on college campuses benefits even those students who are not enrolled by making them aware of the presence and role of the United States military.

(5) Land-grant colleges received land from the United States on the condition that they offer some military instruction in addition to their regular curriculum, forming the basis for the Nation's tradition of college and university acceptance of responsibility to contribute to the Nation's readiness.

(6) The Armed Forces face a constant challenge in recruiting top-quality personnel

that ROTC programs are ideally suited to meet.

(7) Military recruiters should have access to college campuses and to college students equal in quality and scope to that provided all other employers.

(8) If any college or university discriminates against ROTC programs or military recruiters, then under current law that college or university becomes ineligible for certain Federal taxpayer support, especially funding for many military and defense programs.

(9) The personnel and programs of the Department of Homeland Security and the Department of Energy are mutually dependent upon a high caliber of well-educated, professional leadership in the Armed Forces in order to protect the people and territory of the United States.

(10) In order to more fully promote the ability of the Nation's Armed Forces to recruit on college campuses and to facilitate the ability of students to participate in ROTC programs on campus, the laws to prevent discrimination against ROTC and military recruiters should be updated.

SEC. 3. PROHIBITION ON PROVISION OF HOMELAND SECURITY-RELATED FUNDING TO POST-SECONDARY SCHOOLS THAT PREVENT ROTC ACCESS OR MILITARY RECRUITING ON CAMPUS.

(a) In General.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

"TITLE XVIII—ADDITIONAL PROVISIONS

"SEC. 1801. PROHIBITION OF FUNDS BEING PROVIDED TO INSTITUTIONS OF HIGHER EDUCATION THAT PREVENT ROTC ACCESS OR MILITARY RECRUITING ON CAMPUS.

"No funds made available for the Department may be provided by contract or by grant to an institution of higher education (including any subelement of such institution) that, by reason of a determination by the Secretary of Defense under subsection (a) or (b) of section 983 of title 10, United States Code, is ineligible for the receipt of a contract or grant from funds specified in subsection (d) of that section.".

(b) Clerical Amendment.—The table of contents in section 1(b) of such Act is amended by adding at the end the following new items:

"TITLE XVIII—ADDITIONAL PROVISIONS

"1801. Prohibition of funds being provided to institutions of higher education that prevent ROTC access or military recruiting on campus.".

SEC. 4. CERTIFICATION OF COMPLIANCE WITH ROTC ACCESS PROVISIONS.

Subsection (a) of section 983 of title 10, United States Code, is amended—

(1) by inserting "(1)" before "No funds";

(2) by striking "prevents—" and inserting "prevents, either (or both) of the following:";

(3) by striking "(1) the" and inserting "(A) The";

(4) by striking "; or" and inserting a period;

(5) by striking "(2) a" and inserting "(B) A"; and

(6) by adding at the end the following:

"(2)(A) Not later than 180 days after the date of the enactment of the ROTC and Military Recruiter Equal Access to Campus Act of 2004 and annually thereafter, the Secretary of Defense shall request from each institution of higher education that has students participating in a Senior Reserve Officer Training Corps program during the then-current academic year of that institution a certification that such institution, during the next academic year of the institution, will—

"(i) permit the Secretary of each military department to maintain a unit of the Senior Officer Training Corps (in accordance with subsection (a)) at that institution (or any subelement of that institution), should such Secretary elect to maintain such a unit; and

"(ii) if the Secretary of the military department concerned elects not to establish or maintain a unit of the Senior Reserve Officer Training Corps at that institution, permit a student of that institution (or any subelement of that institution) to enroll in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

"(B) Any certification under subparagraph (A) shall be made by the president of the institution (or equivalent highest ranking administrative official) and shall be submitted to the Secretary of Defense no later than 90 days after receipt of the request from the Secretary.

"(C) In the case of any institution from which a certification is requested under subparagraph (A), if the Secretary of Defense does not receive a certification in accordance with subparagraph (B), or if the certification does not state that the university will comply with both clauses (i) and (ii) of subparagraph (A) during its next academic year, the Secretary shall make a determination under paragraph (1) as to whether the institution has a policy or practice described in that paragraph.".

SEC. 5. EQUAL TREATMENT OF MILITARY RECRUITERS WITH OTHER RECRUITERS.

Subsection (b)(1) of section 983 of title 10, United States Code, is amended—

(1) by striking "entry to campuses" and inserting "access to campuses"; and

(2) by inserting before the semicolon at the end the following: "in a manner that is at least equal in quality and scope to the degree of access to campuses and to students that is provided to any other employer".

SEC. 6. PROHIBITION OF FUNDING FOR POST-SECONDARY SCHOOLS THAT PREVENT ROTC ACCESS OR MILITARY RECRUITING.

(a) Covered Funds.—Subsection (d) of section 983 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "limitation established in subsection (a) applies" and inserting "limitations established in subsections (a) and (b) apply";

(B) in subparagraph (B), by inserting "for any department or agency for which regular appropriations are made" after "made available"; and

(C) by adding at the end the following new subparagraphs:

"(C) Any funds made available for the Department of Homeland Security.

"(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

"(E) Any funds made available for the Department of Transportation.

"(F) Any funds made available for the Central Intelligence Agency."; and

(2) by striking paragraph (2).

(b) Conforming Amendments.—(1) Subsection (b) of such section is amended by striking "subsection (d)(2)" and inserting "subsection (d)(1)".

(2) Subsection (e) of such section is amended by inserting ", to the head of each other department and agency the funds of which are subject to the determination," after "Secretary of Education".

SEC. 7. EXCLUSION OF AMOUNTS TO COVER INDIVIDUAL PAYMENTS.

(a) Codification and Extension of Exclusion.—Subsection (d) of section 983 of title 10, United States Code, as amended by section 6(a), is further amended—

(1) by striking "The" after "(1)" and inserting "Except as provided in paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2) Any Federal funding specified in paragraph (1) that is provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.".

(b) Conforming Amendments.—Subsections (a) and (b) of such section are amended by striking "(including a grant of funds to be available for student aid)".

(c) Conforming Repeal of Codified Provision.—Section 8120 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 10 U.S.C. 983 note), is repealed.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to funds appropriated for fiscal year 2005 and thereafter.

The SPEAKER pro tempore. The amendment printed in the bill is adopted.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "ROTC and Military Recruiter Equal Access to Campus Act of 2004".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Reserve Officers Training Corps (ROTC) program is the most common path for undergraduates to become United States military officers.

(2) The inclusion of both public and private undergraduate institutions in the ROTC program insures a more racially, ethnically, and socially diverse pool for leadership in the higher ranks of the Armed Forces.

(3) The majority of both minority officers and female officers in the Armed Forces are acquired through undergraduate ROTC programs.

(4) The presence of ROTC programs on college campuses benefits even those students who are not enrolled by making them aware of the presence and role of the United States military.

(5) Land-grant colleges received land from the United States on the condition that they offer some military instruction in addition to their regular curriculum, forming the basis for the Nation's tradition of college and university acceptance of responsibility to contribute to the Nation's readiness.

(6) The Armed Forces face a constant challenge in recruiting top-quality personnel that ROTC programs are ideally suited to meet.

(7) Military recruiters should have access to college campuses and to college students equal in quality and scope to that provided all other employers.

(8) If any college or university discriminates against ROTC programs or military recruiters, then under current law that college or university becomes ineligible for certain Federal taxpayer support, especially funding for many military and defense programs.

(9) The personnel and programs of the Department of Homeland Security and the Department of Energy are mutually dependent upon a high caliber of well-educated, professional leadership in the Armed Forces in order to protect the people and territory of the United States.

(10) In order to more fully promote the ability of the Nation's Armed Forces to recruit on college campuses and to facilitate the ability of students to participate in ROTC programs on campus, the laws to prevent discrimination against ROTC and military recruiters should be updated.

SEC. 3. CERTIFICATION OF COMPLIANCE WITH ROTC ACCESS PROVISIONS.

Subsection (a) of section 983 of title 10, United States Code, is amended—

(1) by inserting "(1)" before "No funds";

(2) by striking "prevents—" and inserting "prevents, either (or both) of the following:";

(3) by striking "(1) the" and inserting "(A) The";

(4) by striking "; or" and inserting a period;

(5) by striking "(2) a" and inserting "(B) A"; and

(6) by adding at the end the following:

"(2)(A) Not later than 180 days after the date of the enactment of the ROTC and Military Recruiter Equal Access to Campus Act of 2004 and annually thereafter, the Secretary of Defense shall request from each institution of higher education that has students participating in a Senior Reserve Officer Training Corps program during the then-current academic year of that institution a certification that such institution, during the next academic year of the institution, will—

"(i) permit the Secretary of each military department to maintain a unit of the Senior Officer Training Corps (in accordance with subsection (a)) at that institution (or any subelement of that institution), should such Secretary elect to maintain such a unit; and

"(ii) if the Secretary of the military department concerned elects not to establish or maintain a unit of the Senior Reserve Officer Training Corps at that institution, permit a student of that institution (or any subelement of that institution) to enroll in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

"(B) Any certification under subparagraph (A) shall be made by the president of the institution (or equivalent highest ranking administrative official) and shall be submitted to the Secretary of Defense no later than 90 days after receipt of the request from the Secretary.

"(C) In the case of any institution from which a certification is requested under subparagraph (A), if the Secretary of Defense does not receive a certification in accordance with subparagraph (B), or if the certification does not state that the university will comply with both clauses (i) and (ii) of subparagraph (A) during its next academic year, the Secretary shall make a determination under paragraph (1) as to whether the institution has a policy or practice described in that paragraph.".

SEC. 4. EQUAL TREATMENT OF MILITARY RECRUITERS WITH OTHER RECRUITERS.

Subsection (b)(1) of section 983 of title 10, United States Code, is amended—

(1) by striking "entry to campuses" and inserting "access to campuses"; and

(2) by inserting before the semicolon at the end the following: "in a manner that is at least equal in quality and scope to the degree of access to campuses and to students that is provided to any other employer".

SEC. 5. PROHIBITION OF FUNDING FOR POST-SECONDARY SCHOOLS THAT PREVENT ROTC ACCESS OR MILITARY RECRUITING.

(a) COVERED FUNDS.—Subsection (d) of section 983 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "limitation established in subsection (a) applies" and inserting "limitations established in subsections (a) and (b) apply";

(B) in subparagraph (B), by inserting "for any department or agency for which regular appropriations are made" after "made available"; and

(C) by adding at the end the following new subparagraphs:

"(C) Any funds made available for the Department of Homeland Security.

"(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

"(E) Any funds made available for the Department of Transportation.

"(F) Any funds made available for the Central Intelligence Agency."; and

(2) by striking paragraph (2).

(b) CONFORMING AMENDMENTS.—(1) Subsection (b) of such section is amended by striking "subsection (d)(2)" and inserting "subsection (d)(1)".

(2) Subsection (e) of such section is amended by inserting ", to the head of each other department and agency the funds of which are subject to the determination," after "Secretary of Education".

SEC. 6. EXCLUSION OF AMOUNTS TO COVER INDIVIDUAL PAYMENTS.

(a) CODIFICATION AND EXTENSION OF EXCLUSION.—Subsection (d) of section 983 of title 10, United States Code, as amended by section 5(a), is further amended—

(1) by striking "The" after "(1)" and inserting "Except as provided in paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2) Any Federal funding specified in paragraph (1) that is provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.".

(b) CONFORMING AMENDMENTS.—Subsections (a) and (b) of such section are amended by striking "(including a grant of funds to be available for student aid)".

(c) CONFORMING REPEAL OF CODIFIED PROVISION.—Section 8120 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 10 U.S.C. 983 note), is repealed.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to funds appropriated for fiscal year 2005 and thereafter.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. ROGERS) and the gentleman from Missouri (Mr. SKELTON) each will control 30 minutes.

The Chair recognizes the gentleman from Alabama (Mr. ROGERS).

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself such times I may consume.

Mr. Speaker, I rise in support of H.R. 3966, the ROTC and Military Recruiter Equal Access to Campus Act of 2004. It is based on one simple principle: Colleges and universities that accept Federal funding should also be willing to permit military recruiters equal access to students in ROTC scholarship programs.

Specifically, H.R. 3966 would first require colleges and universities to give military recruiters access to campus and to students that is equal to in quality and scope as that provided to any other private employer.

Secondly, the bill would require an annual verification from colleges and universities who already support ROTC programs that they will continue to do so in the upcoming academic year.

Thirdly, it will add two additional defense-related funding sources, the Central Intelligence Agency and the National Nuclear Security Administration of the Department of Energy, to the potentially prohibitive funding sources already specified in the law.

And, finally, it restores the Department of Transportation to the list of funds that might be terminated. These were inadvertently left out in the 2002 change in the law.

Mr. Speaker, I would also like to emphasize this bill does not in any way disturb or interfere with Federal financial student financial aid.

This law is known as the Solomon amendment after its Congressman, Gerry Solomon of New York, began this as a House amendment adopted in a bipartisan vote in 1995.

The following year, Congress imposed the loss of DOD funding on institutions of higher learning that had an anti-ROTC policy. That same Congress added the Departments of Education, Labor, and Health and Human Services to the list of potentially prohibited funding sources. Then the Homeland Security Act of 2002 added funding from the Department of Homeland Security to the list.

Mr. Speaker, I believe that now Congress must once again revisit this law. Recently, barriers have been erected by some colleges and universities to military recruiters having access to students on campus, particularly in their law schools.

But what has really created a real sense of urgency for us to act now is the recent court decision of Forum for Academic and Institutional Rights, otherwise known as FAIR, versus Donald Rumsfeld. FAIR was a consortium of an unknown number of anonymous law schools in this case.

In the U.S. District Court of New Jersey in September, 2003, the plaintiffs sought a preliminary injunction against the DOD from enforcing Solomon.

In his opinion on November 5, 2003, the judge denied the motion and upheld the constitutionality of the Solomon amendment, but he noted that law schools are loathe to endorse or assist recruiting efforts of the United States military, and he criticized the government's assertion that the Solomon amendment requires colleges and universities to give military recruiters access to campuses and students equal to that given to recruiters from other employers.

□ 1630

In response to the judge's ruling, the Secretary of Defense has asked the Congress to clarify the Solomon amendment to state unequivocally that the military should have the same equal access in scope and quality to that of any other civilian employee.

H.R. 3699 will do just that. I urge support of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume; and I rise in support of this bill, the ROTC and Military Recruiter Equal Access to Campus Act of 2004.

First, I want to recognize the gentleman from Alabama (Mr. ROGERS) for his efforts to bring this measure to the floor, and we thank him for that. While some of my colleagues may oppose this bill, I believe it is important that Congress support efforts to ensure the military recruiters have equal access to all post-secondary institutions of higher learning, as well as law schools and graduate schools.

The propensity for young Americans to volunteer for military service, as well as public service in general, has been declining; and we need to ensure that our military is a reflection of our society, which means that military recruiters need access to all young men and women, including those who attend colleges as well as universities.

I want to take this opportunity to commend our Nation's military recruiters. Recruiting duty is not for the faint of heart. Recruiters often face long hours and demanding duty tracking down student contacts, meeting with prospective candidates, meeting with their families, traveling across the region to attend recruitment fairs and other related activities. To succeed, they must always be available wherever and whenever a prospective candidate may be. Recruiting is a serious, stressful, and vital job in the military; and only the best and brightest in these services are chosen in this capacity.

So we need to make every effort to ensure that military recruiters are successful in their job because it directly affects our national security. Tomorrow's military will be more high-tech, more sophisticated, and more demanding than today's. So we need to recruit bright and competent and knowledgeable people. We can only do this if our military recruiters get fair and complete access to our college campuses and to its students.

Thus, I urge my colleagues to support the bill and provide equal access for military recruiters.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. McKEON), a member of the Committee on Armed Services and a cosponsor of this bill.

Mr. McKEON. Mr. Speaker, I thank the gentleman from Alabama (Mr. ROGERS) for yielding time and for his great leadership in bringing this important bill to the floor.

Mr. Speaker, it goes without saying that military service is the greatest form of duty and sacrifice that any American can have for their country. The brave men and women of our Armed Forces selflessly fight day in and day out to protect America from terror and tyranny from every corner of this world. Military service is more than just a job. It is a duty bound calling and every American should have the opportunity to serve their country in this way if they so choose.

That is why it is so important to pass H.R. 3966 today. This bill will give military and ROTC recruiters the opportunity to have the same unencumbered recruitment ability as other prospective employers on college campuses. For too long, military recruiters have been treated like second-class citizens on some college campuses and have been subjected to undue obstacles that no other recruiters have had to endure.

Some colleges and universities, for example, have required military recruiters to set up their recruitment tables off campus, while allowing other employers to recruit on campus. On other college campuses, ROTC recruiters were only given the option of using remote and inaccessible rooms for their recruitment, significantly reducing their ability to reach students. Shockingly, at one of the most prestigious colleges in this country, New York University, potential recruits were harassed and detained by protestors; and their pictures were displayed throughout the school on a poster entitled "Face of Complicity." This is absolutely unacceptable, and that kind of behavior cannot happen again.

Mr. Speaker, our Nation is involved in a global war on terror, and we must have the best and the brightest working on our side to win. Our college campuses are filled with the next Norman Schwarzkopfs and Colin Powells, and we must give them the chance to fulfill their full potential as Americans.

I urge my colleagues to join me in passing H.R. 3966.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, today we are debating a bill which at first appears to be fairly straightforward. H.R. 3966 would seem to provide the military recruiters the same access to college and university campuses that other government agencies and private companies are receiving, but the reality is that this bill is not about equal access. It is about discrimination, pure and simple.

If H.R. 3966 passes, then colleges and universities that otherwise adhere to strict antidiscrimination policies will be forced to allow organizations like ROTC to openly discriminate against gays, lesbian and bisexual men and women. The flawed "Don't ask, Don't tell" policy that the military has adopted allows the military to discharge any serviceman or servicewoman who is determined not to be straight. In no other field can someone be fired simply for being gay.

H.R. 3966 is nothing short of an open and codified policy of intolerance, intolerance against homosexuals, for the reason of their sexual orientation. Until the incredibly unjust "Don't ask, Don't tell" policy is drastically altered, bills like H.R. 3966 will continue to allow for the open discrimination against one group of Americans.

The truth is that H.R. 3966 would unfairly punish those universities who are bold enough to apply the same rules to military recruiters as they do to all other employers, employers who are recruiting on their campuses.

I will vote against H.R. 3966.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a distinguished member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, I want to commend the gentleman from Alabama (Mr. ROGERS) and also my friend, the gentleman from Missouri (Mr. SKELTON), who I have the utmost respect for, and he knows that.

This is not an issue of homosexuality. It is not an issue that a lot of my left wing friends talk about, but every day they will stand up on this House floor and say I am for the troops. Of course, everybody is; but yet they vote against defense bills, they vote against intelligence bills, and they also vote against or for every amendment that would gut both military and defense.

We have an all-voluntary force, and to allow access on to our campuses is a good thing. I do not know about my colleagues; but when I see a young man or woman walking the streets, especially around D.C. here, I see pride. I see pride in service and support of this country, and they represent the same thing on our colleges and our universities; but, yet, there is still those that would block that using a whole host of examples of why not to do it.

This ends a form of discrimination and restriction on free exchange of ideas and opportunities. I cannot tell my colleagues the number of people that I served with, young Filipinos, earning their citizenship by serving on ships, young men and women in minorities that come from our inner cities that normally would not have a chance to achieve. Many of those people have learned their discipline and their leadership skills from the military where they would not otherwise have had a chance. They would end up in a low-paying job or on welfare or whatever. It is a great opportunity, and we ought to let this opportunity have some light and have equal representation on our campuses.

That is why we are standing here. That is why my friend, the gentleman from Missouri (Mr. SKELTON), and most of the Members on both sides of this aisle are here; but yet the liberal left will fight it tooth, hook and nail, just like they vote against defense and they vote against Intel and then say we are for the troops.

Well, there is a line. Patriotism is unchanging and a work that has to be taken every single day. I want to thank my friends for supporting this bill.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

First, let me say I thank the gentleman from California for his kind and generous comments, who wore the uniform so well, not only brought distinction to himself but to our country, and we thank him for his service.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I agree that being able to serve in the military is an important opportunity. I am here opposing this bill because I want to expand that opportunity.

This is not a bill brought forward because the military is having trouble recruiting on campuses. It is brought forward to penalize those universities which have said, look, as a matter of principle we do not want you recruiting among our students if they are not all equally able to take advantage of the opportunity offered. Obviously, there are some things for which you recruit, some people are physically or otherwise ineligible, but universities have said we do not believe that ruling out gay and lesbian young people who would like to join the military is fair to them, and we certainly do not think you should come to our campus and use our facilities and discriminate in a way that we think is unfair among our students.

I agree very much that we should be doing all we can to get people into the military. I will repeat what I said a little while ago, repetition being one of the privileges of our profession.

We have fewer Arabic-speaking translators in the military today because of the policy which kicked out a number of people at the Army language school because they were discovered to be gay. These were people who would, if they had not been kicked out some time ago, been available today to do that important job of translation. I am talking about seven people who were learning Arabic who would today be available in a greatly needed theater.

So, no, there is nothing antimilitary about people saying, look, this is a wonderful institution; yes, the ability to serve your country and its uniform is a very important one; please do not deny it to us on an irrelevant basis. Do not say because of the way we were born and because of our inherent natures we cannot participate in this.

I cite that because I have heard all the leaders in the military from Colin Powell on since this has been discussed say, look, it is not that the gay and lesbian members of the military do a bad job. There is prejudice in this society. There are people who are uncomfortable in their presence, and we have to honor that argument as well. It is bad for morale.

Of course, the Israeli Defense Force is not being able to afford the luxury of discrimination. They have mobilized all of their people, including gays and lesbian people, and no one has suggested that they are an ineffective fighting force or have inappropriate morale.

So I would very much like to agree with the principle that we should expand opportunities for young people, that we should increase our ability to recruit. The way to do that is to change the policy, and we should not be penalizing those institutions which, as a matter of principle, are working for a change in that policy.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING), a member of the Committee on the Judiciary and a cosponsor of H.R. 3966.

Mr. KING of Iowa. Mr. Speaker, initially I would like to thank the gentleman from Alabama (Mr. ROGERS) for bringing this bill before us. It is something I have looked at for some time, and it is something that I certainly support.

It would be my endeavor to bring individual amendments to the appropriations process if we needed to in order to reestablish the pre-eminence of the military on our campuses across this country.

This is something that started back in the 1970s as part of the protests against the Vietnam War; and, slowly, this kind of policy that has been a resistant to recruitment and ROTC on our campuses across this country has used every tool available.

Well, I want to announce that this is about discrimination, this issue is; but it is about discrimination against young men and women in uniform. Whenever somebody stands up in a uniform, we will find somebody with another agenda trying to find a way to erode the values that put them in that place; and so the argument was made, for example, the Boy Scouts would be one, and of course, all our men and women in uniform in the Army, Navy, Air Force and Marines and the Coast Guard are also victims of an effort that is keeping us from recruiting good people because the campuses have lined up against the recruitment on campus.

I look forward to the day that ROTC or any recruiter can set up a card table on the commons at Harvard University on the exact location where George Washington received his commission as commander of the Continental Army. I find that a real offense to the United States, not to have the freedom to do that and to promote it.

A statement was made by the gentlewoman earlier that in no other field can a person be fired for being gay. Well, no, probably not; but most people in this country are at-will employees, and they can be fired for no reason or any reason at all.

It is not a matter about open discrimination.

□ 1645

I would like to relate a little story, Mr. Speaker.

State Senator Jerry Behn from Iowa asked the question, when lobbied by the gay lobby, answer me this: Am I heterosexual or am I homosexual? They looked at him for a while and they said, well, we do not know.

That is the answer. You cannot tell. Keep it private.

Mr. SKELTON. Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS), who is also a cosponsor of this piece of legislation.

Mr. BACHUS. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, I want to express my respect for my colleague, the gentleman from Alabama (Mr. ROGERS), for bringing this legislation to the floor.

I will say this. It is a sad commentary on our time when we even have to have legislation like this. You would not really think in a country that is at war, and we are at war, with soldiers in the field, young men and women risking their lives every day, that such disrespect would be shown to them by men and women their own age.

My son is a Marine. I cannot imagine him being assigned to a college, a university. He has actually left college to go in the Marines. I cannot imagine him coming home from the sacrifice he has made, going on to that college campus and seeing young men and women who, while he was serving in the Marines, were enjoying their college education because he and other young men and women sacrificed for them and served in their place.

The gentlewoman, who I respect from the San Francisco Bay area, and the gentleman from Massachusetts, who I respect, they both said this is about discrimination. I think the gentleman from Iowa said it best when he said it is about discrimination, but it is about discrimination against our military and those that serve in our uniform.

Let us not involve our young men and women who are risking their lives every day. Let us not involve them in some policy discussion. Let us not endanger their lives and the lives of those who serve next to them in this debate.

If law students want to debate this issue, if they want to write in the paper, that is one thing, but when they block military recruiters, as they have done, it is time for us to end this foolishness. It is our responsibility as a Congress. Support this legislation.

Mr. SKELTON. Mr. Speaker, I continue to reserve the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY), a distinguished member of the Committee on Armed Services and also a cosponsor of this legislation.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Alabama for yielding me this time and for bringing this bill, H.R. 3966, before us today.

Mr. Speaker, I am in strong support of H.R. 3966, which would require that colleges and universities give military recruiters the same access to students as other employers.

We as a Nation depend on the brave service of our military to protect our homeland, but do we honestly think that we are going to recruit the best and the brightest young men and women to serve if their schools are not even letting recruiters in the door? And that, Mr. Speaker, is exactly what is happening. That is why we need this bill.

Mr. Speaker, we rely on an all-voluntary force, which means that students choose whether or not to serve in the military or to pursue a civilian career. I hope that we can all agree that for our safety and the safety of our children and our grandchildren we want to have the smartest and the most capable military possible. But, remarkably, some schools choose to leave military recruiters out in the cold. Mr. Speaker, H.R. 3966 will serve to right this terrible policy of excluding military recruiters from our campuses.

Again, I commend the chairman, I commend the gentleman from Alabama (Mr. ROGERS), and I rise in 100 percent support of it, and I hope we have bipartisan support and pass H.R. 3966.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. COX), Chairman of the Select Committee on Homeland Security and an original cosponsor of H.R. 3966.

Mr. COX. Mr. Speaker, I want to thank the author of this legislation, the gentleman from Alabama (Mr. ROGERS), for his strong leadership needed at this time; and I also want to thank my friend and colleague, the gentleman from Missouri (Mr. SKELTON), for his leadership on this issue.

It is very important that we move this legislation forward because it squarely addresses the scandal of American colleges and universities banishing ROTC and military recruiters from campus, while turning around and cashing the taxpayers' checks from the Department of Defense and other national security and homeland security agencies of our government to the tune of hundreds of millions of dollars.

My alma mater, Harvard University, which bans ROTC from campus, gets more money in Federal taxpayer grants than it does from tuition for undergraduates and graduates combined, and yet Harvard University sends its hard core, a very small number of hearty brave students, down the road to MIT where they have to do their MIT-based ROTC training because they cannot be on campus. They do not meet Harvard standards because they want to affiliate themselves with the United States military.

The attacks on America, on the World Trade Center and on the Pentagon should have been a wake-up call to schools such as Harvard, which banished ROTC from campus 35 years ago. There is now a feeble pretext for this military ban on America's elite campuses. It is alleged that it is a protest against the Clinton administration's "don't ask/don't tell policy" for gays in the military. I find that exceptionally hard to believe, because no mention was made of this problem in 1969 when the ban was put in place.

I was on Harvard's campus during the Vietnam War. I remember when South Vietnam fell to the Communists, and I saw the biggest demonstration that I had seen yet on Harvard's campus, with students out in the streets chanting, "Ho, ho, Ho Chi Minh, the Vietcong are going to win." That is where this ban came from.

It has been a long time since the Vietnam War, JOHN KERRY notwithstanding; and it is high time that we recognize what happened to us on September 11, that we recognize that it was U.S. troops who were defending the Harvard students at Logan Airport in the hours after the 9/11 attacks. And, of course, Boston's Logan Airport was one of the staging airports for the 9/11 attacks on this country.

As our Nation wages an aggressive campaign to defeat global terrorism, President Kennedy's call to young people to "ask what you can do for your country" is more important than ever. America's armed forces are hunting down al Qaeda and other supporters of terrorism in Afghanistan, in Iraq, and on every continent around the globe. Never in recent history have we asked more from our Armed Forces, and never have we needed more educated leaders in our armed services.

The best contribution Harvard could make, the best contribution Yale could make, the best contribution that Stamford and Columbia could make to sound, wise policies in our Nation's military is to permit their graduates to enter into leadership posts there. But even a Harvard alum, who is a military recruiter, cannot go on campus to do it.

Now I have heard this is not really about the military, that this is a punitive measure aimed at the colleges themselves. But the military did not start this fight; and, in fact, look at what the universities' policies have accomplished over the last several decades.

In 1964, there were 268,000 ROTC students on America's campuses. Today, it is down to 50,000, a decline of more than 80 percent.

The military is being hurt by these policies, and America is being hurt by these policies. Today, successful recruitment of exceptional officers depends more heavily than ever on the Reserve Officers Training Corps. This past year, 70 percent of the Army's newly commissioned officers came from ROTC.

As chairman of the Select Committee on Homeland Security, I have been deeply gratified and humbled as I have seen how many of America's best and brightest have been willing to volunteer in service to their country in the fight against terrorism, both through ROTC and through choosing a career in the military upon graduation. But many of these same schools that are banning ROTC on campus are also banning even military recruiters from coming to campus.

The premise of this bill is a simple one: Colleges that discriminate against the United States Armed Services should not receive U.S. taxpayer funds related to national defense and homeland security. The bill will stop the current abusive practice under which schools ban ROTC and military recruiting but then turn around and cash enormous checks from the Department of Defense and the Department of Homeland Security. It will require they certify that they do not discriminate and that they will permit ROTC recruiters and ROTC training programs on campus.

Today, as our Nation calls for able new leaders in the war on terror, it is time for our universities and our colleges in America to honor that call and help lead our Nation.

Mr. Speaker, I thank the gentleman from Alabama (Mr. ROGERS) for bringing this important legislation to the floor.

Mr. SKELTON. Mr. Speaker, I yield 4 minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I think it is unfortunate that the discussion here has gone off in directions about what constitutes patriotism or what constitutes the proper recognition of the defense of democracy, because that is how all this argument started.

Mr. Speaker, I want to indicate to the Members that this issue deserves a full discussion and not just on the floor. We would not be here and there would not be a motion to recommit, which will be made shortly, I can assure you, if we had a full discussion about this and then had gone, probably where it should have gone, to the Committee on the Judiciary, if it needed to go at all, or a decision could have been made as to whether that was the proper venue.

I, too, can have recollections about what happened during Vietnam. I daresay that a lot of people on the floor, Members of this Congress, were not involved in any of that. I know what the first amendment is all about, and I do not think the first amendment says that the Secretary of Defense gets to decide what other people get to say or do in this country under threat of some kind of sanction. To the degree or extent that someone is prevented access that they are entitled to, they have recourse in the courts. That is what we do in a democracy.

I do not notice that it is our job, certainly not in the Committee on Armed Services, to turn over to the Secretary of Defense, any Secretary of Defense, the opportunity to be a prosecutor and a judge and a jury and a sheriff all at the same time.

Now, the facts are, as to the origin of this argument today, that there apparently have been instances in which people disagreed, apparently in some law schools in particular, disagreed with the "don't ask/don't tell policy" of the United States Armed Forces. This has nothing to do with what people said or did not say about the Vietnam War. It has nothing to do with what any particular Member's view of that American involvement in the Vietnam war was, let alone the war on terror or anything else. What it has to do is with the present policy, whether you agree with it or not, with the armed services.

Now, if the Armed Services say they want equal access, what was being said apparently by the people at these various schools was that they did not have equal access to being able to join the Armed Services or the Department of Homeland Security, I suppose, or the CIA. Now that needs to be discussed, and it is not going to be discussed in 3 minutes or 5 minutes or 2 minutes here on the floor. It is not even going to come up.

Now I could not find the proper way to make a motion to try to get this before the Committee on the Judiciary so we could have a discussion on what the proper sanctions might be, if they were needed at all, with respect to gaining access for the ROTC or anybody else that want to recruit. I am in favor of that. Those of us who oppose this bill are in favor of it.

□ 1700

I resent on proper grounds here in the House being categorized as someone who somehow wants to thwart the war on terrorism or does not have the correct view on the Vietnam War because I am trying to defend the first amendment and because I would like to see these discussions held in a manner and in a place and in a venue which is appropriate to the circumstances. We need to talk about such issues as to whether everybody in this country is going to be treated equally with respect to being able to join the military or participate in the Department of Homeland Security or defend our security interests through the CIA and whether they can be hired on the basis of their ability and what they have to offer rather than on what they look like or what their sexual orientation is or anything else. This is not the bill to do it, and it is certainly not the Secretary of Defense who should be doing it.

So what I am asking here is that the Members try to exercise some common sense, some common legislative sense, give us an opportunity to take up this serious issue, which does need addressing, and address it in a manner that will resolve it under constitutional methodology that is worthy of this body.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the author of the bill for yielding me this time.

Just to respond to the preceding speaker, the gentleman from Hawaii, this is not about telling people what to think or what to say. It is about giving students freedom of choice. This is all about whether or not students have access on campus. At Harvard, the undergraduate council voted overwhelmingly to invite ROTC back on to campus, but the school has taken no action. So it is the students who are being shortchanged.

As to whether this is completely unrelated to Vietnam, I will state that that is just wrong as a matter of fact. This ban at Harvard University, where I am a former member of the faculty, I am reasonably familiar with this, and a graduate of two schools at Harvard, in 1969 at Harvard, the faculty voted to ban the military from campus in protest to the Vietnam War and that ban has been in place ever since. My contention is that 9/11 should serve as a wakeup call, welcome to the 21st century. Let us revisit this, and get it back to where it belongs.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield?

Mr. COX. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. I do not dispute that. We did not dispute it in committee. When the issue was raised in committee, what I said is that this issue does need to be resolved so that access is possible, "Is this the best way to do it?" Inasmuch as we had to make a decision on the spot, my contention was, and I believe many of us who are forced now, we are forced because the bill is on the floor under a closed rule, I have no choice but to try and oppose it.

Mr. COX. I appreciate the gentleman's point, and reclaiming what little time I have, I will just say simply that we have students who are going to graduate. This has been going on for some years. 9/11 was a few years ago. At Yale where the school is happy to cash the ROTC scholarship checks, the Yale students have to travel 75 miles to the University of Connecticut and then 75 miles back, 150-mile round trip, they have to do this three times a week. It is an extraordinary burden to place just so that the university can make a point that joining the military is not what we want our students to do.

Mr. SKELTON. Mr. Speaker, I yield 5 minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I accept everything that the gentleman just said. It is making my point. The reason this bill is on the floor is because the courts ruled that the Secretary of Defense had no basis for making this decision. That is the reason the bill is on the floor.

I realize a lot of Members and their staffs are listening to this discussion in their offices, and they cannot be on the floor because they have other duties; but I am asking them to pay attention to why the bill is on the floor. This bill gives the Secretary of Defense the basis. We are creating another problem instead of solving the problem which is really before us, which is access for ROTC and/or military and other recruiters. If Harvard or any other school is preventing them from coming on, is there no access to the courts? You mean no law exists in the United States to allow people to have proper access? Of course it exists.

The reason for this bill is to make the Secretary of Defense the arbiter of how this is going to take place, even up to the point of getting certification from the school that the Secretary of Defense is satisfied that equal access, et cetera, is going to be provided.

My point is that we are doing this all wrong. If we really want to solve this issue of openness and access and discussion that needs to be taking place and to have the ROTC or the CIA or the Homeland Security Department or whoever it is have access and dialogue and discussion on a civilized basis as to how it should take place, that is available to us. This is not the way to do it. This bill merely enables the Secretary of Defense to be judge and jury over that process, and it will generate a whole new slew of lawsuits that will not solve the question nor even address the question that is before us as to how do we achieve this access. I want that access.

I think it is very unfortunate that the bill is being posited to the body in such a manner that those of us who oppose it seem to be in favor of terrorism or approving arbitrary dislocation of legitimate endeavors to recruit for the ROTC or anybody else. That is not true. On the contrary, I raised the issue in the Committee on Armed Services precisely on the point that I am a libertarian on the issue of free speech and access, and I believe everybody should engage in dialogue and confrontation of the issues in a positive way that gives everybody a chance.

The reason the argument takes place in the first place is that people who are defending those who are prevented from having access to the armed services, apparently those who are gay or lesbian or transgender or whatever other category we are getting into these days, I cannot keep up with every permutation that apparently exists in terms of gender and sexual orientation, but that is not a reason to make the Secretary of Defense the arbiter of it. I do not think, despite his great wit and great perception and depth of interest in world history and events, that the Secretary of Defense is necessarily up on all the latest in transgender fashions. And so I do not think that this is a proper forum nor a proper venue to try and resolve this issue.

My request, Mr. Speaker, of the body is that we give a chance for a motion to recommit to be made so that we can address the issue of access as opposed to addressing the issue which the bill moves toward giving a basis for the Secretary of Defense to make this decision. Let us not confuse the access apple with the orange of the first amendment of the Constitution.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. HUNTER), chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman for his sponsorship of this bill and also the gentleman from California (Mr. COX) for doing so much work on it, but also just to comment that this is not just for the recruiters, that people go to institutions of higher education to avail themselves of thousands of choices for career paths. As we think about the officer corps that is performing right now in theater in Iraq, for example, and we look at the leadership which not only has fought a war and now is working an occupation but is also standing up governments, people who have never talked, who have never voted together, who have never worked things out in a peaceful fashion, bringing them together and standing up governments and introducing the idea of democracy to those who have not entertained it before, that is an exciting occupation. Bringing the prospects for that occupation to be a leader in the Armed Forces of the United States, to be what most American citizens feel are our finest citizens, is a great opportunity. This bill, the Rogers bill, will ensure that those people have that choice. I thank the gentleman for bringing it up.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Speaker, I want to commend the gentleman from Alabama. I rise in support of H.R. 3966. This bill is about the war on terror. It is about the obligation that we have to sustain a viable Armed Forces. It is my understanding that the judge in the FAIR case did not disagree with the Secretary of Defense's obligation to build up our Armed Forces and did not disagree that there should be equal access and treatment of our recruiters, but I think that the findings were that there was not explicit statutory direction or authorization to do so, and that is why we are here.

As the gentleman from California previously stated, this is about abandoning the Vietnam-era rejection of the values associated with service in the military. I find it ironic. There is a lot of discussion today on the floor about these institutions of higher learning that enjoy such a worldwide reputation and a lot of talk about their enjoyment of their freedom of expression and protection of free speech, and at the same time what they are doing is trying to advocate a specific position and denying choice to our students. I commend the gentleman and urge the passage of this bill.

Mr. ROGERS of Alabama. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, it is an honor for me to be here today with the gentleman from Alabama. I appreciate very much his leadership to promote the ROTC and Military Recruiter Equal Access to Campus Act of 2004. I have heard the comments by the distinguished chairman of the Committee on Armed Services, the gentleman from California; and I agree with him that this is about providing choices. It is also about providing opportunities.

I know firsthand. I had the opportunity to experience a career of 4 years of ROTC at Washington & Lee University in Lexington, Virginia. From that it led to my ability to serve in the National Guard for 31 years. I am very grateful for what ROTC did for me. Additionally, my oldest son is a graduate of Francis Marion University in Florence, South Carolina, ROTC. He went on to law school and now is serving in Iraq. I am very proud of his service because of ROTC and the opportunities it has provided. And in 5 weeks I am looking forward to attending the graduation of my third son from Clemson University. He is in Army ROTC, as one might expect. I am just really proud of his service and the opportunities that he will have to serve in the military.

I also am aware of opportunities for minorities in the State of South Carolina. A classic case is someone who is known here in Congress, General Abe Turner. General Turner is a graduate of South Carolina State University, which is one of our historically black colleges which is very distinguished. I was with General Turner. He is now the commanding general of Fort Jackson in South Carolina. These are opportunities that have been provided to young people to go to college and have the ROTC experience.

Finally, I want to point out that particularly for law schools, I think it is important to have access. I served in the Judge Advocate General Corps for 29 years. There is no better way to get trial experience, to learn about the law and the laws of the United States than to serve in the JAG Corps. I urge that this bill be passed, that indeed we have access for law schools. I am just grateful for this and urge my colleagues to support this act for ROTC recruitment.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MEEHAN), who is a member of the Committee on Armed Services.

Mr. MEEHAN. I thank the gentleman for yielding me this time.

Mr. Speaker, this bill was rammed through the Committee on Armed Services 2 weeks ago without a single hearing. Without a single hearing. I guess it should not be a surprise because it seems that time and time again the leadership has forced votes on the floor without holding committee hearings. We did not have a committee hearing on the bill with the Medicare prescription drug language that came before this Congress, so I guess it should not be a surprise that we did not have a hearing on this particular piece of legislation.

This bill is designed to force universities to violate their own policies against discrimination on the basis of sexual orientation and will undermine pending lawsuits that challenge the so-called Solomon amendment.

We all strongly support efforts of the United States military to recruit on our Nation's campuses, especially in a time of war. But the gentleman from Alabama would agree at the time that we debated this in committee, only one educational institution in the country was brought before us that denies access to military recruiters and that school received no Federal funding to begin with. Furthermore, every campus on which the Department of Defense elects to have ROTC currently has an ROTC presence.

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This is because universities are already forced to compromise their nondiscrimination policies in order to receive most of the Federal funding they compete to obtain under the Solomon amendment.

So why are we introducing a bill that would broadly expand the prohibition on Federal funding to schools that do not allow access to military recruiters when only one institution, at least at the time that we dealt with this bill that was available, that prohibited this? I have serious concerns about restricting additional funding such as grants for homeland security, intelligence programs to universities, particularly when the authority to define "equal access" lies solely in the hands of the Secretary of Defense.

This bill is a drastic solution to a problem that I do not think even exists. In fact, there is no crisis in military recruiting on student campuses or anywhere else in the country. The Defense Department has reported to our committee that they are exceeding all of its recruitment and retention goals in each of the active duty services since 2001 and is actively downsizing certain specialties requiring advanced degrees.

In 2003, the Army surpassed its recruiting objectives for new contracts by 9.1 percent and new recruits by 0.4 percent, while the quality of new recruits have increased dramatically.

So if we are going to pass such a drastic piece of legislation, it seems to me we should at least have a hearing, have an opportunity to debate. I thought the gentleman from Hawaii said it best in committee. It is like trying to deal with a little problem of a fly with a sledgehammer. It does not make any sense. We should send this bill back into the committee and have a hearing on it and discuss these issues so that we know what the consequences of the language in this bill are.

Mr. ROGERS of Alabama. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

This bill attempts to correct a situation wherein a military ROTC recruiter seeking access would, in essence, be sent to the basement or to another building where corporations such as General Motors and the like recruiting would have the first floor and easy availability to the young Americans. So I do support this bill, and I intend to vote in favor thereof.

Mr. STARK. Mr. Speaker, I rise in opposition to the ROTC Campus Access Act. This bill is wrong. It isn't about promoting military recruiting, its about punishing institutions that promote equal access to opportunity.

The fact is this bill will prohibit colleges and universities from applying their same non-discrimination policies to the military that they apply to other employers. And, if they try to do so, it will bar them from receiving federal funding.

Passage of this legislation is not only wrong, it's unnecessary. Current law already provides the federal government the ability to deny federal funding to colleges and universities that refuse to allow military recruiters or ROTC programs access to their campuses.

This bill takes that law a step further by requiring that such access be equal to the access provided to other potential employers seeking to recruit new employees on college campuses.

The problem with taking this extra step is that it would require many colleges and universities to explicitly ignore their own non-discrimination policies or lose their federal funding.

Many colleges and universities require employers to sign a non-discrimination pledge before they recruit on campus. That means employers cannot discriminate against prospective employees on many bases—including sexual orientation. Yet, our Military's "don't ask, don't tell" policy is straight-forward discrimination and in direct conflict with college policies of this nature.

If this bill becomes law, and a college or university attempted to downplay the prominence of the ROTC recruiting effort by placing them in a not-so-central location for their recruiting efforts, they could lose all federal funding. This is draconian, extreme, and wrong.

We ought to be voting today to overturn the military's don't ask don't tell policy and instituting a policy that prohibits discrimination based on sexual orientation. But, this Congress is unwilling to take the right step. They're putting the wrong foot forward on this one.

I urge my colleagues to join me in standing up to oppose discrimination and vote "no" on this bill.

Mr. BLUMENAUER. Mr. Speaker, I voted against this legislation as it does not seem fair to cut off federal funds to institutions that have policies against allowing recruiters on campus from employers that have an open policy of discrimination. We should not be punishing universities that have legitimate policy differences. As long as the military continues its ill-advised policy of prohibiting service by openly gay members (although it's interesting that, in times of war, gays and lesbians are considered valuable to our country and not forced out of the military) we should not force them to break their non-discrimination policies for the military.

Mr. BOEHNER. Mr. Speaker, I rise today in strong support of this measure, which shows our Nation's unwavering commitment to both higher education and providing a strong national defense. At no time in recent memory has the United States placed more responsibility on our men and women in uniform. We are fighting a war on terrorism on multiple fronts, in Afghanistan and Iraq, and it is essential, if we are to be victorious in defending our freedom and protecting our homeland, that we promote military service as an option to college students across the U.S.

It is important to acknowledge that when this Congress passed, and President Bush signed into law, the No Child Left Behind Act, the bill made it easier for military recruiters to inform America's high school students about their options to serve their country, while also giving parents a choice about whether or not they want their sons and daughters to be contacted individually by military recruiters.

Now, in the ROTC and Military Recruiter Equal Access to Campus Act, again we are giving choices to institutions of higher education. The Solomon Act, passed in 1996, grants the Secretary of Defense power to deny federal funding to institutions of higher learning if they prohibit or prevent ROTC or military recruitment on campus. This law recognizes the importance of having a capable, educated and well-prepared military—one that is ready to defend American liberties such as freedom of speech and higher education.

As the gentleman from Georgia (Mr. ISAKSON) and I wrote in a letter to colleagues last year, if we deny armed forces recruiters the opportunity to actively recruit in schools, we not only disrespect the sacrifices of military men and women who have made our freedom possible—we also rob our students of the valuable opportunities that military service to our Nation can provide. There is no reason to not allow our Nation's armed forces to make their best case to college students and to do so in the same fashion as many of the private sector employers colleges and universities seem to relish having on campus with equivocation.

Denial of access and equality to ROTC chapters and military recruiters by colleges that receive federal funds is an insult to the taxpayers in our 50 states who help subsidize higher education in this country. Many nations have mandatory military service for their citizens. We don't. The very core of our system of homeland security and national defense depends on young men and women deciding, on their own volition, that they wish to serve their country. Successful recruitment of the best officers in our military relies heavily on the Reserve Officer Training Corps.

In 2003, ROTC produced 70 percent of the newly-commissioned officers who entered the U.S. Army, allowing military recruiters to be barred from federally-funded campuses could have direct consequences for our national security. As the UCLAW Veterans Society said in a recent legal brief: "A shortage of military lawyers would affect military commanders' ability to train their soldiers on the law of war," and "a lack of military lawyers could increase the likelihood of law of war violations soldiers and unacceptable civilian collateral damage during military operations."

This measure should not be politicized. It is straight-forward and benefits both our students and armed forces. H.R. 3966 does not violate a college's Constitutional rights to free speech or protest. Congress doesn't force colleges and universities to accept federal funding. If an institution of higher-learning wishes to bar ROTC chapters from forming or military recruiters from recruiting, it is free to do so—but it should not expect that decision to be endorsed and subsidized by the taxpayers of the United States. This legislation reaffirms our commitment to that principle. I commend the gentleman from Alabama (Mr. ROGERS) for offering it, and I urge my colleagues to join me in supporting it.

Mr. FARR. Mr. Speaker, the bill we are debating today, H.R. 3966, purports to provide military recruiters entry to college campuses, and access to students that is equal to what any other employer has. However, the military is actually seeking special access that is not afforded to other employers that practice discrimination based on sexual orientation.

Equality was not a concern for the military in 2002 when they discharged 16 Arabic linguists from the Defense Language Institute in my district. Despite the high demand for Arab linguists, the military discriminated against these service members based on nothing more than their sexual orientation.

Schools should not be forced to choose between federal funding and their commitment not to endorse discrimination. The schools' standards of non-discrimination should apply to any organization, be it private sector or public that is seeking access to a campus and its students.

One of the Congressional findings that is incorporated in this bill states that "the presence of ROTC programs on college campuses benefits even those students who are not enrolled by making them aware of the presence and role of the United States military."

I wonder what the benefit is to the gay and lesbian students whose talents and skills are utterly disregarded by the military, simply because of their sexual orientation.

I encourage all of my colleagues to vote against this bill and for true equality.

Mr. SKELTON. Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). All time for debate has expired.

Pursuant to House Resolution 580, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT BY MR. ABERCROMBIE

Mr. ABERCROMBIE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ABERCROMBIE. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ABERCROMBIE moves to recommit the bill H.R. 3966 to the Committee on Armed Services with instructions to report the same back to the House forthwith with the following amendment:

Page 7, line 7, before the close quotes insert the following: ", determined, in the case of a law school, by the Association of American Law Schools, and, in the case of any other institution of higher education (or subelement thereof), by the appropriate regional accrediting entity".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Hawaii (Mr. ABERCROMBIE) is recognized for 5 minutes in support of his motion.

Mr. ABERCROMBIE. Mr. Speaker, as was indicated by the gentleman from Massachusetts (Mr. MEEHAN), the previous speaker, I think all we would like to have here and the reason for recommittal motion is to have some hearings. As the chairman, and I do not if he is still on the floor or not, the chairman of the Committee on Armed Services Committee knows, I have the greatest respect for him and the greatest respect for the bipartisanship that exists on the Committee on Armed Services.

The issue here and the only reason this bill is on the floor is that a court determined that the Secretary of Defense did not have a basis in law for being able to make some of the kinds of decisions which the bill in front of us allows the Secretary to make. The issue involved here is one of access. It is one of equal treatment. The arguments of whether one accepts them or do not accept them have been made that the armed services, I suppose by extension of the bill, the Department of Homeland Security, the CIA, are not allowing equal access to every American and at least in some instances on the basis of their sexual orientation. There may be other issues that are raised in that regard, too. That is worthy of discussion, surely. Whether or not then this bill constitutes a proper response to that difficulty to the degree that it exists is the issue.

The reason I am asking for a vote on recommittal with instructions is not because I oppose or anyone else, I believe, opposes equal access either for recruitment purposes or other purposes of discussion and dialogue but rather that this bill does not address that fundamental issue and, in fact, will only engender a new series of lawsuits and it will fail to accomplish that which is really the bottom-line, fundamental issue here before us, which is how do we appropriately address the first amendment in the context of recruitment, whether it is for a Federal Government agency of any kind, let alone whether or not the Secretary of Defense should be the arbiter in that regard.

So, Mr. Speaker, with that I am asking that the body vote to recommit with instructions so that we can properly address this serious issue.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Alabama (Mr. ROGERS) wish to control the time in opposition to the motion to recommit?

Mr. ROGERS of Alabama. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. ROGERS) is recognized for 5 minutes.

Mr. ROGERS of Alabama. Mr. Speaker, I rise in strong opposition to the motion to recommit.

This motion is simply an effort to empower those who would oppose fair access to military recruiters to our colleges and universities with the authority to treat recruiters as second-class citizens.

H.R. 3966 would ensure nothing more than fair and equal treatment of recruiters. This amendment would put the fox in the hen house, so to speak, by giving the Association of American Law Schools the authority to judge if the recruiter has been provided equal treatment with other employers. This is the very group which has fostered the attitude among law schools to resist compliance with the law. We, the Congress, must make the decision, not the people who would oppose any form of military presence on campus. It is up to Congress to decide the level of access that should be granted. We must reject this motion.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ABERCROMBIE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, this 15-minute vote on passage will be followed by two 5-minute votes on motions to suspend the rules considered earlier today:

H.R. 3104, by the yeas and nays;

H. Con. Res. 386, by the yeas and nays.

The vote was taken by electronic device, and there were—ayes 343, noes 81, not voting 9, as follows:

[Roll No. 101]

AYES—343

Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (IN)
Carson (OK)

Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—81

Abercrombie
Ackerman
Baldwin
Becerra
Blumenauer
Brady (PA)
Brown (OH)
Capps
Capuano
Clay
Conyers
Crowley
Cummings
Davis (IL)
DeGette
Delahunt
DeLauro
Emanuel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Honda
Jackson (IL)
Kucinich
Lantos
Larson (CT)
Lee
Lewis (GA)
Lofgren
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Nadler
Neal (MA)
Oberstar
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Rangel
Rothman
Roybal-Allard
Rush
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Sensenbrenner
Serrano
Solis
Stark
Thompson (CA)
Tierney
Velázquez
Waters
Watson
Watt
Weiner
Wexler
Woolsey

NOT VOTING—9

DeMint
Gephardt
Gutknecht
Hulshof
Jones (OH)
Linder
Rodriguez
Tanner
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

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Messrs. HONDA, FATTAH, BLUMENAUER, HOLT, CLAY, GUTIERREZ, and RANGEL changed their vote from "aye" to "no."

Mr. PETRI and Mr. INSLEE changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 10, United States Code, to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS of Alabama. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3966.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 3104, by the yeas and nays; and

H. Con. Res. 386, by the yeas and nays.

ESTABLISHING CAMPAIGN MEDALS TO BE AWARDED TO MEMBERS OF THE ARMED FORCES PARTICIPATING IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3104, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SIMMONS) that the House suspend the rules and pass the bill, H.R. 3104, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 102]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons

Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch

Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-
McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross

Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Cox
DeMint
Gephardt
Gutknecht

Hulshof
Jones (OH)
Lantos
Rodriguez

Tanner
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1756

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.".

A motion to reconsider was laid on the table.

CONGRATULATING THE UNITED STATES AIR FORCE ACADEMY ON ITS 50TH ANNIVERSARY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 386.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Mexico (Mrs. WILSON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 386, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 13, as follows:

[Roll No. 103]

YEAS—420

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)

Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon

Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson

Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde

Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-
McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano

Neal (MA)
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns

Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

DeMint
Gephardt
Gutknecht
Hulshof
Jones (OH)
Matsui
Murphy
Northup
Rodriguez
Rogers (AL)
Tancredo
Tanner
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1804

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. RES. 581, SENSE OF HOUSE REGARDING RULES OF COMPENSATION FOR CIVILIAN EMPLOYEES AND MEMBERS OF THE UNIFORMED SERVICES OF THE UNITED STATES

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–454) on the resolution (H. Res. 585) providing for consideration of the resolution (H. Res. 581) expressing the sense of the House of Representative regarding rates of compensation for civilian employees and members of the uniformed services of the United States, which was referred to the House Calendar and ordered to be printed.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. DREIER. I ask unanimous consent that it be in order at any time for the Speaker, as though pursuant to clause 2(b) of rule XVIII, to declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of H.R. 3550, and that consideration of the bill proceed according to the following order:

The first reading of the bill is dispensed with;

All points of order against consideration of the bill are waived;

General debate shall not exceed 2 hours and 40 minutes with 2 hours and 10 minutes equally divided and controlled by the chairman and ranking member of the Committee on Transportation and Infrastructure, including a final period of 10 minutes following consideration of the bill for amendment, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means;

After the initial period of general debate, the Committee of the Whole shall rise without motion; and,

No further consideration of H.R. 3550 shall be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REFUSAL OF THE HOUSE TO EXTEND UNEMPLOYMENT COMPENSATION BENEFITS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, the House of Representatives again today refused to extend unemployment compensation benefits. Almost 1 million Americans since December have lost have seen their unemployment benefits expire. That is 1 million people. That is 1 million families, people who are looking for work, people who cannot find work in this economy.

In my state of Ohio, 300,000 people have lost their jobs. That is 2,000 people every week. Two hundred and sixty people have lost their jobs every single day of the Bush administration.

Their answer is more tax cuts for the wealthy, hoping it trickles down, and more trade agreements that hemorrhage jobs overseas.

We should extend unemployment compensation benefits to those 1 million workers. We should pass Crane-Rangel, a bipartisan initiative to give incentives to American manufacturers to hire Americans and to manufacture in this country.

COMMUNICATION FROM THE DIRECTOR, OFFICE OF PERSONNEL AND BENEFITS, OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

The SPEAKER pro tempore (Mr. KLINE) laid before the House the following communication from Estelle Jones, Office of Personnel and Benefits, Office of the Chief Administrative Officer.

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER, U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 29, 2004.
Hon. DENNIS J. HASTERT,
Speaker, U.S. House of Representatives,
Washington, DC

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for documents issued by the Superior Court of California, Riverside County.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,
ESTELLE JONES,
Director, Officer of Personnel and Benefits.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TALE OF TWO BUDGETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, the House is on the verge of passing a $2.3 trillion budget with a $521 billion deficit, showing that it is impossible to finance three wars with three tax cuts and come up with a different result outside of a $521 billion hole in the budget.

This budget repeats the same mistakes that have resulted in a jobless economy and a wage recession in America. It continues the status quo of the administration's economic policies that have resulted in nearly 3 million Americans losing their jobs, 43 million Americans without health care, of which 33 million Americans work but have no health care, and 2 million Americans who used to be part of the middle-class and now are in the level of poverty, and wages are frozen, and $1 trillion worth of corporate assets and individual net worth have been called into bankruptcies.

What do you do when have you this type of economic results? You think you would change your economic policies. No. This budget puts your foot on the accelerator, expecting a different result but repeating the same economic mismanagement.

During the 2000 election, President Bush said he was opposed to nation-building. Who knew it was America he was talking about? This budget and the President's economic vision is really a tale of two budgets: one for America, and one for Iraq.

We have spent well over $100 billion of the taxpayers' money on Iraq's occupation. But here in America, we have gotten shortchanged. What do I mean by that?

In Iraq, we are offering universal health care and free job training. In America, 44 million Americans are without health care; and nearly 8.2 million Americans are without jobs.

In the area of health care, 2,200 Iraqis are receiving and health professionals are receiving training, 8,000 volunteers are receiving medical training; and in America, under the President's budget, the health training funds cut by 64 percent.

One hundred and fifty health clinics and hospitals have been rebuilt to serve 3 million Iraqis, providing 100 percent prenatal and infant coverage. In America, under the President's budget, community health care clinics have been cut by 91 percent. Maternal and child health care, Healthy Start, family planning, all frozen.

Veterans, $60 million is spent to retrain Iraqi veterans; and our veterans budget has been gutted by $257 million. Veterans health care has been cut to where every veterans organization has opposed the President's budget and the budget passed here by the Republicans.

In the area of education, we have rebuilt 2,300 schools in Iraq. We have underfunded No Child Left Behind by $8 billion.

Iraqi universities are getting $20 million for higher ed partnerships. In America, we have cut Perkins loans; and Pell Grants have been frozen for the last 3 years.

Police. $500 million is spent on the Iraqi police training, but the community police program in the United States has been cut by $659 million.

In the area of housing, $470 million is spent on Iraqi housing, yet $791 million is cut from section 8 housing vouchers.

In the area of environment, we are paying for $3.6 billion in water and sewer treatment facilities in Iraq. Here in America, in the President's budget, the Clean Water State Revolving Fund, which deals with all our clean water and drinking water for Americans, has been cut by $500 million.

Ports infrastructure. The Port of Umm Qasar was completely rebuilt, and yet the Army Corps of Engineers cannot afford U.S. port security upgrades since their budget has been cut by 63 percent.

As President Bush seeks reelection, he can say he kept his commitment against nation-building. The problem is the target was America.

This is a tale of two budgets, one for America and one for Iraq; two priorities, one for America and one for Iraq; two sets of values, one for America, one for Iraq; and two sets of books, one for Iraq, one for America.

I have no problem investing in Iraq's future, but that future cannot be a more promising future than the one we promise here for our own children. Compared to how Americans view their futures, we cannot deny Americans the same dreams of affordable health care, education, police on the street, a safe place to live and job training.

America will no longer be the most generous nation in the world if the future they promise their children is one that is less promising than one we are talking about overseas.

Now if your economic results here at home were nearly 3 million Americans have lost their jobs, nearly $3 trillion has been added to the Nation's deficit in 3 years of budget, you would think you would change your economic policies. No. So what we will do is put our foot on the accelerator and press forward try and expect a different result, having tried 3 years in a row and producing the same result. We need a change and a new direction of the budget values and America's future.

MEDICARE MODERNIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. CANTOR) is recognized for 5 minutes.

Mr. CANTOR. Mr. Speaker, I am here tonight to talk about the Medicare Modernization Act, the reform bill that was passed by this body back in December.

I think the first question to ask is, who remembers what they were driving in 1960 or perhaps what a parent was driving in 1960? One of the most popular cars at that time was a Rambler; and if one thinks about the options available and the safety features in that car, we would really be amazed at how far we have come. There were no seat belts. There were no air bags. There were no GPS systems. There was just a lot different with vehicular travel back then.

And I think it is a wonderful analogy to think about when we are talking about health care in this country. Because Medicare in its inception in the 1960s really has changed very little over the years; and what we have is a situation where our seniors are faced with the same type of options, the same menu of services that they have had over the last 40 years. That is why we needed to pass the Medicare reform bill, and that we did.

The bill provides, I think, seniors with access to choices in health care, with easier access to health care, and it also provides immediate relief for the rising need for access in prescription drugs.

☐ 1815

Under the Medicare Modernization Act, seniors have a choice. First of all, when we are talking about the prescription drug program, that program is completely voluntary.

It is voluntary, and seniors in my district, some of whom have existing coverage, will not have to participate in the program. It is not a one-size-fits-all-type program. The design of the bill is to give seniors choices to better fit their families' needs as far as prescription drugs are concerned. So seniors have a choice whether they are going to sign up for the prescription drug coverage.

Also, if you look at the larger body of the bill and look at the choices that the seniors will have, they can actually now have a choice of the type of health insurance coverage that they access. Much like we do here in Congress, they have a decision to make about which plan bests fit their medical need. It puts seniors back into the driver's seat.

One of the, I think, most interesting parts of the bill is we really tried to improve the quality of health care that seniors can receive, much like many in the private sector enjoy today, much like we here as Members of Congress enjoy. We enjoy improved quality of care through accessing preemptive health care screenings. So in the Medicare bill, we included new screenings, diabetic screenings, blood screenings to detect cardiovascular disease. These are tests that are indicative of disease and have a broad array of applications. Medicare participants will now have access to these screenings.

Also, we put in a provision for a free physical for the new entrants to Medicare. There is also now a provision which allows seniors to access a disease management function. I know a lot of us know senior citizens who deal with a lot of specialists, and sometimes those specialists do not talk to one another. Well, this disease management function, while voluntary and optional, will and may help many of our senior citizens.

Also in the Medicare Modernization Act, we try to deal with the very pressing problem of low-income seniors, and we gave help to those who need it; and any senior who falls within 135 percent of the poverty level will now pay very little as far as their health care coverage and certainly as far as prescription drugs. Essentially, their drug bills will be eliminated.

I think the final version of this bill did include a provision which allowed for the creation of health savings accounts, I think something that is revolutionary and will, once again, put the spotlight back on the doctor/patient relationship and putting the seniors back into the driver's seat as far as which type of health care that they can access, and it also ensures that the seniors themselves can make their medical decisions without the intervention of a third party that may not be familiar with the particular health of that senior.

So, Mr. Speaker, I am here tonight to make sure that we in this body realize that we have gone and taken the first step toward modernizing health care for seniors. We have given them choice. We have given them hope for a discount on their prescription drug bills.

This June, there will be the introduction of discount cards that will afford seniors up to 50 percent of a discount on the cost of prescription drugs. So there is immediate relief that our seniors across the Nation will experience.

MEDICARE PRESCRIPTION DRUG BILL

The SPEAKER pro tempore (Mr. KLINE). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I came here tonight to talk about jobs and mismanagement of our budget and economy by the President, but we are going to have a moment's discussion on the previous speaker outlining the Medicare bill.

The fact is the prescription drug, Medicare privatization bill is not working for seniors, and it begs the question, why is the administration spending 80 million of our tax dollars to advertise this bill to try to get seniors convinced that this law works, and it does not even go into effect until 2006? The President has made a decision to spend 80 million tax dollars, instead of putting it into a drug benefit, spend 80 million tax dollars to convince people that this new drug law, this new Medicare privatization law is good for the public, when, in fact, the Medicare privatization bill increases the profits for drug companies in this country by almost $180 billion; and this drug bill, this privatization bill gives a direct subsidy of tax dollars to insurance companies to Medicare HMOs of $46 billion.

The reason the bill is not popular, the reason the law is not going to work is it was written by the drug and insurance industries. Why did the drug and insurance industries write the bill? Why did the President allow the drug companies and the insurance companies into the Oval Office to write this privatization bill? Frankly, because of major political contributions from the drug companies and the insurance companies to President Bush and to Republican leadership.

The word on the street in this town is that the drug companies are going to give $100 million to President Bush's reelection. If that does not tell you something about this drug bill, this Medicare privatization bill, it speaks volumes.

JOBS AND MISMANAGEMENT OF THE BUDGET AND ECONOMY BY THE PRESIDENT

Mr. BROWN of Ohio. Mr. Speaker, to shift gears for a moment, Vice President CHENEY came to my State, to Dayton, Ohio, to defend the President's economic record. In Ohio, one out of six manufacturing jobs has been lost since President Bush took office; 300,000 people in Ohio have lost their jobs. That is 2,000 people every week. That is 260 Ohioans have lost their jobs every day since President Bush took the oath of office on January 20, 2001.

The response to this bad news from the President and the Vice President, who seem so out of touch, do not seem to understand people's anxieties, people's fears, people's difficulties when they lose their jobs, their answer is always more tax cuts for the most privileged people in society, the 1 percent richest people, hoping the tax cuts will trickle down and help the rest of the country and more trade agreements that send jobs overseas.

Mr. Speaker, I would hope that instead of Vice President CHENEY going to a fundraiser in Dayton, like he did, and then trying to defend the Bush economic plan, pretty indefensible, difficult thing to do, I wish the Vice President would have been with me in Akron, about 3 weeks ago in my district, meeting with a group of mostly Republican business owners, machine shop owners in Akron in Summit County, Ohio.

Right before I spoke to these 60 owner/operators of small machine shops, tool and dye makers and others, a gentleman walked up and put this stack of fliers on my table, a little bit more than this actually. He said this is 1 month of fliers that he has received from companies around the country that are going out of business. These are fire sale fliers from small businesses, manufacturers that are going out of business because of the Bush economic plan and because of the Bush budget.

Let me just show you some of these. A company in Cleveland, Ohio, auction, going out of business; company in Norristown, Pennsylvania, public auction; public auction company in Nashua, New Hampshire; machine tool auction, Tipp City, north of Dayton, Ohio; facility closed, all must go, Medina, Ohio; absolute auction, Cuyahoga Falls, Ohio, everything must go; plant closed, everything sells, Pittsburgh, Pennsylvania; Marion, Ohio, complete shop close-out action; high-tech manufacturing plant closeout, Elk Grove, Illinois, near Chicago; large-capacity fabricating machine shop closing, Bingham, Massachusetts; precision shop, CNC job shop downsizing, Houston, Texas, President's own State; complete stamping and machine tool shops, two of them going out of business, Mansfield, Ohio, the community I grew up in; public auction, Charlotte, North Carolina, everything must sell, plant closes; South El Monte, California, facility closing; public auction, Newark, New York. One thing after another.

The President does not get it. We should extend unemployment benefits. We should pass the bipartisan Crane-Rangel bill, which will give incentives, not the way the President does to all large companies including those that are moving out of the country, but those that provide jobs in the United States of America. This simply cannot keep happening in our country.

ORDER OF BUSINESS

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

OUTSOURCING AND FREE TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, recently there has been a great deal of discussion, angst and some protectionist legislation concerning the so-called outsourcing of American jobs to foreign countries. In fact, companies choosing to purchase services abroad have been termed "Benedict Arnold" companies by some.

But despite all the inflammatory language and distorted facts, the truth is that outsourcing is only one side of a two-way street known as free trade. Almost one-third of our economy is dependent upon that two-way street. Thus, we should examine the little-noticed other side of the street called insourcing.

Data from the Commerce Department shows that during 2003, the U.S. posted a $53 billion surplus, surplus, in trade and private services with the rest of the world. We outsourced $77 billion in services overseas, but foreigners turned around and insourced $130 billion of services from the U.S. In other words, foreigners demand more of our services than we demand of theirs.

Unfortunately, Americans are presently hearing only one side of the outsourcing story. They only hear about the jobs that are going out of the U.S. They do not hear anything about the jobs coming into the U.S.

According to the Treasury Department, insourcing accounted for 6.4 million jobs nationwide in the most recent survey; and these insource jobs paid 16½ percent more than the average domestic job. Even though many foreign workers work for less, jobs are insourced into the U.S. because our workers tend to be better educated. They tend to have better skills. They tend to be more productive. We can compete internationally.

If you want to get a better idea of the kind of insourcing coming to America, let us just take a look at the automobile industry. Honda is hiring 2,000 new Americans in Alabama to build SUVs, and Nissan will add more than 2,000 jobs by expanding their plants in Tennessee and Mississippi. Toyota will add 2,700 jobs in my home State of Texas in the next 2 years. In fact, Mr.

Speaker, foreign corporations now employ almost half a million workers in my home State. Nearly one in 10 jobs in the U.S. is directly linked to the export of U.S. goods and services.

Now, protectionist anti-outsourcing legislation unfortunately threatens each and every one of these jobs. If we do not permit the outsourcing of jobs overseas, other nations will not permit the insourcing of jobs into the U.S. It is free trade that creates more job opportunities for the unemployed, increases their wages and improves the standard of living for American workers. Free trade also delivers a greater choice of goods and services to our consumers at lower prices. That means American families get better products using less of their paycheck.

Competition has always helped the consumer. It does not matter if that competition comes from Canada or Kentucky. Over the past few years, prices have dropped for a wide array of goods and services that face foreign competition. For example, TVs cost 10 percent less; computers cost 25 percent less. Yet we pay a lot more for services that do not receive foreign competition, goods and services, for example, college tuition, prescription drug goods, and cable TV service.

Those who care about creating jobs and reducing unemployment here at home should stop fighting free trade and its outsourcing component and start fighting the root cause of job flight overseas, mainly too many taxes, too many regulations, and too many frivolous lawsuits.

The Small Business Administration found in the year 2000 that Americans spent $843 billion complying with Federal regulations. Too many mind-numbing regulations send jobs offshore.

Mr. Speaker, the cost of litigation now accounts for one-third of the price of the aluminum ladder. It doubles the price of a football helmet, and it adds $500 to the sticker of a new car. Too much litigation sends jobs offshore.

The United States has a higher corporate tax burden than any industrialized nation with the exception of Japan. This even includes several of the former Soviet bloc countries. Too much taxation sends jobs offshore.

Mr. Speaker, beyond the obvious economic benefit of free trade, fundamentally we must recognize that nations do not trade with nations; people trade with people. Every American citizen and every American company should have the right to determine the origin of the goods and services they want to purchase.

With the exception of national security considerations, it should not be the role of the Federal Government to tell consumers or companies where they buy their goods. Besides our financial well-being, it is our fundamental economic liberty that is at stake.

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PUTTING AMERICA'S WORKERS FIRST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I rise today to talk about the problem we have with America's unemployed workers.

My Texas colleague talks about how outsourcing is so good, and offshoring, well, I know it is not good in the area I represent because it is a blue collar district. For years and years we have suggested to our young people to go and get a high-tech skill so they can become a computer programmer, so they will not have to be a machine shop owner or a machinist, that they can go into the new economy. All of a sudden now we are finding out that that new economy, if you are making $45,000 a year in the United States, you are having to compete with someone around the world who is happy to make $15,000 a year with your same level of education. So we do have a problem.

Tomorrow marks the end of March and the 3-month period since the temporary extended unemployment compensation program began phasing out. During this last 3-month period, over 1 million American workers have exhausted their regular unemployment benefits and have been unable to receive additional help. There are 72,000 unemployed workers in my own State of Texas that have exhausted their benefits. There is no comparable figure in more than 30 years when this country has had so many unemployed workers exhausting their benefits.

Despite these undisputable facts, the administration and our Republican colleagues refuse to extend this important program, saying economic growth will yield job creation. Well, it has not for the last 3 years. Every indicator out there disputes this logic and tells the same story: This country is facing a jobless recovery. If it is a jobless recovery, it is not really a recovery where I come from.

Mr. Speaker, these indicators are bad enough, but, unfortunately, there is another story behind them that makes the outlook even worse. The unemployment rate is currently 5.6 percent, but the true story is that rate does not take into account the 2.8 million Americans who have given up looking for a job and left the labor force altogether. These Americans are just as unemployed as those counted by the Labor Department; and if we include them in our statistics, the true unemployment rate stands at 7.4 percent.

When we look at the job growth figures, we see that 21,000 jobs were created last month. The true story, however, is that none of these jobs were in the private sector. Furthermore, the country needs to add about 125,000 jobs a month just to keep up with population growth. If we count the net 2.3 million jobs that have been lost to this country since this administration took office and add the 4.7 million jobs that are needed to be created since then to support our population growth, we have a 7 million job gap in the labor market.

The measly job growth we have seen in recent months will not even begin to put a dent in that job gap; and, to make matters worse, the rolls of our long-term unemployed workers are growing. Technically, workers who have been out of work for more than 6 months are defined as long-term unemployed. Six months also happens to be the maximum length of regular unemployment benefits. Therefore, most economists consider the number of long-term unemployed workers as indicative of the need for temporary unemployment benefits.

If my Republican colleagues need further proof of our need for a temporary extension of unemployment benefits, I would encourage them to look at the number of long-term unemployed workers in this country. In each of the past 3 months, almost 1.9 million unemployed workers have been counted as long-term unemployed. America's long-term unemployed represent 23 percent of the country's total unemployed workers, at least those who are counted.

Moreover, the level of long-term unemployment is three times what it was when the recession began. Job growth in this country is, without question, weaker than any other post-World War II recovery period. As each week of this jobless recovery goes by, 80,000 more workers exhaust their unemployment benefits and have nowhere to turn.

A recent Congressional Budget Office study shows that, without these benefits, unemployed Americans double their chances of entering poverty and lacking health insurance. Mr. Speaker, the need for an extension of unemployment benefits has never been greater. In the absence of true job creation, it is imperative that these benefits be extended.

Again, when we see outsourcing, offshoring happening in the high-tech community, and we see the continual hemorrhaging of blue collar jobs being lost, our American worker's income security and their health depend on that extension.

CHILDREN'S EXPRESS LANE TO HEALTH COVERAGE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, I rise today to invite my colleagues to cosponsor bipartisan legislation authored by Senator RICHARD LUGAR in the United States Senate and myself in the House of Representatives known over here as H.R. 4031. The measure will help States in their efforts to enroll income-eligible children in the States Children's Health Insurance Program, commonly referred to as SCHIP.

As you know, Mr. Speaker, despite gains in recent years, nearly 9 million children in the United States remain uninsured. Of those, nearly 7 million children are eligible for public health insurance coverage. H.R. 4031, the Children's Express Lane to Health Coverage Act, builds on the successful legislation of the 106th Congress that provides States with the option of using the National School Lunch Program, the Women's, Infants, and Children Program to identify uninsured children eligible for benefits under the SCHIP and Medicare program. Many States have used this cost-saving option successfully to promote the well-being of income-eligible children.

While existing law does allow children to be income-eligible for WIC based on their enrollment in the Medicare program, it does not give the States adequate flexibility to make an income determination for eligibility for the Medicaid and SCHIP program based on the uninsured child's enrollment in WIC or another public program.

The Children's Express Lane to Health Coverage Act will give States the option of establishing that their Medicaid or SCHIP financial eligibility rules are satisfied when a family presents proof that their child is already enrolled in another program with comparable income levels. Current Federal law does not provide the flexibility that is necessary for this.

If we are to give our children, Mr. Speaker, a jump-start with quality health care and quality health insurance, I would encourage strongly that my colleagues consider becoming cosponsors of H.R. 4031, which is affectionately known as the Children's Express Lane to Health Coverage Act. It is vital, it is important, it is for our Nation's children.

FREE/FAIR TRADE AND UNEMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I hail from the Great State of Ohio, where we have lost 300,000 jobs since George Bush has been President, 2,000 a week, 260 a day. In Youngstown, the biggest city in my district, we have an unemployment rate of 16 percent. In the city of Warren, the second largest city in my district, we have an unemployment rate of 14 percent. This President's economic policies are clearly not working in the industrial Midwest.

Now, the gentleman from Texas who was up a few moments before me was talking about all of the benefits of free trade, and he said that it increased wages in this country, he said it increased the standard of living in this country, and he said that it lowered prices for consumers in this country. I do not think we can challenge the fact that free trade has clearly lowered prices or kept prices from getting out of control and from skyrocketing. I do not know if they clearly show the level of savings. I think the savings by offshore cheap labor has been a boom for the corporations but not necessarily a boom all the way across the board for consumers.

But what I want to talk about tonight is just a few issues that I think the American people are beginning to recognize and understand.

First, on the issue of unemployment benefits.

We have human beings, we have workers who work throughout the United States of America who are running out of unemployment benefits, who are going to have nothing left, and we want to talk about the intellectual battles of free trade while United States citizens are going to fall through the cracks.

This administration's priorities have been tax cuts, tax cuts, tax cuts to the top 1 percent. They are a one-trick pony, this administration is and this Congress is. A one-trick pony. Tax cuts are the answers for any social ill that we have here, and it is not working.

Second, the debate between free trade and fair trade, I think, has been obscured. You are either for free trade, or you are against it, and you are for putting up protections and not agreeing to any trade whatsoever. When I talk about fair trade, I think we need to look at the issue on the whole, and we need to say to each other what the benefits of trading are and what are the downsides of free trade are.

The downsides are obvious. We are displacing workers. We have unemployment rates going through the roof. We are losing good-paying jobs for menial-wage jobs, and we are competing with a labor force that is getting paid nickels an hour, no health care benefits, no environmental relations, no OSHA, and we are asking American workers to compete with that. We cannot even get international labor organization standards put into our free trade agreements which just say no child labor, no slave labor in these other countries. We cannot even get those into the agreements we sign.

We are not asking for everything. We are asking for basic human rights in the trade agreements that we sign.

When a lot of us talk about fair trade in this country, at least, at the minimum, have a social safety net that addresses unemployment benefits, that addresses health care insurance for people. How much anxiety would be relieved if you did lose your job if you knew you were going to have health care provided for you and your family.

Every time free trade agreements have come before this House and before this country, the commitment was always made that we had to invest in education. Meanwhile, in Ohio, the No Child Left Behind provisions are underfunded by $1.5 billion, with a "B", a year. That is $1.5 billion. So if we want to grab the last 25 percent of the kids and pull them across the finish line, which is what No Child Left Behind is supposed to do, and we are going to have all these Federal mandates, the Federal government must make a decision. Are we going to give tax cuts to the top 1 percent or are we going to invest that money in the No Child Left Behind so that every single child in this country will have an opportunity to compete on an already uneven playing field in the global economy?

Investments in research and development through the Veterans Administration are being cut. The facts are that we have told our kids that they must make investments in themselves and in their education through going to college, and yet we see the Pell Grant not keeping up with inflation and we see children not having the opportunity to live and work in a country where there is a reasonable wage and an opportunity for upward mobility.

We are trying to argue comparative advantage, a doctrine that was established in the early 1800s. We need to change our policy. I never thought that we would be asking for Newt Gingrich to come back and bring some reasonableness to this Congress.

GASOLINE PRICE HIKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, gasoline prices have hit an all-time high. The national average for gasoline is now $1.77 per gallon, up 25 cents from the beginning of the year; and President Bush is doing nothing to alleviate the strain that this is taking on the American people, on American businesses and on the American economy.

Mr. Speaker, high gas prices impact all of us, consumers and businesses alike. High fuel costs translate into a loss in profits margins for the manufacturing and transportation sectors that force prices for products and services higher, hitting American consumers twice. Not only do Americans need to dole out more cash to fill their gas tanks with the little disposable income they have left, they are forced to pay higher prices for goods and services.

□ 1845

For instance, Continental Airlines sought to impose a fuel surcharge for their services. And the real impact of all this is a slowdown in the economy with the potential for even more job loss. In fact, an estimate by Merrill Lynch shows that every penny increase in gasoline prices at the pump is equal to $1 billion in lost consumer spending. That is nearly $25 billion in lost spending since the beginning of the year.

Furthermore, Merrill Lynch estimates that while Federal tax refunds would total $55 billion from February to May this year, a 30 percent increase from last year, and theoretically give the economy a nudge, higher pump prices will wipe out as much as half of the positive economic impact that these Federal refunds might have had.

Mr. Speaker, I would like to point out, too, that this is happening on the watch of an administration that said they would make energy policy a priority in the United States. Yet more than 3 years after President Bush first stepped in the White House, we have no national energy policy, and we have no national energy policy because the bill that the White House presented to Congress was filled with an extraordinary collection of energy industry giveaways, crafted by the members of Vice President CHENEY's secret energy task force, instead of meaningful policies that would increase fuel efficiency and the use of renewable and alternative energy sources.

Mr. Speaker, there are two things that President Bush must do immediately. First, he must hold off placing more oil in the Strategic Petroleum Reserve until prices come down. The SPR, or the Strategic Petroleum Reserve, is a power tool that the President can and should use in times of need, and right now consumers need relief. If President Bush reduced the amount of oil placed in the petroleum reserve, we would have more on the market driving prices down for Americans now. The SPR can then be replenished when oil prices are lower.

Second, Mr. Speaker, President Bush needs to get on the phone with OPEC and demand increased oil production. Recent news indicates that OPEC has hinted at plans to lower production by 1 million barrels per day after April 1; and the administration's response to this from Secretary Abraham is that the U.S., and I quote, "will not beg OPEC for oil." That is a different tune than the one that candidate Bush sang during the 2000 election. Four years ago on the campaign trail, President Bush, in a swipe at President Clinton, said, "What I think the President ought to do is he ought to get on the phone with the OPEC cartel and say, we expect you to open your spigots and the President of the United States must jawbone OPEC members to lower the price." Mr. President, put your action where your mouth is and insist that OPEC increase production now to alleviate the strain these high gasoline prices are having on the American people and the American economy.

Mr. Speaker, we cannot afford to lose more jobs because of the President's inability to address this problem. He needs to address it now, and I think we should continue to take issue with it and bring it up on the floor until he does.

RESIGNATION AS MEMBER OF COMMITTEE ON AGRICULTURE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Agriculture:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 30, 2004.

Hon. DENNIS HASTERT,
Speaker of the House, US House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Effective March 30, 2004, I hereby resign from the Committee on Agriculture.

Sincerely,

KEN LUCAS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

PRESIDENTIAL SUCCESSION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. BAIRD) is recognized for 60 minutes as the designee of the minority leader.

Mr. BAIRD. Mr. Speaker, I rise today to address a matter that we would all prefer to hope we never have to address, but that after September 11 we must address. I would ask my colleagues and friends to imagine the unimaginable. Imagine that the American people are going about their daily business while Congress is meeting in full session here in the House and the Senate is doing its business and suddenly the national news wires, television and radio are interrupted. They are interrupted by an announcement that a nuclear weapon has been detonated without warning in the Nation's Capital. The Capitol has been destroyed. The White House has been obliterated. It is evident that in all likelihood all Members of the House and Senate have perished, that the administration, the President and Vice President and most members at least of the Cabinet have been killed, that the Supreme Court has likely been killed along with thousands of our fellow citizens and government workers. At that moment, we must have an answer to the American people of what happens next, and at this moment we do not have an answer to that question.

It has now been 2½ years since September 11. On that fateful day, not only did we see live on television as thousands of our fellow citizens were killed in an horrific manner, but what we did not know was that a fourth plane was coming here in an attempt to kill everyone in this building and that were it not for the heroism of the passengers on that flight and fortunate circumstances that delayed it by a few moments, many of us would likely have perished.

The question then arises, what would happen in this event? We know that it is possible. We know that our adversaries seek nuclear weapons. We know that our adversaries seek chemical and biological weapons. And we know that in this era it is very possible, indeed probable, that one day they may obtain such weapons. Yet, Mr. Speaker and my friends, we have not prepared for congressional succession, and there are grave problems with the Presidential succession law.

Let me walk you through, if I may, a scenario of what might happen. First let me start with the Constitution. Under the Constitution of the United States, a quorum to do business is made up of a majority of the Members. House rules stipulate that a quorum is made of the majority chosen and sworn and living. Let us suppose that three Members of the Congress are on a trip abroad and while they are overseas, they witness this horrific event. Everyone else in this body has been killed. The President and the Vice President are dead. America is in crisis to say the least.

Those three Members under current House rules could declare themselves a functioning House of Representatives. They could elect one of the three the Speaker of the House of Representatives. Under current succession law, the third in line to the Presidency is the Speaker of the House of Representatives. Let us suppose further that those three are from a party other than the current President. What we now have is a situation where three surviving Members of a catastrophe, randomly chosen more or less by events, have now become the entire House of Representatives, have chosen one of their own Members Speaker and that person has acceded to the role of Presidency.

We now also have a situation where under our system of checks and balances, the article 1 provisions of the Constitution, declaration of war, approval of spending and taxation, and a host of other issues that are the rightful jurisdiction of this body and the Senate working together are presumably going to be carried out by two or three surviving Members, if there are survivors; or we would have a President who could say that because there is no Congress, the President is declaring extra-constitutional powers, conceivably taking our Nation into war without a vote of the Congress, conceivably imposing martial law, conceivably spending hundreds of billions of dollars and doing a host of other events with no representation from the people of the States as a check and balance on that person.

And who might that person be? If it is not the Speaker of the House or the President pro tem of the Senate, it would most likely be a Cabinet member, assuming a survivor. I think we need to be frank. Cabinet members were never elected to their post. They were approved by the Senate, but they were not elected; and we need to be more frank still. Most Americans have not a clue, once you get past a couple of the top Cabinet members, just who they are. So if one of the lower Secretaries emerges on TV and says, I am now the President of the United States. Because there is no functioning Congress, I have authority to take this country into war, would the American people give that legitimacy? I do not think so. Would the Founders have given that legitimacy? I doubt that still further.

We must face this problem, and we must face it before the time comes. Because when that happens, should it happen, the very institutions charged with crafting a solution will have been destroyed in the very event that demands a solution. And who will be left? The American people will be left wondering who is their Representative in Congress. How does our constitutional system of government function? The world will be left wondering who now has control over nuclear weapons and on what checks and balances can we rely that that person will conduct themselves responsibly?

One of my good friends and colleagues has actually looked at this matter extensively, the matter of Presidential succession. The gentleman from California has offered a resolution that I think would address this, and I would encourage our colleagues to bring this up for a vote at some point soon, certainly before we need it. I would ask my friend from California to describe his resolution and some of the challenges it would address.

I yield to the gentleman from California.

Mr. SHERMAN. I thank the gentleman for yielding and for his dedication to the importance of assuring the continuity of our government.

We here in Washington have erected these concrete barriers, blocking this road, blocking Pennsylvania Avenue, all to assure the survival of our physical embodiment of our government. We must make sure that we have done just as much to protect the identity of those who will make the decisions. Our laws should be as strong as our concrete barriers. In the post-September 11 world, that which was just thought to be a distant possibility must now be something that we plan for. The line of Presidential succession determines who becomes President after the President and the Vice President if they are both permanently or temporarily unable to carry out their duties.

We can change this without amending the Constitution. It is the 1947 Presidential Succession Act which currently governs. In fact, going back to the statute that existed before 1947 would be a substantial step in the right direction and would deal with many of the problems that I will identify here tonight. Not only is this an issue that we can solve without amending our Constitution, it is one that is critically important to solve for two reasons.

First, as important as Congress is, and I am proud to serve in this body, in the days following a catastrophic attack, knowing the identity of the Commander in Chief will be perhaps the most important legal issue to deal with that crisis. And, second, while it would take a nuclear bomb, perhaps, to destroy a majority of the Members of the House or the Members of the Senate, it does not take anywhere near such a catastrophe to have the President and the Vice President not able to serve. In fact, John Wilkes Booth came within an inch of doing it in 1865, and he did not have any nuclear weapons. Yes, he killed President Lincoln. He also tried to kill the Secretary of State and the Vice President of the United States. Those other assassination attempts failed. So muskets or hand revolvers have been sufficient to bring us close to a position where we would move through the line of succession.

What is that line of succession now? Right after the Vice President is the Speaker of this House. That creates a few problems, illustrated in a "West Wing" scenario. It was as if "West Wing" had focused on the bill that I introduced to this Congress very early in 2001. In that scenario, you had no Vice President serving, the Speaker of the House was of another political party, and the President was only temporarily incapacitated. What happened on television was not quite believable to those of us who live in the politically charged atmosphere here in Washington. The President temporarily gave up the Presidency to a person of another political party, voluntarily and under a circumstance where he would have legitimately continued to retain the Presidency, but he thought that the kidnapping of his daughter in this scenario made him too preoccupied to serve. What about the real Washington? Would a President whose family circumstance makes it difficult or impossible to continue to serve temporarily give up the White House to somebody of the opposite philosophy? One can only imagine the aides coming and saying, Mr. President, don't do it. There will be 500 pieces of legislation signed into law within the first hour of your incapacity.

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In addition, under this scenario, the Speaker agreed to assume the presidency, had to resign his seat in the Congress, served as President for only a day or two, and then left public service. Would every Speaker of this House be willing to resign their seat in Congress for an hour or two or a day or two in the White House? And if not, what does that do to our system?

The answer is that we must maintain a system in which the philosophy that governs in the White House is the same throughout a 4-year term in office. This is important for a number of reasons. First, let us say the office of Vice President was vacant. Our friends wonder whether a heart attack or an assassination could suddenly change the direction of America. The stock markets wonder whether all economic policy could change with one ill-fated bad effect on one man or woman's health. Not a good situation. We should have continuity of philosophy in the White House throughout the 4-year term.

Not only that, it encourages assassins. Imagine either a group of fanatics or an individual lunatic believing they could justify their act because they were not just killing an individual man or woman, they were radically changing the philosophy that governed here in Washington.

Who is fourth in line? Fourth in line is the President pro tempore of the Senate. Yes, that means Mr. Strom Thurmond. An individual who served this country quite long as a United States Senator in his 98th year was third in line to serve as President of the United States. Could al Qaeda come up with a better plan than the death of three individuals vesting the presidency in a man who at that time had seen better days? I think that in a world of suicide assassins, we are negligent in our duties if we do not revisit the 1947 Presidential Succession Act.

There will be those who say we have muddled along so far without having to worry about this. Clearly, the events of 9/11 illustrate that we have to protect ourselves not just from what has happened but from that which might happen.

There are a number of possible solutions. I put before this House, in I believe it was February of 2001, a bill which I reintroduced in the current Congress that would provide two things: First, it would deal with one final problem I have not had a chance to identify here and a problem that is also substantial. That is a current law not only goes through a list of those who would succeed to the presidency that causes the problems I have outlined but is also unclear particularly in the circumstance in which someone succeeds to the presidency because they were third, fourth, or fifth on the list and then someone else is confirmed or elected to be second on the list.

What happens if there is no Speaker of the House and the President pro tempore succeeds to the presidency and then this body meets and elects a Speaker? Do we bump the person who succeeded only because they held that less-high-in-line position? That is something we need to clarify in our statutes.

So I presented a bill that solved that problem and identified that, once somebody became President, they stayed as President through the end of that term, and also identified that the second in line to serve would be either the Speaker or the minority leader, whichever was designated by the President, and whoever would serve after that would be either the majority or the minority leader of the other body. What this would assure under this scenario is that whoever succeeded to the presidency would have been elected by their State or district and selected by their colleagues for a position of national leadership, not as the President pro tempore is for a position of ceremonial honor.

Another solution, a simpler one, is to simply take Congress out of it, have the line of succession go through the Cabinet.

A final idea put forward by Norm Ornstein, a scholar who has studied in this area, is to create a list of several governors selected by the elected President to be in line of succession and have them become Federal officers by giving them a ceremonial position perhaps as head of their own National Guards so that they could be in line.

As the gentleman from Washington pointed out, it may be that we do not want the line of succession to go all through the Cabinet even to Cabinet officers not well known by the American people so a hybrid solution would be that the line of succession would go through the top five or six Cabinet officers and then to a list of five governors selected and ranked in a document filed with the House and the Senate by the then serving and inaugurated President.

So there are several ways to solve this constellation of problems. There is one thing that it is simply criminally negligent for us to do, and that is to ignore the problem until it happens. To do so invites assassination. To do so invites people around the world to wonder whether there will be a sudden shift in policy or whether the United States will be temporarily unable to respond because the identity of its President cannot be determined with a legitimacy that is accepted by all the American people.

It is time for us to act on the Presidential Succession Act of 1947 and to adopt the amendments or a change of it this year.

I thank the gentleman for his great generosity in yielding to me.

Mr. BAIRD. Mr. Speaker, could I ask my colleague a question if I may? There is a recent book out, I think, called The Vulcans, and we have read over the last couple of decades of plans for shadow governments, shadow administrations. I do not recall reading in the Constitution of the United States that the executive branch is empowered to create a shadow government. I do not recall reading it. I do recall, correctly I believe, that the Congress is empowered to provide through statutory language mechanisms to replace the President and the Vice President should those two seats be vacant.

In the gentleman's estimation and thought, as he has spent a great deal of time, which does he think would have more legitimacy with the American public, a public process enshrined in statute, debated thoroughly by the House and Senate and passed into law that gives a clear cut, unambiguous line of succession for who will be President and Vice President or a shadow government created covertly and operating covertly to run the institutions of this country without a Congress to exercise oversight?

Mr. SHERMAN. Mr. Speaker, clearly, the gentleman from Washington will not be surprised if I say that a clear and transparent system for installing a successor President would be preferable.

There are some plans to deal with top-level civil servants in the bureaucracy and to see if this civil servant is unavailable, that civil servant would do his or her job. But all of this must take place under a legitimate President, and the fact that our present statute has all the problems I have outlined, from ambiguity to lack of continuity of policy, creates a circumstance where we could have a careful scenario as to which bureaucrats are running what and no scenario as to who is overseeing the whole group.

Mr. BAIRD. Mr. Speaker, I thank the gentleman very much for his remarks. Have there been hearings yet on the gentleman's legislation?

Mr. SHERMAN. No. As I said, I introduced it in February or May of 2001 in part because I was analyzing how our institutions could be improved in light of the difficulties of December, 2000, and I was not surprised that I was not able to get a hearing then. But in the months after September 11 when we have been so concerned about what terrorists could do to our country, I am frankly flabbergasted that the House Committee on the Judiciary has not considered amending the 1947 Presidential Succession Act.

Mr. BAIRD. Mr. Speaker, let me make one other observation that I find admirable on the gentleman's part. He and I are from the minority party. We are both Democrats. Everyone knows the administration is from the Republican side of the aisle. The gentleman's resolution assures that the President would stay in the hands of the Republican Party if he were to perish, at least the presidency would. So the gentleman is actually stepping up to the plate and saying he is ensuring that the President's Party would stay in power if the resolution were to pass and that circumstances could not create a scenario whereby, through catastrophe or assassination, the power of the presidency could shift parties. Is that accurate?

Mr. SHERMAN. Mr. Speaker, that is not only accurate, but it was more accurate when I initially introduced the legislation. I introduced the legislation in early 2001. I expected the gentleman from Missouri (Mr. GEPHARDT) to become Speaker after the 2002 election; and I could just imagine how secure the undisclosed location where Vice President CHENEY resided would be if the person coming after him in the line of succession was the gentleman from Missouri (Mr. GEPHARDT), our good friend and colleague. So, yes, I introduced legislation which would have vested the presidency, had the catastrophe occurred, in a member of the party selected by the President of the United States, even if we Democrats had been in the majority in 2003 and 2004.

Mr. BAIRD. Mr. Speaker, I respect that, because one of my principles about this whole debate has been that it should not be a partisan issue. The continuity of our government is not a Republican issue. It is not a Democratic issue. It is an issue for all Americans; and, indeed, it impacts the entire world. It is admirable that the gentleman has created a mechanism in his proposal that is nonpartisan in the sense that it would allow whichever party has been elected to the presidency to maintain that role in the executive branch even under times of catastrophe, and I think that is admirable.

Is there anything else the gentleman would like to add before I move on to discuss congressional continuity?

Mr. SHERMAN. Mr. Speaker, I just want to commend the gentleman for his work on congressional continuity, and I know that the Committee on the Judiciary may focus on congressional continuity first. I hope they focus on both these issues as soon as possible.

Mr. BAIRD. Mr. Speaker, I thank the gentleman very much for his remarks.

I should emphasize that we are by no means the only people who are working on this issue. Admirable and outstanding work, I think, was done by a working group within the Congress for a time period. That committee was chaired by the gentleman from California (Mr. COX) and the gentleman from Texas (Mr. FROST), who I think did yeomen's work. In addition, a number of other people participated.

Other resolutions providing for continuity of the Congress, who are for a remote Congress should unique circumstances arise, have also been introduced. The gentleman from Connecticut (Mr. LARSON) has a proposal for an amendment to the Constitution to provide for continuity. The gentlewoman from California (Ms. LOFGREN) does as well; and the gentleman from Rhode Island (Mr. LANGEVIN), a former Secretary of State from Rhode Island, has proposed a way we could have a remote Congress in extraordinary circumstances such as a threat or an outbreak of infection. All of those folks have done an outstanding job of presenting options, and we ought to be able to discuss them.

I would also commend to my colleagues I think an outstanding service to our country. The Brookings Institution and the American Enterprise Institution formed a bipartisan group of distinguished scholars headed by Lloyd Cutler and Alan Simpson, two statesmen if ever there were people to whom that title would fit, and filled in by scholars and former Members of the Congress, legal scholars, constitutional experts. I would commend my colleagues to their work. It is available at Continuityofgovernment.Org, and I would encourage my colleagues to study this work. It reviews the history of continuity issues. It reviews how special elections can be held. It outlines in careful detail the problems that would arise were an attack to occur, and I think it is, again, a service to our country.

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One of the things that emerges from this document is that after close to a year of deliberation, that distinguished committee reached one conclusion, and the conclusion was something they resisted. The conclusion was that we cannot solve adequately the question of continuity of the House of Representatives without a constitutional amendment.

I would underscore this fact. Not one member who served on that commission, and, again, it was a bipartisan commission, not one member began their service thinking that they wanted to amend the Constitution even to address something of this magnitude. But they all agreed after studying the matter that, regrettably, in order to provide real continuity, we must amend that magnificent document. No one races into that, no one sets out to amend the Constitution lightly, but we must have continuity of this government.

Let me walk through, if I may, a few of the issues that could arise that have not yet been addressed. I talked a little bit about what constitutes a quorum. Remember that our government is bicameral, our legislative branch. We have a House and a Senate. The framers wanted the various regions of our States to have their own representatives. And it is absolutely true that no one in this body has ever served who was not elected. We hold that very dear to our hearts. Some have said under no circumstances should we deviate from that.

But here is the problem. The Constitution says that if vacancies occur in the House of Representatives, executives of the States shall issue writs of election. Under normal circumstances, where you have lost one or two Members and have 430 or 434 to continue the people's business, it is not a problem. But when you have two surviving Members, or no surviving Members, you are left without a House of Representatives until you can have an election.

How long does it take to have an election? We have spent a great deal of study and time on this. If you talk to various people who are experts in this field, different numbers emerge. But the critical point is this: even the fastest number you can come up with; until that time can be completed, you are without a House of Representatives.

Frankly, most people with whom I have spoken who are experts and scholars in this field have suggested that a minimal probable length of time would be about 3 months. From the time of catastrophe in order to have real and meaningful elections, would be about 3 months. Anything less than that poses extraordinary logistical challenges and poses some real constitutional challenges potentially.

Some have proposed, and I disagree with this proposal, but some have proposed that we mandate elections within 45 days of a catastrophic loss of Members.

Let me be clear about something: everyone agrees who studied this issue that we want to maintain the tradition of special elections for permanent replacement of Members. But this Continuity of Government Commission and myself and many other scholars have said we are gravely concerned about a 45-day period with no House of Representatives, because how do the article I of the Constitution functions get carried out without a House of Representatives? Who carries those out? Who assumes those?

Yes, it is true that no one has ever served in the House of Representatives that was not elected. But it is also true our country has never functioned without a House of Representatives. It has never functioned under an executive branch alone.

Some have said if there were a catastrophe, the survivors would do the right thing. There is an assumption of survivors, first of all, which there may well not be. But, beyond that, the reason the framers created checks and balances is they were gravely concerned about vesting too much power in the hands of an individual without checks and balances. They rebelled against such a system. The revolution was all about overthrowing an unelected monarchy who functioned without effective checks and balances.

To assume that a survivor who assumes the executive branch would do the right thing and that we do not need a Congress for up to 45 days strikes me as a direct insult to the fundamental insights of the people who wrote our Constitution, even if you could have a 45-day election. But how would we get to 45 days under the proposals that have been offered?

Well, the Congress, which has constitutional authority to do so, would tell the States you cannot have a primary election because there is not time. Instead, the major political parties will select the candidates, thereby disenfranchising all the voters from choosing the candidates in the primary and thereby prohibiting most people who could run for office from standing for candidacy.

What is more, in an expedited election of this sort, Americans living overseas, including very likely the very young men and women who would be dispatched to try to defend our country, could well be disenfranchised because there was not the time to get them the votes and get them ballots.

So the proposals that we could have a mandated 45-day election leave our country with no functioning Congress for 45 days, and I should say as long as 75 days if it is proximal to a pending regular election; no House of Representatives, no article I functions; further, they mandate that the States allow the parties to select the candidates, when our dear Constitution has never once mentioned the word "party" in its entire history. They disenfranchise independents from standing for office, they disenfranchise overseas voters.

And there are still more problems. Under this 45-day mandate, what happens if one State manages to conduct its election in 30 days, and if newly elected Members arrive at Congress and they are the first ones here and say there is nobody else here, we declare ourselves a functioning House of Representatives, and elected one of our Members Speaker of the House, who, by the way, under some circumstances could thereby become the President?

Two days later yet another State, somewhat larger this time, gets its elections completed, and they arrive at the House of Representatives, and their Members are sworn in. They say we have more Members now. Someone from our State will be the Speaker of the House of Representatives. And so it goes, until at last everyone is here. Is that what we need at a time of the greatest crisis in our Nation's entire history, that sort of ambiguity? I submit that it is not.

There is a further problem. If we pass a law that says all States must conduct elections in 45 days, what happens if this institution is struck by a nuclear weapon and some State capitals are taken out simultaneously? Al Qaeda targeted four different sites on September 11.

If they target Washington, D.C., New York City, and Sacramento, California, do the people of New York, do we really expect them to conduct a special election within 45 days after New York City has been hit by a nuclear weapon? Do we expect California to do so after its capital has been destroyed? Or do we just pretend that could not happen and hope for the best? I think we have learned in the last few weeks that hoping for the best does not work, that we have to prepare.

There is an alternative, and it is an alternative I reached with great contemplation and with great study by some of the most distinguished scholars I could speak with, and here it is:

It is that we must find a way to temporarily, and I emphasize temporarily, reinstate this House of Representatives as quickly as possible in order that the people's business can be conducted, that we have checks and balances, that we have proportionate representation, that it is not just an executive or, even worse, a shadow government running our country.

To do that will, regrettably, require a constitutional amendment, but it is not something that will sound extraordinary when I explain it. It is this: the people have elected us as their representatives to make decisions as profound as taking our Nation into war, as taxation and a host of other issues described in article I of the Constitution.

If upon our election, we generate a list of potential successors who could only assume our position if we are killed or incapacitated, and only if that death or incapacitation happens in the course of a catastrophic event, and only for the circumstance that it is temporary until a special election can be held, we would be able, within a week of a catastrophic event, to reinstate the entire House of Representatives and restore our functioning constitutional government.

Let me give you my own State as an example. In Washington State, if we were to create a list of potential successors who would take our place only in catastrophic circumstances, not in the normal course of events, that list could include former Speaker of the House of Representatives Tom Foley. It could include, on the Republican side, Slade Gorton, a man for whom I have the utmost respect. It could include, on the Democratic side, people such as Don Bonker, Al Swift, our Governor, Gary Locke. It could include on the Republican side former Governor and former U.S. Senator Dan Evans, Sid Morrison, former U.S. Representative and former Secretary of Transportation. These are distinguished individuals.

And here is the choice, my friends. If that horrific day happens and if that announcement comes on television, we must have the media know what to tell the American people, and they can either say for the next 45 days a shadow government will run this country with no checks and balances and no representation from you, the people; or they can say your representatives in their best judgment have created a list of statesmen and stateswomen who will temporarily fill their seats until you can have real special elections.

Then, instead of confusion and chaos and hasty disenfranchising elections, we would have a functioning Congress made up of distinguished statesmen and stateswomen who would take care of this country, who would do the right thing. And I would warrant that many of those people would not even stand for reëlection or for new election. They would instead serve until the election could be held, and hand the country back to the newly elected people.

What I most ask is that we have an opportunity to debate this. It is 2½ years now since September 11. I began to work on this the night of September 11. I began to talk to the leadership of this body within a week of that time. And I have asked, pleaded, negotiated and discussed; and we still have not had serious consideration by this body.

On September 10, 2001 thousands of our fellow citizens had no idea that the next day when they kissed their families and went off to work, when they fixed their breakfast cereal, when they rode the elevators to their office or walked from the parking lot of the Pentagon in, they had no idea that they would be dead at the end of that day.

We do not know in this body if on any given day it is the morning of September 11, or if it is September 10 and the next day we will all perish. We do not know that. But we have to assume that there are people in the world who would dearly like to bring that about.

We do know that the weapons of mass destruction are out there. We know that a nuclear scientist from Pakistan essentially had an Amway-like system to help develop nuclear weapons internationally. We know the fissionable material is available in abundance, and we also know that if someone uses it, we are ill-prepared to address the outcome.

I have offered a rule for debate. The rule seeks to achieve fairness. What it does is it invites not only my proposal, but proposals by other Members of this Congress to resolve this issue, to be brought up before the entire body for discussion.

It says essentially, if you have a better way to do it, we are all ears. Let us hear it. Bring it up for debate. We will debate a series of potential solutions. Whichever one gets the most votes will become the new base bill. We will then take several days for contemplation, much the way the framers themselves would bring an issue up for discussion and then either recess for several days for contemplation or invite a subcommittee to review it further.

We would take several days for contemplation, because this is a matter of the utmost seriousness. Then we would bring that base bill which had received the most votes back with an opportunity for amendment, and then we would proceed to a final vote.

I would hope we could get the necessary two-thirds on that process, and I would hope it for this reason: that if we do not find some solution, be it mine or someone wiser than me, we leave this country subject to chaos and constitutional ambiguity and unelected shadow governments, which I think would mortify the people who wrote that magnificent document, and I think would mortify most Americans, should that event occur.

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So I will ask my colleagues to consider the resolution that I have put forward. It is H.J. Res. 83. I think it is rather simple, as most constitutional amendments should be. I think it is reasonable. It should be a bipartisan effort.

If one is not compelled by H.J. Res. 83 and one thinks there are better ways, I welcome the discussion. Look, please, then at House Resolution 572. House Resolution 572 says we will have a debate and the rules for debate will be open. There will not be a committee chairman saying, only my amendment or my proposal is allowed. It will be the House of Representatives reviewing several alternatives, having the discussion, and trying to resolve this most grave of problems.

The entire Constitution was written in one hot summer in Philadelphia, several months. We have been 2½ years since September 11 and we have been unwilling, not unable, but unwilling to address this change.

There are people of good intention who I respect profoundly on the other side, but what I do not respect is the refusal to let other people of good intention engage in this debate. I find it profoundly ironic and troubling that those who assert that they oppose these amendments that I have offered and that others have offered is because they respect the sanctity of the vote, which I respect as well. Again, no one is proposing a substitute for direct election, for permanent replacement of Members. We are talking about temporary replacement. But they have said it is so sacrosanct, this principle of direct election, that we cannot even consider any alternative. And ironically, in defending the principle that one must be elected in order to serve in this body, they have at the same time said the people who have been elected to serve in this body are not entitled to debate this most serious of issues.

So we have been sent here by our constituents. They have entrusted us with the most profound of responsibilities; and yet some individuals in this body have said they will not entrust us with the responsibility to ensure the continuity of this very institution and to ensure that constitutional measures will exist in a time of catastrophe.

Please, I say to my colleagues, I beseech my colleagues, bring this issue up for a vote and for true debate. Let us not play partisan politics; let us not assume that one committee chair or 2 committee chairs have greater wisdom than this body. That assumption flies in the face of the principles of Madison and the rest of the Framers. Let us assume that the collective good intentions and intellect and scholarship of this body can craft a solution that will ensure the continuity of this institution that we all so cherish and will ensure that if that horrific day ever happens and we perish, we will perish knowing that our Nation will be left in good hands, rather than in confusion.

U.S. ENERGY POLICY MEANS LOWER PRICES AND MORE JOBS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. BEAUPREZ) is recognized for 60 minutes as the designee of the majority leader.

Mr. BEAUPREZ. Mr. Speaker, I would like to spend a portion of my time talking about the situation that has been rapidly developing of late, a situation that sometimes is called outsourcing or offshoring, whatever one's term might happen to be. The definition seems to be very much the same, though: sending American jobs to foreign countries.

Now, some of our friends on the other side of the aisle seem particularly eager to make this subject a central one for the next, oh, about 7 months. I relish that opportunity. I relish the opportunity to also have that debate. To quote their presumptive Presidential nominee, I would say, "bring it on."

Our friends on the other side of the aisle are unwittingly the biggest proponents of this very problem that they highlight: outsourcing, offshoring. What I mean by that, Mr. Speaker, is that by their opposition to a comprehensive national energy policy, they create and nurture an environment that is, in fact, hostile to job creation. The very thing that they say they are critical of, they are fostering a hostile environment toward job creation. Corporate greed is not responsible for outsourcing; anti-energy, anti-job policies are responsible.

Since 2001, Mr. Speaker, this House, this body has passed comprehensive energy legislation three times, led by Republicans. The other body has repeatedly failed to follow suit and, as a result, our Nation has no energy policy today. The ramifications of this lack of national energy policy are absolutely staggering.

Mr. Speaker, let me itemize. Gasoline prices have increased 30 percent. U.S. imports of oil have increased 10 percent. The price of crude oil has increased 65 percent. The cost of natural gas has increased 92 percent. And according to the United States Department of Commerce, America loses 12,389 jobs for every $1 billion spent on imported oil.

Let me repeat. These are not my numbers; this is from the United States Department of Commerce. America loses 12,389 jobs for every $1 billion spent on imported oil. That means, based on today's current prices, that we are offshoring, outsourcing 1.7 million jobs every year.

Mr. Speaker, the House passed an energy bill in this 108th Congress. It is estimated that that energy bill would produce 838,500 new good-paying American jobs. It has a great deal of incentives for cleaner fuels, renewable energy, and tough environmental standards. That bill would lessen our dependence on foreign sources of energy and strengthen our economic and national security and independence. The U.S. has always been a leader when it comes to the steady increase of better-paying jobs and improved standards of living. That is why we consume, yes, we consume 25 percent of the world's energy; but we create 33 percent of the world's economic output.

Mr. Speaker, it is developing countries around the entire planet that covet our economic system and our economic output, our ability to produce not only goods and services, but the jobs that produce the goods and services. That is why people look to the United States of America as that shining city on a hill, that vision of something better. And in order to achieve that, developing nations worldwide struggle to develop an energy system that is the very foundation of these United States of America, the jobs we create, and the economic output that we enjoy.

Mr. Speaker, one-third of the total economic output of the world is produced by the United States of America, but we are at risk today. We are at risk because of not a faulty, not a weak, but a nonexistent national energy policy. What America needs right now is an affordable, reliable, and safe supply of energy to strengthen our economic and national security and to help create good-paying jobs. Mr. Speaker, it is time for the entire Congress to do their job and get a national energy bill passed.

Mr. Speaker, I am joined tonight by one of my colleagues, a classmate of mine, the distinguished gentleman from the State of New Mexico (Mr. PEARCE). The gentleman from New Mexico has spent most of his life before he came to Congress very, very close to this issue of energy. Coming from New Mexico and the West, he is intimately familiar with the issues of energy resources, energy production, energy utilization. It is my pleasure to yield to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I thank the gentleman, and I appreciate him bringing this very critical issue to the American public tonight.

Our friends on the other side of the aisle continue to complain about the jobs being driven out of this country as if it is the President's fault. The gentleman from Colorado, my friend, has adequately described the problems of a failure to pass the energy policy through the entire House as a source of great difficulty in this Nation. There are two things, Mr. Speaker, that we must provide to keep our way of life, to keep our standard of living in this country. Those two things are food and energy. If we ever ship all of those requirements overseas, this Nation will find itself undergoing a change in the lifestyles and the abundance which we have been treated to and which we have become accustomed to.

This Nation has been blessed with abundant natural resources, including natural gas and other fossil fuels. Almost all of the natural gas used in the United States comes from inside the United States, comes from domestic sources. Natural gas provides a cheap and plentiful source of fuel for home heating and, more importantly, manufacturing facilities, particularly the chemical industry. The chemical industry uses natural gas as a fuel and also as a raw material in the production of its products. Those products include plastics, fertilizers, and many of the other products that we find and use daily. Today, the United States has the highest natural gas price of any industrialized nation. It costs the equivalent of $10 per gallon of gasoline. Most people do not know what they pay per thousand cubic feet of gas, but it equates to $10 per gallon in gasoline, and one can imagine the stress that industries are undergoing.

Sadly, this increase in price has contributed to higher home-heating costs and the loss of thousands of American jobs, including jobs in my home district in New Mexico. Throughout the United States, chemical manufacturers have lost an estimated 78,000 jobs since natural gas prices began to rise in 2000. These 78,000 jobs lost in one industry, the chemical industry, the chemical manufacturers, have been lost to manufacturing facilities in the Middle East, Asia, Europe, and South America. Why do those jobs move overseas? Because our domestic supplies have been interrupted to the point that our prices in this country for natural gas are in the $5 to $8 range. Typically in this country, $2 is the range for natural gas.

We had a briefing in the Committee on Transportation last year which showed us that the price of natural gas here in this country is between $5 and $8. Overseas in Russia and overseas in Africa, the price is 50 cents and 70 cents respectively. When we are paying 10 to 20 times more for natural gas in this country as other countries, the economics will eventually take hold and companies will move infrastructure out of this country.

What happened to cause the gas prices to increase so dramatically? First, there are two conflicting domestic policies. Number one, the U.S. adopted a policy in the 1990s encouraging the use of natural gas as the fuel of choice to burn in power plants to generate electrical power, even though we have abundant domestic coal resources. Natural gas was the clean fuel, the fuel of choice; and it was mandated by the Federal Government. The increased U.S. restrictions on oil and gas, however, the restrictions to production of natural gas on public lands has caused the supply to decrease, while the demand is increasing. Those two conflicting domestic policies have combined to force jobs offshore into other countries.

Mr. Speaker, we cannot long sustain the loss of these jobs because of conflicting policies and because of the special interests who would drive our jobs overseas.

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In 2000, Americans consumed about 23 trillion cubic feet of natural gas, almost 23 percent of the energy used. The U.S. Energy Information Agency forecasts that by 2020 domestic natural gas demand will increase by more than 60 percent, to between 32 and 35 trillion cubic feet.

Much of the U.S. current production is coming from mature fields. Gas supplies from these fields are declining at about 29 percent per year. A mature field is one where the gas has been produced out of oil to the point that the down-hold pressures do not force the gas to the surface in the same quantities as used to occur. It is a naturally occurring phenomenon that you are able to gather in so much gas from one well before you have to drill another well.

We find these declining production curves to be a major threat to the price of natural gas in America and, therefore, a continued impediment to creating jobs in this country.

We often hear from our friends about the failure to create jobs, and they themselves are standing arm in arm with the groups who would limit the production of our natural gas which would get the cost of the natural gas to a point where our industries would become competitive again. Most of the promising new oil fields and gas fields in the U.S. are on public lands: the Rocky Mountains, Alaska, and the outer continental shelf. These areas are in the Rocky Mountain regions and Colorado and New Mexico.

Mr. Speaker, if we as a Nation choose not to access our own natural resources, with our high standards for compliance with our environmental laws and regulations, we deliberately reduce our economic security and reduce the opportunities for continued leadership in resource development, manufacturing, and technological advancement; and, at the same time, we deny our fellow citizens the opportunity for high-paying, family-wage jobs with good benefits.

We do not even bring up in this discussion the additional risk to national security. It is time my colleagues and I take the bull by the horns and fix our Federal land use policies so we can access our abundant natural resources for the benefit of all Americans. Why do we need to do this? People in the southern district of New Mexico understand why.

Mr. Speaker, the reason we need to do that is that our standard of living is at stake. Also, the number of jobs that are created in this country are at stake. But even more importantly, the ability to pay for our utilities is at stake.

People on fixed incomes are facing the price increases that my colleague from Colorado has mentioned to us already. We are facing tremendous increases in the price of gas, in the price of electricity, in the price of heating our homes and cooling our homes. Lest we forget, last year in the heat wave in Europe more than 10,000 people died from that. This is a matter of life and death as well as the future of our economic engine that powers this country.

Mr. Speaker, families spend about 5 percent of income on energy, but for many low income and minority families nearly half of everything they earn is spent on energy. Price increases will be a crushing blow for many, Mr. Speaker. Many people in my district are forced to choose between essentials of heat and food. While we have soaring natural gas prices, the cost is carried by the consumer.

Consumers pay more for goods that are produced with natural gas. These goods, I have mentioned before, include fertilizer, which is a key component in the food production.

We get to the unhappy state where the supply of natural gas can scarcely meet demand in two ways: First, it is an effort to make our air cleaner, which is an admirable condition. Many electricity producers and factories have switched to natural gas. But this switch has caused the demand to increase to such a point that the prices are now making our industries noncompetitive with overseas markets.

Mr. Speaker, if we are to do anything about the loss of jobs and the failure to create jobs, we must begin to have a balanced approach to our policy of accessing public lands. Our balanced approach would say that, yes, we can be environmentally friendly while we develop our resources.

It has been proven in Alaska, that State we saw the concerns about the tundra there in Alaska along Prudhoe Bay. We found that what producing companies did was drilled in the wintertime. They built ice pads and ice roads. When the well was drilled, they did no damage. Then when the spring came, the thaw came, those ice pads and ice roads disappeared to leave just the hole in the ground and the producing wellhead.

Since our way of life is at stake, since our entire economic engine is powered by affordable energy, Mr. Speaker, it is past time for us to begin to discuss and begin to solve the ways that we access our public lands.

Mr. Speaker, I have more comments, but I will yield back to the gentleman from Colorado (Mr. BEAUPREZ). I thank him for bringing this important discussion to the floor of the House.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for a very intelligent and concise presentation.

Mr. Speaker, I would like to yield to the distinguished gentleman from Illinois (Mr. SHIMKUS). The Congressman serves on the Committee on Energy and Commerce, quite appropriate for our subject matter tonight.

Mr. SHIMKUS. Mr. Speaker, I appreciate the kind words from my colleague from Colorado Mr. BEAUPREZ.

I am here to talk about a subject that is just critical. We just have to get down to, really, the brass tacks. It is really hard for me to understand.

I hope my colleague from New Mexico stays around because maybe we can get involved in a debate and discussion on the multitude of issues.

This energy bill took in numerous committee work from the Committee on Energy and Commerce, to the Committee on Resources, to the Committee on Ways and Means, the Committee on Agriculture had a part in it, the Committee on House Administration had provisions, the Committee on Science had provisions. This is one of the few times that you have a comprehensive national energy bill and plan.

And we are there. We are so close, I could almost taste the finish line. Because the critical nature is readily evident to all of us. It is amazing that when you have the highest gasoline prices that many of us have ever seen and you definitely have the highest natural gas prices that anyone has seen, to huge blackouts in the Northeast, millions of people without power, why cannot we move an energy bill? Why cannot we have a vote and then a passage of a plan that would bring some security, some safety, some reliability to the energy markets and the energy industry and the folks that want to conserve?

There are actually great conservation provisions in this energy bill. We worked at great length to make sure that all stakeholders were involved in the debate. It was a free and open debate, taking many hours in the Committee on Commerce, late into the night, open, amendments passed, amendments defeated. The bill brought before the floor, the bill passed overwhelmingly in the House. The conference committee did its work, brought the bill back to the House and had another good vote on the conference side, and now we are held hostage by a minority in the other body.

It is unfortunate because unless we act on legislation, unless we have the public policy debate on energy, on where we want to be in the future, then we are going to see the same type of activities that we are seeing today.

And, of course, in this political season, the opposition would love to see no energy bill. It is hypocritical to complain about the high cost of gasoline when you voted no on the energy bill. It is hypocritical to talk about the loss of manufacturing jobs in this country when you voted against an energy bill. It is hypocritical to continue to spout the same rhetoric when our grid goes unchanged, new investments not flowing to protect the grid, ensuring that if we make no changes a risk of future blackouts could be in the foreseeable future.

I am at a loss for words sometimes in the way we operate here. I love the institution, I love the ability to come on the floor, to have great debates on public policy, but eventually you have to move on. A majority has to speak its will and especially in the needs that were addressed earlier on energy. It is so vital to our economy. It is so vital to our national security. It is so vital for the things that we take for granted.

I remember reading an analysis of our use of electricity in our homes and power tools and all the neat little gadgets we have. The average citizen, because of our ability of using electricity and machines and technology, it is like we have 340 servants. The stuff that we are able to do because of the use of electricity and machines would be similar to having many, many servants doing our every whim.

That is part of the reason why we have prospered so greatly in this country, because we are willing to take risks, we are willing to take capital, put it at risk, hoping to get a return. And when we want the economy to move forward, when we want job creation, when we want to keep manufacturing, one of the major costs in the manufacturing is the energy cost.

But yet we are hamstrung, I think, because of political calculations on an upcoming election that we do not want to see improvement in the economy, that we do not want to see job creation, that we want to complain about no security on our electricity grid. We still want to see higher costs for natural gas. We want to see high gas prices.

They want to blame this administration, the only administration that has brought a comprehensive energy bill before the legislative body and the House and the Senate has been vetted and voted on. Again, very hypocritical and embarrassing to my point of view.

As we continue to focus on the manufacturing jobs, I find some relief in the debate that there is a difference between the payroll survey and the household survey on jobs and job creation. But, having said that, even though the numbers are better, the job loss statistics are only based upon payrolls.

So in my district in southern Illinois, there are a lot of farmers. They are self-employed. They are not counted on the payroll surveys because they are self-employed. So in all these jobs statistics they are not there, because they are not salaried.

But we do know that the manufacturing economy is stressed. If we want to ensure that we have job creation, we are going to move a highway bill. I think it is going to be a good bill. It is going to bring, obviously, leveraging dollars from the Federal Government and State governments to be able to build roads and infrastructure; and we want that.

Listen to what the Department of Commerce says about job creation in this energy bill. According to the U.S. Department of Commerce, America loses 12,389 jobs for every billion we spend on energy imports. And, of course, we spend a lot on energy imports. At today's oil prices that means America is sending more than 1.7 million jobs overseas for oil every year.

We have oil in this country. We have it, as we talked about before, in ANWR. We have it on the continental shelf. Illinois is the tenth leading oil-producing state. A lot of people do not know that. A lot of our wells are marginal wells. They take energy to get the crude oil out of the ground. We have a gusher that was hit about a year and a half ago.

It is new technology. It drills underneath a wildlife preserve. It is producing for us a million barrels a year, which is a pretty good add toward meeting the demands that we have here.

□ 2000

It is not going to solve our problems. We are still going to have needs for export, but we do have great natural gas reserves in this country. We have got enough, and I am continuing to look at my friend on the Committee on Resources because they deal with this all the time, to meet our natural gas demands for 25 years, if we would just get access to them; and this is all not natural wildlife refuges in pristine areas. It is Bureau of Land Management scrub land. It is nothing that we even need to worry about other than it is the Federal Government's land, and we cannot even permit ourselves to go and look for natural gas reserves. Again, it just boggles your mind.

An estimated 85,000 jobs have been lost by the U.S. chemical makers since natural gas prices began to rise in mid-2000. If we cannot get natural gas at an affordable price, more and more the production facilities will be forced to pack up and leave the country.

One of our problems in this whole fuel debate is we have not built a new refinery in 25 years in this country, and we have a Balkanized fuel market, which means we have specific fuels for specific reasons.

I always tell the story, I fly into St. Louis. I am a St. Louis metropolitan Member of Congress. I live over in Illinois, and my hometown is Collinsville, but if I were to fly in and we get picked up, I would have to go to the northern part of my district, the State capital of Springfield, and I would have to gas up the car before I took the drive. Well, the gas that I put in in Missouri would be different than the gas, regular unleaded, would be different than the gas in my hometown of Collinsville which is only 30 minutes from the airport, which would be different from the gas in Springfield, Illinois, regular unleaded, only 90 miles north. Three different blends of fuel in less than a 200-mile area.

Now, when people ask why are we having a gas crisis, I will tell you one reason is we cannot move product from point A to point B because it is not the proper mix for a proper region. You know what the energy bill does? It addresses this. There are 48 different fuel mixes in this country, and it tries to pare them down to five. It still says you need different fuels for different regions; but let us get realistic and say five regionally, that way you can move product when the supply and demand equation goes wacky. It is a great provision. It probably would have been helpful in this time of our energy needs.

The energy bill will help create or maintain over 156,000 full-time and part-time jobs in my home State of Illinois. That is how important this energy bill is for me, just my parochial interest, as a Member from Illinois.

Federal Reserve Chairman Alan Greenspan has repeatedly testified that energy prices are the single greatest threat to job creation and the continued growth of an otherwise burgeoning economy; but instead of getting a national energy policy, the people of

America wait. They see energy prices rising higher and higher. They see jobs in manufacturing disappear because a plant closes due to high energy prices. They see us sending billions of dollars to foreign countries to buy oil. What they do not see is an energy bill.

The House passed the energy bill conference report, and we are still waiting, obviously, for the other body to at least do something. It is time for Congress to send an energy bill to the President that will create and maintain needed jobs across this country.

This is an important debate, and I applaud my colleague for organizing this Special Order because in the public policy arena, I mean, we have to be in the arena. We have to be debating the major issues of our time that not only affect us for the next election cycle, but really this is a comprehensive energy plan that will affect our children and our grandchildren.

So I applaud my colleague from Colorado. I hope to stay around for a few minutes and maybe can add based upon what other things are mentioned or added, but I really appreciate that.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for his comments; and a couple of things that he said sparked a little bit of my memory, if I might.

I know that in Illinois, of course, there is a tremendous amount of agriculture, a lot of farmers. That is what I spent most of my life in is a farm family; and a few months back, as you were preparing to take up this energy bill, I held a hearing in my district back in Colorado in Golden, and we had a gentleman at that hearing who is a potato farmer from an area of Colorado, southern Colorado, high mountain plateau, called the San Luis Valley; and he grows some pretty high-quality potatoes down there.

Like a lot of farmers, though, he struggles with ever-shrinking margins, and every year they try to get a little more efficient and try to squeeze just a little bit more out of the land and their operation and still make a living.

He told me something that I thought was profound and probably a fact that goes unnoticed by most everyone. He went through his operating overhead, all of the costs on an annual basis it takes for him to operate his potato farm. Thirty-five percent of his operating overhead is energy-related, not just the fuel that he puts in his equipment, gasoline, diesel, but the energy to run. We are a pretty arid State. So you have got to irrigate, to run the electric motors to pump the water for the sprinklers to irrigate with. Obviously, the chemicals he fertilizes with are produced from natural gas primarily, 35 percent of his overhead.

Now go to that gentleman and tell him that gas prices are going to go up 30 percent or more, natural gas is going to go up 92 percent, so his electric bill is going up dramatically and see what he has to say.

When we talk about these rising energy prices affecting jobs, it is real. It is as real as it gets, and having been in business most all of my life until I came to Congress this past year, and being a community banker, I came in contact with businessperson after businessperson, and there is only so much they can do, so much more efficient you can get. At some point, you throw up your hands and say I am done.

So when we are saying tonight that the lack of an energy policy, as I stated earlier, it is not a weak one, it is not a short-term one. It is no energy policy this Congress has failed to pass. It is extremely real, and blaming the President, as the other side of the aisle likes to do night after night, day after day for this outsourcing of jobs situation, we need to look inward.

I will say again, the reason that we are losing jobs in America, we need to look at the people that are promoting higher taxes and higher regulation that render us less competitive and the people that have refused to give this country a commonsense, sane, straightforward energy policy that would allow us to have affordable, predictable, sustainable supplies of energy, domestically produced energy. That is where we need to look. That is the problem.

I thank the gentleman. I was thinking of back to that hearing that I had in Colorado on natural gas, and there are statistics and numbers out there to boggle the mind, but one that stuck with me from that hearing was relative to natural gas, which I know the gentleman from New Mexico (Mr. PEARCE) is close to, is that we have enough natural gas in this country just under Federal land, nonpark, nonwilderness Federal land for 100 million homes for 157 years. That is a staggering amount.

Natural gas prices, at least back in my hometown, are nearly double right now. Somebody said, well, we have a storage problem. Somebody else responded, yeah, we have got a storage problem. It is all stored under Federal land, that is our problem.

As my colleague, the gentleman from Illinois (Mr. SHIMKUS), just pointed out, we get in the way. So I would be pleased to, once again, yield to the gentleman from New Mexico (Mr. PEARCE) on this critical subject.

Mr. PEARCE. Mr. Speaker, I think my friend from Colorado (Mr. BEAUPREZ) is like I am, a business owner. He understands that you just do not create jobs out of thin air, and you do not do it without good thoughts and good resources.

The gentleman from Illinois adequately pointed out that it is hypocritical of our friends on the other side of the aisle to talk night after night about the failure to pass an energy policy when it is the other side of the aisle that is blocking that energy bill from being passed.

The environmental extremists who stop production of oil and natural gas are the ones who are responsible. The process for drilling a natural gas well on public land is to file an application for permit to drill, an APD, and that process simply goes in for review, and when it is reviewed, the application is either given or denied.

What happens is that the extremists will file a lawsuit, and many times that application simply dies right there without ever even a hearing, and by the way, they have limited access. The extremists have limited access to over a trillion cubic feet of natural gas in the Rocky Mountain regions.

Now, then, sometimes the cooperation between the extremists and the government groups has gotten just a little bit too close and friendly. In a recent case that the media has not done a very good job of covering, three BLM employees in Wisconsin were convicted of racketeering, conspiring to keep people from drilling on public property. It is going to be very interesting to see how other employees in the Federal Government begin to respond to that conviction, understanding that their actions sometimes are simply extortion.

I have constituents of mine who report that Federal employees will tell them no, no, you really do not have a problem, but your case would go much easier if you would contribute to, say, this archaeological study that our office is doing. If you gave a check of $25,000, maybe things will go easier. When I was out flying over the Salt River project, one group held hostage that project for a $25 million contribution into this extremist environmental fund.

Mr. Speaker, those are the things that are driving jobs offshore, that hostility to business and the development of energy. The most heartbreaking story, Mr. Speaker, that I have seen here in Congress occurred in the Committee on Resources about a month ago. Members of the union came in, the union that deals with workers who cut timber and who create the pulp wood and paper. Those union employees were talking about the loss of their jobs in that industry and were heartbroken by the fact that they were going to lose the wages that their families depended on, and they are good, good living-wage jobs.

The Members on the other side of the aisle said, oh, but you do not understand, you can get a job in the hospitality business. I am sorry, but the unions and Republicans do not often match up. The unions and the other side of the aisle do the most, and it was their friends telling them you could lose these high-paying jobs in the timber industry and you can get a job working at the hotels. The union representatives literally spit back at them across the table the words, We do not want your hospitality jobs; we want our jobs in the timber industry.

What a heartbreaking thing. I began to do research on that, and I am pleased to show a chart tonight. I am not pleased to show the chart tonight. I am horrified to show the chart tonight that describes the loss of pulp and paper mills and plants throughout this country.

The dots on this chart represent the mill closures and employee layoffs from 1989 through 2003. The blue dots with Xs are mills that have been closed, and the red dots list the number of employees that have been laid off during the past 16 years. The small blue dots represent the remaining operating U.S. mills and plants.

Since 1997, the forest products industry has lost more than 120,000 family-wage jobs and closed more than 220 plants. While there are many factors that contribute to these mill closures and the loss of family-wage jobs, several issues stand out.

Number one is the lack of access to timber resources on the Federal lands that have been brought about through the Endangered Species Act, the roadless rule, and the lawsuits filed by the anti-development environmental extremists. Access to timber resources results in lack of raw materials needed by the mills to produce their products.

□ 2015

High natural gas prices, and we have discussed why we have high natural gas prices, are also driven by misguided environmental policies. During the 1990s, the U.S. environmental policy encouraged the use of natural gas for the generation of electricity as a clean alternative to the coal-fired plants. However, during this same time and continuing through the present, area prospectives for oil and gas production have been put off limits to exploration and development. This includes almost all of the outer continental shelf offshore gas production, portions of the gulf, and a significant part of the Rocky Mountain natural gas resources.

America gets more than 85 percent of the natural gas we use from domestic production. These conflicting policies have driven natural gas prices to historic highs, above $5.50 per thousand cubic feet, the highest natural gas prices of all the industrialized nations. This makes the United States less competitive and is outsourcing our manufacturing industries, including the production of forest products.

Our misguided environmental policies are directly responsible for the loss of the majority of family-wage jobs in the forest products industry. In 1990, almost 12 billion board feet of timber were harvested from the Federal estate. That is 12 billion in 1990. Today, we harvest 2 billion board feet of timber from the Federal estate. Our national forest resources are allowed to lie fallow, to build up excessive fuels. They are subject to overgrowth, they are subject to disease, and they are subject to fire.

We are finding that the wildfires are going to destroy our forests before we ever cut them. When the fire races across the top of our forests, killing these mature trees, it only makes sense to go in and harvest the charred timber. But, instead, the extremists will file injunctions, they will file lawsuits to slow the process down.

Recently, in my district, we had a large forest fire. Before the timber could be cut, the value of the timber had lost 60 percent of its value because of delays created by the extremists who said it is better not to ever touch one tree than to cut these charred stumps that were left and had valuable timber in them.

Mr. Speaker, our watersheds are completely dependent on the quality and the character of our healthy forests, but also an entire industry is dependent on the way that we manage those resources. In this landscape, my constituents are asked to forego a development project that would provide family-wage employment so that a passerby's view is not spoiled. The same passerby expects my constituents to live with the charred remains of timber that could have provided feedstock for a local mill, that could be made into 2-by-4s for a neighbor's home, that could be paper used by a local school or business, a lovely piece of furniture to be passed into the next generation, or it could be used to make a young woman's high school prom dress.

If we as a Nation choose not to access our own natural resources, with our high standards for compliance and with our environmental laws and regulations, we deliberately reduce our economic security and reduce the opportunities for continued leadership in resource development, manufacturing, and technology. We deny our Federal citizens the opportunity for high-paying, family-wage jobs with good benefits. We also risk our national security.

Mr. Speaker, on the second chart, and I would show it briefly, it has a picture of a mill that is being closed; and much like the Vietnam wall, the names of the casualties are listed down below in black. Those names go on and on, 220 of those that have closed. I have got the closings here in a document that is 25 pages, with 35 mill closures on each page.

There are mills that have been closed in Alabama. Over 300 jobs lost at another plant in Alabama, at Cusa Pines. Here is one where 450 jobs were lost in Mobile, Alabama. Another 500 jobs lost in Mobile, Alabama. Camden, Arkansas, lost 600 jobs to these policies. We go page after page after page, California, Florida. St. Mary's, Georgia, lost 800 jobs in one mill closing. Page after page. Illinois lost many, many jobs to mill closings because of the misguided attempts of environmentalists to block every single tree from being cut. We have Louisiana with mill closings, Massachusetts, Maryland, Maine, and Michigan. State after State, 25 pages, 35 mills per page. When we get to Oregon, we have page after page after page of mill closings in Oregon, 100, 180 jobs.

This information is readily available to those in this body who would want to access it, but the disappointing thing is that our friends do not want reality in the debate about where jobs are lost and why they are lost. They simply are looking for their agenda to be carried out at all cost.

My friend from Illinois adequately characterized it as hypocritical. The job loss, the pain in the States and the rural areas of this country are borne by individuals who have to live with the policies that are implemented in our courts and in our regulations that face our businesses as they try to make a profit in the hostile environment that is created in this country.

Mr. Speaker, I thank the gentleman from Colorado (Mr. BEAUPREZ) for organizing this, and if I have an opportunity, I will have further comments to make. I thank the gentleman.

Mr. BEAUPREZ. Mr. Speaker, I thank my friend. He brings up a number of very clear points.

I think the gentleman from Illinois mentioned 1.7 million, the estimated number of jobs we have lost because of our dependence on foreign energy sources, primarily oil. It is absolutely tragic. And the gentleman from New Mexico highlighted some of the extreme, radical environmental concerns and efforts that have restricted our energy development and energy production in this country.

One would think, Mr. Speaker, that a few wake-up calls would be enough to get Congress' attention. Electricity blackouts. The big blackout in the Northeast. We had rolling blackouts even out in my neighborhood. The skyrocketing prices we are going through right now.

I submit to you, Mr. Speaker, that just as we are concerned about taxes in this Chamber, the information that my colleague from New Mexico just pointed out, those are taxes, too, the most painful kind of taxes. When your job goes away, that is 100 percent tax. When the cost of production goes up, that is a tax as well; and it eliminates jobs. When businesses become less and less and less competitive and finally close their doors, that is a very real tax on the business, on the employees that work there and on the community that depended on it.

How many wake-up calls do we need? Well, our environmentalist friends apparently believe many more, because they still cause us to not have an energy policy in this country. They seem, in fact, to oppose all forms of energy. A few years ago, they were the ones telling us to use more natural gas. Why? Because it is more affordable, and it is abundantly available. But it is those same people who are now telling us no to natural gas. They have caused us to limit production right here in this very country where we have enormous resources.

So it is no to clean-burning natural gas; no to hydroelectric energy; no to clean coal energy; no to new outer continental shelf gas and oil exploration; no to more energy exploration in Alaska; no to more energy exploration in the inner mountain west, my home; no to more electricity transmission lines; no to more power plants; no to more energy pipelines; no to ANWR, and I would like to return to that; no to liquified natural gas ports; no to offshore wind energy farms, even renewables; and no to onshore wind energy farms.

The environmentalists seem to have two policies: one, BANANA, build absolutely nothing anywhere near anything; or NOPE, not on planet Earth. Now that is some energy policy for a Nation, again, Mr. Speaker, that produces 33 percent of the world's economic output. And, yes, we consume 25 percent of the world's energy. That is how we produce that economic output.

I would like to yield some of the remaining time that we have to the gentleman from Illinois once again. Again, he serves on the Committee on Energy and Commerce and should have quite a little bit of insight on this issue.

Mr. SHIMKUS. Again, I thank my colleague, Mr. Speaker. Actually, he has mentioned some of the things that I probably should have mentioned, being a little more parochial. I am so passionate about this because for southern Illinois this bill is the best bill I think we will ever see coming across the pike.

And why would I say that? First of all, if you looked at a geological map of what is called the Illinois coal basin, it in essence is the entire State of Illinois, with the exception of Chicago and the suburbs. It actually bleeds over into Indiana, and it bleeds over into Kentucky. It has as much energy resources there, 250 years of Btu burning capability, as Saudi Arabia has oil. Why will we not have access and use of those energy issues?

Illinois is also a highly nuclearized State. We have 11 operating nuclear facilities in the State of Illinois. As my colleague from Colorado said, nuclear power is, as far as emission-wise, there are no emissions, but of course we have concerns with individuals.

I want the public to understand base load generating, which is the everyday needs for electricity, just to run the lights on average the whole year, and then peak load generating, which is the times where you really need additional electricity, and that is best met with natural gas, where you can turn it on and turn it off. But base load generating is those standard fuels that we have used for many, many years: hydroelectric, coal, and nuclear power. They have to be part of a national energy policy, and in our bill they are, they remain, and that will help us have safety and security in the energy markets for years to come.

Mr. Speaker, I want to thank my colleague for again managing this hour on energy.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman.

I would like, Mr. Speaker, in the time that is remaining, to return to the issue of ANWR.

Now it is estimated that, if we were able to construct the natural gas pipeline that has been proposed from ANWR down to the lower 48 States, not only would we dramatically increase our availability of natural gas to the lower 48 but we would create more than 400,000, 400,000 direct and indirect jobs from that one pipeline alone.

Now let us talk about ANWR just briefly. This is a map that points out the entire State of Alaska on the far side of the chart. For scale, you see in gold the area known as ANWR, the Arctic National Wildlife Reserve; and you see that it is roughly the size of the State of South Carolina. The area we are talking about, and this is the entire Arctic Natural Wildlife Reserve, ANWR, the area we are talking about is not the entire reserve but just the coastal plane. In fact, in the coastal plane, only the little area in red. It may or may not be that location, but that is the 2,000 acres within the bill that is limited for production. Just that one spot.

□ 2030

I am told that if you thought of it in terms of a very large room, it would be like a postage stamp in the corner. I visited this site last August. I wanted to see it for myself. I flew up. I flew to Prudhoe Bay here. I flew over to this village of Kaktovik right here. About 270 Eskimos live there. I visited with the president of this entire Eskimo corporation. Think of it as an Indian tribe, if you will, these few hundred that live in this region; and we talked about this.

This is as flat as flat gets. It is as flat literally as a table top. We asked him, What about drilling? What about exploring and producing in ANWR? What should we do? He says, drill it. I said, Really? He said, Yeah, drill it. One of my colleagues that was there with me said, But what about the caribou? This gentleman had already mentioned that they still hunt the whales and they fish in the frozen sea. They hunt the animals, including the caribou, for survival. What about the caribou? He said, What do you mean? He said, Wouldn't we scare them off? He looked at him and he said, We hunt them and kill them and they come back every year. What part of this don't you get?

It is pretty obvious, Mr. Speaker, that the people that depend on this area, that have the most at stake, in fact, their very lives at stake, their survival, their way of life are saying, drill it. This is the kind of insane environmental policy, people that have nothing to do with this area, have never seen this area, are thousands and thousands of miles from this area, are prohibiting the people that do live there, that do have a vested interest, that care about it the most, from reaping the benefits of it. That is insane environmental and insane energy policy.

Mr. Speaker, we could go on for hours on this subject. It has negatively impacted this Nation long enough, and it is time that it stop.

I yield to the gentleman from New Mexico for a closing minute or two. Unfortunately, we need to bring this hour to an end.

Mr. PEARCE. I thank the gentleman for yielding.

We will do more on this same subject at another time. In the closing minutes, let me talk about the hostility that we find against business in this country. Behre Dolbear publishes an annual survey entitled "Ranking Countries For Mineral Investments." This survey ranks the 25 countries with the largest mining industries and/or the most significant mining industry potential. To establish the annual rankings, the survey considers seven criteria that influence investments by the mining industry in each of those 25 countries. These criteria include economic systems, political systems, social issues, permit issues, corruption, currency stability, and tax regimes. A review of each country relative to each of the above criteria is performed, using the general assumption that a technically viable mining operation is being considered in that country. The countries are then given a ranking from 1 to 10 in each category, with 10 being the most favorable.

Recently in 2004 the USA scored well in economic systems and currency stability, et cetera; but it had a dismal ranking in the category of permit issues. This ranking is based on the time and expense required to get permits, not on stringency of regulations. In 2004, the U.S. had a numerical score of 4. That score puts the U.S. 19th out of 25 countries. The U.S. ranks below Peru, Ghana, Colombia, South Africa, Argentina, Canada, Brazil, Namibia and Bolivia. Only seven countries rank below the U.S.

Keep in mind that this is an improvement, that the Bush administration has made progress because previously under President Clinton, we had a 2 ranking. The U.S. was tied for 24th out of 25 countries with Indonesia. Just why does the U.S. have to have such a low rank in permit issues?

Mr. Speaker, we have covered tonight the many, many reasons that jobs are moving offshore in America while our industries are being decimated, why manufacturing is being sent overseas and our friends, while talking about it, continue to be a part of the problem. I thank the gentleman from Colorado (Mr. BEAUPREZ) and the gentleman from Illinois (Mr. SHIMKUS) for allowing me to participate in this Special Order.

IRAQ WATCH

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 60 minutes.

Mr. DELAHUNT. Mr. Speaker, I anticipate that shortly I will be joined by some colleagues for our customary Tuesday night hour where we discuss the situation in the Middle East with a particular focus on Afghanistan and Iraq. We have described this hour as the so-called Iraq Watch. As we did recently, I think it is an opportune time to explain to those watching us this evening and my colleagues who preceded us that the normal legislative business of the House of Representatives has concluded, and we are now in that period called Special Orders.

That is why we have an empty Chamber. Members are elsewhere, doing their homework and getting prepared for tomorrow's legislative business. Again, in terms of equity and fairness, Republicans are allocated 2 hours and Democrats are allocated 2 hours and we alternate back and forth. As I mentioned earlier, I anticipate that I will be joined relatively soon by the gentleman from Washington (Mr. INSLEE), the gentleman from Ohio (Mr. STRICKLAND), and the gentleman from Hawaii (Mr. ABERCROMBIE) to have our customary conversation.

But I would like to begin this evening's conversation with those that are viewing us and, as they join me, with my colleagues about the issue of credibility, because as I am sure we are all familiar, if our word is not trusted, if we are perceived to be untrustworthy, we encounter serious problems as we go through life. The same is true obviously of a nation, particularly a Nation like ours that claims justifiably a certain moral authority, a Nation that values truth and honesty and a Nation that is hurt when others speak of deception and deceit when it comes to the United States of America.

The reality is, Mr. Speaker, that our motives are being questioned. There was a recent survey done by the Pew Foundation. This was a survey done in seven nations spread across Europe and the Middle East. Majorities in those seven nations believe that our intervention in Iraq was motivated by a desire to control Mideast oil. Let me read to you those nation-states and the percentages that embrace this particular view of the United States of America. Fifty-one percent of the people in Russia accept as gospel that our intervention in Iraq was predicated on a desire to control Mideast oil. Fifty-eight percent of the population of France shared a similar view. Sixty percent of German society echoed those sentiments. In Pakistan, the number was 54 percent. In Turkey, an erstwhile ally, 64 percent, almost two-thirds of the population, believed that the United States launched the attack on Iraq because of our desire to control Mideast oil. In Morocco, that number was 63 percent. In Jordan, that number was 71 percent.

What is particularly disturbing, Mr. Speaker, is unfortunately this cynical view is reinforced by various news accounts that reveal American companies have been doing business with rogue nations. There was a recent CBS "60 Minutes" expose. I think most Americans were unaware that despite the fact that nations like Libya, like Iran, like Iraq were considered rogue nations, Iran particularly, being one of those nations designated by the President as part of the Axis of Evil, that in fact American corporations, or let me restate that, subsidiaries of American corporations could actually do business with those whom we considered our enemy, with those whom we had placed on a list described as being those states sponsoring terrorism.

This issue was really brought to light by the New York City comptroller who in his research discovered that the $80 billion in pension funds for all city workers were invested in corporations such as GE, ConocoPhillips and Halliburton that exploited, if you will, this loophole in the law. Obviously, people from all over the world are fully aware of the fact that the Vice President, RICHARD CHENEY, was the former CEO of Halliburton. So I know it comes as a surprise to them and certainly came, I think, as a shock to Mr. William Thompson, who was the New York City comptroller, that pension funds were invested in Halliburton, and Halliburton had created a subsidiary, a subsidiary in the Cayman Islands that purportedly was doing business with Iran.

As we have recently discovered, of course, Iran is suspected of developing a nuclear weapons program. Clearly, any business that would be done with a rogue nation would benefit that rogue nation. In any event, this particular expose by "60 Minutes" that established that there was an offshore subsidiary of Halliburton in the Cayman Islands was in fact operating during the tenure of the Vice President.

□ 2045

According again to the transcript of the 60 Minutes interview, the subsidiary sells about $40 million a year worth of oil field services to the Iranian government. This does not enhance our credibility, Mr. Speaker. I think it undermines our credibility. And when the 60 Minutes crew went to interview officials from Halliburton, they were denied access.

But again they got on a plane. They went to the Cayman Islands, and what they discovered in the Cayman Islands was an office with a phone and no employees. Subsequently, because of a conversation they had with an individual in the building which housed this so-called subsidiary or independent company, they were told that, no, that mailing gets rerouted to Houston. Subsequently, they learned that in Dubai, which is a city in the United Arab Emirates, that there was the operating arm of the particular embassy. But, again, no answer, no response.

So what we have is a parent company, Halliburton, declining a request by 60 Minutes for an interview but through e-mail communicated it has no intention of leaving Iran or addressing the questions that the interviewer had raised about the independence of its subsidiary.

So we wonder sometimes why we are perceived in a particular way, because, again, our credibility is so vital to our claim of moral authority. I do not have an answer, Mr. Speaker. But I think the American people are owed an answer. I along, with several other Members, my colleagues on the Iraq Watch, have requested to the Attorney General, Mr. Ashcroft, that a special prosecutor be investigating to determine whether there is potential criminal culpability. But it goes to our core value of transparency and honesty and truth.

Much has been stated recently about the testimony of Richard Clarke, and that continues to play out. As we have seen today, the National Security Adviser, Ms. Rice, apparently will testify before the 9/11 Commission. But I think the salient import of Mr. Clarke's position is that Iraq had been the focus of concern since the beginning of the administration, and that seems to be confirmed by the former Secretary of the Treasury Paul O'Neill.

So I went back and reread the book authored by Mr. Suskind in collaboration with the former Secretary of the Treasury and his recount of the first meeting on January 30, 2001, it had to be just several days after the inauguration, and I would like to read to those that are viewing us here this evening just excerpts from that particular book.

I see I am joined by the gentleman from Hawaii (Mr. ABERCROMBIE). It is good to see him here.

But there is a discussion about the Arab-Israeli conflict, and the book reads as follows: "The Arab-Israeli conflict was a mess and the United States would disengage. The combatants would have to work it out on their own." That was the position of those that were present or at least it would appear to be the consensus that was emerging at the time.

"Powell said such a move might be hasty. 'The consequences of that could be dire,' he said, 'especially for the Palestinians.'

"Bush shrugged, 'Maybe that's the best way to get things back in balance.'

"Powell," obviously a reference to Secretary Powell, "seemed startled. 'Sometimes a show of strength by one side can really clarify things,' Bush said. He turned to Rice. 'So, Condi, what are we going to talk about today? What's on the agenda?'

"'How Iraq is destabilizing the region, Mr. President,' Rice said. In what several observers understood was a scripted exchange, she noted that Iraq might be the key to reshaping the entire region."

This is an excerpt from the former Secretary of the Treasury, Mr. O'Neill's, book. That is 5 days after the President was inaugurated.

The next excerpt that I will read from was a meeting of the principals, the Cabinet members on the National Security Council. This was conducted on February 27, 2001. Again, the purpose clearly was the emphasis by the Secretary, the Secretary of Treasury, Mr. O'Neill, that it was all about Iraq. This is in February of 2001. Clearly this would corroborate, I would suggest, the import of Richard Clarke's recent book "Against All Enemies."

But what is interesting in this particular excerpt is a reference to oil, a reference again to oil. We are not talking about terrorism. We are talking about oil, and let me quote this passage.

"Beneath the surface was a battle O'Neill had seen brewing since the National Security Council meeting on January 30. It was Powell and his moderates at the State Department versus hard-liners like Rumsfeld, Cheney, and Wolfowitz, who were already planning the next war in Iraq and the shape of a post-Saddam country." Remember, this is February 27, 2001, months before the tragedy that befell us on September 11.

"Documents were prepared by the Defense Intelligence Agency, Rumsfeld's intelligence arm, mapping Iraq's oil fields and exploration areas and listing companies that might be interested in leveraging the precious asset. One document head 'Foreign Suitors for Iraqi Oil Field Contracts' lists companies from 30 countries, their specialties, bidding histories, and in some cases their particular areas of interest. An attached document maps Iraq with markings for super giant oil fields, other oil fields, and earmarked for production sharing while demarking the largely undeveloped southwest of the country into nine blocks to designate areas for future exploration."

So I guess, Mr. Speaker, I should not be surprised that in seven nations, according to the highly respected Pew Foundation, a survey revealed that substantial majorities in those nations believe that it was the intention of the United States to invade Iraq to control Mid East oil. The excerpt I just read from Secretary O'Neill's book relates his impressions, not mine, not the gentleman from Hawaii's (Mr. ABERCROMBIE), and not the gentleman from Washington (Mr. INSLEE), my colleague who has just arrived. So we are talking about oil here and the interest of oil, and this is the impression that the Secretary of Treasury that served in the Bush administration concluded.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. Mr. Speaker, I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, the gentleman might find it interesting, with regard to the points that he has just been making and the possibility of oil exploration, I believe was the phrase that was used, mapping of fields, potential drilling areas and so on. Well, does the gentleman recall that while we were unable to prevent looting, mass looting not just of the Baghdad museums, the history of the entire Middle East, really the Mesopotamian history there, but unable to stop looting in virtually every area of Baghdad and throughout Iraq, hospitals, schools, businesses, everywhere, was it not interesting the Oil Ministry was guarded? And I wonder how that took place. I wonder what the emphasis was.

Would the gentleman be interested in a story from USA Today of March 29, Monday, as follows: "In 2002, troops from the Fifth Special Forces group who specialize in the Middle East were pulled out of the hunt for Osama bin Laden in Afghanistan to prepare for their next assignment in Iraq. Their replacements were troops with expertise in Spanish cultures. The CIA was stretched badly in its capacity to collect, translate, and analyze information coming from Afghanistan. When the White House raised a new priority, it took specialists away from Afghanistan in an effort to ensure Iraq was covered."

USA Today added, "Those were just two of the trade-offs required because of what the Pentagon and the CIA acknowledged is a shortage of key personnel to fight the war on terrorism," not the engagement in Iraq, the war on terrorism that we hear about all the time. "The question of how much those shifts prevented progress against al Qaeda and the other terrorists is putting the Bush administration on the defensive."

□ 2100

Troops with the capacity to hunt Osama bin Laden in Afghanistan were removed and sent to Iraq. Now I believe the gentleman will observe there is a renewed emphasis on catching and capturing or killing Osama bin Laden, as if this had been put into limbo for some period of time.

I wonder if the gentleman would observe, as I do, that there may be more than a coincidence here with respect to what he has just been sharing with us?

Mr. DELAHUNT. Well, again, all of this goes to the credibility of the United States.

When administration officials, and particularly the Vice President, make statements that in one case was contradicted the next day by the President himself regarding links between Saddam Hussein and al Qaeda, when on a Meet the Press program the Vice President of the United States suggested that there were links and then the next day the President of the United States came out and unequivocally said there is no evidence linking 9/11 and Saddam Hussein, and then subsequent to that, subsequent to that, in January of this year the Vice President again repeats the assertion, the allegation, about linkages, there is a cumulative impact here.

There is a cumulative impact, because, after awhile, people are saying, you are conning us; you are misleading us. Like just recently, the Prime Minister of Poland, an ally in the coalition of the willing that is still in Iraq, said, "We were misled. We were taken for a ride."

Mr. ABERCROMBIE. If the gentleman will yield further, the people from Poland may be having second thoughts after today's activities. I do not know if the gentleman is aware that in Iraq today, those soldiers, part of the contingent from Poland, came under assault from those who, and I almost hesitate to say because it sounds as if I am making an ironic comment, and that is not really my intention, the situation speaks for itself, they were assaulted by those who are complaining that their applications to be police officers were not being properly processed. So, apparently, the people who want to be the police officers are now engaged in gang assaults in Iraq; and in this instance it happens to be against those who have been sent there from Poland. I think this is only a precursor of those things which are to come.

Mr. DELAHUNT. If I can interrupt, I believe that goes to the question of competence; and the issue of post-war planning has been roundly criticized.

Mr. ABERCROMBIE. If the gentleman will yield further, that is precisely the point. In the context which you mentioned of the Vice President, Mr. CHENEY, indicating that we should pay the closest attention and give the highest credibility to the idea that links, and those are the phrases of choice of the Vice President, Mr. CHENEY, links on the most peripheral basis, links on the periphery must be nonetheless taken very, very seriously.

I hope the gentleman agrees that is a fair characterization of what Vice President CHENEY has been doing, that the most elliptical connections must be taken with all seriousness. At the same time, he denies his links and connections to the Halliburton Company, to the oil companies that he has served slavishly throughout his career, have anything to do with the decisions that have been made with respect to Iraq, with the decisions, political decisions, made with respect to invading that nation.

Mr. DELAHUNT. Again, let me go back earlier to the excerpt that I recited from the O'Neill book. On February 27, the administration was a month old. Here we have a meeting of the National Security Council of the United States talking about exploration, mega-giant oil fields, contracts.

I would hope that those that might be viewing this conversation this evening, and I am not here shilling for Mr. Suskind and former Secretary O'Neill, but they should go out and read the book, because we know that Mr. O'Neill was castigated, and we also are fully aware that Mr. Clarke is being attacked and maligned.

But what I suggest is, read these two as companions. It is clear that there is no collaboration going on between Mr. O'Neill and Mr. Clarke. But the salient point is from the day they came into office, this was about Iraq. This was about Iraq.

Mr. INSLEE. If the gentleman will yield on that point, I would like to comment on what you just said, but before I do so, I would like to make a statement of why we are here tonight.

This is months after the Iraq war started, and I just want to state the reason I am here tonight is the people who are fighting this war deserve answers of how this war started based on false information. If it takes us years to get to the bottom of how this was started, why it was started and who started it so that they can be held accountable, we are going to be here until we get those answers.

But you have put your finger on a very, very important point; and that is that the people who this administration are attacking, Mr. O'Neill, Mr. Clarke, Ambassador Wilson, the actuary of the Medicare fund, all of whom are being attacked by this administration, their statements have proven to be true in the last several weeks. One of the great ironies of this is that this administration is attacking civil servants for telling the truth.

Look at Mr. O'Neill. As you indicated, he was attacked because he had the temerity, and this was the Secretary of the Treasury, a high-level person appointed by the President of the United States on a personal basis. Mr. O'Neill said, "In the 23 months I was there, I never saw anything that I would characterize as evidence of weapons of mass destruction. There were allegations and assertions by people." That is from Mr. O'Neill's book.

He said that in January 30, 2001, before September 11, the President instructed at the National Security Council meeting, that the President directed the Secretary of Defense, Donald Rumsfeld, to "examine our military options" with regard to Iraq.

Mr. O'Neill was quite viscerally attacked by the administration for making those statements. But now it turns out in listening to statements by Condoleezza Rice and essentially Donald Rumsfeld and Mr. Clarke, those things were true. From their own lips, of people still in the administration, that statement was true.

Mr. Clarke a week or so ago had the temerity to point out that on the day after September 11 the Secretary of Defense said something to the effect like "let's get ready to bomb Iraq," and it was pointed out to the Secretary of Defense that al Qaeda, who at that point we knew was behind the September 11 attack, that al Qaeda was in Afghanistan, not Iraq. Mr. Rumsfeld responded, "Well, there are not any targets in Afghanistan."

Mr. Clarke originally said, "Well, I thought he must have been kidding." It turned out he was not kidding, and when asked about that on a talk show this weekend, Mr. Rumsfeld, I did not hear him deny it. Incredibly, I did not hear him deny it.

What I heard was Mr. Clarke pointed out that on September 12, when he talked to the President of the United States, the President of the United States took him aside and said, essentially, "I want you to look and scrub to see if you can find any evidence whatsoever that it was Iraq behind this."

Mr. Clarke wondered about that, because he felt the President was essentially pushing to find something that had not been reported to date.

Originally, you know what the administration said? They said Mr. Clarke was not there that day. Well, today we find from Condoleezza Rice not only was he there, but, yes, those conversations apparently took place.

So what we are finding is we are finally getting down, after peeling the layers of the onion, to the truth of what happened in Iraq. And what happened in Iraq is that this administration very early on was bent on taking a course of action involving military action in Iraq.

It is not that they were forced to by this overwhelming intelligence, this mountain of intelligence that led us to the inescapable conclusion that Iraq had these weapons of mass destruction. As early as the day after the attack on September 11 they were looking for some reason to start a war in Iraq. This is something that has been confirmed today by their own statements.

Mr. ABERCROMBIE. If the gentleman will yield on that point, and looking, I might add, for an opportunity to deny that ongoing sanctions would prevent, should those weapons actually exist, their utilization, either against us, certainly, or against neighbors, other than by assertion.

Mr. INSLEE. It is apparent the questions asked by the President were not about the inspection program. The statements were "let's go bomb Iraq, because there are no targets in Afghanistan," or something to that effect.

Mr. DELAHUNT. If I can interrupt, I think we are usually in agreement, but here I have to disagree, because it was not immediately after 9/11. Yes, I believe the President did make that statement, and I presume he will acknowledge he made that statement. It has been acknowledged implicitly by the spokesperson for the White House.

But if you go back and examine the record, this administration, and particularly the Vice President of the United States, for whatever reason, presumably this grand vision of a Middle East rearranged in a manner that purportedly would move democracy forward, believed that Iraq was the linchpin to having that happen, and a conclusion had been reached and they were simply looking for the opportunity to invade Iraq. That was before 9/11.

Mr. ABERCROMBIE. If the gentleman will yield, perhaps he could spell the word democracy for me. I believe it is spelled O-I-L. I believe they are synonymous with the gentleman to whom you are referring.

Mr. DELAHUNT. I have to say this about the Vice President, and, again, those who might be listening to us tonight, if you have access to a computer, go on line. On March 10, the headline reads, page 1 of the New York Times, "CIA chief says he corrected Cheney privately." Even today, it is the Vice President, more than anyone in this administration, who will not let it go.

David Kay said, and, remember, David Kay was the chief arms inspector for the United States, embraced by this administration to go and search for the weapons of mass destruction in Iraq, David Kay said we were all wrong. It is time to give it up.

He indicated in a speech just recently in Cambridge, Massachusetts, I think he used the term "Waiting for a Hail Mary pass, like Vice President Cheney is doing, presents us with grave threats."

That is David Kay speaking. That is not some partisan Democrat. That is not the putative nominee for the Democratic nomination for the President. This is beyond politics.

Mr. INSLEE. If the gentleman will yield further, I think what the gentleman is pointing out is that there were huge falsehoods that are now apparent that were told to the American people, to the U.S. Congress, that were used as a premise to start this war.

I want to talk about just a couple of those and see what the administration has done in response to those.

The President on March 17, 2003, said, "Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised.

□ 2115

"This regime has already used weapons of mass destruction against Iraq's neighbors and against Iraq's people." The second half of that is true, but the first statement is false. Yet, no one in the administration has admitted the falsity of that statement, despite overwhelming intelligence information to this effect. We have people serving, and we have lost over 500 Americans in this war that was started based on a falsehood, and no one in this administration has had the courage and the willingness to straight talk, to say these statements were false that were the basis for this war.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman will yield a moment before he continues on that point. The gentleman cited a part which implied, or not implied but I believe explicitly stated was true with respect to utilization of poison gas on Iraqis, more particularly Kurdish Iraqis. Does the gentleman know, and if he does not, perhaps he would find it of worthy interest to pursue, whether or not that gassing or the reference to it took place before or after the first Bush administration was in Iraq doing business with Saddam Hussein? And, if I am not mistaken, the person representing George Herbert Walker Bush and his administration is the present Secretary of Defense.

Mr. INSLEE. Mr. Speaker, it is clear that our country did not have things to be proud of at the time that the Kurds were gassed. We could talk at length about that.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would further yield on that point, my reference to that is not to disparage anything that the Secretary did in pursuance of policies which he was clearly following with respect to his service in the first Bush administration, but rather to illustrate that it is at best a bit tiresome, if not hypocritical, for the present Bush administration to cite that as if the United States was some innocent standby observer, shocked at the fact that this took place, disturbed that it had taken place, doing anything in the way of diplomatic activity to indicate that we disapproved of it in any way, shape, or form. Quite the contrary. What the United States did is stand by and not try to "complicate" the issue, and I say that with quotation marks around it, by making, from what I am best able to determine, any kind of significant demurer with respect to what Saddam Hussein had done in that instance.

Mr. INSLEE. Mr. Speaker, we should have clearly raised a siren internationally when that was going on, but let us not compound the error by leaving these falsehoods to lie like sort of a stinking mackerel in the moonlight right now without this administration clearing this up and shooting straight with the American people. Because on January 28, 2003, the President of the United States stood right behind the gentleman from Hawaii and addressed the Congress and the American people and said, "The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa." That statement was false, and the administration knew it was false.

He went on to say, "Our intelligence sources tell us that he has attempted to purchase high-strength aluminum tubes suitable for nuclear weapons production." That statement was false.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURGESS). If the gentleman will suspend, the Chair will remind all Members not to engage in personal abuse of the Vice President or the President.

Mr. INSLEE. Mr. Speaker, we appreciate the reminder.

That statement was false, and it was false at the time it was made. The reason I know that is that subsequent information has revealed that our own agencies have reported that they concluded that those aluminum tubes were probably going to be used for some standard rockets, not anything to do with centrifuge tubes; and yet the President of the United States told the American people there is no doubt that Iraq had some of the most lethal weapons devised by man. Now, the fact of the matter is, if this is some innocent thing that occurred, we need the President to address the American people about how this happened.

Now, I am glad that the President has finally allowed Condoleezza Rice to publicly answer some of the questions around what has happened in some of this affair. It is unfortunate that it has taken so long to be drug to the public spotlight; but, nonetheless, we hope this will shed some light on this.

Mr. DELAHUNT. Mr. Speaker, a question that I would like to have answered by the 9/11 Commission. Well, maybe it is not appropriate for the 9/11 Commission; let me retract that. However, I think it is a question that this administration should answer via some mechanism, because we were all here that night when we heard those words regarding the search for highly enriched uranium in the African nation of Niger, which turned out to be totally false, and which had been discredited and discounted by a variety of intelligence agencies throughout the world and particularly, not the CIA, but the DIA and the appropriate agency within the Department of State. They just simply did not accept it.

Yet a week later, on February 5, the Secretary of State made a very powerful presentation at the United Nations; and in that particular presentation, Secretary Powell made no reference, no allusion to that particular situation, to the fact that or at least the assertion that was presented by the President regarding looking for uranium in Africa. I am sure that he did that because, as was reported in a variety of media outlets, he sat down with the CIA, the Director and analysts within the CIA, and discarded that information.

Why was it inserted in the State of the Union, and yet approximately a week later was not part of the Secretary of State's presentation before the United Nations? And did the Secretary of State communicate to the President of the United States, to the Vice President of the United States his basis, his rationale for not including a very serious allegation that was made by the President in the State of the Union address and not included in his presentation at the United Nations before the world? It is incomprehensible.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield, I would contend to him that it is not incomprehensible if the intention all along was to go into Iraq and to go into Iraq at the expense of the war on terror in Afghanistan. We can see what the results are.

I would quote to the gentleman from the Financial Times of Monday, a report which indicated that a United Nations body will warn this week that Afghanistan is in danger of reverting to a "terrorist breeding ground." That is the phrase utilized in the Financial Times story characterizing the United Nations' report, that Afghanistan is in danger of reverting to a terrorist breeding ground with an economy dependent on the illegal drug trade, unless the international community significantly increases development funding for the war-torn country.

Now, we have billions and billions and billions, tens of billions of dollars to be expended in Iraq at the present time with its economy in collapse, except, we are told, for its ability to produce oil. The economy in Afghanistan is now reverting to the pre-Taliban days. If the gentleman will recall, we supported the Taliban to the tune of $40 million because it was involved in eradicating the drug trade. The drug trade has come back with a vengeance. It is now supplying funding in the absence of any international effort being made in Afghanistan and, as a result of the switch in emphasis on terrorism from Afghanistan to Iraq, particularly in the wake of what I contended to the gentleman at the beginning of my statement that it was deliberate. It is not incomprehensible if it is a deliberate policy of the administration to find a methodology of presentation to the country sufficient to raise the fear factor to a level that would allow this invasion to take place. That was the purpose and the intent all along, and the result that the administration has to be held to account for is that Afghanistan now is reverting to a status in which it could be called a terrorist breeding ground in a United Nations report.

Mr. DELAHUNT. Mr. Speaker, is my friend aware of the fact that the President of Afghanistan recently was compelled to delay the elections that were scheduled in June to September?

Mr. ABERCROMBIE. Hopefully, September.

Mr. DELAHUNT. Hopefully, September.

Mr. ABERCROMBIE. Yes.

Mr. DELAHUNT. And I dare say that that election date is very much at risk, as the gentleman suggests that Afghanistan, as a viable nation-state embracing democracy, is very much at risk, because we have ignored Afghanistan since we achieved a stunning military success, but then diverted our efforts and our resources and our attention to Iraq where there was only one terrorist, and that was Saddam Hussein, who terrorized his own people. But the terrorists in Afghanistan were the terrorists that were training, that were appearing again to attack America. And today, we are still searching for them.

Mr. INSLEE. Mr. Speaker, if the gentleman will yield for a moment, I just want to sort of reiterate basically what the gentleman is saying. I keep hearing more and more evidence that with the President taking our eye off the ball of al Qaeda, it has damaged our ability to bring them to the ground; and it has done that in multiple ways.

We had a hearing the other day in the Committee on Financial Services about our ability to track down and cut off the funds of al Qaeda coming out of Saudi Arabia, because that is where the money came, largely, from al Qaeda. It turns out the administration has had a lot of the forces that could have been used to cut off the money going to al Qaeda, the people who killed 3,000 Americans, to chase Saddam's funds all around the world. Now, it would be nice to get ahold of Saddam Hussein's funds. That is fine. I am sure he abused and did the Iraqi people tremendously, not only personally, but fiscally. But the guy who killed over 3,000 Americans is at large; and his network of raising money is still intact, because this President took our eye off the ball and cut off some of the resources we had to cut those resources off from al Qaeda.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield on that point, I would contend and do contend that the biggest supporter of the invasion in Iraq was Osama bin Laden. It does not take a cracker-jack specialist in strategy to understand that when your enemy, i.e., the United States of America, is addressing all of its attention, its military prowess, and its funding in a direction opposite from where you are, that that is, in fact, very good for you.

Mr. DELAHUNT. Mr. Speaker, I think it is really important to the people who are watching this to understand this: that historically, Saddam Hussein and Osama bin Laden were bitter enemies. In fact, in the mid-1980s, there was a group akin to al Qaeda in terms of its world view, fundamentalist Islamist, a perverted form of that holy religion, that great religion, that attempted to assassinate Tarik Aziz. Saddam Hussein, the tyrant and the thug that he was, just eradicated him. So historically, we should have known that those that attacked us were the same people that as recently as this month, as recently as this month killed hundreds of people in Madrid, Spain; and we need the help of the entire world. That is why I go back to this issue of credibility: Who is going to believe us?

I know that there are some that will strut and swagger and be tough and say, we can do it alone. Well, I do not want to do it just with American men and women.

□ 2130

This will only be successful, this war on terror, if we do it working with others and we have to have their trust. We have to have their confidence. We will never accept appeasement, but we have got to be honest

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman will yield on that point, I will point out in turn that come June 30 you are going to see what it is like to be alone. We are going to be cut loose in less than 100 days in Iraq, not just in Baghdad, but in Iraq; and our Armed Forces there will be adrift. There will be no one to report to.

We have no status of forces agreement with anyone that can be enforced. We have no idea with whom we would enforce such an agreement. All our armed services, all our Armed Forces in Iraq after June 30 will be left to fend for themselves and make decisions on the spot as to what they will do and how they will operate and who they are working for and with. There will be no operative government whatsoever, and this is being done entirely for political reasons because of the utter failure of this operation.

The gentleman will recall that I indicated back at the time of this invasion that this would not be a war, that this would be a lightning attack on Baghdad, and then the war would start. I trust the gentlemen, both of them, will recall me saying that; and I think it was quite clear to those of us serving on the Committee on Armed Services that was going to be the result, and even then we indicated as a result of the testimony of people like General Shinseki and others, upon whom we have relied to good effect in the past, that unless we were properly prepared with the logistics, even that lightning attack would suffer casualties and set us in circumstance less than what we could be in terms of the military might of this country.

That is precisely what happened. That lightning attack was accompanied by consequences in terms of supply and logistics which harmed us and harmed those who served in that attack, and then the war began, and we are suffering from that kind of war right now, as we speak tonight; and on June 30, I can assure you that the level of combat in terms of what the United States is going to suffer is scarcely beyond imagination

Mr. DELAHUNT. Mr. Speaker, in retrospect General Shinseki, who was treated in an extremely dismissive manner, his advice should have been heeded and, maybe just maybe, today we would be looking at a totally different situation in Iraq than what we are currently embracing.

I am sure you are aware that the leader, the dominant leader of the Shiites in Iraq, Ayatollah Al'sistani, is already circulating information, pamphlets, decrying the Constitution. I mean, it has been reported that CIA analysts are concerned about a civil war in Iraq

Mr. INSLEE. Mr. Speaker, if the gentleman would yield, we have got people there tonight who are sitting ducks for this terrible situation in Iraq, and there are two things really galling to me about this.

Number one, I have heard some people in these Chambers sort of suggest, well, we only lost a couple today; we only lost 10 this week; we only lost 100 this last couple of months; it is not like Vietnam. Well, I have got to say when I went to a family 2 weeks ago to spend the Sunday with them when their father and husband of two young kids is never coming home again, it is just like no other war; and these numbers, this is not a numbers game.

These people who are serving tonight deserve something. They deserve their government to be accountable to them, to be responsible to them as to why this war started based on false information given to the American people, and we are now learning that there was lots of false information given to them. They are entitled to that. The American people are entitled to that, and we are intending to get that one way or another.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman will yield on that point, all this is true, and I think we have to reiterate it, but that is retrospective. Prospectively, I think we have to look at June 30, and I hope, Mr. Speaker, that when we have the opportunity next to come before you, Mr. Speaker, that we will be able to address that question.

PREDICAMENT WE ARE FACING WITH SOCIAL SECURITY AND MEDICARE

The SPEAKER pro tempore (Mr. BURGESS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Michigan. Mr. Speaker, last week the actuaries of the Social Security Administration and the Medicare came up with their estimates of the predicament that we are facing in those two programs in terms of having less revenue, less money coming in than is needed to pay for promised benefits. The news was not good.

I wanted to start with this pie chart to give everyone an impression of how we spend Federal Government money; and as you see by the title of the chart, Social Security is the largest budget expenditure. This is the Social Security piece of pie, if you will, at 21 percent of all of the money spent by the Federal Government. That compares to 20 percent for defense, and defense, 2 years, 1, 2, 3 years ago was a little over 18 percent. So, even though, defense has grown, Social Security is growing even faster.

We have Medicare at 12 percent, but that is the fastest growing program; and within 30 years, Medicare will overtake Social Security as the top Federal budget spending program.

Other entitlements, 10 percent; domestic discretionary, 16 percent; and here is a problem area over here, interest on the debt, 14 percent. The reason that is a problem is because we are amassing a dramatic increase in debt.

Last month, we celebrated Abraham Lincoln's 195th birthday. In his famous Gettysburg Address, he sort of noted whether a country of the people, by the people, and for the people could long endure. The Civil War, of course, was sort of a testing ground, whether that Nation or any Nation so conceived and so dedicated could last.

The actuaries in their report last month estimated that the total unfunded liability, the amount of promises or the cost of those promises over and above revenues coming in from the FICA tax, from the payroll tax, was going to be $73.5 trillion. To put that in a little bit of perspective, the budget that we are looking at for this current year is about $2.28 trillion, and for next year the budget we are working on is about $2.4 trillion. The unfunded liability, how we are going to have to somehow cut benefits or increase borrowing or increase taxes is $73 trillion or over $73 trillion; and breaking these down, we see Medicare part A estimated at $21.8 trillion; Medicare part B at $23.2 trillion; Medicare part D, the new prescription drug program, at $16.6 trillion.

So passing the Medicare drug bill increased the unfunded liability by $16.6 trillion, and Social Security with the trust funds comes to almost $12 trillion. It is more than a quarter million dollars of the unfunded liability for every American. Every baby that is born tomorrow, every child and woman and man in this country, their share of this unfunded liability that they are going to have to deal with the extra interest on the debt and paying back that debt is over a quarter of a million dollars.

This chart that Tom Saving came up with, an actuary in both Medicare and Social Security, indicated how much of the general fund revenue is going to have to be used up to pay for promised benefits in Social Security and Medicare; and we see that within 16 years, by 2020, it is going to take 28.6 percent of our current general fund budget to pay for the promises we have made in Social Security and Medicare. By 2030, it is going to take 52.7 percent of the general fund to pay for these programs.

The reason that I am making this presentation tonight, Mr. Speaker, is to call to my colleagues' attention, call to everyone's attention the very serious situation of the promises that have been made over and above the money that is coming in for those programs and how it is going to impact other programs that government now provides.

We talked about the Civil War with Abraham Lincoln. The earlier group talked about the Iraq War; but today, we face a threat to the country that may well be more serious than any war we have had. It is not in a dramatic clash of arms, but in neglect of the Nation's finances, especially our long-term finances.

Voters vote for benefits, and politicians promise them, without knowing where the money is coming from. They do not know how to pay for it.

Just 3 months ago, Congress voted for a prescription drug benefit that adds $16.6 trillion of the program's unfunded liability. That is more than twice our Nation's entire national debt, without knowing where the money is coming from; but when I say without knowing where the money is coming from, actually it means that our kids and our grandkids, that somehow some of these programs justify borrowing from the money that our kids and grandkids have not even earned yet. So to continue promising programs because it seems to be politically favorable to individuals in their reelection is unconscionable in terms of the burden that it is putting on our kids and grandkids.

From the founding of this country, Mr. Speaker, it took until 1975 to amass the first $500 billion worth of debt. Unfortunately, we are now adding more new debt to our books every year than it took in the first nearly 200 years of this country to amass because we are going over $500 billion every year.

The deficit for fiscal year 2003 was $536 billion. It is expected to be $631 billion this year and another $534 billion next year. We have never run a deficit this high, and we need to take decisive action in this budget to address our overspending; and though this budget is, for lack of a better word, more frugal than maybe any budget that we have passed since 1996, it still increases total spending of the government almost twice the rate of inflation, and it does not deal with unfunded liabilities. It does not deal with changes to Social Security, with changes to the Medicare program or the Medicaid program that are going to allow these programs to survive without threatening future generations with huge tax increases.

This is sort of a quick snapshot of the problems of Social Security, a short-term surplus. In 1983 under the Greenspan Commission, they raised the taxes so high that there was more money coming in than was needed; and so that money, maybe the word is "theoretically," was put into a trust fund, but there is nothing there except IOUs because government spent every cent of that money for other government programs. So in the short run, we had extra money coming in, all spent; and now in 2018 we are looking at there being less revenues coming in from even that high tax increase than is needed to pay promised benefits.

□ 2145

So a very bleak future in terms of future deficits.

When I have given speeches on Social Security, a lot question, how does Social Security work? So, very briefly, let me go through some of the provisions of how the Social Security program works.

Benefits, first of all, are highly progressive. That means that if you are a low-income earner, when you retire you can receive up to 90 percent of your average monthly check that you had for the 35 eligible years that you gained your Social Security credits. If you are a very high-income earner, then you come closer to getting back only maybe 15 percent of your average monthly check that you were earning when you were paying in your social security taxes.

At retirement, all of a worker's wages, up to the tax ceiling, are indexed to the present value. We are using wage inflation. The best 35 years of earnings are averaged out. So if you only worked 30 years, you got 5 years that is zero, and that is averaged in and averaged out as zero years. The average benefit for those retiring in 2004 equals 90 percent of earnings up to the first $7,344. This is the progressive part. Ninety percent for that low income. Thirty-two percent of earnings between $7,300 and 44,268, and then 15 percent of earnings above the 44,268. Early retirees receive adjusted benefits.

SSI. A lot of complaints about SSI, about the abuse of the Supplemental Security Income program and how that is hurting Social Security. Actually, SSI does not come out of the Social Security Trust Fund. It comes out of income taxes that go into the general fund.

Joining with colleagues who share my concern about government overspending, I think we are coming to a good start this year in making a difference on how we hold spending in line.

It is interesting that Franklin Delano Roosevelt, when he started Social Security in 1934, actually was suggesting that the savings be in private accounts but it be mandated savings based on earnings and that you could not use that savings until your age of retirement. But that changed. Looking at the archives over here, it is interesting, the debate that went on in the House and the Senate in those years.

The House passed legislation that said government should run the whole program. Government should take the money and invest it and save it and then give fixed benefits to retirees when they retire.

The Senate passed the bill saying these should be individually owned accounts, where individuals could invest in limited investments, but of course forced to save and forced to invest with that money and not being allowed to be taken out until they retire.

When they went into conference, the House won that debate; and we ended up with a program where government takes all the money in and spends any extra money that is coming in and then promises that benefits will be paid. Several times over the history of the program since 1935 we have ended up with less money than we have needed, and what has happened is this Chamber and the Senate Chamber across the way, and the President, have simply said, every time money was short, that we are going to cut benefits or raise taxes or do both. And that is what has happened over the years.

The system is stretched to its limit in Social Security. There are 78 million baby boomers that will begin retiring in 2008. Social Security spending exceeds revenues in 2017 and Social Security trust funds go broke in 2037, although the crisis could arrive much sooner. The reason the crisis is coming much sooner is because, even though the government has IOUs to pay back the money it has borrowed, government does not know where the money is coming from. So the danger when we come to the point of 2017, when there is less money coming in than going out, whether it is 2017 or 2018, is how does government come up with that money to pay promised benefits? Well, they either cut benefits or increase taxes or increase borrowing.

Social Security trust funds go broke technically in 2037, but that is if government pays back everything it has borrowed. Insolvency is certain. We know how many people there are and when they will retire. We know that people will live longer in retirement, and we know how much they will pay in and how much they will take out. We know that payroll taxes will not cover the benefits starting in 2017, and the shortfalls will add up to $120 trillion between 2017 and 2075. So that is $120 trillion in tomorrow's dollars. That translates into $12 trillion that would have to be put in a savings account today, earning whatever the CPI inflation is, to accommodate the $120 trillion that is needed in future years.

The coming Social Security crisis, our pay-as-you-go retirement system, will not meet the challenge of demographic change. Here is the problem, Mr. Speaker. The problem with Social Security, the problem with Medicare is the problem we would have with any program that is based on a pay-as-you-go system, where existing workers pay in their taxes which are then immediately sent out in benefits for existing retirees.

The problem is that way back in 1940 we had 32 workers for each one retiree. By the year 2000, we got down to three workers for each retiree. And by 2025, the estimate is that there will be two workers for every retiree. So it is understandable that if those retirees are going to receive the same level of benefits, then each worker is going to have to pay in more tax revenue; and that is what we have been doing, is continually increasing the FICA taxes on existing workers over the years.

So, two problems: Well, problems, I have to be careful of that word. Two situations that have brought about the demographic changes: One is the situation where people are living longer. The other is the birth rate is going down. Now, remember the chart where we go from the green to the red? That is because of the fact that the big birthrate increase after World War II, the so-called baby boomers, are going to start retiring in the next few years.

Some have suggested, well, if we can just get the economy going, that will help; and there is no question that the economy helps in the short run. It helps in the short run because, as wages go up and more people are working, then there is more FICA tax coming in, more Social Security tax coming in. But it does not help in the long run because there is a direct relationship to wages while you are paying in and eventually the benefits that you are going to be taking out. So when the economy grows, workers pay more in taxes, but it also will earn more in benefits when that individual retires. Growth makes the numbers look better now but leaves a larger hole to fill later.

The administration has used, I think, sometimes, these shortcut figures to say that the desperation date of when we are going to run out of money is increasing, and that certainly happens with a strong economy.

Now, Social Security trust funds versus the Social Security's shortfall. A lot of people suggest that if government would just keep their hands off that surplus money coming in, that Social Security Trust Fund, everything would be okay.

I wanted this chart to show the relative difference between what is in the trust funds, the IOUs that are now down in Virginia, and where we have borrowed $1.4 trillion from Social Security over the years. But the shortfall, as you remember, is $12 trillion. So even if we pay all this money back, and we will, somehow. We will pay it back with extra borrowed money or we will increase taxes on the workers in those years when we make the change. The money will be paid back, but it is going to be very difficult as we continually depend on tax increases to solve the Social Security problem.

Let me tell you why I am saying that. The situation is real in countries like France and Germany and Japan, where the senior population is a larger percent of the working population than it is in this country. The payroll taxes in France, for example, now are at about 50 percent. So an individual goes to work and works and earns so much money and half of that money is taken out for their taxes to cover the seniors in that country. In this country, we are up to 15.2 percent for our FICA tax. France is at 50 percent. Guess what Germany is? Germany has just passed a 40 percent payroll tax to cover the benefits for their senior population, and Japan is overwhelmed with the problems of their senior population as they try to tax workers.

You can understand that if you have that high of a tax, that businesses, that industry, that companies have to pay out, it comes from two places. They have to increase the price of their product or they decrease the salary and wages they are paying to their workers; and that makes them, that makes that country much less competitive. So you can sort of understand, simply by looking at the payroll taxes in France, some of their problems that they are now having with what I understand is 10 percent unemployment and some of the problems they are having with trying to compete with the United States and other countries.

The biggest risk for Social Security is doing nothing at all. Social Security has a total unfunded liability of over $12 trillion. The Social Security trust funds contain nothing but IOUs. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent or we will continue increasing the debt of this country and the borrowing, which means that there is going to be a mounting interest rate.

When we look at the interest rate expense for this country, that is based probably on one of the lowest interest rates that we have had in a long time. So if interest rates go back up to normal, that can eat up twice the amount of the total spending budget that we now have simply because of the propensity of Members of Congress to spend more, to make more promises without knowing how those promised benefits are going to be paid for.

This is the diminishing returns on Social Security, and the reason that I made this chart is to demonstrate that Social Security is not a good investment. The real return of Social Security is less than 2 percent for most workers and shows a negative return for some, compared to over 7 percent for the general market. So if you happen to be a minority, which means on average you die before you reach the 65-year-old retirement for maximum benefits, so the average return on the investment for minority workers is a negative figure. If you are average, then you average just under a 2 percent return.

But compare this with the Wilshire 5000 Index, where that index, in equities, has earned 11.86 percent, and that is after inflation, over the decade ending January 31, 2004. That is even through the slumping years of 2001 and 2002 and somewhat in 2003.

□ 2200

This is how long you are going to have to live after you retire if you are going to break even on what you and your employer have paid in to Social Security. The people who retired in 1940 at the beginning of the program, it was pretty good. They only had to live 2 months after retirement. By 1995, you had to live 16 years after retirement to get your Social Security checks coming in to break even. By 2005, now you have to live 23 years after. By 2015, you are going to have to live 26 years to break even on what you and your employer have paid in to Social Security. This is what we have done to American workers. There are 78 percent of American workers that pay more in the FICA tax, the Social Security tax, than they pay in the income tax. So in terms of tax breaks for working Americans, we should be looking at possibly lowering their FICA tax, because that is where they are spending the money.

Let me go into my proposals for changing Social Security. I chaired the bipartisan Social Security task force. After about a year, every member of that task force agreed that we had to do something very quickly to save Social Security. The tendency of Congress is you wait until the disaster hits and then you make changes. But the longer we wait to solve Social Security, the longer we wait to solve the Medicare and Medicaid problem the more drastic those solutions are going to be. The six principles that I think are reasonable are protect current and future beneficiaries; allow freedom of choice; preserve the safety net, in other words, leave some of that trust fund money available; make Americans better off, not worse off; create a fully funded system; and no tax increases.

I have introduced legislation. This is my 12th year in Congress. I have introduced Social Security legislation ever since I first came to Congress. Actually, I wrote my first bill when I was chairman of the Michigan Senate finance committee, because it was obvious, even in the late eighties and early nineties, that Social Security was heading for a cliff of very serious financial problems of solvency. The people choosing to participate in the voluntary account program would continue to receive benefits directly from the government. This is my bill that I introduced a few months ago. Those benefits would be offset based on the amount of money deposited into their account and not on the amount of money earned in the account. This means that workers could expect to earn more from their accounts than was the offset for the Social Security benefits that would be reduced.

It is interesting to observe some of the municipalities that have elected to have their own personal retirement savings plans rather than have Social Security. When we passed the Social Security bill and started it in 1935, the option for State government and local government was to allow them to opt out of Social Security. Some of those counties now in the United States that opted out of Social Security are having retirees with benefits as high as 40 and 50 and $60,000 a year because of personal investments as opposed to the general Social Security program that has ended up with a 1.7 percent return on Social Security.

I think it is important to mention that part of Social Security is the disability program. The disability insurance program is not touched by anyone that has suggested any changes in Social Security, so the insurance part of that program continues to be a government insurance program to protect eligible workers and make payments if they are injured on the job.

The worker accounts, the question is, can we do better? Is there some way to earn more than the 1.7 percent that we are now earning on Social Security dollars coming in? All worker accounts would be owned by the worker and invested through pools supervised by the government. In other words, they would be limited to index stocks, index bonds, index cap funds, and investments otherwise determined by the Secretary of the Treasury to be safe investments. So the investments are limited, just like anybody that works for government now. Our Federal payroll deductions go into a Thrift Savings Plan with individual employees and members able to choose how much of the money goes into each plan, but there is a limited choice on the number of plans that you are eligible to invest in. Regulations would be instituted to prevent people from taking undue risks. And until the account balance reaches $2,500, a worker would be limited to choosing one of three funds, an 80 percent bond/20 percent stock fund or a 60/40 fund or a 40/60 fund. And after the balance reaches $2,500, workers would have access to additional safe funds as determined by the Secretary of the Treasury.

The legislation that we introduced, and this was bipartisan legislation with Republicans and Democrats that signed on to my bill, the bill would increase contribution limits for IRAs and 401(k)s and pension plans. I put this in the bill because I think it is important that we increase the savings of the United States. The savings of the United States is one of the lowest savings rates in the world. And so how do we get back to the days where the United States had one of the highest savings rates in the world? I think allowing some tax advantages to encourage savings is part of the motivation that can bring us back to a reasonable savings.

The legislation I introduced would create a 33 percent tax credit for the purchase of long-term care insurance up to $1,000, $2,000 for a couple. It would create a tax credit to make it easier for low-income seniors to live at home or with family rather than going to retirement care. And low-income seniors would be eligible for the $1,000 for expenses related to living in their own home. Households caring for dependent parents would also be eligible for a $1,000 credit for expenses.

I call this fairness for women. I suppose if I was politically correct, I would call it fairness to spouses. But generally women have been shortchanged in the Social Security program. These are the changes that are incorporated in my legislation. For married couples, account contributions would be pooled and then divided equally between husband and wife. In other words, if one spouse was making $80,000 a year and the other spouse was making $20,000 a year, they would be added together; and the eligibility at $50,000 for each spouse and the percentage allowed to go into their private investment account would be based on adding the two incomes together and dividing by two. So both husband and wife would have exactly the same amount every year in their personally owned savings account.

The legislation would increase surviving spouse benefits to 110 percent of the higher earning spouse's benefit. Somehow we need to have programs that encourage seniors to stay in their own homes rather than nursing home care that can cost 40, 50, $60,000 a year. This is one of the areas that instead of the current law that says you could have 100 percent of that higher benefit, this legislation would increase it to 110 percent of the higher benefit. The stay-at-home mothers with kids under 5 would receive retirement credit. So for those limited years that they have children under 5 years old, they would be credited for the 35 years that is being used to determine benefits. For those years that they are at home with these young kids, they would be credited with the average earnings for those higher income years.

The Retirement Security Act has been scored by the Social Security actuaries to restore long-term solvency to Social Security. There would be no increases in the retirement age, changes in benefits for seniors or near seniors, or changes in the Social Security COLA. Solvency would be achieved by recouping a portion of the higher returns from worker accounts and slowing the increase in benefits for the highest earning retirees.

So what we do to help come up with the money to keep this program solvent is we reduce the increase in benefits for higher-income retirees, and secondly we allow a personal investment that can earn more money, but that individual worker still can have a retirement benefit that even though they are working in modest income, they can retire at very much higher incomes. The bill would also call for a loan of $900 billion from the general fund to Social Security to ease in the transition as we go into some of these private accounts. That loan is paid back over the years.

When I introduced my first bill in 1994 and 1996, it was not necessary to borrow that money because the surplus coming in in those early years was so much greater. Now the surplus coming in from Social Security is declining; and, of course, as we noted on the one chart, it is going to run out.

The program, the trust fund continues. The Retirement Security Act would allow workers to create on a voluntary basis accounts funded from their payroll taxes. It would be in their name; so if they die before the age of 65, they own the money. The money would go to their heirs and their kids. The accounts would start at 2.5 percent of income and would reach 8 percent of income by 2075. Workers would own the money in their accounts. It is their money. Investments would be limited and widely diversified and investment providers would be subject to government oversight. The government would supplement the accounts of low-income workers making less than $35,000 a year to ensure that the lower income workers build up the kind of equity that is going to allow them to retire with much higher incomes.

The kind of spending that we have had in Congress means higher taxes are coming, maybe not in the next year or two, but eventually. The same Congress that could not bring itself to add a few real reforms to Medicare in a gigantic benefit expansion bill is not likely to cut benefits to the degree necessary to head off financial crisis. I take some comfort in what is happening this year from a new willingness among many Members of the Republican Conference to tighten our line on spending. And though some Members express concerns that maybe you should not have cuts in an election year, the overwhelming majority of Republicans agree that we have got to cut down on spending, we have got to have some kind of PAYGO rules that put some teeth, if you will, into assuring that we are going to limit spending. Joining with colleagues who share my concern with government overspending, we are going to reimpose those caps that we had in the 1980s and through the surplus period of the late 1990s.

Another aspect of the solution is improving the honesty of government accounting. I would like to mention, Mr. Speaker, a bill that I am introducing to require the CBO, the Congressional Budget Office, and OMB to include unfunded liabilities, the $73.5 trillion that we mentioned, in their budget projections. So it is legislation that is going to make us more aware of the fact that we are making more promises than we can afford.

To put $73.5 trillion in perspective, it amounts to 7 years of the gross domestic product of the United States, more than 30 times the President's proposed budget for this year; and it means that with 290 million Americans divided into that $73.5 trillion, every man, woman and child has a responsibility for more than $250,000. Some people have said that we should not worry so much about unfunded liability because it can be wiped out by reforms. I think that is the challenge. Are we going to do reforms this election year? Or are we going to put off those reforms until maybe after the election and try to do them next year?

□ 2215

Congress and the President I think can redeem their record on spending to a large degree if they push hard for Social Security reform after this election. But it remains to be seen whether we will take on that fight, and it will be a fight because steeply progressive taxes and big government have been combined to form a powerful electoral bloc.

Here again that bloc is 50 percent of earners in this country pay less than 1 percent of the income tax; and, as with health care, somehow everybody has got to participate in the taxes that run this government if they are going to look at their demands for increased government and know somehow that it affects their particular pocketbook. The same is true with Medicare and Medicaid. Somehow the reasonableness of those that are frugal in demanding additional health care need to have some kind of reward and those that are wasteful need to have some kind of scolding.

The old system, of course, before Medicare and Medicaid was that one worked hard and they earned money and they wanted to save that money, so they were very careful how they spent that money for health care and they asked the doctor, look, how much is this going to cost and why are you charging me this much on the bill? But when there are third-party payers, when government is paying the full bill, it is easy not to be as conscientious in demanding accountability from health care providers.

Empires decline when they fail to act on fundamental problems; and I wonder at times, Mr. Speaker, if we are not too distracted by endless scandals and horse-race politics of our media culture to grapple with what is best for our country. Too often, politics get reduced entirely to who benefits and who pays, but there have been times when I have been both surprised and inspired by the American people, by the people in this Chamber and the Senate and the White House who say we have got to come to grips with real problems that are facing this country. Despite the fact that it would sometimes seem easy to say, well, let us tax the rich and spend more money for the less rich and divide the wealth, I think it is important to remember that this country was built on a foundation and a motivation where those individuals that worked hard and saved, that tried and invested and that were careful with their spending ended up better off than those that did not.

So as we come with legislation that sometimes on the surface seems attractive to divide the wealth, I think we have got to be very careful; and this gives me help and hope.

As Lincoln concluded at Gettysburg "that this Nation under God shall have a new birth of freedom and that government of the people, by the people, and for the people shall not perish from the earth," I think he was right because we are going to come to grips with these problems.

It is just important that the American people this year remind their elected representatives. In fact, I say to the American people when they go to debates to ask those individuals running for President, those individuals running for the U.S. Senate, those individuals running for the U.S. House of Representatives, "What bill have you sponsored or signed on to to save Social Security and to save Medicare?" Do not let them give a lot of fast talk, but ask exactly what are they going to do to deal with this huge unfunded liability that this country is facing, where promises have far exceeded our ability to pay for them.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CULBERSON (at the request of Mr. DELAY) for today until 5:00 p.m. on account of medical reasons.

Mr. HULSHOF (at the request of Mr. DELAY) for today and March 31 on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMANUEL) to revise and extend their remarks and include extraneous material):

Mr. EMANUEL, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. HENSARLING) to revise and extend their remarks and include extraneous material):

Mrs. JOHNSON of Connecticut, for 5 minutes, March 31.

Ms. ROS-LEHTINEN, for 5 minutes, March 31 and April 1.

Mr. HENSARLING, for 5 minutes, today.

Mr. PORTMAN, for 5 minutes, March 31 and April 1.

Mr. FLAKE, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

ADJOURNMENT

Mr. SMITH of Michigan. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 31, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7328. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services (Transmittal No. 04–04), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

7329. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of a determination and certification on a chemical weapons proliferation sanctions matter; to the Committee on International Relations.

7330. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Cirsium Ioncholepis (La Graciosa thistle) (RIN: 1018–AD88) received March 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7331. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 031126297–3297–01; I.D. 021204A] received 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7332. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 meters) Length Overall and Using Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031126295–3295–01; I.D. 021204B] received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7333. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Zone Off Alaska; Provisions of the American Fisheries Act [Docket No. 030819206–4051–02; I.D. 020204A] (RIN: 0648–AR42) received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7334. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No. 031126297–3297–01; I.D. 022304C] received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7335. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fishery; Guideline Harvest Levels for the Guided Recreational Halibut Fishery [Docket No. 011206293–3182–02; I.D. 020504A] received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7336. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 031126297–3297–01; I.D. 020204B] received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7337. A letter from the President and Chief Executive Officer, Little League Baseball, transmitting the Annual Report of Little League Baseball, Incorporated for the fiscal year ending September 30, 2003, pursuant to 36 U.S.C. 1084(b); to the Committee on the Judiciary.

7338. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–401 and –402 Airplanes [Docket No. 2004–NM–11–AD; Amendment 39–13508; AD 2004–05–13] (RIN: 2120–AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7339. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2004–NM–20–AD; Amendment 39–13507; AD 2004–05–12] (RIN: 2120–AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7340. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes [Docket No. 2002–NM–334–AD; Amendment 39–13509; AD 2004–05–14] (RIN: 2120–AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7341. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. 2001–NM–148–AD; Amendment 39–13506; AD 2004–05–11] (RIN: 2120–AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7342. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes [Docket No. 2002–NM–178–AD; Amendment 39–13512; AD 2004–05–17] (RIN: 2120–AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7343. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model

DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2003-NM-258-AD; Amendment 39-13516; AD 2004-05-21] (RIN: 2120-AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7344. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell DOuglas Model DC-10-10, DC-101-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, MD-10-30F, MD-11, and MD-11F Airplanes [Docket No. 2001-NM-362-AD; Amendment 39-13515; AD 2004-05-20] (RIN: 2120-AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7345. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc Trent 700 Series Turbofan Engines [Docket No. 2003-NE-55-AD; Amendment 39-13526; AD 2004-05-31] (RIN: 2120-AA64) received March 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7346. A letter from the Acting Administrator, Department of Health and Human Services, transmitting a request to consider publication of the proposed rule on the Inpatient Prospective Payment System (PPS) dated May 4, 2001 as the report to Congress required by section 533(a)(1) of the Benefits Improvement and Protection Act (BIPA) of 2000; to the Committee on Ways and Means.

7347. A letter from the Comptroller, Department of Defense, transmitting notification of an intent to transfer funds from the Defense Working Capital Funds to the Operation and Maintenance Appropriations, pursuant to Public Law 108-87, section 8006; jointly to the Committees on Armed Services and Appropriations.

7348. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting amended Fiscal Procedures Agreement and revised Article X of the Federal Programs and Services Agreement, as negotiated with the Federated States of Micronesia (FSM) so as to conform with sections 104(j) and 105(f) and (i) of the Compact of Free Association Amendments Act of 2003 (Pub. L. 108-188); jointly to the Committees on International Relations and Resources.

7349. A letter from the General Counsel, Department of Defense, transmitting the Department's legislative initiatives for inclusion in the National Defense Authorization Act for FY 2005; jointly to the Committees on Armed Services, Energy and Commerce, Transportation and Infrastructure, Education and the Workforce, House Administration, Ways and Means, Veterans' Affairs, the Judiciary, Government Reform, Small Business, International Relations, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee on Energy and Commerce. H.R. 3658. A bill to amend the Public Health Service Act to strengthen education, prevention, and treatment programs relating to stroke, and for other purposes; with an amendment (Rept. 108-453). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 585. Resolution providing for the consideration of the resolution (H. Res. 581) expressing the sense of the House of Representatives regarding rates of compensation for civilian employees and members of the uniformed services of the United States (Rept. 108-454). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MICA (for himself, Mr. DeFazio, and Mr. Israel):

H.R. 4056. A bill to encourage the establishment of both long-term and short-term programs to address the threat of man-portable air defense systems (MANPADS) to commercial aviation; to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RENZI (for himself, Mrs. Northup, Mr. Shays, Mr. Ney, Mr. Simmons, Mr. Pickering, Mr. Tiberi, Ms. Pryce of Ohio, Mr. Matheson, Mrs. Johnson of Connecticut, Mr. Capuano, and Mr. Reynolds):

H.R. 4057. A bill to establish a grant program administered under an agreement among the Secretaries of Housing and Urban Development, Health and Human Services, and Veterans Affairs, in consultation with the U.S. Interagency Council on Homelessness, to address the goal of ending chronic homelessness through coordinated provision of housing, health care, mental health and substance abuse treatment, supportive and other services, including assistance in accessing non-homeless specific benefits and services, and for other purposes; to the Committee on Financial Services.

By Mr. HYDE:

H.R. 4058. A bill to authorize assistance for civilians in foreign countries who have been affected by conflict, and for other purposes; to the Committee on International Relations.

By Mrs. MALONEY (for herself, Mr. Shays, Mr. Nadler, Mr. McHugh, Mr. Hinchey, Mr. McNulty, Mr. Owens, Mr. Weiner, Mr. Serrano, Mr. Towns, Mr. Grijalva, Mr. Bishop of New York, and Mr. Rangel):

H.R. 4059. A bill to provide protections and services to certain individuals after the terrorist attack on September 11, 2001, in New York City, in the State of New York, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself, Mr. Lantos, Mr. Smith of New Jersey, and Mr. Smith of Michigan):

H.R. 4060. A bill to amend the Peace Corps Act to establish an Ombudsman and an Office of Safety and Security of the Peace Corps, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LEE (for herself, Mr. Rohrabacher, Mr. Lantos, Mr. Hyde, Ms. McCollum, and Mr. Leach):

H.R. 4061. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries; to the Committee on International Relations.

By Mr. MANZULLO (for himself and Ms. Velázquez):

H.R. 4062. A bill to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes; to the Committee on Small Business.

By Mr. BALLANCE:

H.R. 4063. A bill to authorize States, in the event of inadequate Federal funding under part B of the Individuals with Disabilities Education Act, to waive certain requirements of the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. BLACKBURN (for herself, Mr. Calvert, Mr. Smith of Texas, Mr. Souder, Mr. Tancredo, Mr. Issa, Mr. Goode, Mr. Royce, Mr. King of Iowa, Mr. Rohrabacher, Mr. Garrett of New Jersey, and Mr. Gallegly):

H.R. 4064. A bill to require certain Federal service contractors to participate in a pilot program for employment eligibility confirmation; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 4065. A bill to amend title 38, United States Code, to increase the maximum amount of home loan guaranty available to a veteran, and to provide for annual adjustments to such amount; to the Committee on Veterans' Affairs.

By Mr. COLE:

H.R. 4066. A bill to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes; to the Committee on Resources.

By Mr. GILCHREST (for himself, Mr. Olver, Mr. Shays, Mr. Van Hollen, Mr. Boehlert, Mr. Inslee, Mrs. Johnson of Connecticut, Mr. Menendez, Mr. Simmons, Mr. Waxman, Mr. Greenwood, Ms. DeGette, Mr. Houghton, Ms. Lofgren, Mr. Ehlers, Mr. Ford, Mr. Walsh, Mr. Udall of Colorado, Mrs. Kelly, and Ms. Solis):

H.R. 4067. A bill to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that will limit greenhouse gas emissions in the United States, reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances, and for other purposes; to the Committee on Science, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODE:

H.R. 4068. A bill to amend the Help America Vote Act of 2002 to postpone the deadline by which a State is required to meet the election administration requirements of the Act until the total amount appropriated to the State for requirements payments under the Act is equal to or greater than the costs incurred by the State in meeting such requirements; to the Committee on House Administration.

By Mr. HINCHEY:

H.R. 4069. A bill to amend the Communications Act of 1934 to prevent excessive concentration of ownership of the nation's media outlets, to restore fairness in broadcasting, and to foster and promote localism, diversity, and competition in the media; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself and Mr. Larson of Connecticut):

H.R. 4070. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Resources.

By Mr. McHUGH:

H.R. 4071. A bill to extend the time within which claims may be filed under the September 11th Victim Compensation Fund; to the Committee on the Judiciary.

By Ms. MILLENDER-McDONALD (for herself and Mrs. Capito):

H.R. 4072. A bill to authorize the Director of the Centers for Disease Control and Prevention to conduct minority health programs; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas (for himself and Mr. Pomeroy):

H.R. 4073. A bill to amend the Internal Revenue Code of 1986 to treat payments under the Conservation Reserve Program as rentals from real estate; to the Committee on Ways and Means.

By Mr. SMITH of Michigan (for himself, Mrs. Musgrave, Mr. Jones of North Carolina, Mr. Bartlett of Maryland, Mr. Toomey, Mr. Doolittle, Mr. Hostettler, Mr. Pence, Mr. Chabot, Mr. Barrett of South Carolina, Mr. Flake, Mr. Garrett of New Jersey, Mr. Feeney, Mr. Culberson, Mr. Weldon of Florida, Mrs. Myrick, Mr. Istook, and Mr. Gutknecht):

H.R. 4074. A bill to amend section 1105 of title 31, United States Code, to require the President to include the estimated unfunded liabilities of all Federal programs in annual budget submissions; to the Committee on the Budget.

By Mr. SMITH of Michigan (for himself, Mr. Hostettler, and Mr. Miller of Florida):

H.R. 4075. A bill to amend the Internal Revenue Code of 1986 to increase the amount of capital losses which may offset ordinary income; to the Committee on Ways and Means.

By Ms. SOLIS (for herself, Ms. DeGette, and Ms. Woolsey):

H.R. 4076. A bill to prohibit the manufacture, processing, or distribution in commerce of pentabrominated diphenyl ethers and octabrominated diphenyl ethers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. OBEY (for himself, Mr. Allen, Ms. DeLauro, Mr. Evans, Mr. Fattah, Mr. Green of Texas, Mr. Grijalva, Mr. Hoeffel, Ms. Jackson-Lee of Texas, Mr. Nadler, Mr. Olver, Ms. Schakowsky, Mr. Tierney, and Mr. Udall of New Mexico):

H. Con. Res. 401. Concurrent resolution revising the concurrent resolution on the budget for fiscal year 2005; to the Committee on the Budget.

By Mr. TANCREDO (for himself and Mr. Payne):

H. Con. Res. 402. Concurrent resolution recognizing the involvement in or support for acts of international terrorism by senior officials of the Government of the Republic of the Sudan and calling on Sudan to cease its involvement in acts of international terrorism and to prosecute and punish any Sudanese officials who have supported or have been involved in acts of international terrorism; to the Committee on International Relations.

By Mr. OBEY (for himself, Mr. Allen, Ms. DeLauro, Mr. Evans, Mr. Fattah, Mr. Green of Texas, Mr. Grijalva, Mr. Hoeffel, Ms. Jackson-Lee of Texas, Mr. Nadler, Mr. Olver, Ms. Schakowsky, Mr. Tierney, and Mr. Udall of New Mexico):

H. Res. 583. A resolution revising the concurrent resolution on the budget for fiscal year 2005, as passed the House; to the Committee on the Budget

By Mr. EDWARDS:

H. Res. 584. A resolution providing for consideration of the bill (H.R. 548) to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes; to the Committee on Rules.

By Mr. FROST:

H. Res. 586. A resolution expressing the sense of the House of Representatives that an Aviation Maintenance Technician Day should be established in recognition of Charles Edward Taylor's invaluable contributions to aviation; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of New Jersey (for himself, Mr. Cardin, Mr. Pitts, Mr. Hastings of Florida, and Mr. Aderholt):

H. Res. 587. A resolution expressing the sense of the House of Representatives regarding the recent outbreak of violence in Kosovo; to the Committee on International Relations.

By Mr. TIAHRT:

H. Res. 588. A resolution amending the Rules of the House of Representatives to repeal clause 3 of rule XXI relating to transportation obligation limitations; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. CARSON of Indiana introduced a resolution (H. Res. 589) referring the bill (H.R. 3646) entitled "A bill for the relief of Adela and Darryl Bailor" to the chief judge of the United States Court of Federal Claims for a report thereon; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 106: Mr. Vitter.

H.R. 284: Mr. Shays.

H.R. 463: Mr. Filner.

H.R. 548: Mr. Crowley, Mrs. Lowey, Mr. Scott of Virginia, Mr. Meehan, and Mr. Rush.

H.R. 570: Mrs. Musgrave.

H.R. 728: Mr. Andrews.

H.R. 770: Mr. Emanuel.

H.R. 792: Mr. John.

H.R. 800: Mr. Simpson.

H.R. 806: Ms. McCarthy of Missouri.

H.R. 823: Mr. Peterson of Minnesota.

H.R. 857: Mr. Wilson of South Carolina, Mr. Coble, and Mr. Dreier.

H.R. 942: Mr. Bell.

H.R. 953: Mr. Hall and Mr. Smith of Washington.

H.R. 1057: Ms. Harris and Mr. Turner of Ohio.

H.R. 1083: Mr. Upton, Mr. Rogers of Alabama, Mr. Walsh, Ms. Roybal-Allard, and Mr. Filner.

H.R. 1084: Mr. Stenholm.

H.R. 1097: Mr. Lampson.

H.R. 1117: Mr. Bartlett of Maryland.

H.R. 1120: Mr. Bell and Mr. Ryan of Ohio.

H.R. 1206: Mr. Goode.

H.R. 1222: Mr. Crenshaw.

H.R. 1310: Mr. Hayes.

H.R. 1336: Mr. Bonner and Mr. Tancredo.

H.R. 1359: Mr. Gonzalez.

H.R. 1608: Mr. Platts.

H.R. 1613: Ms. Loretta Sanchez of California, Mr. Weiner, and Ms. Linda T. Sánchez of California.

H.R. 1639: Mr. Gordon.

H.R. 1708: Mr. Kline.

H.R. 1726: Ms. Kaptur.

H.R. 1731: Mr. Porter.

H.R. 1778: Mr. Blumenauer.

H.R. 1787: Mr. Rehberg.

H.R. 1824: Ms. Pelosi.

H.R. 1873: Mr. Wolf.

H.R. 1919: Mr. Hoeffel, Mr. Weiner, Mr. Holt, Mr. LaHood, and Ms. Jackson-Lee of Texas.

H.R. 1924: Mr. Strickland.

H.R. 1995: Mr. Lampson.

H.R. 2193: Mrs. Bono.

H.R. 2239: Mr. Emanuel, Mr. Pastor, Mr. Boyd, and Ms. Berkley.

H.R. 2265: Mr. McNulty.

H.R. 2402: Mr. Owens.

H.R. 2404: Mr. Putnam, Mr. Burgess, and Mr. Petri.

H.R. 2527: Mr. Kucinich.

H.R. 2612: Mr. Rodriguez.

H.R. 2671: Mr. Royce.

H.R. 2699: Mr. Ramstad, Mr. Davis of Tennessee, Mr. Wicker, Mr. Rohrabacher, Mr. Weller, Mr. McKeon, and Mr. Gingrey.

H.R. 2821: Mr. Lampson, Mr. Holt, and Mr. Cooper.

H.R. 2824: Mr. Baird.

H.R. 2889: Mr. Weldon of Pennsylvania.

H.R. 2890: Mr. Weldon of Pennsylvania.

H.R. 2908: Mr. Gordon.

H.R. 2926: Mr. Lewis of Georgia.

H.R. 3035: Ms. Corrine Brown of Florida.

H.R. 3111: Mr. LaHood, Mr. Hinchey, Mr. Burns, and Mr. Boswell.

H.R. 3133: Ms. Schakowsky.

H.R. 3204: Mr. Blunt, Mr. Bradley of New Hampshire, Mr. Hoekstra, Mr. Leach, Mr. Young of Florida, and Mr. Stenholm.

H.R. 3213: Mr. Putnam, Mr. Kline, and Mr. Murphy.

H.R. 3246: Mr. Beauprez.

H.R. 3313: Mr. Duncan and Mr. Stearns.

H.R. 3350: Mr. Gordon.

H.R. 3359: Mrs. McCarthy of New York and Mr. Frank of Massachusetts.

H.R. 3369: Mr. Bradley of New Hampshire.

H.R. 3438: Mr. ANDREWS and Ms. HARRIS.

H.R. 3441: Mr. PAYNE, Mr. BLUMENAUER, Mr. LEWIS of Kentucky, Mr. VAN HOLLEN, Ms. LINDA T. SÁNCHEZ of California, Ms. ROYBAL-ALLARD, Mr. BISHOP of Georgia, Mr. DOOLEY of California, and Mr. BRADLEY of New Hampshire.

H.R. 3513: Mr. UDALL of New Mexico.

H.R. 3561: Mr. HERGER.

H.R. 3563: Mr. PUTNAM.

H.R. 3673: Mr. OLVER.

H.R. 3716: Mr. GILLMOR, Mr. WILSON of South Carolina, Mr. BOEHLERT, Mr. BALLANCE, and Mr. MURPHY.

H.R. 3729: Mr. LARSEN of Washington, Ms. ESHOO, Mr. ISRAEL, Mr. LIPINSKI, Mr. GORDON, Mr. MCGOVERN, Mr. CROWLEY, Ms. MCCOLLUM, Mr. DICKS, Mr. FRANK of Massachusetts, and Mr. HOEFFEL.

H.R. 3731: Mr. ANDREWS.

H.R. 3756: Mr. ROGERS of Michigan, Mr. MCGOVERN, Mr. JACKSON of Illinois, and Mrs. MCCARTHY of New York.

H.R. 3763: Mr. TIERNEY.

H.R. 3801: Mr. HENSARLING, Mr. POMBO, and Mr. RYUN of Kansas.

H.R. 3803: Mr. MCNULTY.

H.R. 3810: Mr. BROWN of Ohio and Mr. PAYNE.

H.R. 3818: Mr. MATHESON, Mr. HOEFFEL, Ms. MAJETTE, Ms. SLAUGHTER, and Mrs. DAVIS of California.

H.R. 3833: Mr. SCOTT of Georgia.

H.R. 3881: Mr. COOPER, Mr. TIERNEY, Mr. ALLEN, Ms. HARMAN, Mr. MEEKS of New York, Mrs. MALONEY, and Mr. STRICKLAND.

H.R. 3888: Mr. SANDLIN.

H.R. 3889: Mr. EHLERS and Mr. MCHUGH.

H.R. 3916: Mr. ENGLISH.

H.R. 3920: Mr. ADERHOLT, Mr. SESSIONS, and Mr. BALLENGER.

H.R. 3921: Mr. MOORE.

H.R. 3951: Mr. THOMPSON of Mississippi, Mr. HOSTETTLER, Mr. LANGEVIN, and Mr. COOPER.

H.R. 3974: Mr. PRICE of North Carolina and Mr. CLAY.

H.R. 3981: Mr. BONNER.

H.R. 4007: Mr. SENSENBRENNER.

H.R. 4008: Mr. BURR, Mr. FROST, and Mr. TOWNS.

H.R. 4010: Mr. PORTER.

H.R. 4011: Mr. BURTON of Indiana, Mr. PAYNE, and Mr. MCCOTTER.

H.R. 4023: Mr. PICKERING.

H.R. 4032: Ms. BERKLEY.

H.J. Res. 46: Mr. GINGREY.

H.J. Res. 62: Mr. GREENWOOD.

H. Con. Res. 47: Mr. GONZALEZ.

H. Con. Res. 56: Mr. COBLE and Mr. JONES of North Carolina.

H. Con. Res. 247: Mr. UPTON.

H. Con. Res. 276: Ms. SCHAKOWSKY.

H. Con. Res. 310: Mr. DEMINT.

H. Con. Res. 314: Mr. THOMPSON of Mississippi and Mr. COSTELLO.

H. Con. Res. 318: Mr. ROYCE, Mr. DOOLITTLE, Mr. WAMP, and Mr. BISHOP of Utah.

H. Con. Res. 326: Mr. MCCOTTER.

H. Con. Res. 332: Mr. PITTS, Ms. HARRIS, Mr. BROWN of Ohio, Mr. LEWIS of Georgia, Mr. COBLE, Mr. OLVER, Mr. RANGEL, Mr. RENZI, Mr. BURGESS, Mr. PASTOR, Mr. SMITH of Washington, and Mr. HONDA.

H. Con. Res. 346: Mr. MEEKS of New York.

H. Con. Res. 352: Mr. MCCOTTER, Ms. LEE, and Mr. ROYCE.

H. Con. Res. 371: Mr. RENZI and Mr. COOPER.

H. Con. Res. 375: Mr. RYAN of Ohio, Mr. GOODE, Mr. GONZALEZ, Mr. HOSTETTLER, and Mr. STRICKLAND.

H. Con. Res. 378: Mr. LANTOS, Mr. JONES of North Carolina, Mr. CLAY, Mr. SANDERS, Mr. CUMMINGS, Mr. LEWIS of Georgia, Mr. SNYDER, Ms. NORTON, Mr. MCCOTTER, Ms. ESHOO, Ms. DELAURO, Ms. LEE, and Mr. TERRY.

H. Con. Res. 380: Mr. DAVIS of Tennessee, Ms. LOFGREN, Mr. CONYERS, and Mr. OWENS.

H. Res. 402: Mr. HAYES, Mr. GORDON, and Mr. CHANDLER.

H. Res. 514: Mr. WOLF and Mr. MURPHY.

H. Res. 550: Mr. ETHERIDGE, Mr. CASE, Mr. BOUCHER, and Mr. GONZALEZ.

H. Res. 556: Mr. EHLERS.

H. Res. 558: Mr. TURNER OF TEXAS.

H. Res. 563: Mr. SMITH of New Jersey and Mr. FLAKE.

H. Res. 576: Mr. FORBES, Mr. GREEN of Wisconsin Mr. MCCOTTER, Mrs. MALONEY, Mr. MEEHAN, Mr. COBLE, and Mr. WEINER.

H. Res. 578: Mr. MEEKS of New York, Ms. HARRIS, Mr. GREEN of Texas Mr. LAMPSON, Mr. BACA, Mr. TIBERI, and Mr. GONZALEZ.

H. Res. 579: Mr. STARK and Mr. VISCLOSKY.

SENATE—*Tuesday, March 30, 2004*

The Senate met at 9:45 a.m. and was called to order by the Honorable JOHN ENSIGN, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign Saviour, under whom all hearts are open, all desires known, and from Whom no secrets are hidden, You commended the light to shine out of darkness and gave us the gift of this new day. Forgive us when we ignore Your efforts to guide us. Help us to take the long view of our work and to not become weary of helping others.

Thank You, Lord, for teaching us to trust You and for opening our minds to the counsels of Your eternal wisdom. Increase our hunger for right living and teach us the power of gratitude.

Today keep our Senators within the circle of Your will, and may they be willing to be led by You. Guide them and give them the graciousness to strive to humbly serve one another, following Your example of lowliness.

We pray this in Your living Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN ENSIGN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant journal clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, March 30, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN ENSIGN, a Senator from the State of Nevada, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ENSIGN thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, very briefly, today following morning business, at approximately 10:45, the Senate will resume consideration of H.R. 4, the welfare reauthorization bill. At 12:15 we will proceed to a vote on the Snowe amendment on child care. Following that vote the Senate will recess for our weekly party lunches. For the remainder of the day the Senate will continue with the welfare bill and amendments thereto. The chairman and ranking member of the Finance Committee will be here throughout the day to work through those amendments. Senators should therefore expect votes throughout the day. I encourage Members who have amendments to notify the bill managers in the hopes that we can process those amendments and move forward with this bill.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I ask unanimous consent that my leader time not be taken as part of the allocation for Members in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SYSTEMATIC ABUSE OF GOVERNMENT PREROGATIVES

Mr. DASCHLE. Mr. President, last week I spoke about the White House's reaction to Richard Clarke's testimony before the 9/11 Commission. I am compelled today to rise again because the people around the President are systematically abusing the powers and the prerogatives of Government.

We all need to reflect seriously on what is going on, not in anger, not in partisanship, but in keeping with our responsibilities as Senators, with an abiding respect for the fundamental values of our democracy.

Richard Clarke did something extraordinary when he testified before the 9-11 Commission last week. He didn't try to escape blame, as so many routinely do.

Instead, he accepted his share of responsibility and offered his perceptions about what happened in the months and years leading up to September 11.

We can and should debate the facts and interpretations Clarke has offered. But there can be no doubt that he has risked enormous damage to his reputation and professional future to hold both himself and our Government accountable.

The retaliation from those around the President has been fierce. Mr. Clarke's personal motives have been questioned and his honesty challenged. He has even been accused, right here on the Senate floor, of perjury. Not one shred of proof was given, but that wasn't the point. The point was to have the perjury accusation on television and in the newspapers. The point was to damage Mr. Clarke in any way possible. This is wrong—and it is not the first time it has happened.

When Senator McCAIN ran for President, the Bush campaign smeared him and his family with vicious, false attacks.

When Max Cleland ran for reelection to this Senate, his patriotism was attacked. He was accused of not caring about protecting our Nation—a man who lost both legs and an arm in Vietnam, accused of being indifferent to America's national security. That was such an ugly lie, it's still hard to fathom almost 2 years later.

There are some things that simply ought not be done—even in politics. Too many people around the President seem not to understand that, and that line has been crossed.

When Ambassador Joe Wilson told the truth about the administration's misleading claims about Iraq, Niger, and uranium, the people around the President didn't respond with facts. Instead, they publicly disclosed that Ambassador Wilson's wife was a deep-cover CIA agent. In doing so, they undermined America's national security and put politics first. They also may well have put the lives of Ambassador Wilson's wife, and her sources, in danger.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

When former Treasury Secretary Paul O'Neil revealed that the White House was thinking about an Iraq War in its first weeks in office, his former colleagues in the Bush administration ridiculed him from morning to night, and even subjected him to a fruitless Federal investigation.

When Larry Lindsay, one of President Bush's former top economic advisors, and General Eric Shinseki, the former Army Chief of Staff, spoke honestly about the amount of money and the number of troops the war would demand, they learned the hard way that the White House doesn't tolerate candor.

This is not "politics as usual." In nearly all of these cases, it's not Democrats who are being attacked. Senator McCAIN and Secretary O'Neill are prominent Republicans, and Richard Clarke, Larry Lindsay, Joe Wilson, Eric Shinseki, and Larry Lindsay all worked for Republican administrations. The common denominator is that these Government officials said things the White House didn't want said.

The response from those around the President was retribution and character assassination—a 21st century twist to the strategy of "shooting the messenger."

If it takes intimidation to keep inconvenient facts from the American people, the people around the President don't hesitate. Richard Foster, the chief actuary for Medicare, found that out. He was told he'd be fired if he told the truth about the cost of the administration's prescription drug plan.

This is no way to run a government. The White House and its supporters should not be using the power of Government to try to conceal facts from the American people or to reshape history in an effort to portray themselves in the best light. They should not be threatening the reputations and livelihoods of people simply for asking—or answering—questions. They should seek to put all information about past decisions on the table for evaluation so that the best possible decisions can be made for the Nation's future.

In Mr. Clarke's case, clear and troubling double standards are being applied.

Last year, when the administration was being criticized for the President's misleading statement about Niger and uranium, the White House unexpectedly declassified portions of the National Intelligence Estimate.

When the administration wants to bolster its public case, there is little that appears too sensitive to be declassified.

Now, people around the President want to release parts of Mr. Clarke's earlier testimony in 2002. According to news reports, the CIA is already working on declassifying that testimony—at the administration's request.

And last week several documents were declassified literally overnight, not in an effort to provide information on a pressing policy matter to the American people, but in an apparent effort to discredit a public servant who gave 30 years of service to the American Government.

I'll support declassifying Mr. Clarke's testimony before the Joint Inquiry, but the administration shouldn't be selective.

Consistent with our need to protect sources and methods, we should declassify his entire testimony. And to make sure that the American people have access to the full record as they consider this question, we should also declassify his January 25 memo to Dr. Rice, the September 4, 2001 National Security Directive dealing with terrorism, Dr. Rice's testimony to the 9–11 Commission, the still-classified 28 pages from the House-Senate inquiry relating to Saudi Arabia, and a list of the dates and topics of all National Security Council meetings before September 4, 2001.

I hope this new interest in openness will also include the Vice President's Energy and Terrorism Task Forces. While much, if not all, of what these task forces discussed was unclassified, their proceedings have not been shared with the public to date.

There also seems to be a double standard when it comes to investigations. In recent days leading congressional Republicans are now calling for an investigation into Mr. Clarke.

As I mentioned earlier, Secretary O'Neill was also subjected to an investigation.

Clarke and O'Neill sought legal and classification review of any information in their books before they were published.

Nonetheless, our colleagues tell us these two should be investigated, at the same time that there has been no Senate investigation into the leaking of Valerie Plame's identity as a deep cover CIA agent, no thorough investigation into whether leading administration officials misrepresented the intelligence regarding threats posed by Iraq, no Senate hearings into the threat the chief Medicare Actuary faced for trying to do his job, and no Senate investigation into the reports of continued overcharging by Halliburton for its work in Iraq.

There is a clear double standard when it comes to investigating or releasing information, and that's just not right. The American people deserve more from their leaders.

We're seeing it again now in the shifting reasons the White House has given for Dr. Rice's refusal to testify under oath and publicly before the 9–11 Commission.

The people around the President first said it would be unprecedented for Dr. Rice to testify. But thanks to the Congressional Research Service, we now know that previous sitting National Security Advisors have testified before Congress.

Now the people around the President are saying that Dr. Rice can't testify because it would violate an important constitutional principle: the separation of powers.

We will soon face this debate again when it comes time for President Bush and Vice President CHENEY to meet with the 9–11 Commission. I believe they should lift the limitations they have placed on their cooperation with the Commission and be willing to appear before the entire Commission for as much time as the Commission deems productive.

The all-out assault on Richard Clarke has gone on for more than a week now. Mr. Clarke has been accused of "profiteering" and possible perjury. It is time for this to stop.

The commission should declassify Mr. Clarke's earlier testimony. All of it. Not just the parts the White House wants. And Dr. Rice should testify before the 9–11 Commission, and she should be under oath and in public.

The American people deserve to know the truth—the full truth—about what happened in the years and months leading up to September 11.

Senator McCAIN, Senator Cleland, Secretary O'Neill, Ambassador Wilson, General Shinseki, Richard Foster, Richard Clarke, Larry Lindsay—when will the character assassination, retribution, and intimidation end?

When will we say enough is enough?

The September 11 families—and our entire country—deserve better. Our democracy depends on it. And our Nation's future security depends on it.

The ACTING PRESIDENT pro tempore. Who yields time?

ORDER OF PROCEDURE

Mr. REID. Mr. President, the minority has 30 minutes. I ask unanimous consent that our time be equally divided, with 7½ minutes going to Senator WYDEN, 7½ minutes to Senator SCHUMER, 7½ minutes to Senator DURBIN, and 7½ minutes to Senator STABENOW, in that order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

PERFECT STORM COMING

Mr. WYDEN. Mr. President, it is time for the Bush administration to end its campaign of inaction on gasoline price hikes. Tomorrow, OPEC will vote on whether there should be additional production cuts, and this very morning, the Saudi oil minister said OPEC should go ahead with its scheduled production cut in the month of April.

If they do, that is going to take 1 million barrels of oil off the market per day, when U.S. private oil supplies are already millions of barrels low and when U.S. gasoline prices are at record highs.

Folks on the west coast of the United States are getting clobbered by these gasoline price hikes. People in California pay considerably more than $2 a gallon. Folks in my home State of Oregon are close behind, paying an average of more than $1.80 in some of our towns.

There is a perfect storm coming with respect to these gasoline price hikes. The combination of the Bush administration filling the Strategic Petroleum Reserve at the wrong time, the fact we have these refinery cutbacks on the west coast that seem as much to boost profit as anything else, the Federal Trade Commission turning a blind eye to anticompetitive profits, and the shenanigans of OPEC are the factors that are coming together to create what I think could be a perfect storm with gasoline prices of $3 a gallon.

On the OPEC issue, less than a month ago the head of the Energy Information Agency told me OPEC would make up the difference for the oil the U.S. Energy Department is putting in the Strategic Petroleum Reserve. I have to tell you, Mr. President, if you think OPEC is going to be looking out for the American gasoline consumer, you have to think Colonel Sanders is looking out for the chickens. It simply does not add up.

For the life of me, I cannot understand the administration's insistence on continuing to swipe oil out of the private U.S. market and squirrel it away in the Strategic Petroleum Reserve at a time when the American consumer is getting clobbered each week at the gasoline station. The Bush administration needs to stop filling the Strategic Petroleum Reserve. The administration is spending American tax dollars to buy oil at record high prices and put it in the reserve, and apparently they are saying they will not stop it. But, in fact, they did stop filling the reserve when it helped the oil companies. They stopped filling the reserve in December 2002 when the oil companies needed more supply for refineries.

It seems to me the message today is what the administration is willing to do for the big oil companies they ought to do for the American consumer, and particularly the ones I represent on the west coast of the United States.

There is no substitute for leadership when American families are hurting financially and getting shellacked by these gasoline price hikes. It is interesting to note that when the President was a candidate in 2000, he said the President ought to be using his bully pulpit to jawbone OPEC. This administration is not doing that.

Last week, they took credit for oil coming down about $1 a barrel. The fact was, that was a day late and $7 a barrel short because the price is still way above the OPEC price target level.

We come to the floor today to say when the American people are hurting, there needs to be Presidential leadership. These gas prices are hurting my constituents. They are devastating to businesses and to consumers on the west coast, and they are driving up prices for goods and transportation in this country.

We have a proposal. It is to stop filling the Strategic Petroleum Reserve, No. 1. No. 2, it is for the Federal Trade Commission to get off the dime and look at these anticompetitive practices. I have introduced legislation, S. 1737. If the Bush administration does not like that bill, I would like to hear their proposal. Let's hear what they are going to do to stand up for the west coast consumer.

It seems the administration is busy filling the Strategic Petroleum Reserve with no regard for rising gas prices. They are busy with their campaign of inaction that seems to help nobody but the oil companies and will not direct the Federal Trade Commission to take steps now to protect the consumer. I think the American people deserve better.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). Under the previous agreement, the Senator from New York is recognized for 7½ minutes.

Mr. SCHUMER. I thank the Chair.

RICE TESTIMONY

Mr. SCHUMER. Mr. President, honestly, I had come to the floor to submit a resolution on behalf of myself and 14 of my colleagues, including Senators KENNEDY, BYRD, LIEBERMAN, CLINTON, CORZINE, DODD, JOHNSON, HOLLINGS, REID from Nevada, LAUTENBERG, DORGAN, DURBIN, DASCHLE, and NELSON to ask the President to allow Condoleezza Rice to testify under oath and in public. I heard NBC News has announced she will do just that. So the resolution is moot. I will make a couple of points, though.

One is I suppose all of the protestation that this would violate separation of powers has gone by the wayside. We all knew that was just a smokescreen because this commission is not congressional, and the whole theory of separation of powers is congressional.

The bottom line is the real reason the administration did not want Condoleezza Rice to testify, that they did not want her out there speaking about this, is quite apparent and had nothing to do with separation of powers.

The second point I make is to compliment the Commission. The Commission has done an incredible job. I think when Tom Kean, the former Governor of New Jersey, a Republican, one known for integrity, said the only way she would testify was under oath—she has been on every talk show. She is on television 24/7. So she has plenty of time to go public and say what she wants, but not what the Commission will ask her under oath.

Her statements, her public statements contradicted some of Dick Clarke's. Dick Clarke's were given under oath. Dick Clarke's were given after considerable criticism and vituperation directed from the White House and the attack machine that we know about here in Washington, the Republican attack machine. He stood by his story. So we now all wait with bated breath to hear what Condoleezza Rice will say under oath.

Mr. President, people as diverse as Colin Powell, JOHN MCCAIN, CHUCK HAGEL—Republicans—have talked about Dick Clarke's character. I have known Dick Clarke for a long time. He is a principled man. He has been a registered Republican. Whenever he met me—and I met him under the Clinton administration—he said he was a Republican. His one passion was to make America safe.

When all the information he had and all the work he and his staff had done were ignored, he became more and more frustrated. Dick Clarke's book is not aimed at political retribution. Dick Clarke's book is aimed at the truth. Like everywhere else, the Scriptures are right: The truth will set us free.

I hope Condoleezza Rice fully testifies, testifies truthfully. The Commission's goal is not to point fingers or blame; the Commission's goal is to find out what went wrong so we don't do it again. No one feels that more keenly than the families in my State who have lost loved ones and who yearn for the truth; not so much because it will ever bring their loved ones back but because they, in a charitable, an eleemosynary gesture, want to prevent it from happening again.

This is a good step. We ought to trust this Commission. It is bipartisan. It has many people of integrity on it. Let it go forward without stonewalling. The truth, the truth will set us free.

OPEC

I would like to bring one other issue forward now that something has been announced, and that is the issue of OPEC. Tomorrow the OPEC nations meet. I have a letter that has been signed by 19 of my colleagues as well urging the President, today, to speak out strongly and publicly to get OPEC to back off their counterproductive policy to restrict the amount of oil that flows into the market and raise the prices. It is counterproductive because it is going to cause our economy to slow down and hurt everybody.

But where is the voice of our President? He went out of his way to create a $400 tax cut, to put money into the hands of average families to stimulate the economy. I was all for that part of his tax proposal. But now that tax cut is going to OPEC. By the end of the summer, the average American family with 2 cars will pay $400 more than they paid for gasoline because of this recent price rise in OPEC. It is taking the wind out of our economy.

OPEC is a monopoly—an oligopoly. It is killing America. We have a solution, which is the Strategic Petroleum Reserve which President Clinton did dip into after, frankly, I pressured him for 6 months. That brought oil prices down and they stayed down. Where is President Bush? What is his policy to deal with oil prices now?

He talks about the energy bill, he talks about ANWR. At best, whether you agree with it or not, that is not going to put more oil on the market for 5 years. What are we doing now, as OPEC drains dollars from the American family's pockets? There is no extra money to take the vacation, build the extra room on the house, or buy the new car. The President fiddles, frankly, while Rome burns, while oil prices go through the roof, not because of a free market but because there is a monopoly here that is manipulating price.

OPEC always said they would keep the price no greater than $28 a barrel. It is now about $10 more than that. Now, with the Saudi announcement this morning that they are going to constrict oil production further, it should go above $40 a barrel. That is a very bad sign for this economy and for the American taxpayer, the American family.

The President is silent. He has to tell his Saudi friends they have to come clean. He has a weapon, an ace in the hole at his disposal, and that is the Strategic Petroleum Reserve. In this letter, 19 of us urge him to speak out today before the OPEC meeting tomorrow and shake up the Saudis and shake up OPEC and tell them that, if they don't start producing more oil, we will use our Strategic Petroleum Reserve.

The PRESIDING OFFICER. The Senator has used 7½ minutes.

Under the previous order, the Senator from Illinois is recognized for 7½ minutes.

A GREAT INJUSTICE

Mr. DURBIN. Mr. President, I, too, commend those who were encouraging Condoleezza Rice to come before the 9/11 Commission publicly under oath to tell what she knows about the events leading up to 9/11 and those that followed. The fact she would argue it violated a precedent certainly didn't stand up once we looked at what happened in the past when we had others in her same position testifying before congressional committees.

Now that she has made this decision, along with the White House, to testify, I think it is a positive and good thing. This bipartisan Commission can now ask the hard questions that need to be asked.

I really come to the floor because, frankly, I think it is time for many of us who believe that a great injustice is being committed to speak out. The injustice I speak of is the reaction of this administration to the publication of the book "Against All Enemies: Inside America's War on Terror" by Richard Clarke.

To my knowledge, I have never met Mr. Clark nor worked with him. I know nothing about him personally. But I do know for 30 years Richard Clarke has been trusted by Presidents, Republican and Democrats alike, with some of the most important responsibilities in America.

If you read his book, and I have—at least the beginning of his book—you will find in the first chapter that Richard Clarke was the person America turned to on September 11 when we faced the greatest danger and chaos of modern time. He was the one at the controls in the White House, in the situation room, trying to bring some sense to the confusion that was hitting America. He was the one who was involved in working with the Secretary of Defense, the President, the Vice President, the Secretary of State, and all of the agencies of Government, to try to make sure America was safe at one of the most dangerous moments in our history. It is hard to believe this is the same man who has been so roundly discredited now by those in the White House. Those who trusted him on 9/11, who said to him, Use your judgment, your skill, and your experience to keep America safe at our most dangerous moment, are now saying, Richard Clarke cannot be trusted when he speaks out from the heart, from his conscience, about the failures of this administration to prepare for the war on terrorism and to wage that war since 9/11.

Some of the statements that have been made on the floor of the Senate, particularly by the majority leader last week, I couldn't believe as I read the transcript today. I will quote from those statements. In the statement the majority leader said that he is:

> . . . equally troubled someone who would sell a book that trades on their former service as a Government insider with access to classified information, our Nation's most valuable intelligence, in order to profit from the suffering surrounding what this Nation endured on September 11, 2001.

What is missing from this statement and other references by the majority leader is the fact that before Mr. Clarke published this book, it was submitted to the White House. They saw it in advance. If there were any suspicion of the leak of classified information by any agency, there was ample opportunity for them to weigh in before the publication of the book, and they did not do it. It is a false issue to raise today, that Richard Clarke has somehow violated this Nation's trust and disclosed classified information. That is not a fact that can be proven based on the fact that the White House itself had the ability to review that book in advance and determine whether anything crossed the line. To suggest Mr. Clarke is just doing this for the money is, frankly, to discredit him and to discredit a 30-year career in service to this country.

If we look at what is happening to Richard Clarke by this attack machine out of the White House, we see it is nothing new. The same thing happened to Larry Lindsey, an economic adviser to the President who misspoke by saying the war in Iraq was going to cost far more than the Bush administration ever acknowledged. It turned out Larry Lindsey was right, but because he spoke the truth he is gone.

General Shinseki, who misspoke in the eyes of the administration by telling us about the necessary commitment in American troops in a war in Iraq, was roundly criticized. He was the target of their attack.

In addition, Treasury Secretary Paul O'Neill stepped forward with his book, after serving in this administration, talking about some personal experiences he had with this administration and was immediately ridiculed by the people around the President.

Ambassador Joseph Wilson, who has served this country, who has contributed to both Democratic and Republican candidates, had the identity of his wife, who was working for the Central Intelligence Agency, disclosed by Robert Novak, columnist, on a tip from the White House in order to discredit Ambassador Joe Wilson.

In addition, Richard Foster, an actuary for the Department of Health and Human Services who had the nerve to step forward and say the President's prescription drug program was being sold on false premises and in fact it would cost far more than what the administration was prepared to acknowledge, when he started making that public, they came back at him and said he could lose his job if he spoke the truth.

Then, of course, the Vice President. The Vice President, who wrote an energy bill—and submitted it to Congress—by meeting with special interest groups and basically kowtowing to their interests instead of the interests of America, when put on the spot and asked who were those special interest groups, refused to make that public.

We see not only this effort to attack all critics and debase them and question their motives and their patriotism, but we also find ourselves in a position where this administration has thrown a shroud of secrecy over the most important issues that face their Government. Thank goodness a corner of that shroud has been lifted this morning. Looking under that shroud, we will find Condoleezza Rice coming before this bipartisan commission answering questions, as she should.

What is at stake here is not the reputation of the White House or anyone in the White House. What is at stake here is the security and safety of the United States of America.

Richard Clarke, whether you agree with him or not, stepped forward on a critical issue and was prepared to accept his responsibility for not doing as much as possible. But those who should be joining him in accepting responsibility have instead turned on him and attacked him personally. That is not new in Washington, but it has reached a new depth in this particular instance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 7½ minutes.

Ms. STABENOW. Thank you, Mr. President.

I first want to thank my friend from Illinois for his usual eloquence, and our leader and others who have spoken about what has been happening under an administration that chooses to fight those who state their opinions, face the facts, and give us information rather than working with us to make sure we have the best information; working with us to make sure the decisions we make are the right ones.

MEDICARE

Ms. STABENOW. Mr. President, I want to speak about Medicare today, and the fact that one of those who stood up and was prepared to give us information is the Medicare actuary Richard Foster.

We now know he was told if he gave up information about the cost of the Medicare bill that passed last year before we voted on it, he would face being fired. We have heard this repeated over and over in different ways about people who had the courage to stand up and disagree—or in this case a career public servant who was trying to do his job.

We find now on this Medicare bill that as we look more closely, over and over we are deeply disturbed by what has unfolded relating to the Medicare bill.

As I indicated over and over on the floor before we passed the final version, this is clearly about what is in the interest of the pharmaceutical industry and the insurance industry in this country—not in the best interests of seniors, not in the best interests of consumers or taxpayers. Piece by piece, we are seeing major flaws in this law; in fact, so much so that we are seeing comments from colleagues. Our colleague from Mississippi, Senator LOTT, has indicated now if it were to be done over he would in fact change his vote. I wonder how many others would be doing the same thing given what we have found.

This law does nothing to lower prices for Medicare recipients and families, which should be one of the primary goals. That should have been at the top of the list for us to do. Despite the passage, in fact, of something that would lower prices—what we call the reimportation of prescription drugs or the ability to allow the local pharmacist, say, in Michigan or across the country to do business with pharmacists in other countries such as Canada to bring back prescription drugs at half the price; most of them are made in the United States, and American taxpayers helped subsidize the research to make them. But instead of allowing that to happen—to lower prices, in fact, up to 70 percent in some cases—we saw nothing in the final bill.

The law prohibits the Medicare program from using its purchasing power to lower prices, which is stunning. What organization doesn't want to purchase in bulk in order to lower prices? Yet the Medicare legislation that passed specifically prohibits that from happening. There is only one group that benefits from that.

The law, as we know, would also lead to about one in four retirees losing their private coverage, if they have retiree coverage, given the way it is designed. My latest concern relates to what is happening with the discount cards in the legislation.

One thing we thought at least would be helpful—not as much as allowing us to bring back lower cost prescription drugs from Canada and from other countries, but something we had hoped would help a little bit—would be the discount card that was put in place which was supposed to provide from a 10 percent up to a 25-percent discount on prescription drugs.

But just as Health and Human Services announced which companies would be providing the discount cards, we also learned the meager savings these cards might offer is being eaten up by the continued explosion in prescription price increases.

As reported in the Wall Street Journal, the prescription drug provision for our seniors and the disabled increased nearly 3½ times faster than the overall inflation rate in 2002. Because there are no checks or controls or accountability on these prices, the discount cards are very vulnerable to gaming by the pharmaceutical industry.

What do I mean by that? For example, the wholesale price for Lipitor or Zoloft went up 19 percent in the last 2 years. The pain reliever Celebrex went up 23 percent. Their producer has said these increases are among the most moderate pricing in the industry.

We are seeing great increases so that any kind of a discount now will be based on an inflated price, not providing relief for seniors.

I am very concerned. We are hearing from Families USA, which we know is a consumer health care advocacy group. They have now laid out four concerns they have which I will share regarding discount cards.

Their first concern is they say neither the new law nor the legislation specifies the base price on which the discounts will apply. Gains in the base price are going up dramatically, and we are going to give a 10 or 15-percent discount, or even a 30-percent discount. But the price has gone up 40 percent. You are not getting much of a deal.

Second, under the Discount Card Program, sponsors are required to pass on to cardholders only an undefined share of the rebates they get from drug manufacturers, and they can keep the remaining savings as profits. They are not required to pass on the entire amount of savings from the manufacturers to our seniors.

I know our leader Senator DASCHLE has a bill that would correct that, of which I am cosponsor, and I hope very strongly we will be able to pass it.

The regulations foster, in fact, also what is called bait-and-switch schemes so that people go into a particular card, and then things are switched. What is amazing is while the senior is locked into a specific card for 7 days, the size of a discount can change. Seniors are locked in but the provider is not.

Finally, there is a $600 credit, which is positive for low-income seniors, that is applied to these cards. However, with the low-income asset tax and new, very cumbersome paperwork involved, we are not sure how many low-income seniors will actually receive the discount.

We can do better than that. If we were simply to do what the House of Representatives did in a strong bipartisan vote a number of months ago, we would be able to immediately drop prices at least in half with reimportation.

I urge my colleagues to get serious and pass that bill.

Thank you, Mr. President.

Mr. REID. Mr. President, have we used all of our time?

The PRESIDING OFFICER. The Senator has 1 minute 45 seconds.

Mr. REID. Mr. President, I reserve that. But I note when we get to the bill that a number of Members on this side indicate they would object to extending the vote past 12:45. Everyone should understand that. The managers of the bill—and I have spoken to our manager, Senator BAUCUS—understand that. If anyone tries to extend the time past 12:15, there will be an objection. We will vote at 12:15.

The PRESIDING OFFICER (Mr. BENNETT). Is there any objection to reserving of the minority's time? Hearing none, the time is reserved.

The Senator from Wyoming.

WELFARE REFORM

Mr. THOMAS. Mr. President, I rise today to talk about the issue before the Senate. The previous comments this morning sounded like a political rally. We ought to talk about the issues before the Senate instead of spending all our time criticizing the President.

We have before the Senate welfare reform, to extend what we have done in the past. Welfare reform has been a remarkable success story for millions of people. Welfare reform is working because former recipients are working. Families once dependent on welfare checks are now looking forward to the independence of a paycheck. That, of course, has been the purpose of the program. Through the years it has been very successful.

This bill deals with the effort to provide meaningful work and more opportunity for welfare recipients to move off welfare, to promote healthy families, to provide opportunity for health and marriage programs, to give States the flexibility to continue to work on the programs they have had.

We are very pleased this is now before the Senate. As a Finance Committee member who has worked on this for a very long time, it is something that we need to pass and make available to people in this country.

The legislation before the Senate, H.R. 4, the Personal Responsibility and Individual Development for Everyone Act, makes the necessary changes in existing law to make it even more of a success. America began a war on poverty more than three decades ago. However, the good intentions of that policy produced conflicting results. Seniors were lifted out of poverty, poor families received basic health care, and disadvantaged children were given a head start in life.

Many Americans were injured by that helping hand. The welfare system actually became an enemy of individual efforts and responsibility. As dependence passed from one generation to the next, the vicious welfare cycle began for some families.

Between 1965 and 1995, Federal and State welfare spending increased from $40 billion to more than $350 billion per year. However, all this money produced virtually no progress in reducing child poverty.

In August 1996, Congress passed a progressive welfare reform law that transferred welfare benefits into temporary help, not into a permanent way of life. The new system honors work by requiring all able-bodied recipients to work or go back to school to further their education.

The goal of the 1996 welfare reform law was to give participants a strong, time-limited support system as they developed long-life skills that encourage independence.

That is the purpose of this entire program. It has been successful. It provides childcare funding to help families meet the work requirements while limiting the benefits to 5 years. States must promote self-sufficiency. They are given the flexibility to reach that goal.

The following results of the 1996 landmark welfare reform bill speak for themselves. From August 1996 to June 2003, the number of families on welfare fell from 4.4 million to 2 million, a 54-percent decline. In the same time period, the number of individuals fell from 12.2 million to less than 5 million, a decline of 60 percent. From 1996 to 2002, child poverty went from 20.5 percent to 16.7 percent. This represents a reduction of over 2.3 million poor children.

Child poverty rates among African Americans and Hispanics were at or near record low levels. The percentage of never married working mothers increased from 49.3 in 1996 to 65 percent in 2002. Childcare funding has continued at record levels. Let me say that again: Childcare funding has continued at record levels. We are going to be faced with a resolution shortly to increase that. The fact is, we have had ample dollars in the past. We have fewer people now and all different kinds of programs going into that. I hope we do not add $6 billion to the cost of the program.

State and Federal funding for childcare from the childcare development block grant, TANF, and social services block grant increased from $3.2 billion in 1996 to $11.8 billion in 2003. In 2003, an estimated 2.5 million children will receive subsidized childcare from these funding sources. From 1996 to 2003, child support collections increased from $12 billion to $21 billion. This demonstrates a pattern of success, moving people in the direction this was designed to move them.

Wyoming, my home State, has had particularly good luck. In the wake of these changes, welfare reform has been phenomenal. In fact, the number of individuals receiving assistance has dropped approximately 90 percent since 1994. This was accomplished with total weekly hour requirements of work of 40 hours, which is above and beyond the current law. That is what is in the reauthorization bill before the Senate.

Last year, Wyoming received a $19.9 million bonus for reducing the out-of-wedlock birth rate.

Wyoming also has over $30 million in reserve funds they are able to use when this bill is passed. This increased flexibility will not only help my State keep folks off the welfare rolls, but provide assistance to childcare and other expenses while continuing on their path of self-sufficiency.

I am very proud of my State's success. Our experience proves welfare reform is a strong and comprehensive policy to uplift and empower people to be able to earn for themselves. I am encouraged by the initial results of welfare reform, but there is still a lot of work to do.

I support the chairman's bill because it does the following: It increases work hours to 34. This is better to prepare recipients for full-time employment. I would like to see that number of work hours be increased to 40. Wyoming has made that work well.

This creates a partial credit system for States doing everything they can to make this even better. We have increased childcare spending by $1 billion over 5 years. It allows the States to use Federal money no longer used on cash assistance. Increased flexibility allows for more activities.

I hope we move this out of committee. We have been deferring it by extending the old bill. We need to put the new bill into place. We need to stop the uncertainty for the States as to what we are doing.

I thank Chairman GRASSLEY for his leadership. I hope we can move this week to conference and keep our commitments to equip TANF recipients with the skills they need to take care of themselves and their families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. ENSIGN. Mr. President, I will talk a little about jobs this morning.

How much time remains on the Republican side?

The PRESIDING OFFICER. The majority has 21 minutes 40 seconds.

Mr. ENSIGN. Mr. President, is there a unanimous consent on how the time is divided on our side?

The PRESIDING OFFICER. There is not.

Mr. ENSIGN. I ask unanimous consent I have 10 minutes of the remaining 21 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, might I ask for 10 minutes after the Senator completes his remarks?

The PRESIDING OFFICER. Does the Senator propound a unanimous consent?

Mr. BOND. I propound a unanimous consent request I be recognized for 10 minutes following Senator ENSIGN.

Mr. BAUCUS. Reserving the right to object, might I ask the Chair when we are scheduled to go back on the bill?

The PRESIDING OFFICER. The majority has 21 minutes remaining, and the minority has reserved 1 minute 10 seconds. When that time has expired, we will return to the bill.

Without objection, the request of the Senator from Missouri is agreed to.

The Senator from Nevada.

JOBS

Mr. ENSIGN. Mr. President, I rise to talk about jobs in the United States and something that is happening to our country. We have very complex international tax laws. To go into them, people's eyes would glaze over in complete boredom. Suffice it to say, because of the complexities, we have tried over the years to get U.S. companies on a more level playing field.

In the past year, the international bodies that have jurisdiction have ruled against the United States versus the European Union regarding the way we treat U.S. companies doing business outside of the United States. Therefore, because we have not fixed our laws, they have decided to put a 5-percent tariff on many of our manufactured goods. Starting this month and for every month thereafter, that 5-percent tariff will be raised by 1 percent. As a matter of fact, by this time next year it will be up to 17 percent, which puts American manufacturers at a tremendous global disadvantage when compared to the European Union.

If Members care about manufacturing jobs in this country, it is important this body bring back the JOBS bill that we had before us in the Senate last week that was filibustered and get it passed.

The other side keeps talking about, manufacturing jobs and exporting jobs and outsourcing. If people really care about manufacturing jobs in this country, we will bring the JOBS bill back up to the floor and get it voted on and get it worked out between the House and the Senate and get it down to the President so he can sign it into law so we can start giving more help and more relief to manufacturing jobs in this country.

Let me read a quote from the Washington Post of last week, quoting a Democrat tax aide saying:

> There's not a lot of incentive for us to figure out this [FSC-ETI] problem.

That is the problem I just talked about with the international tax laws with our country and the tariffs.

The Democrat aide went on to say that "allowing the ETI problem to fester would yield increased sanctions that could benefit the Democrats in November."

Well, if this is true, this is an appalling statement. This debate should be about policy, not petty politics.

So let's look at what is inside of this JOBS bill.

Not only would it end the $4 billion a year of tariffs against U.S. exports—and, by the way, those exports include grain, timber, paper, and manufactured goods. I realize, for some, this may be too politically tempting to let pass by—but this bill, by ending those tariffs, would put us on a more level playing field with European Union companies.

The CBO says we have lost 3 million manufacturing jobs in the United States since the year 2000. We have been losing gradually, since the late 1970s, manufacturing jobs in the United States. That is part of the entire global economy, but it is important that we at least allow U.S. jobs to be on a level playing field.

The JOBS bill to which I referred, that was being filibustered, provides $75 billion of tax relief to our manufacturing sector to promote rehiring in U.S.-based manufacturing firms.

This JOBS bill gives a 3-percentage-point tax rate cut on all income derived from manufacturing in the United States—it is not for manufacturing offshore—and we start those cuts in this year. This manufacturing rate cut applies to sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, and even foreign companies that decide to set up operations within the United States and provide jobs in the United States.

The bill also extends the R&D tax credit through the end of the year 2005. Now, the R&D tax credit is absolutely a jobs producer in the United States. It is for doing research and development, which betters our companies, which betters our economies, and creates high-paying jobs in the United States.

The bill also extends, for 2 years, the tax provisions that expired in 2003 and in 2004, such as the work opportunity tax credit and the welfare-to-work tax credits—obviously, important pieces of legislation.

The bill also provides incentives for newly constructed rural investment buildings, for starting or expanding a rural business in rural high-outmigration counties.

The JOBS bill includes brownfields revitalization. Those are inner-city areas. Because of environmental concerns, frankly, many inner cities have dying areas because companies cannot go in. Because of the environmental liability of what somebody dumped there before, they cannot go in and create jobs in the inner cities. That is why it is important we get this part of the bill done.

I also want to now talk about what I think is probably the most important part of the tax bill, and it is called the Invest in the USA Act, a bill that I have sponsored with Senator BARBARA BOXER of California.

This bill would allow U.S. companies that have invested abroad—they have a little over $600 billion invested that they have made money on and they have sitting in their bank accounts overseas. If they bring that money back to the United States, they will pay up to a 35-percent tax on it. There is not a lot of incentive for them to bring the money back. Other countries do not treat their companies that way, so they are able to actually bring the money back to their countries to create jobs in their countries.

This past weekend, Senator KERRY talked about that issue. He now supports the idea of giving a tax break for the money coming back into this country. Last year, we had a vote on our bill, and all 50 Republican Senators and 25 Democratic Senators agreed it was time to bring this money home at a very low tax rate—a 5.25-percent tax rate.

Senator KERRY has now embraced the idea of bringing it home, but he wants it taxed at 10 percent. The problem with taxing it at 10 percent is, because of the low cost of borrowing money today, it would actually be cheaper for the companies to borrow money in the United States than to pay the 10-percent tax and bring these funds home. So Senator KERRY recognizes it is a good thing to bring the money home. Unfortunately, the fix that he has will not bring the money home.

The bill that Senator BOXER and I have proposed, that received 75 votes on the Senate floor, and now is part of the big JOBS tax bill, does bring the money home. Estimates are that it will bring at least $400 billion to the United States. That is a lot of money. As a matter of fact, that is more money than was raised in all of the initial public stock offerings from 1996 to 2002. That is a huge stimulus to our economy. That will produce a lot of good-paying U.S. jobs that we so desperately need right now.

The economy is growing. GDP is up. There are increases in productivity. We are obviously doing well with home sales. Where we are not doing as well as we would like is in the area of new job creation. There are a lot of new self-employed jobs that are being created, but on the payroll survey many of those jobs are not being reported.

This bill—for those who want to increase and extend the temporary unemployment insurance benefits, for those who want to do all kinds of Government programs—will make those types of provisions unnecessary.

So if the Democrats in the Senate want to do something about jobs for this country, they will quit trying to put all kinds of extraneous provisions onto the bill, and we will get a jobs bill done this year.

Mr. President, I yield the floor.

Mr. KENNEDY. Will the Senator yield?

Mr. ENSIGN. My time has expired.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the Chair, and I thank my colleague. I thank my colleague from Nevada, particularly, for talking about the importance of the FSC/ETI bill because today jobs are a critical need in our country.

Yes, we see signs that the economy is recovering, but we are not seeing the growth in jobs. Now the unemployment rate is down to 5.6 percent. Obviously, we all would like to see it lower. There are a number of steps that we can take, and I think passing a good highway bill is one such step.

There are a number of steps that would be very harmful if we took them. I think, as we talk about jobs and the very volatile subject of insourcing and outsourcing, we need to understand what this is all about.

I was interested this weekend when I read an old story that apparently had been in the papers in Missouri for some time, but it was rerun in my hometown paper. When Missourians call a toll-free number about their food stamps or welfare benefits, the response comes from India. The State of Missouri has contracted with a call center operator. It is about a $6 million annual contract, which I guess was the best contract at the time that Missouri could get. They signed the contract, and now those jobs have been outsourced to India.

This is something we hear a lot about. People are complaining about outsourcing. A very interesting figure was in the Wall Street Journal maybe 10 days or so ago which talked about both sides: jobs going overseas and jobs coming back. And they came up with the startling figure that—I think it was for 2003—there was $74 billion worth of outsourcing.

The United States spent $74 billion outsourcing to other countries, but at the same time insourcing came to $131 billion, so that is a $54 billion net increase in investment in jobs in this country.

We have done a little work and found out there are about 105,000 Missourians who have jobs with foreign companies in the State. I met with the officials from the fine Webster University in St. Louis. They have done some outsourcing. They have three campuses in China that provide long-distance learning to people throughout Southeast Asia. I can't tell you how many people, as I have made trips overseas to promote export of Missouri products and services, have told me they are getting their degree from Webster University.

The question of outsourcing and insourcing has two sides. It is absolutely important to not do any harm to jobs that are coming into this country. But most importantly, we must make sure we don't do anything in Government that forces jobs out of this country. The FSC/ETI bill is vitally needed. We need to pass it. We need to get conferees appointed on the Workforce Investment Act. We need to train people so they will have the jobs.

I also focused this week on a battle we had on the energy bill. CARL LEVIN and I were successful in getting bipartisan support for the Bond-Levin amendment which imposed reasonable standards for increasing fuel economy in autos, vans, and light trucks. We were fighting against something that, as you look at it, would possibly have led to a significant decline in U.S. jobs. The Kerry-McCain amendment would have significantly increased CAFE standards, and this could have penalized full-line manufacturers. Those manufacturers—Ford, Daimler-Chrysler, General Motors—have plants in Claycomo, Hazelwood, Fenton, Wentzville, MO, where working families have good jobs in the auto industry that were put at risk.

I was very interested to go back to my files and find some letters from the UAW. In one, dated February 26, 2002, President Steve Yokich wrote urging support for the Bond-Levin proposal, saying the Hollings-Kerry proposal discriminates against the big three auto companies. On the second page, it says:

> The UAW continues to support improvements in CAFE that are economically and technologically feasible, and are structured in a manner that is fair and even-handed towards all companies. But we strongly oppose changes such as the Hollings-Kerry proposal that call for increases that are excessive and are structured in a manner that would discriminate against the Big Three automakers or facilitate the outsourcing of small car production to other countries. Such proposals would result in serious job losses for thousands of UAW members and other automotive workers.

We have to be careful as we look at regulatory efforts that might drive jobs out of the country.

Alan Reuther wrote on March 13, 2002, saying the Kerry-McCain amendment would mandate an excessive discriminatory increase in fuel standards that would directly threaten thousands of jobs for UAW members and other automotive workers in the country and would enable the big three auto companies to outsource their small car production to other countries, resulting in the loss of additional jobs.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UAW,
Washington, DC, February 26, 2002.

DEAR SENATORS: This week the Senate is expected to take up energy legislation covering a wide range of issues. The UAW strongly opposes the proposed changes in the Corporate Average Fuel Economy (CAFE) program which have been put forth by Senators Hollings and Kerry. We urge you to oppose this proposal, and to support the substitute CAFE proposal that will be offered by Senators Levin and Bond.

The Hollings-Kerry CAFE proposal would raise fuel economy standards for both cars and light trucks to 35 miles per gallon by model year 2013. The UAW opposes Hollings-Kerry CAFE proposal for three reasons:

(1) The Hollings-Kerry proposal increases CAFE standards much too high and too quickly. The magnitude of the proposed increase exceeds even the most optimistic scenarios projected by the National Academy of Sciences (NAS), and the proposed timeframe for vehicles to meet that increase is substantially less than the NAS projection. Under the Hollings-Kerry proposal, light truck fuel economy would have to jump almost 70 percent to meet a 35 mph standard—one-and-a-half times higher than even the most "optimistic" NAS projections. Significantly, the cautious NAS projections only indicate an average fuel economy increase of about 25 percent for light trucks and 10 percent for cars by model years 2014 to 2019, far below and later than what would be required under the excessive Hollings-Kerry proposal. In addition, the increase proposed by Hollings-Kerry would be made even more extreme by their other proposals that would tighten testing requirements and change the definition of light trucks to include vehicles up to 10,000 lbs.

(2) The Hollings-Kerry proposal discriminates against the Big Three auto companies. The Hollings-Kerry proposal applies a flat miles per gallon increase to current CAFE standards and also requires the standard for light trucks to be harmonized upward to the substantially higher level established for passenger cars. This approach would impose a much heavier burden on the Big Three auto companies compared to other automakers because the Big Three's product mix is much more oriented towards larger cars and light trucks. Under the Hollings-Kerry proposal, the Big Three would have to increase their fuel economy by 40–50 percent compared to less than a 15 percent increase for Honda. The net result is the Big Three could be forced to curtail production of larger vehicles, resulting in serious job loss for UAW members and other workers.

(3) The Hollings-Kerry proposal would undermine continued full-line domestic vehicle production by making it easier to outsource small car production to other countries. The Hollings-Kerry proposal gives the National Highway Traffic Safety Administration (NHTSA) discretion to eliminate the distinction in the current CAFE program between domestic and foreign car fleets. If this distinction were eliminated, the Big Three auto companies would be able to outsource their small car production to other countries. This is because they would no longer be required to average the fuel economy of more efficient, domestically built small cars with less efficient larger cars produced here. In addition, by establishing a CAFE credit-trading program, the Hollings-Kerry proposal would also give the Big Three automakers the "flexibility" to outsource their small car production to other countries. Taken together, these provisions could result in the loss of thousands of additional automotive jobs in this country.

The UAW continues to support improvements in CAFE that are economically and technologically feasible, and are structured in a manner that is fair and even-handed towards all companies. But we strongly oppose changes such as the Hollings-Kerry proposal that call for increases that are excessive and are structured in a manner that would discriminate against the Big Three automakers or facilitate the outsourcing of small car production to other countries. Such proposals would result in serious job loss for thousands of UAW members and other automotive workers.

We understand that Senators Levin and Bond will offer a substitute CAFE proposal that would require the Department of Transportation to complete a rulemaking within

15 months to increase fuel economy standards for both cars and light trucks. This substitute directs DOT to consider a wide range of factors, including technological and economic feasibility, the costs and lead time required for the introduction of new technologies, the disparate impacts on manufacturers due to differences in product mix, and safety considerations. In addition, this substitute would require DOT to continue the existing distinction between foreign and domestic fleets. The UAW believes the Levin-Bond proposal represents a more balanced approach that would lead to significant improvements in fuel economy without jeopardizing thousands of good paying automotive jobs in this country. Accordingly, we strongly urge you to vote for the Levin-Bond substitute and against the Hollings-Kerry proposal.

The auto industry is already experiencing significant economic difficulties, and the Big Three automakers have announced widespread layoffs. In light of this background, the UAW submits that this is not the time to impose onerous, discriminatory fuel economy standards on the auto companies that will only lead to further jobs loss, with potentially adverse impacts on the overall economy.

Thank you for considering our views on this priority issue that directly affects the jobs of thousands of UAW members and other workers.

Sincerely,

ALAN REUTHER,
Legislative Director.

UAW,
Washington, DC, March 13, 2002.

DEAR SENATOR BOND: Today the Senate is scheduled to vote on amendments dealing with the CAFE issue. The UAW strongly urges you to vote for the Levin-Bond substitute and against the Kerry-McCain amendment.

The Levin-Bond substitute would require the Dept. of Transportation to issue new fuel economy standards on an expedited basis, after taking into consideration a wide range of factors, including employment, safety, technology, economic practicability and the relative competitive impacts on companies. The UAW supports this substitute because we believe it will lead to a significant improvement in fuel economy, without jeopardizing the jobs of American workers.

In contrast, the Kerry-McCain amendment would mandate an excessive, discriminatory increase in fuel economy standard that would directly threaten thousands of jobs for UAW members and other automotive workers in this country. The 36 mpg fuel economy standard that would be required by Kerry-McCain for both cars and trucks goes far beyond even the most optimistic projections by the National Academy of Sciences. In addition, the structure of the proposed fuel economy increases—a flat mpg requirement for both cars and trucks—would impose a much heavier burden on the Big Three automakers and jeopardize production and jobs associated with their large car and truck plants. Furthermore, by eliminating the distinction between foreign and domestic car fleets, the proposal would enable the Big Three auto companies to outsource their small car production to other countries, resulting in the loss of additional jobs.

The UAW believes it is critically important that any increases in fuel economy standards be economically and technologically feasible, and that they be structured in a manner that does not jeopardize jobs in this country. To accomplish this objective, we believe the Senate must approve the Levin-Bond substitute, and reject the Kerry-McCain amendment.

Thank you for considering our views on these two priority votes.

Sincerely,

ALAN REUTHER,
Legislative Director.

Mr. BOND. The last time I spoke on this, I pointed out there were a number of other things we have done that really do endanger jobs. I mentioned the small engine proposal where, fortunately, we were able to stop the California Air Resources Board from mandating the use of catalytic converters on small engines for lawn mowers, leaf blowers, and chainsaws that would have forced the closure of plants in the United States that make those small engines and in all likelihood outsourced 22,000 American jobs to China.

I also talked about asbestos litigation which has driven much of the refractories business out of the United States because of the excessive burden of the asbestos claims. We need to move on a good asbestos reform bill to pay those who are truly sick and stop the jackpot justice for plaintiffs' attorneys who seek to sue anybody who has had anything to do with asbestos, whether plaintiffs are sick or not.

Finally, natural gas is a major source of outsourcing right now. Not only does it hit homes that heat with natural gas with high bills; it puts heavy costs on farmers who use fertilizer coming from natural gas. The artificially inflated demand Congress has mandated and the artificially constrained supply Congress has mandated have pushed the cost of natural gas so high that many natural gas producing industries have had to move their operations to other countries where the demand is not artificially inflated and the supply is not curtailed.

We are outsourcing jobs because of our policy on natural gas. We have forced natural gas use in electric generating boilers which is not an effective use of that valuable commodity. We need a good energy bill. We need to stop the filibusters and get an energy bill done. We need to move forward on the asbestos litigation reform bill. We need to move forward on the FSC/ETI bill. All of these are being filibustered or stopped or delayed, and we need to get about it.

We need to get the Workforce Investment Act. We need to appoint conferees so we can train these people. One of the great needs is for more workers with scientific engineering and technological backgrounds because those are the jobs of the future. We need to train them. Senator MIKULSKI and I need money in the VA–HUD bill to increase the National Science Foundation so they can develop more student interest in basic science and get more minorities and women involved. We have a lot of challenges to meet the changing needs of the job force in the 21st century. Rather than bloviating about one part of the problem, we need to fix the entire problem.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Pennsylvania is recognized for 20 seconds.

WELFARE REFORM

Mr. SANTORUM. Mr. President, I can't imagine what I am going to do with all that time. I thought there might be a few more minutes.

I look forward to this welfare reform debate. I hope we can have a good and enlightened debate on an issue that is vitally important for millions of Americans and that we keep to the subject of welfare, try to pass this bill, get it to conference and get a bill done this year to help millions more leave poverty and get gainful employment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield our remaining time for morning business to the Senator from Vermont, and I will yield additional time to him once we are on the bill.

The PRESIDING OFFICER. The Senator from Vermont.

CHILD CARE AMENDMENT

Mr. JEFFORDS. Mr. President, I rise today to discuss the Snowe-Dodd amendment to add $6 billion more in child care funding to the welfare bill that is before the Senate.

There is no issue more important than child care assistance in the context of this reauthorization. I commend Senators SNOWE and DODD for their leadership on this issue.

Child care assistance is critical for a number of reasons.

First, there is a strong connection between access to child care and the ability of parents to join and stay in the workforce.

Second, quality child care is critical to building the foundations for school readiness and later academic success.

Third, states are facing tough economic times and they are cutting back on support for child care. Our children need additional help from the Federal Government.

Child care is the No. 1 issue facing families today. Seventy-five percent of American children under the age of five spend at least part of their day in child care.

In Vermont, over 80 percent of women with children under the age of six are in the workforce.

Without access to child care, these families are often forced to leave their employment and seek public assistance.

We must support additional child care funding in order to support low-income parents and help them remain in the workforce.

Quality child care helps lay the groundwork for school readiness and success later in life. We know that the most crucial time for a child's brain development is from birth to 5 years old.

Elementary and secondary education are extremely important.

But without a positive, high-quality experience in the earliest stages of development, too many children are set up for failure in elementary, middle and high school.

By adopting the Snowe-Dodd amendment, we will give more parents the power to choose high-quality child care for their children and give those children the opportunity to get the most out of their early years.

If we are truly serious about closing the achievement gap among our students, and between the United States and our international competitors, then funding for high-quality early childhood care is the place to begin.

The States are facing tough financial situations. The General Accounting Office found that since January 2001, twenty-three States have made changes that would decrease the availability of child care assistance; while only nine States made changes that could increase child care availability.

I want to underscore this point.

According to the GAO, nearly half of the States are decreasing the availability of child care for working families. And this report may just be the tip of the iceberg. Federal funding is critical to reverse this trend.

My colleagues must understand the importance of this issue. By adopting this amendment, we can help families move off of welfare permanently. Or we can prevent them from needing welfare assistance in the first place.

I see this amendment not as a choice, but as a necessity. I urge my colleagues to support the Snowe-Dodd amendment, to support our working families and to support our youngest children.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time under morning business has expired. Morning business is closed.

PERSONAL RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4) to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Pending:

Grassley (for Snowe) amendment No. 2937, to provide additional funding for child care.

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the time until 12:15 p.m. shall be equally divided between the two leaders or their designees.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I rise today in support of H.R. 4, the Personal Responsibility and Individual Development for Everyone Act, called the PRIDE Act.

Throughout our Nation's history, we have seen wonderful examples of individuals, with a little drive and ambition, seizing one of the abundant opportunities this great Nation has to offer, and move, literally, from nothing in their pockets to a lifetime of incredible success.

That being said, up until 1996, this notion of America being "the land of opportunity" was nearly unknown to millions of welfare recipients who were bogged down by the stifling, cash assistance welfare system our Nation had embraced for over 100 years.

With the enactment of the Temporary Assistance for Needy Families legislation—we call it TANF—in 1996, that all changed. We offered individuals who had previously been shut out of the American dream the opportunity to eliminate poverty and move their families toward the empowering goal of self-sufficiency.

Welfare reform has been one of the most successful social policy reforms in U.S. history. We have seen millions of people focus their energies and efforts on their responsibilities and acquiring an attitude of providing for themselves. They have learned it by daily practice.

Nearly 3 million families have been lifted out of poverty. Employment by mothers most at risk to go on welfare has risen by 40 percent since 1995. Each of us in this body is encouraged to see the profound, positive effects TANF has had on the lives of those who require temporary assistance.

Caseloads are down 58 percent, and assistance recipients are working more than ever before. Thus, these hard-working people are leading themselves back to self-sufficiency.

As the Department of Health and Human Services has reported, welfare caseload reductions are primarily a result of implementing the welfare reforms contained in the original TANF legislation—and not merely due to the robust economy of the late 1990s.

I think we also need to recognize that the States themselves have held the key to the success of these programs by taking advantage of the flexibility built into the original TANF legislation.

Many States throughout the Nation have offered welfare plans and created specific, effective programs that are working well with their constituencies. The States' work has been well documented, as many States have reported caseload declines of over 70 percent since 1996.

TANF funds transferred by the States and used for childcare funding have also been an enormously positive development, and States are matching Federal spending in the area of childcare.

This is creating a good foundation where working parents can go back to work knowing that their children are being well cared for. I need only look to my home State of Utah to see the successes of the 1996 TANF law.

Since August of 1996, TANF rolls have decreased over 45 percent, while the quality and professional attention given to recipients has been steadily going up.

Utah has been a pioneer State in the development of personal, value-added attention and planning for those who are receiving assistance. Universal engagement of every assistance recipient is a necessity, and I applaud my home State of Utah for leading the way in this area. I also thank Chairman GRASSLEY for putting the provision in the bill.

My home State has also pioneered work in the promotion of marriage and family formation. Under then-Governor Michael Leavitt, Utah was the first State in the Nation to form a commission on marriage, which was charged with the overreaching goal of strengthening marriages in Utah. I am pleased to see this bill includes $200 million in matching grants for States to provide marriage promotion and responsible fatherhood programs.

The marriage unit is the most fundamental in society. If the bond of marriage weakens, so does our society, including the rising generation. It is widely recognized that a healthy, loving marriage between a man and a woman not only provides great personal happiness, it also creates the safest place for children to thrive and benefit from the full emotional, moral, and educational benefits that two married parents can provide.

I also commend President Bush for his commitment and efforts to strengthen healthy marriages.

Let me turn to another important component of the bill, the family self-sufficiency plan. Under current law, States are under no obligation to understand and assess the circumstances of each recipient receiving assistance. However, under the universal engagement provisions of this bill, it will be incumbent upon each State to meet with each recipient and create a plan, using all the support tools available to the State, to help the recipient achieve self-sufficiency.

This is a very important measure because it seeks to give each and every recipient a roadmap toward independence and success—a light at the end of the tunnel. It also signals to States that all TANF families deserve a chance to become self-sufficient and no one can be left to fall through the cracks in the system.

In Utah, I have seen that many of these parents, hard-working people, young and old, end up finding great self satisfaction in giving their gift of skill at work, at giving themselves to a task at hand so thoroughly that they have a meaningful relationship with their work. I think we will all agree that sometimes it is not easy to dive into your work with enthusiasm, but sometimes it is necessary and appropriate.

That is why it is so important that the work requirements are increased in this bill. The core work requirement is increased from 20 hours per week to 24 hours per week. Total hours required for a State to receive full credit increases from 30 hours per week to 34 hours per week for single-parent families. These are sensible, reasonable requirements.

Two-parent families will be required to work 39 hours per week, or 55 hours per week if they receive subsidized childcare. States will receive partial credit if individuals work 20 hours per week, and extra credit if they work more than 34 hours per week. Current law provides full credit only at 30 hours.

Again, these changes in the current law will help us make real progress.

It seems obvious that the more a person sets goals and takes responsibility for the career they want, the more they will be able to decide if a particular job fits into the scheme of their life. The harder they work—that is, the more hours they work—the more they understand why they are working at a particular job and how their hard work will benefit their individual families.

I believe the most important new provision in this bill is the establishment of a meaningful State participation rate. For years now, States have had no reason to actively recruit adults into industrious work and work-related activities. Under this bill, States would be required to have 70 percent of their caseload involved in approved work activities by the year 2008. This would require States to significantly ramp up their efforts to engage a much greater number of families in activities that count toward the work participation rate.

Right now, the majority of adults receiving assistance are reporting zero hours of activity. It is time we recognize that with an effective participation rate, and by the elimination of the caseload reduction credit in the 1996 welfare law, we will encourage people to commit to careers, to goals, to real recovery.

Another striking result I would like to note has been the effect of welfare reform on African-American children. For the 25 years before welfare reform, before the TANF bill in 1996, the percentage of African-American children living in poverty remained virtually unchanged. But since welfare reform, the poverty rate among those children has dropped from 41.5 percent in 1995 to 32.1 percent in 2002—still way too high, but it has been a definite, dramatic drop, and TANF deserves most of the credit for that situation. About 1 million African-American children—roughly the entire population of Dallas, Detroit, or San Diego—are no longer in poverty because of welfare reform.

There is still much to be done. Currently, 58 percent of those on welfare are not working or training to work, and 2 million families remain completely dependent on welfare for their survival. The full potential of this legislation has not been realized because of lax enforcement and efforts to undermine the principles and goals of reform. Let's look at this.

Among poor families with children, one-quarter to one-third do not work at all. The rest work sometimes, but not full time or year-round.

Only a fourth of poor families have full-time employment, and by that I mean 40 hours a week throughout the year. Because of this low rate, many remain poor.

Overall, among all poor families with children, most adults work only 16 hours a week whether the economy is good or bad. If all poor families with children had just one full-time adult employed year-round 40 hours a week, America's child poverty rate would drop dramatically. Many poor families would immediately be lifted out of poverty.

Last September, with my support, the Finance Committee reported this bill to reauthorize TANF and other programs for the next 5 years and to strengthen welfare reform further. This would greatly increase work requirements for working families so that 70 percent are participating in work or job preparation activities by fiscal year 2008.

All recipients should work full time either in a job or in programs designed to help them achieve independence. A 4-week cushion is included for vacation and sick leave, simulating a typical work schedule in the United States. And the plan makes special accommodations for parents with infants and individuals who need substance abuse treatment, rehabilitation, or special training.

One area of concern for me, and the citizens of Utah, is the difficulty many recipients will have in meeting the work requirement when they are unable to defeat an addictive drug habit or suffer from a devastating disability. I suspect many of those individuals who remain on welfare are those with drug dependencies or other ailments that are difficult to treat.

Under the current bill, only 3 months of rehabilitation services may be counted as an acceptable activity. In the Finance Committee, I offered an amendment that was adopted that extends this credit an additional 3 months as long as the State deems it necessary and the recipient is engaged in increasing amounts of work or job-readiness activity. I hope my colleagues agree with me that this is the right way to help these individuals get free of dependency and find meaningful employment.

Another amendment of mine that was included in the committee bill established a pre-sanction review. Families in Utah who are in need of services, such as substance abuse treatment, must receive the assistance they need to overcome barriers to employment. This is why I believe States must conduct a pre-sanction review before taking action against parents who are considered noncompliant. It does not seem fair that a parent is subjected to sanctions and case closures because of their State's limited substance abuse treatment capacity. If substance abuse treatment services are not available to the parent, States should refrain from sanctions or case closures.

The review established by my amendment requires States to review a recipient's self-sufficiency plan and consult with the recipient before enforcing any sanctions or taking away the recipient's cash assistance or welfare services. This provision is necessary to give recipients with significant barriers to work, such as a disability or a drug dependency, a real chance to meet the State's requirements prior to having their assistance taken away.

Another important area I would like to discuss is childcare. We all now agree that childcare is an essential part of encouraging people to work. I am pleased to see that this bill includes an additional $1 billion in funding for childcare. Even so, I think we need to go a step further. And I compliment, in particular, the distinguished Senator from Maine, Ms. SNOWE, and the distinguished Senator from Connecticut, Mr. DODD, with whom years ago I worked to pass the first childcare bill in history. He has kept at it and kept on it, and I personally respect and appreciate it. Of course, I am a cosponsor of this amendment as well. There are countless examples of how our country benefits from programs that allow hard-working parents to stay employed, and we need to support the efforts of working families by finding ways to help with childcare assistance. Parents need to know they have access to quality childcare.

I would like to make it clear that with the current budget situation, I am not advocating for large increases in Federal discretionary spending. I am very concerned about the fact that the

Federal Government is running a deficit and that our Federal debt is accumulating. High deficits and a mountain of Federal debt represent real obligations that hurt our economic security, both now and in the future, and hurt every person we are trying to help here.

That being said, I recognize the very real and pressing need for improved childcare services. The 1990 childcare law Senator DODD and I helped get passed was one of our most important initiatives, and certainly I think each of us claims and feels it was each of our important initiatives. I was pleased to join Senator DODD in that effort.

It is clear to me after much study that the funding contained in the finance bill is simply not adequate. I am supportive of increasing that funding even more, provided they are accompanied by responsible offsets to hold down the costs and, in this case, this amendment will.

We should recognize that many assistance recipients across our country will struggle to meet the requirement for increased work hours if they are not able to find and use quality childcare services. While we are trying to get people to work, we ought to try to help their children in the process. Funding for childcare should go hand in hand with an increase in the work requirement. I and others—Senator SNOWE in particular—have fought very hard for that in the Finance Committee. We cannot expect these mothers and fathers to feel comfortable leaving children alone or in the care of someone who is not competent in order to meet a higher work requirement standard.

A question we often ask ourselves is, "Is this a perfect bill?" I would have to say my answer to that question would be "no." But I am sure there are many on both sides who would like to change it one way or the other. Most people have to admit this represents a compromise of many competing interests. If I had written the bill, I surely would have done some things differently. But I think Senator GRASSLEY and Senator BAUCUS have done a terrific job on this bill under the circumstances. These types of bills are always hard fought. This is a good one with sensible, reasonable compromises.

In closing, I want to again personally recognize the substantial work of Chairman GRASSLEY, the Democratic leader on the committee, Senator BAUCUS, and the Senate leadership for bringing this very important bill to the floor.

Over the last 2 years, it has been my pleasure to work with many of my esteemed colleagues on the Finance Committee from both parties to create an effective welfare reauthorization bill. I also thank Becky Shipp, who now serves on the Finance Committee, for her tireless work over the past 18 months and prior to that to help craft a welfare bill that will improve the lives of many Americans.

My own staff, headed by Jace Johnson and Jenny George, has done a terrific job.

These people did superior work for me and the people of Utah for almost 10 years and I was very fortunate to have Becky and now Jace, as members of my staff.

In closing, let there be no misunderstanding as to what this bill does. It strengthens and improves the current welfare laws and gives poor families a realistic chance at achieving self-fulfillment.

The most generous behavior Americans could choose is taking responsibility for ourselves, our thoughts, our actions, and our needs. The most beneficial act we in Congress can perform is to allow those less fortunate to succeed and to help them meet their responsibilities for themselves, their families, and their communities. I urge my colleagues to support this legislation because I am confident this bill, when passed, will benefit the entire country.

Mr. President, I ask unanimous consent that the final 4 minutes prior to the 12:15 p.m. vote be equally divided between Senators DODD and SNOWE, with Senator DODD in control of the first 2 minutes and Senator SNOWE in control of the final 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CARPER. Reserving the right to object. I request, if I could, of the Senator from Utah—I understand under a previous unanimous consent agreement yesterday I would have 10 minutes to speak. Is that right? I want to make sure I still have my time.

The PRESIDING OFFICER. The Senator is correct.

Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent I may be allowed to speak for up to 12 minutes under the time under the control of the Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I thank my colleague from Delaware for graciously allowing me to take a few minutes here to speak on the amendment I am offering along with my colleague from Maine, Senator SNOWE. I thank her at the outset for her eloquent comments yesterday about the importance of this amendment and her kind comments about the Senator from Connecticut as well.

Let me also very quickly, while he is still here with us on the floor, commend my good friend from Utah. I remember with fondness, going back almost 15 or 16 years ago, when we offered the very first effort to include as part of our efforts on behalf of working families of this country a childcare proposal. That never would have happened without the tremendous leadership of the Senator from Utah, who was pretty much alone, I might say, in those days, in advocating this important initiative on the part of the Federal Government to try to do something to help these families who were trying to stay on the work rolls.

I would be remiss in any discussion about a childcare proposal not to reference the incredible work of the Senator from Utah. Again, I thank him for his leadership and I thank him as well for his cosponsorship of this amendment we are offering today.

Mr. HATCH. Will the Senator yield?

Mr. DODD. I am happy to yield.

Mr. HATCH. I thank my colleague for his kind remarks and mention that bill would never have occurred without the strength and character he demonstrated, helping to bring it forth. It was a tough time. We had to battle many forces. But in the end, this childcare bill has done an awful lot of good for people in this country. I want to express my respect for my colleague and thank him for yielding.

Mr. DODD. I thank my colleague.

The whole goal, of course, of the underlying bill before us is to move families from welfare to work. That has been the goal of those who initiated this proposal some time ago. Of course, many of us ask the question how in good conscience we could do that, turn our backs on those who are doing what we asked them to do, and that is to leave the dependency of welfare and to enter the workforce. Yet without the adoption of the Snowe-Dodd amendment, it is quite clear some 450,000 to 500,000 children who are presently receiving childcare assistance would have to be dropped from receiving childcare assistance. I don't think any of us want to be a party to that at all.

Let me further point this out to my colleagues as a backdrop of why the Snowe-Dodd amendment is so critically important. Between 1994 up to 2001, we have seen employment by families headed by single mothers soar from 61 percent to now about 75 percent of single parents with children who are in the workforce. Among low-income mothers with children under the age 6, who have the greatest childcare costs and needs, employment has risen from 44 percent in 1996 to about 60 percent in the year 2000.

Let me further point out there are 7 million children every day who go home from school alone, without any kind of afterschool or childcare assistance. These are children aged, some of them, between 6 and 7 years of age.

I don't have to say much more to make the case about the importance of doing what we can here to see to it we have the necessary childcare assistance that working families, poor working families are going to need.

What is presently occurring across the country is States cannot pick up the slack in the current bill. In the year 2003 alone, facing the worst State economies since World War II, 16 States have reduced eligibility levels so that fewer children will qualify for assistance. About 600,000 children in 24 States were put on waiting lists. Nearly every State made other changes in their childcare programs, such as reducing subsidies, increasing parent copays, cutting or eliminating afterschool programs, or shutting off assistance to families not on welfare—working poor families. States even made cuts in childcare quality investments such as reducing safety inspections.

In my own State of Connecticut, last week the State legislature recommended cutting another $20 million for the States Care4Kids childcare program. I say another $20 million because this is the most recent cut enacted in my State. The program will have gone from $121.5 million in fiscal year 2002 down to $70 million for next year.

In the meantime, of course, costs for childcare have continued to rise. Although the economy seems to be improving, not just Connecticut, but many States continue to face very tough budget decisions.

On this chart, every one of these little figures represents 2,000 children on a wait list across the country. I will not go through the entire list, but just to get some idea of what I am talking about, in Alabama, 16,700; Arizona, 8,000; California, 280,000; Florida 48,800; here in the District of Columbia, 1,400. In my State of Connecticut, 15,000 children are on wait lists; in Georgia, 30,000. It goes on. These are 24 States that keep lists. Other States don't keep waiting lists at all because frankly they don't want to know the numbers, and I don't blame them, because they are struggling across the country with the numbers of children who are qualified and would be eligible for childcare assistance but can't get it. These are the children on the wait list who presently need it.

Imagine, if you are not a parent of a young child yourself, colleagues, you may have children who are parents. Ask them, ask people in your office, what it is like today if you are going to work, you have a young child, and you are asked to pay $4,000 to $6,000 to $8,000 to $10,000 a year for childcare assistance.

Our staffs are pretty well taken care of. We have childcare centers for Senate employees. We have childcare centers around Capitol Hill and other places. But if you are a working parent holding down a job and you don't have those kinds of incomes and revenues, you have some idea of what it must be. Data from the Child Care Bureau shows 21 percent of childcare recipients receive TANF funds. This means nearly 80 percent of childcare funds are used to help working poor families. If childcare funds are not increased, the working poor will be cast aside so States have sufficient funds to help the welfare poor.

We ought not rob Peter to pay Paul. Both need our help—those on welfare moving to work and those who have moved from welfare to work but are just barely hanging on. If we deprive them of this additional assistance they fall right back. What good is that, in the welfare reform bill, where our underlying goal is to move people from welfare to work, not only temporarily but permanently, if we can?

The level of funding in the Finance Committee bill which provides an increase of $200 million a year, in our view—Senator SNOWE and myself and others who are cosponsoring this amendment—is woefully insufficient. The Congressional Budget Office estimates it would cost about $1.5 billion in additional childcare money to meet the work requirements under the Senate welfare bill. But that is not the full story.

The Congressional Budget Office also estimates even if there were no increase in the work requirements in this bill—of course, there are additional work requirements—it would cost an additional $4.5 billion over the next 5 years to maintain assistance for the 2 million children who currently receive help for childcare. A subsidy provided for the family today would simply not cover the cost 5 years from now. Again, you don't have to have a Ph.D. in economics to understand that.

To do otherwise is to shift costs to States or the parents, neither of whom are in a position to pick up the slack for the Federal Government.

Let me put this chart up as well. It will give you some sense of what I am talking about. You may not be able to see this very clearly. Every single one of the X's in every one of these States all across the country indicates the State has cut back in one way or another in terms of childcare assistance.

As I mentioned earlier, 24 States have a waiting list for childcare. Other States do not have a waiting list—not because they do not need assistance, but because they do not want to keep those waiting lists.

It is good news that welfare caseloads are down, although I understand the caseloads in a number of States have actually gone up. A reduced caseload does not mean a reduction in the need for childcare for low-income working families. What we know from studies about families leaving welfare is they are leaving welfare for low-wage jobs. They have left the ranks of the welfare poor to join the ranks of the working poor. Their need for childcare assistance has not changed. In fact, it may have gone up. Many State administrators believe the availability of childcare is one of the chief reasons welfare caseloads have declined.

Nevertheless, the purpose of childcare funding is to assist low-income families regardless of whether they receive welfare. Childcare can easily cost between $4,000 and $10,000 a year for one child, more than the cost of public college tuition in nearly every State. Therefore, the fact that welfare rolls have been declining is irrelevant to whether families need childcare assistance.

Nearly one-quarter of the TANF funds used to support childcare assistance is either transferred from TANF to childcare or spent directly on childcare. But estimates show that States are expected to spend a declining percentage of TANF funds on childcare as work requirements increase and TANF reserve funds from early years of the program are exhausted. In fact, most States, including my own of Connecticut, have exhausted their TANF reserve funds, or have nearly exhausted them.

States simply are not awash in TANF money. If they were, they would not be slashing childcare funding. Yet nearly every State has made cuts in childcare assistance. Let us be very clear. The promise made in 1996 when four separate childcare programs were consolidated as part of welfare reform was this would be a simpler program to administer, and childcare assistance would no longer be tied to welfare. Childcare assistance would be available for low-wage families regardless of welfare receipt. Now it appears that lacking sufficient funds, States such as my own are shutting off assistance to the working poor.

My colleagues are telling these families: Work your way off welfare, but once you are off, that is it. They are among the working poor. They are no longer a concern to many of my colleagues here. I disagree.

I thank Senator GRASSLEY and Senator BAUCUS, the chair and ranking Democrat of this committee, along with Senator HATCH and others for understanding this basic concept. Working poor families need this help or they will fall back into a dependency role.

If we do not adopt this amendment, as I mentioned, some 450,000 kids of the 2 million presently being served could lose childcare assistance.

I mentioned as well how single working mothers and their employment force has actually gone up to 75 percent and the poorest families actually have gone up almost 20 percent in the last 4 or 5 years. These mothers need childcare assistance. They don't have alternatives. They are single parents. They do not live necessarily in the old neighborhoods where there was someone next door or down the block or on the neighboring farm who would take care of them. They need this kind of help.

I know my time has expired. Let me say this is not only my view. There is a list of organizations which I ask unanimous consent to be printed in the

RECORD, beginning with the National Governors Association, all of whom, regardless of political persuasion or ideology, urge support for our amendment. They understand these families need our support. I ask unanimous consent that the list be printed in the RECORD, along with letters of endorsement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SNOWE-DODD AMENDMENT GROUPS SUPPORTING $6 BILLION FOR CHILD CARE

National Governors Association, American Public Human Services Association, National Conference of State Legislatures, National AfterSchool Association, Big Brothers Big Sisters of America, Easter Seals, National Women's Law Center, Children's Defense Fund, Generations United, National Association for the Education of Young Children, Center for Law and Social Policy, Fight Crime: Invest in Kids, National Association of Child Care Resource and Referral Agencies, National Collaboration for Youth, I Am Your Child Foundation.

Girls Incorporated, National Crime Prevention Council, National Institute for Out-of-School Time, United Way of America, YWCA, Campfires USA, AED Center for Youth Development and Policy, Adapted Physical Activity Council, Alexander Graham Bell Association for the Deaf and Hard of Hearing, American Academy of Child and Adolescent Psychiatry.

American Association on Mental Retardation, American Dance Therapy Association, American Foundation of the Blind, American Music Therapy Association, American Occupation Therapy Association, Association for Maternal and Child Health Programs, Association of University Centers on Disabilities.

Bazelon Center for Mental Health Law, Council of Parent Advocates and Attorneys, Division of Early Childhood of the Council for Exceptional Children, Epilepsy Foundation, Federal of Families for Children's Mental Health, Helen Keller National Center, IDEA Infant and Toddler Coordinators Association, International Dyslexia Association.

Learning Disabilities Association of America, National Association of Protection and Advocacy Systems, National Association of School Psychologists, National Association of Social Workers, National Coalition on Deaf-Blindness, National Consortium for Physical Education and Recreation for Individuals with Disabilities, Research Institute for Independent Living.

School Social Workers Association of America, Spina Bifida Association of America, TASH, The Arc of the United States, United Cerebral Palsy, USAction, US Action Education Fund, Volunteers of America, Youth Service America, 4 Counties for Kids (IL), Akron After-School (OH).

Arizona School-Age Coalition, Arizona State University, California School Age Coalition, Campfire USA First Texas Council, Circle "C" Ranch Academy (Tampa, FL), Columbia Heights Youth Club, Connecticut After-School Alliance, Connecticut School-Age Care Alliance, Flood Brook Community Collaborative (S. Londonderry, VT), Florida School-Age Child Care Coalition, Georgia School-Age Care Association, Heads Up (DC).

Illinois School-Age Care Network, Nebraska School-Age Care Alliance, Newport Enrichment Team (Newport, NH), New York State School-Age Care Coalition, North Shore Community College School-Age Child Care Certificate Program (MA), R'Club Child Care, Inc. (St. Petersburg, FL), Safe Harbor After-School (Michigan City, IN), Safe Haven After-School Program (Fresno, CA).

Southwest Community Network, Texas Afterschool Association, Texas Afterschool Network, The After-School Corporation (NY), United People Who Care Organization, Inc. (AZ), University Outreach Services, Shawnee State University (OR).

Utah School Age Care Alliance, Yuma School District #1, Discovery Clubs (AZ), Wings Afterschool Program (Whitingham, VT), Results, Inc., Voices for Utah Children, Voices for Children of San Antonio, Pennsylvania Partnership for Children, Wisconsin Council on Children and Families.

Mr. DODD. Mr. President, Senator SNOWE, cosponsors of this amendment, and myself, believe the amendment deserves support. We urge adoption of it.

I thank my colleagues for listening.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

I am going to vote yes on the amendment of the Senator from Maine. There are several reasons.

I have already stated yesterday in remarks that I believe the next phase of welfare reform must focus on strengthening work and opportunities for people to move from welfare to work. Of course, work is the key to self-sufficiency. Hence, this bill; this bill strengthens work. It would increase the participation rate requirement for States as well as increase the standard hours for individuals.

The typical welfare adult case is usually a single mother with a young child, many of whom lack even a high school degree. These are women who work more often than not. These women more often than not have families in crisis. They can't find a way to make their lives work. They need help.

If we are asking these women to go to work and to move from part-time to full-time work, if that is the case for some, childcare is an integral part of ensuring they can successfully meet the challenge required by law—a challenge that is good for society. Moving people out of welfare into the world of work is the only way they can move up the economic ladder. A life of welfare is a life of poverty.

Lack of good, affordable childcare is often a barrier to succeeding in the workplace. I am committed to doing everything I can to help these families succeed in work. That is good for the taxpayer as well as for the families. I have come to the conclusion that increasing funding for childcare is a key to accomplishing that goal.

As we know, States are facing budget deficits and childcare funding in those States has been frozen. Certainly in the context of a debate over welfare reform and progress, we should be mindful that States have spent resources to provide childcare to families attempting a transition from welfare to work.

I believe in the context of the debate over welfare reform we should consider whether it is important that we provide a level of funding sufficient so States can maintain the childcare supporting services they have been providing to welfare recipients and low-income families. I have concluded it is important to continue those services. I recognize in order to do that, we need to provide additional resources in the specific area of childcare.

If we were merely to increase childcare funding at a rate to keep up with inflation on the current level of spending, we would increase it by about $1.5 billion. If we include the $1 billion already in the bill before the Senate as it was reported out of committee and adjust that for inflation as well as including what the Congressional Budget Office estimates are the childcare costs associated with increasing the work requirement, we are close to $3.3 billion in additional childcare costs. This is what we know. We know we need at least $3.3 billion to meet the challenge of childcare. Now we have heard we need anywhere from $4 billion to $5 billion for States to continue providing services related to childcare.

I don't think we know for sure the exact increase of childcare funding we need to maintain the current level of services. However, I do think we need to assume there is a need, and an increasing need.

I do not believe $6 billion over 5 years is an unreasonable increase in childcare funding, given the increase in the work requirements, the current State budget situation, and the importance of maintaining at the very least the current level of childcare support available to low-income families.

Therefore, I will vote for the Snowe amendment. I ask my colleagues to do likewise.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware.

Mr. CARPER. Mr. President, I want to say how gratified I am to hear Senator GRASSLEY. I was very much encouraged to hear the comments of Senator HATCH.

As I see, we have been joined on the floor by Senator SNOWE of Maine, the author of this amendment, and by Senator DODD, who spoke just a few minutes ago.

I want to express to them my heartfelt thanks for their leadership in bringing this issue before us, and for working to build consensus around this amendment.

I strongly support this. In explaining that support, I go a long way back in time, back to 1936. In 1936, we did not have a welfare program at the Federal level in this country. In 1936, we adopted something after the encouragement of FDR that largely provided cash assistance to widows with children. Over the years, from 1936 through World War II and into the 1980s and 1990s, welfare changed.

By 1996, when welfare reform was adopted, widows and children were eligible for cash assistance on AFDC, Aid to Families with Dependent Children. A lot of the people receiving AFDC had children. For the most part, they were not widows. For the most part, they had never been married.

Despite the best of intentions, what we created after 1936 was a program that encouraged many women to have children, oftentimes at a young age; encouraged men to impregnate them; and encouraged the men to walk away from the children they helped to create as if they had nothing to do with it.

That is not to say welfare as we knew it did not do a lot of good. It did. But it also caught a lot of people in quicksand from which they found it difficult to escape.

Members may recall the debate back in the 1990s. Bill Clinton, when he ran for President, said we need to change welfare as we know it. One of the reasons is, in the early 1990s, a lot of people were better off on welfare than they were working.

For the folks who went to work, who got off of welfare, here is what they gained: They gained the right to pay taxes, State income taxes, Federal income taxes, Social Security taxes.

Here is what they lost: They may lose their health care, their Medicaid health care; they may lose food stamp eligibility; they may lose assisted housing; they have to figure out how to pay for transportation to get to a job; and they will have to figure out how to pay for childcare.

That all changed effectively in 1996. A lot of Governors were involved, including some who serve here today: Governors VOINOVICH, ALLEN, myself, and EVAN BAYH of Indiana worked with a whole lot of other Governors, including John Engler of Michigan, to provide unanimity on the part of the States and the National Governors Association, who said we have to change this system. People ought to be better off when they go to work than when they are on welfare.

When we created the block grant approach, Temporary Assistance for Needy Families, we said States have some flexibility in using that money that is allocated to them. They can use it for cash assistance, they can use it for childcare, they can use it for transportation assistance, they can use it for medical assistance, as well. Interestingly enough, as the welfare rolls dropped—and they are down by half—the amount of money spent out of the Temporary Assistance for Needy Family fund is now less than half of that which is spent. We spend a lot more money collectively on childcare, transportation assistance, and medical assistance. Not everyone who is off welfare is better off, but a whole lot of people are.

Fast forward today to 2004, 8 years after the adoption of the welfare reform. We heard Senator DODD go through the numbers and explain why we need to provide this additional money. Let me reiterate a couple of points. Almost half the States have a waiting list today for families who are eligible under the criteria of those States. They are eligible for childcare assistance. But the States cannot provide it.

California has over a quarter of a million people on the waiting list. In Virginia, there are 7,000. Again, they are eligible under the State's definition, the State's requirement for childcare, but the States cannot make good on it.

Last year, the States had a collective shortfall in their budgets of about $80 billion. It is not a whole lot better this year. It will not be a whole lot better next year.

Along the way, the States have been changing their criteria for eligibility. A couple of examples include Ohio, Nebraska, and Kentucky. Now if you make more than $23,000 and you have a family of three people, you are not eligible for childcare anymore. If you make more than $19,100 in Indiana, you are not eligible for childcare assistance if you have a family of three. In Nebraska, if you make more than $18,800 and you are a family of three, you are no longer eligible for childcare.

From my own experience as Governor of my State, there are four things needed in order to help people move off of welfare, and to stay off of welfare. One is a job. Second is a way to get to the job. Third is help with health care, children's care and their own. Last is help with childcare. If you do not have those four things—a job, a way to get to the job, help with health care, and childcare—people will not make a transition to work and remain working.

My friends, there are still some provisions in this bill over which we will probably have differences. This is one over which there should be no difference. This is a point on which Democrats and Republicans ought to agree. I am encouraged. We have a great opportunity for consensus on this bill. A big part of reaching a consensus enables us to pass this legislation, and to agree on this amendment. If we do, my hope is we can work out some of the more difficult amendments and get to a position where we can vote on final passage today.

Remember the old saying: If it ain't broke, don't fix it. On welfare reform, a lot of skeptics in 1996 said this will not work; we will throw people to the lions, and we will make things worse. For the most part, those fears have been unfounded. For the most part, people are better off. In million of homes today, someone is waking up and going to work. Their children have seen them go to work. If we provide good childcare for their children, we reverse the likelihood their children will end up in a welfare situation.

CHRIS DODD knows this better than I do. For a child who has good reading skills, the parents have read to them. They had quality prekindergarten training. When they go into first grade they have a 15,000-word surplus compared to those kids who have not had those things. Those kids will walk into the first grade with a 15,000-word or more word deficit.

We learn, as human beings, about half of what we will learn by the time we are 6. To the extent that we have kids who are in the home of somebody who is trying to hold things together, working minimum-wage jobs, they are not getting the kind of nurturing, whether at home or through a quality pre-K program, we raise the likelihood they themselves will end up entering school behind, falling further behind, and we raise the prospect, the likelihood they, too, will end up in a life of dependency.

It does not have to happen. I am very much encouraged if we pass this legislation today a lot of childcare providers will have the money they need to provide quality care. A lot of families ending up on the waiting lists will find the waiting lists reduced, and a lot of children who do not have a successful time of it when they get to kindergarten and first grade will have a better time of it.

Mr. DODD. I thank my Senator for his statement in support. As a former Governor, of course, he understands these issues from a State perspective, as well as cutbacks.

I am particularly grateful for the mention of the gap that exists between the poorest children in this country and those who come from the more affluent families. The slight correction I make—even his number is startling—but the average middle class child is exposed to about 500,000 words by kindergarten; an economically disadvantaged child is exposed to half as many, at best.

To put it in perspective. In a childcare setting where children, in the absence of parents who are working, can actually be in a place where they can learn, you may not close that gap entirely, but the gap of more than 100,000 words between those two children ought to startle every single American.

I thank my colleague for raising that issue.

Mr. CARPER. Whether the deficit is 100,000 or 15,000 words, it is too much.

The good news is this: We can do something about it. We can do something about it today. We can do something about it in 25 minutes when we vote on the Snowe-Dodd amendment. That is what we need to do.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, unless the Senator from Alabama wishes to proceed, I yield 3 minutes to the Senator from Wisconsin, Mr. KOHL.

Mr. SESSIONS. That will be fine. The Senator from Wisconsin was here before I was.

Mr. BAUCUS. Mr. President, I yield 3 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I thank the Senator from Montana.

Mr. President, I rise today in support of the amendment offered by Senators SNOWE and DODD to provide an additional $6 billion in childcare funding. The amendment is essential to guaranteeing the safety and health of the children of working families, and if it fails I cannot support the underlying bill.

I say that as a strong supporter of positive welfare reform. Wisconsin led the Nation in developing programs to move families off welfare and into employment long before Congress enacted the 1996 welfare reform bill, for which I voted. But the great success Wisconsin has seen would not have been possible without the vital work supports offered to welfare families—families that could not have become self-sufficient without help with childcare, health care, and food stamps.

Across our country, wherever you find stable and safe childcare available and affordable, you see parents moving off the welfare rolls and into jobs. Unfortunately, quality childcare is out of reach for too many working families today.

According to recent data, the average fee in Wisconsin for full-time care can surpass $7,000 a year—a small fortune to a single parent working at or near minimum wage. The Snowe-Dodd amendment, combined with the funding in the underlying bill, would send an additional $124 million in childcare funding to Wisconsin to help those working parents afford the care their children deserve. That translates into thousands more parents able to work, and thousands more children able to spend their days in a healthy, safe environment. The story is the same in all 50 States.

With the addition of the Snowe-Dodd amendment, the Senate can be proud of a welfare bill that lives up to its name—a bill that truly works for the welfare of struggling parents and, more importantly, their children. The Snowe-Dodd amendment builds on the childcare funding already in the bill as well as other important provisions to make sure working families receive the support they need and deserve.

One such provision, sponsored by Senator SNOWE and myself, would free child support payments from State and Federal red tape and send it straight to the children for whom it is intended. Under current law, Federal and State governments can hold onto childcare payments in order to offset welfare expenses. Our provision gives State options and incentives to deliver child support directly to families. Wisconsin has been doing this since 1997, with great results. Fathers are more apt to pay—and pay more—when they know their children are on the receiving end instead of the Government. And there are no added costs to States, as families that receive child support have more of their own income and are less likely to need other public assistance.

Childcare funding and child support are two simple steps towards ensuring families a smoother path towards self-sufficiency—and that is what a reformed, a compassionate, and an effective welfare system is supposed to be about. With the addition of the Snowe-Dodd amendment, the Senate's welfare bill will go a long way toward creating such a system.

Unfortunately, the same cannot be said of the House welfare bill. The draconian penalties it includes would do little to help families move off of welfare and into employment. In addition, the House bill does away with protections for mothers with children under 6—a disturbing policy decision with long-run implications for the future of the infants and toddlers it targets.

I urge my colleagues who take this bill to conference to reject the approach taken by the House. Families struggling to make a decent living for their children need a hand up—not a slap down. There is no sense in punishing parents and children for being poor. I also urge the Senate to overwhelmingly accept the Snowe-Dodd amendment today—and say yes to a healthy future for our Nation's most unfortunate children.

Mr. President, I thank Senator DODD and Senator BAUCUS and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I am inclined to want to say: Here we go again. We have a good bill, founded on, and built upon, a welfare reform bill that passed a number of years ago that has had extraordinary success. We now have about half as many people in America on welfare as there were before.

I guess the average American would think we have saved money, but, of course, that is not so. The way we give money to the States, fundamentally, is they get the same amount of money, no matter how many people are on the rolls, and they get to focus that money more on the people who are on welfare. And we have not saved money.

In addition, we have come up with a new welfare reform bill that I believe does a lot of good things. It will encourage work. It will encourage family formation. It will encourage stable family units and be positive in a number of different ways. So I think it is a good bill.

But even though the number of people on welfare is down, even though that number has continued to drop during the times of economic activity that we have seen in the recent past, we are not saving any money.

The bill itself, the fundamental bill, has a $1 billion increase in funding. And now, on top of that, we have a $6 billion childcare program added on top.

Now, having served on the Budget Committee, as I know the Presiding Officer has, we wrestled hard with these numbers. We wrestled hard with these numbers, and we criticized ourselves, and we told ourselves—over and over again—we have to start restraining what we do in terms of spending.

We have had people on the other side complain mightily about budget deficits over and over again. Oh, they are concerned about our budget deficits. But when we have a bill to add a huge new spending program to a welfare bill that, truthfully, ought to come in flat, at least, if not reducing the amount of welfare—since we have half as many people on welfare as we used to have—we now tack on to that $1 billion fundamental welfare reform a $6 billion childcare reform.

To my knowledge—I am on the Health, Education, Labor and Pensions Committee—we have not discussed childcare in our committee. I do not believe there has been any formal or thorough hearings in the Finance Committee. Just boom, right on top of this bill, $6 billion. Sock it to the taxpayer.

Oh, they say it is going to be paid for by Customs user fees. Every bill that comes through here that is unfunded they say it is going to be paid for by Customs user fees. Surely, we will have some revenue come out of Customs user fees, but it is just revenue, just money that is coming into our Government when we are in a time of substantial deficit.

So we are going to spend that, not to fund programs we have out there now that need it, but we are going to spend that new money, they tell us, in this bill on an entirely new childcare program.

Let me show this chart. This chart gives an indication that this Congress has not been insensitive to childcare in America. And let me say this, something we do not think about: We have fought in this Congress, and we need to reauthorize this year, the child tax credit, which provides $1,000 per year for every child in America so families can use that money for childcare or anything else they need—$1,000 per child. For a three-child family, $3,000.

They have that money they can utilize as they choose.

Not only that, we are reducing the marriage penalty. When people get married, they pay more taxes. Not only that, we have reduced the 15-percent bracket, or expanded the 10-percent bracket, so that more people will be paying income tax rates at 10 percent rather than 15 percent. It is a substantial reduction for them, a one-third reduction in the amount of income tax lower income working Americans will be paying.

Those are good things we have done without any bureaucracy or anything of that nature.

Look at this chart. This shows the various childcare programs we have in America. Total childcare spending, Federal and State—about $6 billion of it is State—$23 billion per year. Now, I am telling you, that is a major commitment by this Congress and the American people to deal with childcare.

But there is a limit to what we do here. We have reduced people on welfare by 50 percent. Are we saving any money for the taxpayers? No. We are adding a $1 billion increase in this bill to help that remaining 50 percent to be positive contributors, to have education and training and jobs and other assets and childcare.

As a matter of fact, this welfare reform bill will unlock $2 billion that is sitting out there right now. This $2 billion, because of the regulations, is not being able to be utilized. That $2 billion, when it is unlocked, will be available for childcare or whatever the State managers of these programs deem to use it for.

I wish we had the money to fund everybody who wanted to have childcare, to just let them have it. I wish we had the money. I wish we had the money to do a lot of things around here, but we are in a period of deficit. We need to maintain integrity in spending.

The PRESIDING OFFICER. The Senator has used his time.

Mr. SESSIONS. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I consume.

Clearly, to make welfare work, there has to be adequate childcare support. It is a no-brainer. I appreciate Senator GRASSLEY's efforts to help improve this bill. I appreciate, therefore, even more the amendment offered by the Senators from Connecticut and Maine to provide for adequate childcare funding. I further appreciate the support of this amendment by the chairman of the committee, Senator GRASSLEY. It is another example of his doing what is right. There are a lot of politics around here. Clearly, what is right is to make sure our kids get enough childcare support.

There are 2 million children today who currently benefit from Federal childcare. Maintaining that current level will take $4.5 billion over the next 5 years. We also need another $1.5 billion just to cover the cost of the new work requirements in the Senate bill. In total, we need $5 billion more than this bill requires. Therefore, the amendment pending is one that must be passed.

In Montana, more than 10,000 children receive childcare assistance, but that is only one-tenth of the number of children who are eligible for childcare assistance. I believe with passage of this amendment, we will be able to raise that one-tenth to a much higher level.

I remember when I walked across the State of Montana, I met a lady who must have been 19, 20 years old, near Bozeman. She told me she was trying her level best, emphatically, to stay off welfare. She was a single mom. She had one child. She had a very low-paying job. She was a very adroit woman. She looked like she had a lot on the ball. But she was determined to stay off welfare. She slept on her parents' sofa so she didn't have to pay for a room, and someone else took care of her child during part of the day. But then she figured out that her childcare cost her 30 to 40 percent of her total wages. She couldn't do it. She was so upset that she had to go back on welfare. Why? Because the wages she was receiving were not enough and her childcare was costing way too much.

Based upon that one example alone, I personally know how valuable this is. Childcare is critical to help keep people off of welfare, to help keep people working. It is an investment in our future. Who knows, some of these children might be future Nobel Prize winners, future inventors or poets or authors. These are our kids. It is a no-brainer for passage of the amendment. I urge a very large vote.

How much time remains on our side?

The PRESIDING OFFICER. Three minutes 15 seconds.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague for yielding me the time.

I strongly support this amendment and believe it is an essential part of any TANF reauthorization. If we were to defeat this amendment, we would probably have to conclude that we are better off under current law than under the bill that has been reported out of the Finance Committee. Many of my colleagues believe we should have done more for childcare in the legislation we were considering in the Finance Committee, but it was determined at that time that our best opportunity to get the support we needed was to follow the lead of the two sponsors of this amendment, Senator SNOWE, in particular, in the committee and Senator DODD here on the floor, to be sure that this legislation got enacted.

The truth is, the underlying bill imposes greater work requirements on low-income mothers and puts them in an impossible situation if we don't continue to provide the childcare assistance they need. It is also clear that if we take the level of funding of childcare that is provided for in the bill without this amendment, we will see childcare assistance denied to hundreds of thousands of working poor families.

This is essential legislation. I strongly support it. I urge my colleagues to support this amendment. With this amendment, we can move ahead with consideration of other amendments and hopefully wind up with reauthorized TANF legislation that we can all support.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield myself the remaining time and ask unanimous consent to add the following Senators as cosponsors of the amendment: Senators DAYTON, DEWINE, CORZINE, and HARKIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I rise to make a few comments regarding this amendment before the final vote.

First, I thank Chairman GRASSLEY for his extraordinary leadership and his commitment to ensuring that this legislation gets completed this year, as should be done given all the temporary extensions, but also for his support of the pending amendment to increase childcare support by more than $6 billion.

I also thank Senator DODD, who has provided exemplary advocacy and leadership on behalf of families and children. I appreciate his reaching across the political aisle to forge and craft this bipartisan amendment, along with Senator CARPER, who approached me some time ago as well, because of his leadership previously as Governor and now in the Senate on the importance and value of providing the necessary child support in order to make sure we improve the well-being and quality of life for families and children as we transition off this entire welfare system. And I thank other cosponsors such as Senator BINGAMAN and all of the Senators who have chosen to cosponsor this amendment across the political aisle. I truly appreciate it. It will give breadth and depth to the reauthorization of this welfare reauthorization.

This amendment is a recognition of reality. If we want the nearly 5 million people who currently are on the caseload to transition and remain off welfare, we clearly have to provide them affordable, quality childcare assistance. In fact, one of the major pillars in the 1996 landmark legislation was to ensure that we create the necessary support systems so that full-time employment would become accessible.

We created the childcare development block grant for families who are on welfare, those transitioning off welfare, low-income families who are not on welfare for whom this assistance could make all the difference. Yet today only one in seven children—only 15 percent—in America who are eligible for Federal support are actually receiving it.

More significantly, in 2003, every State in America has reduced their childcare support because of the tremendous financial constraints they are confronting. Not only that, there are 16 States that are reducing the eligibility levels. Therefore, fewer children will be eligible for childcare assistance.

There can be no question about the impact of the value of childcare in America. According to a 2002 study, 82 percent of former welfare recipients who receive childcare assistance are more likely than those who do not to have employment for 2 years after being off welfare. That is critically important because it underscores the value of providing this type of support.

Currently there are 2 million children receiving a childcare subsidy, which is only a fraction of those children who are eligible. CBO estimates that it will require $4.5 billion to ensure all 2 million children receive the current level of support over the next 5 years. Yet the underlying bill only includes $1 billion that will cover approximately the increased cost to childcare as a result of the expanded work requirements. So if we do nothing more than the underlying bill, there is the potential of 400,000 children who will lose childcare support if we do not pass this amendment today.

Now, some people say, you know, we are doing enough. Well, you ask the 605,000 children in America who are on waiting lists. There are not waiting lists in every State. Some States don't keep waiting lists, and the reason is because they know they cannot fulfill the burgeoning demand for childcare and will create expectations they cannot fulfill.

This amendment becomes critically important to the well-being of families and children. It is a recognition of reality. The reality is, if we want families to leave welfare, stay off welfare, then let's give them the support they need by passing this amendment. The reality is that children need the quality daycare while their parents are working to improve themselves and their families. We don't want to create untenable situations that require families to make untenable choices.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield the remainder of our time to the Senator from Connecticut.

Mr. DODD. Mr. President, very quickly, I thank the chairman and ranking member of the Finance Committee for their leadership on this issue. Once again, I am deeply pleased to be joining Senator SNOWE. She has worked tirelessly on behalf of children and the issue of childcare during our joint service in the Senate. I also thank Senator HATCH and others. I go back a long way with Senator HATCH. It was almost 15 years ago, in 1990, when we passed the first Childcare and Development Block Grant, CCDBG.

In 1996, we consolidated 4 separate childcare programs and included them in the welfare reform package. I have a couple of quick points to make. Federal funds presently have been frozen for 3 years on childcare. The costs are obviously going up. Senator SNOWE pointed out we have 400,000 to 450,000 children who will be dropped from child care assistance if this amendment is not included. At least 600,000 children are on waiting lists in the 24 States that keep them. For the remaining States, obviously, there are many eligible children not receiving child care help.

The Governors want this. They have been asking for it. They are cutting back themselves. Every State has cut back in one way or another on childcare assistance programs. Seven million children every day go home from school to an empty house, with no kind of afterschool program and care. I don't think any of us want to see that perpetuated.

This amendment is paid for by extending Customs user fees which are scheduled to expire. We are not asking anyone to add to the deficit at all. This is an existing program. There is nothing new about it. It was crafted 15 years ago and part of a consolidation of child care programs in 1996, so it is not a new program. The amendment is paid for and it is absolutely critical.

The underlying bill says, let's get people off of welfare and to work. We have expanded some of the work requirements here. You must have additional childcare support, or working poor families will slip back into dependency. No Member wants to be part of a solution that would require that to happen with too many families out there making a tremendous effort to stay employed and independent.

Senator SNOWE and I graciously ask for your continuing support of this very important program. We urge adoption of this amendment.

Mr. HATCH. Mr. President, I rise today in support of this amendment to increase the amount of mandatory childcare funding available to States.

Many of us understand that child care is an essential part of encouraging people to work. I have long believed that parents who are concerned about their children's well-being cannot be effective, dependable employees. Unfortunately, the data are clear; the need for affordable child care in this country is rapidly increasing and the Federal funds available to help poor families have deteriorated significantly due to flat funding and inflation. Without dramatic funding increases, over 600,000 poor parents will face tough decisions about what to do with their children while they are working to keep the family out of poverty. I am concerned about this statistic.

I sincerely believe it is the right thing to do to require families receiving Federal assistance to work more hours to ensure they can become self-sufficient. That is one of the many reasons I am supportive of this bill, H.R. 4. However, requiring more hours of work from poor parents inevitably leads to an even greater demand in childcare funding because parents must be out of the home for longer periods of time. In many respects this is a healthy development for the family. But the $1 billion increase in childcare funding provided by this bill is simply not adequate to meet this increased work requirement; therefore, I think we need to go a step further. That is why I support this important amendment to increase child care funding by $6 billion over the next 5 years.

I would like to make it clear that I certainly understand the budget shortfalls this country is facing. While I believe much good can be done by increasing child care funding, I would not be supportive of this amendment if it were not 100 percent deficit neutral. I am pleased to see this amendment is offset by increases in customs user fees and does not add to the budget shortfalls we are currently experiencing. High deficits and the mountain of Federal debt represent real obligations that hurt our economic security, both now and in the future. Therefore, as long as we have a viable offset for childcare funding increases, I am supportive.

With that understanding, I encourage my Senate colleagues to support this amendment and provide these necessary childcare funds to families.

Mr. HARKIN. Mr. President, I add my strong support for the Snowe/Dodd amendment to add $6 billion in childcare funding in the TANF bill. This will allow for urgently needed improvements to access and the quality of childcare.

Back in 1996, Congress passed a tough welfare reform bill that demanded personal responsibility. I supported that bill. It said that if you are on welfare and you can work, you must work. Our reform has had some substantial successes, but now is not the time for a victory lap. I am particularly concerned that this bill does not provide adequate funding to address what we all know is one of the major barriers to employment—childcare.

If we are going to demand personal responsibility from every American, I believe the Government has a responsibility to every American.

If we are going to help struggling low-income families and those trying to leave welfare over the long term, we have a responsibility to provide those families with access to affordable, high quality childcare. Nationwide only one in eight kids eligible for childcare assistance actually receives it. In Iowa the story is worse, only 1 out of 12 actually receives assistance. Parents cannot work if they cannot afford decent childcare. But the sad reality is that many are forced, too often, to leave their kids in substandard care—or no care at all.

In Iowa nearly two-thirds of mothers with kids under age six are in the workforce. That is the second highest in the Nation. This means that children in Iowa spend a large percentage of their formative years in childcare. Unfortunately the availability of quality daycare has not kept pace with the demand of daycare. I have heard countless stories of families who tell me they had to leave their kids in substandard care because they could not find quality care or because they could not afford better care. One woman told me that she knew her kids were in front of the TV most of the day, but that was the only option she had. She had to go to work. These stories are just devastating.

Even when a family can find childcare, it is often too expensive. Low-income working families often spend almost 50 percent of their paychecks on childcare. Meanwhile, higher income families spent only 6 percent.

In my State of Iowa, the average cost of childcare in rural areas is almost $6,000 a year. And that is just for one child. The average wage of someone on TANF is only $7.28. So if we do the math, someone making slightly more than minimum wage working 40 hours a week is spending almost half of their earnings on childcare. One single mom struggling to get off welfare in Iowa told me that she spends 45 percent of her income to meet the childcare costs for her two children—and she has to work a second job at night so they can survive. Her total yearly childcare for two kids is $12,000.

And regardless of income, parents worry about the quality of childcare. In Iowa the majority of growth has been in nonregistered, unregulated care as opposed to registered and accredited centers. Nationwide there is also a major shortage of quality childcare for children in rural areas, for children with special needs, and for infants and toddlers. In fact, in a recent Midwest study, Iowa ranked the lowest in providing quality care for infants and toddlers. This is alarming, because the years through age three are a critical time for brain development and emotional development. This is when a child lays the foundation—or fails to lay the foundation—for later success in school and life.

Data from the National Academy of Sciences shows that the first 3 years of a child's life are the most important—80 percent of brain development occurs before the child's third birthday. Children who do not have rich, enjoyable, emotionally, and intellectually stimulating learning experiences during these important years can be stunted for life.

In fact, more than a dozen years ago, in 1991, the Committee for Economic Development, made up of business leaders, found that investing in quality childcare and other early interventions was critical to securing this Nation's economic future. CED urged Federal policy makers to view education as a process that begins at birth.

We also know that good childcare prevents later crime and violence. I request unanimous consent that this op-ed, written by the Des Moines chief of police, be included in the RECORD.

Chief McCarthy says that "my law enforcement experience has taught me that by giving children the right start in life through programs such as pre-K and childcare, we can dramatically reduce the chances of you or someone you love becoming the victim of violence."

Yet despite all that we know about how important good quality childcare is, we fail to support our highly skilled childcare providers. In fact, we are paying them less than bus drivers, barbers and janitors. I think it is time that changed. The average childcare worker's salary in Iowa is $14,100, well below the national average. There is also a 50 percent turnover rate for childcare providers. This is particularly harmful as stable, consistent relationships are essential to healthy development.

Recognizing the inadequacy in quality as chairman of Labor, Health and Human Services Subcommittee of Appropriations, I began funding an additional $200 million in CCDBG to improve quality, with targeted funding directed to infant and toddler needs.

The Dodd/Snow amendment will bring us a step closer to the day when all young children have the opportunities and supports they need to embark on a lifetime of learning.

We talk a lot in this country about budget deficits, economic prosperity and how as a nation we have to prioritize. One of our priorities surely must be to strengthen families, encourage work, and provide decent childcare. I understand that many of my colleagues have concerns with the cost of this amendment. Well if we can find trillions of dollars for tax cuts, hundreds of billion of dollars for a prescription drug give-away to big pharmaceutical companies and HMOs, and tens of billions of dollars for a trip to Mars, then surely we can make key investments in programs like CCDBG. I urge my colleagues to strongly support the Snowe/Dodd amendment.

Mrs. MURRAY. Mr. President, I rise in support of the Snowe-Dodd amendment to increase funding for child care by $6 billion. We know that high-quality child care makes a real difference for children and their families. It allows parents to work, and at the same time it gives children a safe and productive place to learn.

Today the need for child care is growing, but government support is not. In fact, because of the slow economy and State budget problems, many States are cutting back on their support of child care. This is having an especially painful impact on low-income families—the very families that are helped the most by child care. These are also the same families that will need more help because of the work requirements in the underlying bill. That is why we need to pass this amendment.

The Snowe-Dodd amendment will increase funding for the Child Care Development Block Grant by $6 billion. Without this amendment, about 430,000 children will lose their child care assistance over the next 3 years. This amendment will make a real difference for families in every state. In my own home state of Washington, this amendment will mean nearly $140 million in increased child care funding for Washington families.

Over the years, I have fought on this floor to increase child care funding, so I don't need to spend a lot of time reviewing what the research shows us. We know that safe, quality child care helps children start school ready to learn and keeps children safe while their parents work. Studies show that quality makes a real difference. Children in poor-quality child care have been found to lag behind in language and reading skills and to display more aggression. On the other hand, children in high-quality child care have greater math, thinking and attention skills. They also have fewer behavior problems than children in lower-quality care.

The benefits of high quality child care are not in question; the only question is how many families can afford it? Full-day child care easily costs from $4,000 to $10,000 a year. That is at least as much as college tuition at a public university, and it's more than many families can afford. For example, if both parents work full-time for minimum wage, they only make $21,400 a year. Child care would be one-quarter to one-half of their income. Clearly, they need help.

Today, nearly 16 million children under age 13—who are living in low-income families—are likely to need child care. But out of those 16 million, only one in seven low-income children receive the federal child care assistance for which they are eligible.

Even worse, the need for child care is increasing because of our high unemployment rate and because of the increased work requirements in the underlying bill. Many out-of-work parents are looking for jobs, and they need child care to be able to look for a job. If this amendment fails and the underlying bill passes, about 430,000 children will lose their child care assistance by fiscal year 2008. Without this amendment, fewer and fewer children will get the child care they need. Because of inflation alone, States will need $5 billion over the next 5 years just to keep serving the same number of children. And that assumes that TANF funds will be available and that State budgets won't be cut.

We already know that States are cutting back on child care funding because of their budget shortfalls. In 2000, States spent $3.8 billion in TANF funds for child care programs. By 2002, State spending had dropped to $3.5 billion. Many States have growing numbers of low-income families on waiting lists. Some States are turning low-income families away unless those families receive TANF, are moving out of TANF, or have other special circumstances. Other States have altered eligibility requirements so that only the very poor receive assistance. And some States have raised copayments. According to the General Accounting Office, 23 States have changed their child care policies since 2001 in ways that limit access for families, shutting the door on opportunities for parents to work.

My own State of Washington has lowered the eligibility standard for child care subsidies from 225 percent to 200 percent of poverty. Washington State also increased monthly co-payments for families. In 2000, 54,000 children in Washington received subsidized child care. By 2001, the number had dropped to 51,200. As I mentioned earlier, this amendment will mean nearly $140 million in increased child care funding for Washington families. That help is desperately needed.

Today we are considering a welfare reauthorization bill that is supposed to help struggling families become self-sufficient. I do not believe we can have a meaningful conversation about getting parents into jobs unless families have access to safe, quality child care. I urge my colleagues to support the Snowe-Dodd amendment to increase child care funding by $6 billion.

Mr. BINGAMAN. Mr. President, I rise today in strong support of the bipartisan childcare amendment being offered today. This amendment would provide reasonable and necessary increases in funding to the Child Care Development Block Grant.

The underlying bill only provides increases of $200 million per year for 5 years for childcare. Unfortunately, this level of funding fails to support low-income families who are trying to become independent and self-sufficient. First, the underlying bill imposes more rigorous work requirements on TANF mothers without providing enough resources for essential childcare support. In addition, the level of funding in the underlying bill is so inadequate that it will result in the loss of childcare funding for hundreds of thousands of working poor families. The cost of quality childcare in this country can exceed $10,000 per year, thus rendering quality childcare out of reach for too many low-income working families.

I strongly support this amendment. This amendment would provide the necessary funds to support the work requirements of TANF recipients as well as the efforts of low-income working families—parents trying to stay off welfare. It would provide sufficient resources to, at the very least, maintain the number of childcare slots available to working families. And, it would provide families with opportunities for quality childcare.

The availability of childcare assistance through the Child Care Development Block Grant, CCDBG, played an essential role in the decline of welfare caseloads around the country throughout the 1990s. Both the Federal Government and the States dramatically increased spending for child care after passage of welfare reform in 1996. The bulk of the increases, however, came from the Federal Government. By 2002, the Federal Government appropriated approximately $4.8 billion for childcare in both discretionary and mandatory spending. States also saw record declines in TANF caseloads, and thus were able to use the flexible TANF dollars for childcare assistance.

The number of employed single mothers dramatically increased from 6.4 million in 1996 to 7.3 million in 2001. And, employment rates among low-income mothers with young children increased from 44 percent in 1996 to 59 percent in 2000. The number of children receiving childcare services through CCDBG doubled during this period from 1 million to approximately 2 million children.

Further, research shows that the availability of childcare subsidies leads to more work, higher earnings, and a greater likelihood of remaining off welfare. A recent study found that single mothers with young children who receive childcare assistance are 40 percent more likely to still be employed after 2 years than mothers who do not receive such assistance. And, the numbers only increase for mothers who were former welfare recipients. According to the data, former welfare recipients with young children who receive childcare assistance are 82 percent more likely to remain employed after 2 years. The evidence shows that our childcare policies work; childcare assistance helps low-income working mothers move from welfare to work.

Our commitment to childcare, however, has waned. The Federal contribution to childcare has remained frozen since 2002. And as a result of severe budget crises facing our States, the state contribution to childcare has significantly diminished. The use of TANF dollars for childcare has declined since 2001. Moreover, states have had to close budget gaps cumulatively totaling $200 billion since FY 2001, and many States have cut assistance to childcare to close the budget gaps. According to the General Accounting Office, nearly one half of all States have made policy changes that reduce the availability of childcare subsidies, and 11 other States are proposing changes that will reduce current levels of spending on childcare.

According to the Congressional Budget Office, it will cost approximately $4.5 billion in Federal funding just to maintain the current number of childcare slots for the next 5 years. If this amendment fails, it is estimated that more than 400,000 children would lose their childcare assistance.

Although CCDBG serves approximately 2 million children nationwide, we are only providing childcare to 12 percent of the eligible population. Further, due to State cuts, we are already seeing States reducing eligibility, lowering income limits, increasing waiting lists, lowering provider reimbursement rates, and increasing parent copayments.

For example, 15 States and the District of Columbia have reduced their eligibility limits, either lowering the eligibility cutoff based on poverty or restricting eligibility to TANF-only families. New Mexico has lowered eligibility for childcare, making the income cutoff lower than it was in 2000. These policy changes, of course, do not mean that low-income families are any less in need of childcare. It just means that without the childcare subsidy, it will be that much harder to afford quality childcare.

In New Mexico, there are almost 100,000 children in low-income families with all parents in the workforce. A family of three earning more than $22,890 a year cannot qualify for childcare assistance in New Mexico, but at this income level they would be struggling just to cover their basic expenses. In Albuquerque, for example, annual costs for decent housing, $7,008; food, $4,212; transportation, $1,932; health care, $3,060; and other necessities such as telephone service, clothing, and household items, $3,480 alone would total $19,692, according to a study of basic family budgets. Paying for average-priced center care for an infant and a preschooler, $10,408, would put this family $7,210 over budget.

The cost of quality childcare is simply out of reach for too many working families. The quality of childcare has a significant effect on children's health and development and their readiness for school. Studies show that children who have traditionally been at risk of not doing well in school are affected more by the quality of care than other children. These children are more sensitive to the negative effects of poor childcare and receive greater benefits from higher quality care. Evidence demonstrates that children who attend higher quality childcare perform better on measures of cognitive development, such as math and language skills, as well as on behavioral development, such as thinking and attention, interactions with peers, and behavior skills. Yet, while low-income children are at greater risk, they are less likely to be able to access high-quality childcare.

Without adequate increases in funding for childcare, we are forcing our low-income mothers into impossible situations. This bill requires TANF recipients to work, yet fails to provide adequate childcare to support their efforts. The bill also fails to provide sufficient childcare funding to maintain childcare assistance for hundreds of thousands of working poor families. How can we expect low-income families to maintain independence and self-sufficiency, if we fail to provide them with the necessary supports—or worse, we take them away. For nearly 30 years, the evidence has been telling us that quality early care and education makes all the difference in the world in a child's readiness for school. Yet by failing to make quality childcare accessible to low-income families, we continue to wonder why all of our children are not academically successful. Without adequate funding for childcare, we continue to leave hundreds of thousands of children behind.

I urge my colleagues to support this vital amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from Maine has the last minute and a half.

Ms. SNOWE. Mr. President, I thank, again, Senator DODD for his being a champion over the years on behalf of children and families, and for making it possible that we are in the position of offering this amendment. I also thank the cosponsors and Chairman GRASSLEY for honoring his promise that we have a priority position in offering this amendment.

Ultimately, this amendment will determine whether families on welfare and their children will be able to achieve self-sufficiency, which was the goal of the Welfare Reform Act in 1996. That was an unprecedented success. This amendment will help build upon that success and help families to achieve the economic independence they and their families deserve.

Mr. President, I urge adoption of this amendment and I yield back the remainder of our time.

Mr. DODD. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. They have not.

Mr. DODD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 20, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—78

Akaka
Alexander
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Voinovich
Warner
Wyden

NAYS—20

Allard
Allen
Burns
Chambliss
Cornyn
Craig
Crapo
Ensign
Enzi
Gregg
Inhofe
Kyl
Lott
McConnell
Miller
Nickles
Santorum
Sessions
Sununu
Thomas

NOT VOTING—2

Domenici
Kerry

The amendment (No. 2937) was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:45 p.m., recessed until 2:18 p.m. and reassembled when called to order by the Presiding Officer (Mr. FRIST).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I may be witnessing a first to see our majority leader as the Presiding Officer at this moment. Welcome to the podium. We are pleased to have you there.

PERSONAL RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE ACT—Continued

Mr. CRAIG. Mr. President, we are debating welfare reform. It is critical to our country that we do this and revitalize it. It is a major piece of legislation that has been very successful over the years, getting people out of welfare into a productive job in our economy.

I don't know who the historian was who once said it. He was an economist and a historian. He said, The greatest form of welfare in the world is a good job in the private sector—we know that to be a fact—a good well-paying job.

When you cannot find that, welfare in our country is that safety net we have designed and defined for those who truly need it, but recognizing that it is not a place to stay; it is a place to catch you if you fall, to help you, and to provide for you and your family, but only in the temporary form so we can get people off of welfare and back out into the private sector and into a job.

In a few moments, the Senator from Massachusetts is going to talk about jobs and level of pay in those jobs. I thought for just a few moments it would be appropriate as we talk about welfare and as we talk about jobs and how much we pay for jobs as a minimum wage, that we ought to talk about job creation in this country and how critically important it is.

Some have said our recovery out of this recession has been jobless. Well, that is not true. A lot of jobs are being created out there, and a lot of people are now going back to work—not as rapidly as we had hoped they would, but certainly they are headed back to work.

NATIONAL ENERGY POLICY

But there is a dark cloud over the horizon, and that dark cloud is there today because the Congress of the United States, and the Senate in particular, a year ago denied this country a new national energy policy and the ability to begin to produce energy, once again.

We are no longer energy independent. That one driving force we had in the economic matrix that said we could produce something for less—because we had the great ingenuity of the American workforce and because the input of energy was less than anywhere else in the world, so we could produce it better and we could produce it for less cost—is no longer true today.

If you went out this morning to refuel your car before you headed to work, you paid at an all-time high level of gas prices. Why? Because the Senate of the United States denied this country a national energy policy.

We know it is happening. We have seen it headed in that direction for over 7 years. Many of us have pled on this floor to develop that policy to get us back into production. But, no, we are not into production, we are not producing at a level we could be and we should be. We are not creating all the kinds of alternative fuels we ought to be. Why? Because we have not established a national energy policy in the last 8 years.

The world has changed a great deal. We are now over half dependent on foreign sources of oil. Of course, there are many who will rush to the floor and point a finger at OPEC or point a finger at the political turmoil in Venezuela and say: Well, that is their problem, and it is their fault we are paying higher energy prices. Or we will have that proverbial group that will run out and point their finger at big oil.

Why don't we point the finger at the Senate, for once, which has denied this country a national energy policy? The Senator from New Mexico was on the floor a few moments ago, Mr. BINGAMAN. He worked 2 years ago to get one. I helped him, and we could not quite get there.

Then the other Senator from New Mexico did produce a policy, and we passed it in a bipartisan way. It went to the House, and we conferenced it, and the House passed the conference. It came back here. It fell apart. It fell apart for one little reason or another, but the bottom line was the politics of it. The Senate of the United States has again denied the consumer and the working man and woman the right to have an energy source and a competitive energy price to go to work on, or to work with when they get to work, or to have for recreation, or to have to heat their home, or to have to turn the lights on in their house, and to illuminate and energize the computer they use.

The driving force of the economy of this country is not the politics on the street today; it is the politics of energy. It always has been. When we have competitive, moderate-to-low energy prices, the American worker can produce and compete with any workforce in the world. But today we are slowly but surely denying them that.

Natural gas is at an all-time high. Gas at the pump is at an all-time high. Electricity prices in many areas around this country are at an all-time high. The great tragedy is, many of those prices are artificially inflated because of the politics of the issue, because this Senate has denied the American worker and the American consumer a national energy policy.

Now, some say, well, the wealthy are going to get wealthy off of this. What about the poor? Has anybody ever calculated that high energy prices impact poor people more than any other segment in our society?

If you are a household with an average annual income of $50,000, you only spend about 4 percent of your income on energy. But if you are a household with an income between $10,000 and $24,000, you spend 13 percent; you spend a higher proportion of your total income on energy. If you are a household of $10,000 or less, or at about 130-plus percent of poverty, you spend almost 30 percent of everything you make on energy—whether it is the gas you put in your car, or the throwing of a switch to illuminate the light bulb in your ceiling, or the heat for your home.

High energy prices impact poor people more, and yet we will still hear these great allegations on the floor that somebody is going to get rich off of energy.

No. Poor people are going to get poorer with higher energy prices. That is the impact and the reality of the problems we face.

The United States is making do now with a lot less energy on a per capita basis. Some say: We can just conserve our way out of this situation. We are doing a very good job in conservation today than we did, let's say, 20 years ago.

Let me give you a figure or two. In the last three decades, the U.S. economy has grown 126 percent, but energy use has grown only 30 percent. In other words, as our economy grows today, as a rate of a unit of production, we use less energy. Why? Efficiencies, new technologies. But as we grow, we are still going to need more energy. So the old argument about conserving your way out—and, oh, my goodness, if I have heard it once on the Senate floor in the last 6 years, I have heard it 2 or 3 times, that automobile fuel consumption has dropped 60 percent in that 20-year period. And we ought to be proud of that.

That is partly a work of the Senate, but that is also the new technologies and efficiencies. Per capita oil consumption is down 20 percent since 1978. Industrial energy use is down 20 percent since 1978. So the reality is, we have done well.

But if you want to create 800,000 new jobs, then it is going to take energy to produce them. Because it is energy that drives the great economy of our country. And when it is high-priced energy, then the jobs become high priced. When the jobs become high priced, then we worry about those jobs leaving the United States.

Why hasn't the Senate of the United States put this relatively simple formula together, that high-cost energy creates a less competitive environment in which we can produce. If we are going to talk welfare—and we are and we should; and we are going to reform it—and we are going to talk minimum wage, and there is no reason why we should not talk minimum wage—then we have to talk about the economy of creating jobs at the same time.

The production tax credit we are talking about for the energy field alone would create 150,000 new jobs. As I said, the bill we have in front of us—that should pass unanimously in this Senate, but it cannot get there—will create literally between 670,000 and 800,000 new jobs during the initial phases of the development of that kind of energy.

My message to the consumer today: If you do not like the price of your energy bill this winter, if you do not like the price of gas at your pump, if you are worried about your job because it may be going overseas, because your production is less competitive today, pick up the phone and call your Senator. Ask him or her why—ask us why—we did not pass a national energy bill. There is nothing wrong with doing that. Because we should have done that. We should have started down that road of getting ourselves back into the production. But, oh, no, we are bound up in the politics of this business, and somehow we just cannot get there. And try as we have for the last 5 years, in a bipartisan way, we have worked to do so.

We have a bill before us now that ought to receive a nearly resounding unanimous vote, but it failed in the Senate. Our failure means the jobs of America's working men and women are at risk, the household automobile is now much more expensive to operate, and you will probably want to turn your thermostat down next winter if gas prices continue to go as high as they appear to be going.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from California.

AMENDMENT NO. 2945

Mrs. BOXER. Mr. President, I send an amendment to the desk on behalf of myself and Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. KENNEDY, proposes an amendment numbered 2945.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage)

At the appropriate place, insert the following:

SEC. ____ . FAIR MINIMUM WAGE.

(a) SHORT TITLE.—This section may be cited as the "Fair Minimum Wage Act of 2004".

(b) INCREASE IN THE MINIMUM WAGE.—

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2004;

"(B) $6.45 an hour, beginning 12 months after that 60th day; and

"(C) $7.00 an hour, beginning 24 months after that 60th day;".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—

(1) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(2) TRANSITION.—Notwithstanding paragraph (1), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(B) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

Mrs. BOXER. Mr. President, I am pleased to offer this amendment with my colleague from Massachusetts who is the true leader on the issue of trying to raise the minimum wage so that people who are trying to get into the workforce, get off of welfare and subsidy, will be able to actually support their families so that we actually reward work, and it is going to make a huge difference.

Before I go into my remarks, I do want to, however, respond to my friend who spoke about how important it is to call your Senators and ask them to pass that Energy bill that we killed. I hope when you call us, you will tell us not to pass that one. That one was a travesty of justice for consumers. It was a terrible bill if you care about the environment. And it was a terrible bill if you believe that there is already too much corporate welfare because there were huge subsidies to the nuclear industry.

There were huge subsidies by way of giving a liability waiver to those companies that made MTBE, which destroyed drinking water supplies all over the country. The Senate was sending this bill over to a conference committee, and it comes back with this liability waiver. It is a terrible bill.

Yes, there are places we could drill in this country, where the folks want it there and the oil is there. Off the Gulf of Mexico, near Louisiana, certain places in Alaska, it makes sense. But it does not make sense to pass an Energy bill that is back to the future because it doesn't understand that times have changed and just a couple of extra miles of fuel economy and fuel efficiency in our automobiles can mean that we will have fields and fields of energy in the future.

The last point I want to make—and then I want to talk about this amendment which is important to this bill—is that on April 25 or thereabouts, taxpayers are funding a court case where DICK CHENEY, the Vice President, is refusing to reveal who came into his office when he put together an energy report and worked on an Energy bill. It is outrageous that taxpayers have to go all the way to the Supreme Court, essentially, because they are paying for the defense of DICK CHENEY, and he refuses to reveal who met with him about the Energy bill, what they talked about, and what their interests were. We know Enron was in that meeting. That much we know. But I don't know who else was there.

So I just wanted to answer the Senator from Wyoming, Mr. CRAIG, because in my view, we did a great service to the people by not passing that particular Energy bill. Let's pass an Energy bill that is a good Energy bill.

Now, I want to get to the amendment I sent to the desk on behalf of myself and Senator KENNEDY and lay the groundwork for why it is so important to this welfare reform bill.

The last time the Federal minimum wage was raised it was $4.25 an hour. In 1996, it was raised to $5.15. It was over a 2-year period. So that is 8 years ago; 8 years ago we raised the Federal minimum wage. Those people at the bottom of the economic ladder are living on $10,700 a year.

I don't know if my colleagues are aware of what it costs to rent an apartment, if you have a family, and you are trying to raise a family on this amount of money. I guess you might be lucky, in my neck of the woods, to try and get some sort of an apartment for $800 a month or $850, if you could even find one. You can't find it around here, a decent size place. That would use up the entire salary of someone living on the minimum wage.

I say to my colleagues, please support this. How can we expect people to live on this amount of money, to be able to afford rent, food, the minimum requirements for raising a family?

Mr. REID. Will the Senator yield for a question?

Mrs. BOXER. I am happy to yield.

Mr. REID. It is true, is it not, that 60 percent of the people who draw the minimum wage are women?

Mrs. BOXER. The Senator is correct.

Mr. REID. And for 40 percent of those women, that is the only money they get for them and their families?

Mrs. BOXER. My friend is accurate.

Mr. REID. So this is an issue that doesn't relate to kids at McDonald's flipping hamburgers. It relates to people supporting their families. I greatly admire the Senator for being the lead person on this amendment dealing with the minimum wage that will affect families in Nevada and around the rest of the country. Is that not true?

Mrs. BOXER. That is absolutely true. In my State we have a minimum wage that is higher than the Federal minimum wage, but there is no question that the Federal minimum wage is a benchmark number.

A poverty rate for a family of three in our country today is $15,607. And for a family of four, it is $18,850. So, yes, if you are a single mom or a single dad and you are working at a minimum-wage job, you are making less than people who are considered to be in poverty. What a travesty.

And even if you have two workers working at the minimum wage, you would barely get out of the poverty range. So we are talking about a severe deficiency in compassion. These days, we hear a lot about compassionate conservatives. I have seen a conservative side. I want to see the compassionate side on this particular vote.

How can anyone believe it is fair to keep the minimum wage where it has been for 8 years? It is not fair.

We are talking about a bill that seeks to lift people out of the darkest, deepest economic hole. We want to start them on their way to being able to take care of themselves and their families. You cannot lift yourself out of a deep economic hole on a minimum-wage job.

As my friend from Nevada points out, we used to think of the minimum wage—when I was a kid it was 50 cents an hour, and the kids took the minimum-wage jobs. What I used to work at when I was a kid was 50 cents an hour.

I am showing my age. Maybe I shouldn't do that. But we didn't look at families who were surviving on that. Today we are looking at families who are surviving on the minimum wage.

We can be sure of one thing: If we don't lift the minimum wage, people may move off of welfare into the workforce, but they will not move out of poverty.

Studies have shown that between half and three-quarters of those who are leaving welfare remain poor for up to 3 years. The courage that it takes to train yourself for work, to get up every day and not even to be able to afford to pay the rent—this isn't right.

Some may say: Senator, these minimum-wage jobs are just starter jobs. They are just a few months.

Studies prove that you may be stuck in that job for 3 years, and that is just average. You may be stuck in that job for 6 years. With the economic circumstances of the last 3 years, where we have seen a loss of 3 million private sector jobs, it isn't as if you have a tremendous array of jobs out there.

What will our amendment do? Our amendment will increase the Federal minimum wage to $7 an hour in three steps over 2 years and 2 months. It would raise the minimum wage from $5.15 an hour today to $5.85 an hour in 2 months, after enactment of this act, then to $6.45 in another year, and then to $7 a year after that. Even at that rate of $7, you are barely able to survive. But at least we are moving the minimum wage toward a more livable wage.

Let me talk about California. My State stepped out and looked at the Federal minimum wage and said: This cannot be. This will not work in our State, where the rental costs are so high; where the food costs, even though we are the breadbasket of the world, are high; where the cost of transit is high. So in my State, the minimum wage today is $6.75.

The States cannot do it alone. The Federal Government has to set the standard of compassion and fairness and make work an honorable endeavor.

The best social program is a job. I agree with that. I would much prefer that people work than not. But work has to be rewarded. You may ask: Senator BOXER, why does this bill matter since your State has a higher minimum wage of $6.75? It is very clear. The Federal Government sets the floor for workers everywhere, and it is a guide to all States, including my State. Even a small increase to $7 will help 393,000 workers in California, if California keeps the minimum wage at $6.75.

Raising the minimum wage helps many more low-wage workers than just those earning the minimum wage because it does set the standard. You have heard that many cities and counties all over the country are casting what they call "livable wages," because they are looking at a minimum wage and realizing that it is really a sub-minimum wage; it isn't going to really work. Why not have a minimum wage that we can be proud of here? That is what Senator KENNEDY and I are trying to do today.

Let's look at what has happened in the area of poverty in our country. The poverty rate rose to 12.1 percent in America in 2002, from 11.7 percent in 2001. So this administration's economic policies, which caused the loss of so many private sector jobs, has seen an increase in poverty. And 1.7 million people have been added to the ranks of the poor, including many women and many children. You can be a compassionate conservative, a compassionate progressive, or a compassionate liberal, or anything you want to call yourself. Compassion is the name of the game. It will help our country. I will talk about that in a minute.

Let's look at what else has happened. First, you have 12.1 million children living in poverty today. In 2002, 34.6 million Americans were living in poverty. Think about that. I have 35 million people in my State, and 34 million Americans were in poverty in 2002. The whole State of California equals the number of people who were in poverty. That is an enormous number. My State, if it were a nation, would be the fifth largest in terms of its GDP. Imagine if every person in my State were in poverty. That is what we have. So we have 12 million children in poverty.

Let's look at something else. For the first time in many years, working Americans' wage growth is almost stagnant, while during the last term of the Clinton administration those wages grew. So what am I saying to you? We have seen an increase in poverty among women and children and families, we have seen an increase in the poverty rate, and we see wage growth that is almost stagnant.

From the end of 1996 to the end of 2000, full-time workers saw their usual weekly earnings grow faster than inflation, and those gains in real wages were evident for both higher and lower wage workers. In fact, the lowest earning 10 percent of the workers saw their wages increase 2 percent greater than inflation. So before the Bush administration, we saw this wonderful real wage growth—wages that were going up faster than inflation. In contrast, from the end of 2000 until the end of 2003, real weekly earnings for working-class Americans stagnated. The lowest 10 percent of American workers have seen their wages go up by 0.2 percent; whereas, before, they went up 2.1 percent. Now it is 0.2 percent. So people are working harder and they are just not getting ahead at all.

Again, whether we call ourselves conservatives, moderates, or liberals, that doesn't matter to me. I just think the word "compassion" comes into it. Also, a word that has to come into this—or two words—are "smart policy." Why is it smart policy? I will get into that.

One of the arguments you hear against raising the minimum wage—and you hear it every time—is don't raise the minimum wage because it is going to hurt employers. We have heard that since the very first day I was working in a minimum-wage job at 50 cents an hour. What if Congress in the past decided to just hold firm at 50 cents an hour? I am sure Senator KENNEDY heard the same arguments all those years ago, when people came to the floor and said 50 cents an hour is enough, and don't raise the minimum wage because it will be a burden to employers.

The truth is that we have seen in the history of the greatest country in the world, when you raise the minimum wage, everyone does better. Workers perform better. They are more productive. Business does better. They are more productive. Their profit margins go up. So let us not hear the same old, same old, same old words from the past that, oh, it is a burden on everyone. No, it has proven to be an economic stimulus.

There is another theory I would like to test with my colleagues who have supported tax breaks for the wealthiest Americans. If you are a millionaire, you are going to get back $120,000 a year. Think about that, folks. If you are a millionaire, under the Bush tax cut, you will get a cut in taxes of $120,000 a year. A minimum-wage earner today, working full time, 8 hours a day, 6 or 7 days a week, earns $10,800 a year. So my calculation is that this year's tax cut for millionaires is 11 times the yearly income of a full-time minimum-wage worker.

What are we doing? Why are we here? I admire the folks in the upper income brackets, and I happen to know a lot of them in California. Do you know what they say to me? They say: Senator, you make sure everyone is brought along. When everybody is brought along, we do better. First, we feel better about ourselves and our country, but we do better. Why do we do better? Because the people who will get this increase—the $7 an hour—are going to spend that money in the economy. It is a no-brainer.

My colleagues can make every argument about how giving back $120,000 a year to the wealthiest among us will stimulate the economy. They call it "trickle down." They love trickle down when it applies to the wealthy. Oh, give it to the wealthy; they will go out and spend it. The fact is, the wealthiest people already have the refrigerator or two; they already have the two homes or three; they already have the yachts. They already have what they need. They are not going to go out and spend it. They probably will sock it away.

The bottom line is, when a worker gets another couple of bucks in his pocket and has to support his or her family, they will go to the store on the corner and spend the money, and it is going to give a boost to this economy. So let us not say that trickle down only works when you give to the rich. Let's also admit that the fact is, when you give to the middle class—and that is what I support, middle-class tax cuts and tax cuts to the working poor—you are really going to drive consumer spending. We know that low-income workers and moderate-income workers put their earnings right back into this economy, and they don't even have time to think about it because they have to buy clothes for the kids and food for the table. They will spend 100 percent of that increase; whereas, the wealthier taxpayers are unlikely to put that windfall back into the consumer-driven economy.

To just sum up my remarks—and I know the Senator from Massachusetts is going to add mightily to these arguments—let me say this. We are doing a welfare bill. Everybody wants to see people get off welfare and go to work. Every one of us should also want to make sure that when people get into the workforce and they work hard, their work is rewarded, their work means something, and they won't be stuck in poverty forever if they are stuck in a minimum-wage job.

Let us show not only our compassion, let us show our respect for work; let us show our understanding of economics.

I have a degree in economics. Granted, it was a long time ago. I was a stockbroker and it was a long time ago.

I know when you put money in the hands of people who need to spend it, it is going right back into the economy. This particular amendment has all the attributes we should all want to see. It will be a stimulus to the economy. It will get people out of poverty. It will set a standard for the rest of the States. It is fair, it is overdue, and the time is now.

I commend my colleague from Massachusetts. This is his initiative. He knows how much I care about this issue and is willing to share it with me. I am so honored to have my name associated with this amendment. I am very hopeful we can come together today and adopt it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, there is no doubt we are going to have a vote on minimum wage sometime, maybe on this bill or at least on some other bill. It is one thing to ask for an agreement to vote on a nongermane amendment—the majority party has the responsibility of getting work done, although we are cognizant of the fact we do not get anything done in this body if it is not bipartisan. We want to move this legislation along because it is so important to moving people out of poverty.

As I said yesterday, some are on the edge of society, out of sight and out of mind, if they are on welfare. They are never going to move out of poverty if they are on welfare.

As I said yesterday, and the Senator from Massachusetts misunderstood me, if you are ever going to move out of poverty, you have to be in the world of work. Being in the world of work does not automatically, even with an increase in the minimum wage, guarantee you are going to be out of poverty, but at least you have a chance of moving out of poverty; whereas on welfare you are destined to a lifetime of poverty.

We are interested in moving this legislation along, and it would help a little bit reaching some understanding of voting on these amendments if we knew we were going to get this bill done and help the people who need to be helped.

The point I want to make in regard to this amendment, and it is also in conjunction with the offering of nongermane amendments on other bills I have had before this Senate by the other party, is it seems to me they are always missing the point. They are always getting the cart before the horse.

The bill before the Senate 2 weeks ago was a bipartisan bill that Senator BAUCUS and I worked out. It came out of our committee with all the Democrats supporting it. It encourages the creation of jobs in manufacturing by reducing the tax on manufacturing because that high tax on manufacturing is a disincentive to the creation of jobs. And it happens to be an incentive to outsourcing of jobs.

Also, because there is a tariff against some of our products going into Europe, this would eliminate that tariff so we could be competitive. OK, that legislation is a bipartisan approach to creating jobs in manufacturing. So what does the other party do? They offer an amendment dealing with overtime regulations.

They get the cart before the horse because the first thing we have to do is create jobs for people to get overtime. That legislation stalled because of nongermane amendments.

Now we have what is a legitimate subject of discussion—but somewhere else—increasing the minimum wage. That has been a legitimate point of discussion since the 1920s, and it has been the law in this country since 1938. Nobody denies that is a worthy subject of discussion. Again, another example of getting the cart before the horse is that we are talking about getting people who are on welfare, not working, a job. Let's get them in the world of work.

We have Members on the other side of the aisle stalling this legislation with nongermane amendments.

We have to put the priorities where the priorities ought to be: to help people get jobs and keep jobs so that all these other issues that are coming up will be applicable to more workers.

I am going to address for a short time this issue of the situation of people on welfare and our opportunities to move them to work to emphasize the success of that program in the legislation we have had on the books since 1996 and to see if we cannot improve that legislation in the bill that is before the Senate and move forward with another 8 years of success of moving people from welfare to work, giving them an opportunity to move up the economic ladder.

The families who go on welfare are, obviously, very vulnerable and fragile families. They not only need a job, but they need support in moving from welfare to work. We are not going to dump them out in the cold cruel world of work. Legislation that is already on the books and is going to be improved by this bill is going to enhance their support. We have already demonstrated that with one overwhelming vote on more money for childcare. I have heard that a long time from that side of the aisle, as we have heard from a lot of Republicans. One would think they would want to pass this legislation to give people on welfare who are moving into work the support they need to get there. This legislation does it. But the shenanigans on the other side with nongermane amendments are holding that up.

The average family on welfare has two children, and that average family is headed by a young woman. Most of these families are African American or Hispanic. Half of these families have a child under the age of 6, and we take into consideration in this legislation specific needs of families with children under 6.

The women who head these families are desperately poor. That is what welfare does for people, it keeps them in poverty. These women who have these families, besides being desperately poor and, contrary to the way the argument over minimum wage was characterized, they are not working. That is why it is so important to get this legislation passed before you worry about minimum wage because we have to give them the support so they can get out there in the world of work so they can get the minimum wage in the first place.

States are reporting to us that the majority of adults on welfare are not doing anything. In other words, they are not working and maybe not doing anything that will lead to work, as we are trying to help them do through this infrastructure of support, of helping with job training and education, with substance abuse and other problems families might have because it is quite obvious in the world of welfare, it is not a way to achieve self-sufficiency. Many of these adult recipients are not ready for full-time work, so discussions about working 40 hours do not really apply to this population. In fact, for a while the argument over welfare reform focused on President Bush's proposal to require adult recipients on welfare to be engaged in work activities for 40 hours a week. That outraged my Democratic colleagues, that the administration would propose raising the hours of activity, including work, to 40 hours. Just as if out there in the world of work it isn't assumed, not anything less than 40 hours a week, for the most part. So it is somewhat ironic that we are here discussing a 40-hour work week scenario because, as I said, most of these adults on welfare are not working at all and if they are working they are surely not working full time.

These are adults, and again they are mainly women, with multiple and often coexisting barriers to work. They may be the victims of domestic abuse. They may have substance abuse problems. Add all that together and you have people who need services that this legislation provides to get them ready to go to work. So you worry about this person. Are they getting a minimum wage at this level or at that level? That is why this discussion over minimum wage is just a little confusing to me, as legitimate as it is for Congress to discuss the minimum wage, because we have set the minimum wage since 1938. But in connection with these people, they oftentimes are not earning any wage. But they are people who need services if they are ever going to get that job.

I am hopeful we will be able to work something out on minimum wage, and that we can complete our work on this welfare bill. I think people on the other side of the aisle, if they could indicate to us finality on this legislation, there can be some accommodation. Because families in need are waiting for us to get this done. It is a very successful program that started in 1996 and we need to continue it. This legislation fine-tunes it; it improves it; it strengthens it. We spend more money to do a better job of support for people who need to go to work.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Montana.

Mr. BAUCUS. Mr. President, I see the Senator from Massachusetts, who would like to speak on this amendment. I will be very brief.

The chairman of the committee is a good friend of mine. We have worked very closely together on most legislation. This is one bill where we are not working together as closely because we have somewhat different points of view.

I appreciate the chairman's view that this side of the aisle is attempting to drag things out a little bit. The fact is, our side is willing to have a vote on this amendment and on other amendments. We will enter time agreements. There is no attempt to delay at all. In fact, when I was sitting here yesterday I think the Senator from Massachusetts suggested 20 minutes for a time agreement. That is, he would agree to a vote in 20 minutes. I am not going to put words in the mouth of the good Senator as to how many minutes he would like in the time agreement now, but the point is we are willing to have votes and to vote very quickly on all these amendments. We are not holding up anything.

It is also interesting to note when this welfare reform bill came up for debate in 1995, there were 40 recorded votes on the floor. I think we have had one thus far in the reauthorization debate. I think better legislation results when amendments are offered, when they are debated, and when they are voted on. This way, Senators can decide whether they want to vote for or against a particular amendment.

The Senator from Iowa and myself work very closely, as I said. But I want to make the record clear that there is nobody on this side holding up passage of this bill in any way. We are willing to enter into time agreements on any amendments that may be offered.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first I thank my good friend from California, Senator BOXER, for offering this amendment. It is one I feel strongly about and support strongly. I thank our ranking leader on the Finance Committee, Senator BAUCUS, for his support. I will make a brief comment to my friend, and he is my friend, the chairman of the Finance Committee, about his concerns and objections to considering the minimum-wage increase on this bill that is an attempt to move people off welfare into work.

In reviewing the legislation that is before us, I would like to direct the chairman and those Members of the Senate who feel this amendment is not relevant to the underlying bill, page 4 of the committee's report where we have the Secretary, Tommy Thompson, talking about:

> The most humane social program is a healthy and independent family that has a capacity and ability to have a good, paying job.

This is the Secretary of HHS testifying in favor of the overall legislation. He is talking about having a good-paying job.

We know a minimum wage job today is not a good-paying job. The Boxer-Kennedy amendment will make it closer to a good-paying job.

Then it continues, on page 12, the reason for change:

> The Committee bill provides for States to continue their successful efforts to move welfare recipients into good jobs.

What are good jobs? The minimum wage jobs at $5.15 or the jobs at $7 an hour? States have directed considerable resources into moving welfare recipients into meaningful employment. That is what we are talking about, meaningful employment. This is what the Secretary of HHS said. This is the reason for change in the committee bill. That is what it is all about.

Then continue on to page 21:

> The Committee bill recognizes the success received by TANF and the Work First programs are a result of a sustained emphasis on adult attachment to the workforce.

"Attachment to the workforce" means having a paycheck, a decent job.

I believe this legislation is directly relevant to the underlying theme of the legislation. But I say to my friend from Iowa, if he wants to give me a time agreement on a separate bill and give us the assurance we will be able to consider it by the first of May, as an independent bill here on the floor of the Senate, with a time limit, I would be glad to urge my friend and colleague from California to withdraw the amendment and take that, if that is agreeable to the Senator. We are not trying to hold the bill down.

I will propose a time limit on my amendment. It is now 10 after 3. I propose unanimous consent that we vote on this amendment at 3:30.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. That is in another 20 minutes. The point has been made about how this legislation is slowing the bill down. We indicated we are prepared to vote, at least in 20 minutes, on this legislation. We were prepared yesterday to vote on it. The problem is, it has been now 7 years, 7 years where we have been denied the right to vote on it.

Mrs. BOXER. Will the Senator yield?

Mr. KENNEDY. I yield to the Senator.

Mrs. BOXER. I am sure the Senator would be happy to agree to a 5-minute limit. The Senator from Iowa gets up and says this is a noble thing to raise the minimum wage, but you are holding up the welfare bill.

We will vote on this in 60 seconds from now. The American people are for this. Does my friend agree the American people are fairminded and for this?

Mr. KENNEDY. The Senator is correct. The American people understand fairness. They believe if you work 40 hours a week, 52 weeks of the year, you should not have to live in poverty in the richest country in the world. The American people understand that is basically what we are talking about, fairness and respect for people who are doing a day's work. The American people are overwhelmingly in favor of an increase in the minimum wage, and for actually a good deal higher wage than the one we are proposing.

Mrs. BOXER. Mr. President, will my friend yield for another question?

Mr. KENNEDY. Yes.

Mrs. BOXER. We are charged with giving pay increases to the Federal workforce. We do it every year, do we not?

Mr. KENNEDY. The Senator is absolutely correct.

Mrs. BOXER. Our colleagues accept it. I do not know of anyone who does not accept the automatic adjustment in their pay.

Mr. KENNEDY. The Senator is correct.

Mrs. BOXER. Does the Senator not think it is an outrage? We work hard and we make a decent living. We get an automatic cost-of-living adjustment unless we stop it. Yet the same people who take a cost-of-living adjustment for themselves won't give a small increase to the people at the bottom of the ladder who are trying so hard to make something of themselves and rise above problems, illness, and poverty—

sometimes for generations—and want to be able to get into the workforce.

My colleague says Tommy Thompson says it is important that these be good jobs. I wonder if any of our colleagues could live on $10,800 a year. I do not think they could. I do not think so.

Mr. KENNEDY. I thank the Senator for her comments.

I want to point out a few facts on the increase in the minimum wage.

This is the second longest period in the history of the minimum wage that Congress has ignored the plight of low-wage earners. The first time President Bush signed a minimum wage increase was in 1989. That was after 12 years of inaction. It has been 7 years since the last increase. It is long past time for Congress to prioritize the lowest workers.

Let me give you a chart that makes the point which the Senator from California and I have tried to make over a period of time in this debate. Here we have people who are working hard but losing ground with the real value of the minimum wage. If we were to take effectively the year 2000 and use that as the equivalent, the minimum wage in 1966 would have been $8.50. Even though now at $5.15 an hour, its purchasing power using 2000 dollars would be $4.98, which would be one the lowest levels it has been in the history of the minimum wage unless we increase it. Even going up to $7, it will still be lower than it was from 1968 until 1980, a period of some 12 years. This is a very modest increase without which we will reach the bottom in terms of real purchasing power.

Let us take another indicator in terms of what the minimum wage is in relationship to a family of three. This is the red line representing what the poverty line has been, and that is for a family of three earning slightly below $16,000. This is the poverty. This represents the value of the minimum wage which we show for a family of three—well below the poverty line.

Let us ask ourselves, What about those people receiving the minimum wage? Are they working? If we go from 1979 to the year 2000 and look at the minimum wage—this is the bottom 40 percent of U.S. family income—we find these workers in the bottom 40 percent are working more than 400 hours. The average worker in this country is working longer than any other industrial nation in the world. These are hard-working people who are trying to make do the best they can.

We find African Americans are working even longer and harder. Hispanics are working even longer and harder. These are minimum wage workers in the bottom percentile. They are working long and working hard trying to make ends meet. And they can't do it.

We have seen over the period of the last 3 years the increase in the number of people who are living in poverty. It was 31 million in the year 2000. In 2002, it is more than 34 million. There is a direct result of this administration's economic policy. Three million more Americans are living in poverty. That represents today more than 34 million people living in poverty, including 12 million children. More than 400,000 children today are living in poverty compared to the year 2000. We have had no increase in the minimum wage. We are trying to do something about it.

This bill does nothing in terms of raising the income of some of these families. This proposal will make a difference in terms of income.

We will probably have those come on the floor as they usually do and say, Senator, this is very interesting, but we know if we raise the minimum wage we are going to see the result of increasing unemployment. There will be two reasons in opposition. I have been debating minimum wage increases since I have been in the Senate. These are the two standard ones.

First they say if you raise the minimum wage, we will see an increase in unemployment. That is not true. We can show it. I will reference the figures.

Second, the last issue is inflation. I will address that quickly because I want to get to the real issue; that is, what is happening to these families who are living in poverty. That is the real issue; particularly what is happening to the children who are living in poverty.

That is the real issue. What is happening to them in terms of hunger is the real issue. Let us get rid of these issues quickly; that is, increasing the minimum wage does not cause unemployment. We increased it in September 1996, and we increased it in 1997.

This red column is where unemployment was in January of 1998. That is obviously almost 2 years after the increase in 1996 and a few months after the increase in 1997. These are fairly significant figures in terms of unemployment.

Look at the national figure—5.2 percent in 1996, 4.7 percent in 1997, and 4.7 in 1998. That is exactly the same 4.7 percent. That is after the last increase in the minimum wage.

It was true among African Americans.

You will hear the argument: That is fine, generally, but the Senator and Senator BOXER don't understand this has a particular adverse impact on African Americans. That is not true. This chart shows, looking back to 1996 and the last major increases, unemployment virtually remained stable. That is true with regard to the Hispanics and it is true with regard to teens. Let us dismiss that argument in terms of unemployment.

The other issue they will raise is, Well, this increase in the minimum wage is going to be an inflator in terms of our economy.

Listen to this: This increase in the minimum wage represents less than one-fifth of 1 percent of wages of all workers in the country. Inflator? I hope they are going to have a better argument than that. They can't make the argument, although they will try. They will say: Add that increase to minimum wage and you will get inflation; and, think of all the people who will pay with inflation. You will increase unemployment among minorities. All of those arguments have been answered in spades. There is no economic argument in opposition to this unless you are trying to squeeze these workers even harder in order to try and exploit them even further.

I will point out the real issue and its impact on the most vulnerable population. We know today that America's children are more likely to live in poverty than Americans in any other age group. The U.S. child poverty rate is substantially higher, two to three times higher, than that of most other major western industrial nations. Isn't that a fine situation?

Mr. SANTORUM. Will the Senator yield?

Mr. KENNEDY. I will be happy to yield. After 5 or 6 minutes more of my presentation, I will be glad to yield for questions.

The child poverty rate is substantially higher, two to three times higher than most other western industrial nations. Reducing child poverty is one of the best investments Americans can make in their Nation's future.

More children will enter school ready to learn; we will have more successful schools; there will be fewer school dropouts; we will have better child health with less strain on the hospitals and public health systems; we will have less stress on the juvenile justice system; we will have less child hunger and malnutrition.

The fact is, the number of children living in poverty and the number of children going hungry every single day has increased significantly over the period of the last 3 years.

The bottom line is, 3 million children have parents who would benefit from a minimum wage increase. We have an opportunity to do something about the 12 million American children living in poverty and the 400,000 children more living in poverty today than were living in poverty 2 years ago. We can make a difference because so many of these children are living in families with minimum wage earnings. That is the issue.

We hear the arguments on the other side, and we can answer those in terms of inflation and unemployment. Those questions have been answered. I will not take the time unless we are challenged on the issues, including historical unemployment figures and all the rest.

This is about children. It is about women. As I mentioned, and then I will yield to my friend from Pennsylvania, this issue is about women because 61 percent of those who earn the minimum wage are women. It is about children. We know that 3 million children live in families whose parent is working in a minimum wage job. So it is about women and children. It is about civil rights because a great number of these minimum wage workers are men and women of color. It is about fairness because Americans understand if you want to work 40 hours a week and can work 40 hours a week, 52 weeks a year, you should not have to live in poverty. Americans understand that.

The final point I make, these minimum wage workers are men and women of dignity and pride. Too often around here we say: Minimum wage workers, we have other things to do. These are some of the hardest working, most decent men and women we have in this country, who take a sense of pride in the work they do, which is menial, tough, repetitive work—cleaning out the buildings of American industry, also working as assistants to teachers, working in nursing homes, looking after the elderly people of this country. This is hard, difficult, challenging work, but they take a sense of pride in it.

We have refused to increase the minimum wage now for 7 years. As I have pointed out, this chart shows the history of the increases in the minimum wage. It is not a partisan matter. Going back to 1938, we have the increases under President Roosevelt and President Truman. President Eisenhower increased the minimum wage in 1955. President Kennedy did in 1961; Lyndon Johnson in 1966; President Ford did it in 1974 three different times, for 1974, 1975, and 1976. President Ford, a Republican, did it. President Carter, in 1977; President Bush I did it in 1989; President Clinton in 1996.

This has been a bipartisan effort. That is why it is so difficult for many to understand why those on the other side have refused the opportunity to even get a vote. I welcome the chance that we will have this time to get a vote.

I point out, and then I will yield to the Senator from Pennsylvania, what moving up to $7 an hour means to a family earning the minimum wage. It is the equivalent of 2 years of childcare. It is more than 2 years of health care for that family. It is full tuition for a community college degree. It is a year and a half of heat and electricity. It is more than a year of groceries, and more than 9 months of rent. It is real money for real people who are working hard, playing by the rules, and are waiting for this body to take some action.

I yield the floor.

Mr. SANTORUM. Mr. President, I think the Senator from Massachusetts makes an important point about what we should be doing to reduce poverty.

The Senator from Massachusetts made statements that increasing the minimum wage has an impact on child poverty. I have not seen a chart that indicates that. If the Senator could put up the chart when the minimum wage increases went into effect, my question is—we are on the welfare reform bill. This welfare reform bill has had a dramatic impact on child poverty. In fact, if you look at the chart, it shows the increases in the minimum wage—I will have a chart that compares with that; we have dueling charts that work in concert. The Senator shows where the minimum wage was at very high levels that happened to be in about this area. I am using Black child poverty, but obviously that is the worst case scenario. During the highest level of poverty among African Americans, we had a high minimum wage.

All throughout this time—in fact, as you suggested, the minimum wage actually came down in real value—what else came down? The rate of Black child poverty.

Now, I would not suggest that the minimum wage was necessarily tied to that. What I would suggest is what happened was a fundamental change in welfare policy that started in the mid-1990s and accelerated in 1996 by the Federal Government and has resulted in a huge decline in poverty, irrespective of what the minimum wage is.

I make the argument that if the Senator wants to do something about helping child poverty, we should pass this welfare bill. Maybe there is a time and place to have the argument with respect to minimum wage, but I do not believe the evidence supports that increasing the minimum wage has any discernible impact on the poverty level, certainly among African American children and, I argue, across the board among children in general.

Finally, the point I want to make, since——

Mr. KENNEDY. Is that a question? I am about to yield the floor generally, if you could get to the question. What is the question? I would be glad to answer.

Mr. SANTORUM. I thank the Senator. I want to make the point in the last 10 years, the child poverty rate has declined almost 30 percent. During that time there was one increase in the minimum wage, but there was a dramatic change in welfare.

I ask the Senator, does he have any information that shows that the minimum wage actually does result in a decrease in child poverty? I think I have very conclusive evidence that changes in welfare policy have a dramatic impact on the reductions in child poverty.

Mr. KENNEDY. Mr. President, the fact is self-evident and should be to all Members. We do not need charts. If you are making $5.50 an hour and you are the principal bread winner in the family with a child, that child will live in poverty. You can have all the charts in the world, but that is self-evident. That ought to be a given.

We do not have to dispute that. I hope we would not have to dispute that. Those are the hard, difficult facts.

The issues about the variance in terms of child poverty, obviously, when we have the dramatic expansion as during the period of the 1990s under President Clinton, we saw the creation of 22 million jobs. We saw that spill over into a reduction of child poverty. That is the answer. The fact is we have not seen that.

In the last 3 years, we have seen a growth in poverty in the total number of people who are living in poverty, including children, because we have lost 3 million jobs—effectively maybe 2 million overall—but 2 million jobs. The fact is, the new jobs that are being created are paying about 25 percent less than those they are replacing.

With all respect to the Senator, the idea that at $5.15 an hour when you have a child or two children they are not going to be living in poverty escapes me completely. I do not think we need any chart to show that. That is fairly self-evident.

I do not know what the situation is in Pennsylvania, but I do know in the other States I have visited in recent times, people cannot make it. At $5.15 an hour, how is a parent going to be able to go out and rent an apartment and provide food for their children? That does not make sense.

The fact is, almost half of the new jobs that were being created for those who have moved off welfare now have disappeared. That is a different issue, and we could debate that, and I would be glad to. That is not what this amendment is about.

This amendment is relevant to the underlying issue. As I have raised before with Secretary Thompson, the purpose of this bill is to try to get people into somewhat decent jobs.

We raised this over 2½ years, up to $7 an hour, almost a living wage. We think in this country, at this time, this is something that is called for, and we are prepared to move ahead with it.

I see the manager on this bill. We can either take some more time or we can try to move toward whatever outcome the floor managers would want. If we want some additional debate on it, we are glad to do so. But if you want to move toward a conclusion of it, we are glad to do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I believe the Senator from Massachusetts is insincere about moving forward on both this minimum wage increase as well as moving forward on this bill. I will offer a unanimous consent request to do just that.

Mr. President, I ask unanimous consent that tomorrow morning, at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to back-to-back votes, first in relation to a Republican minimum wage amendment, to be followed by a vote in relation to the Boxer amendment, with no second degrees in order to either amendment; provided further that the bill then be limited to germane amendments, and at 9:30 a.m., on Thursday, April 1, the substitute amendment be agreed to, the bill be read a third time, and the Senate proceed to a vote on passage of the bill, with no intervening action or debate. Finally, I ask consent that following passage of the bill, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

Before the Senator from Massachusetts comments on this request, I would suggest what this unanimous consent request says is the Senator from Massachusetts will have a vote on his amendment, the Republicans will have a vote on a side-by-side amendment, we will go to final passage on this bill, with germane amendments being offered and voted on in between that time; and after passage of the bill, this bill will go to conference, and we will have an opportunity for the House and the Senate to work their will and to actually get this welfare reauthorization passed for another 6-year period.

So if the Senator from Massachusetts is sincere about getting the minimum wage increase voted on here in the Senate, and not holding up this piece of legislation, I would hope he would be willing to accept this unanimous consent request.

The PRESIDING OFFICER. Is there objection?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator for commenting on my sincerity because I indicated yesterday I was interested in a 15-minute time limitation on this amendment, and it was objected to by the Senator from Iowa. We indicated we were willing to vote at 3:30 today, and it was objected to.

So now the Senator, if he wants to amend that request—since these are directly related to the issues of employment—to include an amendment with a 1-hour time limitation on the issue of overtime, an amendment with a 1-hour time limitation in terms of unemployment compensation, and then to have relevant amendments and time limitations on those amendments of up to an hour, I would not object to that.

So, Mr. President, I object, and I offer a unanimous consent request along the lines I mentioned.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the modified unanimous consent request of the Senator from Massachusetts?

Mr. SANTORUM. Mr. President, I think it goes to state the case that the Senator from Massachusetts, in offering these other ideas, is in fact not interested in the Senate working its will on welfare reform, which is the bill before us, but bringing the political motives and debates that are surrounding the Presidential campaigns here on the floor of the Senate, and to have sort of "message theme" amendments on a very serious piece of legislation that needs to be passed to create opportunities so this line on this chart can continue to go down.

Because what we have with the welfare reform reauthorization bill is something that is going to continue to move people out of poverty, to create better opportunities for work. What the Senator from Massachusetts is suggesting is, instead of that, we are going to extend unemployment benefits. What we need to do is create better incentives and better education, training, and an enormous amount of childcare to help people go to work, not extend unemployment benefits.

Again, we are in this situation where the Senator from Massachusetts said: Well, if we just do this. Now it is: Well, you need to do this, and this, and then this. The bottom line is, we have a lot of substantive debate that can and should occur on this legislation. If there are relevant amendments, we would be happy to debate them. But the amendments the Senator from Massachusetts now wants to bring in are not relevant, and, therefore, I have to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I would like to spend a few minutes talking about this bill and the importance of why we need to move to the passage of it.

The Senator put up his chart of minimum wage increases. I voted for those minimum wage increases. I would vote for a minimum wage increase in the next 10 minutes if we could have gotten that agreement. I would have been happy to vote on a side by side, and I would have supported Senator McCONNELL's amendment, which would have raised the minimum wage, and would have raised it by over a dollar over the next couple of years.

I think it is important that we talk about this issue. But I think the most important thing we can do for the poor in America—and I found it remarkable the Senator from Massachusetts can look at his chart, that shows the minimum wage at very high levels in real dollars, during a time when child poverty, and particularly African-American poverty, has been at its highest and he says it only makes sense if you have high minimum wage, you are going to have low poverty rates.

Tell the people living during this time who were experiencing high poverty rates how much sense it made. Because in reality it made no sense because it was not happening. A high minimum wage does not guarantee low poverty. What, in many cases, a high minimum wage guarantees is unemployment and very high rates of poverty.

What we have is a situation where we had higher rates of the minimum wage. We also had a welfare system that was debilitating on the poor, designed by the very same people who think the minimum wage is the answer to poverty.

It is the same economic team, folks, which believes Government micromanaging of every person's life and business in America is the way to make sure everybody achieves. Guess what. It did not work. It did not work. What worked? Work. Yes, what every American knows. But there is a commonsense deficit in this city. What every American knows, as common sense, that work works to improve people's economic status in life, has been lost here in the Senate, was lost for many years when it came to the issue of poverty in America.

And, oh, I remember, sitting in the chair where Senator GRASSLEY sits today, and sitting in this chair at times in 1995 and 1996, when scores of Members who designed the welfare system in the 1960s and 1970s, who designed the minimum wage increases in the 1960s and 1970s, who said that was the answer to solving poverty in America, that was the answer to solving poverty in America, came to the floor and said: How dare you. How dare you suggest we require people to work. How dare you suggest we put a time limit—a time limit—on people on welfare. Don't you understand? These people are poor. That is a disability greater than any other disability people encounter in life—at least if you listen to the other side, that is what you would think they were saying.

President Bush uses the term "the soft bigotry of low expectations." There was no soft bigotry. This was hard bigotry of low expectations. If you were poor, you needed our help, you needed Government to give you dollars, you needed Government to raise your wages. And that was going to solve the poverty problems in America. It did not work. What worked? Work.

Here we are in the Senate Chamber. I find it absolutely ironic. We have Senator GRASSLEY standing up for the new war on poverty, his bill out of committee, increasing the work requirement, yes, increasing support for women who are trying to get work, including daycare and other services. On the other side we have, no, we need the Government to fix the economy and raise the minimum wage. It is a classic difference in the perspective of what the role of Government should be. We stand here today and say, you can debate all you want about the minimum wage. I am not suggesting it is a bad thing, but it is not a panacea. It bears no relationship historically to reductions in poverty. Why? Because most of the people who get the minimum wage jobs, as the Senator from Iowa said, in the past are not heads of households; they are teenagers, many of whom are in very wealthy homes. That is who we are helping with minimum wage increases primarily. We are helping some others, but if you really want to help those who have not had the chances economically, if you really want to lift people out of poverty, then work and developing and nurturing a system that encourages people to get their lives together and to get into the workplace to achieve is the answer. That is what this bill does, and more.

That is why I am so excited about this bill because we have found out that, yes, work works. This is the lowest rate of African-American child poverty ever recorded in America. By the way, in the last year, 2002 and 2003, yes, because of the recession, black poverty among children went up, but very slightly, 1 or 2 percent, during a time of a lot of job loss.

If you look at the other statistics, for example, one that probably mirrors this, as far as high rates of poverty, had to do with single mothers never married. What we saw was single mothers never married, historically the rate of employment among single never-married mothers was around 40 to 42 percent historically. It was an intractable problem that people said could never be fixed. Then we passed the welfare reform bill in 1996. Now 63 percent of single, never-married mothers are employed.

That is remarkable to see those kinds of dynamic shifts. By the way, that number has not changed in the last 2 years. The employment levels have remained the same as they have basically within the welfare system.

The Senator from Massachusetts has said things have been terrible the last few years in the job market and people in poverty have been hurt. The bottom line is, the welfare rolls continue to be low. They have not shot back up.

In fact, I was reading an editorial from a paper I generally don't read editorials from, my hometown paper—not necessarily fond of me. They happened to write a lucid editorial, sort of the blind squirrel phenomenon. They wrote an editorial in the Pittsburgh Post Gazette, "Shrinking Welfare, the Statistical Mystery of a Smaller Dole." They comment on the fact that here we are, during 3 years where there has not been dramatic job growth, and yet the welfare rolls are not going back. They were sort of at a quandary as to why.

They say: Although welfare reform still has problems, single mothers often have considerable difficulty obtaining childcare—after we passed now $7 billion; we have over doubled the amount of daycare that is going to be available under this bill—these numbers suggest it is working.

The numbers suggest welfare is working. For whatever reason—gosh, I can't imagine; it is again another commonsense deficit—more people are trying to do for themselves instead of asking government to do for them.

Go figure. Let me repeat this. For whatever reason, more people are trying to do for themselves instead of asking government to do for them. Even if the experts can't explain it, they conclude that is a good thing.

Do you know what. That is a good thing, what we did in 1996, despite the protestations, despite the charts with pictures of people standing in bread lines, sleeping on grates, of just absolutely cataclysmic predictions of what would happen to rates of poverty, which were around this level at the time, we had projections that black poverty among children would skyrocket, that women would be thrown off welfare and not be able to raise their children, that we would have dramatic changes and riots in our poorest neighborhoods because of this welfare reform proposal that was being put forward. I will read some of my colleagues' predictions of what would happen to poverty.

Guess what. They were wrong. Those of us who stood here and said, have faith in the poor in America that they, too, want a better life for themselves and their children, and they are willing to work for it, if given the incentives and the opportunity to do so, if given the tools to make work work, they, too, will pursue the American dream, we had faith in them. Too many others have faith only in the government to take care of them.

Having talked to numerous people who have been on welfare—in fact, in my office in my State, I have hired nine people from the welfare rolls. They have worked through all the problems, and there are problems in someone transitioning off of welfare. I can tell you that every single one thanked me for having faith in them, thanked me for passing a bill that didn't say that we needed the government to be there to protect them and keep them in poverty and dependent upon it, but trusted them that, if given the tools, that they, too, could take care of their family and feel better about it every day, knowing full well it would be a struggle and continues to be a struggle.

But there is honor in the struggle to provide for your family. There is honor. There is dignity. There is character in struggling to provide for you and your family.

Millions of women—predominantly women; welfare is predominantly a woman's program, a single-mother program—have courageously gone out and fought for their families because we gave them the tools and incentive to do so. They have changed their lives for the better, and they have given their children a hope, a model that they can build a life on, that they can build on the success of their mother who overcame addiction.

A young woman spoke to our Republican conference this morning from here in DC, incarcerated many times, addicted, so bad that she lost her three children to foster care. Then welfare reform came around, made her go to work. And today she has her three children back.

She not only got a job, she now has a small business where she employs four people in town. She didn't do it with an SBA loan or any Government help at all; she saved a little money and started her own business. In the last 6 months, she got married. You have to believe in people. You have to believe that poverty is not the ultimate disabler.

That is why this bill is so important. That is why this bill has to be passed, because we have 28 States right now, where all of the requirements that we have put on the States to have work programs, to get people transitioned off of the rolls, to provide the support services to transition people into the economic mainstream in 28 States—that incentive is now gone. So in 28 States in America, we are back to the old AFDC days. That will have an impact.

Let me tell you what one of the reasons is I am so excited about this bill. It is the next step in welfare. We knew—those of us who helped design the 1996 act—this was the first step, that work was the most important thing. There were other important things, but we understood work was the central focus. But there were other causes and concerns we wanted to deal with.

Senator GRASSLEY had this chart up. It is a chart by Haskins and Sawhill. They are from the Brookings Institute. I think even the Senator from Massachusetts would admit that the Brookings Institute is not a conservative think tank. It is seen as the left-leaning think tank in town—or one of them. Elizabeth Sawhill is a former Clinton poverty expert. Ron Haskins happens to be—I don't know how he got in there—he is a fairly conservative guy. We have our differences. Anyway, Ron and Elizabeth worked together on this. This is a peer-reviewed study that isolates factors of poverty. This is the official poverty rate, 13 percent. Remember what we said back in 1996: Work works. You have to get people into work. That is the best cure for poverty, the best way to turn your life around. That is the best medicine for children—to see mom get up every day and go to work, instead of receiving a welfare check. Guess what. It works. With full-time work, poverty rates go down to 7.5 percent.

The other thing this bill does is understand we have to keep this and, in fact, improve upon it. We are going to increase the work requirement by 20 percent. Interestingly enough, we increased the amount of daycare by 100 percent. So this is, again, Washington logic. We are going to require people to work 20 percent more, so we need 100 percent in daycare to pay for that. Nevertheless, there are other factors involved that reduce poverty.

Marriage. The President's initiative is, again, common sense. It is an understanding that the poverty rates are lower among married couples than they are among single heads of households. So one of the things the President wanted to do with his marriage initiative is to create at least a positive or nurturing atmosphere for couples who enter the welfare system with the intention of getting married to actually get married and raise a family.

There was a study done by a professor at Princeton that asked the question upon paternity establishment: Are you in a relationship? What I mean by paternity establishment is that most States figured out the best time to establish who the father of the child is is in a hospital; so most States have adopted that as a way of establishing who the father is, and then using that to get the father to pay child support. That was something that was a very big contentious point in the welfare bill of 1996. We required paternity establishment in the States, that they have an active program to find out who these fathers were. This was the whole deadbeat dad issue and the fact that there were enormous amounts of uncollected child support. So we did a whole lot of things on child support enforcement and paternity establishment because there was a huge number of women on welfare who either refused to, or don't, for whatever reason, identify the father of the child. From my perspective, to try to get the father involved in the child's life, I thought paternity establishment was going to be very important.

The States have a different view. They saw it as a way to get cash—establish paternity so we could get child support and we could get money. They were not particularly interested in whether dad did anything to raise the child other than to send the check so the State could get some of the money. They would then reduce the benefits to the mother in proportion to the child support being paid by the father. There is an incentive for the States to find out who the father was and attach wages, if necessary, and get the child support flowing into the State coffers.

That is not exactly the most nurturing conclusion that I thought would occur by finding out who father was. I had this funny idea that maybe if they found out who the father was and the father became involved in a legal way with his child, he might take some responsibility for that child. That is not, unfortunately, what has happened. There are a lot of factors involved, including a culture in many communities that is not nurturing of fathers taking responsibility for their children—at least in the popular culture. In a segment of the popular culture, it is not reinforced that fathers should take responsibility for their children. It is a misogynist popular culture that abuses women in song, in video, and in many other ways, and teaches you not to take responsibility for your actions. So the popular culture, matched up with the State that was just interested in money, has resulted in incredibly high rates of absent fathers.

What are we going to do about that? What should we do? People say, Senator, what is the Government's role in marriage—to encourage people to marry? Why doesn't the Government stay out of it? I argue that the Government is already in it because, prior to welfare's inception—and you can say this is a good or bad thing, but it is a fact—prior to welfare's inception, one of the reasons mothers and fathers stayed together was because there wasn't any money to support the child at all. The Government didn't help raise children at all. There was no money. That is when sort of a popular joke regarding the shotgun wedding came about, because mom had no means to support herself and her children. So families required fathers to stick it out.

Many will say that was not the optimal situation. I agree. But ask the question now, are we better off now? Are the children better off now? As the Senator from Massachusetts said, it is about the children, isn't it? Are the children better off now in this culture?

I would make the argument that the Federal Government has already done its part in taking sides on the marriage debate, and that is, it has been an enabler of the dissolution of marriage because it is no longer required to support and raise your child.

Again, you can argue positives and negatives about it, but that is a fact. Economically, it simply was not possible 50 years ago. Economically, it is a viable option—I am not saying the best option. I am not saying better or worse. All I am saying is it is an option that was not available before. So the Government has taken sides on the issue of marriage.

What I am suggesting, and what this bill suggests, is the Government try to shift gears to be somewhat neutral on the issue. What do I mean by that? A researcher from Princeton I started talking about did a survey asking whether mothers and fathers at the time of paternity establishment were in a relationship. Actually, a very high percentage said yes at the time. I think it was roughly 80 percent said they were currently in a relationship.

They were asked the question: Do you have any intention of getting married? Again, a very high percentage of these young parents or new parents said, yes, they actually were contemplating marriage—over 50 percent. What happened?

By the way, what did the Government do during this time? The Government basically said: OK, dad, sign here, make sure you establish paternity. Thank you very much. Fold up that paper, put it in the briefcase, and back down to the welfare office. File the paper. Make sure we get dad a child support order so we can get our money. That is the Government's role financially.

The Government says marriage is not such a bad—no, no, we are not going to prejudice these folks; let them do whatever they want as long as we get our money—as long as we get our money.

What happened a year later? The researcher from Princeton—again, not a conservative researcher—asked the question a year later of these same couples. Guess what. Very few got married. I think 10 percent were still together in one form or another.

What happened? I think it is fairly obvious what happened. It is a tough situation for an unmarried couple, particularly, again, given the popular culture. It is a very tough situation to work through the difficulties of raising a newborn and trying to keep a relationship together. Even people who are married have a tough time. A newborn is a big change in your life. Having had seven children, I can tell you, having a newborn in the house is a big change. When you are struggling economically, when you may be living at home or may be living in poor accommodations or maybe not living in the same place, this is a very stressful and difficult situation. People, in many cases, do not have a heck of a lot of role models around to help them get through this difficult time in their life.

I do not think anybody here is surprised to hear these numbers—I would not think they would be—that a very small percentage of people in this situation end up getting married. Why aren't you surprised? I think we need to think about that. Why were you not surprised when I said that? That is the expectation, is it not? That is what we expect.

If we expect it, what do you think the people involved in the situation expect over time? We are trying to change that dynamic. We are not trying to force anything down anybody's throat. All we are suggesting is that at the time of paternity establishment, instead of folding up that little paper that now has the signature that is going to create financial liability for that man for at least some period of time, we ask one additional question: Are you interested in getting married?

If both answer yes, for example, what a caseworker could do is pull out a card and say: Here is a card and here is a list of 10 people, 10 organizations who do marriage counseling. If you call one of these organizations and you show up for an appointment, we will pay for your counseling to help you get through this difficult time and stressful time in your life.

Believe it or not, there are people who are saying this is a right-wing agenda to try to get people to get married, as if that is a horrible thing to actually have mothers and fathers of children actually get married; that is some sort of secret plan to destroy the world. I do not understand it.

What we are trying to do is help two people who at the time have a commitment and have a product of that commitment called a child who needs love and support from as many people as that child can get—optimally, a mother and a father. All we are saying is give this child a chance; hopefully, a better chance. At least try. At least try to help people who want to be helped. Not force it on them, just try to help people who have, at least at the moment of the time they are looking at the face of this new creation, who actually still dream and hope of a better life with that child and together to pour some water on that seed to nurture it instead of folding up that piece of paper and saying: I got your money. That is all I came for. I am here from the Government, and I got your money. I got your signature, and that is all I am here to do. And look down at that child and say: I know what is going to happen, but what do I care? I have no requirement to care about whether mothers and fathers stay together and raise and nurture that child. It is not my job.

I will be offering an amendment, if we get a chance to offer amendments, to actually increase to the President's budget figure the amount of money in this program because I do believe that Government should be on the side of children in creating at least a chance for them to be raised in a stable two-parent family.

What happens to the poverty rate? If you increase the marriage rate, the poverty rate drops not some but very dramatically. So the keys in this legislation of work and marriage are the two strongest indicators of a reduction in poverty. The other factors many others suggest are keys to reducing poverty is increased education. It helps, but it is not anywhere as powerful as the focus of this bill. Reduced family size? Again, the more children you have the higher the chance you are going to be in poverty. So if you have fewer children, it helps—again, not as much as the focus of this bill. The interesting thing is, if you factor all these four things together, look what happens to the poverty level: Work; marriage, which allows in many cases the opportunity for education; and reduced family size—dramatic reduction in poverty. Can you imagine, for the longest time we didn't want to do this? And we still don't do this. The results are powerful.

What do some on the other side still hold to? I underscore "some" because thankfully we have had bipartisan support in much of what we have done here. What do some on the other side see as the answer? Spend more money. If we want to get people out of poverty, just increase the amount of money you give people in poverty and, guess what, you get them out of poverty.

Here is doubling the welfare benefit. If we doubled the welfare benefit, what would happen? Hardly any decrease in poverty. The Senator from Massachusetts might say it is obvious on its face, if we give people more money—in fact, it isn't that he might say it; yes, he did say it. He said it is obvious, if you give people more money, if you raise the minimum wage, of course poverty is going to go down. We are not talking about raising the minimum wage here; we are talking about doubling the welfare benefit. It makes barely a scratch. So I guess it isn't all that obvious, is it?

I guess, just like the rest of us, people who are experiencing poverty in their lives are as complex as the rest of us and have a lot of factors that go into whether they are poor, not just how much money comes in the door. There are a lot of factors that go into whether people rise in society. What we know works is work and marriage and families. We know that works. You know what. America knows it works. That is obvious. It is obvious to me and hopefully it will be obvious to my colleagues as we proceed here today. Instead of focusing on minimum wage—again, it has its time and place, but there is no evidence at all that has been put forward that it does anything to reduce poverty. In fact, straight cash assistance—not identical with the minimum wage, but the same idea behind it—doesn't significantly affect poverty.

What we are doing in this bill works. It works from an analytical point of view; it works from a moral point of view; it works from a commonsense point of view. It is all about what we Americans value and understand and revere—at least we have throughout the history of this country.

So I am hopeful we can move forward, that we can get an agreement to somehow or another dispose of the Kennedy amendment, either in this bill or at some future time, and move to passage of this very important piece of legislation which is going to have a dramatic impact in taking this number and numbers like it, the poverty rate among Black children, of all children—it has not just been among African-American children; it has been among all children as well as mothers—down, and down further.

We have an obligation if we know something is working to make it permanent and extend it and make it better, to do more of what we know works. That is what this bill does. I am hopeful the Senate will give its support to the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRICES

Mr. BINGAMAN. Mr. President, I came to the floor nearly a week ago to talk about high energy prices. I know several of my colleagues have been speaking about this issue today. At the time I spoke last week, I outlined a series of suggestions, 13 concrete actions I was urging the administration and particularly the President take to begin addressing this problem, both of high price of gas but also the high price of natural gas and the impact that is having on American families and on our economy.

The figures are fairly startling. Today, energy prices are at historic highs. Some analysts estimate that energy price shocks this year could cost American consumers more than $40 billion. Speaking very frankly, we cannot afford this kind of expense. We need to maintain a healthy pace of growth in our gross domestic product, and high energy prices dampen that growth. Clearly we need to give attention to this.

I was encouraged by some of the reaction we received to my statement last week. I did receive a letter from the National Association of Convenience Stores, particularly endorsing the suggestion that we begin to address this boutique fuels problem, the proliferation of boutique fuels.

I ask unanimous consent that letter be printed in the RECORD following my remarks here.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I was also encouraged by the comments of my colleague from New Mexico and others who have come to the floor endorsing some very similar suggestions. It is important that we speak today about this issue because of the OPEC meeting that is about to occur in Vienna, Austria. I want to reiterate that it is extremely important that the administration assert pressure on OPEC, the OPEC members who are meeting in Vienna, to forego their proposed 1 million barrel-per-day production cut. We do need to rein in high oil and gas prices and we need to send a strong message that cutting production of oil in OPEC is not the way to do that.

OPEC has the ability to affect price in two important ways: They can add to supply or they can talk down the price of oil on the world market. We have seen them do both in previous periods. I don't see any real action to affect the price of oil on either front at this point. We have been out of the price band—this is, I believe, this $22 to $28 band that OPEC has talked about—for quite some time now. At the same time that we have been way above that band, some OPEC members are talking about not only keeping production steady but actually cutting production.

This would be a very wrong-headed move. It would have adverse consequences on American consumers. I hope very much they will reconsider and I hope our administration will use its very best efforts in the next day or two to ensure that OPEC in fact does not cut production.

EXHIBIT 1

NATIONAL ASSOCIATION
OF CONVENIENCE STORES,
Alexandria, VA, March 25, 2004.

Hon. JEFF BINGAMAN,
Ranking Member, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR: On behalf of the retail members of the National Association of Convenience Stores (NACS), I would like to express our appreciation for your comments yesterday regarding the proliferation of boutique fuels. As the representative of an industry that sells more than 75 percent of the gasoline consumed in the United States every year, NACS has long advocated for a comprehensive fuels policy that would restore gasoline fungibility to the system without sacrificing supply.

The problems associated with the proliferation of boutique fuels are significant. As you noted yesterday, these specifications have "greatly reduced the overall flexibility and efficiency of our fuels system." We could not agree with you more. America's motor fuels system, including the refining, pipeline and storage infrastructure, was not designed to accommodate dozens of unique, non-fungible fuel blends.

Last year, NACS commissioned a study that analyzed the impact these boutique fuels have on the nation's gasoline supply and assessed the effect possible adjustments to the fuels regulatory system might have on refining capacity. Our study revealed that reducing the number of boutique fuel blends, while maintaining or improving environmental quality, will improve fungibility. However, it will also reduce the production capacity of the domestic refining system by requiring the production of more environmentally sensitive blends, which are more difficult to produce. For this reason, an approach to boutique fuels must be carefully balanced with the preservation of supply.

Your acknowledgement of the challenges facing the petroleum industry and your interest in overcoming these challenges is greatly appreciated by the convenience store industry. We look forward to working with you and your colleagues in a non-partisan, policy-specific effort to restore efficiency and flexibility to the gasoline marketplace.

Thank you and please let me know how NACS might be of assistance.

Sincerely,

JOHN EICHBERGER,
Director, Motor Fuels.

Mr. BINGAMAN. Mr. President, how much time remains of the 5 minutes I requested?

The PRESIDING OFFICER. The Senator has 1 minute and 10 seconds.

Mr. BINGAMAN. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQI AND AFGHANISTAN LIBERATION MEDALS

Mr. BINGAMAN. Mr. President, I rise today to speak to a bill to honor our service men and women in Iraq and Afghanistan who have served and continue to serve their country by working for a fee, independent and stable Iraq and a new Afghanistan. These missions have been difficult and the cost has been high; nearly 600 Americans have been killed and almost 3,000 Americans have been injured in Iraq, while more than 500 Americans have been injured and more than 100 U.S. servicemen and women have been lost in Afghanistan.

More than a year after the initial invasion, nearly 110,000 troops are still stationed in Iraq, working to build a new, stable beacon of freedom in the region. My fellow Senators, the liberation of Iraq is turning out to be the most significant military occupation and reconstruction effort since the end of World War II. We cannot understate the importance of the work being done there today.

The administration's focus on Iraq leaves the mission in Afghanistan incomplete. Despite constant progress there, the fighting is still not over. Recent assassinations of government officials, car bombings, and the lingering presence of terrorist forces and former Taliban fighters force thousands of our troops to stay in-country.

For their courageous efforts, the Department of Defense has decided to award our brave young men and women with the Global War on Terrorism Expeditionary Medal—GWOT—and no other medal. This is despite the fact that GWOT medal is meant for any individual who has served overseas during the war on terror and may have come within a few hundred miles of a combat zone. The dangers of serving in Iraq and Afghanistan are greater; therefore, along with my colleagues, Senators LOTT, LANDRIEU, INHOFE, and LUGAR, I propose to correct this mistake by passing legislation authorizing the Iraq and Afghanistan Liberation Medals in addition to the Global War on Terrorism Expeditionary Medal.

While some of us in this body have not shared the administration's view on this war, we are united when it comes to supporting our troops. These young men and women from active duty, National Guard and Reserves are all volunteers and exemplify the very essence of what it means to be a patriot. We believe that what they are doing in Iraq and Afghanistan today differs from military expeditionary activities such as peacekeeping operations or no-fly zone enforcement.

They continue to serve, even though they do not know when they will return home to family and friends. They continue to serve despite the constant threat to their lives and the tremendous hardships they face.

There is a difference between an Expeditionary Medal and a Campaign medal. We only need to look at an excerpt from U.S. Army Qualifications for the Armed Forces Expeditionary Medal and Kosovo Campaign Medal. In order to receive the Armed Forces Expeditionary Medal, you don't need to go to war. You only need to be "placed in such a position that in the opinion of the Joint Chief of Staff, hostile action by foreign armed forces was imminent even though it does not materialize."

To earn the Kosovo Campaign Medal, the standard is higher. A military member must:

> Be engaged in actual combat, or duty that is equally hazardous as combat duty, during the Operation with armed opposition, regardless of time in the Area of Engagement. Or while participating in the Operation, regardless of time, [the service member] is wounded or injured and required medical evacuation from the Area of Engagement.

Many within the military agree that there is a difference. According to the Army Times, "Campaign medals help establish an immediate rapport with individuals checking into a unit." An expeditionary medal like the GWOT does not necessarily denote combat. A campaign medal is designed to recognize military personnel who have risked their lives in combat.

Campaign medals matter.

> "When a Marine shows up at a new duty station, commanders look first at his decorations and his physical fitness score—the first to see where he's been, the second to see if he can hang. They show what you've done and how serious you are," said Gunnery Sgt. James Cuneo. "If you're a good Marine, people are going to award you when it comes time. . . ."

My fellow colleagues, it is time.

We must recognize the sacrifice of our young men and women who liberated Iraq, including great Americans like Army Specialist Joseph Hudson from Alamogordo, NM, who was held as a prisoner of war. The Nation was captivated as we watched Specialist Hudson being interrogated by the enemy. Asked to divulge his military occupation, Specialist Hudson stared defiantly into the camera and said, "I follow orders." Those of us with sons and daughters were united in worry with

Specialist Hudson's family. The entire Nation rejoiced when he was liberated.

We have also asked much from our Reserve and National Guard forces. The reconstruction of Iraq would not be possible without the commitment and sacrifice of the 170,000 Guard and Reservists currently on active duty.

My colleagues, Senators LOTT, LANDRIEU, INHOFE, LUGAR, and I are committed to honoring our over 200,000 heroes who liberated Iraq and Afghanistan. We believe that current administration policy does a disservice to our fighting men and women. Therefore we propose, in addition to the GWOT medal, new decorations that characterize the real missions in Iraq and Afghanistan, two that are distinctive and honor their sacrifice, the Iraq and Afghanistan Liberation Medals.

What we do today is not without precedent; Congress has been responsible for recognizing the sacrifice and courage of our military forces throughout history. Congress has had a significant and historically central role in authorizing military decoration. Our Nation's highest military decorations were authorized by Congress, including: the Congressional Medal of Honor, the Air Force Cross, the Navy Cross, the Army's Distinguished Service Cross, the Silver Star, and the Distinguished Flying Cross.

We have also authorized campaign and liberation medals similar to what we hope to accomplish with this legislation. A partial list includes the Spanish War Service Medal, the Army Occupation of Germany Medal, the World War II Victory Medal, the Berlin Airlift Medal, the Korean Service Medal and the Prisoner of War Medal.

The list goes on and on. The great men an women of our military forces are doing their jobs every day in Iraq and Afghanistan. It is time to do our job and honor them with an award that truly stands for their heroic service, the Iraq and Afghanistan Liberation Medals.

While some of us in this body have not shared the administration's view on the war, we are united when it comes to supporting our troops. These young men and women from Active Duty, from the National Guard, and from the Reserves, are all volunteers. They exemplify the very essence of what it means to be patriotic.

It is extremely important that we take action. Many in this body will remember that we proposed to do this last year as we were considering the Defense authorization bill. Our effort was not successful, although many Senators voted to go ahead with this legislative provision. The administration was not in favor, and the amendment failed.

I am glad we are able to reintroduce it this year. I urge my colleagues to cosponsor this legislation and work with us to find an appropriate time when we can bring it up for a vote, or we can add it as an amendment to one of the bills that will be working its way through the Senate later this year.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I want to speak on the welfare reform bill.

This has been an extraordinarily successful initiative which we began a few years ago. Its success is tied with the fact that States have been given a great deal more flexibility in the area of how they handle their welfare account. The fact is, we have set up as a purpose, as a government, that people who are on welfare will be given the opportunity, the skills, and the incentives to move off of welfare and move into a work environment, which is something that gives them personal credibility and personal self-respect, and at the same time assists us in reducing the public welfare rolls. It has been a huge and overwhelming success.

One of the elements of moving off of welfare, of course, is the need of parents to have transitional support, especially single mothers as they go into the workforce while dealing with their children during the time they are working; in other words, some sort of childcare assistance.

As part of this bill, we intend to offer an amendment for reauthorization of the Child Care Development Block Grant Program, called the Caring for Children Act of 2003.

This amendment came out of the committee which I chair, the Health, Education, Labor and Pension Committee, unanimously. It came out with bipartisan support, obviously.

It is an attempt to update our childcare block grant initiative and make it more meaningful for the issues of today. It also gives the dollars it needs to be effective.

The bill will not only stress increased spending, it has $1 billion of new funding from the discretionary accounts.

Earlier today, there was a vote on an initiative to add $6 billion over 5 years to the childcare development grant. That money would be mandatory, and it was not paid for; it was outside the budget. There was a euphemistic attempt to pay for it—a superficial attempt—actually, what amounted to the ultimate shell game attempt as an offset which was cited and which has been used on, I believe, 17 different occasions as a claimed offset in this body.

The real effect of the bill was to go way outside the budget and add a huge new tranche of dollars beyond the budget which would be fine had it been realistically offset. But it wasn't.

This bill has in it a true increase which is an appropriate increase of $1 billion over that period of the bill. That is a significant infusion of new funds. Plus it addresses some of the concerns of the program, one of the concerns being as children are getting childcare they should also be getting some sort of development in the capacity of learning. Obviously, these are very young children. But they should have a learning component in their childcare experience, something that will put them in a position where they will be able to be at a level where their peers are—other young children who are receiving childcare.

It has language in it which encourages the States to include a voluntary guideline initiative in the area of prereading and language skills. The absolutely critical essence of learning is language skills and the ability to do phonics and identify letters and be able to get ready for reading. This bill has in it that language.

It also has in it a commitment to low-income parents. At least 70 percent of these dollars has the flow-through stage, actually, to the parents—in many cases a single parent. So the parent is getting the benefits. And we aren't simply siphoning it off into the bureaucracy, which often happens, regrettably, through administrative overhead but, rather, directing this money to the hands of the parents, especially the low-income parent so the parent can use this to assist them in transitioning off the welfare rolls by taking care of their children during the workday.

It gives parents a significant amount of choice. They can use different daycare types of facilities. Some which are faith-based are allowed to be used, or they can use it even if it is being provided by relatives and neighbors. That is important.

Further, the bill addresses a need to make sure that States focus on improving the quality of childcare. This is a very significant concern that many of us have, which is that a lot of the childcare today is, unfortunately, not of a quality that gives the child the support services they need or the academic assistance they might need in order to be brought up to speed with peers who are in different childcare delivery systems.

It allows States to set aside a certain percentage of the money in order to assess quality and try to improve quality. This gives the States more flexibility in this area, but it also gives them an impetus to go in the right direction.

It is, therefore, a bill which does a lot of good.

As I mentioned, it was reported out of our committee unanimously. It will be, hopefully, added to the base bill either by a formal vote or as part of the managers' amendment.

But we have to get back to the fundamental quandary which confronts us today, which is that the base welfare reform bill that is pending before the Congress is being held up by the other side of the aisle.

This is becoming a pattern of obstruction which we have seen throughout this session of the Congress, and it appears its intensity is actually increasing. Bills are coming to the floor now which are important pieces of legislation on which there is a general consensus.

As I mentioned, this language reported out of our committee to strengthen the block grants for childcare was reported unanimously. Yet these bills are being stopped dead in their tracks by the insistence of the other side of the aisle to put on these bills extraneous issues which are of a politically charged nature, the purpose of which is not to pass them but simply to generate a political vote which can be used in the coming election.

We all do that. We all set up the political votes. But they should not be used as aggressively as they are today by the Democratic Party as a means of stopping legitimate legislation. The obstruction coming from the other side of the aisle is unconscionable.

Last week, for example, a bill which would have corrected the problems which many of our manufacturers in this country are going to confront, specifically a duty that is going to be assessed on their goods sold overseas, a duty which could go up as high as 18 percent—and that duty was a function of the fact we lost a World Trade court decision which allows this duty to go forward—that bill which would have corrected that, put an end to the duty and thus allow manufacturing jobs and service-oriented jobs in the United States to continue to expand and flourish, that bill was killed in this Senate because of extraneous issues which the other side of the aisle, the Democratic Party, decided they wanted to bring forward. They would not allow the bill to go forward without those extraneous issues being voted on.

The bill had absolute consensus. There was a belief, there is a belief, there should be a belief, that American jobs should not be lost as a result of our tax laws being found illegal by a body which we subscribe to, the World Trade Organization, and that we should correct that problem, and we can correct it rather effectively, and that correction will save jobs in the United States. That will not happen now because of the obstruction coming from the other side of the aisle. It is one in a series of obstructions.

Now we see the exact same thing happen in the area of welfare reform. Literally, in the last 5 years, there have been very few laws as successful that this Congress has passed as welfare reform. It was so successful—it was an idea put forward on this side of the aisle—once it passed and started to work, it was immediately adopted by the other side of the aisle as theirs.

President Clinton had the right to take credit; he was President when the bill was passed. He was President and takes credit as one of the strong elements of service of his Presidency. And I am glad he takes credit.

Now when we try to reauthorize and improve it significantly through the block grant proposal which we brought out of our bipartisan committee, now when we try to move the bill forward so we can continue with the welfare reform experience of the last few years and make sure that experience continues to allow people to move from public assistance to work and give people self-confidence, self-respect, and self-esteem as a result of attaining work, that bill has been stopped once again by the Democratic membership of this body coming forward and saying they want to cast a political vote on an unrelated issue.

It is these actions that one has to question the purpose. Why, when bills have been agreed to which will significantly improve the lifestyle of Americans, the number of jobs Americans have in the case of the tax bill which was just stopped last week, or the number of people moving from welfare to work, which is getting good jobs and moving out of a public assistance situation and getting self-respect, why are these bills being stopped for purely political purposes by the other side of the aisle bringing forward extraneous amendments.

It is an unconscionable action, in my opinion. It is regrettable that the childcare block grant proposal, the reauthorization of which came out of our committee unanimously and which represents a significant improvement, especially in this area of trying to get learning into the childcare experience, trying to get quality in the childcare experience, giving States more flexibility and putting more money into the program in the context of a responsible budget bill, why that would be stopped also is beyond me. It is not beyond me; it is fairly obvious. The purpose here is to make a political statement. It is a political statement, come heck or high water. It does not matter that the making of the political statement will cost people jobs and make it harder to move from welfare to work, creating a poorer and a less well-financed childcare block grant program.

It is unfortunate. It is the politics of the day. I know the American people do not focus too much on what we do in the Senate in the day-to-day regime. I hope the American people take the time to learn what has transpired in this body in the last 6 to 8 months. The obstructionism on the other side of the aisle has become the cause of the day, the purpose of every event. This obstructionism continues and grows as we move closer to the election. The practical effect of this obstructionism coming from the other side of the aisle is that good things which help working Americans keep jobs, move from welfare to work, ensuring their kids have quality daycare, good things like that are being stopped as a result of this unrequited obstructionism coming from the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

NEVADA CHAMPIONS

Mr. ENSIGN. Mr. President, my colleague from Nevada, Senator REID, and I will take a couple of minutes and exercise our privileges as Senators to brag a little bit about our State and the recent accomplishments of the University of Nevada basketball team and their rise to the Sweet 16.

The Nevada Wolf Pack brought a lot of pride to our State. It is not a school known for basketball. Certainly, they had more football success in the years past. However, this year they surprised many in the Nation. It was obviously a heart-breaking loss to Georgia Tech last week. But Coach Trent Johnson, the whole Wolf Pack team and all the people surrounded with the program deserve a lot of credit for the season they put together. We expect big things from them in the future.

For a school such as the University of Nevada, a school that does not have the reputation of the University of Connecticut or Duke, it is more difficult to get the kind of players to go up to Reno to play basketball. They have players from Virginia City, Elko, and some of the other small towns around Nevada.

Coach Johnson crafted a team providing a good lesson for all of us to learn. If you can work together as a team, you can achieve true greatness. That is what his team did this year. Earlier in the year they beat the University of Kansas, beat them very soundly. Then through the March Madness, they made it all the way through the Sweet 16.

It was funny to listen to the various announcers talk about our team and trash them, not even understanding how to pronounce "Nevada." We do not use their pronunciation. It was funny to listen to them saying they did not have a chance; they did not know how to play basketball. Certainly the coach from the University of Nevada and the rest of the players proved them wrong.

I rise today to congratulate them on a great season and look forward to their success.

I also wish the Lady Rebels from the University of Nevada Las Vegas success tonight. They are in the WNIT championship. We have a lot to be proud of in our State. I join my colleague, Senator Harry Reid, in congratulating especially the Nevada Wolf Pack for what they have achieved. Hopefully, we will be able to talk about the championship the Lady Rebels will achieve tonight.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I hope Senator ENSIGN and I are able to be on the same team working here in the Senate as the University of Nevada at Reno was during this basketball season. We strive to do that. They have set a good example for us and for everyone.

We may be outnumbered in the State of Nevada. There may be a lot of States with more people than we have, but Senator ENSIGN and I realize every State only has two Senators. We believe as a result of that, of our working together, we can have the same strength and power some of the more populated States have. I have enjoyed and appreciated working as a team with Senator ENSIGN during his tenure in the Senate.

I also today want to extend my congratulations to Coach Trent Johnson and the basketball team at the University of Nevada. We have in recent years reached goals in our athletic programs at the University of Nevada, but for Coach Ault and his football team, they have been good.

I remember going to Georgia Southern to watch UNR play them for the national championship, in Division II. And though we lost that game, it was a great thrill to reach that level, which was significant for the university.

Since that time, the University of Nevada football has moved into Division I. Basketball has always been Division I.

Now, many years ago, the Wolf Pack was known all over the country. It had, at one time, three All-Americans on its football team. We had Marion Motley, who is now a member of the Football Hall of Fame, who played football at the University of Nevada, at Reno. And we had other great players, Dick Trachok, Tommy Kaminer, and many others, but that is many years ago.

So what Senator ENSIGN said about the Wolf Pack Basketball Team is significant. They had not been to an NCAA tournament for 19 years. They had never, in the history of the school, won an NCAA game.

This year they were forecast, by all the prognosticators, to continue that "never to win a game." The first team they played was the great Michigan State. They beat Michigan State. Then the prognosticators said: Well, that was a fluke. There is no way in the world they will beat the highest ranked Gonzaga team. Gonzaga, all year, had lost one game. That game was not close. UNR moved through there very quickly.

Then they moved on to the Sweet Sixteen. They played Georgia Tech. They led Georgia Tech at half time, and it was really an exciting game. They lost. But other than my being disappointed because they did not go to the Final Four, I join my colleague in expressing my congratulations to this great basketball team.

We have focused so much attention, in years past, with the UNLV basketball team, the Runnin' Rebels, that has overshadowed the accomplishments of the University of Nevada, at Reno. But that will no longer ever be said as a result of the great accomplishment made by this team.

I want to say something about the importance of coaching. Trent Johnson came from Stanford. He was an assistant coach over there. He came 5 years ago. He accepted the challenge of being a head coach of a Division I school. But, frankly, the record that he was given was pretty dismal. The year that he took over, he looked back to see that the prior year they had won 8 games and lost 18. This year they won 24 games. That is the turnaround.

As Senator ENSIGN mentioned, they beat Kansas, which was ranked No. 1 at the time. Early in the year, people knew they would be pretty good because they almost beat Connecticut, which, at that time, was also ranked No. 1.

Few people thought they could make the strides that they did except their coach, Trent Johnson. He is an outstanding coach. It is my understanding and my hope that the people in Reno have done everything they can to make him happy. He is a great coach, and this record of his will only continue.

I want to reflect a little bit on this team. It was led by the player of the year in the Western Athletic Conference, a man by the name of Kirk Snyder. He is a junior. If he wants to go pro, he will be drafted in the first round.

During the times I have watched him during the games this year, and listened to the games, the sportscasters always focused on this man who was so good.

They also had a point guard by the name of Todd Okeson, someone who is a senior, and was the sparkplug of that team. He was the point guard, but he also scored very well.

There were other fine players on that team. They may not have scored over 20 points a game as did Kirk Snyder, but they did many other good things. Gary Hill-Thomas was a great defender. Kevin Pinkney was one of the great rebounders. And then there was a young man by the name of Nick Fazekas, who is almost 7 feet tall, a freshman, and has a soft touch. He stepped in at very crucial times during the tournament and made key baskets, and came to the free throw line and always came through.

But we also had players from Nevada. They are not all out-of-Staters. For example, Sean Paul, the "Elko Enforcer," comes from the town of Elko in northeastern Nevada. And there were other players: Jermaine Washington and Marcelus Kemp.

These players have made Coach Johnson proud. I am confident that is one reason Coach Johnson is going to stay at the University of Nevada, at Reno. We want him, and I certainly hope he stays. I am confident that he will.

All these players, and especially the coach, have made Nevadans proud.

Sometimes when a team loses in a tournament, people say: "Wait until next year." But I think everyone in Nevada is going to dwell on the fact that this team did well, and we are going to savor this remarkable season by UNR, and not dwell on next year.

Senator ENSIGN mentioned, and I also want to mention, that we also have a great coach at UNLV. She coaches the UNLV Runnin' Rebels. The Lady Rebels are very good. They came within one point of going to the NCAA tournament. They are now in the National Invitation Tournament, and they are in the finals. They are going to play Creighton tonight for the National Invitation Championship. They have done great.

I love to watch the Lady Rebels. I have gone and met with these young women and have spoken with the coach. So I congratulate Coach Miller and her Lady Rebels for the great notoriety they have focused on the University of Nevada Las Vegas this year and wish them well in their tournament game tonight.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2945

Mr. BAUCUS. Mr. President, I would like to say a few words about the pending amendment offered by the Senators from California and Massachusetts; namely, the minimum wage amendment. I would like to point out the effect of the current minimum wage on people today, and particularly as to where they are with respect to poverty in America.

Let me refer to this chart. This chart represents the relationship between the minimum wage and the poverty line for a family of two, beginning in the year 1988, and up through the year 2002.

From this chart you can see, quite visibly, frankly—with the minimum wage represented in green and the poverty line being the line just below the blue—that as the minimum wage increased in 1989, and in a step sort of function up to 1998, that for a person who had a job, with a family of two—let's say a single mom had a full-time job but made the minimum wage—they were still below the Federal poverty level, until about 1998, and then they could just barely surpass the poverty level.

I point this out because it does not seem right that a person who has a full-time job at a minimum wage still lives in poverty.

Now, that is bad enough. But let me show you how much worse it gets. This next chart shows the relationship between the minimum wage and poverty for a family of three: let's say a mom and dad and a child. By this chart one can tell very easily that the gap between the poverty line and the minimum wage is much greater for a family of three than it even is for a family of two. In fact, if I have my numbers correct, the amount is about $3,681. That is the gap.

I point out, again, for a family of three, with one breadwinner—say with a father who is at the minimum wage—that family of three will find itself, on average, over a year's time, about $3,600 of income less than the Federal poverty level. That family is living in poverty even though the breadwinner of that family is working full time.

And it gets worse, as you might expect.

Let's take a family of four, say a father and a mother, and two children. Say one parent is working full time at a minimum wage job. Because the increase in the minimum wage has been so slow, the gap between what that family earns and the Federal poverty level is even greater.

In fact, it is about twice as much, which means that a family of four with one wage earner at the minimum wage is earning about half of what the Federal poverty level is. I don't think that is right. I frankly don't understand why some people do not want a significant increase in the minimum wage.

Let me tell you a personal story. Personal stories sometimes are out of context, but it meant a lot to me. One year I was walking across my State in Montana campaigning. To be honest, I learned an awful lot just by talking to people who I just happened to meet walking down the roads and highways and visiting in people's homes. A lot of it had to do with welfare. I remember talking to many people on welfare who told me they did not want to be on welfare. They hated it. They wanted to be off welfare.

One of the main factors they mentioned to me as to why it is so difficult to get off of welfare is because of the minimum wage laws. They are working maybe at McDonald's or someplace else in a minimum wage job, but because the minimum wage rates were so low, they couldn't make ends meet.

It is hard to know when to believe people. It is hard to know when to think what people say is right or not, but you have to read between the lines. You have to get a sense of what is going on. It was very clear to me that these people were speaking the truth, certainly as they perceived it. If there were a significant increase in their wages, they could then get off of welfare.

It is tied to the earlier debate on childcare. I ran into a lot of women, single moms who said the same thing to me. They were really earnest. I wish you could have seen the expressions on their faces saying that they wanted to stay off of welfare.

One young single mom explained to me that she slept on her mother's sofa so she could avoid having to pay for a room someplace. She had a minimum wage job. Her childcare expenses were so high she could not handle it anymore and she had to go back on to welfare. She hated it.

In those few instances, people I talked to just by happenstance—chance encounters—that is what they have said to me.

We have to make judgments sometimes. One of the judgments I have made is that our current minimum wage is too low. For a civilized country, the United States of America, we can do a heck of a lot better.

Sometimes you hear business people say it will increase their cost of business. It probably will slightly. But if everybody is getting paid more, more dollars flow into the economy. People are more likely to not be on welfare, and they are more likely to have a little more self-esteem. They are more likely to be able to advance themselves. Most people want to advance themselves. They want a better life for their families and their kids. Some just find themselves caught in difficult situations.

I hope people will look at these charts and see how dramatic the difference is between the minimum wage income on the one hand and the Federal poverty level on the other. The income of someone on the minimum wage is much below the Federal poverty level. It does not seem right that a person working full time, whether he or she has one child, or is married, or whether he or she has three in the family or four, should live so far below the Federal poverty level. That is not right. If they are going to work full time, they should be able to live outside of poverty.

I urge Senators to support the amendment offered by the Senator from California.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Mr. President, I ask unanimous consent that I be allowed to speak up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 9/11 COMMISSION

Mr. MILLER. Mr. President, after watching the harsh acrimony generated by the September 11 Commission—which, let me say at the outset, is made up of good and able members—I have come to seriously question this panel's usefulness. I believe it will ultimately play a role in doing great harm to this country, for its unintended consequences, I fear, will be to energize our enemies and demoralize our troops.

After being drowned in a tidal wave of all who didn't do enough before 9/11, I have come to believe that the Commission should issue a report that says: No one did enough. In the past, no one did near enough. And then thank everybody for serving, send them home, and let's get on with the job of protecting this country in the future.

Tragically, these hearings have proved to be a very divisive diversion for this country. Tragically, they have devoured valuable time looking backward instead of looking forward. Can you imagine handling the attack on Pearl Harbor this way? Can you imagine Congress, the media, and the public standing for this kind of political gamesmanship and finger-pointing after that day of infamy in 1941?

Some partisans tried that ploy, but they were soon quieted by the patriots who understood how important it was to get on with the war and take the battle to America's enemies and not dwell on what FDR knew, when. You see, back then the highest priority was to win a war, not to win an election. That is what made them the greatest generation.

I realize that many well-meaning Americans see the hearings as democracy in action. Years ago when I was teaching political science, I probably would have had my class watching it live on television and using that very same phrase with them.

There are also the not-so-well-meaning political operatives who see these hearings as an opportunity to score cheap points. And then there are the media meddlers who see this as great theater that can be played out on the evening news and on endless talk shows for a week or more.

Congressional hearings have long been one of Washington's most entertaining pastimes. Joe McCarthy, Watergate, Iran-Contra—they all kept us glued to the TV and made for conversations around the water coolers or arguments over a beer at the corner pub.

A congressional hearing in Washington, DC is the ultimate aphrodisiac for political groupies and partisan punks. But it is not the groupies, punks, and television-sotted American public that I am worried about. This latter crowd can get excited and divided over just about anything, whether it is some off-key wannabe dreaming of being the American idol, or what brainless bimbo "The Bachelor" or "Average Joe" will choose, or who Donald Trump will fire next week. No, it is the real enemies of America that I am concerned about. These evil killers who right now are gleefully watching the shrill partisan finger-pointing of these hearings and grinning like a mule eating briars.

They see this as a major split within the great Satan, America. They see anger. They see division, instability, bickering, peevishness, and dissension. They see the President of the United States hammered unmercifully. They see all this, and they are greatly encouraged.

We should not be doing anything to encourage our enemies in this battle between good and evil. Yet these hearings, in my opinion, are doing just that. We are playing with fire. We are playing directly into the hands of our enemy by allowing these hearings to become the great divider they have become.

Dick Clarke's book and its release coinciding with these hearings have done this country a tremendous disservice and some day we will reap its whirlwind.

Long ago, Sir Walter Scott observed that revenge is "the sweetest morsel that ever was cooked in hell."

The vindictive Clarke has now had his revenge, but what kind of hell has he, his CBS publisher, and his axe-to-grind advocates unleashed?

These hearings, coming on the heels of the election the terrorists influenced in Spain, bolster and energize our evil enemies as they have not been energized since 9/11.

Chances are very good that these evil enemies of America will attempt to influence our 2004 election in a similar dramatic way as they did Spain's. And to think that could never be in this country is to stick your head in the sand.

That is why the sooner we stop this endless bickering over the past and join together to prepare for the future, the better off this country will be. There are some things—whether this city believes it or not—that are just more important than political campaigns.

The recent past is so ripe for political second-guessing, "gotcha," and Monday morning quarterbacking. And it is so tempting in an election year. We should not allow ourselves to indulge that temptation. We should put our country first.

Every administration, from Jimmy Carter to George W. Bush, bears some of the blame. Dick Clarke bears a big heap of it, because it was he who was in the catbird's seat to do something about it for more than a decade. Tragically, it was the decade in which we did the least.

We did nothing after terrorists attacked the World Trade Center in 1993, killing six and injuring more than a thousand Americans.

We did nothing in 1996 when 16 U.S. servicemen were killed in the bombing of the Khobar Towers.

When our embassies were attacked in 1998, killing 263 people, our only response was to fire a few missiles on an empty tent.

Is it any wonder that after that decade of weak-willed responses to that murderous terror, our enemies thought we would never fight back?

In the 1990s is when Dick Clarke should have resigned. In the 1990s is when he should have apologized. That is when he should have written his book—that is, if he really had America's best interests at heart.

Now, I know some will say we owe it to the families to get more information about what happened in the past, and I can understand that. But no amount of finger-pointing will bring our victims back.

So now we owe it to the future families and all of America now in jeopardy not to encourage more terrorists, resulting in even more grieving families—perhaps many times over the ones of 9/11.

It is obvious to me that this country is rapidly dividing itself into two camps—the wimps and the warriors: the ones who want to argue and assess and appease, and the ones who want to carry this fight to our enemies and kill them before they kill us. In case you have not figured it out, I proudly belong to the latter.

This is a time like no other time in the history of this country. This country is being crippled with petty partisan politics of the worst possible kind. In time of war, it is not just unpatriotic; it is stupid; it is criminal.

So I pray that all this time, all this energy, all this talk, and all of the attention could be focused on the future instead of the past.

I pray we would stop pointing fingers and assigning blame and wringing our hands about what happened on that day David AcUology has called "the worst day in all our history" more than 2 years ago, and instead, pour all our energy into how we can kill these terrorists before they kill us—again.

Make no mistake about it: They are watching these hearings and they are scheming and smiling about the distraction and the divisiveness that they see in America. And while they might not know who said it years ago in America, they know instinctively that a house divided cannot stand.

There is one other group that we should remember is listening to all of this—our troops.

I was in Iraq in January. One day, when I was meeting with the 1st Armored Division, a unit with a proud history, known as Old Ironsides, we were discussing troop morale, and the commanding general said it was top notch.

I turned to the division's sergeant major, the top enlisted man in the division, a big, burly 6-foot-3, 240 pound African American, and I said: "That's good, but how do you sustain that kind of morale?"

Without hesitation, he narrowed his eyes, and he looked at me and said: "The morale will stay high just as long as these troops know the people back home support us."

Just as long as the people back home support us. What kind of message are these hearings and the outrageously political speeches on the floor of the Senate yesterday sending to the marvelous young Americans in the uniform of our country?

I say: Unite America before it is too late. Put aside these petty partisan differences when it comes to the protection of our people. Argue and argue and argue, debate and debate and debate over all the other things, such as jobs, education, the deficit, and the environment; but please, please do not use the lives of Americans and the security of this country as a cheap-shot political talking point.

I yield the floor.

(Mrs. DOLE assumed the Chair.)

Mr. ENZI. Madam President, I thank my colleague from Georgia for his outstanding comments. There is a war going on and he made some outstanding points. I have heard several of his speeches and learned a lot from each of them.

I am going to speak now on, I believe, the pending amendment, the Boxer-Kennedy amendment. I will share my thoughts about raising the Federal minimum wage. My colleagues on the other side of the aisle keep talking about the loss of American jobs, but their actions don't match up to their words.

If my colleagues are so concerned about unemployment, why would they do something that would eliminate jobs in this country? If my colleagues are so concerned about helping poor families, why would they do something that hurts poor families the most? Their effort to increase the minimum wage, while attacking the President on job creation, is not based on sound policy and economics.

There is an effort underway to put a smokescreen of unrelated amendments that mask election year politics in misleading rhetoric. It is being done on the reauthorization of the welfare bill.

It is time for us to look beyond the smokescreen and see who is really helped and who is really hurt by Senator KENNEDY's amendment to raise the Federal minimum wage.

Every student who has taken an economics course knows if you increase the price of something—in this case, the minimum wage job—you decrease the demand for those jobs. A survey of members of the American Economic Association revealed that 77 percent of economists believe that a minimum wage hike causes job loss.

For small businesses, where most of the job creation in this country is generated, a minimum wage increase is particularly harmful. Having owned a small business in Wyoming, I can speak from personal experience about how detrimental a minimum wage increase would be for small businesses and job growth.

I need to explain something. Very few people in the shoe business I was in were working at the minimum wage, which my wife and I preferred to call the level of minimum skills. Those are the people who first came in and did not have any capability in the kind of job they were going to be doing and we had a starting wage, a starting skills wage. Anybody who was in that wage more than 3 months was not paying attention, and that is the way with most of the businesses in this country.

The minimum wage is the minimum skills wage, and it is the starting wage. It does have an effect on other wages as well. When we raise the minimum wage, then to keep the proper spread between employees of different skills, other jobs get raises, too. Of course, when that happens, there has to be a way to pay for it, and the way to pay for that almost always comes from raising prices. If you raise prices and wages, there is not much gain.

How do I explain to my constituents, most of whom rely on small business for their livelihood, that Congress wants to do something that would foster job loss instead of job creation?

Every day I read letters to the editors of the Wyoming newspapers. One appeared in the Casper Star from one of my constituents about his concerns in September 2002. I came across this letter again. It was written by Imo Harned of Douglas, WY, about the effects of a minimum wage increase. It is a reminder about the true cost of minimum wage increases.

I ask unanimous consent to print this letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THAT'S LIKE NO HELP AT ALL

> EDITOR: I first became interested in the effects of raising minimum wage in the 1960s. An employer I knew fired three men he'd employed as watchmen. He remarked that it was worth something to have warm bodies around, but not at 75 cents an hour. Since then I have made it a habit from time to time to ask an employer if raising minimum wage makes a difference to his business. No matter if he pays one person or dozens, the answer is always the same. "There are X number of dollars in the budget and I can't exceed that amount. If it means cutting hours or firing workers, I have to do it to stay within the budget." Personal observations show that within a week of a raise in minimum wage, groceries will raise enough to absorb the increase. Also, people who make more than minimum have to pay the increased costs too, so it amounts to a cut in pay for those who make more.
>
> Several years ago the Wall Street Journal did a study showing that living standards have remained unchanged for people earning minimum wage since that wage was 50 cents an hour! The only difference was that those poor people were in a higher tax bracket and had to pay more taxes.
>
> A person who begins working at minimum wage, who works hard and earns an increase in pay should not be penalized by being returned to the beginning again. Neither should anyone be penalized by having to pay the increased food and utilities that follow every time the minimum wage is increased.
>
> IMO HARNED, *Douglas.*

Mr. ENZI. Madam President, I have listened to my colleagues on the other side of the aisle who support a minimum wage increase. I have seen their charts and heard their arguments. However, none of their charts or arguments can refute the commonsense and real world observation of Imo Harned from Douglas, WY.

Mr. Harned writes—I am quoting part of it and the whole letter is printed in the RECORD. I am sure my colleagues will want to read it:

> . . . I have made it a habit from time to time to ask an employer if raising minimum wage makes a difference to his business. No matter if he pays one person or dozens, the answer is always the same: "There are X number of dollars in the budget and I can't exceed that amount. If it means cutting hours or firing workers, I have to do it to stay within the budget." Personal observations show that within a week of a raise in minimum wage, groceries will raise enough to absorb the increase. Also, people who make more than minimum have to pay the increased costs, too, so it amounts to a cut in pay for those who make more.

Mr. Harned saw through the phony economics of a minimum wage increase. He reached the same conclusion as two Stanford economists: A minimum wage increase is paid for by higher prices that hurt poor families the most. Some argue that we need to increase the minimum wage to help poor families. However, the 2001 study conducted by Stanford University economists found that only one in four of the poorest 20 percent of families would benefit from an increase in the minimum wage. Three in four of the poorest workers would be hurt by a wage hike because they would shoulder the costs of resulting higher prices. A Federal wage hike will hurt the very people the underlying welfare reauthorization bill is designed to help: America's poor families.

I have held on to Mr. Harned's letter as a reminder of the dangers of a "Washington knows best" and a "one size fits all" mentality. An increase in the Federal minimum wage is a classic lesson that Washington does not know best and one size does not fit all.

A Federal wage mandate does not account for the cost of living that varies across the country. It costs over twice as much to live in New York City than in Cheyenne, WY. However, a Federal minimum wage hike that applies coast to coast is like saying a bag of groceries in New York City must cost the same as a bag of groceries in Cheyenne. Local labor market conditions and the cost of living determines pay rates, not Federal minimum wage laws dictated from Washington.

I support an increase for all wages, but that increase should be fueled by a strong, free market economy, not by an artificial Federal mandate that hurts business and workers alike. Artificial wage hikes drive prices up. We should not trick workers into thinking they are earning more when they still cannot pay the bills at the end of the month. We should not trick the American people into believing that the phony economics of a minimum wage increase will improve the standard of living in this country. Nor should we trick the American people into believing that a minimum wage increase is without cost.

The smoke and mirrors of a minimum wage increase is not the way for American workers to find and keep well-paying jobs. We have to encourage, not discourage, job creation, and we have to equip our workers with the skills needed to compete in the new global economy.

It is one of my goals to make sure that the unfilled higher paying jobs can be filled by Americans. I talked about the minimum wage being a minimum skills wage. There are higher paying jobs out there, but you have to have the skills for them. How do you get the skills for them? We have a bill. It is called the Workforce Investment Act. It reauthorizes the Nation's job training and employment system, and it updates it to the modern jobs. It allows people to be working in the areas of highest need in this country, instead of forcing those jobs overseas.

That bill passed out of the Health, Education, Labor, and Pensions Committee unanimously. We passed it on the Senate floor by unanimous consent last November. That means nobody wanted to amend it and nobody objected to what was in the bill. That is as bipartisan as you can get.

Where is that bill now? It is languishing around here because the minority party will not let us get a conference committee appointed to resolve the differences with the House, the final step for the bill. The House has passed a bill. It is a little different from the Senate bill. But we need to meet and work out the differences and get that final bill.

What does this mean in the way of jobs? Training for 900,000 jobs a year. That is pretty significant, training for 900,000 jobs a year. I kind of get the feeling we do not want to resolve that until after November so that it can be a part of the politics of the Presidency. That is wrong. It ought to be worked out now. We ought to have a conference committee. We ought to get it done. If we want to take care of jobs in this country, if we want people to be making more and to be making more real money, we ought to get them trained into the skilled positions in the jobs that are vacant in this country right now before we ship them over to another country. We need to have a conference committee. That would provide jobs. That will provide increased wages. That will provide real increased wages, not just inflationary wages that will drive up the price of all of the goods and absorb, as Mr. Harned said, in 1 week the amount of the raise.

I owe Mr. Harned and all my constituents sound policy, not election year rhetoric. I owe it to Mr. Harned and all of my constituents to remove the smokescreen around the minimum wage debate and expose its true cost.

The Boxer-Kennedy amendment to raise the Federal minimum wage ignores the true cost of a minimum wage increase on America's workers and businessmen.

I hope we can put this debate, which is unrelated to the underlying bill, behind us. I hope we can move beyond election year theatrics and get to the real work of helping America's low-income families.

I urge my colleagues to oppose the Boxer-Kennedy amendment and to read the letter of Mr. Harned in full.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I appreciate the Senator from Iowa giving me the opportunity to sit in this august chair he so ably occupies on more than just a few occasions on the Senate floor where we seem to have Finance Committee bills on a pretty frequent basis. He works diligently. He has been called away to do some other things so I am going to take this opportunity to speak, as we are stuck on an amendment that is nongermane to this bill, and which was offered with the full knowledge that this would severely jeopardize this bill being moved to passage.

Earlier today we had a good debate on daycare funding. We passed an amendment that added $6 billion more in daycare funding to this bill. Current funding for the Child Care and Development Fund is $4.8 billion. The committee added $1 billion more. Why did we add this increase in funding? Because in the bill we increased the work requirement by 20 percent.

Now I would make the argument we did not actually increase it by 20 percent because we give partial credit to the States, so it is probably not a 20-percent increase. At most, we increase the work requirement in this bill by 20 percent. So we also increased the daycare funding.

Candidly, there is probably not even that much of a direct correlation. It is probably not even going to be required to have 20 percent more to meet this work requirement, but we did it, anyway.

The HELP Committee comes forward with a proposal that is $2.3 billion more in childcare that will be in this bill, and then today we add $6 billion more. That is a 100-percent increase in daycare funding for a 20-percent increase in work requirements. I am starting to rethink the work requirements at the rate this is costing us.

In addition, there is almost $1.5 billion in money the States now hold that can only be used for cash assistance. When we passed the 1996 welfare bill, one of the concerns on the left was this money for cash assistance be used for cash assistance and it is not to be taken out and used for other purposes. So we have a pipeline which only funds cash assistance.

What we do in this bill is allow this $1.5 billion to be used for daycare. So it is not a $1 billion increase on top of a $2.3 billion increase on top of a $6 billion increase, but on top of a $1.5 billion increase on top of that. This is how much money we now have in this bill for childcare. I oppose that. I think that is an extraordinary expansion of a program that, while it has benefits and I certainly support it, and in the 1996 bill I supported the final compromise which added $1 billion to the daycare funding to get this bill originally enacted, but this is excessive and unwarranted, and I would argue not good policy for a variety of different reasons.

There is some good policy in this bill, and it is being blocked. I think when the Senator from California offered this amendment, she understood what was going to happen if she offered this amendment, and that was this bill would be shut down, as the last bill was because of a blocking amendment on the JOBS bill to create more manufacturing jobs.

What we would like to see done is a limitation of amendments. I would frankly be happy to deal with all relevant amendments to this bill, no limitation on any relevant amendments, but a limitation on political amendments. Clearly, minimum wage is a political amendment that has been offered numerous times in the past, always seeming to wait until right before election. We never see minimum wage increases offered in odd-numbered years. I do not know if my colleagues noticed that, but it seems to be offered in even-numbered years. So we have even-numbered election issues that are brought up by Senators BOXER and KENNEDY, who said they would like to see this bill pass. They say they would like to see this extended.

I tell my colleagues that the Senator from California in 1996 said: I cannot support legislation—she was referring to the 1996 welfare reform act—which will throw countless children into poverty. No one expects us to solve the welfare problem by punishing children for being poor. That is what she said in 1996.

So did this bill punish children for being poor? Let us look at the black child poverty rate. The highest rates of poverty in America are among black children, at least they have been. At the time Senator BOXER made that statement, the poverty rate among African-American children was 45 percent. She said this bill will punish children by throwing them into poverty, will punish them because we are going to require their mothers to go to work, we are going to require and put time limits on the amount of time people can spend on welfare because we have an expectation that if one is able-bodied they can work, they should work, and it is beneficial to them and their children if they do work.

So we did a whole bunch of things to create not only a stick to get people to work, but a lot of incentives or carrots to make work pay. We invested a lot of money: Daycare, yes; transportation; EIC. We can go on down the list. We put in a lot of incentives over the last several years to make work pay.

What happened? We have the lowest rate of black child poverty ever in America. Now, one might ask, well, did the other side learn a lesson? Did they understand that actually they were wrong? I know the Senator from California had a picture, and I know the Senator from Illinois at the time, Ms. Moseley-Braun, had pictures of people in breadlines and people sleeping on grates. Have we now admitted this concept of work and the concept of time limitations was, in fact, not a punishment but the real punishment was locking people into dependency and poverty? That is punishing. That is hopelessness.

What we provided in this bill was hope. Have they learned? Well, the proof is in the pudding. The Senator from California comes forward and offers an amendment, shuts down the bill. She will have ample opportunities over the next several weeks to offer an amendment on this issue.

By the way, there have been ample opportunities in the past 15 months to offer a minimum wage increase, and yet on a bill everybody is for, that we want to reauthorize—they say they are not trying to block this bill—15 months go by in the session and we are going to offer an amendment to try to sink this bill.

I encourage my colleagues on both sides of the aisle to offer germane amendments, to withdraw this amendment, let's get to the substance of this issue. This is an important battle to provide hope and opportunity for the poor in our society, to bring dignity into the lives of communities that have been struggling to make ends meet.

Let's stick to this issue and get it done. Let's show the Senate can work on important issues of the day.

One of the things I wanted to talk about—I had talked at length about the general welfare bill and I had mentioned the issue briefly, but I wanted to focus a little more attention on it, the issue the President proposed on marriage.

There has been a lot of debate about marriage in America over the past several months. What I am talking about here is the role of the Government to encourage and promote healthy marriages. The President has a healthy and stable marriage initiative he has put forward.

Why do we want to do this? Do we want to force people into bad marriages? Or bring out the shotgun again and get people to marry even though they may not want to? No. That is not what this is about. No one is suggesting or has suggested we force anybody into marriage. But here is what we have done. The President, and many of us who have been working on this issue for a long time, actually decided to look into the benefits of marriage to children and to women and to men in poverty, and determine what and if there are any benefits. Should the Government be neutral on this issue? Should we stay out of it? Or are there things we can look to that would encourage us to encourage marriage?

Here are some of the benefits we have identified in looking at the data. Children in married homes do better in school. They drop out less. They have fewer emotional and behavioral problems, less substance abuse, less abuse or neglect, including physical abuse, less criminal activity, less early sexual activity, and fewer out-of-wedlock births.

If I said I had a drug that could accomplish all these things for children, we would prescribe it for every child in America. Yet when we say we want to have a program in the welfare system where we are dealing with the poorest children in America who, in most cases, are in some of the worst neighborhoods of America, in the roughest communities in America, who are living in many cases in very difficult family situations—if we say we want to provide these benefits to them, you get the responses: Why do you want to force some rightwing religious agenda on us?

There are actually people who are opposed to the President's proposals, who are opposed to the President's proposals in the face of the benefit to those who we hear a lot about here on the floor of the Senate, how we need more for children. We get a lot of proposals from the Senator from Massachusetts that we can help children by increasing the minimum wage while in fact he provides absolutely no evidence that is the case. In fact, when we had the discussion today, the Senator from Massachusetts said things were better in the 1960s and 1970s and 1980s, when the minimum wage was high.

If you go back to the previous chart on black poverty, I will tell you what else is high: Poverty among African-American children. So if there were a connection between the rate of poverty and the minimum wage, you would think during this time, when the value of the minimum wage was actually going down, black poverty would be going up. Just the opposite is the case. Why? Because most people who earn the minimum wage aren't the heads of households so there is very little connection between increasing the minimum wage and poverty. Why? Because poverty isn't about a little bit more money.

You think: That makes no sense, Senator. Of course it is about more money.

No, it is not. It is about a lot of factors. People who are poor have lives that are just as complicated as those of people who are not. It is about the status of their mothers and fathers. It is about the family unit around them. It is about a whole host of issues that determines whether they will be raised in or out of poverty. To look at one little factor that has no correlation with poverty is the kind of wrongheaded thinking we have suffered under for far too long in this institution.

But in 1996 we changed it. We went to a different model in welfare. Now we are trying to change it again. We know that work works. We also know from the data families work.

If you look at child poverty, it dramatically increases outside of intact marriages. If you have an intact marriage, the percent of time in poverty for the average child is 7 percent, if that child's parents are married.

As we all know, upon divorce many women end up with the children. That is the case certainly the vast majority of time. Many times they also end up on welfare, they end up in poverty, as a result of separation and divorce. That is the case for children born out of wedlock.

This represents children born within wedlock. Some stay, others get divorced.

Here is the situation where children are born out of wedlock and the mother subsequently gets married. The child poverty rate is high, but not as high as in the case where mom never gets married. In that case, the percentage of time children spend in poverty is 51 percent of their childhood, on average.

So we have a situation where we know marriage has a positive impact on poverty. Again, we want to focus on poverty and the health of children. The Senator from Massachusetts spoke about the minimum wage and how important it was, and provided no evidence as to how minimum wage increases would help reduce poverty among children. Let's look at what happens, when marriage is involved, to poverty among children. Married families are five times less likely to be in poverty than are single-parent families. Again, the poverty rate among those who are married: Among all, 13 percent; among single families, 35 percent of single-parent families in America are living in poverty.

Shouldn't we have a program that at least suggests when a mother has a child and she is not married and the father is there in the hospital, that we simply ask the question: Are you interested in being married? If both say yes, refer them for counseling to a nonprofit in the community, maybe a faith-based organization in the community, somebody who is there to nurture that relationship at a very stressful time in their lives where, without the proper support and help—and in many cases in this situation you don't have a whole lot of family support, you certainly don't have popular culture support for fathers nurturing and caring for their children—can't the Government at least suggest when someone expresses an intent to get married they be given a little help in working through that process, given the demonstrable benefits that would accrue to them and to their children from an economic point of view?

But there is more than economics. Children living with two parents are 44 percent less likely to be physically abused; 47 percent less likely to suffer physical neglect; 43 percent less likely to suffer emotional neglect; 55 percent less likely to suffer from some form of child abuse than children living with a single parent.

There are people who will come here to the floor and say the Government should be neutral with respect to this. In spite of this rather strong statement in support of marriage being the optimal place, a married household being the optimal place in which to raise a child, they will say the Government has no business in this. Yet they will come here and have the Government spend billions of dollars to get results that are one-twentieth of what these results would be in the life of a child.

We will spend billions here to reduce neglect by 2 percent, or 5 percent. That is OK if we spend billions. That is all right. But if we do something as simple as to say, If you are interested in marriage, we will refer you to counseling because we want to actually help you, if you want to be married, to get married and to stay married, that is wrong. Spending billions of dollars on violence prevention programs, that is OK. But the best violence prevention program for a child is a healthy marriage. Spending any money on that, Well, wait, this is a right-wing religious attempt to influence people with a religious agenda. I think we all know from the debate that is going on that marriage is not just a religious event. It is a civil event. It is a public event. It is a State-sponsored event. It is one that is vitally important to the future of our society.

There is another piece of legislation Senator BAYH, Senator DOMENICI, and I have been working on for quite some time. I am hopeful this will not be as controversial as marriage—that is, fathers should participate in their children's lives.

We actually are going to have some money in this bill that will encourage responsible fathers. It is called the Responsible Fatherhood Initiative which Senator BAYH of Indiana, Senator DOMENICI of New Mexico, and I have been working on for several years. We are able to get some money in this bill to promote that.

Why? I guess it is obvious. Obviously, we would like to have children have some presence of a father in their lives. We understand there is a potential benefit. We also understand there are a lot of fathers unfortunately who are not necessarily good fathers, who may not necessarily be a good influence on children's lives. But there is money to help those fathers become a positive influence in their lives; to take responsibility for not only providing for them economically, which all the previous welfare bills had never focused on—which is getting child support—but actually try to support them in ways beyond the paycheck they happen to bring home that day.

Why? If you look again at the information we have been able to gather about the difference between children being raised with fathers' involvement as opposed to fathers being absent, if you have a father involved in your life versus if you do not have a father involved in your life—if you do not have a father involved, you are two times more likely to abuse drugs and two times more likely to be abused. Why? Unfortunately, in far too many relationships, the boyfriend tends to be the greatest abuser of the child who is not his own. You are two times more likely to become involved in a crime, three times more likely to fail in school, three times more likely to take your own life, and five times more likely to live in poverty.

Again, if we had a program we were funding here in the Federal Government out of the Great Society program that could accomplish all these things, we would be pouring billions in this baby. I mean, there would be cries over here to say, if you have this program that can do all of this, then we are going to spend—you can't outbid us on this because we are going to go home and talk about how we are saving lives, reducing drug dependency, reducing abuse, reducing crime, improving education, and solving the poverty problem.

But then you mention, Oh, by the way, this program has to do with fathers taking responsibility. No, wait a minute, we are not going to do that. You are messing around with families here. No. If you have a Government program that we can hire somebody to fill that role, fine, but we can't encourage fathers. Why would we want to do that? Who are we to be judgmental about getting fathers involved with children's lives? That is not the role of the Government. What is the role of Government to mess around with the family?

Because we know what works. Americans know what works. We have known it for 200-plus years. We know that stable families is the place which has the greatest opportunity to produce stable young children and adults. Yet somehow we can't be on the side to save the family, we can't be on the side of marriage and responsible fathers. At least we haven't been in the past.

I am hopeful that we have an opportunity in this bill to come down on the side of the family, to come down on the side of mothers and fathers taking responsibility for their children from the very beginning. And the Government should be there to simply ask and encourage and provide support if they want to, not to force anybody into anything.

We have an obligation if we know what works to do it. If we know what works and we can have some positive impact on the lives of children, then we have an obligation to do it. We are doing it here with a very small amount of money. The marriage proposal I think is $100 million Federal, $100 million matched by the States, and then a separate $100 million. It is $300 million. Excuse me. It is $100 million from Federal and $100 million from the States over 5 years, which is $1.5 billion. I argue that is a fairly modest sum of money for the tremendous benefit that will accrue not just to the children, but which is going to accrue to fathers who will take responsibility for their children.

Imagine the change in neighborhoods. Imagine the change in neighborhoods where 70 percent of kids, 80 percent of kids are born out of wedlock, and within a year 90 to 95 percent of those kids have no father involvement in their lives. Imagine the change in the neighborhood, which is permeated by single mothers and fathers who are attached to nothing except other irresponsible fathers—we call those gangs—or they are not attached to that neighborhood at all because they are in jail. Imagine the neighborhoods with fathers in the homes. Imagine the neighborhoods with role models of responsible manhood and fatherhood.

I have talked to so many people who grew up in neighborhoods with high concentrations of fatherlessness and how they were inspired by the one or two fathers they knew who weren't their own, but the one or two men in the community who were responsible fathers who gave them hope and who taught them responsibility. Imagine how we could change neighborhoods if we simply brought mothers and fathers back together in those neighborhoods, and how that dynamic would change.

Dare we come down on that side? Dare we invest in trying to change their pathology that has attacked so many neighborhoods in our society? I say yes. I say we have an obligation to do that.

Let me get to the economics of this. Fatherhood involvement increases child support. The States that, unfortunately as a result of the 1996 Wofford law, are concerned about establishing paternity and getting the money, I say to the States, which will be the instrument by which these programs will be implemented, they will have to play a part. They will have to put up some money to do this.

I make the argument it is to their financial benefit to do it. Even though it will cost some money for the programs, I make the argument to the States that if you can get fathers involved in the lives of their children, you will not have to spend as much time chasing down fathers to provide child support, and in many cases not getting that child support, but you will have a better connection with your children which means a better life, and we will actually save the States some money.

I hate to make the economic arguments to the States, but those are the facts. I am hopeful the States will understand this is not just good for their neighborhood, this is not just good for men, it is not just good for women and for children, and for society at large, it is also good for their bottom line and their ability to provide services to the poor.

This is a good piece of legislation. It is not perfect. There are things in this bill I do not like. But we move the ball forward. We increase work a modest amount, a responsible amount. As someone who was in this chair leading the fight in 1996 for this bill and wanting the tough requirements on work, I am not someone who believes we need to dramatically increase that requirement. I know there will be an amendment potentially if we ever get to this bill to increase the work requirement to 40 hours. I will vote against that. The reason is because we do in this bill increase the actual work requirement from 20 hours to 24.

What does that mean? That means the amount of hours someone must be in work in order to be eligible for this program, assuming they did not get off the program to work themselves, they are actually on welfare but working, is increased from 20 to 24 hours. Then we have an additional 10 hours that was in the 1996 act that stays the same, an additional 10 hours to bring the total up to 34 hours. That 10 hours being sort of wraparound issues, whether it is job search or other types of improvement that individuals may be working on to get a better job, to increase their educational skills, get their GED, whatever the case may be.

It is important to have a tougher work requirement to take single mothers out of the home for 40 hours a week, of which 16 of those hours will not be actually working—I don't see the benefit. What we have seen from all the studies is the thing that works the most is work. While these women—it is predominantly, overwhelmingly women—are not in a job outside of welfare, not on a payroll outside of welfare, they still are working and getting work experience.

The additional time is well spent to actually find a job outside of welfare, but I don't think at least at that point in time, because of the transition of a 40-hour requirement, that is going to be beneficial in the long term for these women. I will not support that.

I would have supported a modest increase in daycare funding. What we have done is fundamentally change the expectation of what daycare is. This is more money than people on welfare could ever hope to need when it comes to daycare. This is a whole other agenda trying to be advanced on the bill in the name of welfare to work. But it is simply universal daycare under a different guise. I will not support that.

But we have a lot of steps taken in the right direction in this bill. I am hopeful, again, we can get bipartisan cooperation from people who understand the importance of this legislation in getting it passed and putting those work requirements back on 28 States that right now do not have them so we can begin the process again in turning lives around and improving the quality of lives of children in the poorest neighborhoods in our society.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HARRY BURK REID, MY 15TH GRANDCHILD

Mr. REID. Mr. President, I wish the people I work with in the Senate knew my father. My father was named Harry Reid, the same name I have. I always looked up to my dad. My dad was uneducated. He didn't graduate from eighth grade, but he was very smart. My father read a lot and he could do things people in college could not do.

For example, he was a miner and he could go underground with a compass, come above ground and do a map. People in college cannot do that. He could do underground mapping. He was a carpenter. He could completely overhaul an engine, a valve job, the whole works. He was a blacksmith, hit tempered steel, all that kind of stuff. And he was a much bigger man than I. I always admired his physical strength. He could put a 50-gallon drum full of water or gas, whatever, in the back of a truck by himself.

The reason I mention Harry Reid tonight, my father, is last night my 15th grandchild was born, a little boy. As I said, I have 15 grandchildren now. The reason I mention my father is because my son told me, this morning, that they have named my grandson after me. So I have a little grandson named Harry Reid.

I hope, as the years go by, that little boy will look at his grandfather in the same way that I looked at my dad.

I am proud of the name Harry Reid. I even sign my "H" like my dad did. My dad said once he saw on a window an "H" like that, like I sign my name. So that is the way children are in looking up to their parents and grandparents.

As I said, I hope I can set an example that my grandson will respect and admire. I know it is a burden, and I say this seriously, to have the name Harry Reid, because I have a lot of people who like me, but I have a lot of people who do not like me because of my political stands.

But separate and apart from all that, I hope my grandson will have an example set by me that is one he will believe in—family and keeping families together—and being a young man who conducts himself in a proper manner, and that, hopefully, some of the things I have done and will do will be something he will look to as a role model that maybe he will adhere to.

So I want the RECORD to reflect how much I appreciate my son Josh and his lovely wife Tamsen for giving me this great honor and to have someone who, through all generations of time, will be the third Harry Reid. I am not a junior because my dad had no middle name. And this little boy is not a junior, or could not be anyway, because I am not his father. His name is different. He has a different middle name, Burk, named after his other grandparents, their last name.

So anyway, I am flattered and respectful of my son and daughter-in-law for naming the child after me. I want the RECORD to reflect how much I love and appreciate my son Josh and all my children who have done so much to honor me with their exemplary lives, at least from a parent's perspective.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

SENATOR KERRY'S RECORD

Mr. FRIST. Mr. President, we are currently discussing plans both for later tonight and tomorrow and the next 2 weeks. I had the opportunity to talk to the Democratic leader, and that discussion will go on for a while. While we are in, and have been in a quorum call, I wanted to take the opportunity to address an issue that has to do with gasoline prices, energy policy, something that every single American who drives or benefits from driving is feeling; that is, the price at the gasoline pump.

The distinguished Senator from Massachusetts was in the news this morning expressing his concern about rising gasoline prices. He is right to be concerned. We are all concerned. But what he should be concerned about is his own dismal record in terms of addressing this very issue. Again and again, he has taken positions that result not in what Americans want—that is, lower gas prices—but again and again in his position as a Senator and before, he has been on the other side and engaged in policies and supporting policies that drive the price of gasoline higher and higher.

The Senate record is familiar to most, but in 1983, when he was Lieutenant Governor in Massachusetts, the Dukakis-Kerry administration supported a $50 million gas tax hike on the citizens of Massachusetts. In 1993, in the Senate, he voted for the largest tax increase in American history, the Clinton tax bill, which increased the Federal gasoline tax by 4.3 cents. He also voted twice for the Clinton-Gore Btu tax which, had it been signed into law, would have increased gas taxes by another 7.5 cents per gallon.

The following year he backed a 50-cent increase in the gas tax for all Americans. He wrote a letter at that time to the Boston Globe expressing his disappointment that a scorecard issued by a deficit reduction organization in Washington did not accurately reflect his support for this half-dollar gas tax increase.

The list goes on. The Senator from Massachusetts also wants the United States to accept the Kyoto Protocol which, according to Wharton Economic Forecasting Associates, would raise gasoline prices an additional 65 cents per gallon. And just last year, Senator KERRY voted for climate change legislation which would have imposed a Kyoto-style regulation on 80 percent of the U.S. economy and would have raised gasoline prices by 40 cents a gallon.

That is a little bit of the history and the background for this new concern about gasoline prices by the Senator from Massachusetts, Mr. KERRY.

Put aside a moment the impact that these proposals would have had on an issue that we have talked a lot about on the floor today, and that is jobs and the importance of job creation. The most immediate impact, the most immediate result of Senator KERRY's positions would be to force America's consumers to pay at least a dollar more for each gallon of gasoline they purchase, and that is a conservative estimate.

It is also worth noting that Senator KERRY has consistently opposed any increase in domestic production of energy and any proposal that would reduce our dependence on foreign oil. The Energy bill, which we all know fell two votes short in the Senate last year, is probably the most recent example. Senator KERRY has expressed opposition to this measure, although he was not present in the Senate when we cast that critical vote on the conference report.

In opposing the Energy bill, Senator KERRY is opposing not just the creation of 800,000 new jobs, he is opposing the development of new domestic resources, new resources that come in the United States, including such things as renewable resources such as wind and solar energy. To that you could add clean burning ethanol, and to that you could add advanced coal technology or zero emission nuclear energy and, yes, the development of domestic oil and gas resources as well.

I come to the floor to mention all of this, especially mentioning his record on the floor of the Senate, because it is simply very difficult to take seriously Senator KERRY when he says he is concerned about high gas prices and then blames others for not having addressed them. Throughout his career, Senator KERRY has consistently taken positions that will result in even higher gas prices and lower domestic supplies of energy and jobs lost.

If the Senator from Massachusetts, indeed, wants to engage in a serious discussion about energy policy, I ask that he come back to the Senate and help us do what we should be doing, and that is pass an Energy bill which he and his party unfortunately have been blocking for months.

I appreciate the opportunity to review the record since we had this available time. I do challenge Senator KERRY to engage in a serious discussion about helping us pass that very policy which we know would lower gasoline prices in the United States.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR KERRY'S RECORD

Mr. DORGAN. Mr. President, having just heard the majority leader come to the floor of the Senate and discuss the record of my colleague, Senator JOHN KERRY, I thought it might be useful to respond just a bit.

This Chamber, given some of the dialog—and especially the dialog I heard a few minutes ago—only lacks the balloons, the buttons, and the brass band for being a political convention in a full-scale support of a candidate in a Presidential operation, a Presidential campaign.

It is not my desire nor my intent to talk about the Presidential race. But when I hear people come to the floor and decide to talk about JOHN KERRY's record on energy as a Member of the Senate, I think it is important to respond.

There are a great many allegations being made about Senator JOHN KERRY's record and many—most that I have heard recently—have been flat out untrue, just wrong. One of the great things about the First Amendment in this country is you can say whatever you want to say and, in politics, you can misrepresent someone's record and nobody seems to care very much.

Let me talk for a couple of minutes about these issues. First of all, let's talk about the energy bill. We don't have an energy bill right now. Do you know why? It failed by two votes in the Senate. I voted for it. So did the minority leader. Do you know why it failed by two votes in the Senate? Because the majority leader in the U.S. House stuck a provision in that bill that cost him four, or five, or six votes against the bill in the Senate. Now I hear the majority leader of the U.S. House blame Senator DASCHLE for us not having an energy bill. I looked at that in the paper and I thought, what on earth can he be thinking about? He killed the energy bill by sticking in this insidious provision, a retroactive waiver on MTBE liability. He stuck that provision in. He demanded it. It was killed on the floor of the Senate by two votes.

That bill would have passed the Senate easily without that provision stuck in by the majority leader of the U.S. House. So to have him talk about Senator DASCHLE as somehow holding up the energy bill in this country doesn't make much sense to me. It is just wrong. He is the one who killed that bill on the floor of the Senate with this provision that he inserted.

As to the comments this evening, we have the majority leader come to the floor of the Senate and he seems to imply that my colleague, JOHN KERRY, is against production, against conservation, against efficiency, against renewables. Nonsense. Absolute nonsense. I can tell you what Senator KERRY is for. I sat in meeting after meeting with him over recent years on energy policy, most of which I agree with him on. Sometimes we disagreed.

I will tell you something. This is a man who is very concerned about energy policy in this country. When we talk about these issues, it seems to me it would best behoove us to talk seriously about serious issues.

That has not been the case with respect to Senator KERRY's record on energy, as misrepresented on the floor of the Senate this evening. So let's talk about a couple of these issues.

Renewable energy: Senator KERRY supports renewable energy—wind energy, biodiesel energy, a whole series of areas of renewable energy—that will improve this country's energy supply and extend America's energy supply. He supports it.

Efficiency titles in the Energy bill: Senator KERRY very much supports improved efficiency of all the appliances we use every single day.

Conservation: Senator KERRY has a very strong record on conservation, and the same is true with respect to production.

There has been a lot of misrepresentation. In fact, I heard some misrepresentation recently that Senator KERRY voted for a 50-cent-a-gallon gas tax increase. That is totally untrue, just wrong, flat out wrong.

Talk is cheap so people can come here and assert whatever they like, but when I hear it, I am going to come to the floor of the Senate and say it is not true.

The fact is, this country chooses its leader by going to the ballot box, and this country is owed a serious debate about serious issues. Regrettably, it too seldom gets a serious debate about serious issues. Yes, energy is a serious issue and we have a very serious energy problem and we need an Energy bill passed in the U.S. Congress. Do not blame Democrats for the failure to pass an Energy bill. It failed in the Senate by two votes. It passed the House and failed in the Senate by two votes, and everyone here understands that at least four or five of those two votes that would have been used to pass that bill resulted in a negative vote because of what the majority leader in the House did. Everyone understands that. All you have to do is read a newspaper and you will understand that. People are concerned about the price of gasoline in this country, and they should be. When I say we need an energy policy, we are now close to 60 percent of our oil coming from off our shores, often from troubled parts of the world. That is dangerous. The fact is, our economy is reliant on energy sources from parts of the world that are very troubled. If we want to keep importing oil from Iraq, Saudi Arabia, Kuwait, Venezuela, and other parts of the world, the fact is it will injure us inevitably, it will injure our economy, and it will injure our opportunity to create new jobs, expand and provide hope and opportunity for the American people.

We need to go much further than the kind of debate we traditionally held on energy issues, and that is where Senator KERRY talked about the future. We need to talk about issues such as hydrogen and fuel cells and pole-vault over some of this to talk about how we are going to avoid in the future putting gasoline through carburetors and being dependent on OPEC countries.

Tomorrow there is a meeting of OPEC ministers. They already cut production and are talking about cutting production again. This country ought to jawbone and use the leverage we have to say we need increased production. We have gas prices that are going through the roof.

I do not know what the President is going to do, whether he is going to involve himself and try to jawbone

OPEC, but I think he should. We have a serious problem, and it is not just the current spike in gas prices. That happens. It is now happening because of a series of factors. One is the cutback in OPEC production. The second is an imbalance with respect to fuels that are coming into refineries and the lack of refinery capacity. There is a whole series of factors. Even as we address the shorter term, we have to think about the longer term.

I will say to those who want to be critical of Senator KERRY's record, there is nobody in the Senate, in my judgment, who has cared more and worked harder for longer term solutions for an energy policy in this country. It does not serve the country or responsible political debate to come to the Senate and slap people around with bad information. I am sick and tired of that. If you want to turn this into a political convention, get some balloons, bunting, put up crepe paper, hire a brass band, and pretend this is a political convention. But it is not a political convention. This is the Chamber of the United States Senate, and we ought to, it seems to me, talk about what the real policy positions are of the respective candidates and have a competition of ideas.

I, frankly, think both political parties have something good to offer this country, and the interaction of both parties and responsible debate over a long period of time strengthens our country. But I get a little weary of this machine that is so relentless in trying to misrepresent someone's position and slap that misrepresentation around for a while. That is not the way this Presidential campaign ought to be waged. It is not fair to Senator KERRY, who is not in this Chamber, for people to come and mischaracterize his record. I understand people have the right to do it. I am just saying it is not fair. So I hope as we begin to think through some of these issues in the future that we understand there is a place for a political campaign for the Presidency in this country. It is in Ohio, New York, Nevada, North Dakota, Texas, and California—all around America—and there the bands do play, and there the balloons are used to great effect, and people love the political system. That is fine. But I worry a lot about the Senate Chamber being used to misrepresent someone's position on an issue that is as important as this.

What bothered me and persuaded me to come to the Senate floor this moment are two things: One is something I read in the newspaper about 2 or 3 days ago in which the allegation by the majority leader of the other body was it was Senator DASCHLE who was holding up an Energy bill. Nonsense. The majority leader of the other body is the one who killed the Energy bill by putting in this insidious provision, a retroactive waiver of MTBE liability. That is a plain fact.

Second, I heard a speech on the floor of the Senate a moment ago that was just a pure campaign speech that had nothing to do with the merits on one side. It had everything to do with misrepresenting the merits on the other side. That is unfair. I am going to come to the floor again when I hear this done.

I hope the American people are treated to a serious debate about serious issues. Energy is a serious issue. JOHN KERRY is a serious candidate for the Presidency, and he has strong positions, I think defensible positions, on energy dealing with production, conservation, efficiency, renewables, and more. I am sure if he were here to stand up and speak in response to the majority leader, he would want to do that.

I came to the floor simply to say I hope the American people are treated to a debate that is accurate about energy positions and energy policy by the two candidates. I, for one, feel very comfortable with the long-term view of energy policy as advocated by Senator JOHN KERRY.

Mr. President, I yield the floor.

Mr. REID. Mr. President, will the Senator yield for a question through the Chair?

Mr. DORGAN. I will be happy to yield for a question.

Mr. REID. Mr. President, I have not been able to hear all of the statement of the Senator from North Dakota, but I am sure, as always, it was right on the point. There is something I would like to direct in the form of a question to him.

I was asked to appear on a television show this afternoon, and I was happy to do that. The reason I appeared on the show was to respond to some TV ads that are starting tomorrow where the Bush campaign is paying millions of dollars to run an ad around the country that is absolutely fabricated. The ad said Senator KERRY voted for a 50-cent-per-gallon gas tax increase. Is the Senator aware that this statement is baseless, never happened, and that millions of dollars are going to be spent starting tomorrow saying Senator KERRY has previously in the Senate voted for a 50-cent-a-gallon increase in taxes for gasoline?

Mr. DORGAN. Mr. President, I say in response to the question from the Senator from Nevada, I have done what little research I could, because I understood this ad was being set to run across the country that said Senator KERRY has voted for a 50-cent-a-gallon gas tax increase. My understanding is it is simply untrue. If somebody has evidence of which I am not aware, bring it to the floor. My understanding is it is not true.

It is similarly not true that Senator KERRY is opposed to renewable fuels, opposed to conservation, opposed to increased efficiency of appliances which was alleged a few minutes ago on the Senate floor. They are not grounded in fact.

As I said, everybody has a right to say these things. It is the political system. This is the floor of the Senate, and those of us who hear something we know is demonstrably false also have a right to come to the floor to say this is not the best of what this system has to offer the American people. This ought to be a competition of ideas of both sides using facts and saying here is where one stands and here is where the other stands, and here is why and take your pick. That is what the political system ought to be about.

To the extent there are exaggerations—and there sure are in politics; they occur on the political stage all around the country—that is fine as well; that is politics.

It is a bit different especially to come to the Senate floor and misrepresent the record of Senator KERRY.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2943

Mr. CORNYN. Mr. President, I rise to discuss amendment 2943, which is the Cornyn-Bingaman amendment. I ask unanimous consent that Senator KENNEDY be added as a cosponsor to that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. This amendment is very simple. It would correct a technical problem caused during the passage of the Responsibility and Work Opportunity Reconciliation Act in 1996. Section 411 of the welfare law reads that State and local governments may not use their own resources to provide nonemergency health services to nonqualified immigrants unless the State has passed new legislation authorizing such expenditures.

This provision has caused quite a bit of confusion. As a matter of fact, when I was Attorney General of Texas I was asked to interpret this provision. It was during the course of that official action that I discovered the Federal law, because our State legislature had not acted, had unintended consequences. It is safe to say this provision has been read by State and local governments with varying interpretations.

Essentially, the current law imposes a double standard on State and local governments. Because certain Federal public health programs are exempt from this requirement, identical State and local government health programs are not. The end result is more legal and administrative costs on State and local governments, even though the provision has no enforcement mechanism. Even without the confusion, section 411 makes no practical sense. We should not put up more roadblocks for those who want to provide preventive treatment, especially when it comes to potential community problems such as infectious diseases.

By giving localities control over preventive services, here again at their own expense, not at Federal taxpayers' expense, we ensure local funds are spent where the people who know best believe they should be spent. Ultimately, this will have the effect of driving down health care costs by preventing treatable illnesses before they become acute and before they require expensive taxpayer-supported care, usually in an emergency room where anyone, no matter who they are, knows they can be treated and indeed must be treated according to a Federal mandate which I know is an interest of the presiding Senator, particularly because it is an unfunded Federal mandate.

Our amendment would simply strike the word "health" from section 411 of the welfare law. This step clarifies that State and local governments can use their own funds to provide health services to immigrants, including primary and preventive health care and infectious disease services, without enacting a new law. It is a commonsense step and one I hope my colleagues will support.

This amendment is also widely supported by several well-respected national associations, including the American Hospital Association, the National Association of Public Hospitals and Public Health Systems, the National Association of Counties, and the Catholic Health Association.

AMENDMENT NO. 2942

I also want to briefly discuss another amendment, No. 2942. I ask unanimous consent that Senator LIEBERMAN be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. The Senator from Connecticut has a deep understanding of the importance of child support enforcement, and I like me, learned about how critical that issue is during his service as his State's attorney general, as I did during my service as attorney general of my State.

This amendment features two positive reforms for child support enforcement. It encourages States to adopt electronic payment systems by 2008. While States can opt out of that if they choose to, it will help get payments to custodial parents more quickly than is currently done now. It creates an option for States to centralize all child support payments to reduce confusion among employers who withhold child support payments from the wages of their employees, and it will ensure children get the financial support they need on time which, of course, is our universal goal.

I hope my colleagues will support this second amendment as well.

I ask unanimous consent that letters of support from each of these organizations be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF COUNTIES,
Washington, DC, March 30, 2004.

Hon. JOHN CORNYN,
Hon. JEFF BINGAMAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATORS CORNYN AND BINGAMAN: On behalf of the National Association of Counties (NACo), I would like to express our support for the Cornyn-Bingaman amendment to the Personal Responsibility, Work, and Family Promotion Act of 2003. The amendment, as you know, would clarify that states and counties may use their own funds to provide critical preventative health care services to immigrants.

NACo is the only national organization representing county governments. Many of our country's 3066 counties own and operate hospitals and other health care facilities. Without the passage of this amendment, county governments are placed in a precarious position if they decide to provide preventative care to unqualified immigrants in order to protect the local community's health. As has been repeatedly demonstrated, the provision of preventative care is less costly over time than providing evasive services in emergency rooms. However, the cost savings to preventative care are far outweighed by the protection provided to the community's public health as a whole.

Counties serve as safety-net providers, ultimately financing and providing care for our Medicaid ineligible and un-enrolled populations. We support the ability to finance this care in the most appropriate manner.

Thank you for your leadership and efforts to ensure that counties are able to protect the health of our local communities. We look forward to working with you on this important issue.

Sincerely,

LARRY NAAKE,
Executive Director.

THE CATHOLIC HEALTH
ASSOCIATION OF THE UNITED STATES,
St. Louis, MO, March 30, 2004.

Hon. JOHN CORNYN,
Hart Senate Office Building,
Washington DC.

DEAR SENATOR CORNYN: On behalf of the Catholic Health Association of the United States (CHA), the national leadership organization of more then 2,000 Catholic health care sponsors, systems, facilities, and related organizations, I am writing in support of your efforts to ensure that state and local governments have the ability to use their funds to provide non-emergency health services to legal and undocumented immigrants.

Specifically, CHA supports your amendment to strike the word "health" from Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which has been interpreted by some states to prohibit the use of any state and local funds to provide lifesaving health care to immigrants. This interpretation stands in sharp contrast to the thrust of PRWORA, which generally gave states greater authority to determine welfare rules, and the resulting confusion has had a negative impact on the health of immigrants in many states.

By clarifying that states and local governments may use their own funds to provide health services to immigrants, including important preventive care, your amendment can help ensure that hospitals and clinics have the clarity they need to serve the best interest of all of their patients. As organizations founded in a faith tradition and committed to the principles of Catholic social justice teaching, Catholic hospitals recognize and affirm the inherent dignity of every human being. Your amendment helps to further that principle.

Thank you again for your efforts to ensure that state and local governments have the certainty they need to use their own funds to provide appropriate health care to all immigrants. If we can be of any assistance, please do not hesitate to contact us.

Sincerely,

Rev. MICHAEL D. PLACE, STD,
President and Chief Executive Officer.

Mr. DEWINE. Mr. President, I would like to commend the Senator from Maine, Ms. SNOWE, on the passage of her amendment to increase the mandatory funding levels for the Child Care and Development Fund by $6 billion over 5 years. I enthusiastically support this amendment, as it is designed to help so many families with young children by ensuring that those children are properly cared for while their parents are at work.

Unfortunately, we know that more than 10 million children in the United States are left unsupervised after school on a regular basis. We know that the welfare rolls have been cut nearly 60 percent since 1996, and therefore, this statistic will only continue to grow as more and more parents work. Further, with cuts in State childcare funding, many working families are faced with no care for their children due to waiting lists and higher childcare costs.

But, with the passage of this amendment, my home State of Ohio alone would receive over $34 million in additional childcare funds next fiscal year and more than $266 million over the next 5 years. This translates into more children receiving care and more parents with the peace of mind that their children are being properly attended to while they cannot be at home.

Again, I commend Senator SNOWE for her leadership on this issue.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, we are in discussion now determining the best pathway to completion on the underlying bill, the welfare bill, an important bill that I know both sides of the aisle do want to appropriately address, through amendments and through the debate process, and we are working on the best way to accomplish that.

As I set out really 3 weeks ago, but in the early part of last week, we have set this week aside to address welfare and we are doing just that. But I really need to do everything possible to see that we do complete it this weekend. To help accomplish that, I will be sending a cloture motion to the desk on the pending committee substitute.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

Cloture Motion

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 305, H.R. 4, an act to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Bill Frist, Charles E. Grassley, John E. Sununu, Conrad Burns, Lamar Alexander, Peter G. Fitzgerald, Larry E. Craig, John Cornyn, Robert F. Bennett, John Ensign, Orrin G. Hatch, Mike Enzi, Mitch McConnell, Ted Stevens, Norm Coleman, James M. Inhofe, Kay Bailey Hutchison.

Mr. FRIST. I ask unanimous consent the quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, for the information of Senators, we will be closing here shortly, as soon as we wrap up a few things in a few minutes.

CAMBODIA TRAGEDY REMEMBERED

Mr. McCONNELL. Mr. President, today marks the seventh anniversary of the grenade attack against the Khmer Nation Party, renamed the Sam Rainsy Party, in Cambodia.

Recently, my friend from Arizona circulated a letter, which I gladly signed, calling for the Federal Bureau of Investigation to return to Phnom Penh to continue its investigation into the attack. I encourage the State Department and the FBI to coordinate efforts to ensure the FBI's quick return and to keep Congress informed of any progress in this case.

As I have in the past, I ask unanimous consent that the names of those murdered in this cowardly attack be printed in the RECORD following my remarks. Justice delayed has been justice denied for these victims and their families. They remain in my thoughts and prayers.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Mr. Cheth Duong Daravuth, Mr. Han Mony, Mr. Sam Sarin, Ms. Yong Sok Neuv, Ms. Yong Srey, Ms. Yos Siem, Ms. Chanty Pheakdey, Mr. Ros Sear, Ms. Sok Kheng, Mr. Yoeun Yorn, Mr. Chea Nang, and Mr. Nam Thy.

A DECADE OF EXCELLENCE

Mr. DASCHLE. Mr. President, every year, hundreds of thousands of high school students participate in team sports and other extra curricular activities. Through these activities, many young people learn the value of working together with others, and the meaning of hard work sacrifice.

These activities also teach our Nation's students to set their sights high, by demonstrating that remarkable achievements come only with hard work and dedication. Today, I pay tribute to a group of young women from Madison High School in Madison, SD, who have proved this fact time and time again, most recently by extending one of the more remarkable winning streaks in our Nation.

On February 20, 2004, the girls' gymnastics team at Madison High won the Class A state title for the tenth consecutive season.

For the first seven titles, the Bulldogs were led ably by coach Linda Collignon. Since then, Madison has come full circle, having been led to the last three titles by Maridee Weise, a member of that first championship team.

It has been a long road for the Madison High team. In the early days of the gymnastics program at Madison High, many of the student-athletes would make the 90-mile round trip from Madison to train at a gymnastics facility is Sioux Falls. In time—and under the leadership of Coach Collignon—members of the Madison community volunteered to build a training facility on the high school campus, saving the school district more than $100,000. It is that kind of community involvement and interest in its youth that has helped establish Madison's tradition in the sport.

Each day at practice, these student-athletes are motivated by a drawing of the classic World War II symbol, Rosie the Riveter, and the phrase "We Can Do It!" They have not only come to recognize the truth in those words, they have lived up to them.

I ask my colleagues to join me in saluting these student-athletes and their coaches on their latest championship, and on their truly remarkable run. I am proud to ask unanimous consent that the 2003–2004 Madison High School girls' gymnastics team roster be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Team members: Kari Schaefer, Brittany Postma, Brooke Postma, Landra Tieman, Jenny Poppen, Katie Keegan, Katie Breuer, Heidi Mogck, Kassie Finck, Sara Rogers, Heather Williams, Theresa Knapp, Katie McKenzie. Head Coach: Maridee Wiese, Assistant Coach: Kindra Norby, Student Manager: Erin Blom.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

A high school senior in Perry, IA, was harassed for 4 years by students who believed him to be gay. The high school student was repeatedly pushed, shoved, and verbally attacked with anti-gay epithets. Students had also urinated on the high school senior in the shower after wrestling practice.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CONGRESSIONAL GOLD MEDAL TO DOROTHY HEIGHT

Mr. LEAHY. Mr. President, last week Dr. Dorothy Height was awarded the Congressional Gold Medal in a ceremony in the Capital rotunda, on her 92nd birthday.

Dr. Height is a living legend. She is widely recognized as one of the preeminent civil rights leaders of modern history. Dr. Height has been a tireless advocate for equal rights for women, African Americans, and others for more than 65 years. From 1944 and until 1977, Dr. Height served on the National Board of the Young Women's Christian Association YWCA. In 1965, she launched the Center for Racial Justice at the YWCA, and she served as its director until 1977.

Currently the Chair and President Emerita of the National Council of Negro Women, Dr. Height became its fourth president in 1957. Under her leadership, the NCNW made substantial contributions and advances—both for the greater community of African American women and as an organization. Dr. Height led the NCNW to establish the first institution devoted to Black women's history, secure the Mary Bethune Council House designation as a national historic sited, achieve tax exempt status for the NCNW, and bring the NCNW to national prominence.

Dr. Height played an active leadership role in virtually every major civil and human rights cause since the 1960s. She was the only woman at the table when Dr. Martin Luther King and the "Big Six" civil rights leaders made plans for he civil rights movement. Her life of distinguished service has been recognized with over 50 awards, including the National Council of Jewish Women's John F. Kennedy Memorial Award, the Congressional Black Caucus's William L. Dawson Award, the Ladies Home Journal's 'Women of Year," the Presidential Medal of Freedom from President Clinton, and now the Congressional Gold Medal.

It is rare that Congress comes together to grant this award, but Dr. Height's life's work epitomizes the distinguished commitment to serve for which it was created to recognize. I congratulate Dr. Dorothy Height for nearly a century of remarkable leadership.

THE SITUATION IN DARFUR

Mr. FEINGOLD. Mr. President, I rise to comment on the ongoing crisis in Darfur, a region in western Sudan that has been the site of atrocities for months. A recent report from the International Crisis Group spells out the horrifying facts of the situation. The report indicates that 830,000 people have been displaced as a result of the conflict, and thousands have been killed. Government-supported militias have deliberately targeted civilians, sometimes focusing on unprotected villages with no apparent link to the rebels other than their ethnic profile. According to credible reports, militia atrocities have included indiscriminate killing and mutilation, rape on a massive scale, and the looting and destruction of food reserves and other property. Outright and indiscriminate government bombing has also been verifiably reported since the conflict began.

We must ask ourselves two questions. First, what can be done to help the innocent men, women, and children caught up in this nightmare? The U.S. must work with the international community to signal our collective resolve and to insist that the Government of Sudan stop playing games with humanitarian access. Khartoum needs to feel the pressure, and all parties need to work urgently for a settlement.

But we must also ask, what do these developments in Darfur tell us about the Government of Sudan? The reports from the region seem to confirm that the Government of Sudan has no qualms about backing attacks on innocent civilians.

I want the administration's extremely laudable peace initiative in Sudan to succeed. Many dedicated professionals have devoted countless hours to this enterprise, and many courageous Sudanese have taken difficult steps in the pursuit of a just peace. But my doubts about the prospects for a future of peace and cooperation are growing, rather than dissipating, at each new report on the Darfur crisis. I doubt the stability and sustainability of a peace agreed to by a party that accepts organized atrocities as just one more tool in its toolbox of governing. What kind of peace can be achieved with this kind of partner? Can we truly have confidence in this government's good faith? What kind of future cooperation can we realistically expect?

As a member of the Foreign Relations Committee's Subcommittee on African Affairs, I have been engaged on issues relating to Sudan for many years. I was proud to work with my colleague on that subcommittee for several years, Senator FRIST, on the Sudan Peace Act. I recognize the complexity of Sudanese dynamics, and I certainly understand that the situation in Darfur is different from the conflict between the Government of Sudan and the forces of the south, most prominently the Sudanese People's Liberation Movement. But some of the elements of the Darfur crisis are, unfortunately, quite familiar. We have seen obstacles thrown up to humanitarian access, we have seen the near-total abdication of responsibility for the basic security and well-being of Sudanese civilians, and we see government-backed militias employed to keep some of the dirtiest of the dirty working at some token distance from officials.

On December 16, 2003, the State Department issued a statement expressing "deep concern" about the humanitarian and security situation in Darfur. The statement indicated that:

> the United States calls on the Government of Sudan to take concrete steps to control the militia groups it has armed, to avoid attacks against civilians and to fully facilitate the efforts of the international humanitarian community to respond to civilian needs.

But it then contained this final sentence:

> The fighting in Darfur is not linked to the ongoing peace talks between the Government of Sudan and the Sudan People's Liberation Movement/Army in Kenya.

I am among many observers who fear that this sentence was interpreted in Khartoum as a signal that the disincentives articulated by the U.S. in the context of the peace talks will not be applied because of abuses in Darfur.

I urge the administration to insist that the Civilian Protection Monitoring Team be permitted to investigate alleged attacks on civilians throughout the country, including attacks in Darfur. The Government of Sudan should have no formal or informal veto power over this team's investigations. The team was established as a confidence-building measure, and it was agreed to by all parties. But to suggest that the Government of Sudan should be able to pick and choose areas in which the team is permitted to conduct its inquiries undermines confidence.

I do respect the fact that delicate diplomacy is ongoing, and I want to be able to celebrate a lasting end to Sudan's north-south civil war as much as any Member of this body. But none of that changes the fact that what is happening in Darfur is inexcusable, it is undermining the Naivasha peace process, and it is casting a pall over the future of Sudan at a time when light had finally begun to shine on that long-suffering country. It is time to stop expressing quiet concern, and to start treating this crisis with the urgency it deserves.

WOMEN'S HISTORY MONTH

Mr. DURBIN. Mr. President, in conjunction with the March celebration of Women's History Month, I rise today to salute a number of women who have dedicated themselves to the fight against global AIDS and HIV.

This year the theme of Women's History Month is "Women Inspiring Hope and Possibility." It may seem that phrase is too broad—and a month is too short—to fully recognize or appreciate the many and varied accomplishments of women throughout the years. From the medical professional who administers compassion along with her care, to the educator who inspires her pupils and allows them to achieve, to the mother who installs in her children feelings of worth and value, women foster hope and opportunity in their everyday actions.

While traditionally this month is used to commemorate women from the past, it seems fitting that we take some time to look at modern-day heroines. Today, the women we honor are busy ensuring that HIV/AIDS will soon be relegated to a chapter in history—a terrible and sorrowful chapter but history nonetheless.

There are 42 million people throughout the world living with HIV/AIDS. We saw more than 3 million AIDS-related deaths in 2003. Each year, AIDS deaths claim more than the entire population of Chicago. Life expectancy has dropped below 40 years of age in 10 countries in sub-Saharan Africa. AIDS has already erased 15 years of progress in the worse affected countries. Despite our efforts to date, this epidemic continues its deadly spread across the globe.

More than 30 million HIV/AIDS sufferers are located in sub-Saharan Africa or Southeast Asia, where more than 60 percent of those infected are women. At especially high risk are teenage girls, who frequently marry older men at a very young age, and have little control over their destiny. This, in turn, puts the next generation of children in a position or susceptibility, as each year about 120,000 HIV-positive women become pregnant.

As Americans, it is sometimes hard to see that the AIDS epidemic is not just across the ocean, it is in every part of this world. It is in our own backyard and poses a threat from every direction. Once a person has seen its devastation face to face, he or she will never be the same.

Three years ago, I went to Africa and saw it myself. I saw it in Uganda, where I sat on a porch with mothers who were HIV-positive. They were gathering scrapbooks, photos, notes, and little memorabilia of their lives to leave to their children who were in the yard playing, children who had been orphaned already, or who, having lost one parent, were about to lose their second parent.

I saw it as I traveled through Botswana and South Africa. A senior governmental official confided to me that whenever she travels from her busy capital to her home district, she loads up a large van with coffins and tents, and spends her time helping her constituents, one after another, bury their loved ones and grieve for their dead. She attends funerals, not parades. She gives away coffins, not bumper stickers. There are the politics of Africa in the era of AIDS.

Most recently, as I traveled to India and Bangladesh, I witnessed the plight of the rural, female AIDS sufferer, and I saw those who were working to help her. I firmly believe that the future of India lies in the hands of its women.

When you meet the victims of AIDS, when you see their courage, and see what little it takes to fight this AIDS epidemic successfully, as they have in Uganda and a few other countries, you realize that our leadership and our commitment at this moment in history can make such a difference.

Two women, Dr. Helene Gayle and Dr. Amy Pollack, head organizations dedicated to providing that leadership and to preventing the spread of the disease through multifaceted intervention and family planning.

Dr. Gayle, who cochairs the Global HIV Prevention Working Group for the Gates Foundation, previously worked for the Centers for Disease Control, CDC. There, she initiated HIV-prevention programs built around U.S. communities, as well as the CDC's global AIDS initiative. It is her belief that a comprehensive approach that includes prevention services, such as STD treatment, behavioral risk reduction, and voluntary HIV testing, along with HIV treatment and care for affected populations, is the cornerstone of stemming the AIDS pandemic. Wielding the influence of the Gates Foundation name and funding, she is in a unique position to ensure implementation of these methods, and she has done so with great success.

Dr. Pollack's EngenderHealth organization was a 2002 United Nations Population Award laureate. Through her trips to Africa, Dr. Pollack, has borne witness to EngenderHealth's unique family planning initiatives, concentrating on the gap between the desire for contraception and access to it. With a goal of reducing the number of HIV-infected children and orphans, EngenderHealth assists clinics to close this gap.

I salute the vision of Dr. Gayle and Dr. Pollack and commend them for their dedication and perseverance.

As Americans become more aware of the pandemic proportions of this disease, especially in Africa and South Asia, increasing numbers of women are working for AIDS awareness, treatment and prevention.

Sixteen years ago, three American women whose lives had been touched by this horrific disease sat around a kitchen table in Santa Monica, CA. Recognizing that there was a huge gap in understanding how infected children were affected by HIV/AIDS, they cofounded an organization to fund research for pediatric AIDS.

Today, that organization, the Elizabeth Glaser Pediatric AIDS Foundation, is the premier not-for-profit in its field. Although Elizabeth Glaser, who cofounded the organization with Susan DeLaurentis and Susie Zeegan, passed away in 1994, her dream—and her name—live on through the foundation. Today we honor the legacy of Elizabeth Glaser and the work of these three women.

I said at the outset of these remarks that it is traditional to honor the great historical contributions of women in connection with Women's History Month. The thousands of women working to find a cure, to help those who are suffering, or to cope with this disease in their own lives are surely making a lasting and positive impact on the history of the world.

Mr. President, today I have paid tribute to just a few of these women. My only regret is that I cannot give much deserved thanks and recognition to all the women who have dealt with, or are dealing with, HIV/AIDS in their own lives, in their communities and around the world. In celebrating Women's History Month, we say to them: Thank you. Thank you for your commitment, your compassion, and your courage. Thank you for leading us into a better future.

MICHAEL A. HUGHES

Mr. LAUTENBERG. Mr. President, today, I express my gratitude to a member of my staff, Michael A. Hughes, who will be returning to his regular job as a senior inspector in the U.S. Marshals Service after tomorrow. Mike has worked in my office for the past 15 months as a legislative fellow, and my staff and I have been extremely fortunate to have Mike's help. We will miss him.

Mike is a New Jersey native who was born in Jersey City. He graduated from Montclair University with a degree in political science and criminal justice in 1990. After college, he joined the U.S. Marshals Service—America's oldest federal law enforcement agency—as a deputy marshal and quickly distinguished himself as an outstanding law enforcement official. For instance, Mike was tasked with the responsibility of accompanying crime boss John Gotti to and from his 1992 trial, and then escorting Gotti to the maximum security facility for federal prisoners in Marion, Illinois, after his conviction and sentencing. Mike was also responsible for protecting high-ranking foreign dignitaries who visited the United Nations headquarters in Manhattan.

Mike conducted several criminal and civil investigations and soon became an inspector in the U.S. Marshals Service's Witness Security Program. Later, he became a senior inspector. Never in the 30-year history of the Witness Security Program has a cooperative participant or his or her family been discovered or harmed. We can attribute much of that recent success to Mike's dedication and professionalism.

It has been helpful to me over the past 15 months to have someone with Mike's extensive personal knowledge of guns and law enforcement issues. Since Mike has been a member of my staff, he has worked on S. 1805, the gun immunity bill; S. 1431, my bill to extend the assault weapons ban, and other 2nd Amendment issues. He has also made significant contributions on a number of criminal justice and homeland security matters. Mike is committed to promoting public policies that, if we were to adopt them, would make our country demonstrably safer.

On many occasions, I have remarked that when I moved to the public sector after 30 years in the private sector, I was struck by the dedication, professionalism, and competence of federal employees. I am tired of hearing public sector employees belittled and denigrated in some quarters. I have been impressed by the public servants I have met over the years, and Mike is no exception. He has performed his difficult—and often dangerous—duties with distinction. I think Mike is an outstanding role model for young adults interested in working in our government.

Mr. President, as I thank Mike for his tremendous service and wish him the best of luck in his new endeavors, I would also like to take this opportunity to thank John "Jay" McNulty, who serves as chief of the Marshals Service's Office of Congressional Affairs. Jay made it possible for Mike to come and work for me, and I am grateful for that. I have been fortunate to have Mike on my staff; the Nation is fortunate to have him in the U.S. Marshals Service.

ADDITIONAL STATEMENTS

RECOGNIZING THE INTERNATIONAL ASSOCIATION FOR ORGAN DONATION

• Mr. LEVIN. Mr. President, I take a moment to recognize the International Association for Organ Donation, IAOD. The IAOD strives to increase awareness of organ donation and transplantation, as well as bone marrow and tissue donation. This organization provides educational and outreach programs to the general public, with a focus on racial and ethnic minorities.

Each April, the International Association for Organ Donation celebrates National Donate Life Month. This year is especially important as it marks the 50th anniversary of the first successful liver transplant. In honor of this monumental occasion, the IAOD is sponsoring "50 Years of Sharing Life" to publicize the plight of those in need of an organ transplant.

Today in America, 83,000 patients are currently awaiting an organ transplant. Although there are 68 successful organ transplants each day, an additional 100 patients are added to the waiting list and sadly, 18 people die each day as they wait for this life-saving procedure. Tissue donations, such as bone marrow, are also in short supply. Nearly 3,000 people are searching the National Marrow Donor Program Registry at any one time and an additional 3,000 patients are added to the registry each month.

There is something we all can do to reduce these staggering statistics. Great strides could be made if the estimated 10,000 to 14,000 eligible Americans who die each year pledge to become organ donors. The IAOD is a driving force in sharing the message that life is a gift to share.

It is with great pleasure that I offer my sincerest appreciation and support to the International Association for Organ Donation as it celebrates the 50th anniversary of the first successful liver transplant. I give my thanks to the organization, its staff, and its partners as they work to fulfill their lifesaving mission.•

25TH ANNIVERSARY OF SKADDEN, ARPS, SLATE, MEAGHER AND FLOM DELAWARE

• Mr. CARPER. Mr. President, I rise today to recognize the 25th anniversary of Skadden, Arps, Slate, Meagher and Flom Delaware. This organization is celebrating a quarter century of nationally renowned expertise in corporate mergers and acquisitions here in the First State. Skadden, Arps, Slate, Meagher and Flom has built a reputation for providing integral service throughout the Nation and in Delaware. If this organization's first quarter century is any indication of what it will offer in the future, we have much to which to look forward.

Marshall Skadden, John Slate, and Les Arps founded the firm in New York City on April Fool's Day, 1948. After starting with just three lawyers, Skadden, Arps, Slate, Meagher and Flom has grown to more than 1,700 lawyers in nine offices—seven in the United States, one in Tokyo, and one in London. Few, if any, law firms in America today are more highly regarded professionally or financially successful.

The firm's client list includes more than one-third of the Fortune 500 companies, 10 of the top 15 U.S. commercial banks, 23 of the top 25 U.S. investment banks and 7 of the top 10 Japanese banks doing business in the United States. The organization's more than 20 individual practice areas serve as visible proof of the successful philosophy: that the client's needs always come first; that they can and do commit a maximum effort to provide top quality advice and timely service to clients; and that the law firm can and should be run as a business, consistent with professional responsibilities.

It was 25 years ago, in May of 1979, that Rodman Ward, Jr. and Steven J. Rothschild agreed to open the Wilmington, DE, office of Skadden, Arps, Slate, Meagher and Flom, becoming the 46th and 47th partners in that firm. Skadden Delaware became the first major out-of-town law firm to open an office in the State of Delaware.

Over the past 25 years, Skadden Delaware has grown tenfold, from its original six attorneys to its present complement of nearly 60, becoming one of the largest and most influential law offices in the State of Delaware, and employing more than 150 Delawareans.

Skadden Delaware attorneys have counseled clients in many of the largest and most groundbreaking corporate transactions, including highly publicized contests for corporate control, and contributed thereby to the reputation of the Delaware courts as the preeminent arbiters of corporate law issues in the world, and to the State of Delaware's dominance as the preferred domicile for corporations large and small across the United States.

Skadden Delaware lawyers have also contributed their professional and personal resources to a wide variety of civic and charitable endeavors outside the confines of their law practice, to the consistent benefit of the State of Delaware and its citizens.

Former Skadden Delaware lawyers have gone on to hold positions of high trust and importance in the State of Delaware, serving on the Court of Chancery and the supreme court, as counsel to the Governor, as U.S. attorney, and as president of the Delaware bar.

I thank Skadden Delaware for all that they do, not only in Delaware, but across the country, and I wish them a very happy 25th anniversary. I rise today to offer my full support and to congratulate them on a remarkable quarter century of success.•

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:48 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bills:

H.R. 3926. An act to amend the Public Health Service Act to promote organ donation, and for other purposes.

H.R. 1997. An act to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:42 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, with an amendment:

S. Con. Res. 95. Concurrent resolution setting forth the congressional budget for the

United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The message further announced that the House insist upon its amendment to the concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered that Mr. NUSSLE, Mr. PORTMAN, and Mr. SPRATT, be the managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3723. An act to designate the facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, as the "Vaughn Gross Post Office Building".

H.R. 3917. An act to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the "Maxine S. Postal United States Post Office".

The message also announced that the House agree to the amendments of the Senate to the bill (H.R. 2584) to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmosphere Administration ship, and for other purposes.

The message further announced that pursuant to (10 U.S.C. 111 note) the Minority Leader hereby appoints retired Army Lt. General H.G. (Pete) Taylor, to the Commission on the Review of the Overseas Military Facility Structure of the United States.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3723. An act to designate the facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, as the "Vaughn Gross Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3917. An act to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the "Maxine S. Postal United States Post Office"; to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2250. A bill to extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6856. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 02–09; to the Committee on Appropriations.

EC–6857. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 03–02; to the Committee on Appropriations.

EC–6858. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 00–06; to the Committee on Appropriations.

EC–6859. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–6860. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a report relative to the Critical Skills Retention Bonus program; to the Committee on Armed Services.

EC–6861. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the notification of the Department's intent to transfer $372 million from the Defense Working Capital Funds to the Operation and Maintenance Appropriations; to the Committee on Armed Services.

EC–6862. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report of the transfer of the historic harbor tug ex-HOGA (YTM 146) to the Arkansas Inland Maritime Museum, North Little Rock, Arkansas; to the Committee on Armed Services.

EC–6863. A communication from the Secretary of the Air Force, transmitting, pursuant to law, the report of an Average Procurement Unit Cost and a Program Acquisition Unit Cost (PAUC) breach; to the Committee on Armed Services.

EC–6864. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy for the position of Deputy Under Secretary of Defense for Logistics and Material Readiness, Department of Defense, received on March 29, 2004; to the Committee on Armed Services.

EC–6865. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to Review Panels performing duties pursuant to the Military Commission process; to the Committee on Armed Services.

EC–6866. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report relative to the annual audit of the American Red Cross; to the Committee on Armed Services.

EC–6867. A communication from the Director, Defense Procurement and Acquisition Policy, transmitting, pursuant to law, the report of a rule entitled "Free Trade Agreements—Chile and Singapore" (DFARS Case 2003–D088) received on March 29, 2004; to the Committee on Armed Services.

EC–6868. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Truth in Lending: Rule of Construction" (R–1167) received on March 29, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6869. A communication from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled "Bank Activities and Operations—12 CFR Part 7" received on March 29, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6870. A communication from the Legal Counsel, Community Development Financial Institutions Fund, transmitting, pursuant to law, the report of a rule entitled "Notice of Funds Availability Inviting Applications for the Community Development Financial Institutions Fund" received on March 29, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6871. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes Model A300 B4–600 A300–B4–600R and A300 F4–600R Series Airplanes (Doc. No. 2001–NM–302) Model A3110 Series Airplanes Model A319, A320, and A321 Series Airplanes Model A330–301, 321, 322, 341, and 342" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6872. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospace Technologies of Australia Pty. Ltd. Models N22B, N22S, N24A Airplanes Doc. No. 2003–CE–37" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6873. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines Doc. No. NE 2003–NE–56" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6874. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319 and A320 Series Airplanes Doc. No. 2001–NM–301" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6875. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Mystere-Falcon 900 Series Airplanes Doc. No. 2001–NM–390" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6876. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–90–30 Airplanes Doc. No. 2001–NM–275" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6877. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200 and 300 Series Airplanes Doc. No. 2003–NM–49" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6878. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Johnson, KS Doc. No. 04–ACE–17" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6879. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Gideon, MO Doc. No. 04–ACE–16" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6880. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A 300 B2–1C, B2–203, B2K–3C, B4–2C, B4–103, N4–203 Series Airplanes Model A300B4–600, B4–600R and F4–600R (Collectively Called A300–600) Series Airplanes and Model A310 Series Airplanes Doc. No. 2002–NM–113" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6881. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–9 81–83, DC–9–87 and MD 88 Airplanes Doc. No. 2000–NM–170" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6882. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–200 Series Airplanes Modified by Supplemental Type Certificate ST00516AT; Doc. No. 2002–NM–238" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6883. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Festus, MO Doc. No. 04–ACE–14" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6884. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Fulton, MO Doc. No. 04–ACE–15" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6885. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Springfield, MO Doc. No. 03–ACE–100" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6886. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cedar Rapids, IA Doc. No. 04–ACE–10" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6887. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cassville, MO Doc. No. 04–ACE–18" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6888. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–9 81–83, DC–9–87 and MD 88 Airplanes Doc. No. 2000–NM–170" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6889. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–300, 400, and 500 Series Airplanes Doc. No. 2001–NM–88" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6890. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–10–10F, 15, 30, 30F, 30F(CK–10A and KDC–10), 40, 40F, MD–10–10F and 30F Airplanes and Model MD–11 and 11F Airplanes Doc. No. 2003–NM–43" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6891. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–400–401 and 402 Airplanes Doc. No. 2002–NM–311" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6892. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767 Series Airplanes Doc. No. 2004–NM–17" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6893. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Des Moines, IA Doc. No. 04–ACE011" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6894. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–200C and 200F Series Airplanes Doc. No. 2001–NM–278" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6895. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes Model A310 Series Airplanes Doc. No. 2001–NM–303" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6896. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Learjet Model 31, 31A, 35, 35A (C021A0, 36, and 36A Airplanes) Doc. No. 2001–NM–366" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6897. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospatiale Model ATR72 Series Airplanes Doc. No. 2001–NM–376" (RIN2120-AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6898. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CT58 Series and T58 Series Turboshaft Engines Doc. No. 2003–NE–66" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6899. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 Series Airplanes Doc. No. 2004–NM–28" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6900. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 Series Airplanes Doc. No. 2002–NM–320" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6901. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A320–111, 2111, and 231 Series Airplanes Doc. No. 2002–NM–118" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6902. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes Doc. No. 2001–NM–355" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6903. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 900EX Series Airplanes Doc. No. 2001–NM–283" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6904. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319 A320 Series Airplanes Doc. No. 2002–NM–183" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6905. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company (GE) CF6–80 Series Turbofan Engines Doc. No. 2004–NE–05" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6906. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A320–111, 211, 212, and 231 Series Airplanes" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6907. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F28 Mark 0070 and 0100 Series Airplanes Doc. No. 2004–NM–10" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6908. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Airplanes, A300 B4–600 and 600R, C4–605R Variant F, and F4–600R (Collectively Called A300–600) and A310 Series Airplanes Doc. No. 2002–NM–04" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6909. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, D1, E, F, F1, F2, and N Helicopters Doc. No. 2002–SW–44" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6910. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce Corporation A 3007 Series Turbofan Engines Doc. No. 2000–NE–29" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6911. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–200 and 300 Series Airplanes Equipped with a Main Deck Cargo Door Installed in Accordance with Supplemental Type Certificate (STC) SA2969SO Doc. No. 2003–NM–170" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6912. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–600, 700, 700C, 800, and 900 Series Airplanes Doc. No. 2004–NM–03" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6913. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model Otter DHC–3 Airplanes Doc. No. 2000–CE–73" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6914. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Corporation Beech Models 45(YT–34), A45 (T–34A, B–45) and D45 (T–34B) Airplanes Doc. No. 2000–CE–09" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6915. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF34–8E Series Turbofan Engines Doc. No. 2004–NE–06" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6916. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767 Series Airplanes Doc. No. 2004–NM–17" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6917. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model 1555B Helicopters Doc. No. 2003–SW–12" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6918. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS365 N3 Helicopters Doc. No. 2003–SW–11" (RIN2120–AA64) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6919. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Clinton, MO; Doc. No. 04–ACE–2" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6920. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Parsons, KS; Doc. No. 04–ACE–4" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6921. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Larned, KS; Doc. No. 04–ACE–8" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6922. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Neodesha, KS; Doc. No. 04–ACE–6" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6923. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D and E Airspace; Olive Branch, MS; Doc. No. 03–ASO–19" (RIN2120–AA66) received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6924. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report relative to foreign-policy based export controls; to the Committee on Commerce, Science, and Transportation.

EC–6925. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a nomination from the Deputy Secretary, Department of Transportation, received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6926. A communication from the Deputy Director, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking and Importing of Marine Mammals; Taking of Marine Mammals Incidental to Rocket and Missile Launch Operations from Vandenberg Air Force Base (VAFB)" received on March 29, 2004; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nomination of Brig. Gen. Charles C. Baldwin.

Air Force nomination of Col. Cecil R. Richardson.

Army nominations beginning Brigadier General James J. Bisson and ending Colonel Omer C. Tooley, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2004.

Navy nomination of Capt. Elizabeth A. Hight.

Navy nomination of Rear Adm. (lh) Nancy E. Brown.

Mr. WARNER. Mr. president, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Arthur R. Homer.

Air Force nomination of William R. Kent III.

Air Force nomination of Lori J. Fink.

Air Force nominations beginning Patricia K. Collins and ending Jeffrey E. Sherwood, which nominations were received by the Senate and appeared in the Congressional Record on February 26, 2004.

Air Force nominations beginning Christopher D. Boyer and ending Matthew E. Coombs, which nominations were received by the Senate and appeared in the Congressional Record on February 26, 2004.

Air Force nomination of Richard G. Hutchison.

Air Force nomination of Jeffery C. Sims.

Air Force nominations beginning Douglas R. Alfar and ending Fi A. Yi, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2004.

Air Force nomination of Christine R. Gundel.

Air Force nominations beginning Boikai B. Braggs and ending Charles W. Fox, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2004.

Air Force nomination of David W. Puvogel.

Air Force nomination of Terrance J. Wohlfiel.

Army nominations beginning Dale A. Adams and ending Nicholas E. Zoeller, which nominations were received by the Senate and appeared in the Congressional Record on November 21, 2003.

Army nominations beginning Thomas M. Besch and ending Albert M. Zaccor, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Army nominations beginning Kenneth L. Alford and ending James R. Yonts, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Army nominations beginning Thomas E. Bailey and ending Daniel S. Zupan, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Army nominations beginning Eileen M. Ahearn and ending x4578, which nominations were received by the Senate and appeared in the Congressional Record on January 22, 2004.

Army nomination of Gary W. Stinnett.

Army nomination of James M. Ives.

Army nomination of Paul Swicord.

Army nomination of Stephen A. Bernstein.

Army nomination of James R. Hudson.

Army nomination of Gary J. Garay.

Army nomination of John W. Ervin.

Army nominations beginning Floyd T. Curry and ending Jeffrey B. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record on February 26, 2004.

Army nominations beginning John E Armistead and ending Eugene R Woolridge, which nominations were received by the Senate and appeared in the Congressional Record on February 26, 2004.

Army nomination of Randall J. Vance.

Army nomination of Craig M. Doane.

Army nomination of Carol A. Cullinan.

Army nomination of Christopher B. Soltis.

Army nominations beginning Jeffrey A. Tong and ending Timothy M. Ward, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning James M. Gaudio and ending Beverly A. Herard, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning Michael J. Harris and ending Robert L. Legg, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning David N. Aycock and ending David E. Lindberg, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations of Michael T. Lawhorn.

Army nominations beginning Derron A. Alves and ending Alisa R. Wilma, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations Joel R. Bachman and ending Sherry L. Womack, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning Curtis J.*Aberle and ending Pamela M. *Wulf, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning Gina M. *Agron and ending Jeffrey V. Zottola, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning Bruce M. Frederickson and ending William A. Petty, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Navy nomination of David R. Agle.

Navy nominations beginning Hugh B Burke and ending Jeanine B Womble, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Alphonso R. Jackson, of Texas, to be Secretary of Housing and Urban Development.

By Mr. GRASSLEY for the Committee on Finance.

*Donald Korb, of Ohio, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2255. A bill to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the "Maxine S. Postal United States Post Office Building"; to the Committee on Governmental Affairs.

By Ms. CANTWELL:

S. 2256. A bill to amend part A of title IV of the Social Security Act to exempt preparation for high-skill, high-demand jobs from participation and time limits under the temporary assistance for needy families program; to the Committee on Finance .

By Mr. DURBIN (for himself, Mr. DAYTON, and Mr. LEVIN):

S. 2257. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. CHAMBLISS, Mr. ALLEN, Mr. GREGG, Ms. COLLINS, Ms. MURKOWSKI, Mr. WARNER, and Mr. THOMAS):

S. 2258. A bill to revise certain requirements for H-2B employers for fiscal year 2004, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. BENNETT, and Mr. CONRAD):

S. 2259. A bill to provide for the protection of the flag of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 2260. A bill to amend title XVIII of the Social Security Act to provide for fairness in the calculation of medicare disproportionate share hospital payments for hospitals in Puerto Rico; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. GRAHAM of Florida, Mr. LUGAR, Mr. BAUCUS, Mr. CHAFEE, Mr. DODD, Mr. NELSON of Florida, Mr. VOINOVICH, and Mr. SUNUNU):

S. 2261. A bill to expand certain preferential trade treatment for Haiti; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 243

At the request of Mr. ALLEN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 243, a bill concerning participation of Taiwan in the World Health Organization.

S. 310

At the request of Mr. THOMAS, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 985

At the request of Mr. DODD, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1807

At the request of Mr. MCCAIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1807, a bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes.

S. 1898

At the request of Mr. COLEMAN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1898, a bill to amend the Internal Revenue Code of 1986 to allow tax-payers to designate part or all of any income tax refund to support reservists and National Guard members.

S. 1902

At the request of Mr. REED, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1902, a bill to establish a National Commission on Digestive Diseases.

S. 1916

At the request of Ms. LANDRIEU, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1948

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1948, a bill to provide that service of the members of the organization known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 2099

At the request of Mr. MILLER, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. 2146

At the request of Ms. LANDRIEU, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2146, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 2175

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S. 2179

At the request of Mr. BROWNBACK, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2179, a bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown.

S. 2193

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2193, a bill to improve small business loan programs, and for other purposes.

S. 2212

At the request of Ms. COLLINS, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from West Virginia (Mr. BYRD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Arkansas (Mr. PRYOR) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2212, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 2236

At the request of Ms. CANTWELL, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2236, a bill to enhance the reliability of the electric system.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

AMENDMENT NO. 2937

At the request of Ms. SNOWE, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Ohio (Mr. DEWINE), the Senator from New Jersey (Mr. CORZINE) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 2937 proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

At the request of Mr. VOINOVICH, his name was added as a cosponsor of amendment No. 2937 proposed to H.R. 4, supra.

AMENDMENT NO. 2939

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. BYRD) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 2939 intended to be proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

AMENDMENT NO. 2942

At the request of Mr. CORNYN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 2942 intended to be proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

AMENDMENT NO. 2943

At the request of Mr. CORNYN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 2943 intended to be proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. CHAMBLISS, Mr. ALLEN, Mr. GREGG, Ms. COLLINS, Ms. MURKOWSKI, Mr. WARNER, and Mr. THOMAS):

S. 2258. A bill to revise certain requirements for H-2B employers for fiscal year 2004, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce the Summer Operations and Services or "SOS" Relief and Reform Act, S. 2258.

Across our Nation, there are businesses, many of which are small, which look forward to the summer time each year as an opportunity to conduct their seasonal operations. From Utah to Alaska to New England and down to the Southern States, innkeepers, swimming pool operators, and fishermen rely on the income generated during the summer months to feed their families, employ their neighbors, and contribute to their local economies. Individually, these businesses may not be big operations, but collectively, they are an integral part of the American economy.

Because of the nature of our country's labor market, and perhaps because of the unattractiveness of seasonal versus permanent work, these operations have traditionally relied upon the H-2B visa program to bring needed workers from abroad. For those who may not understand the purpose for this program, let me explain it. An employer is only allowed to request an H-2B worker when no American worker is available for the same job. An employer is not allowed to pay lower wages to these foreign visa holders. Throughout our immigration history, the H-2B program has remained noncontroversial.

This year, perhaps as a sign of our economy's increasing vitality, the H-2B annual cap of 66,000 visas has already been reached. Meanwhile, small businesses across the country warn that if Congress does not make some sort of accommodation, they stand to suffer immeasurable losses. Failing to act would not only be detrimental to these small businessowners, many of whom simply cannot afford to lose an entire year's worth of profit, but would hurt the Americans whose jobs also depend on the stability of these businesses. The negative impact upon the hospitality and tourism sectors would be severe as well. In other words, unless we act quickly and give these seasonal operations the resources they need, we are facing a very bleak summer for many hard-working Americans and entrepreneurs.

That said, as much as I want to do all that I can to save this summer of seasonal work, I also want to make sure that in our haste, we do not establish unsound policy and set a bad precedent for the future. Many immigration reformists oppose increasing numbers in any immigration program. I oppose simply raising the numbers indiscriminately. Instead, what we need is a program that is tied to the realities of our economy and our job market. The reform I propose in "SOS" will bring us closer to this ultimate goal.

Specifically, S. 2258 does not raise the visa cap number. Instead, it exempts those who were admitted on an H-2B visa during the past 2 fiscal years from the cap for the remainder of this year. This is a good reform approach for several reasons: First, the number of actual workers admitted will be dictated by the strength of the economy, and not by a random number that resulted from political compromise. Second, it gives preferential treatment to those who have used the program before, and who have complied with the law and returned to their home countries at the end of the season. Third and finally, it would allow the Secretary of Homeland Security to delegate to the Secretary of Labor the specific as well as inherent authority to investigate fraudulent immigration and employment practices. No immigration reform can be complete without addressing that issue. Of course, this bill does not represent all of the reforms that are needed, but is it a step in the right direction, while providing immediate relief for our seasonal businesses.

I thank Chairman CHAMBLISS of the Judiciary Committee's Immigration Subcommittee for his valuable input and for being our lead cosponsor on this bill. I also want to thank the administration for its contribution and expertise in reforming the H-2B visa program in an administratively feasible manner. Finally, I would be remiss if I did not recognize the contribution made by the other original cosponsors, Senators ALLEN, GREGG, COLLINS, MURKOWSKI, WARNER, and THOMAS.

Let me conclude by emphasizing that without our immediate attention to this pressing problem, local economies will face substantial losses. Let us work together to prioritize the health of America's seasonal businesses, and safeguard the livelihood of all the people who depend on them. I ask my colleagues for their bipartisan cooperation in the timely passage of this bill.

By Mr. DORGAN (for himself, Mr. BENNETT, and Mr. CONRAD):

S. 2259. A bill to provide for the protection of the flag of the United States, and for other purposes; to the Committee on the Judiciary.

Mr. DORGAN. Mr. President, 15 years ago the U.S. Supreme Court, in a 5 to 4 decision, struck down a Texas flag protection statute. The Supreme Court ruled that burning an American flag was a form of "speech," and therefore protected under the first amendment of the Constitution.

I disagreed with the Court's decisions then and I still do. I don't believe that the act of desecrating a flag is an act of speech. And I believe that our flag, as our national symbol, can and should be protected by law.

In the intervening years since the Supreme Court decision, I have supported Federal legislation that would make flag desecration illegal. Yet on several occasions, I have also voted against amendments to the Constitution to do the same.

I voted that way because, while I believe that flag desecration is despicable conduct that should be prohibited by law, I also believe that amending our Constitution is a step that should be taken only rarely, and then only as a last resort.

In the past year I have once again reviewed in detail nearly all of the legal opinions and written materials published by constitutional scholars and courts on all sides of this issue. After that review, I have concluded that there remains a way to protect our flag without having to alter the Constitution of the United States. So I am joining Senator BENNETT today to introduce bipartisan legislation that accomplishes that goal.

The bill we introduce today protects the flag but does so without altering the Constitution. A number of respected constitutional scholars tell us they believe this type of statute will be upheld by the U.S. Supreme Court. This statute protects the flag by criminalizing flag desecration when its intended purpose is to incite violence.

I know that supporters of a constitutional amendment will be disappointed by my decision to support this statutory remedy to protect the flag, rather than support an amendment to the U.S. Constitution. I know they are impatient to correct a decision by the Supreme Court that they and I believe was wrong.

I have wrestled with this issue for a long time, and I wish I were not, with my decision, disappointing those, including many of my friends, who passionately believe that we must amend the Constitution to protect the flag. But, in the end, I know that our country will be better served reserving our attempts to alter the Constitution only for those things that are, in the words of James Madison, "extraordinary occasion."

More than 11,000 constitutional amendments have been proposed since our Constitution was ratified. However, since the ratification of the Bill of Rights in 1791 only 17 amendments have been enacted. These 17 include 3 reconstruction era amendments that abolished slavery and gave African Americans the right to vote.

The amendments included giving women the right to vote, limiting Presidents to two terms, and establishing an order of succession in case of a President's death or departure from office. The last time Congress considered and passed a new constitutional amendment was when it changed the voting age to 18, more than a quarter of a century ago. All of these matters were of such scope they required a constitutional amendment to be accomplished. They could not have been accomplished otherwise.

But protecting the American flag can be accomplished without amending the Constitution, and that is a critically important point.

The bill we are introducing today, on a bipartisan basis, outlaws three types of illegal flag desecration.

First, anyone who destroys or damages a U.S. flag with a clear intent to incite imminent violence or a breach of the peace may be punished by a fine of up to $100,000, or up to 1 year in jail, or both. Second, anyone who steals a flag that belongs to the United States and destroys or damages that flag may be fined up to $250,000 or imprisoned up to 2 years, or both. And third, anyone who steals a flag may also be fined up to $250,000 or imprisoned up to 2 years, or both.

Constitutional scholars, including those at the Congressional Research Service, the research arm of Congress, and Duke University's Professor William Alstyne, have concluded that this statute passes constitutional muster, because it recognizes that the same standard that already applies to other forms of speech applies to burning the flag as well.

This is the same standard which makes it illegal to falsely cry "fire" in a crowded theater. Reckless speech that is likely to cause violence is not protected under the "fighting words" standard, long recognized by the Supreme Court of the United States.

So we are offering this bipartisan legislation with the confidence that its passage would meaningfully and effectively protect our cherished flag.

I believe that future generations, and our Founding Fathers, would agree that it is worthwhile for us to find a way to protect our flag without altering the Constitution. And so I ask those colleagues who, like me, care deeply about both our flag and our Constitution, to support this legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection Act of 2004".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the Constitution.

(b) PURPOSE.—The purpose of this Act is to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

"§ 700. Incitement; damage or destruction of property involving the flag of the united states

"(a) DEFINITION OF FLAG OF THE UNITED STATES.—In this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

"(b) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and under circumstances in which the person knows that it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

"(c) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

"(d) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory, or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The chapter analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following:

700. Incitement; damage or destruction of property involving the flag of the United States."

By Mr. SANTORUM:

S. 2260. A bill to amend title XVIII of the Social Security Act to provide for fairness in the calculation of medicare disproportionate share hospital payments for hospitals in Puerto Rico; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am introducing today the Medicare DSH payments for Puerto Rico Hospitals Fairness Act of 2004. This legislation seeks to provide fairness for Puerto Rico hospitals in their qualification for disproportionate share payments under the Medicare Program.

The primary purpose of the DSH program is to reimburse hospitals for the higher Medicare costs associated with treating low-income Medicare patients. Under current law, hospitals providing essential health care to low-income Medicare patients in Puerto Rico are effectively denied equitable reimbursement, because the law is being applied in such a way that a significant portion of the low-income population served by Puerto Rico hospitals is not allowed to count toward DSH calculations.

The legislation that I am introducing today would amend section 1886(d)(9)(D)(iii) of the Social Security Act to help ensure that Puerto Rico's low-income Medicare beneficiaries and hospitals that treat them have access to the same health care as the mainland.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare DSH Payments for Puerto Rico Hospitals Fairness Act of 2004".

SEC. 2. CALCULATION OF MEDICARE DSH PAYMENTS FOR PPS HOSPITALS IN PUERTO RICO.

Section 1886(d)(9)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as follows:

"(iii) Subparagraph (F) (relating to disproportionate share payments), except that for this purpose—

"(I) the sum described in clause (ii) of this subparagraph shall be substituted for the sum referred to in paragraph (5)(F)(ii)(I); and

"(II) for discharges occurring on or after October 1, 2004, subclause (I) of paragraph (5)(F)(vi) shall be applied by substituting for the numerator described in such subclause the number of a subsection (d) Puerto Rico hospital's patient days for a cost reporting period that are made up of patients who (for such days) were entitled to benefits under part A of this title and were recipients of aid under the State plan approved under title XVI that provides for grants to States for aid to the aged, blind, or disabled.''.

By Mr. DEWINE (for himself, Mr. GRAHAM of Florida, Mr. LUGAR, Mr. BAUCUS, Mr. CHAFEE, Mr. DODD, Mr. NELSON of Florida, Mr. VOINOVICH, and Mr. SUNUNU):

S. 2261. A bill to expand certain preferential trade treatment for Haiti; to the Committee on Finance.

Mr. DEWINE. Mr. President, today we have an opportunity to reach out to the least developed country in the Western Hemisphere—we have an opportunity to reach out to the island nation of Haiti.

I am pleased to join Senators GRAHAM of Florida, LUGAR, BAUCUS, CHAFEE, DODD, VOINOVICH, and NELSON of Florida in introducing the Haiti Economic Opportunity Act of 2004. I also would like to thank Representative SHAW, as well as our other House cosponsors, for their support of this bill.

Our bill would use trade incentives to encourage the post-Aristide government to make much needed reforms, while encouraging foreign direct investment—the most powerful, and yet underutilized, tool of development. The bill's provisions apply the least developed country provisions of the African Growth and Opportunity Act, AGOA, to Haiti—the least developed country in our Hemisphere.

Specifically, our bill would provide duty-free entry to apparel articles assembled in Haiti contingent upon Presidential certification that the new government is making significant political, economic, and social reforms. The bill also caps the amount of duty-free articles at 1.5 percent of the total amount of U.S. apparel imports, growing to 3.5 percent over 7 years. Currently, Haiti accounts for less than one-half of 1 percent of all U.S. apparel imports, and although these provisions seem modest by U.S. standards, in Haiti they are substantial.

The enactment of this legislation would promote employment in Haitian industry by allowing Haiti to become a garment production center again. Haiti has a labor advantage that makes it competitive compared to other countries in the region, and at one time several years ago over 100,000 people were employed in assembly jobs. Now, that number stands at just 30,000, and regional and global economic conditions are quickly converging to eliminate any chance of Haiti reestablishing a foothold in the garment production market.

Our window of opportunity to act expires at the end of the year, when quotas are phased out of the global market for textiles and apparel, and countries, such as China, are allowed to fully enter the market. In addition, Haiti has been largely left out of the Central American Free-Trade Agreement negotiations, gaining only small concessions for coproduction with the Dominican Republic. These concessions are necessary but far from sufficient for creating jobs.

I have traveled to Haiti 13 times, and there is no doubt that Haiti needs this opportunity. No other nation in our hemisphere is as impoverished. Today, at least 80 percent of all Haitians live in abject poverty, with at least 80 percent under- or unemployed. Per capita annual income is less than $400.

No other nation in our hemisphere has a higher rate of HIV/AIDS. Today, AIDS is the No. 1 cause of all adult deaths in Haiti, killing at least 30,000 Haitians annually and orphaning 200,000 children.

No other nation in our hemisphere has a higher infant mortality rate or a lower life expectancy rate.

And, no other nation in our hemisphere is as environmentally strapped. Haiti is an ecological disaster, with a 98-percent deforestation level and extreme topsoil erosion.

Despite this, U.S. assistance has reached its lowest level in over a decade. This needs to change. Haiti is in our backyard, inexorably linked to the United States by history, geography, humanitarian concerns, the illicit drug trade, and the ever-present possibility of waves of incoming refugees. Haiti's problems are our problems.

In an environment such as this, foreign assistance is not enough to create economic opportunities, promote development, and reverse these dire conditions. Economic development is the answer, bringing with it lower unemployment, increased infrastructure development, and spillover effects for the rest of Haiti's population.

This bill is not the ''silver bullet'' for Haiti, because there is no silver bullet. Rebuilding Haiti is going to require time, attention, and determination on the part of the people of Haiti, the countries in the region, and ultimately the entire international community. This bill would be a powerful indicator that Haiti has the support necessary to move forward. I encourage all of my colleagues to cosponsor this important piece of legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Haiti Economic Recovery Opportunity Act of 2004''.

SEC. 2. TRADE BENEFITS TO HAITI.

(a) IN GENERAL.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 213 the following new section:

''SEC. 213A. SPECIAL RULE FOR HAITI.

''(a) IN GENERAL.—In addition to any other preferential treatment under this Act, beginning on October 1, 2003, and in each of the 7 succeeding 1-year periods, apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from Haiti shall enter the United States free of duty, subject to the limitations described in subsections (b) and (c), if Haiti has satisfied the requirements set forth in subsection (d).

''(b) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this subsection are apparel articles that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns without regard to the country of origin of the fabrics, components, or yarns.

''(c) PREFERENTIAL TREATMENT.—The preferential treatment described in subsection (a), shall be extended—

''(1) during the 12-month period beginning on October 1, 2003, to a quantity of apparel articles that is equal to 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period beginning October 1, 2002; and

''(2) during the 12-month period beginning on October 1 of each succeeding year, to a quantity of apparel articles that is equal to the product of—

''(A) the percentage applicable during the previous 12-month period plus 0.5 percent (but not over 3.5 percent); and

''(B) the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period that ends on September 30 of that year.

''(d) ELIGIBILITY REQUIREMENTS.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti—

''(1) has established, or is making continual progress toward establishing—

''(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

''(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

''(C) the elimination of barriers to United States trade and investment, including by—

''(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

''(ii) the protection of intellectual property; and

''(iii) the resolution of bilateral trade and investment disputes;

''(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

''(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

''(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

"(2) does not engage in activities that undermine United States national security or foreign policy interests; and

"(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.".

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2003.

(2) Retroactive application to certain entries.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption, of any goods described in the amendment made by subsection (a)—

(A) that was made on or after October 1, 2003, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

AMENDMENTS SUBMITTED & PROPOSED

SA 2944. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table.

SA 2945. Mrs. BOXER (for herself, Mr. Kennedy, and Mr. Biden) proposed an amendment to the bill H.R. 4, supra.

SA 2946. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2947. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2948. Mr. BIDEN (for himself and Mrs. Boxer) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2949. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2950. Mr. BIDEN (for himself and Mrs. Boxer) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2951. Mr. SMITH (for himself and Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2952. Mr. BAUCUS (for himself, Mr. Chafee, Mr. Bingaman, and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2953. Mr. BAUCUS (for himself, Mr. Corzine, Mrs. Clinton, Mr. Kennedy, and Mr. Durbin) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2954. Mr. ALEXANDER (for Mr. McCain (for himself, Mr. Hollings, Ms. Snowe, and Mr. Kerry)) proposed an amendment to the bill H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

SA 2955. Mr. ALEXANDER (for Mr. McCain) proposed an amendment to the bill H.R. 2443, supra.

TEXT OF AMENDMENTS

SA 2944. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 212, strike line 12 and all that follows through page 213, line 6, and insert the following:

"(D) Limitation on number of persons who may be treated as engaged in work by reason of participation in educational activities.—

"(i) In general.—Except as provided in paragraph (1)(C)(ii)(I) and clause (ii), for purposes of subsection (b)(1)(B)(i), not more than 30 percent of the number of individuals in all families in a State who are treated as engaged in work for a month may consist of individuals who are—

"(I) determined (without regard to individuals participating in a program established under section 404(l)) to be engaged in work for the month by reason of participation in vocational educational training (but only with respect to such training that does not exceed 12 months with respect to any individual); or

"(II) deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph.

"(ii) Exception for education in preparation for sector-specific, high-skill occupations to meet employer demand.—

"(I) In general.—Notwithstanding clause (i) and subsection (d)(8), for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) with respect to an individual who is enrolled, in preparation for a sector-specific, high-skill occupation to meet employer demand (as defined in subclause (II)), in a postsecondary 2- or 4-year degree program or in vocational educational training—

"(aa) the State may count the number of hours per week that the individual attends such program or training for purposes of determining the number of hours for which a family is engaged in work for the month without regard to the 30 percent limitation under clause (i); and

"(bb) the individual shall be permitted to complete the requirements of the degree program or vocational educational training within the normal timeframe for full-time students seeking the particular degree or completing such vocational educational training.

"(II) Sector-specific, high-skill occupation to meet employer demand defined.—In subclause (I), the term 'sector-specific, high-demand, high-skill occupation to meet employer demand' means an occupation—

"(aa) that has been identified by the State workforce investment board established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821) as within the needs of the State with regard to current and projected employment opportunities in specific industry sectors or that has been defined by the State agency administering the State program funded under this part as within the needs of the State with regard to current and projected employment opportunities in specific industry sectors and is consistent with high demand jobs identified in the State plan in accordance with section 402(a)(1)(A)(vi)(I);

"(bb) that requires occupational training; and

"(cc) that provides a wage of at least 75 percent of the State median hourly wage, as calculated by the Bureau of Labor Statistics on the basis of the most recent Occupational Employment and Wage Survey.

SA 2945. Mrs. BOXER (for herself, Mr. Kennedy, and Mr. Biden) proposed an amendment to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . FAIR MINIMUM WAGE.

(a) Short Title.—This section may be cited as the "Fair Minimum Wage Act of 2004".

(b) Increase in the Minimum Wage.—

(1) In general.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2004;

"(B) $6.45 an hour, beginning 12 months after that 60th day; and

"(C) $7.00 an hour, beginning 24 months after that 60th day;".

(2) Effective date.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) Applicability of Minimum Wage to the Commonwealth of the Northern Mariana Islands.—

(1) In general.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(2) Transition.—Notwithstanding paragraph (1), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(B) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

SA 2946. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 253, between lines 6 and 7, insert the following:

(d) DOMESTIC VIOLENCE PREVENTION GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall award grants to eligible entities to enable such entities to carry out domestic violence prevention activities. In carrying out this subsection, the Secretary shall make public the criteria to be used by the Secretary for awarding such grants.

(2) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(A) be a State, Indian tribe, or nonprofit domestic violence prevention organization; and

(B) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) ACTIVITIES.—An entity shall use amounts received under a grant awarded under this subsection to—

(A) develop and disseminate best practices for addressing domestic and sexual violence;

(B) implement voluntary skills programs on domestic violence as a barrier to economic security, including providing caseworker training, technical assistance, and voluntary services for victims of domestic violence;

(C) provide broad-based income support and supplementation strategies that provide increased assistance to low-income working adults, such as housing, transportation, and transitional benefits as a means to reduce domestic violence; or

(D) carry out programs to enhance relationship skills and financial management skills, to teach individuals how to control aggressive behavior, and to disseminate information on the causes of domestic violence and child abuse.

(4) MATCHING REQUIREMENT.—The Secretary may not award a grant to an entity under this subsection unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than 25 percent of such costs ($1 for each $4 of Federal funds provided under the grant).

(5) REQUIRED CONSULTATION.—The Secretary may not award a grant to a State or an Indian tribe under this subsection unless such State or tribe agrees, in carrying out activities under the grant, to consult with National, State, local, or tribal organizations with demonstrated expertise in providing aid to victims of domestic violence.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $20,000,000 for each of fiscal years 2005 through 2009.

SA 2947. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 355, between lines 3 and 4, insert the following:

SEC. ___. DETERMINATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE FOR ALASKA.

Section 706 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396d note), is amended by striking "only with respect to each of fiscal years 2001 through 2005," and inserting "with respect to fiscal year 2001 and each fiscal year thereafter,".

SA 2948. Mr. BIDEN (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Children Act of 2003".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) People under the age of 18 make up approximately 12 percent of all crime victims known to police, including 71 percent of all sex crime victims and 38 percent of all kidnaping victims.

(2) People from the ages of 12 through 17 are over 2 times more likely to be victims of violent crime than adults.

(3) It has been estimated that only 28 percent of crimes against children are actually reported.

(4) Some 1,200 children die as a result of abuse each year, and approximately 879,000 children are victims of abuse.

(5) Child abuse has long-lasting negative effects upon children and families, including delayed development, depression, substance abuse, and increased likelihood of experiencing or perpetrating domestic violence as an adult.

(6) Most local agencies lack adequate resources to protect and serve the needs of children and families that are brought to their attention.

(7) Failure to pay child support is in itself a form of neglect, as children who do not receive financial support are more likely to live in poverty, and are therefore more likely to suffer from inadequate education, a lack of quality health care, and a lack of affordable housing.

TITLE I—ENHANCED FEDERAL ROLE IN CRIMES AGAINST CHILDREN

SEC. 101. ENHANCED PENALTIES.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting at the end the following:

"§ 2260A. Violence against children

"(a) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subsection (b), by force or threat of force willfully injures or attempts to injure any person under 18 years of age—

"(1) shall be imprisoned for not more than 10 years and fined in accordance with this title; and

"(2) shall be imprisoned for any term of years or for life, and fined in accordance with this title if—

"(A) death results from the offense; or

"(B) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(b) CIRCUMSTANCES.—For purposes of subsection (a), the circumstances described in this subsection are that—

"(1) the conduct described in subsection (a) occurs during the course of, or as the result of, the travel of the defendant or the victim—

"(A) across a State line or national border; or

"(B) using a channel, facility, or instrumentality of interstate or foreign commerce; or

"(2) in connection with the conduct described in subsection (a), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce.

"(c) PENALTIES.—An offense under this section shall also be subject to the penalties provided in section 1111 of this title (as amended by the PROTECT Act) if the offense is also an offense under that section.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by inserting at the end the following:

"2260A. Violence against children.".

(c) ENHANCED PENALTIES FOR EXISTING CRIMES WHEN COMMITTED AGAINST CHILDREN.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this Act and its purposes, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide enhanced penalties when the victim of a Federal crime is under the age of 18.

(d) GAO REVIEW OF STATE LAWS.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) review the statutory penalties for crimes against children under State laws and the sentencing practices of the States with respect to those crimes, including whether a State provides enhanced penalties when the victim of the crime is a child; and

(2) report the findings of the review to Congress.

SEC. 102. ENHANCED ASSISTANCE FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—At the request of a State, Indian tribal government, or unit of local government, the Attorney General shall provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State or Indian tribe; and

(3) is committed against a person under 18 years of age.

(b) PRIORITY.—If the Attorney General determines that there are insufficient resources to fulfill requests made pursuant to subsection (a), the Attorney General shall give priority to requests for assistance to—

(1) crimes committed by, or believed to be committed by, offenders who have committed crimes in more than 1 State; and

(2) rural jurisdictions that have difficulty covering the extraordinary expenses relating

to the investigation or prosecution of the crime.

TITLE II—GRANT PROGRAMS

SEC. 201. FEDERAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—The Attorney General shall award grants to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution of crimes against children.

(b) PURPOSES.—Grants provided under this section shall provide personnel, training, technical assistance, data collection, and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing crimes against children, and specifically, for the purposes of—

(1) training law enforcement officers, prosecutors, judges, and other court personnel to more effectively identify and respond to crimes against children;

(2) developing, training, or expanding units of law enforcement officers, prosecutors, or courts specifically targeting crimes against children;

(3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to crimes against children;

(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts for the purpose of identifying and tracking arrests, prosecutions, and convictions for crimes against children;

(5) encouraging, developing, and strengthening programs, procedures, and policies that enhance cross-collaboration and cross-communication between law enforcement and child services agencies regarding the care, treatment, and services for child victims; and

(6) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with crimes against children.

(c) APPLICATION.—

(1) IN GENERAL.—Each State, Indian tribal government, or unit of local government that desires a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(2) REQUIREMENTS.—A State, Indian tribal government, or unit of local government applying for a grant under this section shall—

(A) describe—

(i) the purposes for which the grant is needed;

(ii) the intended use of the grant funds; and

(iii) the expected results from the use of grant funds;

(B) demonstrate that, in developing a plan to implement the grant, the State, Indian tribal government, or unit of local government has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of crimes against children; and

(C) certify that—

(i) any Federal funds received under this section will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

(ii) the State, the Indian tribal government, or the State in which the unit of local government is located is in compliance with sections 301 and 302.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 2004 through 2008.

SEC. 202. EDUCATION, PREVENTION, AND VICTIMS' ASSISTANCE GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to assist States, Indian tribal governments, units of local government, and nongovernmental organizations to provide education, prevention, intervention, and victims' assistance services regarding crimes against children.

(b) PURPOSES.—Grants provided under this section shall be used to provide education, prevention, and intervention services to prevent crimes against children and to provide assistance to children, and the families of children, who are victims of crime, including—

(1) educational seminars;

(2) the operation of hotlines;

(3) training programs for professionals;

(4) the preparation of informational materials;

(5) intervention services to prevent crimes against children;

(6) other efforts to increase awareness of the facts about, or to help prevent, crimes against children, including efforts to increase awareness in underserved racial, ethnic, and language minority communities;

(7) emergency medical treatment for victims;

(8) counseling to victims of crimes against children and their families; and

(9) increasing the supply of mental health professionals specializing in the mental health of victims of crimes against children.

(c) APPLICATION.—

(1) IN GENERAL.—Each State, Indian tribal government, unit of local government, or nongovernmental organization that desires a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(2) REQUIREMENTS.—A State, Indian tribal government, unit of local government, or nongovernmental organization applying for a grant under this section shall—

(A) describe—

(i) the purposes for which the grant is needed;

(ii) the intended use of the grant funds; and

(iii) the expected results from the use of grant funds;

(B) demonstrate that, in developing a plan to implement the grant—

(i) in the case of a State, Indian tribal government, or unit of local government, that the State, Indian tribal government, or unit of local government has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of crimes against children; and

(ii) in the case of a nongovernmental organization, that the nongovernmental organization has experience in providing education, prevention, or intervention services regarding crimes against children or has experience in providing services to victims of crimes against children; and

(C) certify that—

(i) any Federal funds received under this section will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section, provided that the Attorney General may waive such requirement for nongovernmental organizations in extraordinary circumstances; and

(ii) the State, the Indian tribal government, the State in which the unit of local government is located, or the State in which the nongovernmental organization will operate the activities funded under this section is located, is in compliance with section 303.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 2004 through 2008.

TITLE III—NATIONWIDE PROGRAMS

SEC. 301. NATIONWIDE AMBER ALERT.

Not later than 3 years after the date of enactment of this Act, each State receiving grants pursuant to section 201 shall have in place a statewide AMBER Alert communications network for child abduction cases.

SEC. 302. IMPROVED STATISTICAL GATHERING.

Each State receiving grants pursuant to section 201 shall use, or shall be in the process of testing or developing protocols to use, the National Incident-Based Reporting System.

SEC. 303. NATIONAL SAFE HAVEN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, each State receiving grants pursuant to section 202 shall have in effect a statute that—

(1) permits a parent to leave a newborn baby with a medically-trained employee of a hospital emergency room anonymously without any criminal or other penalty;

(2) includes a mechanism to encourage and permit a hospital employee in the receiving hospital to collect information about the medical history of the family subject to the approval of the parent;

(3) requires law enforcement entities in the State, immediately after relinquishment of a child under paragraph (1), to search State and Federal missing person databases to ensure that the child has not been reported missing; and

(4) includes a plan for publicizing the State's Safe Haven law.

(b) EXCEPTION.—Notwithstanding subsection (a)(1), a State statute in effect pursuant to this section may deny a parent the ability to leave a newborn baby anonymously without any criminal or other penalty if the newborn baby shows signs of abuse or appears to have been intentionally harmed.

SEC. 304. IMPROVED CHILD PROTECTION SERVICES PROGRAMS.

(a) REPORT BY STATES.—Not later than 180 days after the date of enactment of this Act, each State receiving an allotment for child welfare services under subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.) shall submit to the Secretary of Health and Human Services a report detailing the State's program funded under that subpart, including the process for maintaining records and verifying the well-being of the children under the State's care.

(b) GAO STUDY.—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall report to Congress on State practices and policies under the child welfare program funded under subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.). The report shall include the following:

(1) How States are maintaining records and verifying the well-being of the children under their care, including how well States are keeping track of where those children are.

(2) Whether and how the review system being undertaken by the Secretary of Health and Human Services is helping States to reform their child welfare system.

(3) The best practices being implemented by the States.

(4) Recommendations for legislative changes by Congress.

SA 2949. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —FAIR TREATMENT AND DUE PROCESS PROTECTION

Subtitle A—Access to Translation Services and Language Education Programs

SEC. 01. PROVISION OF INTERPRETATION AND TRANSLATION SERVICES.

(a) IN GENERAL.—Section 408(a) (42 U.S.C. 608(a) is amended by adding at the end the following:

"(12) PROVISION OF INTERPRETATION AND TRANSLATION SERVICES.—A State to which a grant is made under section 403(a) for a fiscal year shall, with respect to the State program funded under this part and all programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), provide appropriate interpretation and translation services to individuals who lack English proficiency if the number or percentage of persons lacking English proficiency meets the standards established under section 272.4(b) of title 7 of the Code of Federal Regulations (as in effect on the date of enactment of this paragraph).".

(b) PENALTY.—Section 409(a) (42 U.S.C. 609(a)), as amended by section 106(d), is amended by adding at the end the following:

"(14) PENALTY FOR FAILURE TO PROVIDE INTERPRETATION AND TRANSLATION SERVICES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 408(a)(12) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

SEC. 02. ASSISTING FAMILIES WITH LIMITED ENGLISH PROFICIENCY.

(a) IN GENERAL.—Section 407(c)(6) (42 U.S.C. 607(c)(6)), as amended by section 109(f), is amended by adding at the end the following:

"(G) INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY.—In the case of an adult recipient who lacks English language proficiency, as defined by the State, the State shall—

"(i) advise the adult recipient of available programs or activities in the community to address the recipient's education needs;

"(ii) if the adult recipient elects to participate in such a program or activity, allow the recipient to participate in such a program or activity; and

"(iii) consider an adult recipient who participates in such a program or activity on a satisfactory basis as being engaged in work for purposes of determining monthly participation rates under this section, except that the State—

"(I) may elect to require additional hours of participation or activity if necessary to ensure that the recipient is participating in work-related activities for a sufficient number of hours to count as being engaged in work under this section; and

"(II) shall attempt to ensure that any additional hours of participation or activity do not unreasonably interfere with the education activity of the recipient.".

(b) PENALTY.—Section 409(a) (42 U.S.C. 609(a)), as amended by section 01(b), is amended by adding at the end the following:

"(15) PENALTY FOR FAILURE TO PROVIDE INTERPRETATION AND TRANSLATION SERVICES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(c)(2)(E) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

Subtitle B—Sanctions and Due Process Protections

SEC. 21. SANCTIONS AND DUE PROCESS PROTECTIONS.

(a) IN GENERAL.—Section 408(a) (42 U.S.C. 608(a)), as amended by section 01(a), is amended by adding at the end the following:

"(13) SANCTION PROCEDURES.—

"(A) PRE-SANCTION REVIEW PROCESS.—Prior to the imposition of a sanction against an individual or family receiving assistance under the State program funded under this part or under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)) for failure to comply with program requirements, the State shall take the following steps:

"(i) Provide or send notice to the individual or family, and, if the recipient's native language is not English, through a culturally competent translation, of the following information:

"(I) The specific reason for the proposed sanction.

"(II) The amount of the proposed sanction.

"(III) The length of time during which the proposed sanction would be in effect.

"(IV) The steps required to come into compliance or to show good cause for noncompliance.

"(V) That the agency will provide assistance to the individual in determining if good cause for noncompliance exists, or in coming into compliance with program requirements.

"(VI) That the individual may appeal the determination to impose a sanction, and the steps that the individual must take to pursue an appeal.

"(ii)(I) Ensure that, subject to clause (iii)—

"(aa) an individual other than the individual who determined that a sanction be imposed shall review the determination and have the authority to take the actions described in subclause (II); and

"(bb) the individual or family against whom the sanction is to be imposed shall be afforded the opportunity to meet with the individual who, as provided for in item (aa), is reviewing the determination with respect to the sanction.

"(II) An individual to which this subclause applies may—

"(aa) modify the determination to impose a sanction;

"(bb) determine that there was good cause for the individual or family's failure to comply;

"(cc) recommend modifications to the individual's individual responsibility or employment plan; and

"(dd) make such other determinations and take such other actions as may be appropriate under the circumstances.

"(iii) The review required under clause (ii) shall include consideration of the following:

"(I) To the extent applicable, whether barriers to compliance exist, such as a physical or mental impairment, including mental illness, substance abuse, mental retardation, a learning disability, domestic or sexual violence, limited proficiency in English, limited literacy, homelessness, or the need to care for a child with a disability or health condition, that contributed to the noncompliance of the person.

"(II) Whether the individual or family's failure to comply resulted from failure to receive or have access to services previously identified as necessary in an individual responsibility or employment plan.

"(III) Whether changes to the individual responsibility or employment plan should be made in order for the individual to comply with program requirements.

"(IV) Whether the individual or family has good cause for any noncompliance.

"(V) Whether the State's sanction policies have been applied properly.

"(B) SANCTION FOLLOW-UP REQUIREMENTS.—If a State imposes a sanction on a family or individual for failing to comply with program requirements, the State shall—

"(i) provide or send notice to the individual or family, in language calculated to be understood by the individual or family, and, if the individual's or family's native language is not English, through a culturally competent translation, of the reason for the sanction and the steps the individual or family must take to end the sanction;

"(ii) resume the individual's or family's full assistance, services, or benefits provided under this program (provided that the individual or family is otherwise eligible for such assistance, services, or benefits) once the individual who failed to meet program requirements that led to the sanction complies with program requirements for a reasonable period of time, as determined by the State and subject to State discretion to reduce such period;

"(iii) if assistance, services, or benefits have not resumed, as of the period that begins on the date that is 60 days after the date on which the sanction was imposed, and end on the date that is 120 days after such date, provide notice to the individual or family, in language calculated to be understood by the individual or family, of the steps the individual or family must take to end the sanction, and of the availability of assistance to come into compliance or demonstrate good cause for noncompliance with program requirements.".

(b) PENALTY.—Section 409(a) (42 U.S.C. 609(a)), as amended by section 02(b), is amended by adding at the end the following:

"(16) PENALTY FOR FAILURE TO FOLLOW SANCTION PROCEDURES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 408(a)(13) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(c) STATE PLAN REQUIREMENT TO DESCRIBE HOW STATES WILL NOTIFY APPLICANTS AND RECIPIENTS OF THEIR RIGHTS UNDER THE PROGRAM AND OF POTENTIAL BENEFITS AND SERVICES AVAILABLE UNDER THE PROGRAM.—Section 402(a)(1)(B)(ii) (42 U.S.C. 602(a)(1)(B)(ii)), as redesignated by section 101(a)(1)(B)(ii), is amended by inserting ", and will notify applicants and recipients of assistance under the program of the rights of individuals under all laws applicable to program activities and of all potential benefits and services available under the program" before the period.

(d) REQUIREMENT TO PROVIDE NOTICE TO APPLICANTS AND RECIPIENTS OF RIGHTS AND OF POTENTIAL PROGRAM BENEFITS AND SERVICES, AND TO TRAIN PROGRAM PERSONNEL TO RESPECT SUCH RIGHTS.—

(1) IN GENERAL.—Section 408(a) (42 U.S.C. 608(a)), as amended by subsection (a), is amended by adding at the end the following:

"(14) REQUIREMENT TO PROVIDE NOTICE TO APPLICANTS AND RECIPIENTS OF RIGHTS AND OF POTENTIAL PROGRAM BENEFITS AND SERVICES, AND TO TRAIN PROGRAM PERSONNEL TO RESPECT SUCH RIGHTS.—A State to which a grant is made under section 403 shall—

"(A) notify each applicant for, and each recipient of, assistance under the State program funded under this part or under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)) of the rights of applicants and recipients under all laws applicable to the activities of such program (including the right to claim good cause exceptions to program requirements), and shall provide the notice—

"(i) to a recipient when the recipient first receives assistance, benefits, or services under the program;

"(ii) to all such recipients on a semiannual basis; and

"(iii) orally and in writing, in the native language of the recipient and at not higher than a 6th grade level, and, if the recipient's native language is not English, through a culturally competent translation; and

"(B) train all program personnel on a regular basis regarding how to carry out the program consistent with such rights.".

(2) PENALTY.—Section 409(a) (42 U.S.C. 609(a)), as amended by subsection (b), is amended by adding at the end the following:

"(17) PENALTY FOR FAILURE TO PROVIDE NOTICE TO APPLICANTS AND RECIPIENTS OF RIGHTS AND OF POTENTIAL PROGRAM BENEFITS AND SERVICES, AND TO TRAIN PROGRAM PERSONNEL TO RESPECT SUCH RIGHTS.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 408(a)(14) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

Subtitle C—Data Collection and Reporting Requirements

SEC. 31. DATA COLLECTION AND REPORTING REQUIREMENTS.

Section 411(a)(1) (42 U.S.C. 611(a)(1)), as amended by section 112(a), is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "(except for information relating to activities carried out under section 403(a)(5))" and inserting ", and, in complying with this requirement, shall ensure that such information is reported in a manner that permits analysis of the information by race, ethnicity or national origin, primary language, gender, and educational level, including analysis using a combination of these factors, and that all data, including Federal, State, and local data (whether collected by public or private local agencies or entities that administer or operate the State program funded under this part) is made public and easily accessible";

(B) by striking clause (v) and inserting the following:

"(v) The employment status, occupation (as defined by the most current Federal Standard Occupational Classification system, as of the date of the collection of the data), and earnings of each employed adult in the family.";

(C) in clause (vii), by striking "and educational level" and inserting ", educational level, and primary language";

(D) in clause (viii), by striking "and educational level" and inserting ", educational level, and primary language"; and

(E) in clause (xi), in the matter preceding subclause (I), by inserting ", including, to the extent such information is available, information on the specific type of job, or education or training program" before the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A), the following:

"(B) INFORMATION REGARDING APPLICANTS.—

"(i) IN GENERAL.—Each eligible State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, disaggregated case record information on the number of individuals who apply for but do not receive assistance under the State program funded under this part, the reason such assistance were not provided, and the overall percentage of applications for assistance that are approved compared to those that are disapproved with respect to such month.

"(ii) REQUIREMENT.—In complying with clause (i), each eligible State shall ensure that the information required under that clause is reported in a manner that permits analysis of such information by race, ethnicity or national origin primary language, gender, and educational level, including analysis using a combination of these factors.".

SEC. 32. ENHANCEMENT OF UNDERSTANDING OF THE REASONS INDIVIDUALS LEAVE STATE TANF PROGRAMS.

(a) CASE CLOSURE REASONS.—Section 411(a)(1) (42 U.S.C. 611(a)(1)), as amended by section 31, is amended—

(1) by redesignating subparagraph (C) (as redesignated by such section 31) as subparagraph (D); and

(2) by inserting after subparagraph (B) (as added by such section 31) the following:

"(C) DEVELOPMENT OF COMPREHENSIVE LIST OF CASE CLOSURE REASONS.—

"(i) IN GENERAL.—The Secretary shall develop, in consultation with States and individuals or organizations with expertise related to the provision of assistance under the State program funded under this part, a comprehensive list of reasons why individuals leave State programs funded under this part. In developing such list, the Secretary shall consider the full range of reasons for case closures, including the following:

"(I) Lack of access to specific programs or services, such as child care, transportation, or English as a second language classes for individuals with limited English proficiency.

"(II) The medical or health problems of a recipient.

"(III) The family responsibilities of a recipient, such as caring for a family member with a disability.

"(IV) Changes in eligibility status.

"(V) Other administrative reasons.

"(ii) OTHER REQUIREMENTS.—The list required under clause (i) shall be developed with the goal of substantially reducing the number of case closures under the State programs funded under this part for which a reason is not known.

"(iii) PUBLIC COMMENT.—The Secretary shall promulgate for public comment regulations that—

"(I) list the case closure reasons developed under clause (i);

"(II) require States, not later than October 1, 2006, to use such reasons in accordance with subparagraph (A)(xvi); and

"(III) require States to report on efforts to improve State tracking of reasons for case closures, including the identification of additional reasons for case closures not included on the list developed under clause (i).

"(iv) REVIEW AND MODIFICATION.—The Secretary, through consultation and analysis of quarterly State reports submitted under this paragraph, shall review on an annual basis whether the list of case closure reasons developed under clause (i) requires modification and, to the extent the Secretary determines that modification of the list is necessary, shall publish proposed modifications for notice and comment, prior to the modifications taking effect.".

(b) INCLUSION IN QUARTERLY STATE REPORTS.—Section 411 (a)(1)(A) (42 U.S.C. 611(a)(1)(A)), as so amended, is amended—

(1) in clause (xvi)—

(A) in subclause (IV), by striking "or" at the end;

(B) in subclause (V), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(VI) a reason specified in the list developed under subparagraph (C), including any modifications of such list.";

(2) by redesignating clauses (xvii) through (xx), as clauses (xviii) through (xxi), respectively; and

(3) by inserting after clause (xvi), the following:

"(xvii) The efforts the State is undertaking, and the progress with respect to such efforts, to improve the tracking of reasons for case closures.".

SEC. 33. LONGITUDINAL STUDIES OF TANF APPLICANTS AND RECIPIENTS.

(a) IN GENERAL.—Section 413 (42 U.S.C. 613), as amended by section 101(e) is amended by striking subsection (d) and inserting the following:

"(d) LONGITUDINAL STUDIES OF APPLICANTS AND RECIPIENTS TO DETERMINE THE FACTORS THAT CONTRIBUTE TO POSITIVE EMPLOYMENT AND FAMILY OUTCOMES.—

"(1) IN GENERAL.—The Secretary, directly or through grants, contracts, or interagency agreements, shall conduct longitudinal studies in at least 5, and not more than 10, States (or sub-State areas, except that no such area shall be located in a State in which a Statewide study is being conducted under this paragraph) of a representative sample of families that receive, and applicants for, assistance under a State program funded under this part or under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)).

"(2) Requirements.—The studies conducted under this subsection shall—

"(A) follow families that cease to receive assistance, families that receive assistance throughout the study period, and families diverted from assistance programs; and

"(B) collect information on—

"(i) family and adult demographics (including race, ethnicity or national origin, primary language, gender, barriers to employment, educational status of adults, prior work history, prior history of welfare receipt);

"(ii) family income (including earnings, unemployment compensation, and child support);

"(iii) receipt of assistance, benefits, or services under other needs-based assistance programs (including the food stamp program, the medicaid program under title XIX, earned income tax credits, housing assistance, and the type and amount of any child care);

"(iv) the reasons for leaving or returning to needs-based assistance programs;

"(v) work participation status and activities (including the scope and duration of work activities and the types of industries and occupations for which training is provided);

"(vi) sanction status (including reasons for sanction);

"(vii) time limit for receipt of assistance status (including months remaining with respect to such time limit);

"(viii) recipient views regarding program participation; and

"(ix) measures of income change, poverty, extreme poverty, food security and use of food pantries and soup kitchens, homelessness and the use of shelters, and other measures of family well-being and hardship over a 5-year period.

"(3) Comparability of results.—The Secretary shall, to the extent possible, ensure that the studies conducted under this subsection produce comparable results and information.

"(4) Reports.—

"(A) Interim reports.—Not later than October 1, 2007, the Secretary shall publish interim findings from at least 12 months of longitudinal data collected under the studies conducted under this subsection.

"(B) Subsequent reports.—Not later than October 1, 2009, the Secretary shall publish findings from at least 36 months of longitudinal data collected under the studies conducted under this subsection.".

(b) Annual Report to Congress.—

(1) In general.—Section 411(e) (42 U.S.C. 611(e)), as redesignated by section 112(e)(1) and amended by section 112(f), is amended—

(A) in paragraph (2)—

(i) by inserting "(including types of sanctions or other grant reductions)" after "financial characteristics"; and

(ii) by inserting ", disaggregated by race, ethnicity or national origin, primary language, gender, education level, and, with respect to closed cases, the reason the case was closed" before the semicolon;

(B) in paragraph (3), by striking "and" at the end;

(C) in paragraph (4), by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(5) the economic well-being of children and families receiving assistance under the State programs funded under this part and of children and families that have ceased to receive such assistance, using longitudinal matched data gathered from federally supported programs, and including State-by-State data that details the distribution of earnings and stability of employment of such families and (to the extent feasible) describes, with respect to such families, the distribution of income from known sources (including employer-reported wages, assistance under the State program funded under this part, and benefits under the food stamp program), the ratio of such families' income to the poverty line, and the extent to which such families receive or received noncash benefits and child care assistance, disaggregated by race, ethnicity or national origin, primary language, gender, education level, whether the case remains open, and, with respect to closed cases, the reason the case was closed.".

(2) Conforming amendments.—Section 411(a) (42 U.S.C. 611(a)), as amended by section 112, is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6), the following:

"(7) Report on economic well-being of current and former recipients.—The report required by paragraph (1) for a fiscal quarter shall include for that quarter such information as the Secretary may specify in order for the Secretary to include in the annual reports to Congress required under subsection (b) the information described in paragraph (5) of that subsection.".

SEC. 34. PROTECTION OF INDIVIDUAL PRIVACY.

Section 411 (42 U.S.C. 611), as amended by section 112(e), is amended by adding at the end the following:

"(e) Protection of Individual Privacy.—With respect to any information concerning individuals or families receiving assistance, or applying for assistance, under the State programs funded under this part that is publicly disclosed by the Secretary, the Secretary shall ensure that such disclosure is made in a manner that protects the privacy of such individuals and families.".

SA 2950. Mr. BIDEN (for himself and Mrs. Boxer) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —PREVENTING VIOLENCE AGAINST CHILDREN

Subtitle A—Enhanced Federal Role in Crimes Against Children

SEC. 01. ENHANCED PENALTIES.

(a) In General.—Chapter 110 of title 18, United States Code, is amended by inserting at the end the following:

"§ 2260A. Violence against children

"(a) In General.—Whoever, whether or not acting under color of law, in any circumstance described in subsection (b), by force or threat of force willfully injures or attempts to injure any person under 18 years of age—

"(1) shall be imprisoned for not more than 10 years and fined in accordance with this title; and

"(2) shall be imprisoned for any term of years or for life, and fined in accordance with this title if—

"(A) death results from the offense; or

"(B) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(b) Circumstances.—For purposes of subsection (a), the circumstances described in this subsection are that—

"(1) the conduct described in subsection (a) occurs during the course of, or as the result of, the travel of the defendant or the victim—

"(A) across a State line or national border; or

"(B) using a channel, facility, or instrumentality of interstate or foreign commerce; or

"(2) in connection with the conduct described in subsection (a), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce.

"(c) Penalties.—An offense under this section shall also be subject to the penalties provided in section 1111 of this title (as amended by the PROTECT Act) if the offense is also an offense under that section.".

(b) Amendment to Chapter Analysis.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by inserting at the end the following:

"2260A. Violence against children.".

(c) Enhanced Penalties for Existing Crimes When Committed Against Children.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this Act and its purposes, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide enhanced penalties when the victim of a Federal crime is under the age of 18.

(d) GAO Review of State Laws.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) review the statutory penalties for crimes against children under State laws and the sentencing practices of the States with respect to those crimes, including whether a State provides enhanced penalties when the victim of the crime is a child; and

(2) report the findings of the review to Congress.

SEC. 02. ENHANCED ASSISTANCE FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) In General.—At the request of a State, Indian tribal government, or unit of local government, the Attorney General shall provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State or Indian tribe; and

(3) is committed against a person under 18 years of age.

(b) Priority.—If the Attorney General determines that there are insufficient resources to fulfill requests made pursuant to subsection (a), the Attorney General shall give priority to requests for assistance to—

(1) crimes committed by, or believed to be committed by, offenders who have committed crimes in more than 1 State; and

(2) rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

Subtitle B—Grant Programs

SEC. 11. FEDERAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—The Attorney General shall award grants to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution of crimes against children.

(b) PURPOSES.—Grants provided under this section shall provide personnel, training, technical assistance, data collection, and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing crimes against children, and specifically, for the purposes of—

(1) training law enforcement officers, prosecutors, judges, and other court personnel to more effectively identify and respond to crimes against children;

(2) developing, training, or expanding units of law enforcement officers, prosecutors, or courts specifically targeting crimes against children;

(3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to crimes against children;

(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts for the purpose of identifying and tracking arrests, prosecutions, and convictions for crimes against children;

(5) encouraging, developing, and strengthening programs, procedures, and policies that enhance cross-collaboration and cross-communication between law enforcement and child services agencies regarding the care, treatment, and services for child victims; and

(6) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with crimes against children.

(c) APPLICATION.—

(1) IN GENERAL.—Each State, Indian tribal government, or unit of local government that desires a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(2) REQUIREMENTS.—A State, Indian tribal government, or unit of local government applying for a grant under this section shall—

(A) describe—

(i) the purposes for which the grant is needed;

(ii) the intended use of the grant funds; and

(iii) the expected results from the use of grant funds;

(B) demonstrate that, in developing a plan to implement the grant, the State, Indian tribal government, or unit of local government has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of crimes against children; and

(C) certify that—

(i) any Federal funds received under this section will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

(ii) the State, the Indian tribal government, or the State in which the unit of local government is located is in compliance with sections 21 and 22.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 2004 through 2008.

SEC. 12. EDUCATION, PREVENTION, AND VICTIMS' ASSISTANCE GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to assist States, Indian tribal governments, units of local government, and nongovernmental organizations to provide education, prevention, intervention, and victims' assistance services regarding crimes against children.

(b) PURPOSES.—Grants provided under this section shall be used to provide education, prevention, and intervention services to prevent crimes against children and to provide assistance to children, and the families of children, who are victims of crime, including—

(1) educational seminars;

(2) the operation of hotlines;

(3) training programs for professionals;

(4) the preparation of informational materials;

(5) intervention services to prevent crimes against children;

(6) other efforts to increase awareness of the facts about, or to help prevent, crimes against children, including efforts to increase awareness in underserved racial, ethnic, and language minority communities;

(7) emergency medical treatment for victims;

(8) counseling to victims of crimes against children and their families; and

(9) increasing the supply of mental health professionals specializing in the mental health of victims of crimes against children.

(c) APPLICATION.—

(1) IN GENERAL.—Each State, Indian tribal government, unit of local government, or nongovernmental organization that desires a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(2) REQUIREMENTS.—A State, Indian tribal government, unit of local government, or nongovernmental organization applying for a grant under this section shall—

(A) describe—

(i) the purposes for which the grant is needed;

(ii) the intended use of the grant funds; and

(iii) the expected results from the use of grant funds;

(B) demonstrate that, in developing a plan to implement the grant—

(i) in the case of a State, Indian tribal government, or unit of local government, that the State, Indian tribal government, or unit of local government has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of crimes against children; and

(ii) in the case of a nongovernmental organization, that the nongovernmental organization has experience in providing education, prevention, or intervention services regarding crimes against children or has experience in providing services to victims of crimes against children; and

(C) certify that—

(i) any Federal funds received under this section will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section, provided that the Attorney General may waive such requirement for nongovernmental organizations in extraordinary circumstances; and

(ii) the State, the Indian tribal government, the State in which the unit of local government is located, or the State in which the nongovernmental organization will operate the activities funded under this section is located, is in compliance with section 23.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 2004 through 2008.

Subtitle C—Nationwide Programs

SEC. 21. NATIONWIDE AMBER ALERT.

Not later than 3 years after the date of enactment of this Act, each State receiving grants pursuant to section 11 shall have in place a statewide AMBER Alert communications network for child abduction cases.

SEC. 22. IMPROVED STATISTICAL GATHERING.

Each State receiving grants pursuant to section 11 shall use, or shall be in the process of testing or developing protocols to use, the National Incident-Based Reporting System.

SEC. 23. NATIONAL SAFE HAVEN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, each State receiving grants pursuant to section 12 shall have in effect a statute that—

(1) permits a parent to leave a newborn baby with a medically-trained employee of a hospital emergency room anonymously without any criminal or other penalty;

(2) includes a mechanism to encourage and permit a hospital employee in the receiving hospital to collect information about the medical history of the family subject to the approval of the parent;

(3) requires law enforcement entities in the State, immediately after relinquishment of a child under paragraph (1), to search State and Federal missing person databases to ensure that the child has not been reported missing; and

(4) includes a plan for publicizing the State's Safe Haven law.

(b) EXCEPTION.—Notwithstanding subsection (a)(1), a State statute in effect pursuant to this section may deny a parent the ability to leave a newborn baby anonymously without any criminal or other penalty if the newborn baby shows signs of abuse or appears to have been intentionally harmed.

SEC. 24. IMPROVED CHILD PROTECTION SERVICES PROGRAMS.

(a) REPORT BY STATES.—Not later than 180 days after the date of enactment of this Act, each State receiving an allotment for child welfare services under subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.) shall submit to the Secretary of Health and Human Services a report detailing the State's program funded under that subpart, including the process for maintaining records and verifying the well-being of the children under the State's care.

(b) GAO STUDY.—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall report to Congress on State practices and policies under the child welfare program funded under subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.). The report shall include the following:

(1) How States are maintaining records and verifying the well-being of the children under their care, including how well States are keeping track of where those children are.

(2) Whether and how the review system being undertaken by the Secretary of Health and Human Services is helping States to reform their child welfare system.

(3) The best practices being implemented by the States.

(4) Recommendations for legislative changes by Congress.

SA 2951. Mr. SMITH (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill insert the following:

Title ___—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT.

SEC. ___01. SHORT TITLE.

This title may be cited as the "Local Law Enforcement Enhancement Act of 2004".

SEC. ___02. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct "races". Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. ___03. DEFINITION OF HATE CRIME.

In this title, the term "hate crime" has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. ___04. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2005, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2005 and 2006.

SEC. ___05. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. ___06. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2005, 2006, and 2007 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section ___07.

SEC. ___07. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§ 249. Hate crime acts

"(a) IN GENERAL.—

"(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

"(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(i) death results from the offense; or

"(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

"(A) In general.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

"(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(I) death results from the offense; or

"(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(B) Circumstances described.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

"(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

"(I) across a State line or national border; or

"(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

"(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

"(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

"(iv) the conduct described in subparagraph (A)—

"(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

"(II) otherwise affects interstate or foreign commerce.

"(b) Certification Requirement.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

"(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

"(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

"(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

"(B) the State has requested that the Federal Government assume jurisdiction;

"(C) the State does not object to the Federal Government assuming jurisdiction; or

"(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

"(c) Definitions.—In this section—

"(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

"(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.".

(b) Technical and Conforming Amendment.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"249. Hate crime acts.".

SEC. 08. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) Amendment of Federal Sentencing Guidelines.—Pursuant to the authority provided under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) Consistency With Other Guidelines.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 09. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting "gender," after "race,".

SEC. 10. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SA 2952. Mr. BAUCUS (for himself, Mr. Chafee, Mr. Bingaman, and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, strike lines 13 through 15, and insert the following:

(d) State Flexibility.—Section 510(b) (42 U.S.C. 710(b)) is amended—

(1) in paragraph (1), by striking "and at the option of the State, where appropriate," and inserting "as defined in subparagraph (A) or (B) of paragraph (2), at the option of the State, and,"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "an" and inserting "a medically and scientifically accurate";

(B) by redesignating subparagraphs (A) through (H) as clauses (i) through (viii) respectively and realigning the left margins of such clauses accordingly;

(C) by inserting "(A)" after "(2)";

(D) in clause (viii) of subparagraph (A) (as redesignated by subparagraph (B) and amended by subparagraph (C)), by striking the period at the end and inserting "; or"; and

(E) by adding at the end the following:

"(B) promotes abstinence and educates those who are currently sexually active or at risk of sexual activity about additional methods to reduce unintended pregnancy or other health risks.".

(e) Comparative Evaluation of Abstinence Education Programs.—

(1) Study.—The Secretary of Health and Human Services shall, in consultation with an advisory panel of researchers identified by the Board on Children, Youth, and Families of the National Academy of Sciences, conduct an experimental study directly or through contract or interagency agreement, which assesses the relative efficacy of 2 approaches to abstinence education for adolescents. The study shall—

(A) be designed to enable a comparison of the efficacy of an abstinence program which precludes education about contraception with a similar abstinence program which includes education about contraception and means of preventing the transmission of HIV and sexually-transmitted diseases; and

(B) measure key outcomes, including behaviors that put teens at risk for unintended pregnancy and childbearing and for HIV and other sexually transmitted diseases, such as sexual activity, contraceptive use, condom use and patterns of sexual relationships.

(2) Report.—Not later than 5 years after the date of enactment of this subsection, the Secretary of Health and Human Services shall submit a report to Congress that contains the results of the study conducted under paragraph (1).

(3) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for the period of fiscal years 2005 through 2009.

(f) Effective Date.—The amendments made by this section shall be effective with respect to the program under section 510 for fiscal years 2005 and succeeding fiscal years.

SA 2953. Mr. BAUCUS (for himself, Mr. Corzine Mrs. Clinton, Mr. Kennedy, and Mr. Durbin) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 253, between lines 6 and 7, insert the following:

(d) At Home Infant Care.—Section 413 (42 U.S.C. 613), as amended by subsection (a), is further amended by adding at the end the following:

"(m) Demonstration Projects for At Home Infant Care.—

"(1) Authority to award grants.—

"(A) In general.—The Secretary shall award grants to not less than 5 and not more than 10 States to enable such States to carry out demonstration projects to provide at-home infant care benefits to eligible low-income families.

"(B) Indian tribes.—An Indian tribe may submit an application for a grant under this subsection. If awarded a grant, the Indian tribe shall conduct a demonstration project to provide at-home infant care benefits to eligible low-income families in the same manner, and to the same extent as a State, except that the Secretary may modify the requirements of this subsection as appropriate with respect to the Indian tribe. For purposes of subparagraph (A), any grant awarded to an Indian tribe shall not count toward the number of grants awarded to States.

"(2) FAMILY ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible to participate in a program of at-home infant care under a demonstration project established under paragraph (1), a family shall—

"(i) have an income that does not exceed the limits specified in section 658P(3)(B) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(3)(B));

"(ii) include a child under the age of 2;

"(iii) include a parent (as defined in section 658P(8) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(8))), who meets the State's requirements for having had a recent work history prior to application for at-home infant care benefits; and

"(iv) meet such other eligibility requirements as the State may establish.

"(B) 2-PARENT FAMILIES.—A State selected to participate in a demonstration project of at-home infant care under this section shall permit 2-parent families to participate in the project but may not limit participation in the project to such families.

"(3) AMOUNT OF ASSISTANCE.—The amount of at-home infant care benefits provided to an eligible family under this subsection for a month of benefit receipt shall not exceed the payment rate applicable to eligible child care providers for infant care under the State's payment rate schedule, according to the provisions of section 658E(c)(4)(A) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)(A)).

"(4) SUBMISSION OF APPLICATIONS.—An eligible low-income parent may submit an application for at-home infant care benefits under a demonstration project established under this subsection at any time prior to the date on which the child attains age 2.

"(5) REQUIRED CERTIFICATIONS.—A State selected to participate in a demonstration project of at-home infant care under this section shall provide certifications to the Secretary that—

"(A) during the period of the demonstration project, the State shall not reduce expenditures for child care services below the levels in effect in the fiscal year preceding the fiscal year in which the State begins to participate in the project;

"(B) the State, in operating the demonstration project, shall not give priority or preference to parents seeking to participate in the program of At-Home Infant Care over other eligible parents on a waiting list for child care assistance in the State;

"(C) the State shall—

"(i) provide parents applying to receive at-home infant care benefits with information on the range of options for child care available to the parents;

"(ii) ensure that approved applicants for at-home infant care are permitted to choose between receipt of at-home infant care benefits and receipt of a certificate that may be used with an eligible child care provider for child care needed for employment; and

"(iii) provide that a family receiving an at-home infant care benefit may exchange the benefit for a child care voucher for employment at any time during the family's participation in the program;

"(D) the State shall develop or update and implement a plan to improve the quality of infant care, and shall use up to 10 percent of the funds received under the demonstration project for efforts to improve the quality of infant care in the State;

"(E) the State shall ensure that voluntary employment services are offered to program participants after the completion of participation in the program to assist the participants in returning to unsubsidized employment; and

"(F) the State shall cooperate with information collection and evaluation activity conducted by the Secretary.

"(6) TANF ASSISTANCE.—The receipt of an at-home infant care benefit funded under this subsection shall not be considered assistance under the State program funded under this part for any purpose.

"(7) BENEFIT NOT TREATED AS INCOME.—Notwithstanding any other provision of law, the value of an at-home infant care benefit funded under this subsection shall not be treated as income for purposes of any Federal or federally-assisted program that bases eligibility, or the amount of benefits or services provided, on need.

"(8) APPLICATION FOR PARTICIPATION AND SELECTION OF STATES.—

"(A) APPLICATIONS.—Not later than 90 days after the date of enactment of the Personal Responsibility and Individual Development for Everyone Act, the Secretary shall publish a notice of opportunity to participate, specifying the contents of an application for participation in the At-Home Infant Care demonstration project funded under this subsection. The notice shall include a timeframe for States to submit an application to participate, and shall provide that all such applications are to be submitted not later than 270 days after such date of enactment.

"(B) SELECTION.—

"(i) IN GENERAL.—The Secretary shall review the applications and select the participating States not later than 1 year after such date of enactment.

"(ii) CRITERIA.—In selecting States to participate in the demonstration project funded under this subsection, the Secretary shall—

"(I) seek to ensure geographic diversity; and

"(II) give priority to States—

"(aa) whose applications demonstrate a strong commitment to improving the quality of infant care and the choice available to parents of infants;

"(bb) with experience relevant to the operation of at-home infant care programs; and

"(cc) in which there are demonstrable shortages of infant care.

"(9) EVALUATION AND REPORT TO CONGRESS.—

"(A) IN GENERAL.—The Secretary shall conduct an evaluation of the demonstration projects conducted under this subsection and submit a report to Congress on such evaluation not later than 4 years after the date of enactment of the Personal Responsibility and Individual Development for Everyone Act.

"(B) REQUIREMENTS.—The evaluation required under this paragraph shall expressly address the following:

"(i) Implementation experiences of the States participating in the project in developing and operating programs of at-home infant care, including design issues and issues in coordinating at-home infant care benefits with benefits provided or funded under the Child Care and Development Block Grant in the State.

"(ii) The characteristics of families seeking to participate and participating in the programs of at-home infant care funded under this subsection.

"(iii) The length of participation by families in such programs and the reasons for the families ceasing to participate in the programs.

"(iv) The prior and subsequent employment of participating families and the effect of program participation on subsequent employment participation of the families.

"(v) The costs and benefits of the programs of at-home infant care.

"(vi) The effectiveness of State or tribal efforts to improve the quality of infant care during the period in which the demonstration project is conducted in the State.

"(C) RESERVATION OF FUNDS.—Of the amount appropriated under paragraph (10) for a fiscal year, $750,000 shall be reserved with respect to each such fiscal year for purposes of conducting the evaluation required under this paragraph.

"(10) APPROPRIATIONS.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated to carry out this subsection, $30,000,000 for each of fiscal years 2005 through 2009.".

SA 2954. Mr. ALEXANDER (for Mr. MCCAIN (for himself, Mr. HOLLINGS, Ms. SNOWE, and Mr. KERRY)) proposed an amendment to the bill H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 2004".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

Title I—Authorization

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized Levels of military strength and training.

Title II—Coast Guard Personnel, Financial, and Property Management

Sec. 201. Enlisted member critical skill training bonus.
Sec. 202. Amend limits to the number and distribution of officers.
Sec. 203. Expansion of Coast Guard housing authorities.
Sec. 204. Property owned by auxiliary units and dedicated solely for auxiliary use.
Sec. 205. Coast Guard auxiliary units as instrumentalities of the United States for taxation purposes.
Sec. 206. Maximum age for retention in an active status.
Sec. 207. Term of enlistments.
Sec. 208. Requirement for constructive credit.
Sec. 209. Nonappropriated fund instrumentalities.
Sec. 210. Travel card management.
Sec. 211. Use of military child development. centers and other programs.

Title III—Law Enforcement, Marine Safety, and Environmental Protection

Sec. 301. Marking of underwater wrecks.
Sec. 302. Prohibition on operation of certain electronic devices; ports and waterways partnerships and cooperative ventures.
Sec. 303. Reports from charterers.

Sec. 304. Revision of temporary suspension criteria in suspension and revocation cases.
Sec. 305. Revision of bases for suspension and revocation cases.
Sec. 306. Removal of mandatory revocation for proved drug convictions in suspension and revocation cases.
Sec. 307. Records of merchant mariner's documents.
Sec. 308. Exemption of unmanned barges from certain citizenship requirements.
Sec. 309. Increase in civil penalties for violations of certain bridge statutes.
Sec. 310. Civil penalties for failure to comply with recreational vessel and associated equipment safety standards.
Sec. 311. Correction to definition of Federal law enforcement agencies in the enhanced border security and visa entry reform act of 2002.
Sec. 312. Stopping vessels; immunity for firing at or into vessel.
Sec. 313. Use of unexpended funds for bridge alterations under Truman-Hobbs Act.
Sec. 314. Inland navigation rules promulgation authority.
Sec. 315. Prevention of departure.
Sec. 316. Compliance with international safety management code.
Sec. 317. Amendments to vessel response plan requirements.
Sec. 318. Requirements for tank level and pressure monitoring devices.
Sec. 319. Report on implementation of the oil pollution act.
Sec. 320. Loans for fishermen impacted by oil spills.
Sec. 321. Fisheries enforcement plans and reporting.
Sec. 322. Deepwater report.
Sec. 323. Small passenger vessel safety.
Sec. 324. Electronic navigational charting.
Sec. 325. Measures for the protection of north atlantic right whales from ship strikes.
Sec. 326. Foreign vessel security plans.

Title IV—Miscellaneous

Sec. 401. Conveyance of lighthouses.
Sec. 402. LORAN–C.
Sec. 403. Conveyance of decommissioned Coast Guard cutters.
Sec. 404. Koss Cove.
Sec. 405. Declaration of non-navigability for portion of the Wateree river.
Sec. 406. Correction of 2002 coastwise trade authorization provision.
Sec. 407. Innovative construction alternatives.
Sec. 408. Bridge administration.
Sec. 409. National Coast Guard Museum.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) Fiscal Year 2004.—There are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2004 the following amounts:

(1) For the operation and maintenance of the Coast Guard, $4,913,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Find, of which—

(A) $70,000,000 shall be available to analyze port security plans prepared in compliance with chapter 701 of title 46, United States Code;

(B) $100,000,000 shall be available for increased operating expenses due to heightened security efforts; and

(C) $36,000,000 may be available for use in commissioning 3 additional Marine Safety and Security Teams.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,017,000,000 (of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990), to remain available until expended, of which

(A) $702,000,000 shall be available for the Coast Guard's integrated deepwater system;

(B) $134,000,000 shall be available for the Coast Guard's "Rescue 21" program; and

(C) $40,000,000 shall be available for the Automatic Identification System.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay, (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,020,000,000, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $17,000,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) $16,000,000, to remain available until expended; and

(B) $2,500,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

(7) For reserve training, $95,000,000.

(b) Fiscal Year 2005.—There are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2005 the following amounts.

(1) For the operation and maintenance of the Coast Guard, $5,404,300,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,068,000,000 (of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990), to remain available until expended, of which—

(A) $708,000,000 shall be available for the Coast Guard's Integrated Deepwater System; and

(B) $161,000,000 shall be available for the Coast Guard's Rescue 21 program.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $24,200,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,122,000,000, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $18,700,000, to remain available until expended.

(G) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) $17,850,000, to remain available until expended; and

(B) $2,500,000, to remain available until expended, which may be utilized for construction of a new Chelsea Street Bridge over the Chelsea River in Boston, Massachusetts.

(7) For reserve training $104,500,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) End-of-Year Strength for Fiscal Year 2004.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2004.

(b) Training Student Loads for Fiscal Year 2004.—For fiscal year 2004, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 350 student years.

(4) For officer acquisition, 1,200 student years.

TITLE II—COAST GUARD PERSONNEL, FINANCIAL, AND PROPERTY MANAGEMENT

SEC. 201. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) In General.—Chapter 11 of title 14, United States Code, is amended by adding at the end the following:

"§ 374. Critical skill training bonus

"(a) The Secretary may provide a bonus, not to exceed $20,000, to enlisted members who complete training in a skill designated as critical, provided at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

"(b) If an enlisted member voluntarily or because of misconduct does not complete his or her term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary shall charge interest on the reimbursed amount at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the preceding calendar quarter.".

(b) Conforming Amendment.—The chapter analysis for chapter 11 of title 14, United

States Code, is amended by inserting after the item relating to section 373 the following:

"374. Critical skill training bonus.".

SEC. 202. AMEND LIMITS TO THE NUMBER OF COMMANDERS AND LIEUTENANT COMMANDERS.

Section 42 of title 14, United States Code, is amended—

(1) by striking "The" in subsection (a) and inserting "Except in time of war or national emergency declared by Congress or the President, the",

(2) by striking "6,200." in subsection (a) and inserting "7,100. In time of war or national emergency, the Secretary shall establish the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard."; and

(3) by striking "commander 12.0; lieutenant commander 18.0." in subsection (b) and inserting "commander 15.0; lieutenant commander 22.0.".

SEC. 203. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.

(a) DEFINITIONS.—Section 680 of title 14, United States Code, is amended by adding at the end the following:

"(5) The term 'eligible entity' means any private person, corporation, firm, partnership, company, State or local government, or housing authority of a State or local government.".

(b) DIRECT LOANS AND LOAN GUARANTEES.—Section 682 of title 14, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 682. Direct loans and loan guarantees";

(2) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(3) by inserting before subsection (b), as redesignated, the following:

"(a) DIRECT LOANS.—

"(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.";

(4) by striking "subsection (b)," in subsection (b), as redesignated, and inserting "subsection (c),"; and

(5) by striking the subsection heading for subsection (c), as redesignated, and inserting "(c) DIRECT LOANS AND LOAN GUARANTEES.—".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by striking the item related to section 682 and inserting the following:

"682. Direct loans and loan guarantees.".

SEC. 204. PROPERTY OWNED BY AUXILIARY UNITS AND DEDICATED SOLELY FOR AUXILIARY USE.

Section 821 of title 14, United States Code, is amended by adding at the end the following:

"(d) Subject to the approval of the Commandant:

"(1) The Coast Guard Auxiliary and each organizational element and unit (whether or not incorporated), shall have the power to acquire, own, hold, lease, encumber, mortgage, transfer, and dispose of personal property for the purposes set forth in section 822. Personal property owned by the Auxiliary or an Auxiliary unit, or any element thereof, whether or not incorporated, shall at all times be deemed to be property of the United States for the purposes of the statutes described in paragraphs (1) through (6) of subsection (b) while such property is being used by or made exclusively available to the Auxiliary as provided in section 822.

"(2) Personal property owned by the Auxiliary or an Auxiliary unit or any element or unit thereof, shall not be considered property of the United States for any other purpose or under any other provision of law except as provided in sections 821 through 832 and section 641 of this title. The necessary expenses of operation, maintenance and repair or replacement of such property may be reimbursed using appropriated funds.

"(3) For purposes of this subsection, personal property includes, but is not limited to, motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment.".

SEC. 205. COAST GUARD AUXILIARY UNITS AS INSTRUMENTALITIES OF THE UNITED STATES FOR TAXATION PURPOSES.

Section 821(a) of title 14, United States Code, is amended by inserting "The Auxiliary and each organizational element and unit shall be deemed to be instrumentalities and political subdivisions of the United States for taxation purposes and for those exemptions as provided under section 107 of title 4." after the second sentence.

SEC. 206. MAXIMUM AGE FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended—

(1) by striking "sixty-two years of age." in subsection (a) and inserting "sixty years of age unless on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) the following:

"(b) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall, if qualified, be retired effective upon the day the officer becomes sixty-two years of age. If not qualified for retirement, a Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall be discharged effective upon the day the officer becomes sixty-two years of age.";

(3) by striking "sixty-four" in subsection (c), as redesignated, and inserting "sixty";

(4) by striking "subsections (a) and (b)," in subsection (d), as redesignated, and inserting "subsections (a), (b), and (c),"; and

(5) by striking "sixty-two" in subsection (d), as redesignated, and inserting "sixty".

SEC. 207. TERM OF ENLISTMENTS.

Section 351(a) of title 14, United States Code, is amended by striking "terms of full years not exceeding six years." and inserting "a period of at least 2 years but not more than 6 years.".

SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.

The second sentence of section 727 of title 14, United States Code, is amended by striking "three years" and inserting "1 year's".

SEC. 209. NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"§ 152. Nonappropriated fund instrumentalities; contracts with other agencies and instrumentalities to provide or obtain goods and services

"The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality thereof to provide or obtain goods and services beneficial to the efficient management and operation of the exchange system or that morale, welfare, and recreation system.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by inserting after the item relating to section 151 the following:

"152. Nonappropriated fund instrumentalities; contracts with other agencies and instrumentalities to provide or obtain goods and services".

SEC. 210. TRAVEL CARD MANAGEMENT.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

"517. Travel card management

"(a) IN GENERAL.—The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

"(b) WITHHOLDING OF NONDISPUTED OBLIGATIONS.—The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 516 the following:

"517. Travel card management".

SEC. 211. USE OF MILITARY CHILD DEVELOPMENT CENTERS AND OTHER PROGRAMS.

The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, when operating other than as a service in the Navy, may agree to provide child care services to members of the armed forces with or without reimbursement in military child development centers and other programs supported in whole or in part with appropriated funds. For purposes of military child development centers and other programs operated under the authority of subchapter II of chapter 88 of title 10, United States Code, the child of a Coast Guard member shall be considered the same as the child of a member of any of the other armed forces.

TITLE III—LAW ENFORCEMENT, MARINE SAFETY, AND ENVIRONMENTAL PROTECTION

SEC. 301. MARKING OF UNDERWATER WRECKS.

Section 15 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended—

(1) by striking "day and a lighted lantern" in the second sentence inserting "day and, unless otherwise granted a waiver by the Commandant of the Coast Guard, a light"; and

(2) by adding at the end "The Commandant of the Coast Guard may waive the requirement to mark a wrecked vessel, raft, or other craft with a light at night if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation.".

SEC. 302. PROHIBITION ON OPERATION OF CERTAIN ELECTRONIC DEVICES; PORTS AND WATERWAYS PARTNERSHIPS AND COOPERATIVE VENTURES.

Section 4 of the Ports and Waterways Safety Act (33 U.S.C. 1223), is amended—

(1) by striking "and" after the semicolon in subsection (a) (4)(D);

(2) by striking "environment." in subsection (a)(5) and inserting "environment;";

(3) by adding at the end of subsection (a) the following:

"(6) may prohibit the use of electronic or other devices that interfere with communications and navigation equipment;

"(7) may carry out the functions under paragraph (1) of this subsection, at the Secretary's discretion and on such terms and conditions as the Secretary deems appropriate, either solely, or in cooperation with a public or private agency, authority, association, institution, corporation, organization or person, except that a non-governmental entity may not carry out an inherently governmental function; and

"(8) may, for the purpose of carrying out the Secretary's functions under paragraph (1) of this subsection, convey or lease real property under the administrative control of the Coast Guard to public or private agencies, authorities, associations, institutions, corporations, organizations, or persons for such consideration and upon such terms and conditions as the Secretary considers appropriate, except that the term of any such lease shall not exceed 20 years."; and

(4) by adding at the end the following:

"(e) Special Provisions Relating to Subsection (a)(7) and (8).—

"(1) Definition of inherently governmental function.—For purposes of subsection (a)(7), the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.

"(2) Disposition of proceeds from conveyances and leases.—Amounts collected under subsection (a)(7) shall be credited to a special fund in the Treasury and ascribed to the Coast Guard. The amounts collected shall be available to the Coast Guard's 'Operating Expenses' account without further appropriation and without fiscal year limitation, and the amounts appropriated from the general fund for that account shall be reduced by the amounts so collected.

"(3) Nonapplication of certain acts.—A conveyance or lease of real property under subsection (a)(8) is not subject to subtitle I of title 40, United States Code, or the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).".

SEC. 303. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking "owners and masters" and inserting "owners, masters, and charterers".

SEC. 304. REVISION OF TEMPORARY SUSPENSION CRITERIA IN SUSPENSION AND REVOCATION CASES.

Section 7702(d)(1) of title 46, United States Code, is amended—

(1) by striking "if, when acting under the authority of that license, certificate, or document—" and inserting "if—";

(2) by striking "has" in subparagraph (B)(i) and inserting "has, while acting under the authority of that license, certificate, or document,";

(3) by striking "or" at the end of subparagraph (B)(ii);

(4) by striking "1982." in subparagraph (B)(iii) and inserting "1982; or"; and

(5) by adding at the end of subparagraph (B) the following:

"(iv) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.".

SEC. 305. REVISION OF BASES FOR SUSPENSION AND REVOCATION CASES.

Section 7703 of title 46, United States Code, is amended—

(1) by striking "incompetence, misconduct, or negligence;" in paragraph (1)(B) and insert "misconduct or negligence;";

(2) by striking "or" after the semicolon in paragraph (2);

(3) by striking "note)." in paragraph (3) and inserting "note);"; and

(4) by adding at the end the following:

"(4) has committed an act of incompetence relating to the operation of a vessel, whether or not acting under the authority of that license, certificate, or document; or

"(5) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.".

SEC. 306. REMOVAL OF MANDATORY REVOCATION FOR PROVED DRUG CONVICTIONS IN SUSPENSION & REVOCATION CASES.

Section 7704(b) of title 46, United States Code, is amended by inserting "suspended or" after "shall be".

SEC. 307. RECORDS OF MERCHANT MARINERS' DOCUMENTS.

Section 7319 of title 46, United States Code, is amended by striking the second sentence.

SEC. 308. EXEMPTION OF UNMANNED BARGES FROM CERTAIN CITIZENSHIP REQUIREMENTS.

(a) Section 12110(d) of title 46, United States Code, is amended by inserting "or an unmanned barge operating outside of the territorial waters of the United States," after "recreational endorsement,".

(b) Section 12122(b)(6) of title 46, United States Code, is amended by inserting "or an unmanned barge operating outside of the territorial waters of the United States," after "recreational endorsement,".

SEC. 309. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) Section 5(b) of the Bridge Act of 1906 (33 U.S.C. 495) is amended by striking "$1,000." and inserting "$25,000.".

(b) Section 5(c) of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 499), is amended by striking "$1,000." and inserting "$25,000.".

(c) Section 18(c) of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted March 3, 1899 (33 U.S.C. 502) is amended by striking "$1,000." and inserting "$25,000.".

(d) Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533) is amended by striking "$1,000." and inserting "25,000.".

SEC. 310. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT SAFETY STANDARDS.

Section 4311 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (b) and inserting "(1) A person violating section 4307(a) of this title is liable to the United States Government for a civil penalty of not more than $5,000, except that the maximum civil penalty may be not more than $250,000 for a related series of violations.";

(2) by striking "4307(a)(1)," in the second sentence of subsection (b) and inserting "4307(a),";

(3) by redesignating paragraphs (1) and (2) of subsection (b) as subparagraphs (A) and (B), respectively;

(4) by adding at the end of subsection (b) the following:

"(2) Any person, including, a director, officer, or executive employee of a corporation, who knowingly and willfully violates section 4307(a) of this title, shall be fined not more than $10,000, imprisoned for not more than one year, or both."; and

(5) by striking "$1,000." in subsection (c) and inserting "$5,000.".

SEC. 311. CORRECTION TO DEFINITION OF FEDERAL LAW ENFORCEMENT AGENCIES IN THE ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002.

Paragraph (4) of section 2 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107–173, is amended by striking subparagraph (G) and inserting the following:

"(G) The United States Coast Guard.".

SEC. 312. STOPPING VESSELS; IMMUNITY FOR FIRING AT OR INTO VESSEL.

(a) In General.—Section 637 of title 14, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal, fire at or into the vessel which does not stop; except that the prior use of the warning signal is not required if its use would unreasonably endanger persons or property in the vicinity of the vessel.";

(2) by inserting "or" after the semicolon in subsection (c)(1);

(3) by striking paragraphs (2) and (3) of subsection (c) and inserting the following:

"(2) it is a surface naval vessel or military aircraft on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10."; and

(4) by striking subsection (d).

(b) Report.—The Commandant of the Coast Guard shall transmit a report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the location, vessels or aircraft, circumstances, and consequences of each incident in the 12-month period covered by the report in which the person in command or in charge of an authorized vessel or an authorized aircraft (as those terms are used in section 637 of title 14, United States Code) fired at or into a vessel without prior use of the warning signal as authorized by that section.

SEC. 313. USE OF UNEXPENDED FUNDS FOR BRIDGE ALTERATIONS UNDER TRUMAN-HOBBS ACT.

Section 8 of the Act of June 21, 1940 (33 U.S.C. 518) is amended—

(1) by inserting "(a) In General.—" before "There"; and

(2) by adding at the end the following:

"(b) Unextended Funds.—In addition to other uses permitted by law, upon completion of a bridge alteration project, unexpended funds previously appropriated or otherwise available for the completed project may be used to pay the Federal share of the design and construction costs for other bridge alteration projects authorized under this Act.".

SEC. 314. INLAND NAVIGATION RULES PROMULGATION AUTHORITY.

(a) Repeal.—Section 2 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001) is repealed.

(b) Inland Navigation Rules.—Section 3 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2002) is amended to read as follows:

"SEC. 3. INLAND NAVIGATION RULES.

"The Secretary may issue inland navigation regulations applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.".

SEC. 315. PREVENTION OF DEPARTURE.

Section 3505 of title 46, United States Code, is amended to read as follows:

"§ 3505. Prevention of departure

"Notwithstanding section 3303(a) of this title, a, foreign vessel carrying a citizen of the United States as a passenger or embarking passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.".

SEC. 316. COMPLIANCE WITH INTERNATIONAL SAFETY MANAGEMENT CODE.

(a) Application of Existing Law.—Section 3202(a) of title 46, United States Code, is amended to read as follows:

"(a) Mandatory Application.—This chapter applies to a vessel that—

"(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or

"(B) is of at least 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, that is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

"(2)(A) is engaged on a foreign voyage; or

"(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.".

(b) Compliance of Regulations with International Safety Management Code.—Section 3203(b) of title 46, United States Code, is amended by striking "vessels engaged on a foreign voyage." and inserting "vessels to which this chapter applies.".

SEC. 317. AMENDMENTS TO VESSEL RESPONSE PLAN REQUIREMENTS.

(a) In General.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) by striking the caption of paragraph (5) and inserting "(5) Tank vessel, non-tank vessel, and facility response plans.—";

(2) by adding at the end of paragraph (5)(A) "The President shall also issue regulations which require an owner or operator of a non-tank vessel described in subparagraph (C) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil.";

(3) by striking "vessels and" in paragraph (5)(B) and inserting "vessels, non-tank vessels, and";

(4) by redesignating clauses (ii) and (iii) of paragraph (5)(B) as clauses (iii) and (iiv), respectively, and inserting after clause (1) the following:

"(ii) A non-tank vessel.";

(5) by striking "vessel or" in paragraph (5)(D) and inserting "vessel, a non-tank vessel, or an";

(6) by inserting "non-tank vessel," in paragraph (5)(E) after "vessel," each place it appears;

(7) by inserting " non-tank vessel," in paragraph (5)(F) after "vessel,";

(8) by striking "vessel or" in paragraph (5)(F) and inserting "vessel, non-tank vessel, or";

(9) by inserting "non-tank vessel," in paragraph (5)(G) after "vessel,";

(10) by inserting "and non-tank vessel" in paragraph (5)(H) after "cash tank vessel";

(11) by striking "Not later than 2 years after the date of enactment of this section, the President shall require—" in paragraph (6) and inserting "The President shall require—";

(12) by striking "cargo" in paragraph (6)(B) and inserting "cargo, and non-tank vessels carrying oil of any kind as fuel for main propulsion,"; and

(13) by striking "vessel and" in paragraph (7) and inserting "vessel, non-tank vessel, and" in paragraph (7).

(b) Non-Tank Vessel Defined.—Section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) by striking "and" after the semicolon in paragraph (24)(B);

(2) by striking "threat." in paragraph (25) and inserting "threat; and"; and

(3) by adding at the end the following:

"(26) 'non-tank vessel' means a self-propelled vessel of 400 gross tons or greater, other than a tank vessel, which carries oil of any kind as fuel for main propulsion and that—

"(A) is a vessel of the United States; or

"(B) operates on the navigable waters of the United States.".

(c) Addition of Noxious Liquid Substances to the List of Hazardous Substances for Which the Coast Guard May Require a Response Plan.—Section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)) is further amended—

(1) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively;

(2) by inserting after subparagraph (A) the following:

"(B) The Secretary of the Department in which the Coast Guard is operating may issue regulations which require an owner or operator of a tank vessel, a vessel carrying in bulk noxious liquid substances, or a facility described in subparagraph (C) to prepare and submit to the Secretary a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a noxious liquid substance. For purposes of this paragraph, the term 'noxious liquid substance' has the same meaning when that term is used in the MARPOL Protocol described in section 2(a)(3) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)), and the term 'carrying in bulk' means loading or carrying on board a vessel without the benefit of containers or labels and received and handled by carrier without mark or count.";

(3) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraph (C)";

(4) by striking "subparagraph (A)" in subparagraph (C), as redesignated, and inserting "subparagraphs (A) and (B)";

(5) by striking "subparagraph (D)," in clause (1) of subparagraph (F), as redesignated, and inserting "subparagraph (E),"; and

(6) by striking subparagraph (G), as redesignated, and inserting the following:

"(G) Notwithstanding subparagraph (F), the President may authorize a tank vessel, non-tank vessel, offshore facility, or onshore facility that handles, stores, or transports oil to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the tank vessel, non-tank vessel, or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.".

SEC. 318. REQUIREMENTS FOR TANK LEVEL AND PRESSURE MONITORING DEVICES.

Section 4110 of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(1) by striking "shall" each place it appears and inserting "may"; and

(2) by adding at the end the following:

"(c) Study.—

"(1) The Secretary of the Department in which the Coast Guard is operating shall conduct a study analyzing the costs and benefits of methods other than those described in subsections (a) and (b) for effectively detecting the loss of oil from oil cargo tanks. The study may include technologies, monitoring procedures, and other methods.

"(2) In conducting the study, the Secretary may seek input from Federal agencies, industry, and other entities.

"(3) The Secretary shall provide the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 180 days after the date of enactment of this Act.".

SEC. 319. REPORT ON IMPLEMENTATION OF THE OIL POLLUTION ACT.

(a) In General.—No later than 180 days of enactment of this Act, the Coast Guard shall provide a written report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with respect to issues related to implementation of the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

(b) SCOPE.—The report shall include the following:

(1) The status of the levels of funds currently in the Oil Spill Liability Trust Fund and projections for levels of funds over the next 5 years.

(2) The domestic and international implications of changing the phase-out date for single hull vessels pursuant to section 3703a of title 46, United States Code, from 2015 to 2010.

(3) The costs and benefits of requiring vessel monitoring systems on tank vessels used to transport oil or other hazardous cargo, and from using additional aids to navigation, such as RACONs.

(4) A summary of the extent to which the response costs and damages for oil spill incidents have exceeded the liability limits established in section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704), and a description of the steps that the Coast Guard has taken or plans to take to implement subsection (d)(4) of that Act (33 U.S.C. 2704(d)(4)).

(5) A summary of manning, inspection, and other safety issues for tank barges and towing vessels used in connection with them, including—

(A) a description of applicable Federal regulations, guidelines, and other policies;

(B) a record of infractions of applicable requirements described in subparagraph (A) over the past 10 years;

(C) an analysis of oil spill data over the past 10 years, comparing the number and size of oil spills from tank barges with those from tanker vessels of a similar size; and

(D) recommendations on areas of possible improvements to existing regulations, guidelines and policies with respect to tank barges and towing vessels.

SEC. 320. LOANS FOR FISHERMEN IMPACTED BY OIL SPILLS.

(a) INTEREST; PARTIAL PAYMENT OF CLAIMS.—Section 1013 of the Oil Pollution Act of 1990 (33 U.S.C. 2713) is amended by adding at the end the following:

"(f) LOAN PROGRAM.—

"(1) IN GENERAL.—The President shall establish a loan program under the Fund to provide interim assistance to fishermen and aquaculture producer claimants during the claims procedure.

"(2) ELIGIBILITY FOR LOAN.—A loan may be made under paragraph (1) only to a fisherman or aquaculture producer that—

"(A) has incurred damages for which claims are authorized under section 1002;

"(B) has made a claim pursuant to this section that is pending; and

"(C) has not received an interim payment under section 1005(a) for the amount of the claim, or part thereof, that is pending.

"(3) TERMS AND CONDITIONS OF LOANS.—A loan awarded under paragraph (1)—

"(A) shall have flexible terms, as determined by the President;

"(B) shall be for a period ending on the later of—

"(i) the date that is 5 years after the date on which the loan is made; or

"(ii) the date on which the fisherman or aquaculture producer receives payment for the claim to which the loan relates under the procedure established by subsections (a) through (e) of this section; and

"(C) shall be at a low interest rate, as determined by the President.".

(b) USES OF THE FUND.—Section 1012(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)) is amended—

(1) by striking "Act." in paragraph (5)(C) and inserting "Act; and"; and

(2) by adding at the end the following:

"(6) the making of loans pursuant to the program established under section 1013(f).".

(c) STUDY.—Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a study that contains—

(1) an assessment of the effectiveness of the claims procedures and emergency response programs under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) concerning claims filed by, and emergency responses carried out to protect the interests of, fishermen and aquaculture producers; and

(2) any legislative or other recommendations to improve the procedures and programs referred to in paragraph (1).

SEC. 321. FISHERIES ENFORCEMENT PLANS AND REPORTING.

(a) FISHERIES ENFORCEMENT PLANS.—The Coast Guard and the National Oceanic and Atmospheric Administration shall, to the maximum extent possible, consult with each other and with State and local enforcement authorities in preparing their annual fisheries enforcement plans.

(b) FISHERY PATROLS.—Prior to undertaking fisheries patrols, the Coast Guard and the National Oceanic and Atmospheric Administration shall, to the maximum extent possible, provide to each other and to appropriate State and local enforcement authorities their intentions and projected dates for such patrols.

(c) ANNUAL SUMMARY.—The Coast Guard and National Oceanic and Atmospheric Administration shall prepare and make available to each other, State and local enforcement entities, and other relevant stakeholders, an annual summary report of fisheries enforcement activities for the preceding year, including a summary of the number of patrols, law enforcement actions taken, and resource hours expended.

SEC. 322. DEEPWATER REPORT.

No later than 180 days after enactment of this Act, the Coast Guard shall provide a written report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with respect to performance under the first term of the Integrated Deepwater System contract. The report shall include an analysis of how well the prime contractor has met the two key performance goals of operational effectiveness and minimizing total ownership costs. The report shall include a description of the measures implemented by the prime contractor to meet these goals and how these measures have been or will be applied for subcontracts awarded during the 5-year term of the contract, as well as criteria used by the Coast Guard to assess the contractor's performance against these goals. To the extent available, the report shall include performance and cost comparisons of alternatives examined in implementing the contract.

SEC. 323. SMALL PASSENGER VESSEL SAFETY.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall report to the Congress regarding the enforcement efforts and degree of compliance regarding the 1996 amendments to the Small Passenger Vessel Regulations (title 46, Code of Federal Regulations, part 185) requiring the master of a small passenger vessel to require passengers to don life jackets when possible hazardous conditions exist including—

(1) transiting hazardous bars or inlets;

(2) during severe weather;

(3) in the event of flooding, fire, or other events that may possibly call for evacuation; and

(4) when the vessel is being towed, except a non-self-propelled vessel under normal operating conditions.

(b) CONTENTS.—The report under this section shall include—

(1) a section regarding the enforcement efforts the Coast Guard has undertaken to enforce these regulations;

(2) a section detailing compliance with these regulations, to include the number of vessels and masters cited for violations of these regulations for fiscal years 1998 through 2003;

(3) a section detailing the number and types of marine casualties for fiscal years 1998 through 2003 which have been related wholly or in part to violations of these regulations; and

(4) a section providing recommendation on improving compliance with, and possible modifications to, these regulations.

SEC. 324. ELECTRONIC NAVIGATIONAL CHARTING.

The Commandant of the Coast Guard, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, shall provide a written report to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure no later than 180 days after the date of enactment of this Act with respect to electronic navigational charts. The report shall include—

(1) the costs for the National Oceanic and Atmospheric Administration to complete the suite of electronic navigational charts;

(2) the costs and benefits of a United States requirement of electronic navigation systems on vessels; and

(3) a description of international standards and requirements that already exist or are being developed for the use of electronic navigation systems.

SEC. 325. MEASURES FOR THE PROTECTION OF NORTH ATLANTIC RIGHT WHALES FROM SHIP STRIKES.

(a) Within 120 days of enactment of this Act, the Secretary shall initiate studies to examine options for minimizing vessel strikes of North Atlantic Right Whales in the access of ports which the Secretary, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, has determined—based on a review of past incidents of vessel strikes as well as available scientific, navigation, and other data—pose a substantial risk of vessel strikes of North Atlantic Right Whales. Such studies shall examine measures identified in consultation with the Administrator, including vessel routing, reporting and/or speed measures, that would minimize vessel strikes of North Atlantic Right Whales.

(b) Within 18 months of enactment of this Act, the Secretary of Homeland Security shall, in consultation with Administrator of the National Oceanic and Atmospheric Administration, provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the results of the studies referred to in paragraph (a), including—

(1) a discussion of the effectiveness of the pleasures studied in reducing ship strikes of North Atlantic Right Whales;

(2) a summary, of available analyses regarding potential costs of such measures including regional economic impacts;

(3) the extent to which statutory authority currently exists for the Coast Guard to implement these and other similar measures; and

(4) in consultation with the Administrator and the Secretary of State, a discussion of the national and international legal bases for implementation of such measures.

SEC. 326. FOREIGN VESSEL SECURITY PLANS.

Section 70103 of title 46, United States Code, is amended by adding new paragraphs (c)(8) and (c)(9) to read as follows:

"(8) A foreign vessel destined for, arriving at, or departing from a port or place subject to the jurisdiction of the United States is deemed in compliance with this section if—

"(A) the vessel has in effect a security plan approved pursuant to the International Convention for the Safety of Life at Sea, 1974, (SOLAS) Chapter XI-2 and the International Ship and Port Facility Security Code (ISPS Code); and

"(B) the vessel operates in compliance with its approved plan, SOLAS Chapter XI-2, and the ISPS Code.

"(9) The Secretary shall, consistent with international treaties, conventions, and agreements to which the United States is a party, establish procedures, measures, and standards to assure foreign vessels destined for, arriving at, or departing from a port or place subject to the jurisdiction of the United States comply with vessel security requirements under SOLAS, the ISPS Code, this chapter, and regulations issued under this chapter, including—

"(A) an effective port state control program that identifies foreign vessels for examination based on each vessel's operating history, owner or operator, vessel type, and such other factors as the Secretary determines to be appropriate;

"(B) examination of a vessel and its cargo, passengers, and crew;

"(C) examination of a vessel's security arrangements;

"(D) procedures to ensure shipboard personnel understand their security responsibilities and have the knowledge and ability to perform their assigned duties under a vessel's approved security plan, SOLAS, and the ISPS Code;

"(E) a detailed examination of a vessel's approved security plan;

"(F) restrictions on a vessel's operations or movements;

"(G) denial of entry into port; and

"(H) such other measures that the Secretary determines are necessary to deter a transportation security incident to the maximum extent practicable and to protect the safety and security of United States ports, persons, vessels, facilities, and other property.".

TITLE IV—MISCELLANEOUS

SEC. 401. CONVEYANCE OF LIGHTHOUSES.

Section 308(c) of the National Historic Lighthouse Preservation Act of 2000 (16 U.S.C. 470w-7(c)) is amended by adding at the end the following:

"(4) LIGHTHOUSES ORIGINALLY CONVEYED UNDER OTHER AUTHORITY.—Upon receiving notice of an executed or intended conveyance by sale, gift, or any other manner of a lighthouse conveyed under authority other than this Act, the Secretary shall review the executed or proposed conveyance to ensure that any new owner will comply with any and all conditions of the original conveyance. If the Secretary determines that the new owner has not or is unable to comply With those conditions the Secretary shall immediately invoke any reversionary interest or take such other action as may be necessary to protect the interests of the United States.".

SEC. 402. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, $25,000,000 for each of fiscal years 2004 and 2005. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 403. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTERS.

(a) IN GENERAL.—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to a vessel described in subsection (b) to the person designated in subsection (b) with respect to the vessel (in this section referred to as the 'recipient'), without consideration, if the person complies with the conditions under subsection (c).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The Coast Guard Cutter BRAMBLE, to be conveyed to the Port Huron Museum of Arts and History (a nonprofit corporation under the laws of the State of Michigan), located in Port Huron, Michigan.

(2) The Coast Guard Cutter PLANETREE, to be conveyed to Jewish Life (a nonprofit corporation under the laws of the State of California), located in Sherman Oaks, California.

(3) The Coast Guard Cutter SUNDEW, to be conveyed to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota), located in Duluth, Minnesota.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient—

(1) to agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) to have funds available that will be committed to operate and maintain the vessel conveyed in good working condition—

(A) in the form of cash, liquid assets, or a written loan commitment; and

(B) in an amount of at least $700,000; and

(3) to agree to any other conditions the Commandant considers appropriate.

(d) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of a vessel under this section, the Commandant may, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 404. KOSS COVE.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as "Koss Cove", in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) ¾ mile across the mouth:

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

SEC. 405. DECLARATION OF NON-NAVIGABILITY FOR PORTION OF THE WATEREE RIVER.

For purposes of bridge administration, the portion of the Wateree River, in the State of South Carolina, 100 feet upstream and downstream of the railroad bridge at approximately mile marker 10.0, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 406. CORRECTION OF 2002 COASTWISE TRADE AUTHORIZATION PROVISION.

Section 213(b) of the Maritime Policy Improvement Act of 2002 is amended by striking "transport and launch" and inserting "transport or launch".

SEC. 407. INNOVATIVE CONSTRUCTION ALTERNATIVES.

The Commandant of the Coast Guard may consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System.

SEC. 408. BRIDGE ADMINISTRATION.

Section 325(b) of the Department of Transportation and Related Agencies Appropriations Act, 1983 (Pub. L. 97-369; 96 Stat. 1765) is amended by striking "provides at least thirty feet of vertical clearance Columbia River datum and at least eighty feet of horizontal clearance, as" and inserting "is so".

SEC. 409. NATIONAL COAST GUARD MUSEUM.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§ 98. National Coast Guard Museum

"(a) ESTABLISHMENT.—The Commandant of the Coast Guard may establish a new National Coast Guard Museum on Federal lands administered by the Coast Guard at a location specified by the Commandant.

"(b) FUNDING.—The National Coast Guard Museum should be supported with nonappropriated Federal funds or nonfederal funds to the maximum extent practicable and that the priority for appropriated funds should be to preserve and protect historic Coast Guard artifacts and to promote the purposes of the National Historic Preservation Act (16 U.S.C. 470 et seq.).

"(c) LOCATION.—The National Coast Guard Museum may be located at, or in close proximity to, the Coast Guard Academy in New London, Connecticut or at a location with a comparable historic connection to the Coast Guard that will similarly enhance the public's knowledge and appreciation of the Coast Guard's maritime history.

"(d) FUNDING PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committees on Commerce of the Senate and on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating and maintaining such a museum, including—

"(1) estimated planning, engineering, design, construction, operation, and maintenance costs;

"(2) the extent to which appropriated, nonappropriated, and nonfederal funds would be used for such purposes; and

"(3) a certification by the Inspector General of the Department in which the Coast Guard is operating that the estimates provided pursuant to paragraphs (1) and (2) are reasonable and realistic.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"98. National Coast Guard Museum.".

SA 2955. Mr. ALEXANDER (for Mr. MCCAIN) proposed an amendment to the bill H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes; as follows:

Amend the title so as to read A Bill To authorize appropriations for fiscal years 2004 and 2005 for the United States Coast Guard, and for other purposes.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, April 8, 2004, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to review the National Park Service concessions program, including implementation of the National Park Service Concessions Management Improvement Act of 1998.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Sarah Creachbaum at (202) 224-6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 30, 2004, at 9:30 a.m., in closed session to receive testimony on the Second Interim Report of the Iraq Survey Group.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 30, 2004, at 2 p.m., to conduct a vote on the nomination of the Honorable Alphonso R. Jackson, of Texas, to be Secretary of Housing and Urban Development, and to conduct a markup of S. 2238, "The Flood Insurance Reform Act of 2004."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Tuesday, March 30, 2004, at 2:30 p.m. on the nominations of Theodore W. Kassinger, to be Deputy Secretary of DOT, Deborah Hersman to be a Member of the NTSB, Thomas Moore to be a Commissioner of the CPSC, Joseph Brennan, to be a Commissioner of the FMC, Paul Anderson to be a Commissioner of the FMC, and Jack McGregor to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation, in SR253.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 30, at 10 a.m.

The purpose of the hearing is to receive testimony on the Energy Employees Occupational Illness Compensation Program Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Tuesday, March 30, 2004, to consider favorably reporting the nomination of Donald Korb, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 30, 2004, at 10 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, March 30, 2004, at 9 a.m., in room 485 of the Russell Senate Office building to conduct an oversight hearing on the Inter-Tribal Timber Council's Indian Forest Management Assessment Team Report. Immediately following the close of that hearing, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet at 10 a.m. to conduct a hearing on S. 868, a bill to amend the Coos, Lower Umpqua, and Siuslaw Restoration Amendments Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 30, 2004, at 2:30 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on March 30, 2004, at 2 p.m., in open session to receive testimony on Army aviation programs, in review of the Defense authorization request for fiscal year 2005 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Aviation Subcommittee on Commerce, Science and Transportation be authorized to meet on Tuesday, March 30, 2004, at 9:30 a.m. for a closed hearing on Aviation Security, in SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Tuesday, March 30, 2004, at 2:30 p.m., for a hearing entitled, "The Federal Government's Role In Empowering Americans To Make Informed Financial Decisions."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 30, 2004, at 2:30 p.m.

The purpose of this hearing is to conduct oversight on National Heritage Areas, including findings and recommendations of the General Accounting Office, the definition of a National Heritage Area, the definition of National Significance as it relates to national heritage areas, recommendations for establishing national heritage areas as units of the national park system, recommendations for prioritizing proposed studies and designations, and options for developing a national heritage area program within the National Park Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

Mr. ALEXANDER. Mr. President, on behalf of the leader, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2443 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I am pleased that the Senate has favorably considered the Coast Guard Authorization Act of 2003, and will pass by unanimous consent the Senate manager's amendment to H.R. 2443. We look forward to working with the House to quickly reach agreement on a final bill for passage in both houses.

Senator HOLLINGS and I have agreed to work with the House through a balanced, bipartisan conference committee. The Senate members would include five majority and four minority members of the Commerce, Science, and Transportation Committee. We plan to work together in a bipartisan manner to support the provisions of the Senate bill, while working with the House conference members to reach a final bill acceptable to all conferees. We will also include one majority and one minority member of the Environment and Public Works Committee to work with us on provisions in the bill that amend the Oil Pollution Act of 1990.

Mr. HOLLINGS. Mr. President, I am likewise pleased that the Senate will pass this important authorization bill for the Coast Guard. I look forward to working with Senator MCCAIN and the other members of the conference committee to reach a final consensus bill that we can adopt in both houses.

The Coast Guard has always taken on an impressive array of tasks that are important for our security, for the protection of our resources, and for the safety of our mariners. After the tragic events of September 11, 2001, we have asked the Coast Guard to take on even more in the area of maritime security, while asking them to continue to carry out their traditional missions as effectively as before.

This legislation provides authorizations for Coast Guard's Fiscal Year 2004 and Fiscal Year 2005 budgets, and also includes important new authority for the Coast Guard to better carry out its missions. While the President's budget request for these two years provided some increases, it was still far from adequate to ensure that the Coast Guard will be able to carry out all that we demand of it.

Thus, I am particularly pleased that I had the support of the Committee on Commerce, Science, and Transportation in adding to the Fiscal Year 2004 authorization $491 million in authorizations not requested by the President. For Fiscal Year 2004, the bill authorizes approximately $7.032 billion. This is a 15-percent increase for the Coast Guard's budget over what Congress appropriated last year, and about 5 percent above the President's request for fiscal year 2004. The bill includes authorizations of $246 million in Fiscal Year 2004 for port security not requested by the President, including $100 million for operating expenses, to cover the increases in operating tempo that the Coast Guard has experienced over the past few years, $70 million for analyzing port security plans, and $36 million for three additional Marine Safety and Security Teams. These additional amounts are essential to the security of our ports and waterways, and of our maritime transportation industry.

For Fiscal Year 2005, the bill authorizes approximately $7.787 billion, a 10-percent increase over Fiscal Year 2004 authorized and enacted levels, including for port security operations. This is $327 million greater than the President proposed, over 4 percent higher than the President's request.

I have also been a firm supporter of the need to provide the Coast Guard with the tools it needs to get the job done. The Coast Guard needs to upgrade its core assets, in particular, its aging fleet of cutters. The Integrated Deepwater Program is the Coast Guard's program for achieving these upgrades, and the President has not requested sufficient funding in its budgets to even keep this program on its original track. I therefore strongly support the inclusion of an authorization of $702 million for this program in Fiscal Year 2004, which is $202 million above the President's budget request, and $708 million in Fiscal Year 2005, or $30 million over the President's request. These increases will allow the program to get back on its original schedule.

At the same time, I have significant concerns with respect to how well the Coast Guard is managing this procurement, and whether the unique method for procurement utilized by the Deepwater Program will be able to achieve the stated goals of minimizing costs and providing operational effectiveness. The Deepwater project is the single largest procurement program that the Coast Guard has managed to date. The Senate has voiced concerns about this program on numerous occasions over the past few years. A GAO analysis of the Deepwater project published in May 2001 entitled "Coast Guard: Progress Being Made on Deepwater Project, but Risks Remain" highlighted risks with the project, including concerns with the Coast Guard's ability to control costs by ensuring competition among subcontractors, and the Coast Guard's ability to effectively manage and oversee the acquisition phase of the project. GAO has identified the Deepwater Program as a "high risk" procurement.

GAO recently produced a new report on this subject, entitled "Coast Guard's Deepwater Program Needs increased Attention to Management and Contractor Oversight." The report's major conclusions indicate that there is a need for significant improvement of the program and its oversight by the Coast Guard. First, GAO found that over a year and a half into the Deepwater program, the Coast Guard has not put into place the key components needed to provide adequate oversight of the prime contractor. For example, the Coast Guard had not even agreed on specific criteria to measure the contractor's performance, yet awarded the contractor nearly the total amount possible as a bonus for the first year of the contract.

Second, GAO found that there is no clear, transparent and predictable opportunity for competition of the subcontracts under the Deepwater program. While the prime contractor uses the "open business model" to decide whether to "make or buy" Deepwater assets, this guidance is a philosophy—not a formal process with clear criteria and specific decision points—that encourages, but does not require competition. In fact, over 40 percent of the funds obligated to the first-tier subcontractors, Lockheed Martin and Northrop Grumman, have either remained with those companies or been awarded to their subsidiaries.

Perhaps most disturbing, according to Deepwater officials within the Coast Guard, it is unrealistic to believe that the Coast Guard would change contractors after the first five years of the program. Thus, there is little incentive for the prime contractor to achieve the performance goal of minimizing total ownership costs. This obviously could have serious implications for the American taxpayer.

I have also long been concerned that the Deepwater Program meets not only the letter but the spirit of our Buy America laws. A number of the subcontractors that have either received awards under the Deepwater Program, and/or are included in the contractor's proposal, make all or most of their parts overseas. Buy America was intended to ensure that the U.S. Federal government, including the U.S. military, did not contribute to the loss of American manufacturing jobs, yet here we have a major acquisition program for our 5th branch of the military, the U.S. Coast Guard, that appears to be doing just that.

As a result of concerns about the program, the Commerce Committee included in S. 733, as reported, a requirement that the Coast Guard provide a report to Congress which would include an analysis of the prime contractor's performance in meeting the two key goals of providing operational effectiveness and minimizing total ownership costs. However, based on this latest GAO report, and the need to ensure that Buy America is fully implemented, additional Congressional oversight of this major procurement is clearly warranted. Unless there are significant changes to the way business is conducted on this contract, there will be enormous problems in the future that may, in the long run, undermine this program.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the McCain amendment at the desk be agreed to, the bill, as amended, be read for a third time and passed, the title amendment be agreed to, and the motion to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2954) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment (No. 2955) was agreed to, as follows:

Amend the title so as to read A Bill To authorize appropriations for fiscal years 2004 and 2005 for the United States Coast Guard, and for other purposes.

The bill (H.R. 2443), as amended, was read the third time and passed.

Mr. ALEXANDER. I further ask that the Senate insist upon its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees at a ratio of 5–4 on the Commerce Committee and 1–1 on the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding officer (Mr. TALENT) APPOINTED MR. MCCAIN, Mr. STEVENS, Mr. LOTT, Mrs. HUTCHISON, Ms. SNOWE, Mr. HOLLINGS, Mr. INOUYE, Mr. BREAUX, and Mr. WYDEN; from the Committee on Environment and Public Works, Mr. INHOFE and Mr. JEFFORDS, conferees on the part of the Senate.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 108–199, appoints the following individual to serve as a member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Eric G. Postel of Wisconsin.

The Chair, on behalf of the majority leader, pursuant to Public Law 108–199, Title VI, Section 637, appoints the following individual to serve as member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Michael A. Ledeen of Maryland.

The Chair, on behalf of the majority leader, pursuant to Public Law 108–199, Section 104(c)(1)(A), appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program: William E. Troutt of Tennessee.

MEASURE PLACED ON THE CALENDAR—S. 2250

Mr. ALEXANDER. Mr. President, I understand there is a bill at the desk that is due for second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2250) to extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

Mr. ALEXANDER. I object to further proceedings on the bill at this time on behalf of the leader in order to place the bill on the calendar under the provisions of rule XIV.

The PRESIDING OFFICER. The objection is heard. The bill will be placed on the calendar pursuant to rule XIV.

ORDERS FOR WEDNESDAY, MARCH 31, 2004

Mr. ALEXANDER. On behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, March 31. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10 a.m. with the first half of that time under the control of the majority leader or his designee and the final time under the control of the Democratic leader or his designee.

I further ask consent that at 10 a.m. tomorrow morning, the Chair lay before the Senate a message from the House to accompany S. Con. Res. 95, the budget resolution. I further ask consent that Senator CONRAD be in control of 60 minutes, and Chairman NICKLES be in control of 30 minutes of debate only; provided further that following the use or yielding back of time, the Senate disagree to the amendment of the House, agree to a request for a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 4–3, with no intervening objection or debate.

Finally I ask consent that following the appointment of conferees, the Senate resume consideration of H.R. 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALEXANDER. Mr. President, tomorrow, following morning business, the leader has asked me to say that the Senate will conduct the 90 minutes of debate prior to appointing conferees with respect to the budget resolution. Following that action, the Senate will resume consideration of the welfare reauthorization bill.

Moments ago, the majority leader filed cloture on the committee substitute to that bill. That cloture vote will occur on Thursday of this week. We hope cloture would be invoked to allow us to finish the welfare legislation.

It is also the majority leader's hope that we will be able to move forward with germane amendments to the welfare reauthorization bill and make progress on the bill during tomorrow's session. Therefore, rollcall votes are possible during tomorrow's session. Senators will be notified when the first vote is scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ALEXANDER. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:19 p.m., adjourned until Wednesday, March 31, 2004, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate March 30, 2004:

DEPARTMENT OF STATE

CHRISTOPHER R. HILL, OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

EXTENSIONS OF REMARKS

UNCLE ELI'S QUILTING PARTY

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 29, 2004

Mr. COBLE. Mr. Speaker, on Thursday, April 1, 2004, several hundred people will gather at a location in my congressional district for the 73rd year in a row to commemorate what some fear is becoming a lost art—quilting. No one knows what the future holds for this wonderful tradition, but thanks to a group of dedicated volunteers, there will be a permanent reminder to all who travel to our area.

On April 1, an historic highway marker will be unveiled commemorating "Uncle Eli's Quilting Party." Named after Eli Whitney—the father of the cotton gin—"Uncle Eli's Quilting Party" has been a tradition in Alamance County, North Carolina, since 1931. The unveiling will take place in front of the community center that bears Eli Whitney's name on the "Football Road" (SR 1005) in southern Alamance County. Community volunteers wanted to mark the historic and cultural significance of "Uncle Eli's Quilting Party" with a roadside historical marker. The state of North Carolina agreed that it met the standards needed for the sign's erection, but it did not have any available funding. So, like the determined quilters the sign commemorates, the group pitched in, raised the needed funds themselves, and convinced the state to manufacture the sign. On April 1, all will gather with pride when the sign is unveiled.

To fully appreciate the wonderful traditions kept alive by the quilters, allow me to quote Erma Kirkpatrick from Quiltmaking in America, Beyond the Myths: Selected Writings from the American Quilt Study Group (edited by Laurel Horton):

"The day begins early. By 8:00 a.m., the first cars have parked outside the big old brick gymnasium, which is the Eli Whitney Community Center. Nannie McBane, quilter, quilting instructor, and coordinator of the quilting party unlocks the door. Inside, the gym seems huge, cavernous and bare. One or two quilts have been 'put in' the previous day so the quilters can get an early start. Otherwise the gym is empty, with bleachers folded against the wall and tables stretched out along one end ready to receive food. Gradually the room comes to life. A table is placed by the door so that everyone can sign the register and make a name tag to wear. Early arrivals unfold chairs brought from the storage room and begin to wipe off the bleachers. As women bring in quilted items for display, willing hands help drape the quilts over the now-dusted bleachers or hang them on clothes lines which are stretched around the walls. Suddenly there is a quilt show! . . . The day and the quilting progress. Around noon the covered dishes are uncovered, the line forms, a blessing is asked, and a serious attack is made on the heavily loaded tables . . . The quilters take pride in their cooking as well as their quilting."

Erma Kirkpatrick also writes that in the last few years, the focus of "Uncle Eli's Quilting Party" has changed: "Today the quilting party is a social gathering for which the Eli Whitney community is well known. People attend from as far away as 50 miles. There is less dedication to putting in and completing a quilt. In fact, seldom is a single quilt completed by the end of the day. The number of quilts in frames has gone down and the number of visitors has increased. It has become a spectator sport."

No matter what the future holds, "Uncle Eli's Quilting Party" will continue to mark the start of spring in southern Alamance County. And thanks to a group of dedicated, civic-minded quilters and their fans, a highway marker will let the world know that there is a quilting party every year in North Carolina that would make Uncle Eli proud.

HONORING THE STATE CHAMPION CLARKRANGE HIGH SCHOOL LADY BUFFALOES

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to recognize the Clarkrange High School Lady Buffaloes' for winning this year's Tennessee Class A basketball championship. This is the Lady Buffaloes seventh state title. In winning their seventh title they knocked off the defending state champions.

When people talk about this team you hear words like grit, determination, and cohesion. All three are part of the formula that makes a winner. Clarkrange residents can be proud of the accomplishments of the Lady Buffaloes, who last made it to the state championship in 1995.

The following are the members of the 2003–2004 state champion Lady Buffaloes: Coach Lamar Rogers, Jordan Ramsey, Miranda Cravens, Jaclyn Upchurch, Kari Jones, Michelle Snow, Amanda Beaty, Lindsay Parris, Diane Beaty, Kayla Crabtree, Ashley Jones, Jessica Green, Amy Miller, Brianna Pinson, and Nakeisha Cottle. As is the case in most team sports, cheerleaders are at the forefront of pumping passion and spirit into the crowd. Those assisting the Lady Buffaloes were: Coach Tinker LaRue, Heather Smith, Cassie Hoover, Nekedra Terry, Lauren Moody, Traci Ipock, Alicea Barnett, and Shelly Pack.

Mr. Speaker, I congratulate the Lady Buffaloes and would like to express that the United States House of Representatives recognizes their accomplishment.

PAYING TRIBUTE TO PETE JONES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and memory of Pete Jones of Buffalo, Wyoming, who passed away recently at age sixty-nine. I personally knew Pete well, and he was a devoted family man, a dear friend, and a beloved member of his Buffalo, Wyoming and Glenwood Springs, Colorado communities. As his family and community mourn his passing, I believe it is appropriate to recognize the life of this exceptional man, and his many contributions to his community and state.

Pete was a man of the highest integrity and ethics. During his years spent in Glenwood Springs, he was known in the business community for his fair dealing and problem-solving skills. In his spare time, he immensely enjoyed the rodeo, competing in rough stock events, and also trained and worked as a smokejumper. However, he found the most joy in life spending time with his wife Doris, his children, grandchildren, and the families of his brothers and sisters.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to Pete Jones. I am proud to have known such a great man who enriched the lives of his family and community. My heart goes out to his family during this difficult time of bereavement.

HONORING SHERIDAN AND MILDRED OSTRANDER

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. EMANUEL. Mr. Speaker, I rise to congratulate Sheridan and Mildred Ostrander of Chicago on their recent Golden Anniversary celebrating 50 years of marriage.

Both Sheridan and Millie have been active members of the community and continue to support the many causes important to them.

Sheridan, now retired, has owned several businesses and worked for CNA Insurance for a number of years.

Millie has been a devoted wife, mother, and homemaker and remains active in Our Lutheran Church and Luther North High School Women's Organizations.

Together Sheridan and Millie have lived in their present home for 48 years. They have two children, Janice Fleck and James Ostrander.

The Fleck's, Janice and Michael, are the proud parents of two children, Sarah, who attends Oakton Community College; and Jessica, who attends high school in Niles, Illinois.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

James and Christine Ostrander have two children, Megan and Kevin, who both attend grammar school in Schaumburg, Illinois.

Mr. Speaker, I join with the Fifth District in congratulating Sheridan and Mildred Ostrander on their fiftieth wedding anniversary, and wish them and their extended family all the happiness in the future.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. SHAYS. Mr. Speaker, on March 29, I was in New York City for meetings to discuss a number of homeland security issues with various officials and, therefore, missed two recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted. "yes" on recorded vote No. 94 and "yes" on recorded vote 95.

TANF REFORM

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. DAVIS of Illinois. Mr. Speaker, we have failed to make a real TANF reform that helps the working poor low-income single parents, children of poverty stricken families, and especially the men and women who have a drug conviction.

The TANF program contains several provisions that could decrease funding for individuals who received a drug felony conviction, which includes use, possession, or distribution. There is a lifetime ban on TANF and food stamps for individuals who receive a drug felony conviction after August 22, 1996, unless the State enacts legislation to disregard the ban completely or narrow it. Only 7 States and the District of Columbia have completely opted out of the ban with another 18 states allowing benefits to be paid to individuals with drug felony conviction in certain circumstances. For instance, in only three states the ban does not apply to those who finish their sentence and comply with their parole or probation, six states do not apply the ban to those in treatment or who have completed treatment. However, 41% of States ban TANF and food stamps based on the conviction alone. A report in 2002 estimated that the ban affected 92,000 women in 23 States studied.

Mr. Speaker, this is not a State issue. This is our Nation's issue. If we do not help all of those in need, if we stop giving assistance to some of our most needy, those with an addiction or who have been falsely accused of this conviction, our Nation will end up paying for it with higher rates of crime, higher recidivism rate, and a number of individuals remaining drug-users. The National Treatment Improvement Evaluation Study found that women treated in federally funded treatment programs increased their employment and decreased their use of welfare. The number who reported being employed in the year after treatment increased by 25 percent. Incomes also increased by 6 percent while the number receiving public assistance decreased by 8 percent. This clearly demonstrates that punishment and banning assistance is not the answer. Instead, federal assistance will assist to produce working, tax-paying citizens.

PERSONAL EXPLANATION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. DEMINT. Mr. Speaker, I was absent during rollcall votes 94 and 95. Had I been present, I would have voted "yea" on each of those rollcall votes.

PERSONAL EXPLANATION

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, on rollcall No. 93, HR. 3905—Community Recognition Act of 2003, I was unavoidably detained. Had I been present, I would have voted "yes."

PAYING TRIBUTE TO SGT. ROBERT JEPSEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to an outstanding patriot from my home state of Colorado. Sergeant Robert Jepsen recently returned from serving our nation in Operation Iraqi Freedom. While there, Robert was injured in a terrorist bombing attack near Baghdad. Sadly, the attack also claimed the lives of three of Robert's fellow 82nd Airborne Paratroopers. While we mourn the loss of Robert's comrades, I think it is appropriate to call the attention of this body of Congress, and our nation, to the sacrifices that Robert and his fellow soldiers have made on behalf of a grateful nation.

After graduating from high school, Robert answered his country's call to duty when he entered the United States Army. From the outset, it was clear that Robert had the qualities of a tremendous soldier. His bravery, intelligence and outstanding leadership did not go unnoticed, and Robert earned his Ranger Tab with the 101st Airborne Division, (Air Assault).

Throughout his recovery, Robert has drawn on the qualities that made him a great soldier. He continues to maintain a positive attitude and high spirits while recuperating at Walter Reed Army Medical Center, and plans to return to school to realize his dream of becoming a pediatrician.

Mr. Speaker, it is an honor to rise and pay tribute to Sergeant Robert Jepsen. Robert's personal sacrifice and unwavering heroism is the true embodiment of patriotism. On behalf of my fellow Coloradoans, and Americans, I wish to thank Robert for his bravery and noble service.

TWO OTHER WAYS TO HELP AND HONOR OUR TROOPS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. EMANUEL. Mr. Speaker, I am proud to rise in support of two important bills enacted by the House earlier today that will provide much-needed and deserved assistance to the families of U.S. troops, and provide special recognition for the distinguished service of our military personnel in the global war against terrorism. This legislation would reimburse U.S. service personnel for their transportation costs and create two new campaign medals designating military service in Iraq and Afghanistan.

The first bill, S. 2057, builds on the much-needed and highly successful Operation Hero Miles, which allows Americans to donate their unused frequent flier mileage, by also reimbursing troops for travel expenses to their final destinations. Under the U.S. Armed Forces Central Command Rest and Recuperation Leave Program, those troops who traveled before Dec. 19, 2003 are not eligible to be reimbursed for commercial airfare beyond U.S points of entry—Atlanta, Baltimore, Dallas-Fort Worth, or Los Angeles. Also, there is still a need for travel assistance for soldiers on emergency leave, and for family members of soldiers being treated at U.S. military hospitals. This bill would allow troops to seek reimbursement retroactive to Sept. 25, 2003 which will help many of their families save hundreds of dollars each.

I am also proud to cosponsor and vote for a second bill passed by the House today, H.R. 3104, which would create separate campaign medals specifically designed to recognize service by members of the Armed Forces who participated in Operation Enduring Freedom and Operation Iraqi Freedom. These decorations will be worn proudly by our troops and provide important symbolic recognition by distinguishing their service in the wars in Afghanistan and Iraq, and emphasizing their specific and unique significance in our mission to win the global war against terrorism.

Mr. Speaker, I salute the troops for their continuing valor, patriotism and commitment to our Nation. We thank them for their heroism and sacrifices, and we support these bills to honor their service and to provide much-needed relief for their families. Now that a year has passed since U.S. troops were deployed to Iraq, we wish them all a safe return and hope this legislation makes their trip home a little easier.

INTRODUCTION OF THE CLIMATE STEWARDSHIP ACT

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. SHAYS. Mr. Speaker, there is no doubt in my mind that global warming is happening and that man is contributing to it. Now, it is our responsibility to work to mitigate the impacts of potentially catastrophic climate change.

It is clear we must begin taking steps to reduce U.S. emissions and the Climate Stewardship Act lays out a scientifically sound, economically feasible and environmentally progressive formula for doing so.

By limiting the combined global warming emissions of major polluters, creating a trading market for emissions allowances and reductions through a National Greenhouse Gas Database, and funding transition assistance for workers, industries and consumers, this bill takes a responsible first step toward reducing greenhouse gas emissions in a way that is timely, meaningful and cost-effective.

The Climate Stewardship Act targets emissions from the electricity generation, transportation, industrial, and commercial economic sectors, which together account for 85 percent of overall U.S. greenhouse gas emissions. (Starting in 2010, the bill would cap U.S. aggregate emissions for the covered sectors at the 2000 level. The bill's emissions limits would not apply to the agricultural and the residential sectors.)

It applies a successful, market-based approach to reducing emissions, and the result will be cleaner air and a healthier environment.

The Climate Stewardship Act charts a new, more responsible course on climate policy and reflects a cognizance of the very real threat global warming poses to our Nation and the rest of the world.

We simply will not have a world to live in if we continue our neglectful ways.

CHILD NUTRITION IMPROVEMENT AND INTEGRITY ACT

SPEECH OF

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 2004

Mr. DAVIS of Illinois. Mr. Speaker, I supported H.R. 3873, the Child Nutrition Improvement and Integrity Act last week on the House floor and again commend Chairman BOEHNER, Ranking Member MILLER, Subcommittee Chairman CASTLE and Ranking Member WOOLSEY for their hard work and collaboration on a bipartisan bill which continues to feed our Nation's children.

However, due to our Nation's budget being in the red, it is bothersome that we can not feed more of our Nation's children whose parents are hard working Americans. It is bothersome that there are children whose families can not even afford the reduced price meals but are simply not poor enough to receive free lunch. With over 500 school boards and many state boards of education urging Congress to eliminate the reduced price charge—Congress has replied with "we just can not afford to help your children eat".

It is also bothersome that some in Congress feel that it is inappropriate to recommend what foods are healthy and should be given to students and what unhealthy foods should be kept off the menu. The argument is why would schools attempt to provide healthy foods when students can simply get the unhealthy foods outside of school. Should our schools begin to give up on a student in the 9th or 10th grade because neither parent graduated high school? Should our schools not teach a student to read because neither parent is literate nor does the home provides newspapers or books to read? Should our schools not teach algebra, geometry, or calculus because the parent can only do simply math with a calculator?

Our schools have been the stepping stone to a better life for many individuals than the life of which their parents had academically, socially, emotionally and there is no reason why nutritionally can not be added to the list.

Mr. Speaker, I supported this reauthorization last week—but only wish we could have done more to prevent more children from going hungry.

PERSONAL EXPLANATION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. DEMINT. Mr. Speaker, I was absent during rollcall vote 88. Had I been present, I would have voted "nay" on the vote.

PAYING TRIBUTE TO JOHN RINO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. MCINNIS. Mr. Speaker, it is an honor to pay tribute today to John Rino for his admirable service and dedication to his Trinidad, Colorado community. His volunteer efforts for Trinidad seniors were recently recognized at the Harry R. Sayre Senior Center where a new wing was dedicated in his name. I would like to congratulate John on receiving this honor and thank him for his unwavering commitment to the City of Trinidad and the State of Colorado.

An active member in city politics, John served on the Trinidad city council for sixteen years, and served for two terms as mayor. During his years in public service, John was instrumental in making significant improvements to the city. He organized the county ambulance district, saw that neglected streets were paved, saw that wooden water transmission lines were replaced with metal lines, and extended water lines to areas of the city that were not previously provided with city water. For the last sixteen years, John has volunteered his time with the senior citizen center, organizing and cooking spaghetti dinner fund-raisers that usually have 150 or more people in attendance.

Mr. Speaker, it is quite clear that John Rino is a person who possesses dedication and commitment to his pursuit of public service, and it is my distinct pleasure to honor John before this body of Congress and this nation today. Naming the new wing after John is the center's way of saying thanks for his selfless efforts and leadership, and is a well-deserved testament to his ongoing efforts to better his community. I wish John all the best in his future endeavors.

LETTER OF SUPPORT FROM TREA SENIOR CITIZENS LEAGUE

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. TAYLOR of Mississippi. Mr. Speaker, in January I introduced H.J. Res. 88, a bill proposing a Constitutional amendment to make the Social Security trust funds, the Medicare trust funds, the military retirement trust fund, and the civil service retirement trust fund off-budget so that the annual budget deficit will reflect the true costs of the obligations that accrue each year.

My bill has been endorsed by the TREA Senior Citizens League, an affiliate of The Retired Enlisted Association. I would like to insert the letter of support from George A. Smith, Chairman of TREA Senior Citizens League into the RECORD:

JANUARY 15, 2004.

Hon. GENE TAYLOR
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN TAYLOR: TSCL, a non-partisan advocacy organization consisting of some 1.2 million members and supporters nationwide, understands that you intend to reintroduce a constitutional amendment resolution that would lock Social Security, Medicare and military retirement trust funds off budget. On behalf of our members and supporters, I want to convey our strong support for your resolution.

Contrary to popular belief, Social Security and other trust fund monies are not kept separate from other government funds. The government uses those monies when it needs to, and simply writes an IOU to the trust fund. I believe the American people would be outraged if they truly understood this was happening.

Also, because of the way the government counts the surpluses that we have in the various trust funds, the deficit appears to be less than it really is. Once again, I believe if the American people would see the true size of the deficit, there would be an end to business as usual in Washington. As Comptroller General David Walker said in a September 2003 speech, "'while we are starting off in a financial hole, we don't really have a very good picture of how deep it is" because the Congressional Budget Office and the Office of Management and Budget's current measurement and scorekeeping approaches relay an incomplete and misleading picture of the government's financial condition." [Roll Call, September 18, 2003]

TSCL also applauds the approach you are taking by introducing a constitutional amendment resolution. If legislation only were to be enacted, we believe that Congress and the White House would ignore or work around the law. This is why it is imperative that a constitutional amendment be ratified.

TSCL's parent organization is The Retired Enlisted Association. As such, we are especially grateful for the protections you seek not only for Social Security and Medicare trust funds, but also for the military retirement and disability trust fund.

Please be assured, Rep. Taylor, that we will be doing whatever we can do to move this resolution forward. Again, thank you for your efforts. We look forward to working with you on this critical matter.

Warm Regards,

GEORGE A. SMITH,
Chairman.

GREEK INDEPENDENCE DAY

SPEECH OF

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 2004

Mr. KIRK. Mr. Speaker, I rise today to recognize 183 years of the Greek people's freedom and independence, and their noble revolution from the Ottoman Empire in March of 1821. As Greeks and Greek-Americans celebrate Greek independence Day, I join them and my colleagues in recognizing this great nation.

Nearly 400 years ago, the Greek people embarked on a powerful revolution against the Ottoman oppressors. The ancient Greeks forged a mighty wave of democracy and freedom following the fall of Constantinople, culminating with Bishop Germanos of Patras raising the Greek flag at Agia Lavras.

Today, 183 years after Greece's successful and bold revolution, she continues to prove herself a loyal ally of the United States, while standing firm in her advocacy of democracy and freedom. Greece is one of only three nations in the world beyond those of the former British Empire to be allied with the United States in every major conflict of the 20th Century. The United States is fortunate to have such a longstanding and reliable ally.

As we continue to eradicate the global threat of terror, Greece again stands firm with the United States. Our efforts in the war against terror would not be as successful without the continued assistance from our allies in Greece.

I join my colleagues in saluting and thanking the Greek people on this 183rd year of freedom and independence. To Greece, our free and democratic ally: "Cronia polla hellas".

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. PORTMAN. Mr. Speaker, on March 29, 2004, I was in my congressional district due to a death in my family. I missed the recorded votes on rollcall No. 94, to suspend the rules and pass H.R. 2584, the Utrok Atoll Conveyance; rollcall No. 95, to suspend the rules and pass H.R. 3723, the Vaughn Gross Post Office Building. Had I been present, I would have voted "yea" on rollcall No. 94 and "yea" on rollcall No. 95.

RECOGNIZING THE 75TH ANNIVERSARY OF LANSING CIVIC PLAYERS

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the anniversary of the Lansing Civic Players, a community theater in Lansing, Michigan, as 2004 marks their 75th year of continuous operation.

After three-quarters of a century enduring trials and tribulations, the Lansing Civic Players still continues to achieve the goal they set out for: To provide the people in the Lansing area with good community theatre.

In the fall of 1929, two amateur theater productions were established in the Lansing area: The Players Guild, started by Elva Schell and the Civic Theatre, created by August Fischer. In October 1929, the two groups decided to join resources, and the Lansing Civic Players Guild was born.

The first years were a struggle for the group. The members of the Lansing Civic Players Guild performed all necessary functions. They were the actors, the ticket salesmen, and the set builders. They did it all. They had very little money, but they had a determination to bring quality theater to the Lansing area. The group began work on their first play, "The Trial of Mary Duggan." It was at this time the royalties for the show were pulled, and the Lansing Civic Players Guild was left without a play. But as they say in show business, the show must go on. The group rushed to find a new production, and on May 24, 1930, they performed "Captain AppleJack." This performance had over 1,000 people in attendance, including the Governor of the State of Michigan, and is still a record setting attendance to this day for the theater.

Today, the group operates their business, the building, rehearsals, and costume shop out of a fire hall which they acquired in June, 1977. The Lansing Civic Players have performed at three area high schools since inception, and currently perform at the Hannah Community Center. They have received awards for longevity from the Community Theater Association of Michigan as well as the Lansing City Council.

Mr. Speaker, I ask my colleagues to join me in recognizing the 75th anniversary of the Lansing Civic Players and the impact they have made on mid-Michigan.

COMMENDING SAS INSTITUTE OF CARY, NC, FOR THEIR CONTRIBUTIONS TO THE WORLD OF TECHNOLOGY

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. HAYES. Mr. Speaker, I would like to recognize a milestone for SAS Institute, a home-grown North Carolina software company with roots in our State's fine university system. Since 1976, SAS has been a leading employer, both in our state and around the world, as exhibited by its ranking in Fortune magazine's annual "100 Best Companies to Work For" list year after year. And SAS' $1.34 billion in revenues make it the world's largest privately held software company and the leading business intelligence software company. Today, SAS announces the release of SAS®9, its most advanced business intelligence software ever. SAS®9 helps businesses and organizations worldwide turn raw data into better, faster and more accurate business decisions. Congratulations to SAS, a great North Carolina company that serves the world.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. GALLEGLY. Mr. Speaker, on Monday, March 29, 2004, I was unable to vote on H.R. 2584, to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship (rollcall 94) and H.R. 3723, the Vaughn Gross Post Office Building Designation Act (rollcall 95). Had I been present, I would have voted "yes" on both measures.

PERSONAL EXPLANATION

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. TAYLOR of Mississippi. Mr. Speaker, yesterday, on March 29, 2004, I was unavoidably detained because my departure flight from my congressional district was delayed as a result of mechanical problems. This situation resulted in my having missed rollcall votes 94 and 95. Had I been present, I would have voted "yea" on rollcall vote No. 94 and "yea" on rollcall vote No. 95.

TRIBUTE TO RAY MEYER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. McINNIS. Mr. Speaker, it is a privilege to rise today to pay tribute to Ray Meyer for his selfless dedication to his Delta, Colorado community, and congratulate him on being recognized by the Delta Chamber of Commerce as their Citizen of the Year. A lifelong resident of Delta and a member of the Delta City Council, Ray has involved himself with numerous civic organizations. This award is a well-deserved testament to his ongoing efforts to better his community.

Born in Delta and raised in his father's grocery store, Ray has always been an active member in the community. The time Ray spent away from Delta was just as active, attending college at the University of Denver and serving our country in the Navy during World War II. Once he came home from defending our country in the Asian-Pacific Theatre, Ray joined his father's grocery business. In 1958, he became manager of Delta Savings and Loan, and served as CEO and chairman until his retirement in 1985.

Ray has served his Delta community as a member of the city council for 14 years, sitting as chairman and on numerous committees, including region 10. He is also an active member at St. Michael's Catholic Church, a member and past president of the Lions Club, and a former president of the Rotary Club and Delta chamber. He serves on the library board and the public arts committee, and is a member of the Community Concert Association.

Mr. Speaker, it is my privilege to recognize Ray Meyer before this body of Congress and this nation today for his commitment to his Delta, Colorado community. He has done much for the city of Delta, and I congratulate him on receiving the Delta Chamber Citizen of the Year award. I would also like to congratulate Ray and his wife Jo as they recently celebrated their sixty-fifth wedding anniversary. I wish him all the best in his future endeavors.

PERSONAL EXPLANATION

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. BARRETT of South Carolina. Mr. Speaker, due to unforeseen circumstances, I unfortunately missed recorded votes on the House floor on Monday March 29, 2004.

I ask that the RECORD reflect that had I not been unavoidably detained, I would have voted " yes" on rollcall vote No., 94—Motion to suspend the rules and agree to the Senate amendments to H.R. 2584; and "yes" on rollcall vote No. 95—Motion to Suspend the Rules and Pass H.R. 3723.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mrs. MALONEY. Mr. Speaker, on March 29, 2004, I missed rollcall votes No. 94 and 95.

Had I been present, I would have voted "yea" on rollcall vote No. 94 and 95.

COMMENDING PLANNED PARENTHOOD OF SANTA BARBARA, VENTURA AND SAN LUIS OBISPO COUNTIES, INC. ON THEIR 40TH ANNIVERSARY

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mrs. CAPPS. Mr. Speaker, today I rise to commend Planned Parenthood of Santa Barbara, Ventura & San Luis Obispo Counties, Inc. on their 40th anniversary. Planned Parenthood of Santa Barbara, Ventura & San Luis Obispo Counties, Inc. promotes family planning and healthy, responsible reproductive and sexual behavior through the provision of high-quality, comprehensive educational, counseling, medical and referral services.

Planned Parenthood of Santa Barbara, Ventura & San Luis Obispo Counties, Inc. promotes public understanding, acceptance and support for reproductive choice and family planning services. They provide these important services to everyone who needs them, regardless of their ability to pay.

Planned Parenthood of Santa Barbara, Ventura & San Luis Obispo Counties, Inc. promotes public understanding of global problems that stem from population pressures and encourages support of programs working toward solutions to these problems. More than 52,000 reproductive health care visits are provided annually to more than 20,000 low-income women, men and teens. Planned Parenthood should be commended for their outreach to underserved populations and for their provision of care in an unbiased and accepting environment.

The advocacy efforts on behalf of clients that Planned Parenthood provides, ensures that women and families continue to have access to the full array of reproductive health care services. I celebrate Planned Parenthood's forty years of dedicated service to this community.

Professional and peer educators provide sexuality education to promote healthy sexual attitudes and responsible sexual behavior to more than 66,000 teens, young adults and parents annually. As a nurse I understand firsthand the importance of proper health education. I commend Planned Parenthood for providing such a critical service.

In closing, I want to affirm my support for Planned Parenthood, as we join in commemorating the 40th Anniversary of Planned Parenthood of Santa Barbara, Ventura & San Luis Obispo Counties, Inc. in order to focus public attention on the importance of promoting family planning and responsible choices so that each person may make an educated choice about the future.

HONORING LAURIE MARRS UPON HER RETIREMENT

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. MCCOTTER. Mr. Speaker, I rise today in honor of Laurie Marrs upon her retirement after 20 years of service as Executive Director of the Northville Chamber of Commerce.

Due to her leadership in the business community, the Northville Chamber of Commerce has become one of the premier business associations in the State of Michigan. From 1985 to today, Laurie Marrs has increased membership from 100 to 525 members, founded and served as chairperson for the Northville Victorian Festival, increased the number of Farmer's Market vendors from 6 to 100, instituted the annual State of the Community luncheon and founded the Northville Business Showcase.

Her husband, Terry, and daughters, Kelly and Andrea, should be extremely proud of the undeniable mark she has left on the community. We at home will sorely miss and always benefit from her dedication and leadership.

Mr. Speaker, I extend my sincere appreciation to Ms. Laurie Marrs, upon her retirement after 20 years as Executive Director of the Northville Chamber of Commerce, for her fine service to the community.

TRIBUTE TO LON ERWIN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Lon Erwin for his remarkable record of service to the community of Durango, Colorado. I would also like to congratulate him on receiving the 2004 Barbara Conrad Award from the Durango Chamber of Commerce which was presented by his wife, Sidny Zink, a Durango City Councilor. This award, honors an individual who is associated with the Leadership La Plata program and is dedicated to building a stronger community by bringing people together.

Since his graduation from the Leadership La Plata program in 1990, Lon has been active in numerous initiatives and organizations. He serves as president of the local chapter of Civitan International, serves as board president of the Southwest Colorado chapter of the Red Cross, and is the executive director of the Community Foundation Serving Southwest Colorado. Erwin is also the volunteer coordinator for Durango Food Share, which distributes food to those in need in Durango, Cortez, Pagosa Springs, and Aztec, Colorado. Not only is he willing to give his time to worthy causes, but he had the foresight to establish leadership classes for high school students in Durango, Cortez, Bayfield, and Ignacio, ensuring that the next generation has the tools to lead and strengthen the community.

Mr. Speaker, I am honored to pay tribute to the service and achievements of Lon Erwin before this body of Congress and this nation. His efforts to strengthen his community are truly remarkable, and his receiving the 2004 Barbara Conrad Award is a well-deserved testament to his tireless efforts. I sincerely thank him for his service and wish him the best in his future efforts.

SAVE THE SUMMERS ACT OF 2004

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. YOUNG of Alaska. Mr. Speaker, yesterday I introduced the Save the Summers Act of 2004, which will temporarily increase the cap on the number of skilled overseas workers allowed into the United States. For the first time and without advance warning, the Department of Homeland Security announced that the cap of 66,000 H–2B visas had been reached just six months into the current year—leaving summer employers stranded. This one-year emergency fix will increase the number of H–2B visas by 40,000 for fiscal year 2004 only. This bill will also require that the Department of Homeland Security provide Congress with quarterly reports on the number of H–2B visas issued and an annual report providing a statistical analysis of the program.

The H–2B visa program allows foreign workers to come to the U.S. for short periods of time (up to 10 months) to fill seasonal or temporary jobs. The fishing industry in Alaska, tourist and resort industry along much of the East Coast, the Upper Midwest, and the Rockies, swimming pool management companies across America, catfish, timber and sugar industries in Louisiana, crab processors in North Carolina, and the shrimp industry in Texas are just a few that depend on the H2–B program to bring in needed workers.

Fishing in Alaska supports nearly 20,000 jobs, and is estimated to be a billion dollar-a-year industry with nearly 700 million dollars-a-year in exports. The processors and vessel owners rely on these temporary workers who are Japanese technicians specifically trained to the standards required for Alaska Ikuro products to be sold in the Japanese market. Their skills are not otherwise available in the Alaska or U.S. labor pool and they are not taking work from U.S. workers. My state relies on these workers and I believe the H–2B visa program is vital to the survival and economic growth of the fishing industry in Alaska. The potential for lost revenue in Alaska is extremely high if the industry does not have these skilled technicians to aid with the processing.

This is a serious matter that requires immediate legislative action. I ask my colleagues in the House of Representatives for their support and urge them to swiftly pass this emergency legislation, which directly affects the economy in many of our districts.

JOB LOSSES IN THE U.S. TIED TO HUMAN RIGHTS ABUSES IN CHINA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I'd like to call my colleagues' attention to an important development in our country's approach to trade. For years, businesses have recognized that markets only work when the rules are applied fairly to everyone. Corporations have pushed our government to enforce international trade law governing intellectual property, state subsidies, and pricing, because violations of these international rules hurt American businesses and American workers.

Now, for the first time, workers themselves have filed a petition, arguing that systematic abuse of workers' rights in China have displaced hundreds of thousands of American jobs. This historic petition filed by the AFL–CIO describes how the Chinese labor system artificially lowers wages and brutally represses its workers, and therefore constitutes an unfair trade practice under Section 301(d) of the Trade Act because it "burdens or restricts U.S. commerce."

I commend to my colleagues the following opinion piece from Harold Meyerson, who notes correctly that this petition could result in our trade law finally being applied to the benefit of workers as well as shareholders. In addition, the unabashedly free-trade editorial page of the Washington Post wrote that the "administration should agree to consider [the AFL–CIO's] petition." Simply put: it is not protectionist to argue that free markets and a free economy cannot be based on human-rights abuses.

For too long, American trade policy has failed to promote even minimum labor standards. The International Labor Organization's core labor standards simply articulate basic political freedoms, such as the freedom to associate, the abolition of forced labor, and the elimination of the worst forms of child labor. Unfortunately, the Bush administration has failed to include even these internationally-recognized standards as a framework for trade negotiations. Yet the ILO's report on Central America confirms that none of the CAFTA countries is in compliance with basic standards of health and safety or freedom of association.

If free trade is going to improve the quality of life for Americans without putting downward pressure on labor standards internationally, we must ensure that every country is playing by the same rules. I urge my colleagues to read the attached articles.

[From the Washington Post, Mar. 17, 2004]

CHINA'S WORKERS—AND OURS

(By Harold Meyerson)

Until 10 a.m. yesterday, U.S. trade law belonged to big business. Corporations routinely petitioned our government to threaten other countries with sanctions if their products were being knocked off or undersold by foreign manufacturers with state subsidies, and our government frequently complied. The solicitude the Bush White House and its predecessors showed for shareholders, however, was nowhere in evidence for workers. Profits depressed by unfair trade practices were an official object of concern; wages and employment levels depressed by unfair trade practices were none of the government's business.

This double standard was the heart of modern trade policy. Yesterday morning, that began to change. For the first time ever, the AFL–CIO filed the kind of unfair-trade petition that corporations commonly file, alleging that China's repression of workers' rights has displaced at minimum 727,000 U.S. jobs, and calling on the President to threaten China with tariffs until it stops artificially lowering its workers' wages.

The idea that our trade statutes protect American workers from competition with repressed workforces overseas will surprise just about everybody, but in fact, these laws were enacted by Congress in the 1980s and signed by Ronald Reagan. For the past 15 years, unions have taken no action under the laws, because the U.S. job losses were hard to quantify.

Over the past year, however, Mark Barenberg, a Columbia University law professor, and Mark Levinson, chief economist for UNITE (the clothing and textile union), concluded that changes in the global economy were so huge that such a calculation was now possible—and necessary. In particular, there was the loss of nearly 3 million U.S. manufacturing jobs over the past 3 years, the concurrent explosion of Chinese manufacturing, the ballooning of the U.S. trade deficit with China and the abundant if largely ignored documentation of China's semi-Stalinist labor system. All these things combined to make a trade-law appeal on behalf of U.S. workers eminently plausible.

The 103-page AFL–CIO petition runs through an array of statistical analyses to come up with its figure of 727,000 displaced American manufacturing jobs. But its foremost achievement may be to encapsulate the vast literature that describes the part-feudal, part-communist labor system in which Chinese peasants must labor when they go to work in China's export-sector factories. Under China's hukou system of household registration, citizens must live and work in the place where they are permanently registered, normally their place of birth. Every household is designated as rural or urban, a distinction on which a caste system has been erected.

Urban workers are free to apply for and leave jobs; they are entitled to state housing and pensions. Rural workers, however, need state permission to seek work in towns and factories. Once employed, they enter a bonded-labor arrangement in which they cannot quit unless they can pay their employer an amount plainly beyond their means. The hukou system forbids them to compete with urban workers for higher paying jobs, and migrant workers without jobs are subject to arrest by the state's public security bureau.

By state design, then, these workers have no power to affect their conditions of work. Though productivity in China has skyrocketed, they are routinely paid rural-level subsistence wages—as little as 15 to 30 cents an hour—when they are paid at all. Employers tend to recruit childless, young, single women, whom they pack into cement-block dormitories to which the women are commonly restricted when they're not on the factory floor. They cannot leave. They organize at the peril of imprisonment or torture.

China has 160 million workers in manufacturing and mining, nearly 12 times the U.S. total. The Organization for Economic Co-operation and Development estimates that 20 million peasants will enter the urban workforce every year for the next 20 years. This is, make no mistake, the planet's proletariat—and it in no way resembles the kind of free labor force we take for granted in the United States. Those U.S.-based corporations that invest in Chinese factories—a long list headed by Wal-Mart—owe some nice chunk of their profits to a workforce toiling, to resurrect a line from Mao, under "the barrel of a gun."

Critics will doubtless call the AFL–CIO "protectionist" for filing this petition. And if it's protectionist to demand that millions of Chinese women have the right to leave their jobs and apply for better ones, or to unionize their workplace or be allowed at least one day off a year, if it's protectionist to demand that U.S. workers not lose their jobs because they cannot work as cheaply as these repressed Chinese workers, then the AFL–CIO should absolutely plead guilty. What I'd like to hear from the critics—and from George W. Bush—is why they're protecting the deal between U.S. corporations and China's neo-Stalinist state to extract profits for them both at the expense of tens of millions of desperate young women.

[From the Washington Post, Mar. 22, 2004]

TRADE AND LABOR RIGHTS

The Ethical basis of free markets is that they reflect free, individual choices. Workers may be paid little, but if they sign up for jobs voluntarily, then those jobs must be the best options available. Removing those jobs, for example, by closing factories on the grounds that they are "sweatshops," will make workers' lives worse. But what if the workers' choices are not free—what if workers are locked up in factory dormitories and brutalized when they protest? In that case capitalism has lost its ethical foundation. Capitalism may remain a wonderful engine of economic growth, and growth in the long term tends to bring freedom. But in the meantime it will not be just.

This is why the trade complaint against China, filed by the AFL–CIO last week, deserves qualified sympathy. China's police state abuses workers, who sometimes go unpaid and then get beaten up when they demand what is owed to them; it has punished labor leaders with harsh prison sentences handed down after fake trials. The AFL–CIO is right that such treatment violates the principle that free economics should be rooted in free politics. If the effect of the petition is to goad the U.S. government into protesting human-rights abuses in China, it will be constructive.

But the unions' ambitions go beyond that. Their petition demands that the Bush administration punish China with trade sanctions, arguing that Chinese abuses drive down wages and increase the competitive pressure on American workers. In fact, ending abuses in China would not save many American jobs. China has 800 million people living in the countryside, where underemployment afflicts one in three workers; for these people, wages of $2 a day represent an attractive income. Market forces, not denial of workers' rights, are overwhelmingly the main reason for China's low wages.

Still, China's abusive labor practices are abhorrent, so one can agree with the unions' objective without accepting their supporting argument. The question is whether trade sanctions are the right way to help Chinese workers. Sanctions can sometimes work, especially if their aim is to extract specific concessions: that certain prisoners be released, for example, or that a particular labor practice be stopped. The unions' demand is that China set up an administrative system to enforce labor rights throughout its vast manufacturing sector. That might prove more than the communist regime can stomach, in which case the trade sanctions would disrupt trade without improving labor rights—retarding the economic progress that may bring political freedom in the long run.

The Bush administration must decide whether to consider the petition and what sanctions if any to apply. If it accepted the idea of imposing trade penalties on China, the Chinese would likely appeal to the World Trade Organization's arbitration panel, and the appeal might well be successful, forcing the United States to lift its sanctions. If, on the other hand, the panel sided with the United States, the WTO would for the first time have imposed on its members a duty to protect labor standards.

Would this be a good thing? Yes, provided that these labor standards governed basic political freedoms rather than mandating minimum wages or even minimum standards of safety. Imposing economic regulation on poor countries would harm poor workers by destroying their jobs. But even if the new standards were reasonable, they might cause a backlash from developing countries, which regard external imposition of labor standards as protectionism in disguise. If developing countries withdrew from the WTO as a consequence, trade would be disrupted, and workers would suffer once again.

In short, if trade is used as a lever to promote a revolution in international labor rights, the lever will break. Still, the unions are pursuing a good cause, and the administration should agree to consider their petition. Here's a small proposal: To allay poor countries' fears of disguised protectionism, the United States should couple measured promotion of labor rights with bigger cuts in U.S. tariffs on products such as textiles and sugar. That would displease some U.S. unions and businesses, but it would further the interests of the world's poorest workers.

HONORING AND CONGRATULATING MR. THOMAS M. McDERMOTT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure and honor that I congratulate Mr. Thomas M. McDermott on his retirement from the Northwest Indiana Forum. Tom has spent the past 11 years dedicating his life to the promotion of economic development and growth in Northwest Indiana. His career as President and CEO of the Northwest Indiana Forum has allowed him the opportunity to touch the lives of many people. In honor of his gracious service to his community, there will be a celebration of his accomplishments on March 31 at the Horseshoe Casino in Hammond, Indiana.

Tom McDermott has accomplished many visionary goals throughout his career. Before joining the Forum in 1992, Tom served as Mayor of the City of Hammond for nine years. Prior to that, Mr. McDermott served as Circulation Director of The Times and as Suburban Circulation Director for the Chicago Sun Times. Tom has also ventured into the newspaper and radio business, serving at one time as owner of WIMS Radio in Michigan City, WXRD in Crown Point, WJOB in Hammond, WCGO in Chicago Heights, Illinois, WABT in Kane County, Illinois. and WZVN in Merrillville.

Not only has Tom had many positive accomplishments throughout his career, he has also actively contributed to his community through participation in various programs aimed at improving opportunities for the people of Northwest Indiana. He has been a powerful member of the Board of the Fund for American Studies, the Lake Area United Way, Hoosier Boys Town, Boy Scouts of the Calumet Council, Lake Point Children's Discovery Center, Chancellor's Advisory Board at Purdue North Central, Partnership for a Drug Free Lake County, Northwest Indiana Urban League, Trade Winds Board, Welfare Reform Council, Campagna Academy Board, and the Northwest Indiana Quality of Life Board. In addition, Tom has addressed educators and community leaders in London on partnership programs to encourage excellence in education, and was chosen by the American Council of Young Political Leaders to represent the United States in Australia and Norway.

Along with his many other accomplishments, Tom has received numerous community service and leadership awards, including "Business Person of the Year" from the Hammond Chamber of Commerce. Other awards include: Lake County Economic Opportunity Council Service Award, Greater Hammond Community Services "Man of the Year" award, and the American Business Women's Association "Boss of the Year" award.

Mr. Speaker, Tom McDermott has given his time and efforts selflessly to the people of Northwest Indiana throughout his years of service. He has taught every member of his staff the true meaning of service to all members of the Northwest Indiana community. I respectfully ask that you and my other distinguished colleagues join me in congratulating Mr. Tom McDermott for his outstanding contributions to Indiana's First Congressional District. I am proud to commend him for his lifetime of service and dedication.

PAYING TRIBUTE TO RUSSELL HINDMARSH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Russell Hindmarsh for the contributions he has made to his Dolores community and the State of Colorado. Recently, Russell was chosen as Cattleman of the Year for his lifelong commitment to the cattle industry. It is with great satisfaction that I congratulate Russell for this well-deserved honor, and thank him for his contributions to his community and state.

A veteran of the Korean War, Russell began working in the livestock industry at a young age, and learned to ranch sheep and cattle from his father. As his career in the industry progressed, he has focused his attention to raising cattle. Russell's involvement in the ranching community of Colorado includes having served on the advisory boards for the Forest Service and Bureau of Land Management, serving on the Southwest Livestock Association board, and serving on the Montezuma Woolgrowers board. He also is a former member of the Colorado Woolgrowers, the National Woolgrowers, the Colorado Cattlemen, and the National Cattlemen.

Mr. Speaker, it is clear that Russell Hindmarsh has a legacy of strong commitment to the cattle industry in the Dolores community and the State of Colorado. Russell's efforts to keep this great tradition of ranching vibrant is worthy of recognition before this body of Congress and this nation today. It is my privilege to extend to Russell my sincere congratulations on being named Cattleman of the Year for 2004, and wish him all the best in his future endeavors.

TRIBUTE TO FRANCIS I. "BUTCH" HODGKINS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. MATSUI. Mr. Speaker, I rise in tribute to a man with a truly distinguished public service career. For nearly four decades, Francis I. "Butch" Hodgkins has served Sacramento County with great class and distinction. Butch will soon retire from his current position as the Executive Director of the Sacramento Area Flood Control Agency. As his friends, family and colleagues gather to celebrate Butch's illustrious career, I ask all of my colleagues to join me in saluting this outstanding citizen of Sacramento.

Butch received his Associate of Science degree from Sacramento City College and then moved on to California State University, Sacramento for a Bachelor of Science degree in Civil Engineering. In 1965, Butch began his four-decade long career with the County of Sacramento, Department of Public Works. From 1972 until 1988, he worked for Public Works Division of Sacramento County that dealt with the sewer system.

In March of 1989, Butch was appointed Deputy Director of the Department of Public Works for Sacramento County. During his tenure at this position, he served as the project and construction engineer for a $100 million wastewater construction program. In addition, as Chief of the Division, he was responsible for a $50 million per year regional wastewater project.

In September 1991, the Sacramento County Board of Supervisors assigned Butch to the City and County Office of Water Planning. In his capacity as a Liaison for the City and County Office of Water Planning, Butch was charged with the formidable task of formulating an area-wide plan to provide safe and reliable water supply in such a manner which protects the environment for both the City and County of Sacramento. As he had demonstrated throughout his career up to that juncture, Butch achieved great success in this position. Butch soon developed a well deserved reputation as an effective problem-solver and a dedicated public servant. In September of 1994, Butch's outstanding track record would earn him the post of the Executive Director of the Sacramento Area Flood Control Agency (SAFCA.)

SAFCA is a joint organization with a Board of Directors comprised of members from Sacramento County Board of Supervisors, Sacramento City Council, Reclamation District 1000 Board of Trustees, American River Flood Control District Board of Trustees and Sutter County Board of Supervisors. Its primary function is to address problems such as regional flood control and levee instability in the Sacramento area.

Under Butch's stewardship, SAFCA has grown in credibility, visibility, and reach. In a community in which everyone agrees that the region's current flood protection is woefully inadequate, but not everyone agrees on a solution, Butch has helped mold SAFCA into the definitive and unifying authority on all matters related to flood control in the Sacramento Area. Throughout his successful tenure as Executive Director, Butch has proven to be an affective consensus builder, pragmatic thinker, and tireless worker who has rightfully earned the respect and admiration of those who have worked with him.

In his retirement, Butch can look forward to spending more time with his wife, Christine and daughters, Shelly Lynn and Laurie. I am confident that Butch would achieve great success and happiness in his retirement, just as he had throughout his professional career.

Mr. Speaker, as Butch's friends, family and colleagues gather to celebrate his great career; I am truly honored to pay tribute to one of Sacramento's most honorable citizens. The Sacramento region has benefited greatly from having Butch's strong leadership during turbulent times. He will be missed greatly by all who worked with him. I ask all of my colleagues to join with me in wishing Butch continued success in all of his future endeavors, wherever retirement may lead him.

RECOGNIZING PROFESSOR RICHARD HANN OF IMPERIAL COUNTY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. HUNTER. Mr. Speaker, I rise today to recognize Professor Richard Hann of Imperial County. Professor Hann recently retired from Imperial Valley College (IVC) after 35 years of devoted service and teaching. I believe it would be accurate to say that Professor Hann has touched the lives of thousands of students during his tenure.

Richard's leadership, enthusiasm for teaching and desire to have students develop and exercise their critical thinking skills as Chairman of the Social Science and Humanities Divisions at IVC will be sorely missed. It is becoming increasingly rare to find educators who exhibit the effort and values Richard instilled into the academic environment at IVC. These were exhibited on a daily basis and earned Professor Hann the respect of his colleagues, students, and college administration.

I also want to recognize and thank Professor Hann for the work he has done on behalf of Imperial and San Diego Counties. During a time where the pursuit of knowledge and the commitment to one's community often becomes an afterthought, your continued efforts to preserve the history of Imperial and San Diego Counties will benefit our communities for years to come. For your work in this important area, we are forever indebted and are all grateful.

Congratulations again on your retirement Professor Hann, I wish you all the best with your future endeavors.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. BECERRA. Mr. Speaker, on Monday, March 29, 2004, I was unable to cast my floor vote on rollcall Nos. 94 and 95. The votes I missed include rollcall vote 94 on the Motion to Suspend the Rules and Agree to the Senate Amendments to H.R. 2584, to Provide for the Conveyance to the Utrok Atoll Local Government of a Decommissioned National Oceanic and Atmospheric Administration Ship; and rollcall vote 95 on the Motion to Suspend the Rules and Pass H.R. 3723, the Vaughn Gross Post Office Designation.

Had I been present for the votes, I would have voted "aye" on rollcall votes 94 and 95.

PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. ETHERIDGE. Mr. Speaker, yesterday my original flight from my congressional district in North Carolina was canceled, forcing me to take a later flight. Therefore I was unavoidably detained and missed the following three votes: passage of H.R. 2584; passage of H.R. 3723; and passage of H.R. 3917.

Had I been present, I would have voted "Yes" on each of these rollcall votes. I ask unanimous consent that this statement be recorded in the appropriate place in the CONGRESSIONAL RECORD.

RECOGNIZING COLONEL MICHAEL A. SHUPP

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. DREIER. Mr. Speaker, I rise today to recognize an exceptional officer of Marines, Colonel Michael A Shupp. Colonel Shupp will soon complete a highly successful 3 year tour as the Marine Corps' Liaison Officer to the U.S. House of Representatives. It is truly a pleasure for me to recognize a few of his many outstanding achievements.

Colonel Shupp was raised in Bethlehem, PA. He attended the Virginia Military Institute and graduated with a Bachelors of Arts Degree in History. He completed the Airborne Course at Fort Benning, GA in 1979, and the Marine Officer's Candidate School at Quantico. VA, in 1980. He was commissioned a Second Lieutenant upon his graduation from VMI and entered the Marine Corps in May 1981.

His many assignments over the past 23 years have included command of Company "A" 1st Light Armored Infantry Battalion during Operations Desert Shield and Desert Storm and command of the 3rd Light Armored Reconnaissance Battalion of 1st Marine Division at MAGTF-Training Command, Twenty-nine Palms, CA. Additionally, he has served in many important staff billets to include being an operational planner for II Marine Expeditionary Force, Camp Lejeune, NC, Plans Officer for 26 MEU (SOC) during Operation Dynamic Response, and being the Marine Corps' representative to the Assessment Planning Team for Operation Allied Force in Kosovo.

In August 2001, Colonel Shupp arrived for duty as the Marine Corps Liaison Officer to the U.S. House of Representatives. For the past 3 years, he has expertly represented the Marine Corps on all matters in the House of Representatives and spearheaded the Marine Corps' most difficult and challenging legislative initiatives. Through direct and skillful interaction with Members of Congress, he ensured that Marine Corps capabilities and requirements were widely understood by key Members of this body, assisting them in their decision-making. His initiative, leadership, and tireless efforts as the House Liaison Officer have had a lasting impact on improving the war fighting capabilities and the quality of life for Marines throughout the Marine Corps. Most importantly Mr. Speaker, Colonel Michael Shupp has come to epitomize those qualities that we as a nation have come to expect from our Marines—absolutely impeccable integrity, moral character and professionalism.

Mike was promoted to Colonel while serving here with us in 2003. He has traveled with us to dozens of countries, introduced us to hundreds of Marines worldwide, educated us on the capabilities and needs of the Marine Corps, and served as a stellar example of commitment to this great Nation. As he reports to his next assignment as the Commanding Officer of 1st Marine Regiment, headquartered at Camp Pendleton, CA I know he will continue his legacy of steadfast leadership and devotion to his men. Together with his lovely wife, Sherrye, he will always exemplify the Marine traditions of honor, courage, and commitment. It has been my pleasure to know and work with Colonel Mike Shupp over the last 3 years; a distinction I know is shared by many of my colleagues. I feel sure you want to join me in wishing Mike, Sherrye, and their daughter Jessica continuing success as well as fair winds and following seas.

HONORING ABIGAIL POWERS FILLMORE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. REGULA. Mr. Speaker, today, March 30, 2004, marks the 151st anniversary of the death of First Lady Abigail Powers Fillmore, founder of the very first White House Library.

Abigail Powers was born on March 13, 1798, in Stillwater, NY, and received a good education and love for learning and libraries through the personal library of her father, Reverend Lemuel Powers (d. 1800). She became a school teacher at age sixteen and helped establish a small circulating library in Kelloggsville, New York about 1817 that greatly influenced the intellectual development of her future husband and President of the United States, Millard Fillmore.

Abigail Powers Fillmore found the White House destitute of books when she became First Lady in 1850 and encouraged and supported her husband's request for appropriations from Congress to establish a library in the Executive Mansion. She used the $2,250 appropriated by the 31st Congress to select library books for the Executive Mansion and transform the Yellow Oval Room into the first official White House Library. Subsequently, the White House Library was the center of many cultural, social, and political activities during the Fillmore Presidency and has been a legacy enjoyed by subsequent presidential administrations for over 150 years.

We honor the life and work of Abigail Powers Fillmore. She serves as a reminder to us of the importance of continuing to advocate for libraries and for educational programs. In these times of economic difficulty and challenge, we continually are reminded of the key role libraries play in providing Americans with the opportunities they need to promote lifelong learning.

PAYING TRIBUTE TO JULIUS DIGREGORIO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and memory of Julius DiGregorio, a lifelong resident of Trinidad, Colorado who passed away recently at the age of 89. Julius lived a full life as a patriot, devoted family man, and beloved member of his community. As his family mourns his loss, I believe it is appropriate to remember Julius and the many contributions he made to his community, State and country.

Julius embodied the spirit of America, and his story is a prime example of what makes America such a great country. He grew up in Trinidad, Colorado, where he played on the State Champion Trinidad High School Miners football team. Undeterred by the Great Depression in the 1930s, Julius attended Notre Dame College, earning a degree in mechanical engineering which he put to use as an engineer in South America. He served his country proudly in World War II, earning a bronze star while serving under General Patton during the liberation of Italy.

Once Julius returned to Trinidad, he staked his claim by building and managing an apartment building, as well as owning and operating the Columbian Hotel. In 1949, he married Frances Amato with whom he had three loving children. A man devoted to education and his community, Julius became the Director of the Head Start programs for Las Animas and Huerfano Counties in the 1970s, and a member of the Western Regional Head Start Director's Board.

Mr. Speaker, we are all terribly saddened by the loss of Julius DiGregorio, and I am deeply honored to bring his life to the attention of this body of Congress and this Nation. My heart goes out to his family during this difficult time of bereavement.

RECOGNIZING MISS LAURIE LYNN BARTON

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. COLLINS. Mr. Speaker, it is my pleasure to recognize an important member of my staff here in Washington, D.C.: Miss Laurie Lynn Barton. Laurie has received the distinction of being selected by the Georgia State Society as Georgia's 2004 Cherry Blossom Princess. I am proud to congratulate her on this prestigious honor.

Laurie is the daughter of Ed and Jan Barton of Statesboro, Georgia. She graduated in 2002 from the University of Georgia, and later that same year, she became a member of my staff in Washington, D.C. Her tenure with my office is marked by tirelessly serving my constituents with a hard work ethic and commitment to excellence. I often receive thank you letters from my constituents emphasizing Laurie's outstanding service, and for that I am grateful.

The annual Cherry Blossom Festival in Washington, D.C. is a rite of Spring in our Nation's Capital. It is marked by the blooming of the picturesque Cherry Blossom trees that adorn the Tidal Basin of the Jefferson Memorial and surrounding areas on the Mall. The Festival is a wonderful family event that brings people of all ages, from around the world, to Washington, D.C.

I am proud that Miss Laurie Lynn Barton will be representing the great State of Georgia in this international event.

CELEBRATING THE 25TH ANNIVERSARY OF THE TAIWAN RELATIONS ACT

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. KING of New York. Mr. Speaker, today I rise in celebration of the 25th anniversary of the Taiwan Relations Act.

On April 10, 2004, the Taiwan Relations Act (TRA), which has provided the framework for a strong and mutually beneficial relationship between the United States and the Republic of Taiwan (ROC), will commemorate 25 years since its enactment by Congress. The TRA has helped provide peace and stability in the Taiwan Strait making possible the extraordinary economic expansion and democratization that has taken place there.

In 1979, during the process of normalizing relations with Beijing, there was great apprehension in the Congress that American security and economic interests in Taiwan would not be protected. What evolved is the only law which oversees almost every facet of U.S. relations with a foreign entity in the absence of diplomatic relations.

The new law provided for the security of Taiwan, formed a legal framework to protect the close relationship between the United States and Taiwan, and established Congressional oversight of that relationship including requirements that the President inform and consult with Congress when confronted by anticipated danger to Taiwan.

Today the TRA has withstood the test of time. Taiwan has built one of the world's top economies with nearly $52 billion in trade with the United States, making it our eighth largest trading partner.

The Taiwanese constitution guarantees its 23 million citizens freedom of assembly, expression and association, freedom of religion, and freedom of the press. In addition, Taiwan has established strong support for human rights, committing itself to the major international human rights conventions.

Taiwan has become an openly democratic society with free and fair elections held at all levels of government. Over 80 percent of voters participated in Taiwan's recent elections, demonstrating the vitality of Taiwan's democracy. President Chen Shui-bian who has already been certified as the winner by the central election commission has agreed to a recount and hopefully one will take place in the very near future.

But whatever the final result, the fact remains that Taiwan has provided a moving example of democracy in action and one can only hope that it will serve as an inspiration for the more than one billion Chinese living in the People's Republic of China who will one day have an opportunity to elect their own government in a comparably democratic fashion.

It also should serve as a powerful and poignant reminder of the extent to which Taiwan and the United States share a common commitment to the principle that governments should be elected by the people they serve as well as underscore the vitality of the TRA and the need for continued American support for this vibrant democracy.

RECOGNIZING THE 75TH ANNIVERSARY OF THE MASCOUTAH PUBLIC LIBRARY AND THE CONTRIBUTIONS OF THE MASCOUTAH WOMEN'S CLUB

HON. JERRY F. COSTELLO

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 75th Anniversary of the Mascoutah Public Library and the contributions of the Mascoutah Women's Club at helping establish the library.

In 1929 a small group of civic-minded women had a dream. Their dream was for Mascoutah to have a free public library. In their first formal meeting in January, 1929, Mrs. William Freivogel stated that the members of the Mascoutah Women's Club would take an active interest in civic affairs and that they would try to start a library. They then discussed the feasibility of undertaking such a large project.

Establishing a library was a huge task for 19 women who had no money, no books, no building to house the library and no furnishings. Their first major step was to find a suitable building for their needs. For six dollars a month they rented a small, two room brick house at 15 West Main Street across from the Cottage Hotel, the present site of the Mascoutah Post Office. Their goal was to have the building ready for occupancy by April 1, 1929. The women, along with a high school teacher and his assistants, built shelving and tables and opened the library with a small number of donated books.

The women's club then looked for a funding source for their new library. Funding was secured for the library by going directly to the citizens of the community. The club divided Mascoutah into sections and assigned members a group of homes or businesses to visit and ask for financial support for the library. Citizens were eager to support the library and their first fundraiser netted $125.61. The club also appealed for donations of books for the new library and the response from the public was overwhelming.

By 1930, the library had between 1,500 and 1,800 books on its shelves. Other fund-raising projects by the Women's Club included public card parties and tea receptions. The Club also saved and redeemed soap wrappers for cash and sponsored book reviews. However, financial operations for the library continued to be a burden. It was during this time that the Works Progress Administration (WPA) opened many libraries in the area and they became interested in assisting the Mascoutah Public Library. The WPA-aided library reopened on October 31, 1938 and extended the operating hours. With the addition of these new funds, a librarian and custodian were appointed.

In January, 1939, another step was taken toward giving Mascoutah a very modern, up-to-date library. At a meeting of the Women's Club Executive Committee and the Library Committee, Mascoutah Mayor Raymond Pfeifer announced that a room in the new City Hall would be set aside for the library. Not only would the city supply the room, but they would furnish tables, chairs, and book shelves.

The new room would be on the second floor of the new City Hall and would extend across the entire front of the building. As the new City Hall was still under construction, the library would be available for occupancy when the municipal building was complete. When the library moved from 15 West Main Street into its new City Hall location on June 30, 1939, it owned 900 books. At this time the Women's Club added an even larger number of volumes to the existing collection. Dedication of the City Hall took place July 4, 1939.

The WPA continued to staff and maintain the library until 1941, when the Mascoutah Women's Club again resumed responsibilities for operation and management. Hours were curtailed, however, to two afternoons a week due to financing constraints. With overwhelming public support, on March 16, 1942, the city council voted to adopt the library as their project and a small tax was levied for its operation and management. The City Council also appointed members of the Women's Club to the Library Board.

Through the years the Mascoutah Women's Club continued to support the library in many ways from financial support and donations of books to serving as members of the new library board. It is through the direct efforts of this group of dedicated women that has allowed Mascoutah to enjoy a community library providing many opportunities for the young people of the area to learn about their community and the world.

Mr. Speaker, I ask my colleagues to join me in recognizing the 75th Anniversary of the Mascoutah Public Library and the contributions of the Mascoutah Women's Club at helping to establish this important community resource.

RECOGNITION OF THE BALTIC MEMBERS OF THE COALITION OF THE WILLING

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to give recognition to three members of the "Coalition of the Willing"—Latvia, Estonia, and Lithuania.

These Baltic nations have answered the call to freedom. The people of Latvia, Estonia, and Lithuania should feel very proud of the effort their governments have given to the rebuilding of Iraq and during Operation Iraqi Freedom. They have troops deployed in Iraq and these men and women are putting their lives on the line in the fight for freedom and democracy. In fact Latvia has deployed 150 soldiers, Estonia 55, and Lithuania 85. The sacrifice they are making should not be taken lightly.

These countries understand what freedom is, and what it takes to ensure it. I wish more countries had the same sense of duty and responsibility as these three nations. When the future is written, what they have done and sacrificed will not be forgotten. I applaud all of their efforts and I am very proud of what they have accomplished. The Coalition of the Willing has been criticized as being "token allies" and claims of ulterior motives have been made. I for one don't believe any of this and I am glad these countries have joined our efforts. This is a fight worth fighting, and I salute our friends from Latvia, Lithuania, and Estonia.

PAYING TRIBUTE TO LARRY EDWARD PENLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. McINNIS. Mr. Speaker it is with great pride that I rise today to pay tribute to one of our nation's top educators. Larry Edward Penley will be inaugurated in the coming weeks as the President of Colorado State University, and with his rich academic background, the students of Colorado will be well served. Larry has been improving the lives of American students for years, and I would like to join my colleagues here today in recognizing his tremendous service to the Colorado community and this nation.

Larry received both his bachelor's degree in psychology and his master's degree in communication from Wake Forest University before completing his doctorate in Management at the University of Georgia. Following graduate school Larry joined the faculty at the University of Texas at San Antonio where he eventually served as associate dean of the College of Business. In 1991, he was appointed as dean of the Arizona State W.P. Carey School of Business which he saw become one of the nation's most prominent business schools.

Larry is a well-rounded academic who has been involved with several community improvement organizations like the United Way and the Arizona Coalition for Tomorrow. His research has focused on effective management skills and he is published in several of the nation's top academic journals. In addition to his service to the University and multiple associations he has consulted for, Larry has been awarded several honors, such as the MBA Students Associations Lifetime Achievement Award and the Hispanic Business Students Association Century Award for Exemplary Support and Leadership. Larry has raised millions of dollars for Arizona State University as he revised the curriculum to include more technology and actively recruited a diverse range of the nation's top high school students.

Mr. Speaker, Larry Edward Penley is a dedicated, selfless person who has been a wonderful ambassador for education in our country, and I am honored to welcome him to the Colorado academic community. His passion for public service is an outstanding example to set for America's youth, and his enthusiasm and commitment certainly deserve the recognition of this body of Congress and this nation. Congratulations on your new position, and keep up the good work!–

CONGRATULATING ALEXANDRA HOLDERMAN AND KARVA VAIDYANATHAN FOR THEIR EXEMPLARY VOLUNTEER SERVICE

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. CHOCOLA. Mr Speaker, I rise today to congratulate two of my constituents for receiving recognition by the ninth annual Prudential Spirit of Community Awards; Alexandra Holderman of Mishawaka, Indiana, and Karva Vaidyanathan of Granger, Indiana. These awards constitute America's largest youth recognition program based exclusively on volunteerism. The program was created by Prudential Financial in partnership with the National Association of Secondary School Principals in 1995 to impress upon all youth volunteers that their contributions are critically important.

Alexandra was named one of the top two youth volunteers in Indiana for 2004. She will be honored at the national awards ceremony in Washington, DC, this coming May. Nominated by LaSalle Elementary School, Alexandra has collected and delivered more than 1,200 bundles of baby clothing, blankets, diapers, and other supplies over the past five years for infants born to needy single and teen-age mothers.

Karva has been named a Distinguished Finalist by the program's judges, and will receive a bronze medallion for her outstanding volunteer work. Karva collected 25 cartons of school supplies and $3,000 to purchase computers for orphans attending a vocational training school in India.

I am proud of the work accomplished by Alexandra and Karva, and I commend them for taking an active role in their communities. They have demonstrated a level of commitment and accomplishment that is truly extraordinary in today's world, and they deserve our sincere admiration and respect. Their actions show that young Americans can—and do—play important roles in our communities, and that America's community spirit continues to hold tremendous promise for the future.

HONORING THE 5TH ANNIVERSARY OF THE AMERICAN LEGACY FOUNDATION

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Ms. NORTON. Mr. Speaker, I rise today to recognize the American Legacy Foundation, a national organization dedicated to helping young people reject tobacco and Americans quit smoking. The foundation recently celebrated its fifth anniversary and I am proud that this organization has chosen our Nation's Capital as its home base.

Forty-seven million Americans smoke, but tobacco is not an equal opportunity killer. Forty years ago, the well educated and affluent smoked more, but the 21st century smoker is typically lower income and less educated. Today, the negative impact of tobacco-related disease disproportionately affects the poor and ethnic or cultural minorities.

For the last 2 fiscal years, the District of Columbia ranked last among the States in tobacco prevention spending. This is exactly why Congress must support the Metro D.C. Call Center, as well as innovative and results-oriented programs like the American Legacy Foundation's truth© campaign, Circle of Friends and Great Start. The Metro D.C. Call Center and programs such as truth© do help DC residents reject tobacco and pursue healthier lifestyles.

The American Legacy Foundation was created out of the Master Settlement Agreement put forth by our Nation's attorneys general, but under the terms of the agreement, the American Legacy Foundation received its last payment earlier this year. This dramatic reduction of resources jeopardizes all of the successes the foundation has achieved.

That's why I would like to ask my fellow colleagues to join me in recognizing the American Legacy Foundation and its groundbreaking programs, and pledge our continued support for this vital organization.

HONORING TRENT TOUCHSTONE OF THE U.S. MARSHALS SERVICE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. BURGESS. Mr. Speaker, I rise today to honor a member of the U.S. Marshals Service (USMS) in North Texas who has served with distinction. Supervisory Criminal Investigator Trent Touchstone has achieved a reputation within the law enforcement community as a professional manager who understands that training and agency coordination are the cornerstones of successful law enforcement operations.

During Mr. Touchstone's tenure with the USMS, this dedicated public servant has coordinated the location and apprehension of violent offenders among more than two dozen law enforcement agencies. Trent is responsible for the development and supervision of the Northern District of Texas' Special Response Team, which supports other law enforcement agencies in high-threat arrest operations, assists with their tactical training, and participates in multi-agency law enforcement competitions.

Trent was also instrumental in building the USMS Northern District of Texas' (N/TX) Training Facility. Since the N/TX Training Facility opened its doors, more than 1,100 state and local officers from 98 law enforcement agencies have trained at the facility. Supervisor Touchstone has also developed training films for Deputy U.S. Marshals and Court Security Officers depicting many dangerous situations they may encounter.

I am pleased to join Mr. Touchstone's colleagues in congratulating him on receiving the USMS Distinguished Service Award. His tireless devotion to public service has been an asset to the law enforcement community in North Texas and the citizens they protect.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. SHERMAN. Mr. Chairman, I voted in favor of the Congressional Black Caucus substitute amendment, the Blue Dog substitute and the Democratic substitute. None of these budget resolutions is perfect, but all are improvements over the Republican budget.

HONORING THE RETIREMENT OF RANDY HICKS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to my friend Randy Hicks on the occasion of his retirement from BASF Corporation after twenty-seven dignified years of employment.

Serving as the Communication Manager since 2001, Mr. Hicks has shown tremendous dedication and leadership throughout his long-lasting employment. He began his career in the Marine Corps and served two years of duty in Vietnam. In 1968, after departing from the Marines, he worked for Ford Motor Company in Wyandotte while attending Wayne State University and studying business administration. Mr. Hicks began his employment at the BASF Corporation as a Human Resource Manager before becoming the Communication Manager.

In addition to working at BASF Corporation, Mr. Hicks finds many ways to channel his supportive energy into the community. A past Chairman of the Southern Wayne County Regional Chamber and Detroit Heritage River Business Committee, he serves on the Board of Wyandotte Federal Credit and Henry Ford Wyandotte Hospital. He also has invested his time and effort into the Board of the Southeast Michigan Community Alliance Workforce Development, the City of Wyandotte Police and Fire Commission, and the Advisory Panel of Wayne County Community College.

I am personally indebted to Randy Hicks for the support and active role he played in turning the Detroit River International Wildlife Refuge from a dream into a reality. Randy understood immediately the long-term and lasting benefits the Refuge would create and with his support, we actively built both a Refuge and a constituency. As a result of Randy's involvement the BASF Corporation has put a couple of parcels of property into the Refuge and hopes to add others.

As Mr. Hicks enters his retirement years, I would like to extend my best wishes for a relaxing and enjoyable future. I would like to thank him for all of his hard work and commitment to BASF Corporation and the Downriver community.

Mr. Speaker, I would like to ask that my colleagues join me in commending Randy Hicks for leadership in both his corporation and community, as we celebrate his twenty-seven years of dedication to the BASF Corporation.

RURAL JOB LOSS

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. STUPAK. Mr. Speaker, today the Congressional Rural Caucus held a forum on job losses in rural America. This is a critical issue in my district and in rural districts across the country. I would like to submit my comments on this issue for the RECORD.

I represent Michigan's 1st congressional district—the most rural district in Michigan. My constituents are all too familiar with job loss. Michigan has an unemployment rate of 7.6 percent—well over the national average. There are areas in my district where the unemployment rate actually exceeds 12 percent. 12 percent!

Since January 2001, 2.8 million manufacturing jobs have been lost across the country, 128,900 in Michigan alone. That is a loss of 1 out of every 6 factory jobs. In Michigan manufacturing is the engine of economic growth for our state—so you can see why the impact of rural job loss has been particularly devastating.

Manufacturing jobs seem to be heading out of Michigan to Mexico in droves. Recently, a refrigerator manufacturer, Electrolux, announced it is closing its doors and relocating to Mexico, costing us another 2,700 Michigan jobs. And just yesterday, Johnson Controls Inc., an automotive supplier in Holland, Michigan, announced its plans to move almost 900 jobs to Mexico.

We all know the problem, but what about a solution? We need to fix our international tax law that gives incentives to companies for shipping jobs overseas through tax credits and tax deferrals.

We need to fully fund programs like the Manufacturing Extension Partnership that has successfully helped small manufacturers to modernize and stay competitive in the global marketplace. This program is essential to rural economic growth. But the Administration has proposed cutting it by 60 percent. That makes no sense when this country is hemorrhaging jobs.

For example, I know that MEP has directly helped a number of companies in my district including Jacquart Fabric Products with 100 workers in Ironwood.

Last year, my Democratic colleagues from Michigan and I proposed the H.E.L.P initiative to assist in turning the economy around and getting people back to work. H.E.L.P focuses on employee healthcare and pension issues, as well as leveling the international playing field, and supporting partnerships with states, businesses, and employees which promote research and development.

In many of the communities in my district, hospitals and schools are among the largest employers. We need to keep hospitals open, and attract health care providers. We need to provide our rural schools with much needed tools such as broadband access and Internet classes. We need to attract small businesses. And we need to expand services for our seniors and veterans.

Unfortunately, I don't believe that the current budget proposals recently passed by the House and Senate are going to help get the 8 million jobless in our country back to work. We have a lot of work to do to jump start the economy.

I am glad the voices of our rural communities are being heard today. I look forward to hearing your recommendations on how to best address the problem of job loss in rural America.

CELEBRATING THE LIFE OF NICHOLAS P. DINAPOLI, ON THE OCCASION OF HIS 80TH BIRTHDAY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. ACKERMAN. Mr. Speaker, I rise today to honor Nicholas DiNapoli on the occasion of his 80th birthday. The son of Thomas "Pete" DiNapoli and Jeanette DiNapoli, Nick DiNapoli was born on April 6th, 1924, in Roslyn Heights, New York. He and his sister Tina attended Roslyn Public Schools and Nick was graduated from Roslyn High School in 1942.

From 1942 until 1953, Nick was an active member of the Roslyn Highlands Volunteer Fire Department and from 1943 until 1946 he served his country in the United States Army Air Corps, 4th Air Force, where he attained the rank of Corporal.

On September 5th, 1948, after returning from his service in World War II, Nick married Adeline Abbondandelo, also of Roslyn Heights, at St. Mary's Church where as a child he had been an altar boy. The newly married couple lived on Carlyle Place in Roslyn Heights until, on an especially proud day in 1953, they moved into the house they had built at 52 Coventry Avenue in Albertson.

It was around this time that Nicholas DiNapoli began working for the New York Telephone Company, where he rose from splicer's helper to splicer in 1948 and was eventually promoted to foreman in 1969. He served as Maintenance Supervisor, Auditor and Acting Manager before retiring in 1985 with 40 years of proud service.

Nick's children, Thomas Peter, born in 1954, and James, born in 1955, have been a constant source of pride. When his sons were growing up, Nick participated in many of their activities and became involved as an adult leader in the Albertson Little League and Troop 481 of the Boy Scouts of America. He attended ball games as well as camping and fishing trips with his sons and their friends. Tom is now the Assemblyman from the 16th Assembly District and James is the Deputy Chief of the Department of Public Safety for the New York State Courts. Some of Nick's fondest memories are of Tom's first election to the State Legislature in 1986 and of James' wedding to his wife Rachel in 1993.

Today Nick enjoys golfing, fishing and travel and he walks regularly to stay healthy. The joys of his life, however are his two grandchildren, Victoria Adeline, 9, and Nicholas James, 6. Though his beloved wife Adeline, passed away in 1991, Nick is lucky to have found a close companion in Kay Menschling. He is a member of St. Aiden's Roman Catholic Church in Williston Park and a member of American Legion Post 144. He has been a Legionnaire for over 50 years. Nick is also an Exempt and Honorary Member of the Roslyn Highlands Volunteer Fire Department.

Mr. Speaker, I wish Nicholas DiNapoli all the best on the occasion of his 80th birthday and in recognition of his many years of service to the community, I ask my colleagues in the House of Representatives to please join me celebrating his outstanding life.

CHILDREN'S EXPRESS LANE TO HEALTH COVERAGE ACT

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Ms. CARSON of Indiana. Mr. Speaker, today I rise to invite my colleagues to cosponsor H.R. 4031, the Children's Express Lane to Health Coverage Act. This bipartisan measure, authored by Senator RICHARD LUGAR and I, will help States' efforts to enroll income-eligible children in the States Children's Health Insurance Program, commonly referred to as SCHIP.

As you know, despite gains in recent years, nearly 9 million children in the United States remain uninsured. Of those, nearly 7 million children are eligible for public health insurance coverage.

H.R. 4031, the Children's Express Lane to Health Coverage Act, builds on our successful legislation in the 106th Congress that provides States with the option of using the National School Lunch Program and the Women's Infants Children Program (WIC) to identify uninsured children eligible for benefits under the SCHIP and Medicaid programs.

Many States have used this cost-saving option successfully in promoting the well-being of income-eligible children.

While existing law allows children to be income-eligible for WIC based on their enrollment in the Medicaid program, the law does not give States adequate flexibility to make an income determination of eligibility for the Medicaid or SCHIP program based on an uninsured child's enrollment in WIC or another public program.

The Children's Express Lane to Health Coverage Act will give States the option of establishing that their Medicaid or SCHIP financial eligibility rules are satisfied when a family presents proof that their child is already enrolled in another program with comparable income guidelines.

Mr. Chairman, the public is well served when Federal means-tested public programs are able to improve administrative efficiency and coordination, as well as reduce unnecessary bureaucracy.

Moreover, uninsured children are well served when their enrollment in a nutrition-based or other means-tested program serves as a gateway to health coverage.

My colleagues, money alone will not solve America's health care challenges. We must maximize our existing resources by being more creative and aggressive in our outreach efforts and making it easier for families to tap into these benefits. We all know that children who do not get routine, preventative health care will not reach their full potential. We simply cannot afford to put our children at that disadvantage.

I urge you to become a cosponsor of this commonsense, bipartisan legislation.

HOUSE OF REPRESENTATIVES—*Wednesday, March 31, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 31, 2004.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Cindy Baskin, Pastor, St. James Episcopal Church, Potomac, Maryland, offered the following prayer:

Almighty and everliving God:

You are the source of all wisdom and understanding, the source of all justice and righteousness. By Your gracious will, You have instituted governing bodies on Earth and granted them authority to rule.

We therefore beseech You, as this legislative body gathers this day, to guide and direct these elected representatives, enable them to seek first Your honor and glory in all their deliberations. Keep them ever-mindful of their calling to serve this Nation. Guide them in the ways of righteousness, that they may enact such laws for the welfare of our country, as shall please You.

Help each one, as they struggle for justice and truth, to confront one another without hostility or bitterness. Foster among them a spirit of mutual forbearance and respect. Take away any arrogance, anger, or self-interest, which infecting human hearts creates unnecessary divisions. Break down all walls that separate and empower this House to work together through any struggles and confusion so that Your purposes on Earth may be accomplished. Guide, we pray, each of these Representatives to perceive what is right and grant each one both the courage to pursue it and the grace to accomplish it.

We now commend this body and this Nation into Your merciful care, O Lord, that being guided by Your providence we may dwell secure in Your peace and live to Your honor and glory. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Michigan (Mrs. MILLER) come forward and lead the House in the Pledge of Allegiance.

Mrs. MILLER of Michigan led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2443. An act to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2443) "An Act to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the Committee on Commerce, Science, and Transportation: Mr. MCCAIN, Mr. STEVENS, Mr. LOTT Mrs. HUTCHISON Ms. SNOWE, Mr. HOLLINGS, Mr. INOUYE, Mr. BREAUX, and Mr. WYDEN, and from the Committee on Environment and Public Works: Mr. INHOFE, and Mr. JEFFORDS; to be the conferees on the part of the Senate.

The message also announced that pursuant to title VI, section 637 of Public Law 108–199, the Chair, on behalf of the Majority Leader, appoints the following individual to serve as a member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission:

Michael A. Ledeen of Maryland.

The message also announced that pursuant to Public Law 108–199, the Chair, on behalf of the Democratic Leader, appoints the following individual to serve as a member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission:

Eric G. Postel of Wisconsin.

The message also announced that pursuant to section 104(c)(1)(A) of Public Law 108–199, the Chair, on behalf of the Majority Leader, appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program:

William E. Troutt of Tennessee.

WELCOMING THE REVEREND CINDY BASKIN

(Mr. VAN HOLLEN asked and was given permission to address the House for 1 minute.)

Mr. VAN HOLLEN. Mr. Speaker, I am very pleased to welcome here today Reverend Cindy Baskin from my congressional district, and I want to thank her for delivering a beautiful prayer.

Today, March 31, is the last day of Women's History Month; and I think it is especially fitting that we end this month with a prayer from a woman guest chaplain. I also want to note that our House attending physician, Dr. John Eisold, is a member of Reverend Baskin's congregation; and I thank him for suggesting that Reverend Baskin be here this morning for our opening prayer.

Let me read what members of Reverend Baskin's congregation have said about her: "Cindy serves with strong leadership, inspired vision, and endless energy. She encourages us to use our talents in service to the community, while ministering to the congregation as pastor, priest, and friend."

I thank Reverend Baskin for inspiring us here this morning through her prayer and inspiring us to serve our Nation, our community, and reach out to others in the world. Thank you, Reverend Baskin for being here this morning and opening the House of Representatives.

DEMOCRACY DEMANDS FREEDOM OF SPEECH AND FAIR MEDIA COVERAGE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, all citizens should be aware that President Bush really has two opponents in his reelection effort: the Democratic nominee and the national media.

Most of the national media minimize or ignore the good news for President

Bush, like last week's CBS poll showing him ahead, and magnify every criticism.

That is no surprise. TV coverage of the President is mostly negative. News articles are often slanted, and three of the largest newspapers in America have not endorsed a Republican for President in 50 years.

A recent survey shows that over half of the American people believe that "media stories and reports are often inaccurate."

Voters should insist on getting objective news reports so they can make good decisions. Democracy demands not only freedom of speech but also fair media coverage.

CELEBRATING THE LIFE AND WORK OF CESAR E. CHAVEZ

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, our Nation's history is filled with heroes who, through personal sacrifice and a strong commitment to their cause, have left a mark upon society.

Today, I am proud to honor the life and accomplishments of the late, talented union organizer and human rights advocate, Cesar E. Chavez.

Born on March 31, 1927, to a farming family in Yuma, Arizona, Chavez learned early that life is filled with challenges, particularly for those who work the fruit and vegetable fields of this great country.

Those fields nurtured Chavez's desire to create a farm workers union, which we know today as the UFW.

Cesar Chavez brought dignity and respect to the farm workers and became an inspiration and a resource to other people engaged in human rights struggles throughout the world. From 1965 to the 1980s, Chavez worked tirelessly to increase wages as well as public awareness of the plight of migrant workers. Chavez defended the rights of farm workers until his death on April 23, 1993.

Chavez's courage and perseverance continues to be a source of inspiration for me and many others dedicated to the interests of America's working families.

Today, Chavez would have celebrated his 77th birthday. I am proud to celebrate his life and his work. May his spirit and dedication continue to be an inspiration to those engaged in human rights struggles throughout the world.

PUNDITS WEARING POLITICAL BLINDERS

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute.)

Mrs. MILLER of Michigan. Mr. Speaker, there is no doubt that we are in the midst of an election year. As a matter of fact, judging from the intensity of the campaign so far, one might think that we are at the end of October instead of the end of March.

Part of the reason for this intensity is the news organizations who are captivated not by the issues at hand but by the horse race, who is ahead and who is behind; and reporters and pundits are the ones calling the race. But, clearly, some of these pundits are wearing political blinders, suggesting nothing less than partisan bias.

In mid February, CBS News and The New York Times conducted a poll. That night, Dan Rather rather gleefully reported the results, that the Democratic nominee held a five-point lead over President Bush, on the CBS evening news.

The next CBS News/New York Times poll was conducted and again Dan Rather reported that the Democratic nominee had a one-point lead.

Two weeks after that, a third CBS poll showed President Bush leading the Democratic nominee by three percentage points, and what did Dan Rather report on this poll? Nothing. Not a mention.

I would say that is not quite fair and certainly not balanced.

CELEBRATING THE 87TH ANNIVERSARY OF THE TRANSFER OF SOVEREIGNTY OF VIRGIN ISLANDS FROM DENMARK TO U.S.

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, I rise today as my beloved U.S. Virgin Islands celebrates the 87th anniversary of the transfer of sovereignty from Denmark to the United States of America.

On March 31, 1917, our American journey began in earnest as we became an official part of the American family. While that journey was predated by a friendship with the United States that began during the Revolutionary War, we are told by our grandmothers that on that spring day long ago there were tears of joy and sadness as they said good-bye to the old and welcomed the new.

Today, we are proud Americans serving in all of its wars, rejoicing at its accomplishments, and working with our brothers and sisters to meet its challenges in health care, education, and social justice.

We have not forgotten, however, our shared history of over 250 years with Denmark as we welcome tourists seeking Caribbean roots, apprentice our children to learn of shared craftsmanship, and share the archival materials we have in common.

Mr. Speaker, the uniqueness of the U.S. Virgin Islands can be found in its relationship to many nations, as it has been a cultural crossroads for people the world over.

Today, on March 31, 2004, we celebrate the roots of our diversity as we celebrate yet another Transfer Day.

LIFETIME SAVINGS ACCOUNTS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, only in America is a penny saved a penny taxed. Perhaps that is why we have single-digit savings rates in this country. That is just wrong.

To get America back on the road to savings, today Senator CRAIG THOMAS of Wyoming and I will introduce legislation to create lifetime savings accounts.

In a lifetime savings account, people could save up to $5,000 a year free from tax on interest earned. Money could be spent for any reason, with no minimum holding period. One could spend this money for a new transmission, school, kids' braces, home improvements, rainy day, or any of their needs, wants, and dreams. You name it. The point is, people will not be taxed for saving.

I am honored to say that Deputy Secretary of the Treasury Bodman will join us at the press conference to share the administration's support of this new proposal. We will be working as a team to help get America saving again, tax-free.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MENENDEZ. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 590) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 590

Resolved, That the following named Member be and is hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON AGRICULTURE: Mr. Chandler (to rank immediately after Mr. Marshall).

(2) COMMITTEE ON INTERNATIONAL RELATIONS: Mr. Chandler.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ALLOWING REIMPORTATION OF PRESCRIPTION DRUGS MEANS LOWER PRICES FOR AMERICANS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, before the House voted on the Medicare bill, the public was told it would cost $400 billion. Later, we found out that the administration knew all along it would cost $550 billion.

Congress was misled by an administration that hid the numbers from the public and Members of Congress because of the perceived political benefits of the new law, saying that the end would justify the means.

But according to today's Chicago Tribune, "Instead of a political bonanza, the Medicare drug benefit is fast becoming an albatross around the administration's neck. Not a single new benefit has gone to a senior citizen, and the taxpayers got stuck with another $150 billion bill.

Now the administration wants to talk about the benefit that comes with a discount card. With the way prescription drug costs have skyrocketed over the past several years, this discount card will not accomplish anything. It is like a sale at Nieman Marcus. They jack up the prices right before the sale.

In 2001, drug costs increased by 16.9 percent; in 2002, 18.4 percent; in 2003, a projected 19.5 percent, and going on to another 15 percent.

Instead of depending on a flawed Medicare bill, we must literally drive prices down by allowing reimportation, allowing us to get our drugs in Canada and in Europe where prices are cheaper.

MANUFACTURING JOBS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today to bring attention to the current status of manufacturing jobs in this country.

Last week, there was an article in the Boston Globe entitled, "What the Jobless Statistics Do Not Reveal," written by Paul E. Harrington and Andrew Sum. The article focused on the debate of when job creation will begin and why there is a huge difference in the report of job growth between two surveys, the payroll survey and the household survey.

The payroll survey is the corporate survey, which indicates a decreased loss of 620,000 jobs. However, the household survey says there is a 2.3 million increase in employment during this same period of time. Why the disparity?

Well, the household survey counts self-employed and contractors. If you are self-employed like a farmer in my district, you are not counted as being an employee under the payroll survey reports. The authors point out that the disparity is due to the fact that it has become so expensive to add new workers to payroll due to high cost of health insurance, unemployment insurance, worker compensation, payroll taxes, and it is easier and cheaper to hire and pay overtime.

If we want to stem the loss of manufacturing in the corporate sector, our legislative response is clear. We are going to have to address these issues of high cost.

□ 1015

REAUTHORIZATION OF THE SURFACE TRANSPORTATION ACT

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, this House over the next 2 days is going to be debating the single most important environmental and jobs bill of the session, the reauthorization of the Surface Transportation Act. It is unfortunate that we are not going to have the opportunity to deal with a bill that is right-sized for America's needs.

The administration's own Department of Transportation has concluded that we need $375 billion to meet America's needs over the next 6 years; yet the administration has threatened to use its first veto of any bill if we have the temerity to approve anything over $256 billion, which will be a 10 percent cut in transportation funding over the next 6 years.

Nobody in this Chamber feels that we should be cutting our investment in the future. It is time for Members on both sides of the aisle to support the bipartisan committee leadership to at least approve the $275 billion bill, keep the basic structure in place, and make sure that we are giving America the transportation infrastructure it needs for the future.

MEDICARE DISCOUNT DRUG CARDS

(Mr. CHOCOLA asked and was given permission to address the House for 1 minute.)

Mr. CHOCOLA. Mr. Speaker, during the next 3 months, Medicare beneficiaries will begin to see real savings on the cost of their prescription drugs with the help of voluntary Medicare-approved discount drug cards.

Starting in April, Medicare beneficiaries will be notified by mail of their discount card eligibility, discount card offerings, and enrollment procedures. By June, all Medicare beneficiaries, except those who already have Medicaid drug coverage, will be able to buy a card for about $30 and take it to their local pharmacy and receive 10 to 25 percent off of the regular cost of their drugs.

People with incomes below 135 percent of poverty who sign up for the card will be eligible for an additional $600 of additional assistance per year to help further reduce the cost of their prescription drugs in 2004 and 2005. This low-income assistance will benefit over 12,000 Indiana Hoosiers in my district, the second district of Indiana, and almost 200,000 Hoosiers statewide.

Mr. Speaker, I applaud my colleagues who voted to support the bipartisan Medicare bill and the creation of a discount drug card program that will reduce the cost of prescriptions for our seniors and provide additional relief to low-income Medicare beneficiaries.

HONORING CESAR CHAVEZ'S BIRTHDAY

(Ms. LOFGREN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, today on his birthday, we recognize the courageous leadership of Cesar Chavez, a man who inspired hope, pride, and strength and provided a voice for thousands of farm workers across California and the entire country.

My district encompasses San Jose, home to Cesar Chavez for many years. It is in San Jose that Chavez began to fulfill his dream of empowering farm workers to demand basic human rights and protections from the abuses of farm owners.

Chavez experienced employer abuses firsthand and saw it happen to thousands of farm workers from childhood through his adult years. And it was he who courageously organized his fellow workers to believe in their own dignity and power to gain equal rights, fair pay, and decent working conditions.

So on this day, I honor the memory of Cesar Chavez. I congratulate his wonderful family who still lives in San Jose. We all know that he is the symbol of inspiration to many, especially the children. May the legacy of this great leader, Cesar Chavez, live on; and may we always remember his phrase to all of us, "Sí se puede."

WELCOMING BULGARIA INTO NATO

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on Monday there was a historic ceremony at the White House where President George W. Bush welcomed Bulgaria, Romania, Lithuania, Slovakia, Slovenia, Estonia, and Latvia into NATO, the North Atlantic Treaty Organization.

I am particularly pleased of Bulgaria's entry as they are rapidly rising from decades of communist totalitarianism, which I have seen firsthand since my first visit to Sofia in June 1990. Bulgaria has been one of America's most courageous allies in the war on terrorism, providing troops for the liberation campaigns in Afghanistan and Iraq.

I want to personally thank the visionary Bulgarian patriots who have worked so hard to make today possible, including Prime Minister Simeon Saxe-

Coburg Gotha, President Georgi Parvanov, Ambassador Elena Poptodorova, Foreign Minister Solomon Pasi, Defense Minister Nikolai Svinarov, Speaker Ognian Gerdjikov, Deputy Chief of Mission Emil Yalnazov, Ambassador Stefan Stoyanov, and Congressional Liaison Officer Zlatin Krastev.

In conclusion, may God bless our troops, and we will never forget September 11.

HONORING THE LIFE AND LEGACY OF CESAR CHAVEZ

(Mr. GRIJALVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRIJALVA. Mr. Speaker, today I rise to take a moment to commemorate and celebrate the life of Cesar Chavez, a life that was a life with inspiration to all of us in this country because it meant the very best for all of us.

Cesar Chavez had a vision for this country, and his legacy is a living legacy because of that vision; and the realization of that vision continues to be a work in progress and a work that we must all undertake. His vision was about inclusion, that all of us in this country deserve a place at the table and deserve to be treated with respect and with the humanity we all deserve. His vision was about fairness.

This country is about all people regardless of who they are, where they came from, what they look like, what language they speak, that we all be treated fairly and equally. And his vision was the dignity of each person, that we are all entitled, all born with a dignity and a self-respect that merits the rest of us living to that legacy.

And that is the living legacy of Cesar Chavez, and we commemorate his life today as a legacy that we must all continue to strive for and to make a reality in this country.

ADDRESSING OUR OUTDATED IMMIGRATION LAWS AND POLICIES

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Mr. Speaker, I rise today to thank President Bush for recognizing the need to address our outdated immigration laws and policies, as well as to urge Congress to make this issue a top priority.

First, let me start by making it clear that I believe America should always honor its immigration tradition and legally admit a reasonable number of new immigrants every year. But the tragic events of September 11 awakened most Americans to the fact that our immigration system is not only seriously flawed; it also poses a danger to our national security.

The SAFER Act would strengthen our borders with increased screening and tracking of aliens, enhanced enforcement of the Immigration and Nationality Act, expedited removal proceedings, and reduced excessive immigration.

I also support H.R. 775, the bill of the gentleman from Virginia (Mr. GOODLATTE), which would end the visa lottery system.

Our Nation is out of control. Immigration policies expose us to an increased risk of another terrorist attack, something I cannot sit back and allow to happen. It is time for Congress to act now to protect America's interests.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later in the day.

TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4062) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

The Clerk read as follows:

H.R. 4062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT OF 1958.

The authorization for any program, authority, or provision, including any pilot program, that was extended through April 2, 2004, by section 1 of Public Law 108–205 is further extended through June 4, 2004, under the same terms and conditions.

SEC. 2. EXTENSION OF CERTAIN FEE AUTHORIZATIONS.

Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697 (f)), as amended by section 2 of Public Law 108–205, is further amended by striking "May 21, 2004" and inserting "October 1, 2004".

SEC. 3. FISCAL YEAR 2004 PURCHASE AND GUARANTEE AUTHORITY UNDER TITLE III OF SMALL BUSINESS INVESTMENT ACT OF 1958.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following new subsection:

"(j) FISCAL YEAR 2004 PURCHASE AND GUARANTEE AUTHORITY UNDER TITLE III OF SMALL BUSINESS INVESTMENT ACT OF 1958.—For fiscal year 2004, for the programs authorized by title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.), the Administration is authorized to make—

"(1) $4,000,000,000 in purchases of participating securities; and

"(2) $3,000,000,000 in guarantees of debentures.".

SEC. 4. COMBINATION FINANCING.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this section and ending on September 30, 2004, subsection (a) of section 7 of the Small Business Act (15 U.S.C. 636(a)) shall be applied as if the paragraph set forth in subsection (b) were added at the end of that subsection (a).

(b) PARAGRAPH SPECIFIED.—The paragraph referred to in subsection (a) is as follows:

"(31) COMBINATION FINANCING.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'combination financing' means financing comprised of a loan guaranteed under this subsection and a commercial loan; and

"(ii) the term 'commercial loan' means a loan which is part of a combination financing and no portion of which is guaranteed by the Federal Government.

"(B) APPLICABILITY.—This paragraph applies to a loan guarantee obtained by a small business concern under this subsection, if the small business concern also obtains a commercial loan.

"(C) COMMERCIAL LOAN AMOUNT.—In the case of any combination financing, the amount of the commercial loan which is part of such financing shall not exceed the gross amount of the loan guaranteed under this subsection which is part of such financing.

"(D) COMMERCIAL LOAN PROVISIONS.—The commercial loan obtained by the small business concern—

"(i) may be made by the participating lender that is providing financing under this subsection or by a different lender;

"(ii) may be secured by a senior lien; and

"(iii) may be made by a lender in the Preferred Lenders Program, if applicable.

"(E) COMMERCIAL LOAN FEE.—A one-time fee in an amount equal to 0.7 percent of the amount of the commercial loan shall be paid by the lender to the Administration if the commercial loan has a senior credit position to that of the loan guaranteed under this subsection. Paragraph (23)(B) shall apply to the fee established by this paragraph.

"(F) DEFERRED PARTICIPATION LOAN SECURITY.—A loan guaranteed under this subsection may be secured by a subordinated lien.

"(G) COMPLETION OF APPLICATION PROCESSING.—The Administrator shall complete processing of an application for combination financing under this paragraph pursuant to the program authorized by this subsection as it was operating on October 1, 2003.

"(H) BUSINESS LOAN ELIGIBILITY.—Any standards prescribed by the Administrator relating to the eligibility of small business concerns to obtain combination financing under this subsection which are in effect on the date of the enactment of this paragraph shall apply with respect to combination financings made under this paragraph. Any modifications to such standards by the Administrator after such date shall not unreasonably restrict the availability of combination financing under this paragraph relative to the availability of such financing before such modifications.".

SEC. 5. LOAN GUARANTEE FEES.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this section and ending on September 30, 2004, subparagraph (A) of paragraph (23) of subsection (a) of section 7 of the Small Business Act (15 U.S.C. 636(a)(23)(A)) shall be applied as if that subparagraph consisted of the language set forth in subsection (b).

(b) Language Specified.—The language referred to in subsection (a) is as follows:

"(A) Percentage.—

"(i) In general.—With respect to each loan guaranteed under this subsection, the Administrator shall, in accordance with such terms and procedures as the Administrator shall establish by regulation, assess and collect an annual fee in an amount equal to 0.5 percent of the outstanding balance of the deferred participation share of the loan.

"(ii) Temporary percentage.—With respect to loans approved during the period beginning on the date of enactment of this clause and ending on September 30, 2004, the annual fee assessed and collected under clause (i) shall be equal to 0.36 percent of the outstanding balance of the deferred participation share of the loan.".

(c) Retention of Certain Fees.—Subparagraph (B) of paragraph (18) of subsection (a) of section 7 of the Small Business Act (15 U.S.C. 636(a)(18)(B)) shall not be effective during the period beginning on the date of the enactment of this section and ending on September 30, 2004.

SEC. 6. EXPRESS LOAN PROVISIONS.

(a) Definitions.—For the purposes of this section:

(1) The term "express lender" shall mean any lender authorized by the Administrator to participate in the Express Loan Pilot Program.

(2) The term "Express Loan" shall mean any loan made pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636(a)) in which a lender utilizes to the maximum extent practicable its own loan analyses, procedures, and documentation.

(3) The term "Express Loan Pilot Program" shall mean the program established by the Administrator prior to the date of enactment of this section under the authority granted in section 7(a)(25)(B) of the Small Business Act (15 U.S.C. 636(a)(25(B)) with a guaranty rate not to exceed 50 percent.

(4) The term "Administrator" means the Administrator of the Small Business Administration.

(5) The term "small business concern" has the same meaning given such term under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) Restriction to Express Lender.—The authority to make an Express Loan shall be limited to those lenders deemed qualified to make such loans by the Administrator. Designation as an express lender for purposes of making an Express Loan shall not prohibit such lender from taking any other action authorized by the Administrator for that lender pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

(c) Grandfathering of Existing Lenders.—Any express lender shall retain such designation unless the Administrator determines that the express lender has violated the law or regulations promulgated by the Administrator or modifies the requirements to be an express lender and the lender no longer satisfies those requirements.

(d) Temporary Expansion of Express Loan Pilot Program.—

(1) Authorization.—As of the date of enactment of this section, the maximum loan amount in the Express Loan Pilot Program shall be increased to a maximum loan amount of $2,000,000 as set forth in section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)).

(2) Termination date.—The authority set forth in paragraph (1) shall terminate on September 30, 2004.

(3) Savings provision.—Nothing in this section shall be interpreted to modify or alter the authority of the Administrator to continue to operate the Express Loan Pilot Program on or after October 1, 2004.

(e) Option to Participate.—Except as otherwise provided in this section, the Administrator shall take no regulatory, policy, or administrative action, without regard to whether such action requires notification pursuant to section 7(a)(24) of the Small Business Act (15 U.S.C. 636(a)(24)), that has the effect of—

(1) requiring a lender to make an Express Loan pursuant to subsection (d);

(2) limiting or modifying any term or condition of deferred participation loans made under such section (other than Express Loans) unless the Administrator imposes the same limit or modification on Express Loans;

(3) transferring or re-allocating staff, staff responsibilities, resources, or funding, if the result of such transfer or re-allocation would be to increase the average loan processing, approval, or disbursement time above the averages for those functions as of October 1, 2003, for loan guarantees approved under such section by employees of the Administration or through the Preferred Lenders Program; or

(4) otherwise providing any incentive or disincentive which encourages lenders or borrowers to make or obtain loans under the Express Loan Pilot Program instead of under the general loan authority of section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

(f) Collection and Reporting of Data.—For all loans in excess of $250,000 made pursuant to the authority set forth in subsection (d)(1), the Administrator shall, to the extent practicable, collect data on the purpose for each such loan. The Administrator shall report monthly to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the number of such loans and their purposes.

(g) Termination.—Subsections (b), (c), (e), and (f) shall not apply after September 30, 2004.

SEC. 7. FISCAL YEAR 2004 DEFERRED PARTICIPATION STANDARDS.

Deferred participation loans made during the period beginning on the date of the enactment of this Act and ending on September 30, 2004, under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) shall have the same terms and conditions (including maximum gross loan amounts and collateral requirements) as were applicable to loans made under such section on October 1, 2003, except as otherwise provided in this Act. This section shall not preclude the Administrator of the Small Business Administration from taking such action as necessary to maintain the loan program carried out under such section, subject to appropriations.

SEC. 8. TEMPORARY INCREASE IN LOAN LIMIT UNDER BUSINESS LOAN AND INVESTMENT FUND AND IN ASSOCIATED GUARANTEE FEES.

(a) Temporary Increase in Amount Permitted To Be Outstanding and Committed.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2004, section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) shall be applied as if the first dollar figure were $1,500,000.

(b) Temporary Guarantee Fee on Deferred Participation Share Over $1,000,000.—With respect to loans made during the period referred to in subsection (a) to which section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) applies, the Administrator of the Small Business Administration shall collect an additional guarantee fee equal to 0.25 percent of the amount (if any) by which the deferred participation share of the loan exceeds $1,000,000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

GENERAL LEAVE

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is a bipartisan work product between the gentlewoman from New York (Ms. VELÁZQUEZ) and me and is a result of the commitment made on the House floor earlier this month to provide a fix to the problem in the main flagship guaranteed lending program of the Small Business Administration.

This legislation would not only restore the overall 7(a) program to full strength, but also expand its outreach to help more small businesses grow and create more jobs.

Earlier this year, a funding shortfall unfortunately required the SBA to temporarily suspend the program for a week, reduce the maximum loan size to $750,000, and prohibit combination or piggyback loans.

In this compromise, the annual lender ongoing fee on 7(a) loans would increase from 0.25 percent to 0.36 percent. The lender would also pay a 0.70 percent up-front fee for combination or piggyback loans. For loans under $150,000, the lender would no longer be allowed to retain the 0.25 percent ongoing fee. Instead, this bill, under the provisions in it, the SBA will keep that fee.

H.R. 4062 raises the 7(a) guaranteed limit from $1 million to $1.5 million with an additional risk premium fee of 0.25 percent imposed on the borrower over and above the 3.5 percent fee they currently pay on loan amounts over $1 million.

Finally, H.R. 4062 allows lenders the option to make loans up to $2 million under the SBA Express program, which has a 50 percent guarantee rate; but banks can use their own paperwork. Currently lenders can only make loans up to $250,000 under the SBA Express program. I want to make it clear, however, that I intend that this provision must be truly optional on the part of the lenders. The SBA should not do anything in its internal policies or procedures that tilts this rule in favor of SBA Express at the expense of the rest of the 7(a) lending program.

All together, these provisions will provide an additional $3 billion in lending to small businesses for the rest of fiscal year 2004 to reach a total of 7(a) program level of $12.55 billion without requiring any additional appropriations or reprogramming funds from other key areas within the SBA.

When this bill is passed by Congress and signed into law, SBA assures me it will provide enough lending authority for the SBA to remove the current loan cap of $750,000 and also allow combination or piggyback loans.

By increasing the 7(a) programs lending authority, SBA estimates that through their lending partners they will be able to offer 30,000 additional guaranteed loans, which could create or retain as many as a half million jobs by the end of September.

In addition to fixing the 7(a) program, the bill authorizes the SBA to charge fees under the 504 Certified Development Company program and the Small Business Investment Company program until the end of the fiscal year or September 30, 2004. Both these programs operate solely on the basis of user fees and do not require an annual appropriation. Currently, the authority to charge these fees expires on May 21.

Finally, the general extension of SBA programs not covered by an appropriation such as the surety bond program, SBA's cosponsorship authority, and several very small procurement assistance programs, will move from the current deadline of April 2 to June 4 of 2004.

This bipartisan bill has the support of both the minority and majority sides of the Committee on Small Business. It has the support of the administration. And finally, it represents the consensus position of those who use the 7(a) program, both borrowers and lenders.

I urge my colleagues to support H.R. 4062.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to thank the chairman and the House leadership for their commitment and willingness to resolve this program in a bipartisan manner.

In today's jobless recovery, small businesses are more important than ever. That is because small businesses are this country's main economic driver. They are this country's main job creator, and they are this country's number one employer. They are the backbone of the American economy.

One big challenge for small businesses is access to capital. Studies have shown that too many entrepreneurs finance their great ideas with credit cards. And this puts them into debt even before they get their businesses off the ground.

□ 1030

That is exactly why the SBA loan programs are so critical. These programs fill a financing gap for small firms, making loans on great ideas that may not have been looked at twice or invested in it at all. In fact, last year, the SBA's 7(a) flagship loan program provided hundreds of thousands of small businesses with billions of dollars that was then pumped back into the U.S. economy.

Yet, for all the good the 7(a) program has done, it recently fell on tough times. The program was shut down at the end of last year and was later reopened but with severe restrictions in place. Just after the program hit these bad times, so did the small business owners that were trying to secure loans. Suddenly, their plans to hire employees, expand their operations or purchase new equipment were put on hold; and, as a result, job creation was put on hold for the American economy overall.

I am happy to say to all those small business owners out there who have suffered, we are going to make the 7(a) loan program whole again with the bill before us today. This program that has helped countless entrepreneurs turn their dreams of business ownership into reality is back, and hopefully it is here to stay.

In H.R. 4062, we ask lenders to shoulder greater responsibility for the program, but we are also giving them a new tool by raising the guarantee rate from $1 million to $1.5 million. In doing this, lenders will be able to guarantee more loans, more money will flow into the American economy, and small firms will be able to create more jobs.

This fix will support our small businesses that create good-paying jobs right here in the United States, unlike the large multinational corporations that move jobs overseas in search of cheap labor and lax environmental standards without even thinking twice.

Our solution will especially help small manufacturers who have been hard hit, like Elliot Moses, a small businessman from Sandy, Utah, who was left on the edge of financial ruin when the 7(a) program was closed. Now he and thousands of other manufacturers can get the loans they need to stay competitive, strengthen their operations here in the U.S. and hire more American workers.

With H.R. 4062, we pave the way to success for manufacturers and small businesses everywhere. With this bill, we make sure small businesses have access to capital. With this bill, we make sure small businesses can invest in their ventures, purchase new equipment, expand and create jobs. With this bill, we will be giving our economy the shot in the arm that it needs right now; and with this bill, we also give new hope to the 8.2 million unemployed Americans that something is being done to transform the current jobless environment into one of work and prosperity.

If my colleagues support our Nation's economy, if they support job creation, then I urge my colleagues to support H.R. 4062.

Mr. Speaker, I reserve the balance of my time.

Mr. MANZULLO. Mr. Speaker, I have no further speakers. I would ask the gentlewoman if she has any further speakers

Ms. VELÁZQUEZ. Mr. Speaker, I do not have any other speakers

Mr. MANZULLO. Mr. Speaker, I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

By passing this bill, we will show small businesses just how important they are to the U.S. economy. We will show them that we want to make it easier for them to invest capital back into the businesses where it belongs; and, Mr. Speaker, I would like to take a moment to thank all the staff who worked hard on this solution.

I would like to thank from the administration, the staff, Jenny Mayne, Anthony Bedell and Charles Rowe. From the House leadership, I would like to thank KiKi Kless and Julie Sullivan. From the chairman's office, Barry Pineles, Matthew Szymanski and Phil Eskeland. From the Democratic Committee on Small Business staff, I would like to thank the staff director Michael Day, Adam Minehardt and Jordan Haas.

Mr. Speaker, I yield as much time as she may consume to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I would like to thank the chairman and the ranking member for their leadership. They have fought long and hard to make sure that they heard the cry of small businesses.

Small businesses have been crying throughout this country, saying that they needed the 7(a) loan programs so that they can do business; and we all recognize that small businesses are the engine that creates the jobs in this country. So to the gentleman from Illinois (Chairman MANZULLO) and the gentlewoman from New York (Ranking Member VELÁZQUEZ), I thank them so much for bringing this to the floor and all of the staff members who have worked so hard.

Mr. Speaker, this critical measure will help reopen the Small Business Administration's core lending vehicle which is the 7(a) loan program, and it will provide funding for the agency through June 4. While we grapple with the budget, we recognize that there are shortcomings in terms of it, but at least it will begin to address those applications that have come to us from those small businesses that critically need the financing through the 7(a) loan program.

This bill also makes a number of important changes to the program, including lifting the $750,000 cap on loans and gets the program running at an adequate level. It removes the regulatory restriction, also known as the "piggybacking," on SBA loans being part of larger financing packages.

This bill also creates a new financing tool by increasing the size of the loan guarantee to $1.5 million, which provides more options for lenders providing these loans.

Finally, Mr. Speaker, this bill extends the 504 loan program and the SBIC program through the end of this year.

We cannot thank the ranking member and the chair enough for the hard work that they have done, because these are important loan programs for small businesses.

As the ranking member on the Subcommittee on Tax, Finance, and Exports, I have long understood the critical role this program plays in keeping our Nation's economy vibrant and strong. These loans are the only source of affordable, long-term financing for many of our Nation's small businesses, and loans spur economic development in underserved areas.

In addition, the 7(a) loan program can be used for long-term working capital, including accounts payable, just allowing small businesses to do business.

Mr. Speaker, I urge all of my colleagues to pass this very important piece of legislation, H.R. 4062.

Ms. VELAZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

I urge the adoption of H.R. 4062 and call on the Senate to act quickly on this measure so that small businesses across the country can benefit.

Mr. BACA. Mr. Speaker, I rise in support of American small businesses and the 7(a) loan program.

President Bush has stood by while a record 2.9 million private sector jobs disappeared. The overall unemployment rate has stalled at 5.6 percent. It would be even higher if it included 1.7 million Americans who are no longer searching for employment.

As a former small business owner, I know the benefits they provide to our economy. Small businesses generate three-fourths of all new jobs. They represent 99 percent of all employers and create more than half of our GDP. If we want our economy to grow, we need to support small businesses.

But that's not what the Administration has done. At every step they have cut programs and decreased funds. The Administration's FY2005 budget devastates small businesses. 22 programs will be terminated and 14 will see their budgets cut.

The microloan program, which provides small businesses with loans of up to $35,000, will be terminated, while the Manufacturing Extension Program, which helps small manufacturers solve business problems, has been cut by $66 million over the last two years. The 7(a) loan program has been repeatedly cut and dismantled. They've done everything they could think of in order to kill it. They reorganized it. They closed it down. They capped the loans.

If the 7(a) program is shut down or the amount of loans is capped, then small businesses will suffer. They will not have access to affordable capital. And they will be forced to lay off workers and shut their doors. It is so important for small business to have affordable access to capital. That is why I commend the Democrats on the Small Business Committee for working so hard to save the 7(a) loan program.

But the Administration still doesn't get it. They continually cut the programs and the funds that support our small businesses. To stop our Nation's march towards a jobless recovery, our small businesses must be taken care of. Unless the Administration recognizes the problems that face American small businesses, the unemployment rate will rise and our economy will not recover.

Mr. SHUSTER. Mr. Speaker, I rise today in strong support of H.R. 4062, which would temporarily extend the Small Business Administration's 7(a) loan program. One of the SBA's most successful initiatives, the 7(A) loan program provides loan guarantees to small businesses. These small businesses are able to use this financial assistance to start up new enterprises. In January 2004, due to lack of funding, the SBA was forced to temporarily suspend the 7(a) loan program, thus cutting off a major funding resource for thousands of potential new small businesses. While the SBA was able to have the program up and running again in a relatively short time, it was still forced to scale back on the size and scope of the 7(a) program.

I am pleased that the legislation before us today not only extends the 7(a) program, but also restores the robust nature of the program by reinstating the maximum loan amount to $2 million. Additionally, H.R. 4026 would allow for piggyback loans, allowing businesses to seek out additional financial assistance to help grow their business. Equally important for our Nation's lenders, H.R. 4062, would increase the loan guarantee to $1.5 million. Lastly, Mr. Speaker, plans put forth this morning will create at least $12.5 billion in lending authority for the SBA in Fiscal Year 2004 and will allow for SBA to add an additional 30,000 loans which in turn could create thousands of new jobs.

In conclusion, I want to extend my thanks to our Chairman DON MANZULLO and Ranking Member NYDIA VELÁZQUEZ for their hard work and leadership on this issue. Today's action will allow the SBA to continue providing financial assistance to our Nation's small businesses and keep our economy growing. I urge my colleagues to support this measure.

Ms. BORDALLO. Mr. Speaker, I rise today in strong support of H.R. 4062, which will temporarily resolve the funding shortage for the Small Business Administration's 7(a) Loan Guarantee Program and ease the resulting financial burden that has been placed on small businesses. H.R. 4062 is the product of bi-partisan collaboration, and I commend Chairman MANZULLO and Ranking Member VELÁZQUEZ for working together to create a sound public policy response to this crisis for small businesses. I also thank the House Leadership on both sides of the aisle for responding promptly and positively.

The 7(a) Loan Guarantee Program is the Small Business Administration's flagship financing program, which accounts for 30 percent of all small business long-term loans in this country.

On February 11th of this year, the Small Business Committee held a hearing on the Administration's proposed Fiscal Year 2005 Budget for the Small Business Administration. At that hearing, small business owners from a diverse array of geographical areas and engaged in a variety of different industries testified that the financial crisis at the SBA 7(a) Loan Guarantee Program caused them undue hardship. Most indicated that the failure to access 7(a) Loans on more reasonable terms would preclude their respective companies from gaining access to the capital necessary to ensure survival. In the case of one small business owner who testified about his company's proposed project, the mayor of the city in which the company's site would be built accompanied him to Washington. The mayor spelled out exactly what was at stake for his economically distressed community; the opportunity to revive the local economy and provide new jobs, or the prospect of further decay and desperation.

H.R. 4062 lifts temporary caps on 7(a) loans that were instituted in order to respond to its financial crisis. It will again allow for 7(a) loans to be included in larger financial packages, and provide working capital for export activities of small businesses. This is a step in the right direction, and I hope that Congress will follow the model of H.R. 4062 in addressing the long-term health of a 7(a) program that is so important to small businesses, which are incubators of economic and job growth in our communities.

I urge my colleagues to support H.R. 4062.

Ms. WOOLSEY. Mr. Speaker, I rise today in support of H.R. 4062, and I am pleased that this legislation reopens the 7(a) loan program and ensures that small businesses will once again be able to benefit from its lending power.

As a former small business owner, I understand the frustrations and worries small business owners have had as this program has sat in limbo. Small businesses are one of our Nation's leading employment opportunities, but few businesses can afford to start up of expand without the help of loans.

Renewing our commitment to the Small Business Administration 7(a) loan program will not only bolster our Nation's workforce but also the economy as a whole.

Mr. Speaker, I want to urge all my colleagues to join me in supporting this vital piece of legislation.

Mr. PRICE of North Carolina. Mr. Speaker, I would like to congratulate my colleagues on the Small Business Committee for their bipartisan effort, which allowed this bill to be voted on just in the nick of time. I would like to especially congratulate Congresswoman VELÁZQUEZ, who has worked tirelessly to bring about this victory for small business.

H.R. 4062 restores the 7(a) program to its former strength by lifting the caps on 7(a) loans. It also takes the important step of removing regulatory limitations that had prevented SBA loans from being a part of larger financing packages.

7(a) loans account for nearly 30 percent of all long-term loans for small businesses in America, businesses that are the number one job creators in this country. So it is essential that we get this program back up and running again. This bill would do that, and it would also extend the important 504 loan program and SBIC programs through the end of this year.

The next step is to make sure that these authorized programs in SBA are fully funded. The President's budget provided zero funding for 7(a) and a number of other important SBA programs. Furthermore, it is important that we put safeguards in place to prevent last-minute shutdowns like those we experienced this past January.

I am working with my colleagues to restore 7(a) funds and to ensure that in the future there are not caps or program shutdowns that deny small businesses access to critically needed resources.

This is the vital next step to the authorization we are passing today, and I urge my colleagues to make certain that we provide the resources to make good on the commitment this bill makes to small businesses.

Ms. VELÁZQUEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 4062.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SENSE OF HOUSE REGARDING RULES OF COMPENSATION FOR CIVILIAN EMPLOYEES AND MEMBERS OF THE UNIFORMED SERVICES OF THE UNITED STATES

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 585 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 585

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 581) expressing the sense of the House of Representatives regarding rates of compensation for civilian employees and members of the uniformed services of the United States. The resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the resolution and preamble to final adoption without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform; and (2) one motion to recommit which may not contain instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 585 is a closed rule that provides for the consideration of H. Res. 581, expressing the sense of the House regarding rates of compensation for civilian employees and members of the uniformed services of the United States.

The rule provides for 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. The rule also provides one motion to recommit which may not contain instructions.

Mr. Speaker, with respect to H. Res. 581, the underlying resolution, I want to commend the gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform, who has spent significant time working on this important issue for this Nation's Federal civilian employees and military personnel.

The Committee on Government Reform has held several hearings on the state of the Federal workforce. At the conclusion of those hearings, it determined that some managers may not be able to attract or retain skilled employees to the Federal workforce due to a pay gap between Federal civilian employees and their private sector counterparts.

The concept of pay parity is based on two factors: first, an acknowledgment that the pay for civilian Federal employees and military personnel has not kept pace with the private sector; and, second, a belief that there is a need to reduce the disparity in pay between civilian Federal employees and military personnel.

The pay parity issue was not addressed in the House-passed fiscal year 2005 budget resolution. Therefore, H. Res. 581 offers every Member of the House the opportunity to express their opinion on whether or not they believe that pay for civilian Federal employees should be adjusted at the same time and in the same proportion as pay for the members of the uniformed services.

Mr. Speaker, I urge my colleagues to support this rule so that we may proceed to debate H. Res. 581.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the Military and Civilian Employees Pay Parity Resolution and the rule providing for its consideration. This underlying resolution is imperative for it expresses the sense of Congress that the government should provide fair compensation for Federal employees in order to encourage citizens to pursue a life of public service.

Federal employees consistently demonstrate the best that our government has to offer, and their contributions directly improve the lives of all Americans.

When we speak of Federal employees, we speak not only of the brave men and women of the Armed Forces but also of the men and women of literally hundreds of agencies dealing with thousands of issues. With nearly 1 million employees, the Federal Government is the largest employer in the United States. Thirty-two thousand Federal employees live in and/or around my south Florida district alone.

Employees of the Central Intelligence Agency work in oftentimes arduous conditions to safeguard our country from those who mean to do us harm.

Federal Emergency Management Agency employees provide disaster relief assistance, supplying shelter, food and funds to victims of natural disasters.

Customs agents and Transportation Security Administration officials protect our borders and our skies, and firefighters and other Federal law enforcement personnel across the Nation are our first responders to a range of hazards that can affect entire cities or single homes.

These are just a few of those Federal employees, including the fine people that do the work here transcribing our words, the clerks that work with us, the Capitol Police, the security guards, all are Federal employees; and, in my judgment, many of them do not receive fair compensation for their hard work.

Mr. Speaker, much of the world comes to know the face of America from the dedicated Federal employees living in this country and working abroad.

□ 1045

All of these hard-working employees deserve the unequivocal support of this body. Even more, they deserve just and fair compensation that competes with the private sector and rises to meet the living standards enjoyed by many Americans.

Increases in the pay of military and Federal civilian employees have not kept pace with the overall pay levels of private sector employees. There currently exists a gap of 32 percent between compensation levels of Federal civilian employees and those of private sector workers and an estimated 5.7 percent gap between compensation levels of members of the uniformed services and those of private sector workers. This glaring discrepancy greatly hampers the ability to recruit and retain quality employees.

To run efficiently and effectively, and to provide necessary services to the American people, the Federal Government needs to attract skilled, educated, and motivated people. We must provide Federal employees with an appropriate level of salary and benefits to encourage people to pursue a career of Federal service, whether civilian or military. Potential Federal employees must be made to understand that choosing a career of public service is not akin to taking a vow of poverty. The contributions one can make within the Federal service are lasting, desirable, and beneficial to the entire country.

I stand with my Democratic colleagues today as we point out that instead of debating a resolution expressing the sense of Congress, we should be debating a bill that actually establishes just compensation as public policy. It is shameful that while the administration and this body insist on providing a $1 trillion tax cut for the wealthiest among us, the Republican-passed budget leaves Federal employees to cope with rising health care and education costs without adequate compensation for their jobs.

This body's failure to ensure just compensation is yet another sad example of enriching the wealthy at the expense of middle-class America. I look forward to a day when this Congress will act to provide an equitable living standard for the middle class instead of just simply raising the idea.

Mr. Speaker, let me conclude by again expressing my support for this legislation and encouraging my colleagues to support it. As the old saying goes, though, talk is cheap. It is now time for this body to put its money where our mouths are and include real pay parity in the budget resolution.

Mr. Speaker, I do have additional comments that are unrelated to the parity issue. Because I do serve with my colleague on the Committee on Rules, I also feel the need to make a comment on recent issues which have taken place in the Committee on Rules.

We are experiencing a greater and greater breakdown of comity within the Committee on Rules that has me very troubled. The minority no longer receives timely notice of when the majority intends to make announcements. We no longer receive materials or even a notice that materials are available on a timely basis.

We did not, for example, receive notice from the majority that the chairman of the Committee on Rules was going to make a unanimous consent agreement last night on transportation. Although we knew from our leadership that this was going to take place, it is only a common courtesy between the majority and the minority of a committee that the minority be notified before the chairman makes announcements on the floor. Similarly, the manager's amendment for the transportation bill was apparently made available to the majority last night, but Democrats received it this morning.

I raise these issues here, Mr. Speaker, not in derogation of the issue before us, but because this is just the tip of the iceberg. No one in the minority disputes that the majority of the committee, in conjunction with the Republican leadership, controls what happens here on the House floor. But there are rules for each committee, rules which the majority is supposed to follow. And the frequency with which the majority on the Committee on Rules has taken to violating those rules and practices is increasing; and it needs to stop, Mr. Speaker.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LaHOOD). Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. TOM DAVIS of Virginia. Mr. Speaker, pursuant to House Resolution 585, I call up the resolution (H. Res. 581) expressing the sense of the House of Representatives regarding rates of compensation for civilian employees and members of the uniformed services of the United States, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 581 is as follows:

H. RES. 581

Whereas civilian employees and members of the uniformed services of the United States provide critical services and protection for our citizens and taxpayers, and make many other significant contributions to the general welfare of the Nation;

Whereas the ability of the Federal Government to provide a competitive salary plays a critical role in its ability to recruit and retain individuals possessing the skills necessary to provide government services effectively and efficiently to the American people;

Whereas the current pay system hampers the ability of the Federal Government to achieve the goals referred to in the preceding clause;

Whereas the Federal Employees Pay Comparability Act of 1990, commonly referred to as "FEPCA", sought to achieve comparability between Federal and non-Federal pay rates through annual pay adjustments based on changes in private-sector wages and salaries;

Whereas increases in the pay of members of the uniformed services and of civilian employees of the United States have not kept pace with increases in the overall pay levels of workers in the private sector, so that there currently exists an estimated 32 percent gap between compensation levels of Federal civilian employees and those of private sector workers, and an estimated 5.7 percent gap between compensation levels of members of the uniformed services and those of private sector workers; and

Whereas, in almost every year during the past two decades, there have been equal adjustments in the compensation of members of the uniformed services and the compensation of civilian employees of the United States: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) compensation for civilian employees and members of the uniformed services of the United States must be sufficient to support our critical efforts to recruit, retain, and reward quality people in Government service; and

(2) to help achieve this objective, in fiscal year 2005, compensation for civilian employees of the United States should be adjusted at the same time, and in the same proportion, as are rates of compensation for members of the uniformed services.

The SPEAKER pro tempore (Mr. LaHOOD). Pursuant to House Resolution 585, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 30 minutes.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that I be allowed to control 20 minutes, the gentleman from Illinois (Mr. DAVIS) would control 20 minutes, and the gentleman from Oklahoma (Mr. ISTOOK) would control 20 minutes.

The SPEAKER pro tempore. Without objection, the unanimous consent request is agreed to.

There was no objection.

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the issue today is of the utmost importance to our Federal employees, the Federal Government, and the American taxpayer. The Federal Employees Pay Comparability Act, FEPCA, of 1990, Public Law 101–509, sought to help achieve comparability through annual pay adjustments based upon the change in private sector wages and salaries. Despite our efforts, the Bureau of Labor Statistics currently estimates a 32 percent pay gap and a 10 percent gap between the military and the private sector.

In order to deliver what was promised, the Federal Salary Council recommends a 25 percent locality pay for 2005. There is clearly much work to do to fulfill the intent of Congress, and the resolution here before us is a step in that direction.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. WOLF), my colleague and coauthor of this resolution, along with the gentleman from Maryland (Mr. HOYER) and myself.

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of this resolution.

Mr. Speaker, I would ask Members to think about the following thing: the first person that was killed in Afghanistan fighting the war on terror was a constituent of mine, a CIA agent in Afghanistan. The FBI agents who are working in Afghanistan and Iraq are living under the same conditions.

The first person that everyone in this body would call if they were to find out that a loved one had been kidnapped sometime today would be the FBI. We would call an FBI agent.

The NIH cancer researchers and people doing research on juvenile diabetes and other important diseases would be affected by this resolution. Those that are guarding our borders under very difficult conditions along the northern border and the southern border would be helped and impacted by this resolution.

We hear a lot of people talking about how bad drugs are and we want to do everything we can to keep drugs from coming into our country. The DEA agents, some of whom have been killed in the line of duty, who are working full time to keep drugs out of our schools, are Federal employees and would be affected and impacted by this resolution.

The people in the fire service, that this summer as we are listening and hearing about forest fires taking place around the country, are all Federal employees who would be impacted by this resolution.

The nurses and the doctors that are working in VA hospitals that are taking care of our veterans are all Federal employees who would be impacted by this resolution.

Lastly, the Secret Service agents that are guarding the President. Secret Service Agent Timothy McCarthy, who stopped the bullet that would have killed the President of the United States, Ronald Reagan, was a Federal employee.

The resolution is very, very important. I commend the gentlemen on both sides of the aisle and ask Members for an "aye" vote to send the message to the CIA, to the FBI, to the NIH and the border control, to DEA agents, to the Forest Service, the Park Service, to VA nurses, the Secret Service agents, and Social Security and other people who are working very, very hard that this is an important issue. I strongly urge Members to support it.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 581. For the last 3 years, we have been hearing the right things being said about Federal employees coming from the White House but doing just the opposite. In the July 10, 2002, speech we heard the administration say, and I quote, "The important thing for the American people is to know that our public servants are working longer hours and working harder and working smarter to defend the American people." The White House went on to say that "public service in America today is not just another job, it is an important act of citizenship. It is a way to fulfill our obligation to those who have gone before us and those who will follow after us, those who have sacrificed and died for us."

That is all correct. One thing that we all know is that public service is not just another job. But unfortunately, those who will follow, unless we make some changes, will have less pay, less due process and appeal rights, and no right to collectively bargain. Indeed, there will be no civil service because jobs will be contracted out. Is that the way we want to say thanks to our Federal employees for working longer hours and working harder?

Then if that is the case, we certainly would not be doing our employees any favor. There are plenty of accolades and platitudes for the civilian Federal employees who perished or were severely injured in the 9–11 attacks, but now we hear that Federal employees are a lesser priority than military employees. How many Federal civilian workers have died beside their military counterparts in Afghanistan or Iraq? What about the Federal civilian workers who died in the Murrah Federal Building in downtown Oklahoma City? Can we tell their families that they are a lesser priority? How quickly we forget.

Mr. Speaker, I have not forgotten the arguments this administration and some of my colleagues used to justify rolling back Federal employees' collective bargaining rights. At that time, Federal employees were critical to homeland security at the Transportation Security Agency, at the Department of Defense, and at the Department of Homeland Security. Now we hear that there is a significant difference in the demands we place upon those in the Armed Forces and those in the civilian workforce.

Historically, Congress has expressed strong bipartisan support for parity in pay between our military and Federal civilian sectors in recognition of their important roles in our Nation's defense and general service to the American people. So I join with those who say, Stop the rhetoric and platitudes. It is time that we put our money where our mouths are. We have to stop this attack, this misuse and abuse of civilian Federal employees, and grant them equal status and equal pay.

Mr. Speaker, I reserve the balance of my time.

□ 1100

Mr. ISTOOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this resolution. Certainly everybody always wants to be better paid. I do not know anybody that is an exception to that particular rule. So there is always tension between what people would like to be paid and what an employer can afford to be able to pay. The employer in this case is the taxpayers of the United States of America.

This is not necessary to give what this resolution proposes, that would be supersized raises, jumbo COLAs, to the Federal workforce. We have been very generous with the Federal workforce. In the last 7 years, for every $1 increase in the cost of living index, or for that matter in the cost of living adjustments to Social Security, for every $1 that the cost of living has gone up, Federal workers have gotten a raise of $1.66. They have gotten raises two-thirds higher than the actual inflation rate. In fact, in the past 4 years, Federal workers have gotten raises at twice the rate of inflation.

The President's budget proposes that the across-the-board raise for the Federal civil service should be 1.5 percent, consistent with the actual cost-of-living adjustment. This resolution, however, says that they should get 3.5 percent.

Why? Well, they say it is because we are going to give the military a larger raise and therefore we have to give the Federal civil service a larger raise, too. I do not think that is accurate. People that work at civil service jobs are not taking the same risks on behalf of their country as people that are working in our Armed Forces. We do not have the retention problems in the civil service sector as we do in the Armed Forces.

There is a letter that has been submitted by the administration, by the Office of Management and Budget, opposing this resolution and points out that we are almost at a record low on the turnover in the Federal civil service. About 1.5 percent a year, that is the whole turnover of people in Federal civil service jobs.

This is not a matter of retaining people. This is a matter of giving extra raises to people that, frankly, the taxpayers do not have the money to afford. This would cost us $2.2 billion this year and a similar amount next year and the year after and in perpetuity to give these extra large raises rather than holding the line as we should.

For State workers, the average pay raises in the last 4 years have been only about a third of what the pay raises have been for the Federal workers. The private sector is significantly behind what we have already done for Federal workers. This is not the time when we have record deficits to be giving more than a cost-of-living adjustment to the Federal civil service.

Mr. Speaker, we have been overly generous. It is not needed to retain people; and, frankly, the taxpayers are the ones that are being asked to foot this multi-billion dollars of expenses. This is the taxpayers' money. We are being fair. We should stay that way.

The supposed pay gap, people say Federal workers are 32 percent underpaid. Actually, that particular survey does not calculate all the factors. It does not calculate the locality pay that boosts Federal civil service workers, which cuts that gap in half; and it does not cover the benefits they receive under which that gap evaporates.

We are being fair, and we should oppose this resolution on behalf of the taxpayers of the United States of America.

Mr. Speaker, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I think the gentleman is aware that the Federal Employee Pay Comparability Act calls on the Federal Salary Council every year to make recommendations in terms of what the Federal employees would make. We could put a chart up here that would show that every year we have failed to come close to what the Federal Salary Council has recommended under the existing law of the land which is FEPCA, the Federal Employee Pay Comparability Act. This year, they have recommended a 25.73 locality rate for 2005.

Congress has a long history on this issue. This resolution merely reiterates the sense of the House. Annual pay adjustments for civil employees and military members provided through the appropriations process have been identical in nearly every year over the last two decades. In addition, language to this end was included in the budget resolution for fiscal years 2002, 2003 and 2004.

In 1999, the last time the Senate held a freestanding vote on this issue, the Senate voted 94–6 in favor of an amendment expressing the same sense of Congress that we do here today.

I used to work for a billion-dollar company out in Fairfax, Virginia. Our greatest asset was not our building. It was not our computers. It was not the land. It was our employees. They walked out the door every night, and we did what we had to to make sure they came back the next day. In an information age, people are the number one asset of any organization.

The same is true with the Federal Government. We are in danger of losing in the procurement force over 60 percent of our qualified workers over the next 5 years. These are people that can walk across the street to the private sector and make more money than they are making for the Federal Government and leave with their full retirement. These kind of minor incentives in a 3.5 percent pay raise that I do not think anybody except maybe the gentleman opposing this resolution would call a gargantuan pay raise or a huge pay raise, this is in line with what we are seeing in many cases in the private sector and in State and local governments and in my own counties that I represent in Congress.

We have to be able to recruit and retain the best and the brightest to fulfill the policies that this Congress passes and sends on. To do that, pay comparability is important, and we continue to lag significantly in that respect. The Federal Government may never be able to compete with the private sector dollar for dollar, but we have to ensure that we do not fall further behind in the war for talent.

While wages are not the only factor in our recruitment and retention efforts, what employer can hope to succeed in a labor market where it is offering salaries so far below the average? This is not a cost-of-living allowance as some have argued, saying it is too generous. The purpose is to assist the Federal Government in providing salaries comparable to those in the private sector. This is achieved through annual pay adjustments based on the change in private sector wages and salaries, not the cost of living. That is the fundamental precept behind the Federal Pay Comparability Act. This is achieved through our annual pay adjustments.

The fact remains that Federal pay is not competitive. It is also important to note that providing a higher annual adjustment would not result in any budgetary increase. As they have over the last two decades, agencies pay for all their salaries, including these annual adjustments, with discretionary funds from their salaries and expense accounts. This does not score under CBO.

I think we can all agree that both armed services and the Federal civilian workforce are integral to fulfilling the role of government in America and both must be compensated accordingly. In the coming fiscal year, parity and pay adjustments remain the vehicle to help achieve comparability between the public and the private sectors on the issue of pay so that the government can continue to perform. This resolution is integral to this effort. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to yield 6 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. I thank my friend from Illinois for yielding me this time.

Mr. Speaker, number one, I was the sponsor of the Federal Employee Pay Comparability Act back in 1990. We included it in the Treasury-Postal bill. It was signed by President George Bush. It was signed on the theory that we needed to pay Federal workers comparable wages to their private sector counterparts. In other words, if you are a scientist at NIH or if you are an FBI agent or if you are a CIA agent or you are a defense analyst, a civilian in the Defense Department, you would get paid comparably what your training and responsibilities required in the private sector. That was the whole theory. It was passed overwhelmingly in a bipartisan fashion. In fact, it is the law today.

My friend from Oklahoma has always opposed this adjustment. Always. This is not a new posture for my friend from Oklahoma. He simply does not believe in the comparability act and does not believe in compensating Federal employees fairly.

He talks about ECI. I wish my friend from Oklahoma would listen to these figures because I think he will find them interesting because he misrepresents what the facts are. I know he would be very interested.

Using 1969 as a base year of Federal service pay, average annual wage adjustments and CPI, which are all different figures, we specifically used wages because that is what we are competing with, not CPI. We are competing with wages in the Federal sector. Listen to this and I think you will be shocked.

Since 1969, if you take wages as the base, they are now at 614 percent. If you take CPI, it is at 509 percent over those 44 years. If you take civil service wages, they are 371.8. So they are still about 100 points behind the CPI adjustment, and they are 180 points behind what private sector wages have been adjusted. That is what this is about.

The Federal Salary Council under the law makes findings. They are in the Department of Labor. They make findings. Let me read their findings of this past year:

Based on calculations provided by the Office of Personnel Management, taking a weighted average of two sets of pay gaps, et cetera, the overall gap between base general schedule average salaries locality and non-Federal average salaries surveyed by BLS, the difference between private sector salaries and public sector salaries was 31.8 percent. In other words, for comparable responsibilities, Federal employees were making 31 percent less than their private sector counterparts.

The law said back in 1990 we get to 95 percent of private sector, saying that we are not going to put Federal employees on a par per se with the private sector but the objective is to get to 95 percent of what the private sector makes. We are not there.

The Federal council goes on to say that the overall average pay gap in 2003, including a current average locality rate of 12.12 percent, which of course we do not do, is 17.57 percent. This is the Federal pay council, out of OPM. Therefore, we recommend an overall average locality rate adjustment of 25.54 percent. That is in addition to the ECI.

Let us say the ECI was 1.5 percent which it is not, of course. It is higher than that, substantially, almost twice as much as that. But if we did that, then we would be talking about a 27 percent adjustment in Federal pay pursuant to the law which we have voted for, which the President signed.

The gentleman is shaking his head. He is inaccurate in shaking his head.

I will tell the gentleman further, to show him that he is inaccurate, the President of the United States last year came down and said in his recommendation 2 percent. The Congress gave 4.1 percent. Bush claimed last August he was saving taxpayers $13 billion, not from the 4.1 percent but from the 25 percent. In other words, the President of the United States adopted the premise that the law, in fact, said that the adjustment ought to be $13 billion additional to what the President recommended.

We are not standing here arguing for that proposition, but we are standing here for the proposition, as this Congress has done 17 out of the last 19 years, saying, look, we know we can't get there, but let us not send a message to those civilian employees arrayed in Afghanistan, civilian employees arrayed in Iraq, civilian employees arrayed in Colombia, at risk, NIH researchers, critically important to the health of this Nation, people working at NASA, let us not send them a message that they are second-rate citizens. Let us pay them comparably with what we want to adjust the military. And we ought to adjust the military. I am for that.

So I ask my friends, follow the law. But you do not have to follow all of the law, because if you followed all of the law we would break the bank. What we have said we are going to do is get to comparability. What we want to do in this resolution is to at least get to fairness. Support the Davis-Wolf-Hoyer resolution.

Mr. ISTOOK. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I disagree with the gentleman from Maryland's characterization of Federal civilian employees as second-rate citizens.

Mr. HOYER. Mr. Speaker, the gentleman is not characterizing me as having said that.

Mr. BUYER. I have the time. Do I have the time?

Mr. HOYER. Personal privilege.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Indiana has the time.

Mr. HOYER. I ask for personal privilege.

The SPEAKER pro tempore. A point of personal privilege is not in order.

The gentleman from Indiana has the time. The gentleman may proceed.

Mr. HOYER. Parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from Indiana yield for a parliamentary inquiry?

Mr. BUYER. No, I do not.

The SPEAKER pro tempore. The gentleman from Indiana has the time and may proceed.

□ 1115

I do not agree with the characterization of Federal civilian employees as second-rate citizens. This should not be an argument about similarities without a difference between the military and the civilian. I just want the gentleman to know I disagree with that.

Today, hundreds of thousands in our Nation proudly serve us around the world in the name of freedom. Unfortunately, some in this body insist that we should not give these uniformed service personnel a raise unless we give the same raises to everyone else in the Federal Government. I disagree because I know that there is a significant difference in the demands that we place upon those in the Armed Forces and those within the regular Federal workforce.

The pay increases for civilian Federal employees and members of the uniformed services should not be designed primarily to address the "spending power" or the "standard-of-living" issues that the gentleman from Maryland (Mr. HOYER) had just previously raised. Instead, the amount of such pay increase should be sufficient to support our critical efforts to recruit, retain, and reward quality people effectively and responsibly both in the civilian workforce and the uniformed military services.

Our civilian and military forces work under very different circumstances, and their personnel systems reflect that fact. The military is an up-or-out system, which forces members to exit the force if they are not promoted, whereas the Federal workers can remain at a particular grade level indefinitely.

The matching of military pay and rank and the general schedule grades are for protocol purposes only, not for pay equivalency. The pay systems and underlying personnel systems should not be confused. The fact is that the Federal workers are not fleeing for the private sector. The President's budget makes it a proper distinction between the clear need for the raise of the military pay, which he proposes at 3.5 percent, and a lesser priority of the Federal civilian workers at 1.5 percent.

So over the years that I have been here trying to close the pay gap with regard to the military, it has been very difficult. The gentleman from Maryland (Mr. HOYER) has been a very strong advocate with regard to the civilian pay and increasing that over the years, and I do not want to mischaracterize him.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Maryland for clarification.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to me.

I simply wanted to make the point, what I said was treating them disparately implied that they were second-class citizens. The implication in the gentleman's comments was that he disagreed with the implication that they were second class. There was no implication of that, clearly.

Mr. BUYER. Mr. Speaker, I accept the correction, and I thank the gentleman.

Just the point I want to make to the gentleman from Maryland (Mr. HOYER), I know he is a very strong advocate, along with my other colleague for the Federal civilian workforce. I stand here an advocate of the military, and there is a tremendous pay gap; and every time we try to close that pay gap for the military, it has been hard because we come here to the floor, in the 12 years I have been here, and he says he agrees with me, but we have got to move the Federal civilian at the same time. And I just want him to know it is very hard.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I include in the RECORD a letter addressed to me from Steven Strobridge, who is a colonel, U.S. Air Force, retired, and director of Government Relations for the Military Officers Association of America, supporting this.

MILITARY OFFICERS ASSOCIATION
OF AMERICA,
Washington, DC, March 30, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the nearly 380,000 members of the Military Officers Association of America (MOAA), I am writing to express MOAA's support of the principle of pay raise parity for the federal civilian workforce.

Pay comparability with private sector workers is a fundamental statutory requirement for both federal civilians and the uniformed services. To the extent such comparability is not sustained over time, our government will not be able to attract and retain the kinds and numbers of personnel it needs for a professional, highly qualified career work force.

Improved military pay raises in recent years have been aimed at restoring long-term comparability with private sector pay after decades of military pay caps. Those in the federal civilian workforce also have had their raises capped below comparability for many years.

While MOAA would not presume to recommend a particular civilian pay standard for the long term, we believe the resolution you propose, along with Representatives Wolf and Hoyer, represents a reasonable step in the right direction, given the well-documented years of federal pay raise caps.

Sincerely,

STEVEN P. STROBRIDGE,
Colonel, USAF (Ret),
Director, Government Relations.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COLE), a strong advocate for military and Federal employees.

Mr. COLE. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time.

I rise in support of H. Res. 581, not simply because I have the great honor to represent 15,000 civilian employees at Tinker Air Force Base and 6,000 at Ft. Sill Army Post and thousands of others throughout the district; not just because my own father, who had a distinguished 20-year career in the United States Air Force, followed that with, I think, an equally distinguished 20-year career as a civilian employee at Tinker Air Force Base, but because I think H. Res. 581 expresses equity, good management, smart personnel policy, and, frankly, is also an asset to our national defense.

Opponents of the idea of equal pay for military and civilian personnel quite often point to the inflation issue as something that they focus on. Frankly, I think the real question is the 32 percent wage gap between private sector and public sector employees, something that this House and this government has historically tried to address over time. I think we should continue on that path.

I also think it is of the utmost importance that we retain qualified personnel in Federal civilian service. Over 50 percent of that workforce is now within 5 years of retirement at Tinker Air Force Base. It is an extraordinarily skilled force. It needs to be encouraged; and, frankly, we need to have the incentives to recruit equally qualified people in the future.

I think in the end, Mr. Speaker, this is simply a matter of good policy. I have good friends on both sides of this issue. I think the motives are very good, but the reality is we know we need a first-rate military. We know we need to pay for that. We need a first-rate civilian personnel force to back them up when we are in conflict and, frankly, when we are not. So I am very proud to support this particular resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for his previous statement, as well as the gentleman from Virginia (Mr. TOM DAVIS) for his statement and his initiative in introducing this with the gentleman from Virginia (Mr. WOLF), and I thank the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I also want to congratulate the gentleman from Virginia (Mr. MORAN) for his extraordinary leadership in the Committee on the Budget which has led to the 3 past years of this very provision being included in the budget.

Mr. MORAN of Virginia. Mr. Speaker, I thank my friend and the leader of our caucus for his statement.

This is a very important issue, not just to those who represent large numbers of Federal employees but to the entire American people. We are talking about adequately compensating those who serve, who serve all of the interests of all of the American public.

At no time when we introduced this resolution or in the budget resolution have we ever suggested that the military should only get their pay increase if civilians get their pay increase. That is a total mischaracterization by the gentleman from Indiana (Mr. BUYER). That is not the case. But we do want to make the case that there are a great many civilian employees serving their country in a dedicated, brave way as well.

Just a couple of weeks ago, two DOD civilian employees were killed in what the Coalition Provisional Authority in Baghdad called "a targeted act of terrorism." There were hundreds of Federal civilian employees killed in a targeted act of terrorism in Oklahoma. The FBI, the CIA, the whole Department of Homeland Security, we can raise up the stature of people who are willing to put their lives on the line; but we can also point to all those clerks and managers and accountants and all the people who make the government run.

It is so easy to take it for granted because we have always had the most professional civil service with the highest integrity of any civil service in the world, and we take it for granted. But we are not going to be able to if we do not act responsibly here.

Health insurance premiums have been going up by double digits for the last several years. If we restrict Federal civilian employees to 1½ percent, their take-home pay is likely to be even less than it was last year.

We heard from the assistant secretary for Army Acquisitions. This is not a function that clearly should be contracted out. Army Acquisitions. He told us about the fact that in the last 10 years, the number of civilian employees working for the Army has declined from 100,000 to 50,000; and they have doubled their workload. They have twice as much work to do. But he shared with us his very deep concern, his very deep concern, that over the next 2 years half of that workforce is eligible for retirement. What happens then? These are dedicated professional employees.

This is a very important issue for all the people of this country. We as the people that the executive branch works for, we make the laws. We tell them what their priorities are. And the American people, who depend upon them for all their Social Security checks, their Medicare benefits, all of the various programs that have an enormous, profound impact on their lives, these people have to know that they are appreciated, they are respected. And how do we do that? More than words. We have to do that by giving them the level of compensation they are entitled to. That is what this is about. It is not a matter of talking the talk. We walk the walk by showing them that we appreciate what they do day in and day out.

I appreciate the gentleman for introducing this resolution, and let us get it passed.

Mr. ISTOOK. Mr. Speaker, I yield myself 15 seconds.

I include in the RECORD a copy of the letter from the Executive Office of the President of the Office of Management and Budget in opposition to this resolution.

We hear people say, well, we have Federal civil service workers that go in harm's way. The vast majority do not. But for those who do, what we have to do is avoid this across-the-board increase that consumes $2.2 billion so that we can target the extra assistance where it is needed.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 30, 2004.

Hon. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives begins consideration of a resolution on Federal pay policy, I strongly urge the House to support the Federal employee pay policy reflected in the President's FY 2005 Budget. The Administration believes this approach, rather than the one reflected in the proposed resolution, is the most effective way to achieve the desired result: to recruit, retain, and reward quality employees.

The President's Budget proposes to increase compensation for civilian employees by 2 percent, or by over $2 billion, targeted to address specific needs and opportunities. The proposal includes: a 1.5 percent across-the-board pay increase to maintain civilian employee buying power; $200 million spread across the agency budgets for use in addressing specific recruitment and retention needs;

and, $300 million for the Human Capital Performance Fund, which agencies can use to reward their highest performing employees. The resolution under consideration would instead support the same across-the-board increases for civilian workers that the President has proposed for military personnel.

The Administration strongly supports the proposed resolution's goal of providing sufficient compensation for civilian and military employees to support our critical efforts to recruit, retain, and reward quality employees effectively and responsibly. The Administration, however, does not believe that providing the same across-the-board increases for civilian workers that the President proposes for military personnel will help us achieve this goal.

If added to the President's proposal for $2 billion in pay increases for civilian employees, the additional cost of providing every civilian employee with the identical across-the-board raise proposed for the military would be about $2.2 billion. Because Congress cannot provide this funding without exceeding budget limits or shifting money away from higher priorities, this increase essentially acts as an "unfunded mandate" that agencies must cover within existing funds.

Federal civilian employees have enjoyed cumulative annual pay increases of 45.1 percent since 1993. For the last five years, Federal employees have received raises that exceed overall private sector wage growth. State governments, by contrast, have provided smaller increases for their employees when faced with similar resource constraints. In the past four years, many States have frozen pay completely at various points in time, and we are not aware of any State that in 2004 gave its workers as large an across-the-board raise as is being proposed for Federal workers this year.

In addition, Federal employees receive other types of pay increases. In 2005, we estimate the value of within grade and quality step increases as 1.3 percent, the value of promotions as 1.2 percent, and the value of cash awards as 1.3 percent of civilian payroll. While not everyone will receive these increases, with the 3.5 percent across-the-board pay increase that the proposed resolution supports, overall Federal employee compensation in 2005 would increase by about $5 billion.

Federal employee benefits are also increasingly more attractive relative to those available in the private sector. These include a defined benefit annuity and lifetime health benefits for as little as five years of service, as well as transit subsidies, long-term care insurance, preferential tax treatment of health insurance premiums, and flexible spending accounts for dependent and healthcare expenses. The Federal civilian benefits package increasingly stands out as one of the most comprehensive available anywhere.

Both civilian and military employees perform crucial functions on behalf of the American public. The Administration believes, however, that giving every civilian employee the identical raise proposed for the military does not support the goal of providing compensation to effectively and responsibly recruit, retain, and reward quality employees. Advocates for providing identical pay raises to civilian and military employees cite recruitment and retention problems, but we have no evidence that the Federal Government has widespread recruitment and retention problems. With respect to retention, the voluntary attrition rate is at a near historic low of 1.6 percent. Only in relatively few occupations are recruitment and retention problems an issue, and President's pay policy gives agencies the tools and resources to address these concerns.

The President's pay proposal provides sufficient pay not only to recruit and retain needed workers, but also to reward the government's highest performing employees. The Administration is implementing better agency performance appraisal systems that will be able to distinguish superior performance. Such systems will enable agencies to reward employees with funds from the Human Capital Performance Fund. These incentives will produce improved performance and results for the American people.

Our civilian and military employees are vital to the success of the Federal government in meeting its commitments to the American people. Federal workers should be rewarded with a pay policy that most effectively recruits, retains, and rewards quality employees. The Administration believes the pay policy included in the FY 2005 Budget supports those goals. While we recognize that the proposed Sense of the House resolution has no binding effect on either the budget or appropriations processes, we urge Members to oppose the resolution.

Sincerely,

JOSHUA B. BOLTEN,
Director.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HUNTER), the chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me this time.

I reluctantly rise to oppose this measure. I know the gentleman from Virginia (Mr. TOM DAVIS), the author of the resolution, is one of the great advocates, as are many of the Members who have spoken, of our folks who are in civil service who support not only lots of domestic operations but also military operations, and I appreciate his advocacy for these great Americans.

And I also appreciate the gentleman from Virginia (Mr. WOLF), the cosponsor, perhaps a guy that I feel is to some degree the conscience of this body and a great leader of this civil service constituency in his district, and also all the other Members who have spoken on behalf of the resolution.

The problem I have with the resolution is this: we have a limited amount of money to operate national defense with this year; and, according to CBO, we are some $30 billion a year behind in modernization. That means new equipment for our forces. That means replacing those 18-year-old helicopters and those 15-year-old fighter aircraft and making up that 8 to $10 billion shortfall in munitions. And we pledged this year, and I pledged, to try to make sure that we shape the defense budget this year in such a way that we try to shift as much as $2 billion into the theater, into the fighting theater where our soldiers and Marines are right now fighting against a very deadly enemy in the theaters in Iraq and Afghanistan.

And that means coming up with extra money for force protection; that means armor for vehicles; new sensor capability to be able to see the battlefield, tell where the enemy is at, and work surgically against him; and also munitions, which are in short supply. We need to recharge our munitions stockpiles because we have expended a great many of them.

For that reason, I hate to see that, if this action is followed by an appropriations shift that takes money from the operational military, and we have calculated roughly $1 billion would come from the operational military, to move it over to accommodate the pay increases above the President's proposal, that means we take $1 billion away from the accounts that do fund the force protection and the munitions and the extra surveillance and sensor capability that we are trying to direct and focus in the Afghan and Iraq battlefields this year. So for that reason, I reluctantly oppose this very well-intentioned motion. I think we need to focus on the task at hand. The emergency at hand is this shooting war that we are in right now.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3½ minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

□ 1130

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time, and I thank my good friend, the gentleman from Virginia (Mr. TOM DAVIS), and my other colleagues who have exercised leadership on this resolution.

This is an unusual procedure, because we are facing an unprecedented denial. In war and peace, there has always been pay parity. This is not the time to set up invidious comparisons between people who do the same kind of jobs, sometimes on the home front, sometimes overseas.

It has never been considered a reflection on the military for there to be pay parity, and we ought not inject that into this debate now. We take nothing from their sacrifice now, as we have taken none in the past. We know we have a volunteer army. We know most of our troops are support troops. We know that almost all of them do the same things that we do in civilian life. There are very few, in fact, in combat.

This is no time to break with pay parity, because if you think this will be remembered as the era of war, I tell you, this will always be remembered as the era of homeland security. This will be remembered as the era when we in fact called Federal employees to do what they have never had to do before, and that is to protect the homeland. The homeland is not being protected by the military. The homeland is being protected by civil servants here during alerts, by civil servants who in fact are taking care to see that we are not at risk right here. The last thing we need to do is to tell them that we are going to break pay parity, right when we expect more from them, right when we are counting on them to save us from risks that none of us know about today.

Indeed, these employees are being asked to do much more. The great bulk of them who are in DOD and Homeland Security are having their lives turned upside down with all kinds of systems being proposed that are revolutionary in the way you would pay them, evaluate them, involve them in collective bargaining; and now we want to say we are going to deny you, as well, as the pay parity you were entitled to when none of this was going on.

You want to do comparisons between Federal workers and the private sector? I do not think you want to go there. That has been one of the most controversial issues for decades, and we are still not at pay comparability. Indeed, for many years Federal service has been uncompetitive.

Young people for many years now have been going far more into the private sector than the Federal sector, and the quality of the Federal workforce is going to suffer for it. Both the House and Senate have had hearings and joint hearings on, of all things, recruitment and retention in the Federal civil service, because half of these folks could go out the door tomorrow or shortly after tomorrow.

They are greatly unappreciated as it is. Do not make it worse. Do not break the precedent of pay parity right when we are asking more from civilian employees of the civil service.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

We have heard discussions about how the vast majority of Federal employees do not go in harm's way. Let me make a comparison.

The gentlewoman from the District of Columbia (Ms. NORTON) has just raised an important point, and that is in the war on terrorism and protecting the homeland we are relying on our Federal employee workforce, and many of these people were drafted into this.

We look at the Oklahoma City bombings in my friend's home State, over 100 Federal employees died just for being Federal employees and for being there as a symbol of this government, their lives involuntarily on the line, dying for this country.

Officer Johnny Spann was killed in an Afghan prison uprising on November 25, 2001, the first American combat death in Afghanistan, a Federal civilian employee, a CIA employee.

Inspector Tom Murray, a 31-year veteran of the Customs Service, died from toxic fume inhalation during an inspection of the hold of a vessel at the Port of Gramercy in Louisiana in October of 2001.

Twenty-three firefighters died in wildland fire-fighting incidents in 2002, primarily in California and Colorado, where the fire season was especially severe. These account for almost a quarter of the on-duty deaths of firefighters in 2002, Federal employees.

Who are our Federal employees? Hundreds of Federal firefighters spent weeks without pause, working day and night to quell the multiple wildfires that consumed much of Southern California.

Coast Guard Chief Kevin Concepcion directed the safe and orderly seaborne evacuation of 70,000 confused and frightened people from Lower Manhattan amidst the chaos of the September 11 attacks.

FBI agents William Fleming and Ben Herren brought to justice two of the men responsible for the infamous 1963 bombing of an African American church in Birmingham, Alabama, 40 years after they committed the crime.

Dozens of foreign service officers have returned to the embassies in Nairobi and Kenya after bombs demolished the embassy buildings in 1998, killing and wounding dozens of embassy officials.

Employees from the Federal Highway Administration, the Social Security Administration, HUD, DEA, Agriculture, Secret Service, all of these died in the Oklahoma City bombings in April of 1995.

Three-and-one-half percent. Over 20 percent under what the Federal Salary Council recommended to the President Federal employees ought to get this year.

Mr. Speaker, I urge Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ISTOOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, were we to adopt this policy of across-the-board raises, we would prevent the ability to prioritize for those people who actually put their lives at risk and put themselves in harm's way. I have worked in local government, I have worked in State government, I have worked in the Federal Government. Typically we make a distinction between people, whether they are police, whether they are fire, whether they are law enforcement, whether they are in the military. We make a distinction between those who put themselves in harm's way when we consider what we need to do in employment.

But if all the resources are consumed on saying, no, we have got to give everybody an across-the-board increase, then we cannot target our efforts towards those people who do put themselves in harm's way. That is what the President's proposal seeks to do, have an adequate across-the-board cost-of-living increase, so that you therefore retain the resources to target the additional assistance where it is most justified. This resolution wipes out that approach. This resolution says, no, somebody that works at a desk, and maybe doing a very important job at that desk, has to be given the same increase as someone who puts their life in harm's way. That is a wrong approach.

The people that we have a challenge retaining are those who do put their lives in harm's way. But across-the-board, they virtually never had as little a retention problem as they do now in the Federal Government. A 1.6 percent attrition rate. That is it.

This is not a matter of keeping the Federal employees in general. This is a matter of conserving the resources so that we can target them, as the President's budget proposal wants to do, to where it is most needed.

I wanted to cite from the letter that the White House sent over: "If added to the President's proposal for $2 billion in pay increases for civilian employees, the additional cost of providing every civilian employee with the identical across-the-board raise proposed for the military would be about $2.2 billion dollars. Because Congress cannot provide this funding without exceeding budget limits or shifting money away from higher priorities, this increase essentially acts as an unfunded mandate."

The letter goes on to state: "The President's proposal is for targeting resources to where it is most needed, rather than taking this across-the-board approach that prevents us from making sure that we retain the people who have the specialties that are in highest demand and for whom we must compete with the private sector."

This is a sop to people who wanted to treat everyone the same because perhaps they are part of the same employee organization. That is not what we need to do.

We go to great measures to protect Federal employees. As the Representative of most of Oklahoma City, come out and see the new Federal building that is being dedicated in about a month's time and look at the extraordinary security measures that we have put into place to protect our Federal civilian workforce, because we know their value, we know their importance. But that does not mean that we treat everyone as though they were putting their lives in harm's way and, therefore, undercut what we do to keep the good people that do put their lives in harm's way on behalf of the citizens of this country.

We do not have the extra $2 billion for the across-the-board increase this resolution seeks to do. We have got enough problems with the deficit already.

I ask people to oppose this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, let me assure the gentleman, and maybe I can talk him into supporting this resolution when I ask him to read it here, the language of the resolution itself makes it clear this is not across the board. It says: "Compensation for civilian employees and members of the uniform services must be sufficient to support our critical efforts to recruit, retain and reward quality people in government service, and to help achieve this objective, compensation for civilian employees should be adjusted at the same time and at the same proportion as our rates of compensation for members of the uniform services."

Nothing in there mandates across-the-board. This language, in fact, was changed from previous years to accommodate some of OMB's concerns.

But I have got to tell you, where I get the most concerned is that last year on this floor I put an amendment on this floor to add $500 million for a Human Capital Compensation Fund so we could give out bonuses and award people on the basis of merit, and the gentleman's subcommittee did not fund it.

Mr. ISTOOK. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I am happy to yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Speaker, is the gentleman aware that we did not have the money to fund it because the very across-the-board language that you propose today had already been put in and soaked up the money?

Mr. TOM DAVIS of Virginia. Mr. Speaker, reclaiming my time, no, I am not aware of that.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I am happy to yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, with all due respect to the chairman of my committee, Mr. Chairman, that is inaccurate. It is inaccurate, because, as you know, you did not fund that in subcommittee. In subcommittee, the provision to which you refer had not been added.

So you are inaccurate. You had the money available. And, by the way, as you know, I supported that $500 million so that we could give additional compensation above and beyond what the law requires. The law.

This is not some speculation. The law requires that we give special compensation to high performers. I agree with that premise, as does the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Speaker, reclaiming my time, as the gentleman is aware, this authorization was authorized by the full House in an up-or-down vote. Unfortunately, we called on the appropriators to fund it, the money was there, as the gentleman noted, earlier on before the additional money was appropriated; and it still was not funded. So it is easy to talk one way, but we have to look at consistency and action.

All we are asking the House to do today is do what we did last year, the year before, the year before, what the Senate did in their budget resolution. This is 20 percent below what the Federal Salary Council has recommended this year.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 4 minutes to the gentleman from California (Mr. WAXMAN), the ranking member of the Committee on Government Reform.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to be an original cosponsor of this resolution. However, it is regrettable that this resolution even needs to be offered. In my opinion, it should be a well-settled principle that Federal civilian employees will receive the same annual pay raise as military personnel. Unfortunately, we are faced with an administration that does not appreciate the importance of the Federal workforce.

We have seen countless examples of Federal employees coming under attack from this administration. Over the past 2 years, 800,000 civilian employees at the Departments of Homeland Security and Defense have seen the revocation of their collective bargaining rights, due process rights and appeal rights. We have seen an ideologically driven campaign to privatize Federal jobs.

This administration wants to use arbitrary numerical goals for converting Federal jobs; and when there are competitions between Federal employees and the private sector, the administration wants employees to compete with one arm tied behind their backs.

Now we see the continuation of efforts to shortchange Federal employees. In this year's budget, the President has proposed giving civilian employees a 1.5 percent raise, less than half, less than half the raise that military personnel will receive. That is unfair to the hard-working Federal workers who make personal and financial sacrifices to serve their country.

□ 1145

Much has been made of the enormous sacrifices of the military personnel serving in Iraq and Afghanistan. These brave men and women deserve our deepest gratitude. However, we should not forget that civilian employees at the Defense Department and other agencies are playing an instrumental role in supporting both the war effort abroad and the war on terrorism at home.

Ironically, while the administration cannot seem to find enough money to give raises to civilian employees, it has no problem awarding financial bonuses to its political appointees. In some agencies, the average bonus to political employees has exceeded $11,000. That is outrageous.

Now, we have heard this is a matter of priorities. The priority for this administration is to give tax cuts to billionaires, not to adequately pay for civilian employees of the Federal Government.

I am pleased to be part of a bipartisan coalition of Members who value the contributions of Federal civil servants and believe they should not be treated as second-class employees. I strongly urge my colleagues to support this resolution. It is the only fair thing to do to keep faith with those who are working for us and deserve a pay raise and should not be excluded because of priorities for billionaires getting tax cuts while our civilian employees do not get the parity that they deserve.

Mr. ISTOOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we had some interesting discussion about, well, why have we not gone to this system of saying let us reward people based upon their performance. Let us target, let us target funds, as the President wants to do. And the gentleman asked, well, why was it not done in the appropriations bill last year?

That program has not been created. There is no program to fund. We could not put it in the subcommittee mark. The gentleman from Virginia chairs the committee that has the ability to bring the legislation to the floor, to promote what the President wants to do. Let us not undercut.

If the gentleman agrees it is a good idea, I agree it is a good idea, if the gentleman from Virginia (Mr. TOM DAVIS) agrees it is a good idea, and certainly the White House promotes it, then instead of doing this one-size-fits-all across the board, why do we not support the President's proposal and bring that Human Capital Performance Fund, that is what he calls it, why do we not bring that legislation to the floor? But, for goodness sakes, do not pass this resolution soaking up the resources that would have to go to pay for performance.

The ball is in the court of the committee of the gentleman from Virginia. I know he is sympathetic toward the President's approach, but I am sure he would not want to adopt a resolution that defeats his ability to move the Federal Government to be more responsible, to say, we know that not all employees perform equally, not all are placing themselves in the same level of risk as others are, and we ought to be able to make distinctions.

Do the cost-of-living adjustment, the 1.5 percent that is proposed, that is already in the budget, but do not pass this resolution to take away the ability of pay for performance. Do not say that just because we have retention problems in the military and they are so poorly underfunded that, therefore, we have to do the same for the Federal civil service.

The Federal civil service, in the last 7 years, for every dollar increase in the cost of living, has already gotten $1.66 in increases, faster than anybody else. It is time to have a year where we say, let us hold back. Let us only do the cost of living adjustments, but, at the same time, put the pay for performance in place.

We do not need this. The turnover rate for Federal employees is at virtually an all-time low. There are spots where we need to be able to keep people with specific skill sets, and the President's proposal would let us address those. But we do not do it by giving a pay raise to the people that we do not have a problem retaining and then not be able to retain the people that do have the special skills.

Do not pass this resolution. Do not try to handcuff us and prevent us from reforming the Federal civil service process. We are being more than fair with the 1.5 percent. We do not need to go overboard.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself the remaining time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Virginia for yielding me the time, as well as for his leadership on this issue.

Mr. Speaker, the concepts of equality, equal justice, equal opportunity, and equal pay have undergirded and guided the development of this Nation. One of the things that Americans have always been able to think ahead for is the idea that they are going to be treated equally, they are going to be treated fairly, and they are going to be compensated justly. We are simply talking about fair compensation. We are talking about the fact that we have an aging workforce in the civilian sector.

Recruitment is not as easy as one might think. Individuals are about to retire in large numbers, and there is a great deal of concern about our human capital, individuals to carry on the work of this great Nation.

So, again, I commend and compliment the gentleman from Virginia (Mr. TOM DAVIS) for initiating this resolution, I urge its strong passage, and suggest that it is not a slight in any way. We do not undervalue the importance of our military, but equally important are those in the civilian sector.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself 1 minute, and then allow the gentleman from Oklahoma (Mr. ISTOOK) to respond and close, and then I will make a very brief closure.

I think it is important to note again that this resolution does not mandate across the board. We took any language here that mandates that out. In fact, we have agencies right now where pay for performance is the rule. They are working under it at DHS. DOD passed a performance review last year. The IRS and FAA already have those provisions of pay for performance in there. Before this last Congress, GAO came and asked for it. They have it. These are agencies that our committee and other committees in the House, working together, are already working to pay for performance.

But if we do not pass this legislation, there can be no pay for performance. There will be no pay for performance without pay comparability. Otherwise, they do not even get the 1.5 percent, Federal employees. So this is a natural precursor to get what the gentleman from Oklahoma, what the administration, and what we all want. This has got to be there first.

So I think maybe we have a chicken-and-the-egg situation, but we have to have the money, I say to my friend from Oklahoma, before we can do the other kinds of things. And we took the mandatory, across-the-board language out of this resolution exactly for that purpose: to give us all an opportunity to work together, to give Federal employees pay comparability, but to do it in an appropriate fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. ISTOOK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I do not think that people should vote for this resolution based upon someone's claim that, well, it really does not do anything, because the language, the very last phrase, makes it clear that it calls for the compensation for the civilian employees of the United States to be adjusted at the same time and in the same proportion as the rates of compensation for members of the Armed Forces. If the Armed Forces, as is proposed and as we know is going to happen, get 3.5 percent, then the Federal civil service would have to get 3.5 percent as well, rather than the 1.5 percent that is proposed.

Again, this has been looked at by the Office of Management and Budget, and I quote once more from their record about what this would cost. They say, "It would be about $2.2 billion, and because Congress cannot provide this funding without exceeding budget limits or shifting money away from higher priorities, this increase essentially acts as an unfunded mandate that agencies must cover."

We are talking about a vote to spend an extra $2.2 billion. That is what we are here about this morning. We are here because some people in the House insist that that ought to be the case, and they want to use this vote to leverage the appropriations process and everything else.

But the taxpayers are looking over our shoulders. They know that the Federal workers have gotten twice the cost of living over the last 4 years, and they have not. Federal workers have had their pay improved far beyond what has happened in the private sector. It is not out of line to say, let us just hold it down to inflation this year, but let us make sure that we hold back the resources to target, to target pay where we most need it for recruitment or for people who are putting their lives at risk. That is what we ought to be doing. We should not be voting for this resolution.

I ask my fellow Members, Mr. Speaker, to join me in opposing this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself the remaining time.

The world has changed. It might have been a decade ago where you looked at the Federal workforce being uninvolved and in a different light from our men and women in uniform somewhere else across the world. But, today, the battleground has shifted here to the Pentagon, to Oklahoma City, to Manhattan, to our embassies abroad, and it has seen in each instance Federal employees dying on the front lines, just performing their day-to-day duties as targets of terrorists. We see that the first individual killed in the Afghan war was a Federal civil servant. Every Federal employee now, as they go to work, is a potential target of a terrorist.

In addition to that, OMB's opposition to this is nothing new. We saw this under the previous administration. That is traditionally the line they take. That is why Congress passed and President Bush won, signed the Federal Employee Pay Comparability Act in 1990, to try to have an independent body review what it would take to get pay comparability. Because the American taxpayer does not want an underfunded rocket scientist, a cancer researcher at NIH that we are not paying appropriately. We do not get top talent on the cheap, and that is not what they want.

So the Federal Salary Council appointed by President Bush made the recommendation. They recommended a 25 percent increase; and the administration said, no, we want 1.1 percent. All we are saying today is comparability says this ought to be at 3.5 percent, the same as military, and how we spend that money we can decide through the process as we move forward in the appropriations process.

This resolution does not even mandate it across the board. In fact, in some agencies, those have gone by the wayside as we formed the pay schedules there.

This is an important issue for this Congress. It is an important issue to our Federal workforce and our military workforce, of which we have shown support to some of those groups as well.

I urge my colleagues to vote for this. Let us send a message to our Federal employees and our military personnel that we honor what they do, we value what they do, and we are going to pay them appropriately. I ask for support of this resolution.

Mr. EVANS. Mr. Speaker, I rise in favor of H. Res. 581, which urges this administration to provide pay parity to civilian government workers and uniformed government workers.

I was greatly disappointed at the President's meager pay raise for Federal workers and feel it should be closer in line to the raise our uniformed service members received. I represent the Rock Island Arsenal, which employs about 6,000 civilian Department of Defense workers. Many of these employees are directly supporting our uniformed personnel in the war on terror. This includes many working around the clock to produce an urgent order of armored kits for our Humvees and trucks being sent to Iraq. Hundreds of other workers are either deployed or recently deployed from service in the Middle East to support our service members. Yet, unlike their uniformed counterparts, they only received modest pay increases.

Not only are Defense Department civilian workers serving in the war on terror, but Federal fire fighters, police, marshals, and armed agents of the FBI, DEA, ATF, Amtrak, Postal Service, and numerous other agents.

This administration wants to outsource our Federal employees, rewrite their labor rules, and ask them to do more with less. And then they hit them in their pocket book. We need to support our Federal workers and this resolution sends a strong message.

I urge my colleagues to support this bill and let the President know our Federal workers deserve his respect.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The resolution is considered read for amendment.

Pursuant to House Resolution 585, the previous question is ordered on the resolution and on the preamble.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ISTOOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 299, nays 126, not voting 8, as follows:

[Roll No. 104]

YEAS—299

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Burns
Burr
Calvert
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Dunn
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hastings (WA)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Nunes
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Renzi
Reyes
Rogers (AL)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—126

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Blackburn
Blunt
Bonner
Boozman
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Camp
Cannon
Carter
Chabot
Chocola
Coble
Cox
Crane
Cubin
Culberson
Cunningham
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Duncan
Ehlers
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Green (WI)
Gutknecht
Hall
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hunter
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Linder
McCrery
McInnis
McKeon
Mica
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Portman
Putnam
Ramstad
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shuster
Simpson
Smith (MI)
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Toomey
Vitter
Wamp
Weldon (FL)
Weller
Wicker
Wilson (SC)

NOT VOTING—8

Harris
Hulshof
Kirk
McHugh
Pickering
Rodriguez
Tanner
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1233

Messrs. RYAN of Wisconsin, SIMPSON, BASS, FEENEY, CANNON, COX, ISSA, BACHUS, NEY, BONNER, and Mrs. JOHNSON of Connecticut changed their vote from "yea" to "nay."

Mr. EVERETT and Mr. JEFFERSON changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 31 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1920

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. GINNY BROWN-WAITE of Florida) at 7 o'clock and 20 minutes p.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 31, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 31, 2004 at 4:20 p.m.:

That the Senate disagreed to House amendment S. Con. Res. 95; agreed to conference.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills during the recess today:

H.R. 2584, to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes;

S. 2057, to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel;

S. 2231, to reauthorize the Temporary Assistance for Needy Families Block Grant Program through June 30, 2004;

S. 2241, to reauthorize certain school lunch and child nutrition programs through June 30, 2004.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mrs. JOHNSON of Connecticut. Madam Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Mrs. JOHNSON) is recognized for 5 minutes.

Mrs. JOHNSON of Connecticut. Madam Speaker, I rise tonight to talk about the Medicare Prescription Drug and Modernization Act. The goal of this legislation is to create a Medicare program that can provide for our seniors the quality health care in the future that Medicare has been able to provide in the past.

Without the Medicare Prescription Drug and Modernization Act we passed and the President signed, the quality of the health care Medicare could provide would not keep pace with modern medical science, period. This bill was not and is not primarily about prescription drugs, though I believe we were morally and medically obliged to make prescription drugs a part of Medicare for all seniors.

The modernization of Medicare was more significantly about two facts. With seniors living longer, chronic illness has become a major fact of life for our seniors; and Medicare, through its old-fashioned structure, literally cannot pay for the preventive programs that can help seniors with chronic illnesses maximize their health and well-being and minimize their visits to the emergency room and the hospital.

Preventive health integrated into Medicare for seniors with chronic illness can both reduce costs and improve the quality of care available to our seniors. This must be done for the quality of life of our seniors but also for the sheer survival of Medicare.

One-third of our seniors have five or more chronic illnesses, and this third uses 80 percent of the resources. In every other sector of the population, we are seeing disease management programs increase the quality of care, increase the well-being of patients and reduce the costs of health care. We musts do no less for our seniors.

We are morally, medically and fiscally bound to integrate disease management into Medicare, both into the plans that Medicare offers to our seniors and into the fee-for-service system that has long been historically the primary means for Medicare to deliver health care services to our seniors.

Only the House bill offered disease management as a new program under Medicare; and through the conference committee we strengthened this program, we broadened it, and we actually gave to those who manage Medicare the right to demonstrate various disease management programs and then simply roll them out to benefit all seniors and all Medicare programs without coming back to Congress. We delay things. We make them difficult. This is a matter of life for our seniors. It is a matter of quality health care for our seniors.

The Medicare Prescription Drug and Modernization Act is just that. It is about prescription drugs and modernizing Medicare so that it will be prepared and capable of delivering cutting-edge, state-of-the-art health care to our seniors and particularly to those seniors with chronic illness.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. McDERMOTT. Madam Speaker, I ask unanimous consent that I may take the gentleman from Ohio's (Mr. BROWN) time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE ADMINISTRATION GIVETH AND THE REPUBLICAN CONGRESS TAKETH AWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Madam Speaker, we have now passed the budget in the House, one in the Senate, and they are starting a conference committee. We are going to have a product out here one of these days soon, but this budget will be perfect proof that the administration giveth and the Republican Congress taketh away. The administration gives massive cuts to the rich; the Republican Congress takes Federal unemployment benefits away from average Americans. That is the way it has been in this administration.

Millionaires get an average cut on their taxes of $112,925. The average American, on the other hand, gets $676. Why should a millionaire get $112,000 and the average working person in this country gets only $676? They have no answer for that.

They have an answer that is sort of strange. They say, well, these tax cuts are going to allow jobs to occur. If you give a lot of money to rich people, suddenly, miraculously, jobs will kind of sprout up out in the fields or in the factories. No proof of that whatsoever.

We have been following the President's ideas for three-and-a-half years, and this will be the first administration since the Hoover administration, since the Hoover administration, 1928 to 1932, that the administration has not produced one single job. They have lost jobs.

February was a particularly good month. You read the newspaper and they say, oh, the economy is recovering. We do not have to give unemployment benefits to anybody because the economy is recovering. How do we know the economy is recovering? We know it because the stock market is going up. What does that mean to somebody that does not have a job, the stock market is going up? They spent all their savings and their 401(k) and everything else to keep afloat, and this administration says because the stock market is going up we have a recovery and we do not need to extend unemployment benefits, in spite of the fact that we have $20 billion sitting in the trust.

All it requires is the President to say to the Congress, move it. Republicans will never do it. They do not care.

□ 1930

But the fact is that in February, in this recovery, 21,000 jobs were created. That is 400 jobs for every State. Now, maybe in North Dakota 400 jobs is quite a lot, but in California it is nothing.

Not one single one of those jobs was a private sector job. Remember, we gave all that money to those rich people and they were going to create these jobs? They did not create one single job in February. That is a jobless recovery, and the President ought to be able to see that. We could see it in December when we started talking about this.

In my State, 80,000 people have gone off unemployment since December; and the government says, well, we have this $20 billion but we are saving it. For what? To give another tax break, perhaps. You have to ask yourself what kind of an administration is this. They talk about compassionate conservatism, but I do not know what that means anymore.

We went to a workers' bus ride today, people who come to this city to tell us their problems. This guy who had been working in a paper mill up in Maine said, my grandfather worked in that mill, my father worked in that mill, I thought I would retire in that mill; but I lost my job, and now I have to go to the food bank to make it.

Think about it. Think about the loss of dignity. Think about the inability to feed your kids. But the President sits down in the White House and says, well, they do not need it; they just need to try a little harder, or maybe they can take their tax cut. They do not get a tax cut; they do not have a job.

For every person unemployed in this country there are three of them looking for every job that is created. The only reason the numbers have come down at all is because the President decided that he would not count them if they were not looking anymore.

This budget is a fraud and the American people should know it.

THE BUDGET AND PRESCRIPTION DRUG COVERAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. PORTMAN) is recognized for 5 minutes.

Mr. PORTMAN. Madam Speaker, being a member of the Committee on the Budget, I have to say that the budget that we passed in the House I do not believe is a fraud at all. It does two things that are very important. One, it restrains spending, which we need to do in order to get the deficit under control; and it also helps the economy to keep the government's spending down. For the first time really since 1995, when Republicans took control of the House, we are actually going to be freezing spending in many accounts. In fact, other than the security accounts and domestic discretionary spending, we will be getting spending under control and restraining spending, which I think is exactly what we should be doing. Second is that it puts in place measures to ensure that the economic growth that has begun continues. The gentleman may not have seen that in his district in Washington State, but we have certainly seen it around the country.

In fact, during the last 6 months, our economy grew faster than it has grown in the last 20 years, and jobs are coming back. Every month, over the last 6 months, we have seen job increases. Not as much as we would like to see, and all of us would like to see more, but the way to do that, obviously, is not to raise taxes on the American people, particularly some of those people the gentleman talked about, who he described as the wealthy. These are people who are businesses. Because a lot of small businesses in this country, in fact most small businesses are not incorporated, they are subchapter S, or partnerships, or sole proprietors; and they pay taxes at the individual level. Those are the people who are creating most of the jobs, our small businesses; and so we do not want to tax them at this point just as the economy is getting back on its feet.

So I think it is a good budget. I wish we could reduce the deficit even more, but it reduces the deficit in half by 4 years; the Senate version reduces it in half by 3 years.

Madam Speaker, I am actually here tonight to talk about another part of the budget, and that is the part that leaves room to provide for a new benefit under the Medicare program for prescription drug coverage.

After years and years of talking about this in this House, over in the other House, around the country, politicians have had a good time telling seniors we are going to give you prescription drug coverage, it is going to be great; but we have not delivered. Finally, late last year, this House voted on a bipartisan basis to provide prescription drug coverage, and I am very proud of that.

Is it perfect? No, it is not what anybody would think would be the perfect bill based on their situation. Is it a good benefit? Absolutely, yes. And it is a substantial commitment by this Congress to be sure we modernize Medicare. As the gentlewoman from Connecticut (Mrs. JOHNSON) said earlier, we need to modernize the program. She talked about in addition to prescription drug coverage all the wonderful new preventive benefits, all the new help for people with chronic disease.

It was time to take a 1960s program and be sure it added this important element of prescription drug coverage, which was not a big part of anybody's care back in the 1960s. Now it is a huge part of seniors' care. And seniors back home in Ohio, where I am from, are delighted they are going to get some help with their prescription drug coverage, because they rely more and more on prescription drugs, and people rely on prescription drugs to stay out of hospitals and not to have to have procedures. Instead of having a very expensive heart operation, now you can take Lipitor and keep your cholesterol down, and that should be covered by Medicare. And it will be now.

The Medicare bill does involve some trade-offs. We had limited resources. We spent $400 billion over a 10-year period, which is a lot of money, given the deficit that we have. But we thought it was so important to do it. But it does not provide 100 percent coverage. What it does provide is a real benefit, though; and let me talk about what it does and does not do.

A lot of what I have seen in the national media and what opponents of the law have said just is not accurate. Some have said that seniors will be forced into this new prescription drug plan and forced to pay premiums they may not want to pay. That is not true. It is entirely voluntary. If seniors do not want to sign up for it, they do not have to.

It will be roughly $35 a month for most Americans. But for about 35 percent of Americans, those who are under 150 percent or 135 percent of poverty, there will be no premium at all. But for those Americans who will pay a premium, it is about $35 a month.

The Department of Health and Human Services, the nonpartisan experts there, the Congressional Budget Office, again nonpartisan group, think the vast majority of Americans will sign up. But they do not have to. It is a voluntary program.

Opponents are also saying that this new voluntary benefit will cause employers to drop retiree coverage for those fortunate enough to have it. Well, there are seniors, maybe a third of seniors, who have coverage from their spouse or from themselves working for an employer. We want to be sure those people continue to get coverage, and this legislation absolute has just the opposite effect. It will not drive people away from it. In fact, it will give people the ability to keep that coverage because it provides an incentive for employers to keep people covered. We have never done that before, including the other Medicare bills that just about everybody in this Chamber has voted for in one way or another.

That is extremely important, because we want to encourage people to continue to have coverage. Over 20 percent of the cost of the bill, $85 billion, is set aside just for that purpose. AARP supports this bill. And one reason they support it is this provision was important to them, and it is in the bill.

Some opponents are also saying that the legislation would have been less costly if it had focused on those who really need it. That is exactly what it does. Most of the benefit goes to low-income seniors and those who have high drug costs. As I said earlier, those who are low-income seniors, under 135 percent of poverty, do not pay a premium, do not pay any copays, and are able to get prescription drugs with only $1 or $5 at the prescription drug counter.

This is a good bill focusing on those who need the coverage the most.

9/11 COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, yesterday, the Bush White House finally succumbed to intense and well-deserved pressure and agreed to allow National Security Adviser Condoleezza Rice to testify under oath before the independent commission investigating the 9/11 terror attacks.

I am glad that Dr. Rice will publicly testify before the commission. This is an important step towards learning about the events surrounding the terrible attacks that occurred in New York and Washington, D.C. on September 11. Now we can prevent such events from ever happening again if we get the information that has been withheld.

But why is it that the Bush administration agreed to do the right thing only after receiving intense pressure from the public and from Republican appointees on the 9/11 Commission? Why does the White House time and again fail to quickly and transparently disclose what transpires behind its closed doors? After all, who could possibly provide better information in the fight against terrorism than those top White House officials, those who served the administration during that fateful day on September 11?

Remember, and we cannot forget, that the Bush administration initially tried to prevent Congress from creating the independent commission in the first place. Since then it has failed to hand over critical documents and fully cooperate with the commission's stated goal of providing a full and complete account of the circumstances surrounding the September 11, 2001, terrorist attacks, including preparedness for and the immediate response to the attacks. Even more recently, the White House refused to support the commission's request for more time to complete its work.

To me, it seems like the White House is less than enthusiastic about getting to the bottom of these catastrophic events. As part of the deal struck for allowing Dr. Rice to testify, the 9/11 Commission had to agree in writing not to require additional public testimony from any White House officials, including Dr. Rice. The 9/11 Commission agreed to these terms, but this deal means that regardless of what the commission may learn in future months, no other White House official will be allowed to publicly testify under oath.

That is like an attorney asking a judge if half of the witnesses to a crime can skip the trial. It is a ridiculous concept.

President Bush and Vice President CHENEY will meet with the commission, although privately, and from what I understand, will read their remarks without taking questions. This is very disappointing. I think the American people, and especially the families of the victims of September 11, deserve to know what their leaders knew and when they knew it.

I remember when the country rallied together in September and October of 2001. These episodes of unity begin and end with the President. Tough times call for strong leadership. It is once again time for President Bush to lead this country forward, towards truth and reconciliation. He should help us grow as a people by being the very first person to volunteer himself for public testimony. He should avail himself and his staff to the 9/11 Commission so that we might learn something about our past and protect ourselves for the future.

The American people, Madam Speaker, deserve no less from their Commander in Chief.

SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Madam Speaker, this is a good budget we passed out of this House and sent to conference. I am hoping that the kind of frugal budget that we sent to conference is going to come back to this House for a final budget of the House and the Senate.

One thing that the budget did not deal with is unfunded liabilities. Unfunded liabilities are the promises that politicians make when they do not know where the money is coming from in later years. Last week, the actuaries of the Social Security Administration and the Medicare trust fund came up with their estimates of unfunded liabilities, and that is what this chart shows. It should scare the heck out of us.

The Social Security and Medicare trustees have calculated that these programs have $73.5 trillion in unfunded liabilities. Now, if you divide the population of the United States, which is roughly 290 million, into that $73.5 trillion, you end up with over a quarter of a million dollars for every man, woman and child that somehow is going to be responsible for paying for these benefits over and above what we have promised because the money coming in from the FICA tax, and that FICA tax supports Social Security and Medicare, over and above the money coming in in revenues from that tax, we are still short $73.5 trillion.

□ 1945

Medicare part A is short $21.8 trillion; Medicare part B, $23.2 trillion; Medicare part D, the drug program that we passed 4 months ago, $16.6 trillion.

It is interesting on the prescription drug bill that Tom Savings, one of the actuaries, estimated at the time it was passed that the unfunded liability would be $7 trillion. His estimate now is $16.6 trillion.

The danger, of course, is that what we are doing in effect is acting like our problems are so important today that it justifies taking the money of our kids and our grandkids that they have not even earned yet. The unfunded liabilities, in addition to the debt that we are accumulating, now over $7 trillion, is a huge liability to leave to our kids.

I am a farmer from Michigan. What we have traditionally tried to do is pay off the farm so that our kids had a little better chance than we did. Instead, we are now faced with a situation, and here is my political take on it. Right now roughly 50 percent of the working population pays less than 1 percent of the total income tax in this country. What we have done is become more and more progressive with the easy flow of language and justification to tax the rich, but here is 50 percent of the population that has little stake but to ask candidates that are running for Congress for more government services rather than less, and politically it has seemed to be to the advantage of politicians to make more and more promises. This represents how many promises we have made over and above our ability to pay for it.

I did this chart, this was also with Tom Savings' help, just to show that in 16 years it is going to take 28 percent of our general fund budget to pay for the makeup difference in Medicare and Social Security. By 2030, it is going to take almost 53 percent of the total budget.

So what do we do? How do we deal with this? Here is what this Congress, the House and the Senate and the White House has done in the past. This is when we run short of funds in Social Security.

It started out with 2 percent in 1940, 2 percent of the first $3,000. It ran short of money, so in 1960 we raised it to 6 percent of the first $4,800. In 1980, we ran short again, so we raised it to 10.16 percent of the first $26,000; and then in 2000, 12.4 percent of the first $76,000. In 2004, now, today, 12.4 percent of the first $89,000. So what we have done is either reduced benefits, increased taxes or a combination of both. That is what we did in 1983.

I just call on my colleagues and I call on the American people, Madam Speaker, to ask their Members of Congress what bill have you written, what bill have you signed on to to make sure that we keep Social Security and Medicare solvent and not leave the total bill up to our kids?

EXCHANGE OF SPECIAL ORDER

Mr. PRICE of North Carolina. Madam Speaker, I ask unanimous consent to replace the gentleman from Oregon (Mr. DEFAZIO) on the list.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of North Carolina. Madam Speaker, what would your nightmare budget look like? Can you a imagine a budget that would cut support for homeland security and small business development, that would do virtually nothing to improve one of the most sluggish economic recoveries in American history, that would break the Contract with America by raising the debt ceiling under cover of a budget resolution, that would balloon the debt and the deficit to previously unimagined dimensions, and that would do all of this less than 5 years before the first of the baby boom generation begins to retire?

Unfortunately, Madam Speaker, that nightmare is a reality; and this reality has been created by the President and the House Republican leadership.

In the face of the worst fiscal reversal in this Nation's history, almost $10 trillion since President Bush took office, the Republican response has been to propose more and more of the same failed policies. Finding themselves in a hole, their motto is, just keep digging. There is no clearer example of this than the phony pay-as-you-go proposal in the Republican budget that requires offsets for entitlement spending but not for tax cuts.

Yesterday, Democrats and moderate Republicans came together and voted to instruct the House-Senate budget conferees to institute a real pay-as-you-go proposal, akin to the one that brought us out of deficits and into surpluses in the 1990s. But, as has become standard operating procedure around the House lately, when the vote did not turn out the way the Republican leadership liked, they kept that vote open and began the arm-twisting; and after 28 minutes they had twisted enough arms to bring the vote to a tie and to defeat this effort at sound budget policy.

So now we are left with a budget in conference that would provide the worst of both worlds. It sends us over the cliff fiscally while at the same time radically reducing funding for education, the environment, transportation, health care and law enforcement.

Let me focus, Madam Speaker, for a moment on what may come as a surprise to many Americans who have listened to the Republican leadership and the President spend a lot of time talking about homeland security and the importance of our first responders. This budget shows that talking is about all they are willing to do for our first responders, our police, our fire departments, our medical personnel.

The Republican budget makes significant cuts in Homeland Security and Department of Justice funding for first responders that results in an overall reduction in funding for our police of 33 percent, with a 50 percent reduction in funding for police in smaller cities and rural areas. They also cut funding for firefighters by one-third at a time when the Federal Emergency Management Agency is reporting that over two-thirds of fire departments in this country operate with staffing levels that do not meet the minimum safe staffing levels required by OSHA and the National Fire Protection Association.

The Speaker yesterday concluded the debate on the budget resolution by saying the reason it was important to cut taxes for millionaires was because millionaires are the small business owners who are creating all the jobs in this country. Our friend, the gentleman from Ohio, just repeated that argument on this floor tonight.

Some of those millionaires are small business owners, but again the Republican budget shows the true motivation of our friends on the other side of the aisle. The Bush administration and the Republican leadership have fought to zero out funding, in fact, for the Small Business Administration's flagship 7(a) loan program that provides close to 30 percent of the long-term loans for small businesses; and they zero out countless other small business programs like Microloans and others geared toward minority businesses. If, as the Speaker implied, the reason for tax cuts for millionaires was really to help small businesses, why did it take an extended press and letter-writing campaign orchestrated by the gentlewoman from New York (Ms. VELÁZQUEZ), the ranking Democrat on the Committee on Small Business, to get the Republican leadership to finally back off of some of these cuts in Small Business Administration funding?

The answer, I am afraid, is obvious. The tax cuts were not meant to help small businesses or to spur the economy. They were meant to provide a windfall for the most fortunate among us.

Governing is about getting our priorities straight and taking the public trust seriously. Through the Spratt alternative budget resolution, fiscally responsible Democrats have made our priorities clear: fund the programs America needs like education, health care, housing, homeland security and safety net programs, balance our budget by freezing scheduled tax reductions for those making over $500,000 a year, and target tax cuts in ways that benefit ordinary Americans and stimulate our economy.

There is still time, Madam Speaker, for our colleagues to wake up and reject the Republican nightmare budget and to pass a budget that points to a brighter future. House-Senate conferees could start by adopting real pay-as-you-go rules. I urge them to gauge the House's true sentiment and do just that.

IN HONOR OF SOCIAL WORK MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Madam Speaker, I rise today in observance of Social Work Month. Since 1984, March has officially been designated as a month to acknowledge and recognize that social workers make meaningful and humanitarian differences and contributions to people in communities all over the world.

According to government health statistics, 60 percent of the Nation's mental health services are delivered by social workers. Trained social workers provide more than 40 percent of disaster-related mental health services for the American Red Cross. Roughly 600,000 social workers are dedicated to ensuring that people of all ages, creeds, sexual orientations and nationalities have access to information, resources and services. They often make all the difference in the world to individuals and families who might otherwise fall through the cracks into hopelessness and despair. Social workers measure success by helping all those in need of basic services to achieve their goals on their own terms.

Often working behind the scenes, social workers are trained to address problems that some cannot see or issues that others hope will simply go away, drug addiction, family violence, joblessness, homelessness, mental illness, prejudice and many other conditions which affect millions of people every day, leaving them with little hope and few options.

According to the National Association of Social Workers, social workers help to open the doors of access and opportunity to those in greatest need through training and dedication. Moreover, social workers also actively advocate for changes in policy and legislation that strengthen the social safety nets that make a critical difference to so many.

Social workers have been at the forefront of many social movements. Some of the pioneers who were actively involved in creating social change include Dr. Dorothy Height, Jane Addams and Whitney Young.

Dr. Height was not only a giant in the civil rights movement, she also developed several model programs to combat teenage pregnancy, to address hunger in rural areas, worked as a proponent for AIDS education, implemented a project to expand business ownership by women and to provide funds for vocational training, and much more. She received a Congressional Gold Medal last week in recognition of these works as one of the preeminent social and civil rights activists of her time. In addition, she was awarded the Medal of Freedom, the Nation's highest civilian distinction, by President Bill Clinton in 1994. In fact, she has been acknowledged for her leadership by every President since Franklin Delano Roosevelt.

Jane Addams, another great social worker who built Hull House, which is in Chicago in my district; Whitney Young, former president of the National Urban League, and the list goes on and on and on.

In addition, there are several social workers who serve in our body, individuals who were engaged as social workers before being elected to Congress: Representatives SUSAN DAVIS, BARBARA LEE, CIRO RODRIGUEZ and ED TOWNS, as well as Senators BARBARA MIKULSKI and DEBBIE STABENOW. All of these individuals have made tremendous differences.

I simply come, Madam Speaker, to commend those who engage themselves in the profession of social work, recognize the great achievements and accomplishments that they have made and urge we recognize their importance to our society.

THE NATIONAL BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. CASE) is recognized for 5 minutes.

Mr. CASE. Madam Speaker, here we go again. Here we are to talk about a subject our majority colleagues and our administration do not want to talk about. They are hoping it will just go away. That subject is our national budget or, more directly, the conspicuous lack thereof.

Madam Speaker, my constituents ask me all the time, what do I think is the most important challenge facing our country? What is the one thing that we have to work on more than anything else? I can reply to them, in all honesty and candor and directness, that it is the very solvency of their Federal Government.

Why should that be? Why is it not the economy? Why is it not education? Why is it not our deteriorating relationship with the rest of the world? Why is it not Social Security?

The reason is simple. Without a strong fiscal underpinning, we cannot do everything or anything else. We can have a great old talk, we can have a great old debate, but unless the fiscal solvency of our country is strong, we are not going anywhere. Put another way, unless we take care of today, our children will not be able to take care of tomorrow.

We think we all know now, do we not, that we are in pretty bad shape? In fact, we are in real bad shape; and we are going downhill fast. The largest deficits we have ever seen, no end in sight, debt going up, interest rates going up, irresponsible budgeting, like going out only 5 years of a budget when we know that the big expenses come in the sixth year.

And we all know that the budget passed by this House just a week ago by a mere three-vote margin is not going to solve that problem. In fact, it is going to worsen it.

How did we get here? How did we ever allow ourselves to come to this place? Just 3, 4 years ago we were on the right track. We had spending under control. We had revenues coming in. We had budgets that were heading towards balance. We had debt ceilings that were low relative to GDP.

□ 2000

How did we arrive here? Well, the first thing we did is pretty obvious. We consistently reduced revenues while increasing expenses. What do we expect when we do that over a period of years? Second, though, we did not have basic rules to live by. When we are talking about whether to increase this particular program or increase this particular tax or reduce this particular tax or reduce this particular program, we can talk about that program or that tax all we want, but it has got to fit into a big picture. And those are rules to live by; and if we live within those rules within that box, we end up with balanced budgets because we make decisions that are related to each other.

And, third, the rules that we did have, we ignored. We talked at length about the first consequence. We have talked about that for many years now. I think it is finally sinking in. We cannot both slash revenues and increase expenses and expect everything to be okay; and yet that is what the budget we just passed and sent into a conference with the Senate does.

Yesterday, we talked at length about the second part of it, rules that have worked in the past and that we no longer have, PAYGO. PAYGO, a very simple concept that we pay as we go. That as we reduce in one area, we have to increase in another area. We talked about consequences that when we reduce over here, there is a consequence that has to be addressed over here. That is what balance is. This is balance. Those rules set the boundaries for what we could do. PAYGO, that is what this House just rejected yesterday on a vote of 209 to 209. That is what the Senate has done. I support the Senate and praise the Senate for its actions to institute PAYGO, and I beg those conferees going in on behalf of the House to do the right thing.

But today I want to address the third part of it, rules that exist today that are not followed. We have under our system a debt ceiling. It is designed as a check and balance. It is designed to make each one of us stand up and say that no matter how much debt we accumulate because of the decisions, no matter how reckless, no matter how irresponsible, for that matter, we have to vote separately to increase the total debt that we collectively carry through our U.S. Government. And that is what we are doing. We are carrying debt. When we run deficits year after year after year, the money does not just grow out of nowhere. It does not grow on trees. It is not found in a stash somewhere. We borrow it. We issue notes, bonds. We take it out of trust funds. We borrow it. And the total amount is supposed to be limited, and we have that on the books; but we are ignoring it. In 2001 when this administration started, there was a debt limit substantially lower than where it is.

I want to say one thing in conclusion. A vote for the budget is a vote to increase the debt limit. We have voted to increase the debt limit. We have not taken a separate vote. So when people ask their Member of Congress, did he or she vote for the budget resolution, if the answer is yes, they voted for a substantial increase in the debt limit. Do not hide it. Let us be honest in our budgeting. Let us do this right.

ORDER OF BUSINESS

Mr. POMEROY. Madam Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

OUR NATIONAL DEBT

Mr. POMEROY. Madam Speaker, I want to follow up on comments recently advanced by my colleague from Hawaii, someone who has so quickly thrown himself, tried to make some sense of them, and I appreciate very much the gentleman's conclusions.

We have got a runaway debt. We have got a very serious financial situation facing this country.

We are all familiar with the concept of credit card limits. Maybe we get pretty little limits. Maybe we get even generous limits. But somewhere there is a limit on how much money we can run up on our credit card.

The Nation, similarly, Congress establishes the limit, the credit card limit, for the Federal Government. We do that by a vote of Congress, how much money we are allowed to borrow as a country. And we have got a limit of $7.384 trillion, $7.384 trillion. We are allowed to borrow that much as a Nation.

That might give one pause. One might wonder how in the world are we going to get that debt paid off before we all leave the workforce, retire, and turn the country over to our children. Surely it would not be fair to leave our children with this debt.

As bad as this credit card limit is, as troubling as it ought to be to all of us, $7.384 trillion, I have got very bad news for the Members. In the budget conference presently underway in the bowels of the Capitol, there will be an additional borrowing authority added to this country. The bill, the budget bill, to come out of conference to be voted on by the House of Representatives, will raise the credit card limit for our Nation. We do not know how much because no one is talking about this in public. No one wants the American people to realize that $7.384 trillion is not enough, that we are going to raise it even more by $1 trillion, more by $2 trillion. One projection that we have seen from the majority would take the credit card limit of this Nation over $10 trillion.

One of the things I think that is lost in financial debates is these numbers get too big and one really does not know what they mean. They are just enormous. I went recently to an instruction course on how to teach mathematics. And the presenter said 1 trillion, do we know how many seconds are in 1 trillion? If we took 1 trillion seconds, we would go back in time 16,000 years. So obviously 1 trillion is a staggering number, and we are now finding that, under the budget plans of the majority party and the administration that drive this national debt ever higher, $7.384 trillion is not enough. I think the American people had better say it is enough.

We do not as families, we do not as families plan our financial affairs where mom and dad run up the credit cards, happily thinking the kids will pay them off. I know of families that I represent much like the family that raised me, just an awful lot of sacrifice in the mom and dad to leave things better for the kids, not tipping it on its head where we really do not care what happens afterwards, after we are gone.

If that is how we operate as families, as moms and dads worrying about making things better for our children, why should this Nation representing all the moms and dads in this country be running it a way so significantly different? Why should this Nation run up a debt like there is no tomorrow? Because there is a tomorrow, and it will be our children's tomorrow, and our children's tomorrow will be diminished by the fact that this generation is refusing to pay its way.

I am going to vote against the budget that comes out of conference because I believe it is wrong, absolutely wrong, to raise the borrowing limit for this country, leaving more debt for our children, when there is no plan anywhere in terms of how we ever get out of this mess.

The minority advanced a plan that brought us to a balanced budget in about 8 years. Some might think that is just not fast enough. That was a very difficult task. That is how far in the hole we now are. But the majority budget does not have any plan at all. And that is why they want to raise the debt, and that is why their budget should be rejected. We owe it to our children to get our Nation's finances back on track.

IRAQ AND SADDAM HUSSEIN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Madam Speaker, tonight I would like to spend a few minutes talking about an update on a situation on the various inquiries as to what happened before 9/11. Most importantly, the work that they are doing is taking a look at putting together a series of recommendations that will enable us to improve our intelligence capabilities and improve our response capabilities into the future.

As I was listening to some of the earlier speakers, someone said when that happens and these inquiries present their work and they make their recommendations and then Congress, of course, will have the opportunity to review those recommendations and we may or may not implement them, the comment then was made: and then we know that an event like 9/11 will never happen again.

As much as I would like to endorse that comment, I do not believe it is accurate. On 9/11 we, as a Nation, were surprised; and I believe that in the future, regardless of the recommendations that come forward, regardless of how effectively we implement them, we will be surprised again.

Let me just lead up to 9/11 and outline some of the things. What do we know today? We know this: that in March of 2003, the United States, we led a coalition of over 30 countries in Operation Iraqi Freedom. The action was undertaken as a last resort. Iraq had been in noncompliance or material breach of 16 U.N. Security Council resolutions spanning a period of 12 years to remove the threat posed by Saddam to his people, the Gulf region, and the world.

A couple of things I really want to point out here is that some have said this was an initiative by the Bush administration, and later on I will go through some of the quotes by the previous administrations and also the documentation and the data that shows that throughout the 1990s, the administration, Congress, and others saw Saddam Hussein and Iraq as a threatening menace to his own people, to the region, and to the world. A consistent pattern.

Saddam Hussein's Iraq was a constant and immediate threat to his neighbors in the Gulf region. And what did Saddam do in the Gulf region? Under Saddam, Iraq fought a decade-long war against Iran and launched an unprovoked invasion of Kuwait. After Iraq's defeat in the Gulf War in 1991, Iraq rebuilt its military strength and continued to use the threat of military action in attempts to intimidate neighboring countries.

The pattern is pretty clear. In the region Saddam Hussein treated his neighbors brutally. With his own people we know that Saddam Hussein was a mass murderer. We removed that capability from him. The day we hauled him out of that spider hole, he no longer had the capability to again be a mass murderer. He was a mass murderer and will be held accountable for the crimes against his neighbors and the crimes against his own people.

It is estimated that somewhere between at least 400,000 and perhaps 1.2 million Iraqis were killed by his brutal regime. His security service is responsible for the disappearance of thousands of Iraqis, hundreds of thousands of Iraqis, perhaps millions, who ended up in mass graves. And his military used chemical weapons not only against Iran, but also against Iraqi citizens. For over a decade prior to Operation Iraqi Freedom, Iraq was on the U.S. State Department's list of state sponsors of terrorism. Saddam's regime attempted to assassinate former President Bush in 1993.

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His security intelligence services maintained strong links to international terrorist groups. Prior to the Gulf War, Iraq amassed an arsenal of chemical and biological weapons, and it possessed an advanced nuclear weapons program. After the Gulf War, despite the U.N. inspections that continued through 1998, the United States, along with the United Nations and many individual countries, such as Germany and France, assessed that Iraq continued to possess and develop weapons of mass destruction.

Post-Operation Iraqi Freedom, the evidence shows that Saddam, in contravention of Iraq's responsibilities under multiple United Nations Security Council resolutions, continued to maintain elements of his weapons of mass destruction programs and had a clear goal to rebuild these programs.

It is clear: Iraq and Saddam Hussein proved an evil menace to his own people, to the people in the Gulf and to the rest of the world. It is not brand new.

As we go through this, there is a bipartisan consensus as to what this looked like. February 17, 1998, this is a speech that President Bill Clinton gave: "Iraqi agents have undermined and undercut U.N. inspectors. They have harassed the inspectors, lied to them, disabled monitoring cameras, literally spirited evidence out of the back doors. And talking about the different types of predators of the 21st century: "They will be all the more lethal if we allow them to build arsenals of nuclear, chemical and biological weapons and the missiles to deliver them. We simply cannot allow that to happen. There should be no doubt, Saddam's ability to produce and deliver weapons of mass destruction poses a grave threat to the peace of that region and the security of the world. There is no more clear example of this threat than Saddam Hussein's Iraq. His regime threatens the safety of his people, the stability of his region and the security of all the rest of us. In the next century, the community of nations may see more and more the very kind of threat Iraq poses now: a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists who travel the world. If we fail to respond today, Saddam will be emboldened tomorrow by the knowledge that they can act with impunity."

"I have no doubt he would use them again if permitted to develop them," another quote from the same speech.

One of the disappointing things that has happened, especially in the last few weeks, is that people are trying to rewrite history, rewrite who did what. President Bush after 9/11 did not go back and collect these comments from the previous President and did not go back and measure those comments versus the actions that were taken. The President said we need to move forward. We are at war. We do not have the time and the energy to look back and to try to point a finger or identify a single individual or group of individuals who failed.

The President recognized exactly the type of threat that we faced, the same type of threat that Bill Clinton identified in 1998, a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists. Maybe the terrorists on 9/11 used a weapon of mass destruction that was different than what we expected when they crashed planes into buildings, but there is no doubt that there was a consistent theme that already identified this threat in the 1990s.

But our President said it is important to recognize that we are at war, and we need to get on a full-scale footing to combat this war and to win this war, and we are not into the blame game. What we have seen in the last 2 to 4 weeks is, I believe, people starting to use this and trying to use it for partisan benefit. This issue is too important and too critical to the future of this country for it to be used as a partisan weapon.

I think that President Bill Clinton in the 1990s had it right. He understood the threat. President Bush looked at the work that was done by President Bill Clinton and, after 9/11 had the opportunity to look through it through the lens of 9/11, and decided it was necessary to take a much stronger position and a much stronger role than what had ever been contemplated before, although even early in 2001, before 9/11, President Bush had indicated that it was time to take a look at our strategy and see if we should be more aggressive.

It was not only the President, but Members of Congress identified this threat. People are looking at people and saying, why did we not do this or that? Here are some quotes from the other body:

"If Saddam Hussein had nothing to hide, why would he have gone to such lengths to prevent the U.N. inspectors from doing their job? There is no doubt that since 1991 Saddam Hussein has squandered his country's resources to maintain his capacity to produce and stockpile chemical and biological weapons. If we bomb Iraq again, he would be right back at it, claiming victory for standing up to the U.S., but no longer under the watchful eye of UNSCOM's cameras."

Another statement in 1998 from a colleague in the other body: "Saddam Hussein's weapons of mass destruction programs and the means to deliver them are a menace to international peace and security. They pose a threat to Iraq's neighbors, to U.S. forces in the Gulf region, to the world's energy supplies and to the integrity and credibility of the United Nations Security Council." 1998.

Another quote from the other body: "We are here today to affirm that we and the American people stand with the President and the international community in an effort to end Iraq's weapons of mass destruction programs and preserve our vital international interests."

The rules of the House prohibit me from mentioning the names of those individuals who made those quotes, but it is very interesting to see exactly who they are and the clarity with which they identify the threat Saddam Hussein and others posed to the United States.

Bill Clinton, February 18: "In this century we learned through harsh experience that the only answer to aggression and illegal behavior is firmness, determination and, when necessary, action. In the next century, the community of nations may see more and more the very kind of threat Iraq poses now; a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers or organized criminals who travel the world among us unnoticed."

Here is an interesting quote. A critic of the President, a critic of the first President George Bush. It seems some people are never happy. I believe this is a quote from the candidate at that time for Vice President, Mr. Al Gore. This is where Vice President Gore, Senator Gore at that time, was talking about Saddam Hussein: "He had already launched poison gas attacks repeatedly and Bush looked the other way. He had already conducted extensive terrorism activities and Bush looked the other way. He was already deeply involved in the effort to acquire nuclear weapons and other weapons of mass destruction; and Bush knew it, but he looked the other way. Well, in my view, the Bush administration was acting in a manner directly opposite to what you would expect with all of the evidence it had available to it at the time. Saddam Hussein's nature and intentions were perfectly visible." Were perfectly visible.

You wonder if you went through this quote and used it shortly after 9/11, you could have written it something like this: President Clinton and Al Gore knew that al Qaeda had already launched attacks against the World Trade Center in 1993, but the Clinton Administration looked the other way.

Al Qaeda and terrorist organizations had already attacked our embassies in Africa, but the Clinton Administration looked the other way.

Al Qaeda or terrorist organizations were deeply involved in the effort to attack our barracks in Saudi Arabia. The Clinton Administration knew it, but they looked the other way.

They knew that al Qaeda or terrorist organizations were involved in the attack on the USS *Cole*, but they looked the other way.

Al Qaeda, bin Laden, their intentions were perfectly clear, but can it be said that the Clinton administration just looked the other way? I am not sure that that is a fair characterization.

As I said, the attacks on 9/11 were a surprise. But if you take the language that was used against then-President George Bush in 1992 and apply it shortly after 9/11 to what happened during the 1990s and the statements that were made and the inconsistencies, you wonder why there was not more action taken.

You have heard the quotes from various Members in the other body. You have heard the quotes of then-President Bill Clinton, of candidate Al Gore.

Madeleine Albright, November 16, 1997: "Hussein's weapons will not discriminate if and when they are used, and therefore it is important for the region to understand he is a threat. Our adversaries are unlikely to avoid," and here she is talking about understanding the threat of terrorism, "our adversaries are likely to avoid traditional battlefield situations because there American dominance is well established. We must be concerned instead of weapons of mass destruction and by the cowardly instruments of sabotage and hidden bombs. These unconventional threats endanger not only our Armed Forces, but all Americans and America's friends everywhere."

Here is a very clear statement. Again, some folks are trying to rewrite history saying everything was done during the 1990s. I am not sure it was. We will talk about that a little more. They are also saying the strategy to eliminate Saddam Hussein was recent, that it was not policy of the United States.

May 23, remarks by Vice President Gore: "Despite our swift victory and our effort since the Gulf War, there is no doubt in my mind that Saddam Hussein still seeks to amass weapons of mass destruction."

People talk about the intelligence being cooked up. The intelligence maybe, and we know, was not everything we wanted it to be; but it was not cooked up. "Saddam Hussein still seeks to amass weapons of mass destruction. You know as well as I do," what a statement, "you know as well as I do that as long as Saddam Hussein stays in power, there can be no comprehensive peace for the people of Israel or the people of the Middle East." This is Vice President Gore, May 23, the year 2000.

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They hear us talking about what the policy was, and I think it was established a couple of years earlier. But here is what the then Vice President says about the policy of the Clinton administration. We have made it clear that it is our policy to see Saddam Hussein marginalized? That is not the word that is used. Contained? No. Reformed? No. We have made it clear, that is, the Clinton administration has made it clear, that it is our policy to see Saddam Hussein gone. That was the policy of the United States prior to a new administration coming into office, prior to 9/11, because it was stated during the Clinton administration.

It goes on: We have maintained sanctions in the face of rising criticism while improving the Oil For Food program to help the Iraqi people directly. And just as a sidebar, while improving the Oil For Food program, we found out now, as the details have come back, that that was one of the greatest rip-offs ever. It was used to fund weapons acquisition, it was used to fund palaces and to build runways in the middle of nowhere in Iraq.

Going on with this quote: We have used force when necessary, and that has been frequently, and we will not let up in our efforts. We will not let up. We will not let up in our efforts to free Iraq from Saddam's rule. Should he think of challenging us, I would strongly advise against it. As a Senator, I voted for the use of force. As Vice President, I supported the use of force. If entrusted with the presidency, my resolve will never waiver.

Madam Speaker, the statements go on. Those are the statements in the 1990s. What about in 2002?

Again, some of my colleagues, and here is a quote from the presumed Democratic nominee for President: I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior, which is at the core of the cease-fire agreement, with no reach, no stretch is cause enough, is cause enough for the world community to hold him accountable by use of force, if necessary. Senator JOHN KERRY, October 9, 2002.

Here is another quote from one of his colleagues: But that isn't just a future threat. Saddam's existing biological and chemical weapons capabilities pose real threats to America today, tomorrow. Saddam has used chemical weapons before, both against Iraq's enemies and against his own people. He is working to develop delivery systems like missiles and unmanned aerial vehicles that could bring these deadly weapons against U.S. forces and U.S. facilities in the Middle East. He could make these weapons available to many terrorist groups, third parties which have contact with his government. Those groups in turn could bring those weapons into the United States and unleash a devastating attack against our citizens. I fear that greatly.

Madam Speaker, it is pretty amazing, the unanimity between various sides of the aisle, the executive and the legislative branches, as to the threat posed by terrorism in the 1990s and the characterization and the threats posed by Saddam Hussein.

Here is another quote: As the attacks of September 11 demonstrated, the immense destructiveness of modern technology means we can no longer afford to wait around for a smoking gun. I do believe Iraq poses an imminent threat. I also believe that, after September 11, that question is increasingly outdated. It is in the nature of these weapons that he has and the way they are targeted against civilian populations that documented capability and demonstrated intent may be the only warning we get. To insist on further evidence could put some of our fellow Americans at risk. Can we afford to take that chance? I do not think we can.

That was the unanimity that we saw in 2002, it was the unanimity that we saw in the late 1990s, and over the last 4 to 6 weeks, folks have been trying to rewrite history in saying, no, no, I was not there. That is not where I was in 1990. That is not where I was in 1998. That is not where I was in 2002. As a matter of fact, the only person that has messed up in this whole thing is the current administration. And that is utterly false. There was a consensus, and what is now happening, and what I am concerned about is that when we are at war, and that is where I think we are, we are a nation at war.

Madam Speaker, I see my colleague, the gentleman from Indiana (Mr. BURTON) has joined me, and I yield to him.

Mr. BURTON of Indiana. Madam Speaker, first of all, I was watching the gentleman on television and I agreed with so much of what he said, in fact, everything that the gentleman said. But one of the things that concerns me is, while I was watching the gentleman on television, I was also watching CNN and Fox and watching the news reports on what happened in Fallujah in Iraq today. And some of the people who have been commenting on what happened have said, we really out to reevaluate, we ought to pull our troops out, and they are talking in a way that will give aid and comfort to the enemies of the free world, not just the United States, but the free world, and that concerns me a great deal.

President Bush is doing the right thing, as the gentleman has stated, in fighting this war against terror and terrorism and terrorists. This is a world war. And the American people and my colleagues and the media need to realize, this is a world war not unlike what we faced in World War I, World War II and so forth. The difference is it is a guerilla-type war being fought by fanatics who use people as bombs, who blow up innocent civilians and kill people, and they are not going to go away.

Mr. HOEKSTRA. Madam Speaker, I thank the gentleman for joining me, because I wanted to talk about exactly that, and I feel fine going there.

Because, as the gentleman may remember, a couple of weeks ago, maybe a couple of months ago, we got this Dear Colleague memo talking about the new strategy, and I would just highlight it tonight. Because what we saw today, and it is tragic, the loss of American lives, the loss of the foreign civilians in Iraq and what they did with the bodies. But we should have known. Again that phrase, "we should have known."

Because here is what Zarkawi said. "Someone may say that in this matter we are being hasty," remember, this is their document outlining the strategy of the terrorists against our forces and against the forces that want to move forward in Iraq, "that we are being hasty and rash in leading the Islamic nation into a battle for which it is not ready, a battle that will be revolting," I mean the acts of today, dragging the bodies and hanging the bodies is revolting, "will be revolting and in which blood will be spilled. This is exactly what we want, since right and wrong no longer have any place in our current situation."

He predicted. This is exactly, what we see today is exactly the strategy, because they believe that that is the way that they can beat us, if they are revolting, spill blood, and right and wrong makes absolutely no difference.

I yield back to the gentleman.

Mr. BURTON of Indiana. Madam Speaker, they saw what happened in Somalia when Black Hawk Down happened, and the previous administration did exactly what they wanted them to do, and that was to pull out.

Now, that was an encouragement, I believe, to the terrorists around the world at that point. Now we are in a world war against them. The President has made a commitment to free the world from terrorism and to protect the American citizens against another attack like 9/11.

If we want to encourage the terrorists, and I say this to my colleagues and to the news media and everybody else, if we want to encourage the terrorists, what we need to do is pull out and give them the green light to continue to use this kind of terrorist tactic to dissuade the free world from fighting against this terrorist activity and we are going to let them have the run of the field. That is something that we cannot do, we must not do. This is a war that the free world and the United States cannot lose.

Toward that end, regarding Fallujah and what happened in the last couple of days and the terrorist attacks in Iraq, what we need to do, and I would say this if the President were here tonight, what we need to do is let our troops go in there and go house to house and take those weapons away to pacify that area. And anyone who has a gun, arrest them. And anyone who uses weapons in the commission of a terrorist attack or a crime, arrest them, get them out of there, and let the people know over there that we are going to do what is necessary to free them from the terrorist influence. And if we do not do that, then we are going to continue to encourage them.

So I would say to the President if he were listening tonight, and he may very well be or his advisors, let us let our troops go in there and pacify that area. Let us send a very strong signal to the terrorists and their affiliates over there that we are not going to stand still and let American citizens be killed or let American military personnel be killed.

It is extremely important that this signal be sent and sent now, because if we start listening to the liberals and the media who say, pull in our horns, let us start regressing and getting out of there, then what is going to happen is there is going to be a green light to the terrorists and we are going to have a hell of a problem.

Mr. HOEKSTRA. Madam Speaker, if the gentleman will yield, the gentleman and I have probably both talked to a lot of our soldiers from our districts who have been in Iraq.

Mr. BURTON of Indiana. And the gentleman has been to Iraq, and so have I.

Mr. HOEKSTRA. Yes, on three different occasions.

It was interesting, I talked to one of my soldiers today. He was back in a small town in my community of New Era, Michigan. He just came home after just about a full year in Iraq. He told me what was going on and what the highlights were. He told me that he had been sent into a small community of 15,000 people, I think right near Kirkuk, and I said, hey, you kind of acted as mayor, because he was the governing authority. We know the strategy. We send our troops in, and they are not always fighting. He said, that is exactly what I had the opportunity to do. He said, we rebuilt that community from nothing. And he said, the people are thrilled that we are there; and they are looking for us to leave, because they want their country back.

Then we had a very good dialogue back and forth.

Then I did ask him, I said, okay, you have your Congressman on the phone. You are going back. You are going to be in the country for a couple of more weeks, but you are leaving west Michigan later on this week, and in a couple of weeks you will be back in Italy. I asked him, I said, you have your Congressman on the phone. What do you want to tell your Congressman?

He said, you know, can you do anything about the news media?

Mr. BURTON of Indiana. Yes.

Mr. HOEKSTRA. Because he said, when we were in Iraq, he said, we could get CNN. He said, we finally turned it off, because what we saw on CNN had absolutely no relationship to what we were seeing in Iraq.

The gentleman from Indiana and I are not denying that these five Americans died today. That happened, and it is tragic, and it is sad. We are not denying that the four foreigners and the rioting and the mob scene in Fallujah, that happened. But, at the same time, in much of Iraq today, and the soldier quoted to me. He said, I think 98 percent of the people are there with us, and they are working with us, and they never get any coverage.

I yield to my colleague.

Mr. BURTON of Indiana. Madam Speaker, when I watched the media a while ago, they showed the people demonstrating in Fallujah and the cars burning and the people waving the victory sign and everything. I was there. The gentleman was there. That is the minority of the people. And the media continues to focus on that, instead of the things that are being accomplished; and that really, really bothers me.

The other thing is, we have lost about 500 troops over there, and that is terrible. We do not want to see one young American maimed or die. But what happened in World War II is that 50 million people were killed worldwide because we let a war get out of hand. We have an opportunity right now to win this war on terrorism and to stop the terrorists and to send a very, very strong signal to them. It is a war that is going to go on for a long time. But if we do not send the right signals to them right now, they will be encouraged, in my opinion, and we will see more death take place that would not be necessary if we did the right things now.

Mr. HOEKSTRA. Madam Speaker, if the gentleman will yield, I think the gentleman and I are in total agreement that if at this point in time we step back, the terrorists will have won. And that does not mean that the terrorists will go back to their home in Afghanistan or in the remote regions of Pakistan and say, well, chalk one up for the bad guys. They will say, let us now go back, and they will say, yes, it works.

Mr. BURTON of Indiana. Yes. Let us back them up in New York or someplace else.

Mr. HOEKSTRA. Let us go attack them in New York and what we will now have is we will now have a safe haven. We can plan out our attacks and we can work on our schedule and when it is appropriate to attack, we will attack. We will now have a safe haven to develop chemical weapons, biological weapons, and it is kind of like that is one direction, backing off.

That is not where we can go. We need these folks to wake up every morning and the first thing that they have to fear is that an American helicopter or American Special Ops force is going to come through their door.

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Or that a missile is going to come from somewhere up in the sky from a Predator, and they are never going to see it coming.

We saw that a war on terrorism can be won. I mean, who would have thought that our colleague, the gentleman from Pennsylvania (Mr. WELDON), would address the General People's Congress of Libya? Who would have thought that 3 months ago? I think that happened within the last 4 years that our colleague was over there.

I was in Libya about four or five weeks ago. I think within the last month we have picked up, what, 500 tons of mustard gas and chemicals and equipment. Who would have thought that that amount of progress could have been made in that short time? This is a win for the good guys.

Mr. BURTON of Indiana. The gentleman makes a very good point. That is the kind of thing that the media should focus on. Here is a terrorist state, a known terrorist state that has said, okay, we are going to reject terrorism. And the reason was because they saw what we did in Iraq and Afghanistan. We sent a very strong signal.

We have had 500 troops die there in Iraq. I do not want one of those troops to have died in vain. They sent a very strong signal around the world. If the media continues on the path, and I am not talking about all the media now, but if the more liberal media continues on the path that it is on saying why should we not bring our troops home, why are we letting these sorts of things happen, they send a signal, as my colleague said before, to the terrorists that this sort of thing is working. That should not be the signal we send.

It was not the signal we sent in World War I or World War II. We should not send it now. Because this is a world war that the United States and the free world cannot afford to lose. And we cannot afford to send signals that encourage the terrorist network.

Mr. HOEKSTRA. Madam Speaker, reclaiming my time, maybe my colleague heard the quote that I read from candidate for Vice President Al Gore talking about the first Bush administration where he said, "He had already launched poison gas attacks repeatedly. Bush looked the other way. He had already conducted extensive terrorism activities and Bush had looked the other way." Can one imagine what would happen if we pulled out of Iraq and pulled out of the war on terrorism and the next terrorist attack occurred and somebody would come to us and say excuse me, they attacked the World Trade Centers, you looked the other way. They attacked our barracks, you looked the other way. They attacked the Cole, you looked the other way. They attacked our embassies, you looked the other way. They attacked the Trade Centers a second time and took them down, they attacked the Pentagon and you guys looked the other way. What were you guys thinking?

I think that we were all in this together. We recognized the risk during the 1990s; and Congress and the executive branch, I think, did not take enough direct action. And so we can go back. But I think the criticism should be why did America not act earlier against bin Laden and against these threats in a more decisive way? Because the pieces were out there that said these folks are a threat, and it is only a matter of time before they try something big in the United States. I will yield to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Let me just say that back in the mid-90s we knew from intelligence reports that there were terrorist training camps in and around Khartoum in the Sudan. We knew that. We knew Usama bin Laden was in Khartoum, and we knew of the terrorist attacks like the ones that my colleague cited a few minutes ago; and we really did not go after him, although we should have at that time.

Now, I am not saying there is not enough blame to go around. Any time you get into a military conflict, especially one this extensive, there are going to be mistakes made. But the one mistake that has not been made is by our President. He has done the right thing in taking the mantle of leadership and moving forward. He is going after the terrorists wherever they hide in Afghanistan, in Iraq, wherever they are. And I commend him for that.

And this country, and the media in particular, if they are paying any attention tonight, the media in particular ought to think about the ramifications of trying to get us to pull in our horns when we are fighting a war against terrorism. They should be supporting the effort to rid the world of terrorists and the terrorist network instead of pointing out all the deficiencies.

We are in a war against terrorism, one we cannot afford to lose. We have a man at the helm right now who is doing the right things. And, by golly, he ought to be supported not just by my colleague and me, but by the entire country and, in particular, those in the media because they have such a tremendous influence on public policy.

Mr. HOEKSTRA. Madam Speaker, reclaiming my time, I am not looking for the media to support the President, it might be nice, or to support the country or to support the direction or support our troops. It would just be nice if they presented a balanced approach, fair and balanced approach to what needs to get done.

And it is why when I go home it is good to take a look at the local papers because the local papers will cover the stories of our soldiers that come home. The soldier that I talked to today said he has been in Iraq for 11, 12 months. He is home with his family for the first time. One would think he would say, man, I am just going to sit back on the couch and I am going to vegetate and just enjoy this. He is going to the schools, he is going all over his community telling them about what he did and what America did in Iraq. He is proud of it. He says, I am doing it because nobody else is. We are not getting any help from the media. I am going out and I am telling the story because I was there.

And has my colleague been to Iraq?

Mr. BURTON of Indiana. Madam Speaker, yes, I was there about 3 weeks ago.

Mr. HOEKSTRA. We have looked into the eyes of the Iraqi people. We have shaken their hands. We have heard them speak. We have seen the sincerity. I always say this is not easy. And there are going to be other ugly days and other ugly events. We are not going to fix this all in one day. We are not going to fix it in 24 months. This takes work. These people are experimenting with a free press, representative government, free markets. They are doing this for the first time after 30 years of a brutal regime.

Mr. BURTON of Indiana. Madam Speaker, if the gentleman would yield. When I was over there, I am sure my colleague found the same thing, they had found 400,000 people in unmarked graves. They estimated between 1 and 1.3 million people that are unaccounted for. They were putting people in wood chippers, they were raping women. It was horrible what was going on, the torture and everything.

Mr. HOEKSTRA. Madam Speaker, if the gentleman would yield, one point, he is right, it is going to be somewhere over a million people probably, in a country of 27 million. That means 4 percent of the folks in that country were brutally murdered. In our country that would be about 11, 12 million people.

Mr. BURTON of Indiana. Madam Speaker, if we did not do anything but free that country, that would be a great thing. But what we have done is we have sent a very strong signal to the terrorist network al Qaeda, the Taliban, the Baath Party in Iraq, and the terrorists around the world; and what bothers me now is because the media is focusing only on the negatives and not the positives, not on what we have accomplished but what we have not yet accomplished and, I believe, maybe inadvertently, they are giving aid and comfort to the enemy, the terrorist network, and that is something they should not do.

They may not agree with everything President Bush has done, but they have to admit that we have gotten rid of Saddam Hussein. We are on the heels of Usama bin Laden. We have knocked out an awful lot of the terrorist network, and there have been no more attacks on the United States of America. That does not mean we will not have them. But there have been no more attacks. That is because of President Bush, homeland security, and Tom Ridge, and because they are doing the right things. I just wish the media would focus on them.

I normally do not come down here and vent my spleen like this. I try to be a little bit more moderate, if one wants to say that; but right now I am very, very angry because all we are seeing on the screen right now is should we be there, should we not be pulling out, should we be pulling in our horns.

The one thing we must not do, and I am speaking to the media in particular right now, is we must not send the message that we are going to withdraw or cave in this war against terrorism. It is essential that we are victorious. No matter how long it takes, we have to be victorious. Just like in World War I and in World War II, we have to win this war, otherwise we are going to suffer terrorist threats and terrorist attacks for many, many, many years to come.

Mr. HOEKSTRA. Madam Speaker, reclaiming my time, I think that is one of the things that we as a Nation need to recognize. I was on a TV program earlier today and someone asked me what are you guys accomplishing, or who is responsible. I said, well, obviously, there is plenty of blame to go around. But not only is it the executive branch, and by executive branch I mean generic, not this President, because I agree with my colleague, this President has shown the leadership that is necessary to fight this war on terrorism, not only is there blame to go around in Congress, but there is also a certain responsibility of the American people.

Because our actions sometimes are too often guided by public opinion. And for folks to say, well, you should have done more in 1998 or you should have done more in 2001, the real question is do we really think that the American people would have embraced it.

We know that even after 2001 some of them have been restrained in their support or been openly hostile to going after al Qaeda and going after bin Laden and going into Afghanistan.

The other thing is my colleague and I both probably know that the quickest ticket to unemployment in Congress is to show any interest in foreign affairs. One goes on a trip and learns more about the Middle East or whatever, and it is, oh, you do not care about us back home anymore. The American people bear some of that responsibility because we are the world's sole superpower economically and politically and militarily. That carries an awesome responsibility with it. I think it is one of the great cases for federalism.

This place should focus on national security. It should focus on international trade agreements and our relationships with the rest of the world. Many other issues ought to be dealt with on a State and local level. We have a tremendous responsibility to address these issues.

Mr. BURTON of Indiana. Madam Speaker, I would like to say something about what my colleague said a moment ago. He was talking about, in essence, we cannot look back and talk about the shortcomings. We have to look forward and say what are we doing now to deal with the problem; what are we going to do with it in the future.

Bobby Jones, one of the greatest golfers of all time, I will use this as an analogy, he said, You play the ball where it lies. When he was hurt, when he was dying and was physically impaired, people said, do you not feel bad about that? He said, That is life. You play the ball where it lies.

What we have to do now is realize where we are in this world and what it is all about. And there is a war against the terrorists that is in progress, and it is a war we cannot lose. So we have to start here and go forward. And the President has already started that ball moving in the right direction by taking on the terrorists, taking on Saddam Hussein, trying to make sure there are no weapons of mass destruction that are going to be used against the Middle East or the United States or the rest of the world. I think we are on the right track.

The thing we have to do now is make sure we keep the American people with us in this war against terrorism, and that is why the media is so important. They can play a very valuable role in making sure that the facts are out there, not opinion; but the facts are out there on what we have accomplished and where we are going.

As my colleague said, it does not have to be pro-Bush or against Bush, it just has to be fair reporting. If they report the progress that is being made and how the war is progressing and what we are winning instead of just the negatives, I am sure that everything will come out all right.

Mr. HOEKSTRA. Madam Speaker, I love the analogy of play the ball where it lies because that is exactly what President Bush did after 9/11. He went back and took a look at what capabilities we had and the threats that were out there, but never went back to try to assess blame on something that happened 5 or 6 years ago or the Deutsch Doctrine that gutted our human intelligence. When we should have built intelligence up in the mid-1990s, it was gutted. That is exactly what happened when we get to 2001 and here we are in 2004 and we would like to have a human intelligence capability, we say, God, where did it go? We scrubbed it because we got rid of all the bad guys in 1995 and 1996 who spied for us. And one can say, well, when we are dealing with a terrorist organization, the only people that are in terrorist organizations are bad folks to begin with.

But that is not where the President was. He took a look at 9/11, took a look at where we were strategically, militarily, and what we needed to get done, and went forward, never trying to pin blame anywhere but just said, hey, I am playing it where it lies.

We will look at how it got here to make sure it does not happen again in the future, but I am not going back and say that guy took a bad swing or he sliced it or whatever; I am going to take it and move it forward. Because, again, I think in some ways Americans are getting a little lackadaisical. There is a real threat out there. And this President and this administration, and I hope Congress in a bipartisan way, stay focused on the threat that is out there and put in place a strategy to fix it.

Mr. BURTON of Indiana. One of the things that was reported on briefly but should have been reported on in more detail was after 9/11 and the World Trade Center was taken down by the planes, and the Pentagon was attacked, and they were going to attack the Capitol had it not been for those heroic people in Pennsylvania that died, but the fact of the matter is planes coming from Paris, France, and from Europe were stopped from coming over here because they found out through intelligence gathering that they had potential terrorists on those planes that were going to make them into bombs to blow up more buildings in the United States.

□ 2100

So our intelligence-gathering capability has increased dramatically since

President Bush took office and since Tom Ridge took over homeland security.

Things are getting better, and we are stopping terrorist attacks, but those are the things that ought to be reported upon, the things that we have stopped from happening in the United States to protect the American people, instead of dwelling just on negatives. If we just do that, I would be much, much happier.

I just want to say to my colleague, because I am going to leave the stage back to him, I want to thank you very, very much for taking this time. We ought to have a whole host of our colleagues down here talking about this tonight, but you are the guy that did it, and I want to thank you for carrying the mantle of leadership tonight. You are to be congratulated.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague; and I hope he recovers his voice soon. We would miss it if he lost his voice.

There is a lot of stuff that has happened in what we have talked about. There are a couple of other documents that I just want to talk about, and we have talked a little bit about rewriting history.

There was some testimony just from the last couple of days in front of the joint inquiry; and it really I think in many ways, from my perspective, boils down to partisan politics, partisan politics at its worst. Because national security is too important an issue to take down into the partisan battleground, and it is one of the very positive things about serving on the Permanent Select Committee on Intelligence.

There have been a couple of things in the last few weeks that have been disappointing, but, by and large, the commitment by members of the Permanent Select Committee on Intelligence is to do their work aggressively, effectively, but to leave the partisan labels at the door and to recognize that the issues that we are working on are too important to drag down into a short-term, partisan, political game because, at the end, the country loses.

Here is what Dick Clarke said. The Bush administration decided in late January to do two things: one, vigorously pursue the existing policy, including all of the lethal covert action findings. The point is, while this big review was going on, the lethal findings were still in effect. The second thing the administration decided to do was to initiate a process to look at those issues which had been on the table for a couple of years and get them decided, and that is in August of 2002.

In the spring of 2001, the Bush administration began to change Pakistani policy by a dialogue that said we would be willing to lift sanctions. So we began to offer carrots which made it possible for Pakistanis I think to begin to think that they could go down another path, which was to join us and break away from the Taliban. So that is really how it started.

A few minutes ago, we talked about the victory and the progress we have made in Libya. Back in 2001, the Bush administration, before 9/11, was talking about changing the policy in Pakistan to forge that partnership which then and now has enabled us. I met with the head of the Pakistani intelligence agency just a few weeks ago, right when they were sending a number of troops into their tribal areas, and they had lost a number of Pakistani troops. But who would have thought maybe even 2 or 3 years ago that by 2004 that the Pakistanis would not only be cooperating in our war on terrorism but they would be sending their own troops into these regions to find al Qaeda, to find the leadership of al Qaeda and to help us take out the Taliban and al Qaeda elements that were seeking refuge in Pakistan.

Again, I had a question today about when Condoleezza Rice and the President and this administration had really provided unprecedented support for the subcommittee that I served on in the Permanent Select Committee on Intelligence that did a review almost directly after 9/11, provided full support and access to the joint House-Senate inquiry and now to the independent Commission. This is a statement that the Commission made on March 30.

"The Commission welcomes the decision of the President and the Vice-President to meet in one joint private session with all 10 commissioners.

"We also commend the President for his decision to accept the Commission's request for public testimony, under oath, by the Assistant to the President for National Security Affairs, Dr. Condoleezza Rice."

Remember, Dr. Rice had already testified to this Commission for 4 hours in private session.

"These decisions represent a significant contribution by the President to the work of the Commission, consistent with our mandate to 'provide a full and complete accounting' of the terrorist attacks of September 11.

"The President has consistently stated a policy of strong support for the Commission and instructed the executive branch to provide unprecedented extraordinary access to the Commission."

This is what the Commission said. "The President has consistently stated a policy of strong support for the Commission and instructed the executive branch to provide unprecedented and extraordinary access to the Commission. His decisions today reflect that policy of strong support, and we welcome them."

The Commission recognizes what is going on and that the President's support has been unprecedented, and we have got to remember that this is not looking back in history and saying, well, what happened during the war on terrorism. We are still fully engaged in the war on terrorism. We are still in the middle of fighting that war, and what is unprecedented about this President's cooperation is that there have already been I think 20 witnesses from the executive branch in front of the Commission.

Now Dr. Condoleezza Rice has already testified in private, will now testify in public, but the public nature of this reviewing the decision-making process at the very time we are still conducting the war, not when it is done, but at the very time, digging into the inner reaches of an administration and asking about how they are conducting policy, how they are making decisions, and it is one thing to do it in private. It is another to do it fully in public.

Someone asked me earlier this week and said in some ways I think the administration has gone almost too far. We are at war and the information is provided in private or secret session to those folks who are entrusted to make the decisions and the recommendations that enable this country to move forward responsibly, aggressively and effectively, but I sometimes worry that there are some in the world today who take comfort and believe that they are being successful in their efforts to defeat us in this war on terrorism when they see the partisanship that we sometimes are engaged in. This issue is too big to move down into partisanship.

The last comment that I wanted to make is today I talked with one of our soldiers today who was back from Iraq. I have met with the family of one of our soldiers who was killed in Iraq. I have met with the family of one of our soldiers who was very badly wounded in an incident. In each of those cases, they have said, make sure that we win this war on terrorism, that we dedicate the resources to this war on terrorism. But they also said, do not forget the sacrifices of the families that have been asked to sacrifice, the families that have seen a son and husband gone for a year, the family that has seen a father and a husband and a son killed on a battlefield in Iraq and the family of the son and the husband of a soldier who has been badly wounded and will live with that for the rest of his life.

But I think we need to remember all of these folks and the troops that are still serving over there, and I hope that we as a Nation, that we as a Congress, continue to remember these families and these individuals in our prayers.

THE 9/11 COMMISSION

The SPEAKER pro tempore (Ms. GINNY BROWN-WAITE of Florida). Under the Speaker's announced policy of January 7, 2003, the gentleman from New

Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Madam Speaker, this evening I want to discuss the serious accusations that former White House counterterrorism chief Richard Clarke has leveled at President Bush over the last week. I would also like to discuss my concern over the administration's attempts, attempts that have now been joined by several congressional Republicans, to draw attention away from the serious accusations by instead viciously attacking the messenger; and, finally, I come to the floor to highlight inconsistencies in the statements that Condoleezza Rice has made over the last week, inconsistencies that will undoubtedly be addressed when she testifies as early as next week under oath in front of the 9/11 Commission.

Madam Speaker, it is nice to see that after months of stalling the Bush administration has finally made an agreement with the 9/11 Commission to have the President, Vice President and National Security Adviser all appear before the entire 9/11 Commission. The announcement was a complete retreat from the Bush administration's previous belief that Condoleezza Rice should not testify in public.

Last evening, the President went before reporters and said that he had ordered this level of cooperation because, and I quote President Bush here, I consider it necessary to gaining a complete picture of the months and years that preceded the murder of our fellow citizens on September 11, 2001.

Madam Speaker, I think it is great that the Bush administration finally caved in and will allow Condoleezza Rice to testify, but it is somewhat disingenuous for the President to say that he has cooperated with the Commission in the past. In fact, President Bush has stalled the Commission for months on many of their requests.

Up until yesterday, the President said that he would only testify before the Commission's chair and vice chair; and now President Bush and Vice President CHENEY will testify together but not under oath and only one member of the Commission will be allowed to take notes. Allowing one person in the room to take notes, in my opinion, is no way to fully document critical testimony from the President and the Vice President, and I am also interested in why the President and the Vice President insist on testifying together.

So, Mr. President, thank you for finally caving in to political pressure and allowing Condoleezza Rice to testify, but do not try to spin your way out of this by making it appear that you have been cooperating with the 9/11 Commission from the very beginning, because that is simply not the case.

By delaying, the Bush administration has made it extremely difficult for the 9/11 Commission to finish its work in a timely fashion, and the Commission should not be expected to complete its work until it has heard from all the principals involved in the events leading up to and coming after 9/11.

Public testimony from Condoleezza Rice is perhaps even more important now that we have heard from Richard Clarke, the President's former top counterterrorism adviser. Last week, Richard Clarke raised eyebrows all over the Nation when he appeared on 60 Minutes, released a book critical of the Bush administration's policy on fighting terrorism, and then testified before the 9/11 Commission where he personally apologized to the victims' families and told them that they had failed them or that he had failed them.

Richard Clarke raises some serious questions, questions that Condoleezza Rice should attempt to answer before the 9/11 Commission, and I would like to mention some of those questions, Madam Speaker.

Question number one: Did the Bush administration, as Richard Clarke claims, and I quote, ignore terrorism for months when maybe we could have done something to stop 9/11? You do not have to take Richard Clarke's word for it. President Bush bluntly acknowledged as much during an interview with Bob Woodward for Woodward's book titled Bush At War.

Despite repeated warnings of an imminent al Qaeda attack before 9/11 President Bush admitted to Woodward, and I quote again, I did not feel the sense of urgency. That is what the President said. If he did not realize the sense of urgency, one has to really wonder what kind of advice he was receiving from his National Security Adviser and others.

According to Richard Clarke, he tried repeatedly to get the administration to pay serious attention to the issue of terrorism.

On January 24, 2001, just days after President Bush took the oath of office, Richard Clarke wrote an urgent memo to Condoleezza Rice, asking for an urgent Cabinet-level meeting to deal with an impending al Qaeda attack. Clarke claims this request was never acted upon. Three months later, in place of a Cabinet-level meeting, Richard Clarke was finally able to schedule a meeting with Deputy Secretary of Defense Paul Wolfowitz. Clarke said he started the meeting by stating to the Deputy Secretary of Defense that we needed to deal with bin Laden.

□ 2115

And Wolfowitz's response? "No, no, no, we don't have to deal with al Qaeda. Why are we talking about that little guy? We have to talk about Iraqi terrorism against the United States." That's what Wolfowitz said.

Again, meetings like this are critical because people like Wolfowitz, CHENEY, Rumsfeld and Rice were the very people advising the President. If Wolfowitz was describing Osama bin Laden as a little guy to Richard Clarke, one has to assume he was making the same sorts of comments to his boss, Donald Rumsfeld.

Clarke could not believe Wolfowitz's characterization of bin Laden as a little guy. Clarke then responded to Wolfowitz, and again I quote, "Paul, there hasn't been any Iraqi terrorism against the United States in 8 years." Clarke turned to the Deputy Director of the CIA, who agreed with his assessment. Clarke's statements contradict those of the National Security Adviser.

On Sunday night, in an interview on "60 Minutes," Condoleezza Rice said, "The administration took seriously the threat of terrorism before 9/11," in stark contrast to the very comments of her boss, President Bush. And I would like to see Rice's response to a report in Newsweek magazine that the administration was trying to deemphasize terrorism as an overall priority. As proof, the report pointed to the fact that only two out of a hundred national security meetings the administration held before 9/11 addressed the terrorist threat.

I look forward to hearing if the National Security Adviser thinks two meetings on the issue of terrorism shows a true dedication on the administration's part to fighting terrorism and to taking terrorist threats seriously.

The National Security Adviser, Condoleezza Rice, also stated during her interview on "60 Minutes," and I quote again, "I don't know that a sense of urgency any greater than the one we had would have caused us to do anything differently. I don't know how we could have done more. I would like very much to know what more we could have done."

The salient answer to this question, Madam Speaker, is a lot more could have been done. First, the administration could have held more than two national security meetings on the issue. Based on the major intelligence spike in the summer of 2001, the administration could have held more meetings with top officials from the CIA and the FBI to make sure the agencies were sharing information.

Earlier this week, 9/11 commissioner Jamie Gorelick said that the lack of focus and meetings meant agencies were not talking to each other and key evidence was overlooked.

Richard Clarke is also very critical of the administration's obsession with Saddam Hussein. Again in her interview on "60 Minutes," Rice claimed that Iraq was put aside immediately after 9/11." But Rice's own claims were refuted, this time by a Washington Post report stating that 6 days after the 9/11 attacks, the President signed a

3-page document directing the Pentagon to begin planning military options for an invasion of Iraq.

Furthermore, CBS News reported in 2002 that 5 hours after the 9/11 attacks, Defense Secretary Rumsfeld was telling his aids to come up with plans for striking Iraq. This is also consistent with Clarke's own statements in which he says that "Rumsfeld told him on September 11 that they needed to bomb Iraq." Clarke writes in his book that, "On September 12, he went home for a brief period of time to eat and take a shower and return to the White House." Clarke writes, and I quote, "I expected to go back to a round of meetings examining what the next attacks could be, what our vulnerabilities were. Instead, I walked into a series of discussions about Iraq. At first, I was incredulous we were talking about something other than getting al Qaeda. Then I realized, with almost a sharp physical pain, that Rumsfeld and Wolfowitz were going to try to take advantage of this national tragedy to promote their agenda on Iraq. Clearly, the administration continued to have its eyes set on going to war with Iraq."

Now, Madam Speaker, I ask: Was the war on terrorism a convenient, yet flawed, justification for going to war against Iraq? That is what Richard Clarke believes. It is also supported by another former high-ranking Bush administration official, Paul O'Neill. The former Treasury Secretary stated in his book that "Vice President CHENEY strongly suggested U.S. intervention in Iraq well before the terrorist attacks of September 11." This is another question Condoleezza Rice should answer in front of the American people.

Madam Speaker, it is clear that President Bush's rationale for war against Iraq was flawed. The Bush administration used two things to justify war with Iraq: first, a connection between Iraq and al Qaeda; and, second, the idea that Iraq had weapons of mass destruction.

In addition to the new questions raised by Richard Clarke about the Iraq-al Qaeda link, experts have concluded that Iraq did not have weapons that posed an immediate threat to the United States. CIA Director George Tenet recently admitted that the intelligence agencies never told the White House that Iraq posed an imminent threat. And former chief U.N. weapons inspector Hans Blix stated that the Bush administration made up its mind that Iraq had weapons of mass destruction and it was not interested in evidence to the contrary.

Madam Speaker, when the President signed the law creating the commission in November 2002, he urged the panel to, and I quote, "carefully examine all the evidence and follow all the facts wherever they lead." But, clearly, the Bush administration did not mean following it to the President's National Security Adviser. And while the administration charges the panel to follow the facts wherever they may lead, they and some congressional Republicans are attempting to minimize some of those possible facts by attacking the character of Richard Clarke.

Last week, the majority leader in the other Chamber implied that Richard Clarke had perjured himself either during his testimony before the 9/11 Commission last week or during his testimony before the Joint Congressional Intelligence Committee hearing in July 2002, because, according to Senator FRIST, he appears to have told two different stories. However, despite some pretty harsh words for Mr. Clarke, the Senate majority leader could not point to one specific example, but called for all of Clarke's testimony before the House Senate intelligence panel 2 years ago.

Now, this past Sunday, Clarke said he would support the declassification of his testimony before the joint intelligence panels if the administration also declassifies the National Security Adviser's testimony before the 9/11 Commission and the declassification of the January 25, 2001, memo that Clarke sent to Rice laying out a terrorism strategy, a strategy that was not approved until months later.

Madam Speaker, House Democrats really want a full accounting of the events leading up to the September 11 attacks, including the extent to which a preoccupation with Iraq affected efforts to deal with the threat posed by al Qaeda. It is nice to see the White House has finally stopped stonewalling the commission and now says that it will provide the public testimony the commission is requesting. But Americans need to be able to fully evaluate the decisions of government leaders, especially when it comes to the life and death decisions of war and peace.

Madam Speaker, there are others that I would like to yield my time to tonight; but I just wanted to say before we go on that I have been to the floor many times over the last few months talking about the Republican abuse of power and the Bush administration's abuse of power. Yesterday, there was an op-ed column in the New York Times by Paul Krugman that was entitled, "This Isn't America." And it kind of sums up my concern about the abuse of power.

I mention it tonight in the context of Richard Clarke and the 9/11 Commission and the National Security Adviser, but Krugman pretty much sums up how this abuse of power is rampant with the Bush administration and the Republicans in Washington. And I am not going to read the whole thing, but I just wanted to read a couple of parts of it, where Krugman says, "Last week an opinion piece in the Israeli newspaper Haaretz about the killing of Sheik Ahmed Yassin, said, 'This isn't America; the government did not invent intelligence material nor exaggerate the description of the threat to justify their attack.' So even in Israel, George Bush's America has become a byword for deception and abuse of power. And the administration's reaction to Richard Clarke's 'Against All Enemies' provides more evidence that something is rotten in the State of our government."

Krugman goes on to say that not only in the case of Richard Clarke, but in many other cases there is abuse of power by the administration and the congressional Republicans: "A few examples: according to the Hill, Republican lawmakers threatened to cut off funds for the General Accounting Office unless it dropped its lawsuit against Dick Cheney. The Washington Post says Representative Michael Oxley told lobbyists that 'a congressional probe might ease if it replaced its Democratic lobbyist with a Republican.' Tom DeLay used the Homeland Security Department to track down Democrats trying to prevent redistricting in Texas. And Medicare is spending millions of dollars on misleading ads for the new drug benefit, ads that look like news reports and also serve as commercials for the Bush campaign."

Krugman ends and he says, and I quote, "Where will it end? In his new book, 'Worse Than Watergate,' John Dean of Watergate fame, says 'I've been watching all the elements fall into place for two possible political catastrophes; one that will take the air out of the Bush-Cheney balloon, and the other far more disconcerting that will take the air out of democracy."

The reason that many Democrats, including myself, come down here on a regular basis now to talk about the Republican abuse of power is exactly for the reason that John Dean quotes in his book, and that is we are very concerned about the future of democracy and where we are going with these kinds of abuses of power by the Bush administration and the Republican majority.

I see my colleague from California is here, and I probably took up too much, and so I want to yield to her.

Ms. LEE. Madam Speaker, I want to thank the gentleman for yielding to me and for continuing to speak the truth, and for making sure that our country understands the type of abuses that are taking place here in Washington, D.C. I believe that democracy is at a crossroads, and I think the gentleman has made that very clear tonight. So I want to thank the gentleman for his continuing to speak truth to power, as we say.

Madam Speaker, let me also tonight thank the distinguished chair of the Congressional Black Caucus for his leadership on this and so many other issues as he continues to consistently attempt to wake up America.

We are here tonight, Madam Speaker, to talk about the Bush administration's systematically deceiving the American people. This administration has spun a web of deception that really enshrouds the truth and hides, mind you, reality. Specifically, I want to talk about the administration's foreign policy and how it has based a doctrine of preemptive strikes on a foundation that is really built on falsehoods, lies, and distortions.

But first let me just say it is especially telling and especially tragic that we are here tonight as we mourn nine new victims of this misguided war. Five soldiers and four contractors were killed today. Our thoughts and our prayers go out to their families and to all of those whose loved ones are still at risk.

We mourn these latest deaths as we speak out against the deliberate decisions and the deceptions that took this country to war. This administration did not tell the truth to Congress, to the American people, and to the world about the causes, the costs, and the consequences of the war in Iraq. The deceit started, mind you, well before the war did, and that is no accident. The web of deception was woven in order to create a reason for the war.

The administration told us time and time again that Iraq posed an immediate threat to the United States. In the President's State of the Union address, the Secretary of State's presentation to the United Nations, and in many other statements and speeches the administration told us that Iraq was developing nuclear weapons and it already had vast stockpiles of chemical and biological weapons. This was apparently all false.

President Bush said that Saddam Hussein was buying aluminum tubes and African uranium for nuclear weapons. This was false. Vice President CHENEY said we know, and this is a quote, "We know he has been absolutely devoted to trying to acquire nuclear weapons, and we believe he has in fact reconstituted nuclear weapons." This was false.

President Bush said, we gave them a chance to allow the inspectors in and they wouldn't let them in. This was false. As for the weapons of mass destruction, Secretary of Defense Donald Rumsfeld said, we know where they are. This was false. The administration time and time again tied Saddam Hussein to the terrorist attacks of September 11, and this was downright false.

These statements were, however, part of a larger pattern of distortion that included warping intelligence to fit the administration's vision of the world and then passing on that warped intelligence to the American people and to the world as a fact.

The administration also, mind you, disguised the cost of the war, which of course taxpayers are paying for. When economic adviser Larry Lindsey said in 2002 that war in Iraq could cost between $100 billion and $200 billion, well, he was right; but you know what, he was fired.

When asked about the possible consequences of the war, the administration presented a portrait of a country that would be uniformly grateful to its American invaders. This week's Nation says, and I quote, "The idiotic and arrogant statements by Defense Secretary Donald Rumsfeld and others that policing Iraq would be a simple matter that could be quickly cleaned up by all those flowers they were going to throw."

□ 2130

The many distortions, deceptions and omissions amounted to, as I was actually taught like many of us were taught as a child, lying. I was also taught that this is really wrong. This deception was clearly and deliberately escalated. The very impressive and thought-provoking report by the Carnegie Endowment For International Peace found a very dramatic shift in the fall of 2002 as the administration sought to rally support for its unnecessary war. Let me just read what the Carnegie Foundation indicates:

Administration officials systematically misrepresented the threat from Iraq's WMD and ballistic missile programs, beyond the intelligence failures noted above by, one, treating nuclear, chemical, and biological weapons as a single WMD threat. The conflation of three distinct threats, very different in the danger they pose, distorted the cost-benefit analysis of the war.

Secondly, insisting without evidence, yet treating as a given truth, that Saddam Hussein would give whatever WMD he possessed to terrorists.

Thirdly, routinely dropping caveats, probabilities, and expressions of uncertainty present in intelligence assessments from public statements.

Next, misrepresenting inspectors' findings in ways that turned threats from minor to dire.

The Carnegie Endowment For International Peace is a world-renowned institution. I suggest that if Members have not read this report, they should read it because, in fact, it lays out the facts, the reality and what actually went down prior to this war.

The gentleman from California (Mr. WAXMAN), ranking member of the Committee on Government Reform, has presented a comprehensive examination of the statements and misstatements by the President, the Vice President, the Secretary of State, the Secretary of Defense and the National Security Adviser. The gentleman from California has compiled a database of deception about alleged weapons of mass destruction, alleged ties to al Qaeda and the allegedly urgent threat to the United States posed by Iraq. That database shows just how far-reaching these distortions were, and they do not stop with Iraq, and they do not stop with foreign policy. But let me just read a couple of the gentleman from California's quotes which have been recorded in this document:

One is from Vice President DICK CHENEY. He said, "We know he's got chemical and biological weapons." But, rather, the truth is the statement failed to acknowledge that the Defense Intelligence Agency's position was, "There is no reliable information on whether Iraq is producing and stockpiling chemical weapons or where Iraq has—or will—establish its chemical warfare agent production facilities."

President Bush: "We've also discovered through intelligence that Iraq has a growing fleet of manned and unmanned aerial vehicles that could be used to disperse chemical or biological weapons across broad areas. We are concerned that Iraq is exploring ways of using these UAVs for missions targeting the United States."

The explanation of this tale is this was misleading because it claimed that Iraq's UAVs were intended and able to spread chemical or biological weapons, including over the United States, but this failed and the President failed to mention that the United States Government agency most knowledgeable about UAVs and their potential applications, the Air Force's National Air and Space Intelligence Center, had the following view: "The U.S. Air Force does not agree that Iraq is developing UAVs primarily intended to be delivery platforms for chemical and biological agents."

Another President Bush quote: "We found the weapons of mass destruction. We found biological laboratories. You remember when Colin Powell stood up in front of the world, and he said, Iraq has got laboratories, mobile labs to build biological weapons. They're illegal. They're against the United Nations resolutions, and we've so far discovered two. And we'll find more weapons as time goes on. But for those who say we haven't found the banned manufacturing devices or banned weapons, they're wrong. We found them."

What this really was, according to the Defense Intelligence Agency, was that these trailers which the President said were to produce biological weapons did not disclose the fact that the engineers at the DIA examined the trailers and concluded that they were most likely to produce hydrogen for artillery weather balloons. That is what the DIA concluded.

We could go on and on tonight about this, but I think the public is beginning to get the picture.

Let us look at Haiti for a minute where the administration claimed it was defending democracy while in fact it was conspiring to undermine and to overthrow the duly elected President of Haiti. That is why we need an independent commission to investigate the role of the administration in the overthrow of the Aristide government. That is also why we still need a truly independent commission to investigate the use and the misuse of intelligence in the war in Iraq.

Of course, the same deceptions permeate our domestic policies as well. Look at the administration's track record on its domestic policies.

Example. He said that his tax cuts for the rich would create jobs. Instead, we have seen 3 million jobs disappear in this country since President Bush took office. He said the vast majority of those tax cuts would go to those at the bottom end of the economic spectrum. Instead, the top 1 percent of earners reap over a third of the tax benefits by themselves. Only the top 1 percent. The President said that our schools will have greater resources to help meet the goals of Leave No Child Behind. But for the third year in a row the President's budget falls billions of dollars short of fully funding Leave No Child Behind.

The deficit. The President says our budget will run a deficit that will be small and short-term, but the fact is that the 10-year deficit projection by the Congressional Budget Office, assuming extending the tax provisions, is $4.7 trillion. In just 2 years, there has been an almost $12 trillion swing in the deficit outlook. The $5.6 trillion 10-year surplus projected when the President took office has been replaced by deficits as far as the eye can see. For 2004, the President's budget proposes a record deficit of $521 billion, $146 billion more than the 2003 deficit, which was also a historic record. Yet the President said on January 7, 2003, "Our budget will run a deficit that will be small and short-term."

We have to really get our administration to begin to understand the value of telling the truth, because in both the domestic and foreign policies of this administration, this administration and the President has deceived the American people about their national security, their economy, their children's education and their future. We should be leading the world, not misleading it. That is exactly what we are doing.

Finally, let me just say one of the biggest farces which the President said and indicated he wanted to do was to unite the country. I believe that this country is more divided tonight than ever.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. GINNY BROWN-WAITE of Florida). The gentlewoman will suspend.

The Chair would remind the Members not to refer to the President or the Vice President in terms that are personally offensive, such as accusations of deceit.

Ms. LEE. Madam Speaker, may I respond?

Mr. PALLONE. I yield to the gentlewoman from California.

Ms. LEE. Madam Speaker, I am referring to statements of fact and information which has been documented and quotes which have been published already.

I thank the Speaker for reminding us of the rules of the House.

The SPEAKER pro tempore. The gentlewoman is reminded that Members may not read into debate extraneous material which would be improper if spoken in the Member's own words.

Mr. PALLONE. I just want to thank the gentlewoman for her comments.

I know I have to yield to my other colleague from Maryland, but I just wanted to point out that again, going back to what I said before, and I was referencing this New York Times article about the future of democracy, in order for us to make fair and accurate decisions in the way we vote on the floor, whether it is to go to war in Iraq or it is to provide funding for various programs, we need to have accurate information. I think what the gentlewoman is pointing out is that, whether it is foreign policy or domestic policy, with the kind of deception that we are getting, we cannot rely on the information that is being provided by the administration because many times it is distorted or it is not accurate. That is, I think, the real problem here.

I voted against the war but many of our colleagues, both Democrats and Republican, voted for it because they relied on representations that were being made by the White House that there were weapons of mass destruction, that there was an imminent threat, so many of the things that she pointed out. So, ultimately, they made the wrong decision, many of whom now regret that decision, because they did not get accurate information. They relied on the White House to make a decision that was the wrong decision.

The whole point is that we cannot make the right decisions, we cannot figure out what to do here if we continue to get this inaccurate information from the White House. What ultimately is going to happen is we are not going to believe anything we get. We are just going to have to come find some other source and assume that whatever comes from the White House is not accurate and cannot be relied on. I think the gentlewoman pointed that out so many times.

Ms. LEE. I would just like to say, I think it is very important for us, as the leader of the free world, the greatest superpower in the world, to be credible, to be credible as we move forward in this 21st century in terms of how we view the world in terms of our strategic position, in terms of our quest to have a peaceful world, a secure world and in terms of our efforts to eliminate terrorism.

There is no way we should sweep under the rug the facts. The facts are here, they are published, we know what who said when. I hope that the American people understand that we come to this floor to try to present the facts because oftentimes the media does not do that. We have it right here, and we are urging people to read what has been said over the last few years.

We have lost over 560 young men and women in the military. Their lives are lost, their families' lives are shattered as a result of this misinformation and this deceit which led us to war.

I believe it is our duty and our responsibility to put these facts out and to make sure that the American people know what was said, what was the basis for this war and what the outcome, unfortunately, has been.

Mr. PALLONE. I mentioned before about this op-ed with Krugman where he was quoting the Israeli newspaper Haaretz, a major publication in Israel. I just want to read that quote again in their editorial where they said, "This isn't America; the government did not invent intelligence material nor exaggerate the description of the threat to justify their attack."

We tend to think of this country and I have always felt it as the country that stands for what is right, what is just, what is honest, and to think that an Israeli newspaper is now saying, we're not like the government of the United States, we don't make up things, we don't lie, we don't exaggerate, as if that is the norm for us, is a pretty sad state of affairs.

Mr. Speaker, I yield to the gentleman from Maryland.

Mr. CUMMINGS. I want to thank the gentleman for yielding, and I want to thank the gentleman for his vigilance and for consistently standing up for what is right.

I have often said that I would like to see my children and grandchildren have a better country, inherit a better country than the one that existed on January 18, 1951, when I was born.

I must say that when I listened to my colleagues speak and I look at the very subject that we are talking about tonight, I am very much concerned that they will not inherit a better country. As a matter of fact, the kinds of things that we are talking about tonight, where words of this administration are inaccurate, should give the entire American public chills, because they are the things that lead to the chipping away of this wonderful institution that we call a democracy.

So I thank the gentleman for standing up and I thank all of my colleagues for coming out tonight, certainly the gentleman from New Jersey (Mr. PALLONE), the gentlewoman from California (Ms. LEE) and the gentlewoman from Illinois (Ms. SCHAKOWSKY).

I want to just for a moment talk about some of the misconceptions that we have seen and heard here as Members of this great body. First of all, as Members of the Congress, our constituents have vested a unique trust in us to represent their interests to the fullest degree and to make decisions that have a tremendous impact on their daily lives.

□ 2145

Every day we are required to consider legislative proposals, policy solutions, and programmatic activities that shape the future of our Nation. In order to carry out our task for this greatest benefit of the American people, it is absolutely essential that the most accurate and current information be at our disposal. Anything less would force us to abdicate our duties and perform an extreme disservice to the American people.

So, Madam Speaker, I am growing increasingly disturbed and angered by the Bush administration's penchant for being less than truthful with the people's representatives.

One striking example of this tendency towards strategically bending the truth is the rationale provided for the Iraq War. What disturbs me most about the faulty reasoning provided by our rush to war is the fact that not only was our Nation's credibility at stake, but most importantly human lives were at stake. Recent remarks by the Spanish Prime Minister in which he called the United States' occupation of Iraq a fiasco, and those are his words, make it increasingly evident that international goodwill is beginning to turn against the United States.

Madam Speaker, it is clear that one of the very first casualties of this war was international respect for the United States of America. Although terrorists may be jailed or killed on the battlefield, the war against terrorism will be fought and won in the hearts and minds.

By advancing unilateralist policies that isolate the rest of the world without concrete proof of imminent threat, we have endangered not only our national security, but also our national identity.

The Bible says, "Therefore whatsoever ye have spoken in darkness shall be heard in the light and that which ye have spoken in the ear in closets shall be proclaimed upon the housetops."

Several revelations have come to light as of late that seem to indicate that the administration's reasoning for war was flawed and the information provided to the public as justification for the war was misleading. First, we had Secretary Paul O'Neill, a former member of President Bush's Cabinet, saying that invading Iraq was a top priority of this administration only 10 days after the inauguration of this administration. That is, in January of 2001, long before September 11, the administration had already had its sights on Iraq.

Then to add insult to injury, former U.S. weapons inspector David Kay testified before the Senate Armed Services Committee that "we were almost all wrong" as it relates to our prewar intelligence. And Richard Clarke, the President's former counterterrorism adviser, is asserting that even though all credible evidence pointed to al Qaeda as being responsible for September 11, the administration still insisted on finding a link to Iraq.

And now, Madam Speaker, we have this report entitled "Iraq on the Record: The Bush Administration's Public Statements on, Iraq" issued by the special investigations division of the Committee on Government Reform approximately 2 weeks ago and which was referred to by the gentlewoman from California (Ms. LEE) just a moment ago. This startling report, which I submit for the RECORD, chronicles over 200 misleading statements about the threat posed by Iraq that were made by this administration.

This chart, which was included within the report, graphs the occurrence and timing of these misleading statements. Madam Speaker, the Members may notice this sharp spike between August, 2002, and October, 2002. I am sure the Members will recall that this happens to be around the same time Congress was considering the resolution authorizing the use of force in Iraq.

Madam Speaker, I am sure that it is far more than a coincidence that just as Congress was debating whether or not force was necessary in Iraq, President Bush, Vice President CHENEY, Secretary Rumsfeld, Secretary Powell, and National Security Adviser Condoleezza Rice, the administration, made 64 misleading statements in 16 public appearances. Madam Speaker, that amounts to more than two misleading statements per day during the 30-day period between September 8, 2002, and October 8, 2002.

I am sure that some of my colleagues across the aisle will find objection with this information, but in advance let me assure my critics that this report only contains statements that were misleading at the time that they were made. I am not referencing statements that the administration thought to be true at the time, but were proven false in hindsight. I am talking about statements that were not accurate reflections of the views of intelligence officials at the time they were made.

Madam Speaker, as a Member of Congress, I am outraged by this purposeful twisting of the truth, and every American who believes in truth and justice should be outraged also.

Madam Speaker, unfortunately, the argument made for war in Iraq was not the only case wherein the administration has knowingly misled the Congress and the American public. In December of 2003, the administration sent Congress its "National Healthcare Disparities Report." As I am sure the Members are aware, Madam Speaker, the law requires the Department of Health and Human Services to report to Congress on national healthcare quality and national healthcare disparities.

These reports enable us, as legislators, to assess the status of the health care crisis in our Nation and propose new solutions to eliminating those barriers to ensuring quality and affordable health care to every single American.

Madam Speaker, eliminating disparities in treatment and access to health care is a major priority of the Congressional Black Caucus. Oftentimes people speak of health care disparities as an abstract issue that only exists in the realm of policy and political discussions.

Under the leadership of the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), chair of the Congressional Black Caucus Health Braintrust, we have tried to make the issue of health disparities one that people understand and that we are working diligently to improve through our health care disparities legislation. Apparently, Madam Speaker, instead of joining the members of the Congressional Black Caucus and other concerned Members of Congress in our effort to eradicate health disparities, the Bush administration has chosen to delude Members of Congress as to the extent and nature of the problem.

The report that the Department of Health and Human Services provided Congress was absolutely shameful. The Special Investigations Unit of the Committee on Government Reform has found that the Department of Health and Human Services altered conclusions of its scientists on health care disparities in order to gloss over the appearance of a national problem which is literally costing human lives.

A congressional investigation released in January entitled "A Case Study in Politics and Science: Changes to the National Healthcare Disparities Report," which I will submit for the RECORD, made some startling findings which I want to share with the American people tonight, Madam Speaker.

The investigation revealed that the Department of Health and Human Services' scientists "found 'significant inequality' in health care in the United States, called health care disparities 'national problems,' emphasized that these disparities are pervasive in our health care system and found that the disparities carry a significant 'personal and societal price' in its initial report."

However, the final version of the disparities report, that is the version the administration submitted to Congress, contained none, none, of these conclusions and instead minimized the importance and scope of the disparities in health care.

Madam Speaker, not only did the administration mislead all 535 Members of Congress by rewriting a scientific report required by law, but the administration officials were dishonest with me personally when I asked about the changes made to the report.

Dr. Carolyn Clancy, director of the Department of Health and Human Services Agency for Healthcare Research and Quality, wrote a letter to me that began: "I am writing in partial response to your letter to Secretary Thompson expressing your concern that these changes were made to scientific facts and findings in the National Healthcare Disparities Report." She goes on to say, as we will see on this chart, the very next sentence of the letter read: "At the outset I want to make it clear that no data or statistics in the report were altered in any way whatsoever."

This is a letter that she sent to me. However, Madam Speaker, if one were to visit the Agency for Healthcare Research and Quality's Web site right now, they would find another letter from Dr. Clancy which reads: "Over the course of the summer and fall, changes, with which I concurred," meaning she concurred, "were made to the report by a broad array of staff including Agency for Healthcare Research and Quality."

The question becomes, Madam Speaker, which one is the truth? Is this the truth, or is this the truth? No matter what, there is an inconsistency that goes to the heart of a major issue on health care disparities.

Finally, Madam Speaker, I ask how is it that Dr. Clancy can in good conscience tell me that no changes were made to the disparities report but a month later, after public pressure, admit that changes were indeed made?

Madam Speaker, this is about more than my feeling personally insulted by Dr. Clancy. Madam Speaker, this is an insult to African American women who are more than twice as likely to die of cervical cancer than are white women and are more likely to die of breast cancer than women of any other racial or ethnic group. This is an insult to African Americans who are having more strokes at earlier ages, who are more likely to die from them, and who experience worse levels of recovery than other racial groups. This is about the prevalence of high blood pressure within the African American community that ranks among the highest in the world. This is about the administration knowing that all of these problems exist and choosing to do absolutely nothing about it and, furthermore, masking the truth about its existence.

So I could go on and on, but it is so interesting too that on Dr. Martin Luther King's birthday, President Bush visited an African American church and said, "Today would have been his 75th birthday," and this is President Bush speaking as I conclude. "It's important for our country to honor his life and what he stood for."

Later in the day, the President visited Dr. King's memorial in Atlanta, Georgia, and held a moment of silence at his tomb. All of this was very moving and touching. Yet, Madam Speaker, the very next day the President appointed Judge Charles Pickering over the objection of United States Senators, the Congressional Black Caucus, and all of these civil rights organizations.

I find it rather ironic that 1 day after the photo-op with Dr. King's widow, Coretta Scott King, and after saying that the Nation should honor what Dr. King stood for, that President Bush would have appointed a judicial nominee that was vigorously opposed by nearly every single civil rights group in the entire Nation.

So I would say to the gentleman from New Jersey (Mr. PALLONE), I thank him for yielding to me. Again, we all have come out. We could be at home resting, but we cannot rest when we see the deceptions that are taking place for we know that those deceptions lead to erosions. It is just like a water leak in one's house, drip, drip, drip; and every single drip, it may take a long time, but eventually something wears away. And we are convinced that we have to stand up. We could not sleep unless we did stand.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. GINNY BROWN-WAITE of Florida). The Chair would remind all Members not to attribute intentional misrepresentations to the President or Vice President.

Mr. PALLONE. Madam Speaker, I just want to thank the gentleman from Maryland for his statement. I know he is also the chairman of the Congressional Black Caucus. And, again, I think it is important, whether it is foreign policy or domestic policy, that we point out that we are not getting accurate information from the White House and it makes it very difficult for us to proceed in making policy decisions if we cannot rely on accurate information from the White House.

I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

□ 2200

Ms. SCHAKOWSKY. Madam Speaker, I thank the gentleman so much for yielding.

Madam Speaker, I stand here today with such a pride in joining true patriots who are coming to the floor tonight under the leadership of the gentleman from New Jersey (Mr. PALLONE), the distinguished chairman of the Congressional Black Caucus (Mr. CUMMINGS), and my colleague the gentlewoman from California (Ms. LEE), who has really been a conscience for all of us, that we have to ask the questions.

We stand here as people who love our country. We love our country so much that we fought to be here to represent over 600,000 people, to represent the views of ordinary Americans, and we are here tonight because we are concerned that our country is losing its credibility and its moral leadership around the world: and that our democracy is in jeopardy right now, because democracy depends on the truth.

It depends on the light of day. It depends on discussions being held out in the open, so that people can make up their own minds, so the facts, the real facts, get laid on the table. And to question, yes, even to question the President of the United States, Madam Speaker, about things that have been said, and the Vice President of the United States.

No one in this great democracy is beyond being questioned, and that is the duty of Americans, not just of Members of Congress, but of citizens of the United States, of the media, of the press, to find out the truth.

Madam Speaker, for over 6 months this administration has been fighting tooth and nail against all of the facts being laid out in public before this commission investigating 9/11 and what happened. It is not just the 3,000-plus people that died that day, and it is not just the 570, 580 or 590-plus people now that have died in Iraq and their families that are suffering, presumably because we were fighting terrorism, and some of us question the rationale for that war. But all Americans deserve to know the truth, and this administration over the last 6 months has battled against the commission over access to documents and witnesses.

The panel has issued two subpoenas to the Federal Government for aviation and military records, and twice had to threaten to do the same for access to presidential briefing materials. The panel fought the White House over an extension of its statutory deadline for issuing a report which was originally set for May 27 in order to really do its job. There has been pressure on this commission not to explore fully and readily exactly what happened on 9/11.

Now, fortunately, under tremendous pressure right now, we are going to hear more information, under oath, from the National Security Advisor, who has found it fit to speak on every single broadcast and radio station and television program about this. But now under oath she will appear. I think this is a wise decision, and I am glad that it is going to happen.

But I want to talk for a minute about one of the strategies that is used to silence people who would ask those kinds of questions, who would come up with information that the administration does not like, that runs counter to the administration's version of the truth.

I am not saying that the other versions are always true or more correct, but what I am saying is that anyone who dares to stand up and say something different is slimed by this administration. Let me give you some examples of the ways in which the integrity, the competence, the motives and even the patriotism of those who raise questions is attacked.

The Medicare actuary who came up with the numbers that said that this Medicare bill that passed in the middle of the night, after arm-twisting and holding the record open for 3-plus hours, the actuary who came up with dollar figures that said it really was going to cost about $140 billion more than the administration said, was warned that he would be fired if he told key lawmakers about a series of Bush administration cost estimates that would have torpedoed, or could have, any Congressional passage of this White House-backed Medicare prescription drug plan.

Richard S. Foster, the Chief Actuary for the Centers for Medicare and Medicaid Services, told colleagues last June that he would be fired if he revealed the numbers relating to higher estimates to lawmakers. This is a person who was supposed to give us the truth. That is his job. He is supposed to come up with the facts. For doing so, he was told he would be fired.

Former Secretary of the Treasury Paul O'Neill, 3 days after Paul O'Neill criticized the Bush administration's Iraq policy, the administration, quoting from an Associated Press story, "began an investigation into whether any laws or regulations had been violated by O'Neill." The probe came despite O'Neill having specifically "cleared all of the documents with the Treasury General Counsel's Office."

Of course, the problem ended by fully absolving O'Neill. But, right away, rather than answering the charges that were raised, the administration went after the man and tried to undercut his credibility.

White House Adviser Larry Lindsey was fired when he told a newspaper that an Iraq war could cost $200 billion.

General Anthony Zinni, fired, a retired Marine general who was Bush's Middle East mediator. He had the audacity to anger the White House when he told a public policy forum in October that "Bush had far more pressing policies than Iraq and suggested there could be a prolonged, difficult aftermath to the war. He was not reappointed as Mideast envoy." The source, and that is a quote, was the Associated Press in July of 2003.

Even troops fighting in Iraq were threatened for telling the truth about combat in Iraq. After soldiers in Iraq raised questions about the Bush administration's deceptive WMD comments, General John Abizaid said no soldiers "are free to say anything disparaging about the Secretary of Defense, or the President of the United States. Whatever action may be taken, whether it is a verbal reprimand or something more stringent, is up to the commanders on the scene." The source, ABC News.

No, we are not even going to let those who are putting their lives on the line publicly raise questions.

The CIA was blamed for telling the truth about bogus Iraq nuclear claims. Despite the CIA having made advance objections to the White House about false Iraq nuclear claims, "President Bush and his National Security Advisor yesterday placed full responsibility on the Central Intelligence Agency for the inclusion in this year's State of the Union Address of questionable allegations that Iraq's Saddam Hussein was trying to buy nuclear weapons."

So much for taking personal responsibility for words that come out of one's own mouth. Let us blame someone else.

And then, of course, there is Richard Clarke.

But even before I get to him, the Secretary of Commerce the other day, in talking about people who are concerned about losing their jobs, because jobs are being exported overseas, said that basically this kind of outsourcing is really a good thing for the economy. "People who are out of work because of outsourcing, who said, no, they think maybe we ought to try and keep jobs at home, he called them economic isolationists, and he said economic isolationists wave the flag of surrender, rather than the American flag." That is a quote.

So, in other words, people who are out of work because their jobs have gone overseas and have the audacity to complain about our policies that do that are said to wave the flag of surrender and not the American flag.

What does that mean? They are not patriots? These people, whose children every day go to school and say the pledge to the flag while dad or mom is looking for a job?

THE CHALLENGING QUESTION OF JOBS LEAVING AMERICA

The SPEAKER pro tempore (Ms. GINNY BROWN-WAITE of Florida). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Madam Speaker, I appreciate the opportunity to address the House.

It is appropriate, I suppose, that we continue with the discussion we are having about jobs. It is an interesting one, it is a challenging one. It is certainly an issue that will be with us for quite some time, certainly during the next several months as we approach the election.

We know that there is a great deal of anxiety in the Nation, there is a great deal of concern about the degree to which the exportation of jobs from the United States, the outsourcing, as it is referred to, has affected our economy, has affected the unemployment statistics and affected Americans in ways that are quite alarming sometimes.

We wonder about exactly how it is that we can treat this issue. Number one, is it for real? The outsourcing of jobs has sometimes been described as a good thing from an economic standpoint. I heard my colleagues on the other side of the aisle talk about that and suggest that someone was being disingenuous in that description.

Well, Madam Speaker, I do not know whether or not the outsourcing of jobs from the United States does in fact cause a net loss in jobs. I have a sneaky feeling it may. I am concerned about the possibility that it does.

We recognize that there is a phenomena, a world economy that challenges us as never before in terms of trying to figure out how exactly to address the issue of jobs, how to protect them.

In the past, and for the last actually 150 or so years, a lot of people have been wedded to the concept of free trade as described by various economists, from Ricardo and Adam Smith, and we adhere, most of us, to the concept that free trade is good in the long run and produces in fact a more viable economy. That has been the mantra many people have chanted.

I do not hear, even from the other side, however, a resolution to this. I do not hear anybody saying, well, we should not have free trade, that we should establish some sort of economic barrier to free trade, we should establish tariffs.

They can and do rail about the fact that we are maybe losing jobs in this new economy, in this new-world economy, and that it is, of course, therefore the President's fault. No one has in fact, that I know of, come up with a plan that would suggest a protectionist policy be implemented, that in fact we should begin to look at things like tariffs to protect American jobs. That is a hard case to make, and it is one alternative, of course, to the present course of free trade.

We can begin to restrict America's trade policies. We can begin to erect barriers. We can begin to say to other countries that if they do not react in what we would call a fair way to our trade policies that we will in fact impose some sort of penalty, we will raise a tariff barrier.

We can in fact even adopt policies, tax law, that would be designed to prevent companies from or punish companies for offshoring jobs, for moving jobs from the United States to other countries.

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Those are policy options. Now, would they stop the offshoring of jobs? Would people then say, okay, because I have to pay an extra tax for doing that, I will not adopt this particular procedure? Well, I do not know. In some cases, it may work; in other cases, it may not.

Because, in reality, the competitive world in which we live is one that does not care whether or not jobs are lost in any particular country. It does not matter. The economy does not have a conscience. The world economy does not look at a net loss of jobs in country A and a net increase in jobs in country B and say, there is something immoral about that. It just says, that is the way it has to work.

This is difficult for any Member of Congress, for any Member, any elected person in the United States to have to deal with, because our natural tendency is to say, here is what we will do to solve that problem. We will stop this. We will not allow jobs to be exported from the United States. We will do things that absolutely ensure that we will always have a very high standard of living and that our jobs will be protected. That is what we would like to do. But, of course, the problem is how to do that.

I assure my colleagues, nothing we heard tonight from the other side is a solution. Nothing. It is simply a series of complaints; and it is demagoguery to stand up on this floor or anywhere else and simply rail against the "loss of jobs" unless one is willing to come forward and say, here is what we will do to stop that. We will begin to impose protectionist measures. We will say to other countries that we will not allow your goods into our country because you are subsidizing them in your country, and it is unfair. We will punish corporations for sending jobs offshore.

Now, we can do that, we can say that, and we can even actually pass laws to accomplish those goals. But will they stop this phenomenon? Can we do anything to reverse what appears to be an inevitable change in the economic status of America and of America's workers?

I do not come to this floor to tell my colleagues that I have an economic model we can impose that I know will achieve the goal of keeping jobs in America and keeping our standard of living high. But I do have a suggestion that I believe we can look to and that all of us should be able to say, this may work. It is both logical and it is, in fact, the responsible thing to do.

But we will never hear, Madam Speaker, we will never hear our opponents, ever, suggest what I am going to suggest as a way of protecting American jobs, because their purpose is not to protect American jobs. Their purpose is to make political points. Their purpose is to make Americans, who are fearful of their own jobs and those who have lost jobs, vote for them, as opposed to the President or Republicans, just out of the fear. But there is never a solution that they propose, and certainly not the one that I am going to suggest tonight.

Madam Speaker, in this country today there are between 13 million and 15 million people who are here illegally. That is to say, they have come across the border of the United States without our permission. For the most part, they have come for the purpose of taking jobs. We hear this all the time, even from people on our side of the aisle, that the people who are coming here illegally are coming here simply to take the jobs that no one else will take.

Well, I do not know how it is in the districts of my colleagues or anywhere else in the country, but I will tell my colleagues that in my district there are many people who are out of work and who are looking for any job. They will take a job in the high-tech sector from which they were fired because someone came in to work for less money, or their job was outsourced, or they will take a job, many people, who do not have the kinds of skills that would allow them to even think about a job in the high-tech industry, they will take a job as roofers or as drywall hangers or as bricklayers or as, yes, even, believe it or not, people who would clean our houses or cut our lawns. They are people who are in desperate need of a job.

But we are importing millions of people to take those jobs. Why? Because they will take them for less money than the previous person was willing to take. It is a constant series of someone undercutting the person who was there for their job.

Now, this importation of cheap labor has an effect on our economy. And, yes, it is true that some commodities are less expensive and that we can probably get our lawns cut, our laundry done, our houses cleaned, and any one of a variety of other things for less money because there are so many people here who are willing to work for very little, and they have displaced the person who was doing that job for a little more. So to that extent it benefits a certain segment of our society. In the long run, however, I think it is a detriment to all of us.

So if we really wanted to address the issue of jobs, why would we not say that one way to do it is to, in fact, limit the number of people who are coming into this country illegally, why would we not say that we are going to defend our borders, stop the importation of cheap labor illegally into this country and even reverse the flow by levying fines against people, which is the law, of course. The law today allows us to levy fines against people who have hired people who are here illegally. And if we do that, we will, in fact, be able to reverse this flow.

People who are here illegally, if they are not able to obtain jobs and the social service benefits that we so liberally provide, they will return to their country of origin. We do not have to "round them up in cattle cars" and send them out or anything of that nature. These are the pictures that our opponents try to portray all the time of this horrendous experience. But, in fact, we could simply enforce the law and secure the border and achieve the goal of reducing the number of people who are here illegally.

But those people who do not go home under those conditions should, in fact, be deported, because that is the law. We may not like the law. There are a number of people on the other side who, of course, despise the law, but it is the law, and it is something that we must deal with. We can try to ignore it. We can try to pretend these laws do not exist. We can try to pretend the laws about immigration are nothing more than the selections on a Chinese restaurant menu: We will take one order of this, two orders of that, no rice, and be particular about which laws we will, in fact, enforce and which laws we will not. But that is not the way our society is built.

Madam Speaker, we are supposed to be a nation based on the rule of law and the respect for the law; and the law says if you are here illegally, you should be deported. The law says that if you hire someone who is here illegally, you should be fined; and if you continue to do it, you could actually go to jail. That is the law. In this body where we make law, this is supposed to be the place where we have the ultimate respect for the law.

Yet the members of the other side and even members of our own party would rather ignore the law, would rather suggest it does not exist and that we will look the other way. Because, on the one side, they are concerned about the votes that they would be losing if we stopped the flow of immigration, both legal and illegal, or reduced it; and on our side, oftentimes because we are fearful that we will stop the flow of cheap labor. In any case, the borders remain porous, and the numbers begin to overwhelm us.

Let me point out something that I find absolutely incredible. First of all, let me say, Madam Speaker, that when I go down and visit the border and talk to our Border Patrol people, which I do often on both the southern and northern borders, one of the things I hear most often is an admonition from them, and it goes something like this: Congressman, when you go back up there, please, please tell your colleagues, do not talk about, do not ever mention the word "amnesty" for the people who are here illegally. Because they say every time that happens up there, meaning here, the flood we are trying to stop on the border becomes a tidal wave, naturally, of people who are coming to obtain this "amnesty." If they can sneak in under the radar screen, if they can sneak in in time, they will get an amnesty. That is what they think. So the numbers become overwhelming.

Let me tell my colleagues what has happened in one sector, one portion of our border, the Tucson sector, which, of course, as my colleagues know, is just one spot along a 5,000-mile border, north and south. Since October 1 of last year, which is the beginning of our fiscal year, to date, about 6 months, the number of people interdicted, the number of people stopped at the Tucson sector in the last 6 months has reached 211,450. That was as of a few days ago. They are stopping about 3,000 or 4,000 a night. Almost a quarter of a million people by now in 6 months have been stopped at the Tucson sector, on the Tucson sector of the border.

Madam Speaker, for every single person that comes into this country, I mean every single person that we stop at the border, 2 or 3, 5 or 10, we do not know for sure how many, but certainly a minimum of let us say 2, for every one we get, 2 get by us, minimum. It is probably far more than that, but a minimum of 2. That means that in the last 6 months, a half a million people have entered this country illegally just in the Tucson sector, and successfully entered the country. Madam Speaker, a half a million people in 6 months in one sector. This is, by the way, a 46 percent increase from this time last year.

In the month of March, apprehensions, with at this point 3 days still remaining, are 62,946, the month of March. That is up 34,100 from last year, an increase of 85 percent. Madam Speaker, 3,067 when this report was done, which was 3 days ago, 3,067 were caught yesterday, according to the Border Patrol. By the way, April and May are typically the peak months ahead of a hot summer. Madam Speaker, a half a million people came into this country illegally in 6 months in one sector.

Where do they go? Now if, in fact, they are just coming for the jobs Americans will not take, which is what we hear all the time, right? What are the 500,000 jobs those people are going to take when they get here that are just waiting out there? Right? Because, of course, that is what we are told is the case, that there are millions and millions of jobs going begging. Madam Speaker, I ask my colleagues, in my colleagues' districts, are there thousands and thousands of jobs we cannot fill? I tell my colleagues it is not the case in my district.

□ 2230

I do not know of a district where want ads are going without response. Nobody wants the job. Thousands and thousands. 500,000 in the last 6 months. Where are they going? Where are they working? Are they, in fact, just taking jobs Americans do not want? Or are they, in fact, displacing American and/or immigrant labor who came here before them and doing so because they will work for less?

The President said in his speech that he wants to match every willing worker with every willing employer. But I ask the President to please think about that statement. I ask him to determine whether or not he really means that, matching every willing worker with every willing employer.

Well, I would suggest that there are billions of willing workers all over the world looking for the opportunity to come here and, in fact, undercut someone, underbid someone who is presently here for their job. Do we really believe that? If so, why do we even have immigration policy? If, in fact, our purpose is to simply let markets determine the flow of goods, services, and labor, why do we have immigration policies? Why do we say here is how many people can come into this country legally? Why do we not just say the border is meaningless, but if you get here, however you get here, you are here. You are a resident. You can apply for any job, you can obtain any benefit, you can even vote.

What is the purpose of a border if we are really and truly going to say whatever person is willing to work should be matched with any person willing to employ them? At that point in time it truly is a world economy, is it not? What sense does a border make under those conditions?

Why should we impose any restrictions? Why should we hand out visas? Because it does not matter, you see. If people are coming here to work and there are employers willing to hire them and they are willing to work for even less than that employer is paying at the present time, why should we interfere? It is just markets. It is just the way of the market and the world economy.

Well, Madam Speaker, I do not know whether we can begin to control the flow of jobs offshore, being exported offshore. I do not know because technology today, of course, makes it incredibly difficult to control the flow of work to worker. And you can push, you can move work to worker anywhere in the world because of technology. It is true.

I do not know whether there is any law we can pass, which is one reason our friends on the other side do not suggest them, because they do not know either; and they are petrified to say something like we will actually impose a tariff. They will not say it because they are afraid of the ramifications of it also. So they simply scream about jobs.

Well, whining and screaming and complaining will not change a thing. It may get more of them elected, it may get more people to vote against the President and against Republicans, that is their purpose, that is all they care about. But it will not change the job situation in this country. But I suggest that everyone in this body, and the President could do something tomorrow to improve the jobs situation in our country without imposing a tariff, without taking one protectionist step, but they could begin to enforce the law, the law that is presently on the books that says you cannot hire people who are here illegally, the law that says you cannot come into the country illegally. That is all we need to do to improve the job situation in America dramatically.

Because, Madam Speaker, it is not just, by the way, people coming here to do menial jobs who are sneaking into the country. There are people paying thousands and thousands of dollars to be snuck into the country. They are not coming in, by the way, to work in the local 7-Eleven or in somebody's vineyard. They are coming in for other purposes. Some of them very nefarious purposes, some of them paying thousands of dollars to be here.

In fact, Madam Speaker, some Middle Eastern clients will pay $50,000 to be smuggled into the United States. As I say, they are not coming here to take a menial job. They are coming here for something else entirely. And I am fearful to think about what it is and how many are here and how many are coming here illegally, across those porous borders, alongside and in between and hidden among thousands of people who are coming just to take the jobs no American will take.

I dare us, I dare the President of the United States, I dare the Congress of the United States to test that theory. Just test it and see whether or not there really are all these jobs Americans will not take. Just test it. Let us see. And you know what? If we reduce the supply of cheap labor, yes, it is possible we will have to pay a little more for certain goods and services.

But, Madam Speaker, I am willing to take that chance. And I am willing to pay that price. Because porous borders are dangerous. They are dangerous to this country, they are dangerous to our economy, certainly, and they are dangerous, they are a danger for our survival. We must, in fact, do something to achieve some degree of security and control over our borders. It is imperative. It is the thing that distinguishes a country to be able to determine who comes and who goes and for what purpose and for how long.

And there is nothing racial about it; there is no ethnic issues, all the stuff that our opponents want to throw on this heap. You know all the epithets that they want to throw out. All the names that they want to call people who simply ask for secure borders will not stop certainly me, and I hope others, from raising the concern, from suggesting that it is imperative that our country secure its borders and uphold its laws.

If, in fact, we do not believe that there is a purpose; if, in fact, there is something wrong with our immigration policy; if we do not think there is a reason for us to actually have borders, have INS agents, have Border Patrol, then let us repeal them, repeal those laws. There is no purpose, is there, for them if we intend to ignore them?

There is a fascinating thing, Madam Speaker, there is a law on the books, we passed it in 1994 or 1996, I am not sure which, but it was a law that said this: That if any state or locality passes laws to restrict the ability of the State from obtaining—from the INS obtaining information, if you restrict the flow of information to or bar the flow of information from the Immigration and Naturalization Service, it is against the law. It says that is a violation of Federal law. Now, that is what we said. That is the law we passed. Unfortunately, we put absolutely no sort of penalty behind it.

And so, of course, States and cities routinely violate this law, passing what we call sanctuary city laws, telling their police departments, for instance, that they should not report when they actually arrest someone who is here illegally. They should not report that to the Federal Government.

Time and time again, by the way, we have situations where folks who are here illegally, commit a crime, they are caught, there is an adjudication, they sometimes are sentenced; but no one ever tells the INS, so, of course, the INS does not come and deport them, which is what they are supposed to do because they do not know they are there. And this person walks out on the street and commits another heinous crime. Time and time again this has happened.

There are literally thousands of cases where people who are here illegally and who should have been deported because they have committed a crime, but they were not deported because that crime was never, ever reported to the INS. And we have said that that is against the Federal law.

I tried to add a penalty to that in the last session of Congress and I was unsuccessful. I tried to say that no one could apply, no State or city, could apply for funds under the Homeland Security Act or when we were also passing the Justice appropriation, nobody could get funds, nobody could get grants if they had passed these sanctuary laws. I think we got about 120 votes.

Now, that is incredible to me. Here is a body that passed a law and said it was illegal to do something, but when we tried to apply a penalty to it, we could not get a majority of the members to agree to it. This is a travesty, Madam Speaker. This is a travesty. And it truly is something that we as a Nation have to think about in terms of calling ourselves, if we want to go around the world and talk about the fact that we are a Nation that reveres the rule of law. And, yet, we refuse to actually enforce our own.

And so I say to my colleagues, I have told the President that if he does not believe in borders and if he does not believe in immigration law, then let us repeal them. It would be better to do so than to pretend as though we have them but only be selective in the way we enforce them.

Now, I am a "no" vote, by the way. I believe that immigration laws are important, I believe borders are important, but if I am in the minority in that, so be it. That is the way our government is supposed to work. But I want a full-fledged debate, and I want our colleagues to have to stand up on the floor and take a vote.

And I want the President of the United States to take a position on whether or not borders matter. Because if they do, then there are decisions that you have to make. If borders matter, then you have to defend them. You have to secure them. If they are of no consequence, then simply take down the barriers, take down the ports of entry, abolish the Border Patrol, abolish the INS, because there is no purpose for them. They are a very expensive sort of luxury to have to pretend that we have an immigration policy which we do not have the slightest intention of actually enforcing.

There are enormous implications to porous borders. There are political implications, there are cultural, there are economic, there are social, and there are national security implications. Besides that, there is another aspect to this: massive immigration into this country, into any country, actually, when that immigration meshes with, combines with a sort of, what I call a radical multi-culturalism, a philosophy that permeates the society, a philosophy that tells our children and immigrants that there is nothing of value in our country, nothing to hold on to, no heritage worth someone's allegiance, when we tell our own children in schools that there is no reason for them to have any attachment to Western Civilization or to the American experience; and we tell immigrants the same thing that they should keep their language, that we will actually teach them in the language that they have when they come here, teach their children in that language other than English, when we encourage them to stay separate, when we encourage them to actually keep their political allegiances to the country of origin. This becomes extremely problematic, and it goes even beyond the other issues of economy, of jobs, health care issues, social issues.

□ 2245

This goes to really the core of our society and whether we are going to be able to remain a Nation at all.

And this is happening, this cult of multiculturalism, it certainly does permeate our society. We see signs of it all over the place. As an example: at Los Angeles Roosevelt High School, an 11th grade teacher told a nationally syndicated radio program that she dislikes the textbooks she has been told to use and the State's mandated dated history curriculum because they ignore students of Mexican ancestry. She says because the students do not see themselves in the curriculum, she has chosen to "modify that curriculum by replacing it with activities like mural walks." Mural walks. These are intended to open the eyes of the students to their indigenous culture.

When on one of these walks they were confronted by one of the individuals who had made one of these painted murals, they became the teacher and went on to tell the children that their education is one big lie after another and that they essentially have no reason to be connected to the American experience and they should, in fact, hate it.

Now, this is one tiny example that is magnified 100,000 times around the Nation in a million ways.

In a textbook called "Across the Century," which is used for 7th grade history, the book defines the word jihad as "to do one's best to resist temptation and overcome evil."

In 2002, the "New Guidelines For Teaching History" in the New Jersey public schools failed to mention America's Founding Fathers, the Pilgrims, or the Mayflower.

In a Prentice Hall textbook used by students in West Palm Beach, titled "A World in Conflict," the first five pages of the World War II chapter cover such topics as women in the Armed Forces, racial segregation and the war, Black Americans and the home front, Japanese Americans being interned, and women and the war effort. Now, Madam Speaker, some 292,000 Americans died in that war, almost all of them white; but in the school text white male soldiers are represented far less in photos and words than all others.

A Washington State teacher substituted the word Christmas with the word winter in a carol to be sung in a school program so as not to appear to be favoring one faith over another.

In a school district in New Mexico, the introduction to a textbook called "500 Years of Chicano History in Pictures" states this book was written in response to the bicentennial celebration of the 1776 American Revolution. Not a bad idea. This is an interesting thing. But it was written "in response to the bicentennial celebration of the 1776 American Revolution and its lies."

That is what the book was written for. Its stated purpose is to celebrate "our resistance to being colonized and absorbed by racist empire builders." The book describes defenders of the Alamo as slave owners, land speculators, and Indian killers. Davey Crockett is described as a cannibal. The 1847 war on Mexico is described as an unprovoked U.S. invasion. The chapter headings include, Death to the Invader, U.S. Conquest and Betrayal, We Are Now a U.S. Colony, In Occupied America, and They Stole the Land. This is a textbook used in New Mexico.

There are literally hundreds of examples that I could give of this cult of multiculturalism, this attempt to make children sensitive to other cultures by degrading our own. This is the concept that we live in this world where I am okay, you are okay cultures and civilizations; that everyone is the same as everyone else and that all things are relative. We cannot condemn or look down upon or criticize any other nation, culture, or civilization.

Well, this has seeped into the fabric of our society to the point where about a month ago I went to a high school in my district. It was recently built and in one of the wealthiest counties in America. It was a beautiful school, with all the finest trappings, and bright-eyed bushy-tailed kids who certainly were competent in skills in a variety of areas. They came in to talk to me. We had about 200 of them. And at the end of the conversation, they sent up several questions. One of them was, What do you think is the most serious problem we face as a Nation?

I said, Well, before I answer that question, I am going to ask you a question. Remember, 200 high school students. I said, How many of you believe that you live in the greatest country on Earth? Take a guess, Madam Speaker, as to how many raised their hand. Out of 200 students, and the question was, Do you believe you live in the greatest country on Earth, about two dozen said yes. About two dozen actually raised their hands.

Now, I found this incredible. And what I said was, I can answer your question now about what I think is the greatest problem. And this is it, the fact that 175 of you or so could not answer this question in the affirmative.

And many of them, Madam Speaker, I do not think for a moment were saying I hate America. Most of them simply could not feel comfortable about raising their hand because they may have been asked to actually defend the proposition, and that is what made them uncomfortable. I taught for many years, and I could see that look in their eyes: if I raise my hand, you might call on me, and I do not know if I can actually defend that proposition, that America is the greatest. What if you ask me to prove it? What if you ask me why I believe that it is? So it is best I just do not even raise my hand.

And it is because, Madam Speaker, that they have been taught that they should not dare suggest that this is something good, individually significant, and in fact the best. What would people think if you said you lived in the best country in the world? How would they react? How would I defend it? This is the product of this multiculturalist phenomenon.

And when you combine it with massive immigration into the country, of people who are not coming here necessarily to become American but simply to get the job no one else would get, and you tell them this same stuff, that there is nothing unique, nothing good, nothing of value, then we are creating a Balkanized society that will not know the answer to the question of who are we.

Who are we, is a great question. What is our purpose? What is the thing that we should all be gathering around? Are there any ideas or ideals that all of us, regardless of whether we are from Azerbaijan or Zimbabwe, whoever we are, when we come here to the United States, is there nothing at all that we should establish as being the primary thing people should adhere to; some ideas that are of value and that separate us from all the rest of the world; things like the concept of the rule of law; all of those things that are identified in the Bill of Rights, especially in the first amendment?

Those are uniquely Western ideas. This Nation, as opposed to all other nations, was founded on ideas. No other nation has that claim. In that respect, we are unique and wonderful. But we are also vulnerable. I mean, it is in fact ideas that we need to hold us together. It is not ethnicity. We do not all look the same and have the same background. We did not come here speaking the same languages or even worshipping the same God. So what other nations have to hold them together, the culture that they share in common, we do not have.

All we have, Madam Speaker, is ideas that made this country, and they are articulated in the Constitution and especially in the Bill of Rights. And it is imperative we tell our children in high school about them and that we transmit those values and ideas and ideals to them. It is imperative that we ask, in fact demand from people who are coming in to this country, that they also adhere to them.

That is not too much to ask. We are not asking people to change their religion. We are not asking them to change their cultural identity. We are asking them to rally around a set of ideas. We should be asking, and we used to ask that. We asked it of my grandparents. But we do not ask it any more. In fact, we attempt to stop it. There is this hatred. It is almost a death wish for the country, in a way, that continues to push us in this direction, this radical multiculturalist path.

There are certain ideas that supercede others, and I suggest that diversity is not one of them. I mean, the one thing that we supposedly all have in common should not be our love of diversity. There are other things that are more important. There are ideas that are more important, and we should teach our children about them, and we should teach immigrants to respect and adhere to them. We do not do this, I think, to our peril.

So when I talk about the issue of immigration and immigration reform, it is not simply because I am concerned about jobs, which of course I am, and I believe it is a significant factor and something we should talk about when we talk about jobs. It is not just because I am concerned about the impact on our economy in terms of the health care costs and social service benefits that massive immigration imposes on us, although I am concerned about that. And it is certainly a concern about the costs we have to incarcerate. Twenty-five percent of the population of our Federal prisons, 25 percent, are people who are noncitizens of the United States. These are huge costs we incur.

Cheap labor is not cheap. Or I should say it is only cheap to the employer. It is not cheap to the rest of us. It costs a fortune. And those things we should talk about. But those things are not even the most dangerous aspects of massive immigration, both legal and illegal, until it combines with this cult of multiculturalism. That is the dangerous thing.

And this is a tough subject. It is very difficult sometimes, I know, to make this case because its requires us to really think about this in depth. You can make bumper stickers out of a chunk of this discussion, but you really have a hard time conveying this in a 30-second commercial. It is so much easier to use slogans and demagoguery, as our opponents are so able to do and so wont to do.

I do hope that we will think about this. I introduced a resolution a couple of weeks ago; and it simply states that all people, all children graduating from our schools, it is a sense of the Congress, should be able to articulate an appreciation for Western Civilization. What is so tough about that? And yet I do not know whether we are even going to get it on the floor of this House for fear someone will be offended by the discussion of whether or not our children should be able to articulate an appreciation of Western Civilization.

Now, you may say, well, who could be against that? How could anybody be against it? Why should we not be able to do that? Well, because, of course, we may be offending someone else.

□ 2300

We are not saying that anybody should condemn any other civilization, should criticize any other civilization. We are just saying they should be able to articulate an appreciation of western civilization, which is what started this. I do not care again if you are here from Azerbaijan or Zimbabwe. Anybody coming here should eventually be able to articulate that appreciation. It is important because it does in fact establish a canon, a set of ideas, around which we should all gather.

I have introduced that resolution. I have also asked other State legislators all over the country to do the same thing. I think to date we have 15 or 20 State legislators who have agreed to do so in their individual States. I have several hundred people who have gone to our Web site, www.house.gov/tancredo, and gone to Our Heritage Our Hope page and there they can sign up, they can take a resolution, I have got a model resolution that they can take to their school board and have them pass it saying that their children will be able to articulate this.

I hope people will do that. I hope people will actually go to our Web site, take that resolution, go to their school board and ask them to adopt it. If nothing else but to hear the debate that will ensue. If nothing else but to hear somebody say, oh, no, we could not, absolutely could not ask a student or demand that of our students, that they be able to articulate an appreciation for western civilization. Would that not be an interesting debate? I hope they will do it.

Once again, it is www.house.gov/tancredo, go to Our Heritage Our Hope.

I hope they do it, Madam Speaker; and I hope all over this country we will begin this debate as to whether or not this is an important requirement and whether it is meaningful and whether our children and the people who come into this country should be able to rally around a set of ideas that separate us from all other places.

Because, Madam Speaker, I have absolutely no doubt about it, this is the greatest nation on the face of the earth. There is plenty of empirical evidence to prove it. Because when the gates are opened all over the world, which way and where do people go? You just do not see that many fleeing from the West to say, Pakistan or Zimbabwe or anywhere else, but you see millions flowing here.

People do speak and vote with their feet; and to the extent that they can get here, they will come, or to western Europe, because it offers something that they do not have. It offers hope. I do not blame them for trying to come. It is the hope and desire I think of most people to certainly improve the quality of their life economically.

But all I am saying is that, when you get here, there is more to being an American than just getting a job. At least there should be. It should mean more than that. Or else we are just a place of residence, that is all, not citizens. We are just a place of residence, people who reside here, not people who have an affinity for the ideas and ideals that made America what it is. This is my fear. It is one that is sometimes difficult to encapsulate, even in an hour-long speech, although I appreciate the ability that the House provides for us to come here on the floor and opine like this.

It is I think a very serious issue, and I hope and I pray that we will as a Nation begin to grapple with it and that even in this House we will begin to debate what it means to be an American and what we have to do in terms of our own domestic policy and our immigration policy to enhance that concept. It will determine not just what kind of a nation we are in the future that is balkanized, united or divided, it will determine whether we are a nation at all, and that is why we absolutely must enter into this debate.

RECESS

The SPEAKER pro tempore (Ms. GINNY BROWN-WAITE of Florida). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 4 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0852

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 8 o'clock and 52 minutes.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–455) on the resolution (H. Res. 592) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–456) on the resolution (H. Res. 593) providing for consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TAUZIN (at the request of Mr. DELAY) for the week of March 29 on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mr. HINCHEY, for 5 minutes, today.
Mr. DAVIS of Illinois, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
Mr. EMANUEL, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. PRICE of North Carolina, for 5 minutes, today.
Mr. CASE, for 5 minutes, today.
Mr. MCDERMOTT, for 5 minutes, today.
Mr. POMEROY, for 5 minutes, today.
Mr. DAVIS of Florida, for 5 minutes, today.
Mr. BACA, for 5 minutes, today.
Mr. STRICKLAND, for 5 minutes, today.
Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.
Mr. WYNN, for 5 minutes, today.

(The following Members (at the request of Mr. SMITH of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. PEARCE, for 5 minutes, today.
Mr. SMITH of Michigan, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2584. An act to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2057. An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

S. 2231. An act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004.

S. 2241. An act to reauthorize certain school lunch and child nutrition programs through June 30, 2004.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on March 30, 2004 he presented to the President of the United States, for his approval, the following bill.

H.R. 254. To authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

Jeff Trandahl, Clerk of the House reports that on March 31, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 1997. To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

H.R. 3926. To amend the Public Health Service Act to promote organ donation, and for other purposes.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 53 minutes a.m.), the House adjourned until today, Thursday, April 1, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7350. A letter from the Director, Regulatory Review Group, FSA, Department of Agriculture, transmitting the Department's final rule — Farm Loan Programs Account Servicing Policies--Elimination of 30-Day Past-Due Period (RIN: 0560-AG50) received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7351. A letter from the Assistant Secretary, Department of Defense, transmitting the Department's Evaluation of the TRICARE Program FY 2004 Report to Congress, pursuant to 10 U.S.C. 1073 note; to the Committee on Armed Services.

7352. A letter from the Secretary of the Navy, Department of Defense, transmitting a proposal to transfer the historic harbor tug ex-HOGA (YTM 146) to the Arkansas Inland Maritime Museum, North Little Rock, Arkansas, a non-profit organization, pursuant to 10 U.S.C. 7306; to the Committee on Armed Services.

7353. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Prohibiting Against Circumventing Treatment as a Nationwide Consumer Reporting Agency (RIN: 3084-AA94) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7354. A letter from the Assistant Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting the Commission's final rule — Additional Form 8-K Disclosure Requiremtns and Acceleration of Filing Date [Release Nos. 33-8400; 34-49424; File No. S7-22-02] (RIN: 3235-AI47) received March 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7355. A letter from the Director, OSHA Standards and Guidance, Department of Labor, transmitting the Department's final rule — Commercial Diving Operations [Docket No. S-550] (RIN: 1218-AB97) received. February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7356. A letter from the Director, Regulations Policy abd Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Skin Protectant Drug Products for Over-the-Counter Human Use, Astringent Drug Products; Final Monograph, Direct Final Rule; and Confirmation of Effective Date; Corrections [Docket No. 78N-021A] (RIN: 0910-AA01) received March 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7357. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Correction [Docket No. 2002N-0278] received March 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7358. A letter from the Counsel for Rulemaking and Regulations, Department of Homeland Security, transmitting the Department's final rule — Procedures for Handling Critical Infrastructure Information; Interim Rule (RIN: 1601-AA14) received February 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7359. A letter from the Inspector General, Environmental Protection Agency, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2003, through September 30, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7360. A letter from the Chairman, Federal Trade Commission, transmitting a copy of the 2002 annual report in compliance with the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b; to the Committee on Government Reform.

7361. A letter from the Chairman, Occupational Safety And Health Review Commission, transmitting the FY 2003 Annual Program Performance Report, required by the Government Performance and Results Act; to the Committee on Government Reform.

7362. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Filing Claims Under the Military Personnel and Civilian Employees Claims Act — received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7363. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fulton, MO. [Docket No. FAA-2004-17149; Airspace Docket No. 04-ACE-15] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7364. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and A300 B4 Series Airplanes; A300 B4-600, B4-600R, C4-605R Variant F, and F4-600R (Collectively Called A300-600); and A310 Series Airplanes [Docket No. 2002-NM-04-AD; Amendment 39-13491; AD 2004-04-10] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7365. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B Helicopters [Docket No. 2003-SW-12-AD; Amendment 39-13524; AD 2004-05-29] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7366. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2004-NM-17-AD; Amendment 39-13505; AD 2004-05-10] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7367. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-8E Series Turbofan Engines [Docket No. 2004-NE-06-AD; Amendment 39-13485; AD 2004-04-04] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7368. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Fance Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, and AS355N Helicopters [Docket No. 2002-SW-44-AD; Amendment 39-13518; AD 2004-05-23] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7369. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Corporation Beech Models 45 (YT-34), A45 (T-34A, B-45), and D45 (T-34B) Airplanes [Docket No. 2000-CE-09-AD; Amendment 39-13496; AD 2001-13-18 R1] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7370. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Inc. Model Otter DHC-3 Airplanes [Docket No.

2000-CE-73-AD; Amendment 39-13493; AD 2004-05-01] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7371. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No. 2004-NM-03-AD; Amendment 39-13514; AD 2004-05-19] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7372. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS 365 N3 Helicopters [Docket No. 2003-SW-11-AD; Amendment 39-13523; AD 2004-05-28] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7373. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Neodesha, KS [Docket No. FAA-2004-16988; Airspace Docket No. 04-ACE-6] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7374. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Clinton, MO [Docket No. FAA-2004-16984; Airspace Docket No. 04-ACE-2] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7375. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Parsons, KS [Docket No. FAA-2004-16986; Airspace Docket No. 04-ACE-4] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7376. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Larned, KS [Docket No. FAA-2004-16990; Airspace Docket No. 04-ACE-8] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7377. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace; Olive Branch, MS [Docket No. FAA-2003-16534; Airspace Docket No. 03-ASO-19] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7378. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4-600, A300 B4-600R, and A300 F4-600R Series Airplanes (Collectively Called A300-600); Model A310 Series Airplanes; Model A319, A320, and A321 Series Airplanes; Model A330-301, -321, -322, -341, and -342 Airplanes; and Model A340 Series Airplanes [Docket No. 2001-NM-302-AD; Amendment 39-13477; AD 2004-03-33] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7379. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd. Models N22B, N22S, and N24A Airplanes [Docket No. 2003-CE-37-AD; Amendment 39-13494; AD 2004-05-02] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7380. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Springfield, MO. [Docket No. FAA-2003-16763; Airspace Docket No. 03-ACE-100] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7381. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines [Docket No. 2003-NE-56-AD; Amendment 39-13525; AD 2004-05-30] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7382. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319 and A320 Series Airplanes [Docket No. 2001-NM-301-AD; Amendment 39-13498; AD 2004-05-04] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7383. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cedar Rapids, IA [Docket No. FAA-2004-17144; Airspace Docket No. 04-ACE-10] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7384. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2-1C, B2-203, B2K-3C, B4-2C, B4-103, and B4-203 Series Airplanes; Model A300 B4-600, B4-600R, and F4-600R (Collectively Called A300-600) Series Airplanes; and Model A310 Series Airplanes [Docket No. 2002-NM-113-AD; Amendment 39-13499; AD 2004-05-05] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7385. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Des Moines, IA. [Docket No. FAA-2004-17145; Airspace Docket No. 04-ACE-11] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7386. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87) and MD-88 Airplanes [Docket No. 2002-NM-170-AD; Amendment 39-13503; AD 2004-05-09] (RIN: 2120-AA64) Recieved March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7387. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Festus, MO. [Docket No. FAA-2004-17148; Airspace Docket No. 04-ACE-14] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7388. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-200 Series Airplanes Modified by Supplemental Type Certificate ST00516AT [Docket No. 2002-NM-238-AD; Amendment 39-13522; AD 2004-05-27] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7389. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes [Docket No. 2002-NM-14-AD; Amendment 39-13521; AD 2004-05-26] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7390. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Mystere-Falcon 900 Series Airplanes [Docket No. 2001-NM-390-AD; Amendment 39-13510; AD 2004-05-15] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7391. A letter from the Director, NIST, Department of Commerce, transmitting the Department's final rule — Advanced Technology Program [Docket No. 040209047-4047-01] (RIN: 0693-ZA56) received March March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

7392. A letter from the Director, NIST, Department of Commerce, transmitting the Department's final rule — Procedures for Implementation of the National Construction Safety Team Act [Docket No. 030421094-3094-01] (RIN: 0693-AB53) received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

7393. A letter from the Director, NIST, Department of Commerce, transmitting the Department's final rule — Summer Undergraduate Research Fellowships (SURF) Gaithersburg and Boulder Programs; Availibility of Funds [Docket No. 040108008-4008-01] (RIN: 0693-ZA53) received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

7394. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Amendment to Final Agreement for Withholding Foreign Partnerships and Withholding Foreign Trusts and Additional Guidance for Qualified Intermediaries under Rev. Proc. 2003-64 (Rev. Proc. 2004-21) received March 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7395. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Applicable Federal Rates (AFR) for April 2004 (Rev. Rul. 2004-39) received March 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7396. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Loss Limitation Rules [TD 9118] (RIN: 1545-BC84) received March 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[April 1 (legislative day of March 31), 2004]

Mr. DREIER: Committee on Rules. House Resolution 592. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–455). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 593. Resolution providing for further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 108–456). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Texas (for himself, Mr. BERMAN, and Mr. CONYERS):

H.R. 4077. A bill to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the Internet, and for other purposes; to the Committee on the Judiciary.

By Mr. SAM JOHNSON of Texas (for himself, Mr. ENGLISH, Mr. HAYWORTH, Mr. FOLEY, Mr. BRADY of Texas, Mr. RYAN of Wisconsin, Mr. TOOMEY, Mrs. MYRICK, Mr. KLINE, Mr. BARRETT of South Carolina, Mr. MURPHY, Mr. CHOCOLA, Mr. JONES of North Carolina, Mr. WELDON of Florida, Mr. FEENEY, Mr. GARRETT of New Jersey, Mr. HENSARLING, Mr. SHADEGG, Mr. PENCE, Mr. AKIN, Mr. GUTKNECHT, Mr. BARTLETT of Maryland, and Mr. BURGESS):

H.R. 4078. A bill to amend the Internal Revenue Code of 1986 to create Lifetime Savings Accounts; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 4079. A bill to ensure that interest accrues on overdue child support payments, and for other purposes; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself and Mr. ISAKSON):

H.R. 4080. A bill to require entering students who will reside in on-campus housing at postsecondary institutions to have received meningococcal vaccinations; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 4081. A bill to amend the Internal Revenue Code of 1986 to permit judges presiding in family law proceedings to request directly taxpayer returns and return information; to the Committee on Ways and Means.

By Mr. BACA (for himself, Mr. ABERCROMBIE, Mr. ACEVEDO-VILÁ, Mr. ALEXANDER, Mr. BALLANCE, Mr. BECERRA, Mr. BELL, Ms. BERKLEY, Mr. BERMAN, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDOZA, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DAVIS of Tennessee, Ms. DEGETTE, Ms. DELAURO, Mr. DOGGETT, Mr. DOOLEY of California, Mr. DOYLE, Mr. EMANUEL, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HINOJOSA, Mr. HONDA, Mr. HOYER, Mr. INSLEE, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KIND, Mr. KUCINICH, Mr. LAMPSON, Mr. LANTOS, Ms. LEE, Mr. LEWIS of Georgia, Ms. LOFGREN, Mr. MARSHALL, Mr. MATSUI, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Mr. MEEKS of New York, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MOORE, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Ms. NORTON, Mr. ORTIZ, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Ms. PELOSI, Mr. POMEROY, Mr. RAHALL, Mr. RANGEL, Mr. REYES,. Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Mr. RYAN of Ohio, Mr. SABO, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. SHERMAN, Ms. SLAUGHTER, Ms. SOLIS, Mrs. TAUSCHER, Mr. THOMPSON of California, Mr. TIERNEY, Mrs. JONES of Ohio, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Ms. VELÁZQUEZ, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Mr. WU, Mrs. WILSON of New Mexico, Mrs. DAVIS of California, and Mr. FATTAH):

H.R. 4082. A bill to award a congressional gold medal on behalf of Cesar E. Chavez in recognition of his service to the Nation; to the Committee on Financial Services.

By Mr. BAKER:

H.R. 4083. A bill to suspend temporarily the duty on p-nitrobenzoic acid (PNBA); to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4084. A bill to suspend temporarily the duty on Benzenesulfonamide, N-(4-amino-9,10-dihydro-3-methoxy-9,10-dioxo-1-anthracenyl)- Benzenesulfonamide, N-(4-amino-9,10-dihydro-3-methoxy-9,10-dioxo-1-anthracenyl)- 4-methyl-; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4085. A bill to suspend temporarily the duty on 2-Naphthalenesulfonic acid, 7,7″ - [(2-methyl-1,5-pentanediyl) bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl) imino]] bis [4-hydroxy-3-[(4-methoxy sulfophenyl) azo]-, potassium sodium salt; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4086. A bill to suspend temporarily the duty on 1,5-Naphthalenedisulfonic acid, 3,3-[1,3-propanediylbis[imino(6-fluoro- 1,3,5-triazine-4,2-diyl)imino[2-(acetylamino)-4,1-phenylene] azo]]bis-, sodium salt; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4087. A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid,5-[[4-chloro-6-[[3-[[8-[4-fluoro-6-(methylphenylamino)-1,3,5-triazin-2-yl]amino]-1-hydroxy-3,6- disulfo-2-naphthalenyl]azo]-4-sulfophenyl],amino]-1,3,5-triazin-2-yl]amino]-4-hydroxy-3-](1-sulfo-2-naphthalenyl)azo]-sodium salt; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4088. A bill to suspend temporarily the duty on 4,11-Triphenodioxazinedisulfonic acid,6, 13-dichloro-3, 10-bis[[2-[[-[[4-fluoro-6-[(2-sulfophenyl) amino} - 1,3,5-trizin-2-yl] amino] propyl] amino]- lithium sodium salt; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 4089. A bill to establish the position of Assistant Secretary of Commerce for Job Retention and Creation to gather information about economic development assistance and make the information available to the public; to the Committee on Energy and Commerce.

By Mr. CAMP (for himself, Ms. DUNN, Mr. ENGLISH, Mrs. JOHNSON of Connecticut, Mr. MCCOTTER, Mr. UPTON, Mr. FOLEY, Mr. ROGERS of Michigan, Mrs. MILLER of Michigan, Mr. HOEKSTRA, Mr. NETHERCUTT, and Mr. WELLER):

H.R. 4090. A bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes; to the Committee on Ways and Means.

By Mr. GRAVES (for himself, Mr. CLAY, Mr. NORWOOD, Mr. DAVIS of Illinois, and Mrs. MUSGRAVE):

H.R. 4091. A bill to amend the Internal Revenue Code of 1986 to extend and expand the deduction for certain expenses of elementary and secondary school teachers; to the Committee on Ways and Means.

By Mr. HEFLEY:

H.R. 4092. A bill to amend title XIX of the Social Security Act to require fair billing for hospital services provided to uninsured patients as a condition of Medicaid funding for a hospital; to the Committee on Energy and Commerce.

By Mr. KENNEDY of Rhode Island:

H.R. 4093. A bill to amend the Public Health Service Act to establish a program of grants for the detection and control of colorectal cancer; to the Committee on Energy and Commerce.

By Ms. MILLENDER-MCDONALD:

H.R. 4094. A bill to amend the Internal Revenue Code of 1986 to establish a Federal income tax credit for production of energy from geothermal energy resources, and for other purposes; to the Committee on Resources, and in addition to the Committees on Ways and Means, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-MCDONALD (for herself, Mrs. CHRISTENSEN, and Mr. CUMMINGS):

H.R. 4095. A bill to amend title XVIII of the Social Security Act to provide for the use of qualified family caregivers in the provision of home health aide services under the Medicare Program, to amend the Family and Medical Leave Act of 1993, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER (for himself and Mr. MEEHAN):

H.R. 4096. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for renewal communities; to the Committee on Ways and Means.

By Ms. SLAUGHTER (for herself and Mr. KING of New York):

H.R. 4097. A bill to require group and individual health plans to provide coverage for colorectal cancer screenings; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself and Mr. YOUNG of Alaska):

H.R. 4100. A bill to establish a permanent trust fund to get Americans outdoors by providing access to parks and recreation areas in urban and rural communities, preservation of historic places, and promotion of healthy and active lifestyles, and to provide for hunting, angling, and wildlife viewing for the people of the United States; to the Committee on Resources.

By Mr. MENENDEZ:

H. Res. 590. A resolution electing a Member to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. BACHUS:

H. Res. 591. A resolution expressing the gratitude of the House of Representatives for the contributions made by America's community banks to the Nation's economic well-being and prosperity and the sense of the House of Representatives that a month should be designated as "Community Banking Month"; to the Committee on Financial Services.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

264. The SPEAKER presented a memorial of the Legislature of the State of Wyoming, relative to a Joint Resolution recognizing the mobilization and deployment of the 2-300 Field Artillery Battalion and the 115th Field Artillery Brigade of the Wyoming Army National Guard and its members and calling upon all citizens of Wyoming to support those soldiers who will be mobilized in support of Operation Iraqi Freedom; to the Committee on Armed Services.

265. Also, a memorial of the Senate of the State of Ohio, relative to Senate Resolution No. 1550 memorializing the United States Congress to direct the Election Assistance Commission to develop standards and security accreditation guidelines for all electronic voting devices, to establish standards for the design and use of reasonably affordable voter-verifiable paper ballots for electronic voting systems, and to expedite its efforts to provide for the testing and certification of voting system hardware and software and to adopt voluntary voting system guidelines, and to reaffirm the Ohio Senate's commitment to make electronic voting as safe and secure to the Committee on House Administration.

266. Also, a memorial of the Legislature of the State of South Dakota, relative to House Concurrent Resolution No. 1001, requesting the Congressional Delegation of the State of South Dakota work to abolish the death tax permanently; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BRADY of Pennsylvania:

H.R. 4098. A bill for the relief of Zhuljeta Zhegra; to the Committee on the Judiciary.

By Mr. BRADY of Pennsylvania:

H.R. 4099. A bill For the relief of Shpetim Daku; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. LOBIONDO.

H.R. 433: Mr. SESSIONS.

H.R. 687: Mr. BRADLEY of New Hampshire.

H.R. 745: Mr. DOGGETT.

H.R. 839: Mr. BROWN of Ohio, Mr. TIERNEY, and Mr. LARSON of Connecticut.

H.R. 857: Ms. ROS-LEHTINEN.

H.R. 942: Mr. CAPUANO and Mr. ISTOOK.

H.R. -1057: Mr. MILLER of North Carolina, Mr. JENKINS, Mr. MCKEON, and Mr. GOSS.

H.R. 1084: Mr. CARTER.

H.R. 1117: Mrs. NORTHUP.

H.R. 1160: Mr. STENHOLM.

H.R. 1205: Mr. GUTIERREZ.

H.R. 1206: Mr. HOSTETTLER and Mr. GARRETT of New Jersey.

H.R. 1258: Mr. VELÁZQUEZ, Mr. LEWIS of Georgia, Mr. PAYNE, Mr. CONYERS, and Mr. JEFFERSON.

H.R. 1310: Mr. ADERHOLT and Mrs. CAPITO.

H.R. 1357: Mr. PRICE of North Carolina and Mr. HASTINGS of Florida.

H.R. 1429: Mr. INSLEE.

H.R. 1534: Mr. FILNER.

H.R. 1655: Mr. TOWNS, Mr. GEORGE MILLER of California, Mr. GRIJALVA, and Ms. LEE.

H.R. 1793: Mr. VITTER.

H.R. 1873: Mr. LAHOOD.

H.R. 1981: Mr. GREEN of Texas.

H.R. 2022: Mr. BRADLEY of New Hampshire.

H.R. 2217: Mr. HOLT.

H.R. 2295: Ms. CARSON of Indiana.

H.R. 2404: Mr. FRELINGHUYSEN.

H.R. 2771: Mr. WEINER, Mr. ISRAEL, and Mr. WALSH.

H.R. 2900: Mr. MCHUGH, Mr. JENKINS, and Mr. TIBERI.

H.R. 2926: Ms. CARSON of Indiana.

H.R. 3049: Mr. PETERSON of Minnesota.

H.R. 3069: Mr. BARTON of Texas and Mr. SCHROCK.

H.R. 3109: Mr. ACEVEDO-VILÁ and Mr. GRIJALVA.

H.R. 3113: Mr. HENSARLING.

H.R. 3119: Ms. MCCARTHY of Missouri.

H.R. 3155: Mr. BERRY, Mr. FILNER, Mr. MCDERMOTT, Ms. NORTON, Mr. CASE, Mr. HINCHEY, Mr. MCGOVERN, Ms. SLAUGHTER, and Ms. SCHÁKOWSKY.

H.R. 3184: Mr. TOM DAVIS of Virginia.

H.R. 3204: Mr. NEY, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Mr. CARDOZA, Mr. CASE, Mr. COOPER, Mr. CRAMER, Mr. DICKS, Mr. DOOLEY of California, Mr. FARR, Mr. HILL, Mr. JOHN, Mr. KIND, Mr. LUCAS of Kentucky, Mr. MATHESON, Mr. MICHAUD, Mr. MOORE, Mr. PASTOR, Mr. ROSS, Mr. SCHIFF, Mr. TAYLOR of Mississippi, Mr. THOMPSON of California, and Mr. TURNER of Texas.

H.R. 3378: Mr. FILNER, Mr. GEORGE MILLER of California, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 3422: Ms. SCHAKOWSKY.

H.R. 3424: Mrs. MALONEY.

H.R. 3459: Ms. MCCOLLUM.

H.R. 3464: Mr. LAMPSON.

H.R. 3473: Mr. ENGEL.

H.R. 3480: Mr. ISAKSON.

H.R. 3526: Mr. SESSIONS, Mrs. BLACKBURN, Mr. GORDON, and Mr. WAMP.

H.R. 3558: Mr. MILLER of Florida and Mr. ENGLISH.

H.R. 3574: Mr. WELLER, Mr. FEENEY, Mr. TURNER of Texas, Mr. OSE, Ms. HART, Mr. BOEHNER, Mr. GARRETT of New Jersey, and Mr. SENSENBRENNER.

H.R. 3619: Mr. REYES, Mr. TOWNS, and Mr. SANDLIN.

H.R. 3684: Mr. BAIRD and Mr. DAVIS of Illinois.

H.R. 3754: Mr. SESSIONS.

H.R. 3755: Mr. WOLF.

H.R. 3773: Ms. HARRIS.

H.R. 3791: Mr. LOBIONDO.

H.R. 3800: Mr. OXLEY.

H.R. 3816: Mr. HILL, Mr. KANJORSKI, Mr. MORAN of Virginia, and Mrs. NAPOLITANO.

H.R. 3818: Mr. PALLONE, Mr. SPRATT, Ms. CORRINE BROWN of Florida, Mr. SABO, and Mr. DEUTSCH.

H.R. 3847: Ms. DELAURO.

H.R. 3864: Mr. SANDERS, Mr. FROST, Ms. JACKSON-LEE of Texas, and Ms. HART.

H.R. 3881: Mr. POMEROY, Mr. KLECZKA, Mr. CARDOZA, and Mr. BERRY.

H.R. 3901: Mr. ROGERS of Michigan.

H.R. 3902: Mr. LOBIONDO.

H.R. 3919: Mr. HONDA, Mr. BLUMENAUER, and Mr. CLYBURN.

H.R. 3956: Mr. HOEFFEL.

H.R. 3960: Mr. GRIJALVA and Mr. BOUCHER.

H.R. 3963: Ms. SLAUGHTER.

H.R. 4011: Mr. BLUMENAUER and Mr. PITTS.

H.R. 4016: Mr. JENKINS.

H.R. 4019: Ms. ROS-LEHTINEN, Mr. MCCOTTER, Mr. SMITH of New Jersey, and Mr. SCHIFF.

H.R. 4062: Mr. BRADLEY of New Hampshire.

H. Con. Res. 99: Mr. BRADY of Pennsylvania and Mr. STARK.

H. Con. Res. 352: Mr. GREEN of Wisconsin, Mr. SCHIFF, Mr. MENENDEZ, and Mr. WILSON of South Carolina.

H. Con. Res. 366: Mr. TURNER of Texas, Mr. TIERNEY, Mr. MCCOTTER, Mr. KANJORSKI, Mrs. LOWEY, Mr. CAPUANO, Mr. CARDOZA, Mr. FARR, Ms. LINDA T. SÁNCHEZ of California, Mr. FATTAH, Mr. LOBIONDO, Mr. CROWLEY, Mr. RAHALL, Ms. WATERS, and Ms. SLAUGHTER.

H. Con. Res. 371: Mr. OWENS and Mr. GERLACH.

H. Con. Res. 378: Mr. TAYLOR of Mississippi, Mr. ABERCROMBIE, Mr. CAPUANO, Mr. SCHIFF, Ms. BALDWIN, Mrs. MALONEY, Mr. DEFAZIO, Mr. MOORE, and Mr. WAXMAN.

H. Con. Res. 390: Ms. HARRIS, Mr. NADLER, Mr. CARDOZA, Mr. CROWLEY, Mrs. MALONEY, Mr. NORWOOD, Mr. ISRAEL, Mr. FROST, and Mr. OWENS.

H. Res. 402: Mr. TIBERI.

H. Res. 466: Mr. MATSUI, Ms. DELAURO, Mr. MCNULTY, and Mr. RANGEL.

H. Res. 510: Mr. SANDLIN.

H. Res. 528: Ms. LOFGREN, Mr. FRANKS of Arizona, Mr. MARSHALL, and Ms. LORETTA SANCHEZ of California.

H. Res. 570: Mr. MEEK of Florida, Mr. CLYBURN, Mr. WATT, Mr. DAVIS of Alabama, Mr. SCOTT of Virginia, Mr. BISHOP of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Ms. WATERS, Ms. NORTON, Mr. THOMPSON of Mississippi, Mr. CUMMINGS, Mr. MCDERMOTT, and Ms. KILPATRICK.

H. Res. 575: Mr. AKIN, Mr. TIBERI, and Ms. DELAURO.

H. Res. 581: Mr. PICKERING.

SENATE—*Wednesday, March 31, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable NORM COLEMAN, a Senator from the State of Minnesota.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, source of the light that never dims and of the love that never fails, light of our life, empower us to live blameless and upright, so that we will have a future of peace. Thank You for both joys and sorrows, for they lead us nearer to You. Thank You also for the signs of Your presence in our world and for the coming day when Your will shall be done on Earth, even as it is done in Heaven. Remember our Senators. Strengthen and encourage them. Give them a faith that can overcome all obstacles. May they never cast away their confidence in You. Fill each of us with the joy and peace that comes from believing in You. We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable NORM COLEMAN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant journal clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, March 31, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable NORM COLEMAN, a Senator from the State of Minnesota, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. COLEMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. FRIST. Mr. President, this morning, the Senate will conduct a period of morning business until 10 a.m., with the first half of the time under the control of the majority leader and the second half of the time under the control of the Democratic leader.

At 10 a.m., the Senate will conduct 90 minutes of debate prior to appointing conferees with respect to the budget resolution. Following that action, the Senate will resume consideration of the welfare reauthorization bill.

Last night, we were compelled to file cloture on the committee substitute to that bill. That cloture vote will occur tomorrow. We hope cloture will be invoked to allow us to finish this very important piece of legislation, the welfare reauthorization bill. I do hope we will be able to move forward today with germane amendments to the welfare reauthorization bill and make progress over the course of the day. Rollcall votes are possible. Senators will be notified when the first vote is scheduled.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 10 a.m. The first half of the time will be under the control of the majority leader or his designee. The final time will be under the control of the Democratic leader or his designee.

The majority leader.

ACTION BY THE EUROPEAN UNION AND SENATE DEMOCRATS

Mr. FRIST. Mr. President, on leader time, I would like to just make a couple comments on two events that took place last Wednesday.

On that day, two organizations made decisions that were very disappointing to me. One of those organizations was the European Union and the other was the Senate Democrats. I was disappointed by the Senate Democrats because they chose to filibuster a very important piece of legislation that is critical to our jobs base, to our manufacturing jobs base. That bill is called "Jumpstart Our Business Strength, (JOBS) Act," which is an important bill. In fact, the title itself—"Jumpstart Our Business Strength"—underscores the importance of this manufacturing jobs bill.

I was also disappointed by the European Union's action to impose a record fine of $610 million against a company, Microsoft, because it, frankly, demonstrates arrogance, I think—arrogance—requiring Microsoft to sell a version of Windows that we are all familiar with without the built-in ability to play audio files or video files.

I mention both of these incidents really almost in the same breath because they occurred on the very same day last week, and they are illustrative of the choice that is facing America and Americans today.

I released a statement last week and pointed out these overreaching attempts to register e-commerce. They include trade barriers against American beef and other agricultural products, and they all demonstrate the European Union relentlessly pursuing these protectionist policies that disproportionately harm America's workers.

The JOBS Act is a bill that is absolutely critical for us to address. As I said, the fact that the Democrats chose to filibuster that bill has been very disappointing to me. It was developed in a strong bipartisan fashion, coming through the Finance Committee with every single Democrat on the committee voting in favor of the bill, including the Democratic leader and the junior Senator from Massachusetts.

It is absolutely essential that we address this bill and that we pass this bill in order to accelerate job creation in this country. The purpose of it is to bring our trade laws in compliance with our trade agreements and at the same time provide some of the badly needed reforms to further stimulate manufacturing growth. I mention both of these issues because I think both need to continue to be addressed. I hope we can work out an appropriate arrangement to address the JOBS bill in the very near future.

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, parliamentary inquiry. What is the current order?

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

The majority controls 9 minutes.

Mr. WARNER. Fine. Thank you. Mr. President, I desire to speak, say, for 7 minutes, and then I would be happy to engage in a colloquy or otherwise with my colleagues on the other side.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. If the Chair would allow me to respond to the Senator from Virginia, the majority has 9 minutes and we have 9 minutes; is that correct?

The ACTING PRESIDENT pro tempore. The minority has 13½ minutes.

Mr. REID. The minority has what?

The ACTING PRESIDENT pro tempore. The minority has 13½ minutes.

Mr. REID. So the majority leader used morning business time?

The ACTING PRESIDENT pro tempore. And the majority's time is currently running.

Mr. REID. Mr. President, I say to the distinguished Senator from Virginia, you are to go first today under the order that has been entered, and then we would go next.

The ACTING PRESIDENT pro tempore. The majority has 8 minutes.

Mr. WARNER. I thank the Chair.

Mr. LOTT. Mr. President, if the Senator will yield for a moment. How much time do we have on the majority side?

The ACTING PRESIDENT pro tempore. Eight minutes.

Mr. WARNER. Shall I divide it with my distinguished colleague?

Mr. LOTT. I see Senator ALLARD may wish to speak, too.

Mr. ALLARD. Mr. President, if I may enter into the colloquy, I was asked to make some comments this morning, and I will be glad to do that, but my time is flexible and I can speak just briefly on what has happened to the economy.

The ACTING PRESIDENT pro tempore. The majority has 7 minutes 30 seconds.

The Senator from Virginia.

Mr. WARNER. Mr. President, I will just take 3 minutes, and then I will yield to my colleague, the distinguished Senator from Colorado.

Mr. ALLARD. I thank the Senator.

U.S. AND COALITION EFFORTS IN IRAQ

Mr. WARNER. Mr. President, with enormous enthusiasm and pride I rise today to commend President Bush and his national security team for the continually strong leadership they are providing in the ongoing global war on terrorism, and particularly as they assist the Iraqi people in their imminent transition to sovereignty.

Almost 1 year ago, a coalition of nations, led by the U.S. Armed Forces, and, indeed, those from Great Britain, liberated the Iraqi people from decades of repressive, tyrannical rule at the hands of Saddam Hussein. That day, April 9, will long be celebrated in the history of Iraq.

Our President did the right thing—he did the right thing—in gathering a coalition of nations to rid Iraq of a leader who had used weapons of mass destruction against his own people, who had a regime of over 30 years of tyrannical oppression, murdered indiscriminately. This individual simply had to be brought to the terms of accountability, accountability to his own people. That orderly process is now under way. He defied international law for over 12 years. Clearly America and the world are safer today, and Iraq is a better place with a hopeful future as a result.

Tragically, the effort to make America and the world safer and to defend freedom around the world is not without an enormous cost to this Nation in terms primarily of lost lives and those who bear the scars and the wounds of war, and their families who must bear these losses. They have our deepest compassion. I extend my heartfelt sympathies to the families of the loved ones of those who have died and those who bear the wounds of combat. We are fortunate as a Nation to have dedicated citizens who willingly volunteer to make such great sacrifices to defend this Nation's liberty.

Just weeks ago, together with the distinguished Senator from Alaska and the distinguished Senator from South Carolina, I went to Iraq and Afghanistan and again looked into the faces of those brave young men and women and thanked them on behalf of the people of this Nation.

In just 3 months—91 days to be exact—the sovereignty that has been held in trust by the Coalition Provisional Authority since Iraq was liberated on April 9, 2003, will be returned to the Iraqi people. This will represent an important milestone on Iraq's path to freedom and democracy, but it is a path fraught with continuing dangers.

The recently adopted "Transitional Administrative Law" states that "the work of the [Iraq] Governing Council shall come to an end" upon the assumption of sovereignty by an Iraqi Interim Government on June 30, 2004. The TAL further states that this Iraqi Interim Government "shall be constituted in accordance with a process of extensive deliberations and consultations with cross-sections of the Iraqi people conducted by the Governing Council and the Coalition Provisional Authority and possibly in consultation with the United Nations."

Yesterday, the Armed Services Committee, which I am privileged to chair, received testimony from several Department of Defense officials regarding on-going military operations and activities in Iraq, and preparations for this transition to sovereignty. While some concerns about details of the transition remain, I was greatly encouraged by the testimony the Committee received. A coordinated process of deliberation and consultation with the Iraqi people is underway by the Coalition Provisional Authority, the Iraqi Governing Council, and representatives of the United Nations to define and select an Iraqi Interim Government.

Much remains to be done in this process, but it is a process that must not be delayed. The moment has arrived for the coalition to move from occupying power to partner. The moment has arrived for the Iraqi people to assume responsibility for their destiny.

The path to full freedom and democracy in Iraq will not be without difficulty and missteps. That is to be expected, but we must not be afraid to continue that journey. Symbolically, much will change on June 30. Iraq, after 30 plus years of isolation, will rejoin the community of nations and resume responsibility for its actions and relations with other nations. In terms of the reconstruction and security efforts initiated by the Coalition Provisional Authority and coalition forces, little will change on July 1. Ongoing training of Iraqi Security Forces, assistance in restoring security, revitalization of essential infrastructure, and institutionalization of democratic processes will continue.

Two weeks ago, I traveled to Iraq, together with Senator STEVENS and Senator HOLLINGS. I was impressed by the progress that has been made since I last visited that nation in July. The challenges ahead are daunting, but the spirit of our men and women in uniform, and that of the Iraqi people, was reassuring and inspiring.

While the progress made in Iraq is substantial, it must be viewed in the context of the entire Middle East. Iraq can serve as an example and a beacon of hope, but much more complex issues must be addressed.

During my recent trip to the region for consultation with both U.S. and foreign leaders, there was a consistent expression of concern about the continuing conflict between Israel and the Palestinians. The lack of progress toward a peaceful resolution continues to fan the flames of discontent across the entire region. The continuing violence breeds more violence that will undermine positive developments anywhere else in the region. We must redouble our efforts to find common ground on this difficult issue, if we are ever to achieve a peaceful world and triumph over terror and violence.

There are more challenges ahead, and there will be disappointments. That is clear. It is equally clear that President Bush and his national security team are up to the challenge. President Bush has provided steady, strong leadership in troubled times and will lead us to a safer, more secure future.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. LOTT. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Six minutes 40 seconds.

Mr. LOTT. Mr. President, I ask Senator ALLARD if I could proceed for 3 minutes and then he could finish the balance of the time.

Mr. ALLARD. That would be fine.

Mr. LOTT. I ask unanimous consent that that be so.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE 9/11 COMMISSION

Mr. LOTT. Mr. President, I stood in this general area a couple years ago and spoke out against the need for the 9/11 Commission. I am not generally an advocate of commissions. I think it is an abdication of our responsibility when we do it repeatedly. As a matter of fact, we in the Senate should do the job of investigating what happened or what didn't happen that perhaps should have been leading up to the events of 9/11 and in the aftermath, as we went into Iraq. That is why we have the Armed Services Committee. That is what Senator WARNER, the chairman, is working on. That is why we have the Intelligence Committee. I serve on that committee. We work assiduously to take a good look at the intelligence, to see where the problems have been and see what the solutions are.

Having said that, I think this Commission has shown a great deal of calm and maturity. The leadership of the two senior members, former Governor Kean and former Congressman Hamilton, has been thoughtful. Members on both sides of the Commission have asked good and tough questions. I may regret saying this when their final report comes out, but I think they have been doing a good job. It is not an easy job because you are trying to deal with hundreds of witnesses and thousands of pages of evidence.

That leads me to the real point. I have had occasion to watch a number of national security advisers to Presidents over my 32 years in Congress, seven different Presidents and their national security advisers. There have been some good ones of both parties but none better than Condoleezza Rice. This is an outstanding individual with a brilliant mind, tremendous insight into what is going on in the world. I could give some anecdotes of why I believe that. For that reason, I am pleased she is going to come before the Commission. She is going to take every question on and give a thoughtful, complete, thorough, and convincing argument. She will do fine. I think it is unnecessary. Maybe this whole process of whether she would testify has been unnecessary.

From a public relations standpoint, yes, she should have gone from the very beginning. But there are some important separation-of-powers principles involved. Executive privilege is not insignificant. It is something that is woven in the very fabric of this country. We cannot have a process where slowly but surely, in President after President after President, executive privilege and separation of powers have been eroded.

I have watched it. Yes, former national security advisers have waived their executive privilege and gone before Congress. I thought it was a mistake, regardless of party. I have always spoken out against that. So I do think it is important we say this is not a precedent. It should not and cannot be a precedent, or you are not going to have men and women willing to give in confidence the best advice to the President or to give him the information he needs to hear without concern that some day some congressional person will have that person before them testifying.

This is not an insignificant matter. It is very significant. Under these extraordinary circumstances, we need to have everybody we can testify in full, not so we can blame somebody but so we can plan for the future and do a better job next time.

Condoleezza Rice will be the key to that effort.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

THE ECONOMY

Mr. ALLARD. Mr. President, I thank the Senators from Virginia and Mississippi for their comments. I want to talk a little bit about the economy.

First of all, I want to point out this President inherited a bad economy. When he inherited this bad economy, he could have taken the old solution to all of our problems: You increase taxes and spending and somehow the other things are going to be better.

He took a new approach. The new concept was you need to cut taxes. By cutting taxes, you are going to stimulate productivity and the economy is going to grow. So the President courageously stepped forward, got his tax package passed out of the House and the Senate. The major tax packages were in 2001 and 2003. We did some in other years. We did a little dribbling and working to reduce taxes. The fact is, by reducing taxes during a time when we had taxes at an all-time high, we have helped the economy.

There is a lot of talk on the floor about how bad the economy has been, but that reaches back into the bad economy this President inherited when he moved into the Presidency.

The President's tax package is now beginning to work. Look at the economic indicators put out by the Joint Economic Committee in February of 2004. We talk about the unemployment rate, and that is going down. Employment is going up. Wages are going up. We have a chart that shows real gross private domestic investment going up. Corporate profits are going up. We have another chart here that shows farm income is going up. We have sources of personal income. That is going up. Total output, income and spending, those are going up. Production and business activity is now going up. Common stocks, prices, and yields are all going up in response to the President's economic package.

I went on the Internet this morning to see what was being said there: Consumer spending strong, and business investment rebounding. It had a chart showing how those factors were coming together. That is this morning. Then we see another chart that shows jobless claims continuing to trend downward. It shows an increase in the jobless rate at the time the President inherited this economy, and now we see, as his tax package has had an opportunity to go into effect, the jobless rate is going down.

The President's package for stimulating our economy has worked. It would be a shame if we walked away from that and went back to the old solutions which were to increase spending and raise taxes. That is the wrong solution at the wrong time.

The right solution is what the President has talked about. We need to cut taxes and spending in order that this economy continues to prosper, as we have seen in the figures from the last several months.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, on our side, I ask unanimous consent that the Senator from California, Mrs. BOXER, be recognized for 5 minutes, followed by the Senator from Rhode Island for 6 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from California.

ECONOMIC REALITY

Mrs. BOXER. Mr. President, we have heard all these glowing figures from the other side of the aisle about this economy. I want to give a little dose of reality.

Today the unemployment insurance extension runs out. This Senate refused to act. I don't know how many times Senator CANTWELL has made that unanimous consent request.

In my State, it is estimated if unemployment benefits are not extended, 314,344 workers will lose benefits in the first 6 months of the year. This is outrageous.

This is the first time I can ever remember where a political party in charge could care less about people who are unemployed. Look at the record here. This is real. Let's go back to the Hoover administration, when there was a decrease in job creation.

During every other administration—Roosevelt, Truman, Eisenhower, Kennedy, Nixon, Ford, Carter, Reagan, Bush, Clinton—private sector employment increased.

Not now. Here we are at a moment when people are running out of their unemployment extension. I will read you a letter written by Kathleen Fontana of Scotts Valley, CA:

> DEAR MEMBERS OF CONGRESS: I am a single parent of two teenage boys and unemployed and unable to apply for the extension of UI. I was laid off July 2, 2003 . . . after 38 years with TWA. Needless to say, I am 60 years old, having been forced to live off my home equity loan in order to make ends meet. The unemployment extension needs to be passed and reinstated for us American citizens that are having these financial difficulties in the career area. More jobs are leaving the U.S. and more money is leaving here, too. Iraq is only one example. Things need to change and people at home need help too. . . . We need your votes to change this and have the extension of UI benefits.

As I go around my State—and I have been doing that a lot—the basic theme I am hearing is this: Senator, it is time for this country; it is time for America; it is time to think about our people and our workers.

I could not even believe it. I went into farm country and the rice farmers there who are sending their sons and daughters off to war—the contracts for rice are for the people of Iraq; they went out of the country. This is taxpayer dollars, American taxpayer dollars. Instead of saying, OK, we are going to rebuild Iraq and do it with American business and farmers, oh, no, we could not do that. Our State Department would not like that.

I am here to tell you there is something brewing in the countryside. People are angry about the fact that they seem to be last in line.

Let's look at some of these job loss numbers since this President came into power. Under Ronald Reagan, we had 165,000 jobs created per month. That was terrific. He was a beloved President. Under George H.W. Bush, 47,604 jobs were created a month. That was not very good. Under Bill Clinton, there was an extraordinary leap, to 236,625 jobs created per month. That is why kids got lifted out of poverty.

I saw a chart Senator SANTORUM had and it is beautiful. It shows how the African-American children are seeing poverty decline—up until last year. It is because during the Clinton administration we did welfare reform and we had a great economy. Then under George W. Bush, 58,815 jobs have been lost per month. It is a pathetic situation. If you translate that to my State, what we see in this situation is, again what has happened here and why we have to at least, A, be compassionate to the people who need extended unemployment benefits; B, we need to raise the minimum wage; C, we need to kill this administration's crazy idea to take overtime away from hard-working people.

Let's get this country back on track. It should be time for America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

THE COURSE OF MILITARY OPERATIONS IN IRAQ

Mr. REED. Mr. President, I rise to discuss my concerns about the course of our military operations in Iraq.

I returned about 10 days ago from a trip to Iraq with my colleagues. After a brilliant offensive campaign to destroy the Iraqi military forces, we have settled into a very dismal and dangerous occupation. In the last few hours, five more American military personnel were killed by an improvised explosion device. There were four more civilians who were killed. Iraqi security forces have died in much higher numbers.

The administration has not responded appropriately to the military demand within Iraq today. One of the leading points that illustrates this, I think, irresponsible approach to Iraq is the failure to budget properly to fund this effort. The operation in Iraq costs approximately $4 billion a month. Yet in the 2005 budget that was submitted by the administration, there is no money for operations in Afghanistan or Iraq. They are still working off the supplemental that was passed last year. But the Chief of Staff of the Army, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps testified they are seriously concerned that on October 1 they will begin to run out of money. They are already being forced to reprogram funds, to rob Peter to pay Paul in order to continue this operation.

Having committed ourselves to Iraq, we must prevail, and to prevail, we must fund all of the requirements for our military. We must do it adequately and promptly, and the administration is doing neither. We have a requirement for many pieces of equipment. But probably emblematic of the difficulties of this operation, the two most pressing items of equipment are body armor and armored vehicles, principally uparmored Humvees. When we went into this operation, we did not understand the consequences of the occupation, the threats to our troops, the political rivalries in Iraq, the ethnic and sectarian divisions of the country.

As a result, we found ourselves with troops in the field without proper equipment. Many lacked body armor, the kind of sophisticated armor with ceramic insert plates that provide a margin of safety for our troops. The Army and Department of Defense claimed they fixed it. But as late as March 26, reports in the San Diego Union, Boston Globe, and USA Today stated soldiers in Iraq are calling home and asking their families to buy them body armor and send it to them, or they are buying it before they deploy. That is unacceptable. That is one example.

With respect to uparmored Humvees, last July I got off of the aircraft in Baghdad and approached the military policemen from the 118th Military Police Battalion from Rhode Island. The first request I had was: Get us uparmored Humvees. We are driving through these dangerous cities and we need that protection.

We have not reached the number of uparmored Humvees we need for critical troops in Iraq. This might be accomplished by November of this year, but it is a long time from the need of over a year ago and finally filling the requirement.

We also have to armor other Humvees, and armor kits have been provided to do this armoring. Again, the administration's budget is not sufficient. The Secretary of the Army said: We are going to get all this equipment done. We are going to run the production line at top speed.

Yet the money is not there in the budget. We have to do more.

Last September, Senator HAGEL and I offered an amendment to the supplemental to increase the size of the Army by 10,000 troops. This was vehemently objected to by the Secretary of Defense, but I think they eventually got the message. A few months ago, the Department of the Army announced they were going to increase the size by 30,000 troops. But they are not going to ask for the money in the budgetary process. They are once again going back to the supplemental—to take money from the supplemental, which already is strapped to pay for operations. As a result, we will have, I hope, additional forces in the military, but we will not have the ordinary budget authority they need to continue to be funding when we run out of this supplemental.

Those are examples of some of the failures on our part, but they are failures multiplied with the situation with respect to Iraqi security forces. Our plan is to transfer, we hope one day, security operations to the Iraqis. Yet we have not provided sufficient equipment for these forces.

Senior commanders in Iraq have commented persistently about the lack of adequate equipment for the security forces, and a March 22 New York Times article stated:

> Senior American commanders in Iraq are publicly complaining that delays in delivering radios, body armor and other equipment have hobbled their ability to build an effective Iraqi security force that can ultimately replace United States troops here.

MG Charles Swannack, commander of the 82nd Airborne Division, has returned from Iraq and his frustrations on this point are extremely significant. He said, in retrospect, if he knew the equipment was not coming, he would have used his own resources to buy body armor, radios, and vehicles for these Iraqi security forces. We are not doing enough to provide replacement for our own forces, and we are not adequately funding our present forces in the field.

Those points are examples, I believe, of the failings in terms of occupation planning and military occupation of Iraq. But there are also political failures. We are less than 100 days away from transferring authority to an interim government, and yet no one can tell us what that interim government will look like. Will it be an increased governing council with 20, 30, 40 more people? Is it going to be a three-person presidency with a prime minister? We are 100 days or less away from that transfer of authority. We have yet to have a nominee to be the new ambassador to Iraq. Mr. Bremer leaves on June 30, but we have yet to have a name submitted to us for consideration and confirmation for someone who will have extraordinary challenges, extraordinary responsibilities. And yet we are 100 days or less away from the new ambassador of the United States to Iraq taking his or her post.

Probably most emblematic, most symbolic of the political difficulties is the de-Baathiciation program. One of the key problems of this program is it is being run by Chalabi. Chalabi is an individual in the Iraqi National Congress who provided most of the misinformation to the administration as they made their judgments about the imminence of a threat in Iraq. He has been on our payroll to the tune of about $300,000 a month funneled through the Iraqi National Congress for many years. He is still on the payroll. He has seized all the security files of the former Iraqi security agency which perhaps are a treasure trove of names of people who collaborated both inside Iraq and outside Iraq with the Saddam Hussein regime. But most importantly for the moment, he is in charge of vetting former Baathists to take positions in this new government.

He is sitting at the crossroads of billions of dollars of contracts from his position on the Iraqi Governing Council. He is also an individual who has the right to deny people their civil rights, if you will, in Iraq, and he is someone whose record does not, I think, suggest he is capable of discharging those responsibilities in the interest of Iraq or in the interest of the United States. The key to Mr. Chalabi is self-interest and always has been.

As a result, we are giving this individual inordinate power. This is not just a theoretical political argument. When I was in Iraq last November, I spoke to the division commander, and he complained to me he had 1,000 schoolteachers who could not teach because they had been nominal members of the Baath Party. Back in the days of Saddam Hussein, in order to have a job in Iraq of any consequence, you had to have a Baath affiliation. These people cannot work. Schools cannot open. And so this new Iraq we are desperately trying to build based upon not just security, but also economic development and education, has not yet taken off.

This is just one example of the political miscalculation I believe in which the provisional authority, Ambassador Bremer, has engaged in Iraq.

All of this is very important. We are, again, weeks away from transferring authority to some form of government of which we know not the exact details. We are also in a situation where each day we see the cost in terms of American lives.

Let me make one final point. When I was in Iraq talking with American soldiers about 10 days ago, the palpable concern they had with these explosive devices was obvious. We have soldiers who are paying Iraqis to put some type of armor on their doors because canvas doors do not stop a lot of small arms rounds or anything else.

We owe much more to those troops. We owe a budget that is real and timely, and we owe leadership here that will respond to their needs.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Chair lays before the Senate a message from the House to accompany S. Con. Res. 95.

The Acting President pro tempore laid before the Senate a message from the House of Representatives, as follows:

S. CON. RES. 95

Resolved, That the resolution from the Senate (S. Con. Res. 95) entitled "Concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009", do pass with the following amendment:

Strike out all after the resolving clause and insert:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005.

(a) DECLARATION.—The Congress declares that the concurrent resolution on the budget for fiscal year 2005 is hereby established and that the appropriate budgetary levels for fiscal years 2004 and 2006 through 2009 are set forth.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2005.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Major functional categories.

TITLE II—RECONCILIATION AND REPORT SUBMISSIONS

Sec. 201. Reconciliation in the House of Representatives.
Sec. 202. Submission of report on savings to be used for members of the Armed Forces in Iraq and Afghanistan.

TITLE III—RESERVE FUNDS AND CONTINGENCY PROCEDURE

Subtitle A—Reserve Funds for Legislation Assumed in Budget Aggregates

Sec. 301. Deficit-neutral reserve fund for health insurance for the uninsured.
Sec. 302. Deficit-neutral reserve fund for the Family Opportunity Act.
Sec. 303. Deficit-neutral reserve fund for Military Survivors' Benefit Plan.
Sec. 304. Reserve fund for pending legislation.

Subtitle B—Contingency Procedure

Sec. 311. Contingency procedure for surface transportation.

TITLE IV—BUDGET ENFORCEMENT

Sec. 401. Restrictions on advance appropriations.
Sec. 402. Emergency legislation.
Sec. 403. Compliance with section 13301 of the Budget Enforcement Act of 1990.
Sec. 404. Application and effect of changes in allocations and aggregates.

TITLE V—SENSE OF THE HOUSE

Sec. 501. Sense of the House on spending accountability.
Sec. 502. Sense of the House on entitlement reform.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2004 through 2009:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2004: $1,272,966,000,000.
Fiscal year 2005: $1,457,215,000,000.
Fiscal year 2006: $1,619,835,000,000.
Fiscal year 2007: $1,721,568,000,000.
Fiscal year 2008: $1,818,559,000,000.
Fiscal year 2009: $1,922,133,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 2004: −$179,000,000.
Fiscal year 2005: $19,919,000,000.
Fiscal year 2006: $34,346,000,000.
Fiscal year 2007: $33,376,000,000.
Fiscal year 2008: $27,231,000,000.
Fiscal year 2009: $30,927,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2004: $1,952,700,000,000.
Fiscal year 2005: $2,010,338,000,000.
Fiscal year 2006: $2,071,186,000,000.
Fiscal year 2007: $2,193,395,000,000.
Fiscal year 2008: $2,311,770,000,000.
Fiscal year 2009: $2,431,782,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2004: $1,911,235,000,000.
Fiscal year 2005: $2,007,926,000,000.
Fiscal year 2006: $2,083,910,000,000.
Fiscal year 2007: $2,169,446,000,000.

Fiscal year 2008: $2,277,071,000,000.

Fiscal year 2009: $2,393,946,000,000.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2004: $638,269,000,000.

Fiscal year 2005: $550,711,000,000.

Fiscal year 2006: $464,075,000,000.

Fiscal year 2007: $447,878,000,000.

Fiscal year 2008: $458,512,000,000.

Fiscal year 2009: $471,813,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2004: $7,436,000,000,000.

Fiscal year 2005: $8,087,000,000,000.

Fiscal year 2006: $8,675,000,000,000.

Fiscal year 2007: $9,244,000,000,000.

Fiscal year 2008: $9,823,000,000,000.

Fiscal year 2009: $10,419,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2004: $4,385,000,000,000.

Fiscal year 2005: $4,775,000,000,000.

Fiscal year 2006: $5,060,000,000,000.

Fiscal year 2007: $5,312,000,000,000.

Fiscal year 2008: $5,560,000,000,000.

Fiscal year 2009: $5,807,000,000,000.

SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2004 through 2009 for each major functional category are:

(1) National Defense (050):

Fiscal year 2004:

(A) New budget authority, $461,544,000,000.

(B) Outlays, $451,125,000,000.

Fiscal year 2005:

(A) New budget authority, $419,634,000,000.

(B) Outlays, $447,114,000,000.

Fiscal year 2006:

(A) New budget authority, $442,400,000,000.

(B) Outlays, $439,098,000,000.

Fiscal year 2007:

(A) New budget authority, $464,000,000,000.

(B) Outlays, $445,927,000,000.

Fiscal year 2008:

(A) New budget authority, $486,149,000,000.

(B) Outlays, $465,542,000,000.

Fiscal year 2009:

(A) New budget authority, $508,369,000,000.

(B) Outlays, $487,186,000,000.

(2) Homeland Security (100):

Fiscal year 2004:

(A) New budget authority, $29,559,000,000.

(B) Outlays, $24,834,000,000.

Fiscal year 2005:

(A) New budget authority, $34,102,000,000.

(B) Outlays, $29,997,000,000.

Fiscal year 2006:

(A) New budget authority, $33,548,000,000.

(B) Outlays, $33,298,000,000.

Fiscal year 2007:

(A) New budget authority, $35,160,000,000.

(B) Outlays, $35,635,000,000.

Fiscal year 2008:

(A) New budget authority, $36,520,000,000.

(B) Outlays, $36,979,000,000.

Fiscal year 2009:

(A) New budget authority, $40,420,000,000.

(B) Outlays, $38,401,000,000.

(3) International Affairs (150):

Fiscal year 2004:

(A) New budget authority, $43,604,000,000.

(B) Outlays, $29,281,000,000.

Fiscal year 2005:

(A) New budget authority, $26,529,000,000.

(B) Outlays, $32,848,000,000.

Fiscal year 2006:

(A) New budget authority, $27,776,000,000.

(B) Outlays, $30,017,000,000.

Fiscal year 2007:

(A) New budget authority, $27,927,000,000.

(B) Outlays, $26,714,000,000.

Fiscal year 2008:

(A) New budget authority, $28,077,000,000.

(B) Outlays, $25,323,000,000.

Fiscal year 2009:

(A) New budget authority, $28,228,000,000.

(B) Outlays, $25,099,000,000.

(4) General Science, Space, and Technology (250):

Fiscal year 2004:

(A) New budget authority, $22,822,000,000.

(B) Outlays, $21,897,000,000.

Fiscal year 2005:

(A) New budget authority, $22,813,000,000.

(B) Outlays, $22,453,000,000.

Fiscal year 2006:

(A) New budget authority, $22,927,000,000.

(B) Outlays, $22,683,000,000.

Fiscal year 2007:

(A) New budget authority, $23,042,000,000.

(B) Outlays, $22,743,000,000.

Fiscal year 2008:

(A) New budget authority, $23,157,000,000.

(B) Outlays, $22,763,000,000.

Fiscal year 2009:

(A) New budget authority, $23,274,000,000.

(B) Outlays, $22,863,000,000.

(5) Energy (270):

Fiscal year 2004:

(A) New budget authority, $2,323,000,000.

(B) Outlays, $59,000,000.

Fiscal year 2005:

(A) New budget authority, $2,863,000,000.

(B) Outlays, $1,201,000,000.

Fiscal year 2006:

(A) New budget authority, $2,604,000,000.

(B) Outlays, $1,397,000,000.

Fiscal year 2007:

(A) New budget authority, $2,583,000,000.

(B) Outlays, $1,040,000,000.

Fiscal year 2008:

(A) New budget authority, $2,629,000,000.

(B) Outlays, $662,000,000.

Fiscal year 2009:

(A) New budget authority, $2,285,000,000.

(B) Outlays, $891,000,000.

(6) Natural Resources and Environment (300):

Fiscal year 2004:

(A) New budget authority, $32,021,000,000.

(B) Outlays, $30,210,000,000.

Fiscal year 2005:

(A) New budget authority, $31,212,000,000.

(B) Outlays, $30,868,000,000.

Fiscal year 2006:

(A) New budget authority, $31,568,000,000.

(B) Outlays, $31,911,000,000.

Fiscal year 2007:

(A) New budget authority, $31,897,000,000.

(B) Outlays, $32,153,000,000.

Fiscal year 2008:

(A) New budget authority, $32,101,000,000.

(B) Outlays, $32,128,000,000.

Fiscal year 2009:

(A) New budget authority, $32,777,000,000.

(B) Outlays, $32,804,000,000.

(7) Agriculture (350):

Fiscal year 2004:

(A) New budget authority, $19,908,000,000.

(B) Outlays, $18,434,000,000.

Fiscal year 2005:

(A) New budget authority, $21,087,000,000.

(B) Outlays, $20,501,000,000.

Fiscal year 2006:

(A) New budget authority, $23,374,000,000.

(B) Outlays, $22,310,000,000.

Fiscal year 2007:

(A) New budget authority, $24,278,000,000.

(B) Outlays, $23,199,000,000.

Fiscal year 2008:

(A) New budget authority, $24,042,000,000.

(B) Outlays, $22,957,000,000.

Fiscal year 2009:

(A) New budget authority, $24,903,000,000.

(B) Outlays, $23,956,000,000.

(8) Commerce and Housing Credit (370):

Fiscal year 2004:

(A) New budget authority, $17,077,000,000.

(B) Outlays, $12,748,000,000.

Fiscal year 2005:

(A) New budget authority, $10,792,000,000.

(B) Outlays, $5,782,000,000.

Fiscal year 2006:

(A) New budget authority, $10,242,000,000.

(B) Outlays, $6,842,000,000.

Fiscal year 2007:

(A) New budget authority, $9,727,000,000.

(B) Outlays, $4,769,000,000.

Fiscal year 2008:

(A) New budget authority, $9,705,000,000.

(B) Outlays, $3,190,000,000.

Fiscal year 2009:

(A) New budget authority, $9,580,000,000.

(B) Outlays, $2,740,000,000.

(9) Transportation (400):

Fiscal year 2004:

(A) New budget authority, $62,937,000,000.

(B) Outlays, $59,280,000,000.

Fiscal year 2005:

(A) New budget authority, $65,021,000,000.

(B) Outlays, $61,988,000,000.

Fiscal year 2006:

(A) New budget authority, $66,075,000,000.

(B) Outlays, $64,204,000,000.

Fiscal year 2007:

(A) New budget authority, $68,263,000,000.

(B) Outlays, $66,131,000,000.

Fiscal year 2008:

(A) New budget authority, $69,578,000,000.

(B) Outlays, $67,545,000,000.

Fiscal year 2009:

(A) New budget authority, $70,445,000,000.

(B) Outlays, $68,452,000,000.

(10) Community and Regional Development (450):

Fiscal year 2004:

(A) New budget authority, $13,758,000,000.

(B) Outlays, $15,443,000,000.

Fiscal year 2005:

(A) New budget authority, $11,867,000,000.

(B) Outlays, $14,233,000,000.

Fiscal year 2006:

(A) New budget authority, $11,655,000,000.

(B) Outlays, $12,484,000,000.

Fiscal year 2007:

(A) New budget authority, $11,715,000,000.

(B) Outlays, $11,616,000,000.

Fiscal year 2008:

(A) New budget authority, $11,692,000,000.

(B) Outlays, $11,392,000,000.

Fiscal year 2009:

(A) New budget authority, $11,752,000,000.

(B) Outlays, $11,510,000,000.

(11) Education, Training, Employment, and Social Services (500):

Fiscal year 2004:

(A) New budget authority, $89,463,000,000.

(B) Outlays, $86,405,000,000.

Fiscal year 2005:

(A) New budget authority, $92,523,000,000.

(B) Outlays, $90,492,000,000.

Fiscal year 2006:

(A) New budget authority, $93,596,000,000.

(B) Outlays, $92,878,000,000.

Fiscal year 2007:

(A) New budget authority, $94,243,000,000.

(B) Outlays, $93,365,000,000.

Fiscal year 2008:

(A) New budget authority, $94,738,000,000.

(B) Outlays, $93,975,000,000.

Fiscal year 2009:

(A) New budget authority, $95,366,000,000.

(B) Outlays, $94,685,000,000.

(12) Health (550):

Fiscal year 2004:

(A) New budget authority, $236,822,000,000.

(B) Outlays, $235,551,000,000.

Fiscal year 2005:

(A) New budget authority, $245,095,000,000.
(B) Outlays, $244,936,000,000.
Fiscal year 2006:
(A) New budget authority, $252,639,000,000.
(B) Outlays, $252,495,000,000.
Fiscal year 2007:
(A) New budget authority, $266,117,000,000.
(B) Outlays, $265,196,000,000.
Fiscal year 2008:
(A) New budget authority, $284,970,000,000.
(B) Outlays, $284,222,000,000.
Fiscal year 2009:
(A) New budget authority, $304,034,000,000.
(B) Outlays, $303,460,000,000.
(13) Medicare (570):
Fiscal year 2004:
(A) New budget authority, $269,567,000,000.
(B) Outlays, $268,759,000,000.
Fiscal year 2005:
(A) New budget authority, $288,166,000,000.
(B) Outlays, $289,126,000,000.
Fiscal year 2006:
(A) New budget authority, $322,974,000,000.
(B) Outlays, $322,549,000,000.
Fiscal year 2007:
(A) New budget authority, $362,759,000,000.
(B) Outlays, $363,016,000,000.
Fiscal year 2008:
(A) New budget authority, $387,838,000,000.
(B) Outlays, $387,858,000,000.
Fiscal year 2009:
(A) New budget authority, $414,278,000,000.
(B) Outlays, $413,853,000,000.
(14) Income Security (600):
Fiscal year 2004:
(A) New budget authority, $329,744,000,000.
(B) Outlays, $336,074,000,000.
Fiscal year 2005:
(A) New budget authority, $337,318,000,000.
(B) Outlays, $341,716,000,000.
Fiscal year 2006:
(A) New budget authority, $335,387,000,000.
(B) Outlays, $339,098,000,000.
Fiscal year 2007:
(A) New budget authority, $340,140,000,000.
(B) Outlays, $342,945,000,000.
Fiscal year 2008:
(A) New budget authority, $352,809,000,000.
(B) Outlays, $355,046,000,000.
Fiscal year 2009:
(A) New budget authority, $361,830,000,000.
(B) Outlays, $363,465,000,000.
(15) Social Security (650):
Fiscal year 2004:
(A) New budget authority, $13,396,000,000.
(B) Outlays, $13,396,000,000.
Fiscal year 2005:
(A) New budget authority, $15,094,000,000.
(B) Outlays, $15,094,000,000.
Fiscal year 2006:
(A) New budget authority, $16,589,000,000.
(B) Outlays, $16,589,000,000.
Fiscal year 2007:
(A) New budget authority, $18,049,000,000.
(B) Outlays, $18,049,000,000.
Fiscal year 2008:
(A) New budget authority, $19,988,000,000.
(B) Outlays, $19,988,000,000.
Fiscal year 2009:
(A) New budget authority, $21,989,000,000.
(B) Outlays, $21,989,000,000.
(16) Veterans Benefits and Services (700):
Fiscal year 2004:
(A) New budget authority, $61,179,000,000.
(B) Outlays, $59,858,000,000.
Fiscal year 2005:
(A) New budget authority, $70,536,000,000.
(B) Outlays, $68,563,000,000.
Fiscal year 2006:
(A) New budget authority, $68,501,000,000.
(B) Outlays, $67,597,000,000.
Fiscal year 2007:
(A) New budget authority, $66,621,000,000.
(B) Outlays, $66,007,000,000.
Fiscal year 2008:
(A) New budget authority, $69,842,000,000.
(B) Outlays, $69,459,000,000.
Fiscal year 2009:
(A) New budget authority, $70,506,000,000.
(B) Outlays, $70,106,000,000.
(17) Administration of Justice (750):
Fiscal year 2004:
(A) New budget authority, $29,932,000,000.
(B) Outlays, $30,103,000,000.
Fiscal year 2005:
(A) New budget authority, $30,139,000,000.
(B) Outlays, $30,025,000,000.
Fiscal year 2006:
(A) New budget authority, $27,430,000,000.
(B) Outlays, $28,036,000,000.
Fiscal year 2007:
(A) New budget authority, $27,480,000,000.
(B) Outlays, $27,744,000,000.
Fiscal year 2008:
(A) New budget authority, $27,616,000,000.
(B) Outlays, $27,540,000,000.
Fiscal year 2009:
(A) New budget authority, $27,755,000,000.
(B) Outlays, $27,621,000,000.
(18) General Government (800):
Fiscal year 2004:
(A) New budget authority, $23,806,000,000.
(B) Outlays, $24,540,000,000.
Fiscal year 2005:
(A) New budget authority, $17,198,000,000.
(B) Outlays, $17,916,000,000.
Fiscal year 2006:
(A) New budget authority, $17,419,000,000.
(B) Outlays, $17,392,000,000.
Fiscal year 2007:
(A) New budget authority, $17,573,000,000.
(B) Outlays, $17,401,000,000.
Fiscal year 2008:
(A) New budget authority, $17,230,000,000.
(B) Outlays, $17,075,000,000.
Fiscal year 2009:
(A) New budget authority, $17,383,000,000.
(B) Outlays, $17,044,000,000.
(19) Net Interest (900):
Fiscal year 2004:
(A) New budget authority, $240,471,000,000.
(B) Outlays, $240,471,000,000.
Fiscal year 2005:
(A) New budget authority, $270,698,000,000.
(B) Outlays, $270,698,000,000.
Fiscal year 2006:
(A) New budget authority, $318,909,000,000.
(B) Outlays, $318,909,000,000.
Fiscal year 2007:
(A) New budget authority, $364,463,000,000.
(B) Outlays, $364,463,000,000.
Fiscal year 2008:
(A) New budget authority, $398,574,000,000.
(B) Outlays, $398,574,000,000.
Fiscal year 2009:
(A) New budget authority, $427,464,000,000.
(B) Outlays, $427,464,000,000.
(20) Allowances (920):
Fiscal year 2004:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2005:
(A) New budget authority, $50,000,000,000.
(B) Outlays, $24,850,000,000.
Fiscal year 2006:
(A) New budget authority, $0.
(B) Outlays, $18,600,000,000.
Fiscal year 2007:
(A) New budget authority, $0.
(B) Outlays, $5,100,000,000.
Fiscal year 2008:
(A) New budget authority, $0.
(B) Outlays, $1,000,000,000.
Fiscal year 2009:
(A) New budget authority, $0.
(B) Outlays, $250,000,000.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 2004:
(A) New budget authority, −$47,233,000,000.
(B) Outlays, −$47,233,000,000.
Fiscal year 2005:
(A) New budget authority, −$52,349,000,000.
(B) Outlays, −$52,475,000,000.
Fiscal year 2006:
(A) New budget authority, −$54,427,000,000.
(B) Outlays, −$54,477,000,000.
Fiscal year 2007:
(A) New budget authority, −$62,642,000,000.
(B) Outlays, −$63,767,000,000.
Fiscal year 2008:
(A) New budget authority, −$65,485,000,000.
(B) Outlays, −$66,147,000,000.
Fiscal year 2009:
(A) New budget authority, −$60,856,000,000.
(B) Outlays, −$59,893,000,000.

TITLE II—RECONCILIATION AND REPORT SUBMISSIONS

SEC. 201. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) SUBMISSIONS PROVIDING FOR THE ELIMINATION OF WASTE, FRAUD, AND ABUSE.—(1) Not later than July 15, 2004, the House committees named in paragraph (2) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(2) INSTRUCTIONS.—

(A) COMMITTEE ON AGRICULTURE.—The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $110,000,000 in outlays for fiscal year 2005 and $371,000,000 in outlays for the period of fiscal years 2005 through 2009.

(B) COMMITTEE ON EDUCATION AND THE WORKFORCE: INSTRUCTION TO PROVIDE FAIRNESS IN FEDERAL WORKERS COMPENSATION.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $5,000,000 in outlays for fiscal year 2005 and $43,000,000 in outlays for the period of fiscal years 2005 through 2009.

(C) COMMITTEE ON ENERGY AND COMMERCE.—The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $410,000,000 in outlays for fiscal year 2005 and $2,185,000,000 in outlays for the period of fiscal years 2005 through 2009.

(D) COMMITTEE ON GOVERNMENT REFORM: INSTRUCTION TO INCREASE RESOURCES TO AUTHORIZE INFORMATION SHARING TO ALLOW FEDERAL BENEFIT PROGRAMS LIMITED ACCESS TO FEDERAL AND STATE ADMINISTRATIVE DATA TO VERIFY ELIGIBILITY.—The House Committee on Government Reform shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $170,000,000 in outlays for fiscal year 2005 and $2,365,000,000 in outlays for the period of fiscal years 2005 through 2009.

(E) COMMITTEE ON WAYS AND MEANS.—The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $1,126,000,000 for fiscal year 2005 and $8,269,000,000 for the period of fiscal years 2005 through 2009.

(b) SUBMISSION PROVIDING FOR THE EXTENSION OF EXPIRING TAX RELIEF.—(1) The House Committee on Ways and Means shall report a reconciliation bill not later than October 1, 2004, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than $13,182,000,000 for fiscal year 2005 and by not more than $137,580,000,000 for the period of fiscal years 2005 through 2009.

(2) If a reconciliation bill, as reported pursuant to paragraph (1), does not increase the deficit for fiscal year 2005 or for the period of fiscal years 2005 though 2009 above the levels permitted in such paragraph, the chairman of the House Committee on the Budget may revise the reconciliation instructions under this section to permit the Committee on Ways and Means to increase the level of direct spending outlays, make conforming adjustments to the revenue instruction to decrease the reduction in revenues, and make conforming changes in allocations to the Committee on Ways and Means and in budget aggregates.

SEC. 202. SUBMISSION OF REPORT ON DEFENSE SAVINGS.

In the House, not later than May 15, 2004, the Committee on Armed Services shall submit to the Committee on the Budget its findings that identify $2,000,000,000 in savings from (1) activities that are determined to be of a low priority to the successful execution of current military operations; or (2) activities that are determined to be wasteful or unnecessary to national defense. Funds identified should be reallocated to programs and activities that directly contribute to enhancing the combat capabilities of the U.S. military forces with an emphasis on force protection, munitions and surveillance capabilities. For purposes of this subsection, the report by the Committee on Armed Services shall be inserted in the Congressional Record by the chairman of the Committee on the Budget not later than May 21, 2004.

TITLE III—RESERVE FUNDS AND CONTINGENCY PROCEDURE

Subtitle A—Reserve Funds for Legislation Assumed in Budget Aggregates

SEC. 301. DEFICIT-NEUTRAL RESERVE FUND FOR HEALTH INSURANCE FOR THE UNINSURED.

In the House, if legislation is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that provides health insurance for the uninsured, the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent such measure is deficit neutral in fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 302. DEFICIT-NEUTRAL RESERVE FUND FOR THE FAMILY OPPORTUNITY ACT.

In the House, if the Committee on Energy and Commerce reports legislation, or if an amendment thereto is offered or a conference report thereon is submitted, that provides medicaid coverage for children with special needs (the Family Opportunity Act), the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent such measure is deficit neutral in fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 303. DEFICIT-NEUTRAL RESERVE FUND FOR MILITARY SURVIVORS' BENEFIT PLAN.

In the House, if the Committee on Armed Services reports legislation, or if an amendment thereto is offered or a conference report thereon is submitted, that increases survivors' benefits under the Military Survivors' Benefit Plan, the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent such measure is deficit neutral resulting from a change other than to discretionary appropriations in fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 304. RESERVE FUND FOR PENDING LEGISLATION.

In the House, for any bill, including a bill that provides for the safe importation of FDA-approved prescription drugs or places limits on medical malpractice litigation, that has passed the House in the first session of the 108th Congress and, after the date of adoption of this concurrent resolution, is acted on by the Senate, enacted by the Congress, and presented to the President, the chairman of the Committee on the Budget may make the appropriate adjustments in the allocations and aggregates to reflect any resulting savings from any such measure.

Subtitle B—Contingency Procedure

SEC. 311. CONTINGENCY PROCEDURE FOR SURFACE TRANSPORTATION.

(a) In General.—If the Committee on Transportation and Infrastructure of the House reports legislation, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in excess of the following amounts:

(1) for fiscal year 2004: $41,569,000,000,

(2) for-fiscal year 2005: $42,657,000,000,

(3) for fiscal year 2006: $43,635,000,000,

(4) for fiscal year 2007: $45,709,000,000,

(5) for fiscal year 2008: $46,945,000,000, or

(6) for fiscal year 2009: $47,732,000,000,

the chairman of the Committee on the Budget may adjust the appropriate budget aggregates and increase the allocation of new budget authority to such committee for fiscal year 2004, for fiscal year 2005, and for the period of fiscal years 2005 through 2009 to the extent such excess is offset by a reduction in mandatory outlays from the Highway Trust Fund or an increase in receipts appropriated to such fund for the applicable fiscal year caused by such legislation or any previously enacted legislation.

(b) Adjustment for Outlays.—For fiscal year 2004 or 2005, in the House, if a bill or joint resolution is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that changes obligation limitations such that the total limitations are in excess of $40,116,000,000 for fiscal year 2004 or $41,204,000,000 for fiscal year 2005 for programs, projects, and activities within the highway and transit categories as defined in sections 250(c)(4)(B) and (C) of the Balanced Budget and Emergency Deficit Control Act of 1985, and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays and appropriate aggregates for such fiscal year for the committee reporting such measure by the amount of outlays that corresponds to such excess obligation limitations, but not to exceed the amount of such excess that was offset pursuant to subsection (a).

TITLE IV—BUDGET ENFORCEMENT

SEC. 401. RESTRICTIONS ON ADVANCE APPROPRIATIONS.

(a) In General.—(1) In the House, except as provided in subsection (b), an advance appropriation may not be reported in a bill or joint resolution making a general appropriation or continuing appropriation, and may not be in order as an amendment thereto.

(2) Managers on the part of the House may not agree to a Senate amendment that would violate paragraph (1) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto.

(b) Limitation.—In the House, an advance appropriation may be provided for fiscal year 2006 or 2007 for programs, projects, activities or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading "Accounts Identified for Advance Appropriations" in an aggregate amount not to exceed $23,568,000,000 in new budget authority.

(c) Definition.—In this subsection, the term "advance appropriation" means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2005 that first becomes available for any fiscal year after 2005.

SEC. 402. EMERGENCY LEGISLATION.

(a) Exemption of Overseas Contingency Operations.—In the House, if a bill or joint resolution is reported, or an amendment is offered thereto or a conference report is filed thereon, that makes supplemental appropriations for fiscal year 2005 for contingency operations related to the global war on terrorism, then the new budget authority, new entitlement authority, outlays, and receipts resulting therefrom shall not count for purposes of sections 302, 303, and 401 of the Congressional Budget Act of 1974 for the provisions of such measure that are designated pursuant to this subsection as making appropriations for such contingency operations.

(b) Exemption of Emergency Provisions.—In the House, if a bill or joint resolution is reported, or an amendment is offered thereto or a conference report is filed thereon, that designates a provision as an emergency requirement pursuant to this section, then the new budget authority, new entitlement authority, outlays, and receipts resulting therefrom shall not count for purposes of sections 302, 303, 311, and 401 of the Congressional Budget Act of 1974.

(c) Designations.—

(1) Guidance.—In the House, if a provision of legislation is designated as an emergency requirement under subsection (b), the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (2). If such legislation is to be considered by the House without being reported, then the committee shall cause the explanation to be published in the Congressional Record in advance of floor consideration.

(2) Criteria.—

(A) In general.—Any such provision is an emergency requirement if the underlying situation poses a threat to life, property, or national security and is—

(i) sudden, quickly coming into being, and not building up over time;

(ii) an urgent, pressing, and compelling need requiring immediate action;

(iii) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(iv) not permanent, temporary in nature.

(B) Unforeseen.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

SEC. 403. COMPLIANCE WITH SECTION 13301 OF THE BUDGET ENFORCEMENT ACT OF 1990.

(a) In General.—In the House, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 and section 13301 of the Budget Enforcement Act of 1990, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocation under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration.

(b) Special Rule.—In the House, for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts provided for the Social Security Administration.

SEC. 404. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) Application.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the appropriate Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.

TITLE V—SENSE OF THE HOUSE

SEC. 501. SENSE OF THE HOUSE ON SPENDING ACCOUNTABILITY.

It is the sense of the House that—

(1) authorizing committees should actively engage in oversight utilizing—

(A) the plans and goals submitted by executive agencies pursuant to the Government Performance and Results Act of 1993; and

(B) the performance evaluations submitted by such agencies (that are based upon the Program Assessment Rating Tool which is designed to improve agency performance);

in order to enact legislation to eliminate waste, fraud, and abuse to ensure the efficient use of taxpayer dollars;

(2) all Federal programs should be periodically reauthorized and funding for unauthorized programs should be level-funded in fiscal year 2005 unless there is a compelling justification;

(3) committees should submit written justifications for earmarks and should consider not funding those most egregiously inconsistent with national policy;

(4) the fiscal year 2005 budget resolution should be vigorously enforced and legislation should be enacted establishing statutory limits on appropriations and a PAY-AS-YOU-GO rule for new and expanded entitlement programs; and

(5) Congress should make every effort to offset nonwar-related supplemental appropriations.

SEC. 502. SENSE OF THE HOUSE ON ENTITLEMENT REFORM.

(a) FINDINGS.—The House finds that welfare was successfully reformed through the application of work requirements, education and training opportunity, and time limits on eligibility.

(b) SENSE OF THE HOUSE.—It is the sense of the House that authorizing committees should—

(1) systematically review all means-tested entitlement programs and track beneficiary participation across programs and time;

(2) enact legislation to develop common eligibility requirements for means-tested entitlement programs;

(3) enact legislation to accurately rename means-tested entitlement programs;

(4) enact legislation to coordinate program benefits in order to limit to a reasonable period of time the Government dependency of means-tested entitlement program participants;

(5) evaluate the costs of, and justifications for, nonmeans-tested, nonretirement-related entitlement programs; and

(6) identify and utilize resources that have conducted cost-benefit analyses of participants in multiple means- and nonmeans-tested entitlement programs to understand their cumulative costs and collective benefits.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Dakota controls 60 minutes, and the Senator from Oklahoma controls 30 minutes for debate only. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of our colleagues, I believe we are going to have debate that will last about an hour and a half. My colleague from North Dakota will be in control of an hour and myself or Senator GREGG will be in control of 30 minutes. At the conclusion of that debate time, we expect to appoint conferees. The House has already appointed conferees. They appointed conferees on Monday. We expect to appoint conferees at the conclusion of our debate time. And for the information of our colleagues, and especially the conferees—hopefully they have been notified—we will have a conference this afternoon beginning at 2:30. We will go as long as necessary to hear everybody's viewpoints on both the House and Senate budget proposals and any constructive suggestions they might have to improve them. I look forward to that discussion.

I would love to see us come out of conference with a bipartisan budget. That usually has not happened in the recent past, but I would love for it to happen in this case.

Again, we look forward to going to conference and resolving the differences between the House and the Senate. There are not a lot of differences. The numbers are pretty close on the outlay side, and the numbers are pretty close on the revenue side. There are some differences, and we will have to work those out. There are some differences in enforcement provisions. We will work those out. That is what conferences are for. They are compromises between the House and the Senate.

I compliment our colleagues in the House for passing a budget. We actually passed a budget the week before last. I thank all of our colleagues. We actually ended up passing the budget after 4 days. The last day was a fairly long day. It lasted into Friday morning, about 1:30 in the morning. We did it with 25 votes. That was half the number of votes we had the previous year. The previous year we had 51 votes. Those votes dealt with a lot of different issues. Hundreds of billions of dollars in new taxes were proposed, and hundreds of billions of dollars in new spending were proposed, most of which were defeated. We accepted some amendments, and we will work through those amendments.

We have other issues, I will tell my colleague, and he is well aware of it. My colleague from North Dakota is very familiar with the budget. There is a reserve fund, and there are a lot of different issues. The House has some, and we have some. We have to work those out. That is what budgets are for.

The House intends to pass this bill this week. That means we have to do a lot of work. Some work has already happened behind the scenes. Chairman NUSSLE and I have been trying to resolve issues and lay the groundwork, but a lot of major decisions have yet to be made. Again, that is what conferences are for.

So I look forward to working with all of our colleagues in the Senate, especially the conferees, to come up with a budget resolution that will significantly reduce the deficit. I say significantly reduce the deficit, the budget we passed in the Senate would reduce the deficit, which is far too high, by half in 3 years.

I hope we can meet that goal coming out of the conference committee. That is not easy. It is not easy in any way, shape, or form. So I want to make sure everyone is aware of that.

Again, I thank our colleagues for their cooperation. I thank my colleague from North Dakota for his cooperation today because we will get conferees appointed, we will go to conference, and, frankly, we will meet as long as necessary to get this job done. That certainly is our intention.

I had hoped that possibly the Senate could pass the budget resolution on Friday. I believe it is the majority leader's intention, if the conference agreement is reached and the House passes it this week, that we would take it up on the Senate floor next Thursday. That is certainly acceptable with this Senator, and I will be happy to work with all of our colleagues to make that happen.

For the information of our colleagues, once a conference agreement is reached, the rules of the Senate provide for 10 hours of debate and a vote on the budget resolution. Unless things change, I expect that would be sometime next Thursday.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Might I inquire of the chairman and make sure I have heard this correctly, that the chairman has indicated the leader intends to bring the budget conference agreement up for final debate and a vote on Thursday next?

Mr. NICKLES. That is correct, a week from Thursday.

Mr. CONRAD. A week from Thursday?

Mr. NICKLES. Correct.

Mr. CONRAD. I thank the chairman for his courtesies as we have gone through the process. I think because we both worked together productively yesterday, we came to a reasonable conclusion about how to proceed today.

I want to thank the chairman for his patience yesterday as we worked through a number of issues with a lot of colleagues to avoid many more votes that, in my judgment, would have been unnecessary and not advanced the ball in any constructive way. So I thank the chairman for his patience yesterday.

I was somewhat surprised to read in the New York Times this morning comments of certain House Republican leaders, specifically the majority leader, yesterday about where we are headed in this country with these massive deficits. We have the largest deficits in the history of the country by almost any measure, and we see going forward deficits even much larger than these as the baby boomers retire, which is of much greater concern to this Senator. That is the course the President is taking us on. In my judgment, it is a reckless course and a course that will threaten the economic security of this country for a long period of time. So this morning when I read the New York Times and I saw that Republican Congressman DELAY of Texas, the majority leader in the House, " . . . restated a view that has been cited by other Republican House leaders: tax cuts pay for themselves by generating economic growth that more than makes up for lost revenue."

Mr. DELAY went on to say:

> We, as a matter of philosophy, understand that when you cut taxes, the economy grows, and revenues to the government grow. The whole notion that you have to cut spending in order to cut taxes negates that philosophy, so I'm not interested in something that would negate our philosophy.

I am a lot less interested in philosophy than I am in what works in the real world. The philosophy that Mr. DELAY has espoused, and others have as well, that somehow taxes are cut and that produces more revenue, the problem is it has not worked. Let's be direct. Let's go back to what the Congressional Budget Office told us back in 2001. Looking forward, they said there was a range of possible outcomes with respect to the budget surpluses. Remember then they were telling us we were going to have these massive budget surpluses, but they said there was a range of possible outcomes expressed. By this chart, I call it the fan chart, the forecast that was adopted was right in the middle of this range of possible outcomes.

Now, this is how this is relevant to what Mr. DELAY is telling us. I was told by a Republican colleague, a Senator: You are being much too conservative. Do you not understand that these surpluses are going to be bigger than CBO is forecasting because of the tax cuts?

I was told repeatedly by my Republican colleagues when I warned them that betting on a 10-year forecast of these surpluses was risky, that it was dangerous, that it was unlikely that it was going to be such a rosy scenario, and over and over again my Republican colleagues told me: Senator, you are too conservative. Do you not understand that when taxes are cut, there is more revenue? Do you not understand these surpluses, after we pass the tax cut, will be even bigger than the Congressional Budget Office has forecast, even bigger than the President's Office of Management and Budget has forecast?

I said: Well, that is a nice theory but I do not believe it. I do not think we are going to wind up with bigger surpluses because of these tax cuts. In fact, I think we are going to find the surpluses evaporate, and I said so dozens of times on the Senate floor. I said so dozens of times in the Budget Committee.

Now we can go back and check the record. Let's see what happened in the real world, not based on some philosophy, not based on some ideology. Here are the range of projected surpluses the Congressional Budget Office told us about. The midline is their official forecast. We passed the tax cuts. In fact, we have passed three rounds of tax cuts. Did we get more revenue and, as a result, did we get even bigger surpluses, which is what our Republican friends told us was going to happen? No. Here is what has happened in reality.

This is the red line. With all the tax cuts, we have wound up with not surpluses but deficits. So the philosophy that apparently was the guiding hand, that said cut taxes and there will be more revenue, and as a result even bigger surpluses, did not work in the real world.

In the real world, what we got was not surpluses but massive deficits. What we got in the real world was not a tax-cut-driven surge in surpluses, what we got is massive record deficits. So everybody is entitled to their own philosophy, everybody is entitled to their own ideology, but all of that gets measured against what happens in the real world.

What has happened in the real world is the surpluses have evaporated and now we have record deficits. All of these claims by our friends, that if we had just had this massive package of tax cuts we would get more revenue, we would get more surpluses, did not work out. It did not work out.

So now I say to my friends, we better get serious about getting this train back on the track because we are headed for very big trouble.

If we look at the record on deficits over a very long period of time going back to 1969, here is what we see: Under the President's plan, we have now seen the deficits absolutely skyrocket. This theory that we were going to get more revenue and bigger surpluses did not work out. Instead, we got a massive increase in deficits and a massive increase in debt. Some of our friends on the other side say not to worry, that as a share of the gross domestic product the deficits are not as big as they have been in the past.

I say to my colleagues, if one does a fair analysis of the operating deficits of the country—that is, take out Social Security instead of using Social Security funds to float this boat; do as the law requires when calculating the deficits and not include the Social Security funds and look at this budget on an operating basis—what we find is that as a share of GDP, the deficit this year has been only exceeded once since 1947. That was back in 1983, when it was 6 percent of gross domestic product. Now it is 5.5 percent.

Those who seek to minimize the size of these deficits by this claim are misleading the American people as to the true fiscal condition of the United States.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. On the previous chart, am I to understand that in dollar terms the deficit now is at a record level?

Mr. CONRAD. Yes. In dollar terms the deficit this year——

Mr. SARBANES. Is the highest it has ever been?

Mr. CONRAD. By $100 billion.

Mr. SARBANES. It is the highest it has ever been.

Mr. CONRAD. It exceeded last year's deficit, which was the previous record, by $100 billion.

Mr. SARBANES. I also understand when they try to put it in percentage terms as a share of the economy, that it is almost at the highest level it has been since the end of World War II. Of course, we had to fight World War II. We had a significant deficit and ran up the debt. But it is almost at the highest it has ever been, and it is projected, as I understand it, to go higher; is that correct?

Mr. CONRAD. Yes. If we look ahead, look over just the next few years, what we see, under the President's own calculations, the deficit as a share of our Nation's income is even going to get larger. These are record deficits. As we can see, even as a share of the national income, this deficit is the second highest it has been since World War II, only exceeded by 1983.

Interestingly enough, I would say to my colleague, in 1983 the Social Security surplus was only several hundred million dollars.

Mr. SARBANES. Million?

Mr. CONRAD. Million. Now the Social Security surplus is $160 billion, and under the President's plan, under the Republicans' plan, they are taking every dime of Social Security money and using it to pay for tax cuts and using it to pay for other expenditures.

Mr. NELSON of Florida. Will the Senator yield?

Mr. CONRAD. I will be happy to yield.

Mr. NELSON of Florida. Isn't it interesting, if you will put the other chart up there—Mr. President, I thank the Senator for yielding for a question—how the old labels don't mean anything anymore—what is conservative and what is liberal. We are now looking at record deficits, and they say this is a conservative budget? It seems to me it is exactly the opposite, that the reckless spending and tax policies that end up with fiscal policy that is running the country into debt are exactly the opposite of conservative fiscal policy. To the contrary, it is reckless liberal policy that is driving our country into economic doldrums.

Does the Senator agree?

Mr. CONRAD. I say to the Senator, we look at each of these budget proposals from the other side and, under any one of them, they are going to add $3 trillion to the national debt over the next 5 years. And the next 5 years is the good times. After that, the baby boomers retire and the full cost of the President's tax cuts explode. Then you see the real effect of these policies.

Frankly, I am less concerned about the deficits we face in the near term. I am much more concerned that under the President's plan we don't see any end to these deficits. In fact, the additions to the debt absolutely explode and at the worst possible time, right before the baby boomers retire.

The President has said it is the slowdown in the economy that is the problem. The Congressional Budget Office issued a report just the other day. This is the New York Times report on the CBO research. It says:

> When President Bush and his advisers talk about the widening Federal budget deficit, they usually place part of the blame on economic shocks ranging from the recession of 2001 to the terrorist attacks that year. But a report released on Monday by the nonpartisan Congressional Budget Office estimated that economic weakness would account for only 6 percent of a budget shortfall that could reach a record $500 billion this year.
>
> The new numbers confirm what many analysts have predicted for some time: That budget deficits in the decade ahead will stem less from the lingering effects of the downturn and much more from the rising Government spending and progressively deeper tax cuts.

Our friends on the other side of the aisle don't want to talk about the effect of the tax cuts. That is missing in action as part of the contributor to these massive deficits. The fact is, deficits are the creation of the relationship between spending and revenue. It is the two of them that have to be focused on if we are going to deal with these deficits. We are hearing from the other side that the President says he is going to cut the deficit in half over the next 5 years.

Here is what we see. He does that by just leaving out things. He leaves out any war costs past September 30 and he leaves out the alternative minimum tax, which was the old millionaire tax, and has now become a middle-income tax trap.

When you put those things back in, what you see is additions to the debt are not being reduced. Additions to the debt are not being cut in half. Additions to the debt continue at extraordinarily high levels for the entire rest of the decade, and, again, right before the baby boomers retire.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. I say to the Senator, I think it is an extremely important point. Even if you reduce the deficit—and the President is making these enormously favorable assumptions about how much he can reduce the deficit. Every analysis has, in effect, undercut the administration's statement and said the deficit, year to year, will be larger. But any deficit you run becomes an addition to the debt, so the debt continues to grow.

As the chart of the Senator shows, it grows in alarming proportions. That is a burden that then is saddled on the next generation which they have to pay off almost indefinitely into the future.

I say to the Senator, I think he is making an extremely important point, to underscore the fact that the debt continues to explode even under favorable assumptions by the administration.

Mr. CONRAD. It is one of the most startling things, if you examine the President's proposals. The President, who has represented himself to the American people as conservative, has the most radical budget plan ever put before this country. That is because he is absolutely exploding the debt right before the baby boomers retire. When he says he is going to cut the deficit in half, what he has done is he has left out things that we all know are going to be expenses. For example, he has left out funding for the war in Iraq, the war in Afghanistan, the war on terror. He says there is no cost past September 30 of this year—none.

The Congressional Budget Office says the cost is $280 billion over this next period of time. The House and the Senate have put in these much smaller amounts, $50 billion in the House, $30 billion in the Senate. But the Congressional Budget Office says that is not what this is going to cost. It is going to cost $280 billion.

We see that same pattern with other elements in the President's plan. Here is the cost in the 10 years of the President's tax cuts. Do you notice a pattern? This dotted line is the end of the 5-year budget proposal of the President. In previous years he did 10-year budgets. Now he is down to 5 years because I am afraid he wants to hide from the American people the full effect of his budget plan. Just looking at the tax side of it, you can see the cost of his proposed tax cuts absolutely explode outside the 5-year budget window. In effect, he is hiding from the American people the true fiscal condition of the country.

Mr. NELSON of Florida. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. NELSON of Florida. Mr. President, as the Senator did yield, I ask the Senator, our ranking member on the Budget Committee, isn't it interesting that when we voted on all these issues in the Budget Committee and on the floor of the Senate, that organizations that rate the votes, even respected organizations such as the National Journal, when they determined what is liberal and what is conservative, in the votes the Senator from North Dakota and I were casting against raising the deficit in the outyears, lo and behold, they rated our vote as liberal when, in fact, our vote is conservative, not to run the country, over the next 10 years, into this extraordinary national debt that is going to build up like it is a rocket taking off.

Mr. CONRAD. What one calls these things and what label one puts on them is striking. The fact is, whatever one calls it, what is being done is not conservative—to run record deficits not just at a time of economic weakness, and not just at a time that we are engaged in a conflict, but for the foreseeable future, for 10 years in the future, massive increases in debt under the President's plan.

I showed this chart which talks about the pattern of the President's tax cuts that explode beyond the 10-year window. We see the same thing with the alternative minimum tax—a billionaire's tax—now becoming a middle-income tax trap with 3 million people affected. At the end of this period, it is going to be 40 million people.

The President's budget only provides for dealing with that crisis in the first year.

Look at the pattern of the cost of fixing it beyond that first year. It absolutely skyrockets. The President provides nothing past the first year, again hiding from the American people the full effect of his budget plan. The President told us repeatedly he would not use Social Security money for other purposes. But when you look at his budget plan, that is not the case. He is taking every penny of Social Security surplus over the next 10 years and using it to pay for tax cuts and for other things—$2.4 trillion, every penny of which has to be paid back, and the President has no plan to do so. That is a reckless plan; again, something the President pledged not to do.

The result is this is what we see happening to the debt of the United States.

Remember in 2001 when the President told us he would have maximum paydown of the debt. He would be able to pay off all of the debt that was available to pay off.

Now what we see is not debt being paid off but debt exploding from about $6 trillion when he took over. We now anticipate it will be approaching $15 trillion by 2014.

Where is the money coming from?

I have already indicated we are borrowing every penny of Social Security surplus. It is not surplus at all because all that money is going to be needed when the baby boomers retire. It is borrowing every penny of Social Security surplus—$2.4 trillion. But he does not stop there. He is borrowing money from all over the world: over $500 billion from Japan, and over $140 billion from China. Under the President's plan, we have even borrowed $69 billion from so-called "Caribbean Banking Centers." He has borrowed over $40 billion from South Korea.

Think about this: America, the most powerful Nation in the world, and here we are reduced to borrowing money from countries all over the world, including South Korea.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. CONRAD. I would be happy to yield.

Mr. SARBANES. Those are huge sums we are borrowing from these various nations in order to cover our deficit. This is debt they hold which the United States has to pay back.

The fact is, if you connect everything, what is happening in effect is, in order to give tax cuts to the elite, to the very wealthy, we are borrowing money, and we end up borrowing money from all of these countries in order to finance the deficit that results from the tax cuts, and then saddling the next generation with the responsibility of paying on this debt out into the future.

It is incredible when you stop and think about it; that in order to finance tax cuts here we are borrowing money from over there in order to do that.

Mr. CONRAD. I don't think the American people have yet had a chance to fully focus on where this is all headed. That is the thing that is most alarming. I am less concerned about the current deficits even though they are a record and they are appalling. I am much more concerned about where the President's plan takes us. Even when he sees economic growth reviving, his plan runs massive deficits and runs up the debt in a dramatic way—meaning more borrowing and more borrowing and more borrowing.

Let me conclude. The result is we are seeing the effect on the value of our own dollar. The dollar has declined in value almost 30 percent against the euro in just the last 2 years.

Let me conclude with this: Economists are worried about the long-term effects of this weakening dollar and this heavy U.S. borrowing because not only are we borrowing to finance the budget deficit, we are also borrowing because we are running massive trade deficits. This was in the Washington Post on January 26 of this year:

> Currency traders fretting over that dependency have been selling dollars fast and buying euros furiously. The fear is that foreigners will tire of financing America's appetites. Foreign investors will be dumping U.S. assets, especially stocks and bonds, sending financial markets plummeting. Interest rates will shoot up to entice them back. Heavily indebted Americans will not be able to keep up with rising interest payments. Inflation, bankruptcies, and economic malaise will follow.

This is a warning that is being sent to us about the recklessness of the course that we are on.

If we need to have a reality check, 3 weeks ago, in the Wall Street Journal, they indicated Asian central banks have made a decision to diversify out of dollar-denominated securities.

Warren Buffett, the second wealthiest man in this country, is reported, 2 weeks ago, as having made a $12 billion bet against the value of U.S. currency.

In article after article, we are seeing the danger and the warning signs of the reckless course the President is taking us on.

Mr. DORGAN. Mr. President, if the Senator will yield, is it the case that the former Secretary of the Treasury, Paul O'Neill, was fired for saying essentially what the Senator from North Dakota is saying on the floor today, talking about a fiscal policy that doesn't add up, about proposals to increase spending on defense, homeland security, and then cut taxes mostly for wealthy Americans, saying that it would result in balance; is it not the case the Treasury Secretary under this administration was fired for believing that this is irresponsible fiscal policy?

Mr. CONRAD. I think it is very clear that the Secretary of the Treasury was fired because he resisted additional tax cuts.

I think in the short term, all of us supported tax cuts to give lift to the economy. We supported a much different package of tax cuts than the President did because we thought it ought to go more toward middle-income people and less to the high-end people to give more lift to the economy.

If you put it in the hands of middle-income people, they are more likely to spend it and give lift to the economy. In the short term, we proposed tax cuts that are actually larger than the President's to give lift to the economy. For the long term, we proposed about half as much in tax cuts because we were worried about sending this country into a tailspin created by exploding deficits and debt.

Mr. DORGAN. If the Senator will yield for a further question, to clarify what the Senator from Maryland asked and the question about borrowing money from South Korea, in fact the perversity is we actually borrow money from South Korea so we can reconstruct Iraq. It is not even money to invest in the strength of this country.

Aside from that, President Reagan talked about $1 trillion in debt when he took office. He said $1 trillion in debt is $1,000 bills stacked 67 miles high. As I look at what this President is proposing, he is proposing a fiscal policy that says let us have another stack of $1,000 bills that goes 335 miles high in debt. Who is going to carry that? Who is going to take care of that? Isn't it the case that the President is saying somebody else, somebody behind the tree, maybe our kids, maybe our grandkids but not us?

Is it the case that these proposals, this budget on the floor and the budget submitted by the President, is a budget which is so seriously out of balance that we will in the long term have the largest deficit and the biggest debt in the history of humankind with no provision at all of asking anybody to own up to that responsibility?

Is it the case that the question Senator CONRAD is asking here has to do with accountability? When do we decide we have to make a u-turn and begin moving toward responsibility? That is the point.

If I might make one final comment: I say to Senator CONRAD, you are right, we proposed tax cuts, but in 2001 we also said: Let's not put in place something permanent that could get us in trouble because we might have some unforeseen circumstances. The other side said: No. Katie bar the door. Let's do it all and don't worry. Be happy. Then we had a recession, a terrorist attack, a war in Afghanistan, a war in Iraq.

The fact is, we had all kinds of unforeseen circumstances, and now we have a situation that is calling for dramatically increased spending, as requested by this President. We have these long-term tax cuts and the largest debt in history.

The Senator uses the term "irresponsible." This is an irresponsible fiscal policy. The Senator does the Senate a great service, in my judgment, by coming to the floor with these charts and describing exactly to the American people what this fiscal policy is about.

Mr. CONRAD. Perhaps nothing reveals more clearly than this next slide where this is all leading. This chart shows—and this is not my projection; this is not a Congressional Budget Office projection—this is the President's own projection of where his budget policies are taking it. This is from his budget, and the assumption is his tax policies and his spending policies are adopted.

Look what it shows. These are record deficits, the biggest we have ever had. But they are dwarfed by what is to come, under the President's own analysis of where his policy is leading.

This shows as the baby boomers retire and the full cost of the President's tax cuts are realized, the President's plan takes us right over the cliff into deficits that dwarf the ones we are having now, which are of record size.

What could be more clear than we are on a course that is utterly unsustainable?

Mr. SARBANES. If the Senator will yield, do those projected deficits rise into double figures as a percent of the GDP? Am I correct in reading that chart? It is well up over 10 percent of GDP would be in deficit? Is that correct?

Mr. CONRAD. It is actually over 12 percent of GDP. Economists say it is utterly unsustainable. This is the course the President is taking us on. The President's plan is not conservative. This is a reckless plan. It is a radical plan. It is a plan that cannot be allowed to continue.

This plan will jeopardize not only Social Security and Medicare, but most of the rest of what the U.S. Government does, including our ability to defend ourselves.

One does not need to take my word for it. We have been alerted by the head of the Federal Reserve, who has told us we ought to now consider cutting Social Security benefits because we are, in his words, "overcommitted." And it is not just him. We can go to group after group that are responsible on budget issues that are saying: Look, you are on a course that is utterly reckless.

The President told us on the issue of Social Security: None of the Social Security surplus will be used to fund other spending initiatives or tax relief.

That is what he told us in his 2002 budget. But what we see is something quite different. In fact, he is taking every penny of Social Security surplus—again, it is really not surplus; it is surplus for the moment because when the baby boomers retire, all that money is going to be needed—he is taking every penny, $2.4 trillion over the next decade, and using it to fund primarily tax cuts.

It is very interesting, when you do the analysis, the cost of his tax cut proposals over the same period is almost the identical amount—$2.5 trillion of income tax cuts, being funded by $2.4 trillion of Social Security money.

So you have the specter of taking money from payroll taxes and using it to fund income tax cuts that overwhelmingly go to the wealthiest 1 percent in this country.

Mr. NELSON of Florida. Will the Senator yield?

Mr. CONRAD. Yes, I am happy to.

Mr. NELSON of Florida. Mr. President, if the Senator will yield for a question, I ask our leader on the Budget Committee: How in the world could our friends, who call themselves conservatives, vote for anything but a conservative budget such as this that, as the Senator from North Dakota has characterized it, is radical?

How could our friends, who claim they want to protect the Social Security surplus, vote for a budget that raids all of that surplus to finance tax cuts, primarily for the more well-to-do?

How could our friends, who call themselves conservative, in fact, finance a lot of this budget for a prescription drug benefit that was a bailout to the pharmaceutical and insurance companies, and, lo and behold, was not what it was sold as—$400 billion over 10 years—but, instead, $535 billion?

How could our conservative friends vote for a budget like this?

Mr. CONRAD. I do not know. But I know this: History will not treat them kindly. When people have a chance to look back and see the decisions that were made here and now, and where it is leading, history will not treat them kindly.

On this question of spending and revenue, here is the historical chart on spending, again, as a share of gross domestic product. You can see it goes back to 1981. In the 1980s, spending, as a share of GDP, got to 23.5 percent. At the end of the Clinton years, spending was down to 10.4 percent of GDP. It is very interesting. Spending, as a share of gross domestic product, went down each and every year of the Clinton administration.

Now we have had a significant bump up. Ninety-one percent of that increase is defense, homeland security, rebuilding New York, and the airline bailout. That is where the money has gone. But even with that increase, you can see spending is well below where it was in the 1980s and 1990s as a share of GDP.

The revenue side of the equation, however, which our friends never want to talk about—and I started this morning by quoting Mr. DELAY, who said: You cut taxes, you get more revenue.

Well, that is a theory. It is a philosophy. It is an ideology. The problem is, it does not work in the real world.

Here is what has happened to revenue. Revenue has collapsed to the lowest level as a share of national income since 1950. So their theories are not working in the real world, and the result is, we have a weakening economy.

I ask the Chair, how much time is remaining?

The ACTING PRESIDENT pro tempore. Twenty-three minutes.

Mr. CONRAD. I have 23 minutes. The other side has?

The ACTING PRESIDENT pro tempore. Twenty-six minutes.

Mr. CONRAD. Twenty-six. Mr. President, I will just move through this quickly, and ask others to comment if they would like the opportunity, and give time to the other side to respond. I see Senator GREGG is here and Senator GRASSLEY is here.

We see a job loss that is very unusual. The pattern of this job loss, in comparison to every other recession since World War II, is very interesting. The dotted red line on this chart is the average of every recession since World War II. You can see, 17 months after the business cycle peaked, of all the other recessions, you saw us pulling out of job loss. Jobs were being created in a very favorable way in each of the other nine recessions.

But look at this downturn. We still do not see job recovery occurring, and we are 35 months past the business cycle peak. Something is wrong. Something is not working. We are now 5.4 million jobs short of the typical recovery. We have all seen this chart. For private sector jobs, 3 million have been lost since January of 2001.

Now we turn to the budget our friends have proposed on the other side. They say they are going to cut the deficit in half over the next 3 years. Well, I say to our friends, I look at what is being added to the debt under their plan: $612 billion this year, and every year thereafter over $550 billion being added to the debt. I do not see any big improvement here in terms of what is being added to the debt. In fact, I see almost no change under the proposal by our Senate Republicans.

I hear them say they are reducing the deficit, cutting it in half over the next 3 years. The fact is, if you put this thing on automatic pilot and we made no policy changes, the deficit would decline more rapidly. They are actually increasing the deficit with this plan by $178 billion over the next 5 years, compared to doing nothing.

If you look at the priorities, you have to question those as well. Those who are the wealthiest 1 percent, earning over $337,000 a year, their tax cut for this coming year is $45 billion. On the other hand, to restore the cuts of the education program No Child Left Behind would cost $8.6 billion. So we are saying it is more important that the top 1 percent, those earning over $337,000, get every penny of their tax cut than to restore the money for No Child Left Behind.

The same is true with other important priorities: The firefighters, $250 million to restore the cuts on them compared to $45 billion for the cost of the tax cuts for the wealthiest 1 percent, those earning over $337,000 a year.

If we look at the House budget resolution, we see the same thing in terms of additions to the debt, only it is even worse. I don't see any big improvement here. They say they are going to cut the deficit in half. But if you look at increases to the debt, what you see is they are going to be adding $600 billion to the debt year after year of the entire budget window. Just like our Senate colleagues add to the deficit, they add

$301 billion to the deficit over the next 5 years, in comparison to doing nothing.

Interestingly enough, when I look at the discretionary spending limit that was set in the Senate a year ago, the budget the Republican House has sent us exceeds that limit, that self-imposed limit that was put on here. They are going to spend $871 billion under their plan. A year ago they put a spending limit of $814 billion.

The other point that needs to be made is, additions to the debt. There is almost no difference between the Bush budget. He is adding $3 trillion to the debt in the next 5 years; the Senate budget, $2.9 trillion; the House, $3 trillion. So there is very little difference.

Finally, on the issue of PAYGO—this is the procedure to make it harder to spend the money and to pass tax cuts given our fiscal condition—Mr. Greenspan has said:

> I would, first, Mr. Chairman, restore PAYGO and discretionary caps. Without a process for evaluating various tradeoffs, I see no way that any group such as Congress can come to set priorities which will effectively reflect the will of the American people.

We restored the provisions to make it more difficult to spend new money for past tax cuts in the Senate. The House did not. They failed on a tie vote of 209 to 209. This is going to be the critical test in conference. For those who say they are fiscally conservative, this is their chance to prove it. Because if we don't put in place the budget disciplines that have worked in the past to eliminate deficits and to get us on a more firm financial footing, we will have failed the American people.

I ask the Chair how much time is remaining on this side?

The ACTING PRESIDENT pro tempore. Seventeen minutes.

Mr. CONRAD. And the Senator has 26 minutes.

The ACTING PRESIDENT pro tempore. Twenty-six minutes, that is correct.

Mr. CONRAD. Senator GREGG has been waiting patiently. I think it is probably more useful that they would take some of their time at this point.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from New Hampshire.

Mr. GREGG. Mr. President, I yield myself such time as I may consume.

I am, of course, always impressed by the Senator from North Dakota, although there is a darkness to his presentation. There is a sense of doom he puts forward I am not necessarily a subscriber to. But he certainly is a person who has committed himself to understanding the numbers and trying to present them in a form that most adequately and appropriately reflects his view of where we are as a Nation fiscally.

It is hard to guess, but I suspect it was in the range of 50 different charts. There were a lot of charts. Some of them were charts that were charts on top of charts which restated the chart that came before the chart, but they were good charts. They were excellent charts—very colorful and nicely presented.

What we did not see was a chart that presented the Democratic budget. Where is it? Where is the budget from the other side of the aisle that addresses all these concerns which have been raised by the other side of the aisle about the Republican budget? It does not exist. No budget has been offered. No budget was offered in the committee, and no budget is going to be offered here in the Chamber. Why is that? Because if you look at the substance of what is being presented by the other side, they are basically saying, in order to address this problem, they are going to raise taxes. That is the only logical conclusion you can reach by looking at their position.

What does a tax increase in the middle of a recovering economy do? It stifles it. It creates a compression of that economic recovery, causes it to retract itself, and it will cost jobs. The worst fiscal policy we could pursue would be to raise taxes. Maybe that isn't their proposal, but we don't have a proposal from them to reflect what it would be. No responsibility is put forward for actually answering the questions which have been raised, assuming they are even legitimate questions, from the other side of the aisle.

So let's turn to the nominee of their party to see if that individual has maybe put forward his concepts on how we address the fiscal policies of the United States. Yes, he has. In his campaign through New Hampshire—where he spent a considerable amount of time, and we very much appreciated it because he spent a considerable amount of money—he presented programs which totaled $1.7 trillion of new spending over the next 10 years. That is a budget proposal—a budget buster, but a budget proposal. He offset that with tax increases of approximately $700 billion during that same time. So he is going to add to the deficit, which has been outlined by the Senator from North Dakota in very colorful terms, an additional trillion dollars over the next 10 years.

I can understand why they don't want to bring their budget forward. If their nominee, who is a Member of this body, is proposing he is going to increase the deficit by a trillion dollars, by increasing spending by $1.7 trillion and taxes by $700 billion, such a budget could be appropriately called a tax-and-spend budget.

Let's look at the substance of what the practical effect of the proposal would be that has been brought forward by the Senator from Massachusetts, his $700 billion tax increase, for example. What would that effect be? If you are going to look at the Senator's charts over the next 4 years, where he claims if we went on under current law, the deficit would go down by another $135 billion, which is essentially a tax increase, because what he is saying is under current law, taxes will go back up because taxes expire, what taxes are they talking about increasing on that side of the aisle under that theory? They are talking about repealing our expansion of the 10-percent bracket so the people in the low-income areas would have a 10-percent bracket. That would be repealed. They are talking about repealing our increase in the child tax credit, rolling it back from a $1,000 credit to a $700 credit.

They are talking about repealing our efforts to reform the marriage tax penalty so when you get married, you don't get hit with an extra tax. All of those taxes would have to be repealed to meet the Senator's proposal relative to reducing the budget over the next few years by $135 billion, because those are the ones that expire.

If you look at the proposals of the Senator from Massachusetts, the same effect would occur. His proposal for $700 billion of new taxes is a proposal to repeal, as a practical matter, the child tax credit, to restart the marriage penalty, and to make it difficult for people in low-income brackets, in the 10-percent area, to get a 10-percent tax burden versus kicking it back up to 15 percent.

Now, all these initiatives, under the leadership of the Senator from Iowa, which are targeted to low-income Americans, were taken as an attempt to address those legitimate concerns about people who are in the middle- and low-income brackets and want to have a fair tax rate. We passed those laws, but they will expire. I guess it is clearly the position of the other side of the aisle that those expirations should be allowed to occur, and therefore the taxes should go back up. That appears to be the core of their budget. It is coupled, of course, with this spending initiative.

We had debate on the budget on the floor of the Senate. During the budget debate, the other side of the aisle, which never brought forward a budget, proposed spending increases of $379 billion. They proposed tax increases of $276 billion. I believe those are the numbers, but they may not be exact. Those were the amendments brought forward from the other side of the aisle—massive tax increases, massive spending increases. They have now been confirmed by the policies of the nominee of their party—or the presumptive nominee—who has proposed $1.7 trillion of new spending, $700 billion of additional tax increases, for a $1 trillion add-on to our deficit.

So I don't think, when the other side of the aisle comes forward and presents—very expansively and very well, obviously, because the Senator from North Dakota is a well-spoken individual who understands how to make a good presentation, and he always has—I don't think they can do that in good conscience if they don't also present their budget at the same time, their answers to this problem. If they are going to be fair about it, they have to bring forward the answers of their candidate for President, because they keep referring to our President, President Bush, who happens to be everybody's President right now and hopefully will be for the next 4 years. But they have to present it in juxtaposition to what their candidate for President is talking about. If he had a budget on the floor today, it would be a $1.7 trillion increase in spending, increase in taxes, adding $1 trillion to the debt, and a lot of people who don't deserve to have their tax increased—people in the 10-percent bracket, married people, people who have children going to college—would be stuck with a brandnew tax bill.

That is a brief response. There is a much more extensive response, but my time is limited. The Senator from Iowa wishes to proceed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, how much time is left on this side?

The PRESIDING OFFICER. There are 17 minutes remaining.

Mr. GRASSLEY. I yield myself 10 minutes.

Mr. President, we heard testimony from the other side on the fiscal condition of the U.S. Government, how bad it is and they are sounding alarms. I think all that is very legitimate. I am not here to dispute specific figures, I am not here to say that the other side has been intellectually wrong, but at least to say they have left some misimpressions about some aspects of this budget. I will start with the chart shown about borrowing from foreign countries.

The U.S. Government does not go to other countries and say, hat in hand: Will you lend us X number of dollars? What the U.S. Government does is say to the 270 million Americans, and anybody else in the world: We have X amount of debt that we have to refinance, or finance, and people come to bid on that. The market determines who gets what.

Now, we do have a lot of foreigners that own American debt. Why do they want to invest in America's national debt? Because they have confidence in America and because they want a return on their money. It ought to be somewhat satisfying to the American people that the rest of the world thinks so well of the American economy and the soundness of our Government that they are willing to invest in the national debt, just as American citizens invest in the national debt, because they want the return; they want the certainty of it.

The impression was left that we go, hat in hand, to a lot of foreign countries to beg for money. We don't do that. It is our policy, through the Secretary of the Treasury, to say that we are offering so much investment, and you can come and make your claim to it under these conditions.

The other misimpression is that something different is happening to the Social Security surplus. Why is that being said? Because people want to get seniors concerned about what Congress might be doing to ruin their Social Security. I say to the seniors of America—and people on the other side of the aisle, if they don't know it—that nothing has changed since 1936 as far as the way the Social Security surplus is handled. Nothing has changed since 1936.

Starting in 1936 and for every year since then except 1981 and 1982, there has always been a positive cashflow coming in from the payroll tax to what was paid out. We decided in 1936 to invest that surplus in Treasury bonds. Why? Because it is a good, safe investment for seniors, for their retirement. It is the way the Federal Government can show to the seniors of America and to all of the people of America that we are going to make sure your Social Security surplus is safe and that the obligations in the future are met. Except for in 1981 and 1982, when there was a negative cashflow, that has been done. We made it up by borrowing to keep the checks going.

As far as the Social Security surplus is concerned, today, yesterday, and tomorrow—at least until 2018, as best we can project—there will be a positive cashflow, and that money is going to be invested in Treasury notes that are obligations to keep Social Security benefits at 100 percent at least through 2042, until all that surplus is used up. So for the seniors of America, nothing has changed.

I think we also ought to remember that we dealt with dozens of amendments on the other side of the aisle when the budget was up. Every one of those amendments was for spending more money. They will say, yes, they wanted to raise taxes; they had tax offsets to spend that money. But they were not interested in raising taxes to lower the national debt; they were interested in raising taxes to spend more money. So just the tax cut cannot be considered a reason for the debt. In fact, if you want to know why we have a debt, we have a debt of 25 percent because of tax cuts, 25 percent because of increased spending for the war as well as homeland security, and 50 percent because of the downturn in the economy.

When did that downturn in the economy start? In the year 2000, not in the year 2001. The manufacturing index started going down in March of 2000. Do you know NASDAQ lost half of its value in 2000? President Bush saw that economic situation and, hence, the tax cut of 2001 to turn the economy around, and it has worked. But that is only 25 percent of the reason for the deficit. The other is just the downturn in the economy and what happened on September 11 and a recovery that was delayed because of attacks by terrorists on America, the second time only since the War of 1812 that Americans have been attacked and it had an impact on the economy. And it was a negative impact on the economy that led to 3 years of downturn of income coming into the Federal Government for the first time since the 1930s; in other words, less income this year than the year before, than the year before.

That has never happened, even when we had tax cuts in the past. We have to go back to the 1930s. I hope the other side is willing to admit these are very unusual times we are in.

Then, what about the fact that we are in a war? What about the fact that we were attacked on September 11? Do you want to fight the terrorists in the United States or do you want to fight them in Iraq and Afghanistan? This Commander in Chief decided to fight them in Afghanistan and Iraq instead of in New York City and Washington, DC.

Wars cost money. We only go to war to win. If we are going to go to war to win and put American men and women on the battlefield, we are going to give them the resources it takes to win. We have been attacked by the other side because somehow we do not account for the cost of a war. On December 8, 1941, when FDR was addressing the Congress of the United States after the attack on Pearl Harbor, if Members of Congress had said at that time, How much is this war going to cost, they would have been laughed at. How come they are not laughed at now, Mr. President? We are going to spend what it takes to win the war. We are not going to leave our men and women hanging without support. If we had taken that attitude toward World War II, Hitler would have been in New York City. So we ought to have some leeway when it comes to budgets to win a war and backing our men and women and not being harassed because of what the war is going to cost, just as we are going to know that in the month of September we are going to fire off so many cruise missiles.

The last point I will make is, I might be willing to consider an increase in taxes, but I have never found anybody on the other side of the aisle who has said to me how high taxes can go to satisfy their desire to spend more money. For 50 years, we have had a policy in this country of taxing in the Federal Government at about 17 to 19 percent of gross national product. It seems to me that is pretty good policy because of two reasons: No. 1, the American people do not tend to attack us for taxing too high when it is in that band; and, No. 2, it has not been harmful to the economy, as we have seen tremendous growth in the economy for the last 50 years.

What we are trying to do is keep the level of taxation within that band of 17 to 19 percent. Right now it is a little bit lower. Sometimes it might be a little bit higher, but our policy is to keep it within that band and to keep spending within that band. But in times of war, that spending policy has to have some give if you want to win a war.

Even though the presentation that has been made by the other side may be totally accurate as far as the statistics are concerned, I think there is a bigger picture than just charts and statistics. There is what America is all about and the role of Government in America and the importance of responding to attacks on America and winning a war and backing up our troops.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from North Dakota.

Mr. CONRAD. Mr. President, I always enjoy listening to the chairman of the Finance Committee, who is my friend, and despite our disagreement today, he will be my friend at the end of the day, just as he was when we began this day.

I say to my friend, this is not a question of whether we win wars or do not win wars. All of us are committed to winning this war. We must win this war. But part of winning a war is not just leaving the cost of the war out of the budget. That is not credible.

The President says it is difficult to say how much the war is going to cost. Certainly it is difficult, but the right answer is not zero. That is what the President put in his budget. He says for the next year there is no cost to the war on terror, there is no cost to the war in Iraq, there is no cost to the war in Afghanistan. That is not credible. That is not a serious budget. That is not leveling with the American people on our true fiscal condition to put out a budget that says there is no war cost past September 30 and present that as an accurate picture to the American people of our fiscal condition. That is not serious. That is not credible. People deserve better.

The Senator also indicated nothing has changed with respect to Social Security financing. That is not true. In the last 3 years of the Clinton administration, we stopped the raid on Social Security. We stopped taking Social Security funds and using it for other purposes.

What has changed now is we have gone right back to the bad old days of taking every dime. And under the President's plan, he is not just taking every dime of Social Security surplus this year to pay for tax cuts, he is doing it for the whole next decade—every dime, something he pledged not to do.

The Senator also said we have had a policy of only spending 17 to 19 percent of GDP and having taxes of that same amount. I don't know what he is talking about. That is not the fact. The fact is, spending as a share of GDP in 1928 was 23.5 percent. During this whole period of the eighties, it was above 21.5 percent. It was only during the Clinton years that we brought spending down to 18 percent of GDP. Now we are back up to a little over 20 percent of GDP. If we want to have balanced budgets, we have to have that amount of revenue. Hello. Deficits are a function of spending and revenue, not just of spending.

When we look at the revenue side of the equation, revenue has collapsed. Of course, we are talking about needing more revenue. We have the lowest revenue since 1950. We are at 15.8-percent revenue as a share of the gross domestic product, and spending is 20 percent. That is why we have a deficit.

Obviously, we need more revenue. I would say the first place to look is not a tax increase, but going after the tax gap, the difference between what is owed and what is being paid because we know for 2001, that difference was over $250 billion.

Now we ought to go to those who are not paying what they owe, that small share of the American people, that small share of companies, and say, look, you ought to pay what you owe.

The Senator from New Hampshire said, where is our budget? We offered amendment after amendment in the committee and on the floor to alter this budget plan. That was our strategy, to try to alter the outcome, and we were defeated.

When the Senator from Iowa says we did nothing to reduce the deficit in our amendments, please, that is not true. Go back and look. Virtually every amendment we offered was to reduce the deficit, and that is a fact. I challenge the Senator to come up with a list of the amendments we offered and show we did not repeatedly offer amendments to reduce the deficit.

The Senator from New Hampshire attacked Senator KERRY, said Senator KERRY had a trillion-dollar hole in his budget over 10 years. First, Senator KERRY, as the Senator knows, has not presented a budget. They have fabricated a budget in his name. It is not Senator KERRY's budget. We all know it is not Senator KERRY's budget.

They have double-counted Senator KERRY's proposals. They have included things he did not include. So claiming that is Senator KERRY's budget is a fiction. It is a fabrication. Senator KERRY has not yet presented his budget proposal.

In the analysis the Senator from New Hampshire provided, he included programs Senator KERRY has never proposed, including a multibillion-dollar, high-speed rail network. He excluded savings Senator KERRY has specifically proposed, like hundreds of billions of dollars in health care savings, closing corporate loopholes, and eliminating corporate welfare. They double-counted some of his proposals, for example, double-counting energy proposals Senator KERRY has made.

Interestingly enough, he says there is a trillion-dollar hole in a Kerry budget Senator KERRY has not even presented. We know the budget this President has presented in 5 years adds $3 trillion to the debt. They are talking about a $1 trillion hole in a nonexistent Kerry budget over 10 years. They ought to be up here explaining the $3 trillion this President adds to the national debt in just 5 years.

If we applied the same rationale to the President's proposals he applied to Senator KERRY's proposals, we would see there is a $4.5 trillion hole in the President's plan compared to their alleged $1 trillion difference in Senator KERRY's plan.

Is the Senator from Delaware seeking time?

Mr. CARPER. He sure is.

Mr. CONRAD. I yield 2 minutes to the Senator from Delaware.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. CARPER. I thank the Senator for yielding.

I spoke several weeks ago as we were taking up the budget resolution. I quoted a fellow from Great Britain, Dennis Healey, who used to be the Chancellor of the Exchequer. Dennis Healey used to talk about the theory of holes. The theory of holes is pretty simple. It says, when you find yourself in a hole, stop digging.

In 1990, we as a country were in a pretty big hole with respect to our budget deficit. Some people in the House and the Senate, the White House, Democrats and Republicans, decided to stop digging. What they decided to do was to adopt a commonsense approach to budgeting, which we call "pay as you go."

The idea is if Senator COLEMAN, our Presiding Officer, were to come to the Senate and propose new spending, he would have to come up with an offset, either cut spending some place else or raise revenue to offset it. Or if Senator CARPER came up with a tax cut, I would have to come up with an offset to make sure we did not make the hole any deeper. For about 12 years, it was the law of the land.

During those 12 years, from 1990 to 2002, we actually were able to reduce the deficit and for the first time in 30 years we actually balanced the Federal budget for several years in the late 1990s and the beginning of this decade.

That law lapsed in 2002. We voted in the Senate that it should be reinstated.

They very nearly voted in the House yesterday, kept the vote open over an extended period of time so they could twist some arms on the other side in order to defeat the effort to instruct the House conferees to go back and adopt this pay-as-you-go principle.

We ought to do that. If the House conferees will not, we should at least adopt those provisions, this standard, for the Senate, for the way we conduct business.

There was a great editorial in the Washington Post called "Dodge as You Go." I ask unanimous consent that this article be printed for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 31, 2004]

Dodge as You Go

For a vote it derided as meaningless symbolism, the House Republican leadership certainly pulled out all the stops yesterday. At issue was a motion that would have put the House on record as supporting real "pay as you go" budget rules—that is, rules that would require tax cuts as well as spending increases to be paid for at the time they're adopted, with offsetting spending cuts or tax increases. The Senate narrowly adopted such a rule in its budget resolution, the House didn't, and the matter is about to go to conference. Yesterday's motion to instruct the conferees would have put the House on record as supporting the Senate rule.

You wouldn't think this is such a big deal. After all, the motion wasn't binding on the conferees. And the budget rule, even if it survives the conference, would apply only to the Senate, not the House. As to the merits: In the 1990s, Republicans seemed to agree that budget discipline was good for the country. They supported a stricter version of this pay-as-you-go rule, they made sure it applied to the House as well as the Senate, and it did some good. But Republican leaders are no longer concerned about fiscal integrity. Making certain that tax cuts can be enacted and extended without any procedural hurdles has become the central—you might say the only—budgeting principle of the Bush administration and its congressional allies.

Thus yesterday's scene of legislating-by-strong arm. In a familiar episode of rule-stretching and bullying, a vote scheduled for five minutes was stretched to nearly half an hour. At one point, 19 Republicans defied their leadership to support the motion. But eight eventually switched their votes, creating a 209 to 209 tie. That meant the motion failed—and at that point, the vote was hurriedly gaveled to a close. "A meaningless vote but an important principle," said a spokesman for House Speaker J. Dennis Hastert (R–Ill.) explaining the need to make certain that tax cuts would be exempt from pay-as-you-go constraints.

Other principles used to carry some weight in the U.S. House of Representatives: allowing lawmakers to vote their consciences, not manipulating voting rules to get the desired result, and opposing a reckless amassing of budget deficits selfishly left for other generations. But that was under the leadership of other speakers, and other presidents.

Mr. CARPER. I will quote one or two sentences out of the editorial.

Other principles used to carry some weight in the U.S. House of Representatives: allowing lawmakers to vote their consciences, not manipulating voting rules to get the desired result, and opposing a reckless amassing of budget deficits selfishly left for other generations. But that was the leadership of other speakers, and other Presidents.

We can do something about it. Our conferees can do something about it. My hope is they will stick by our guns to try to make sure at least for the Senate we adopt those rules that served us so well for 12 years.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we had another one of our colleagues in the Senate assert support for the PAYGO provisions means one is opposed to the middle-class tax cuts. I would ask my colleague from Delaware, does he believe support for the budget disciplines that requires new spending or new tax cuts to be paid for means he opposes the extension of middle-income tax cuts?

Mr. CARPER. If I could respond, the answer is absolutely no.

My dad used to say something to my sister and me when we were kids growing up. The Senator's father and mother probably did the same thing. Senator NICKLES' mom and dad probably did the same thing, as well as Senator COLEMAN's. They harp on something over and over again. When my sister or I used to pull some boneheaded stunt, my dad would always turn to us and say, just use some common sense. He must have said that to us, because we pulled a lot of boneheaded stunts, day after day, week after week, year after year. Finally, it worked and internalized.

Whenever we approach an issue in the Senate or when I was Governor of Delaware, I would oftentimes say to my cabinet, just use some common sense.

Pay as you go is common sense. It is flat in-your-face common sense. It works in State governments. Frankly, it worked here for about 12 years and it will work again. It is not the only thing we need to do but, by golly, it is a big part of it.

Mr. CONRAD. I thank the Senator.

I say in response to our colleague who suggested those of us who favor the reenactment of the budget disciplines that worked so well in the 1990s, I also favor extension of the middle-class tax cuts, but I am willing to pay for them. I am willing to pay for extension of the 10-percent rate. I am willing to pay for extension of the marriage penalty relief. I am willing to pay for the child tax credit. I am prepared to vote to do precisely that. That is what we need to do.

The other fact is, under PAYGO, if we get a supermajority, tax relief can be extended or have new spending of an emergency nature. There has to be a supermajority vote. That is what the budget discipline is about. It is to make it more difficult to enact new spending or new tax cuts that are not paid for. It can be done, but there has to be a supermajority.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma has 5 minutes.

Mr. NICKLES. How much on the other side?

The ACTING PRESIDENT pro tempore. Three minutes 36 seconds.

Mr. NICKLES. Mr. President, I compliment my colleague from North Dakota. I appreciate the cooperation. We will soon be appointing conferees. That is my objective.

I want to thank Senator GREGG and Senator GRASSLEY for their remarks.

A couple of things. It is important we pass a budget. We will appoint conferees and then we will go to work out the differences between the House and the Senate. We have differences between the House and the Senate, but in my 24 years in the Senate we are probably closer with the House in the 2 budget resolutions—the Senate resolution is probably closer to the House resolution than most times in the past. In the past, we have had cases where the House resolution was 5 years, our resolution was 10, and we never reconciled that difference, or we had a hard time reconciling it. We had 1 year we didn't pass a budget in the Senate. They did in the House. This year the numbers are pretty close.

I have a couple of comments. I heard a statement in the budget debate on the floor. I would say, my staff has compiled the amount of spending that was in the amendments that were debated on the floor. Our Democrat colleagues offered amendments that would have 1-year tax increases of $86 billion and 1-year spending increases of $81 billion for 2005. For 5 years, that figure would be tax increases of $443 billion, and 5-year spending increases, $382 billion. That is assuming no inflation. If you take the first year and extrapolate, some said we only spend for 1 year, but there are programs which would obviously be spent further. I have a chart that extrapolates and continues those. That is how I came up with those figures. I ask unanimous consent to have those printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senate Budget Committee Tallies Democrat Amendments Offered During Budget Debate

1-year tax increases: $86 billion:

$20 billion from "closing loopholes"
$57 billion from "raising taxes on millionaires"
$9 billion in "other" (tobacco, Superfund)

5-year tax increases: $443 billion:

$104 billion from "closing loopholes"
$291 billion from "raising taxes on millionaires"
$47 billion in "other"

1-year spending increases: $81 billion.
5-year spending increases: $382 billion.

Note.—Totals for Senate Democrat amendments to the 2005 budget resolution, adjusted to exclude duplicative amendments. Five-year cost assumes increased discretionary spending in 2005 would continue in future years, but does not include baseline inflation or debt service costs.

No. and description		Sponsor	Party	Adopt	Tax/ spend	M/loop/other	Ba/revenue					
							2005	2006	2007	2008	2009	5-yr.
	TAX INCREASES											
2803	Health security	Lincoln	D	N	Tax	Loopholes	−12.000	−12.000	−12.000	−12.000	−12.000	−60.000
2774	Indian health	Daschle	D	N	Tax	Looopholes/million	−3.062	−0.344	−0.035	0.000	0.000	−3.440
2725	Pell Grants	Kennedy	D	N	Tax	Loopholes	−2.352	−7.253	−0.196	0.000	0.000	−9.801
2790	Higher education reserve fund	Reed	D	N	Tax	Loopholes	−1.332	−4.560	−0.220	−0.052	0.000	−6.164
2775	Survivor benefit plan	Landrieu	D	Y	Tax	Loopholes	−0.876	−1.054	−0.998	−1.066	−1.520	−5.154
2719	NCLB full funding	Murray	D	N	Tax	Loopholes	−0.516	−13.244	−2.924	−0.516	0.000	−17.200
2762	21st Century Community Learning Center	Dodd	D	N	Tax	Loopholes	−0.060	−1.301	−0.541	−0.100	0.000	−2.002
	Subtotal Loopholes						−20.198	−39.756	−16.914	−13.734	−13.520	−104.121
2777	Eliminate tax breaks for millionaires	Corzine	D	N	Tax	Millionaires	−20,000	−31.000	−34.000	−39.000	−36.000	−160.000
2786	IDEA full funding	Dayton	D	N	Tax	Millionaires	−11.485	−11.136	−11.864	−12.629	−13.415	−60.529
2783	Jobs	Boxer	D	N	Tax	Millionaires	−8.000	−8.000	−8.000	0.000	0.000	−24.000
2804	Raise taxes for more disc. spending	Byrd	D	N	Tax	Millionaires	−5.656	−13.365	−3.596	−1.200	−0.429	−24.246
2710	Veterans medical care "reserve fund"	Daschle	D	N	Tax	Millionaires	−4.860	−0.486	−0.022	−0.005	0.000	−5.373
2807	Homeland spending and tax increases	Lieberman	D	N	Tax	Millionaires	−3.664	−4.533	−4.089	−1.160	−0.175	−13.621
2774	Indian health	Daschle	D	N	Tax	Loopholes/million	−3.062	−0.344	−0.035	0.000	0.000	−3.440
	Subtotal Millionaires						−56.727	−68.864	−61.606	−53.994	−50.019	−291.209
2799	Tobacco tax for health	Harkin	D	N	Tax	Other	−7,800	−7,800	−7,800	−7,800	−7,800	−39.000
2703	Superfund fees	Lautenberg	D	N	Tax	Other	−1.501	−1.629	−1.696	−1.735	−1.754	−8.315
	Subtotal other						−9.301	−9.429	−9.496	−9.535	−9.554	−47.315
	Total Tax Increase						−86.225	−118.049	−88.015	−77.263	−73.093	−442.645
	SPENDING INCREASES											
2803	Health security	Lincoln	D	N	Spend	Loopholes	12.000	12.000	12.000	12.000	12.000	60.000
2804	Raise taxes for more disc. spending	Byrd	D	N	Spend	Millionaires	11.223					11.223
2786	IDEA full funding	Dayton	D	N	Spend	Millionaires	10.485	10.485	10.485	10.485	13.589	55.529
2719	NCLB full funding	Murray	D	N	Spend	Loopholes	8.600					8.600
2783	Jobs	Boxer	D	N	Spend	Millionaires	8.000	8.000	8.000	0.000	0.000	24.000
2807	Homeland spending and tax increases	Lieberman	D	N	Spend	Millionaires	6.800					6.800
2799	Tobacco tax for health	Harkin	D	N	Spend	Other	6.000	6.000	6.000	6.000	6.500	30.500
2725	Pell Grants	Kennedy	D	N	Spend	Loopholes	4.900					4.900
2774	Indian health	Daschle	D	N	Spend	Looopholes/million	3.440					3.440
2790	Higher education reserve fund	Reed	D	N	Spend	Loopholes	3.082					3.082
2775	Survivor benefit plan	Landrieu	D	Y	Spend	Loopholes	2.757					2.757
2710	Veterans medical care "reserve fund"	Daschle	D	N	Spend	Millionaires	2.700					2.700
2762	21st Century Community Learning Center	Dodd	D	N	Spend	Loopholes	1.000					1.000
	Total Spending Increase (without extrapolation)						80.987	36.485	36.485	28.485	32.089	214.531
	TAX INCREASES											
2803	Health security	Lincoln	D	N	Tax	Loopholes	−12.000	−12.000	−12.000	−12.000	−12.000	−60.000
2774	Indian health	Daschle	D	N	Tax	Loopholes/million	−3.062	−0.344	−0.035	0.000	0.000	−3.440
2725	Pell Grants	Kennedy	D	N	Tax	Loopholes	−2.352	−7.253	−0.196	0.000	0.000	−9.801
2790	Higher education reserve fund	Reed	D	N	Tax	Loopholes	−1.332	−4.560	−0.220	−0.052	0.000	−6.164
2775	Survivor benefit plan	Landrieu	D	Y	Tax	Loopholes	−0.876	−1.054	−0.998	−1.066	−1.520	−5.514
2719	NCLB full funding	Murray	D	N	Tax	Loopholes	−0.516	−13.244	−2.924	−0.516	0.000	−17.200
2762	21st Century Community Learning Center	Dodd	D	N	Tax	Loopholes	−0.060	−1.301	−0.541	−0.100	0.000	−2.002
	Subtotal Loopholes						−20.198	−39.756	−16.914	−13.734	−13.520	−104.121
2777	Eliminate tax breaks for millionaires	Corzine	D	N	Tax	Millionaires	−20.000	−31.000	−34.000	−39.000	−36.000	−160.000
2786	IDEA full funding	Dayton	D	N	Tax	Millionaires	−11.485	−11.136	−11.864	−12.629	−13.415	−60.529
2783	Jobs	Boxer	D	N	Tax	Millionaires	−8.000	−8.000	−8.000	0.000	0.000	−24.000
2804	Raise taxes for more disc. spending	Byrd	D	N	Tax	Millionaires	−5.656	−13.365	−3.596	−1.200	−0.429	−24.246
2710	Veterans medical care "reserve fund"	Daschle	D	N	Tax	Millionaires	−4.860	−0.486	−0.022	−0.005	0.000	−5.373
2807	Homeland spending and tax increases	Lieberman	D	N	Tax	Millionaires	−3.664	−4.533	−4.089	−1.160	−0.175	−13.621
2774	Indian health	Daschle	D	N	Tax	Loopholes/million	−3.062	−0.344	−0.035	0.000	0.000	−3.440
	Subtotal Millionaires						−56.727	−68.864	−61.606	−53.994	−50.019	−291.209
2799	Tobacco tax for health	Harkin	D	N	Tax	Other	−7.800	−7.800	−7.800	−7.800	−7.800	−39.000
2703	Superfund fees	Lautenburg	D	N	Tax	Other	−1.501	−1.629	−1.696	−1.735	−1.754	−8.315
	Subtotal other						−9.301	−9.429	−9.496	−9.535	−9.554	−47.315
	Total Tax Increase						−86.225	−118.049	−88.015	−77.263	−73.093	−442.645
	SPENDING INCREASES											
2803	Health security	Lincoln	D	N	Spend	Loopholes	12.000	12.000	12.000	12.000	12.000	60.000
2804	Raise taxes for more disc. spending	Byrd	D	N	Spend	Millionaires	11.223	11.223	11.223	11.223	11.223	56.115
2786	IDEA full funding	Dayton	D	N	Spend	Millionaires	10.485	10.485	10.485	10.485	13.589	55.529
2719	NCLB full funding	Murray	D	N	Spend	Loopholes	8.600	8.600	8.600	8.600	8.600	43.000
2783	Jobs	Boxer	D	N	Spend	Millionaires	8.000	8.000	8.000	0.000	0.000	24.000
2807	Homeland spending and tax increases	Lieberman	D	N	Spend	Millionaires	6.800	6.800	6.800	6.800	6.800	34.000
2799	Tobacco tax for health	Harkin	D	N	Spend	Other	6.000	6.000	6.000	6.000	6.500	30.500
2725	Pell Grants	Kennedy	D	N	Spend	Loopholes	4.900	4.900	4.900	4.900	4.900	24.500
2774	Indian health	Daschle	D	N	Spend	Loopholes/million	3.440	3.440	3.440	3.440	3.440	17.200
2790	Higher education reserve fund	Reed	D	N	Spend	Loopholes	3.082	3.082	3.082	3.082	3.082	15.410
2775	Survivor benefit plan	Landrieu	D	Y	Spend	Loopholes	2.757	0.000	0.000	0.000	0.000	2.757
2710	Veterans medical care "reserve fund"	Daschle	D	N	Spend	Millionaires	2.700	2.700	2.700	2.700	2.700	13.500
2762	21st Century Community Learning Center	Dodd	D	N	Spend	Loopholes	1.000	1.000	1.000	1.000	1.000	5.000
	Total Spending Increase (with extrapolation)						80.987	78.230	78.230	70.230	73.834	381.511

Mr. NICKLES. I want my colleagues to know we keep tally and keep measures of how much some of these amendments cost. This is an accurate portrayal. We had amendments that would increase taxes and spending by hundreds of billions of dollars. Those are now entered in the RECORD.

I also heard some comments on pay-go. I might mention for our colleagues, last week Senator MURRAY had an amendment. I raised a point of order on it that most all of our colleagues on the Democrat side said, let's waive pay-go. Let's spend an extra $18 billion.

We have a tax credit, but basically it was to spend more money, $18 billion.

We didn't waive it, but most of our colleagues on the Democrat side who profess belief in pay-go voted to waive pay-go—for a bill, incidentally, that had never had a hearing before the Finance Committee, never been vetted. It is just proposed on the floor. I happen to be a supporter of pay-go.

Incidentally, people act like we have not had pay-go for the last year. That is false. The budget we passed last year had pay-go for anything that wasn't assumed in the budget resolution, period. We used pay-go and other points of order, some of which are redundant. You can make a budget point of order because a committee exceeds its allocation, or you can make a pay-go point of order. I used both. We made 61 or 62 budget points of order, on most of which we prevailed, which saved over $800 billion in new spending.

It seems a lot of people who are now pro pay-go are trying to make sure the tax cuts that are presently law are not extended. I hope that will not be successful.

I just make those comments. I think I would much prefer to have the debate, whether it is on pay-go, the amount of money we spend for defense or the amount of money we spend on nondefense, or new budget rules—incidentally, these rules apply only to the Senate—but I think it would be appropriate for us to have those in conference.

For the information of all our colleagues, the Budget House and Senate conferees will be meeting at 2:30 this afternoon in the Senate budget room on the sixth floor of the Dirksen Building. We tried to find a room in the Capitol and were not successful.

For the information of our colleagues, I think we had a good debate today. I look forward to a constructive, positive conference, one in which we will hear all sides and all viewpoints and consider constructive suggestions for making improvements. It is my hope we can conclude the Budget conference in a very short period of time. The House would like to vote on it Thursday or Friday. I think that is possible. I think it would be important for us to actually pass a budget that will show we can get the deficit down, in half, in 3 or 4 years. I expect that will be our result. That is my objective. I hope to do that and I hope we can accomplish that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Oklahoma and the chairman of the Budget Committee will not be surprised that I completely disagree with his characterization of the amendments offered on our side during the budget fight. We did not offer a package of amendments, so you can't total the spending of each individual proposal. We would offer an amendment, but in each case we would pay for the amendment. We were not adding to the deficit.

If you take our proposals in total—which you cannot do because they were not offered as a package, they were offered individually. We are just going to be intellectually honest here. You can't cumulate something that was not offered as a cumulative amendment. We offered an amendment, it would be defeated, but in each of the amendments we offered, we offered offsets.

I ask unanimous consent to have that chart printed in the RECORD as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FLOOR AMENDMENTS TO SENATE GOP FY 2005 BUDGET

(FY 2005–09; $ billions)		Vote	Amount	Offset -	Net cost
Democratic Amendments:					
2703	Lautenberg—Polluter's Pay/Reinstate Superfund taxes	44–52	0.000	−8.315	−8.315
2710	Daschle—Veteran's medical care (reserve fund)	44–53	2.687	−5.373	−2.686
2717	Wyden—Healthy Forests Restoration Act/Function 920	Adopted u.c.	0.343	−0.343	0.000
2719	Murray—No Child Left Behind (reserve fund)	46–52	8.600	−17.200	−8.600
2725	Kennedy—Pell Grants/Close tax loopholes (reserve fund)	44–53	4.900	−9.802	−4.902
2745	Nelson—Veterans Medicare care reserve fund/Close tax loopholes (reserve fund)	46–51	1.791	−1.791	0.000
2762	Dodd—After School Programs/Close tax loopholes (reserve fund)	42–54	1.000	−2.002	−1.002
2774	Daschle—Indian Health Service (reserve fund)	42–54	3.440	−6.880	−3.440
2775	Landrieu—Military Survivor Benefit Plan/Close tax loopholes (reserve fund)	Adopted v.v.	2.757	−5.514	−2.757
2777	Corzine—Tax savings to strengthen Social Security	Withdrawn	0.000	−160.000	−160.000
2780	Clinton—Minority Health/Deficit neutral requirement (reserve fund up to $400 M)	Adopted u.c.	0.000	0.000	0.000
2783	Boxer—Job creation (reserve fund)	41–53	24.000	−24.000	0.000
2786	Dayton—IDEA Part B/Reduce tax breaks for the wealthiest (reserve fund)	Rejected v.v.	39.423	−60.529	−21.106
2789	Sarbanes—Fully fund FIRE and SAFER Act/Reduce tax breaks for top 1% (reserve fund)	41–55	1.430	−2.860	−1.430
2790	Reed—Higher Ed Financial Ed/Close tax loopholes (reserve fund)	Rejected v.v.	3.082	−6.164	−3.082
2793	Dorgan—Increase funding for COPs, Byrne grants, and local law enforcement grants (reserve fund)	41–55	1.100	−2.200	−1.100
2799	Harkin—Increase funding for health programs/Cigarette tax (reserve fund)	32–64	30.500	−39.000	−8.500
2803	Lincoln—Expand health care coverage/Close tax loopholes	43–53	60.000	−60.000	0.000
2804	Byrd—Increase discretionary caps/Close tax loopholes & other (reserve fund)	43–53	24.246	−24.246	0.000
2807	Lieberman—Restore cuts in homeland security/Reduce tax breaks for millionaires (reserve fund)	40–57	6.800	−13.621	−6.821
2817	Levin—Homeland security grants/SPRO sales (reserve fund)	52–43	1.545	−1.700	−0.155
2820	Mikulski—Tuition tax credit/Deficit neutral requirement (reserve fund)	Adopted v.v.	0.000	0.000	0.000
2833	Bingaman—Pediatric vaccine distribution/Deficit neutral requirement (reserve fund)	Adopted u.c.	0.000	0.000	0.000
2848	Byrd—Correct scoring for Project Bioshield (make consistent with 2004 resolution assumptions)	Adopted u.c.	2.528	0.000	2.528
2850	Dorgan—Homestead Act/Function 920	Adopted v.v.	1.915	−1.915	0.000
Subtotal, Democratic Amendments			222.087	−453.455	−231.368
Republican Amendments:					
2697	DeWine—Child Survival & Health Program/Function 920	Adopted v.v.	0.330	−0.330	0.000
2715	DeWine—Reconstruction of Haiti/Function 920	Adopted v.v.	0.500	−0.500	0.000
2731	Graham—TRICARE & GI Bill/Rescind Iraqi reconstruction (2 reserve funds)	Adopted v.v.	6.800	−6.800	0.000
2733	Sessions—NASA Space exploration/Function 800	Adopted v.v.	0.600	−0.600	0.000
2741	Specter—NIH—Discretionary health/Function 920	72–24	1.300	−1.300	0.000
2742	Warner—Restore cuts to Defense/No offset	95–4	7.638	0.000	7.638
2784	Crapo—Clean Water State Revolving Funds/Function 920	Adopted v.v.	2.850	−2.850	0.000
2794	Thomas—Rural health programs/Function 920	Adopted u.c.	0.100	−0.100	0.000
2821	Coleman—Pell Grants/Function 920	Adopted v.v.	1.884	−1.884	0.000
2822	Murkowski—Indian Health Service/Function 920	Adopted v.v	0.281	−0.281	0.000
2823	Inhofe—ESPC Directed Scorekeeping (CBO costs of $1.7 B over 5 years)	Adopted v.v.	1.660	0.000	1.660
2832	Enzi—Workforce Investment Act/Function 920	Adopted u.c.	0.247	−0.247	0.000
2839	Snowe—SBA programs/Function 920	Adopted v.v.	0.115	−0.115	0.000
2843	Hatch—Restore cuts to law enforcement grant programs/Function 800	Adopted v.v.	0.600	−0.600	0.000
2844	Dole—Child Nutrition Programs/Function 920	Adopted u.c.	0.820	−0.820	0.000
2845	Lugar—Restore cuts to International affairs/Function 920	Adopted u.c	1.524	−1.524	0.000
2846	Murkowski—Veterans Medical Care/Function 920	Adopted u.c.	1.194	−1.194	0.000
2849	Kyl—Veterans Medical Care (reserve fund)	Withdrawn	0.000	0.000	0.000
2852	Collins—Postal Service reform/Deficit neutral requirement (reserve fund)	Adopted v.v.	0.000	0.000	0.000
Subtotal, Republican Amendments			28.443	0.000	0.000
Grand Total, All Amendments			250.530	−472.600	−222.070

*Outlays (excludes associated interest costs/savings). Amount of each amendment includes estimated costs of any contingent reserve funds (which may or may not be released).

Mr. CONRAD. What it shows is if you do cumulate the spending over 5 years, it was $222 billion, but the deficit reduction was $231 billion. That is a fact.

On the other side, they increased by $28 billion, and added to the deficit by $9.3 billion. So the only folks who had cumulative totals here on the floor that added to the deficit were our friends on the other side of the aisle. That is a fact.

We have been very careful to insist amendments on our side be paid for and reduce the deficit. We insisted that not only amendments offered on this side be deficit neutral, but they actually reduced the deficit in addition to any change in funding priorities.

The Senator once again says the budget before us will reduce the deficit in half in 3 years. The problem is, if you look at increases to the debt in each of those years, you don't see a reduction. The debt continues to be increased between $500 and $600 billion a year in every year of this budget proposal—$3 trillion. On the Senate budget, in fairness, $2.9 trillion added to the debt in just the next 5 years.

The President's plan adds $3 trillion to the national debt in just the next 5 years. That is a mistake. That is a mistake because it is coming at a critical time, right before the baby boomers start to retire. That will happen in the fifth year of this 5-year budget plan.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 30 seconds.

Mr. CONRAD. I want to conclude by thanking the chairman. We have had differences on budget policy; we have had differences in how we should proceed; but we have done it, I think, in a way that should be done in the Senate. We have done it in a way where there is respect and a serious listening to both sides in order to achieve a result and a rational process for this body.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. All time has expired.

Under the previous order, the Senate disagrees to the House amendment to S. Con. Res. 95, agrees to the request for a conference with the House, and the Chair is authorized to appoint conferees on the part of the Senate with a ratio of 4 to 3.

The Acting President pro tempore appointed Mr. NICKLES, Mr. DOMENICI, Mr. GRASSLEY, Mr. GREGG, Mr. CONRAD, Mr. HOLLINGS, and Mr. SARBANES conferees on the part of the Senate.

PERSONAL RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4, which the clerk will report.

The assistant journal clerk read as follows:

A bill (H.R. 4) to reauthorize and improve the program of block grants to the States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Pending:

Boxer/Kennedy amendment No. 2945, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I again thank my colleague from North Dakota for his cooperation and I look forward to the conference.

I see my good friend from Massachusetts is here. I know he offered an amendment on minimum wage. I know he would be disappointed if I didn't respond to his proposal. While he is here, I want to make a couple of comments about the amendment which I believe is pending before the Senate. It may have been set aside, but I believe it is pending, Senator KENNEDY's amendment, which increased the minimum wage from $5.15 to $7 an hour. Is that the pending amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. NICKLES. Mr. President, I have great respect for my colleague from Massachusetts. If the State of Massachusetts wants to increase the minimum wage to $7, or $8, let them do it. What may work in Boston probably does not work in my hometown of Ponca City, OK, or maybe in Sallisaw, OK.

I used to work for minimum wage. I made minimum wage when it was $1.60 an hour in 1968. My wife and I made that.

That was our first job when we married. And by having a job, we could start climbing the ladder.

I am afraid Senator KENNEDY's amendment which says let us increase the minimum wage from $5.15 to $7 an hour is going to hurt some of the people he professes to help. I heard his comment yesterday that this is going to lift a lot of people out of poverty, or help them. If that is the case, let us not stop at $7. Let's make it $10 or $20. If you can lift people out of poverty by mandating a higher wage, why in the world would we stop at $7 an hour? I frankly want people to make more than $7 an hour. Why in the world would we set this level? If you are actually going to be eliminating poverty or lifting people out of poverty, let us increase it dramatically more. Let us make it $20 an hour.

I do not know if a second-degree amendment is in order. Maybe we should have an amendment to make it $10 an hour. I would like for everybody in America to make at least $10 an hour. My daughter who works close to minimum wage and is a college student would love to have $10 an hour. But I am not sure she would have a job.

Maybe in Boston they could pay a student $10 an hour working part time in a clothing store on weekends. Maybe they could pay that much, and maybe they can't. But I know one thing: In some rural areas they cannot. That student who may be working not in Boston, maybe not going to an Ivy League school, but maybe going to a vo-tech school in rural South Dakota where they can't pay $7 an hour, would be out of luck. Maybe it is a minority student in New York City, or maybe in southern California who can't get a job at $7 an hour. Maybe that job is flipping hamburgers. People always make fun of working at one of those fast-food places, how terrible that is. It is a job. Maybe McDonalds can afford to pay for it, but a lot of places can't. Maybe it is pumping gas or sacking groceries.

They may have a job now, let us say, making $5.15, or maybe $5.50, or $6. But if we pass this amendment, we are saying if you don't make $7, we would rather you be unemployed. It is against the Federal law. Even though it is to your mutual benefit and the benefit of whoever is hiring you to make $6.50 an hour, we are going to say no because of Senator KENNEDY's amendment. If you do not make $7 an hour, you are unemployed.

I find that to be a bad economic argument. I am afraid it would hurt a lot of people. I am afraid a lot of lower income people might not start climbing the ladder.

My wife and I worked for minimum wage. We worked for a janitor service in Stillwater, OK for minimum wage. We did that for a couple of months. I asked for a raise. We got a very small raise. As a matter of fact, we quit and started our own janitor service. We learned enough to start our own janitor service.

My point being not to lift this economic ladder so high that some people can't get on. By saying if you make less than $7 an hour, if the job can't pay $7 an hour, we don't want you to have that job, maybe as a result of that we don't have people pumping gas. Almost everything is self- serve. We don't have too many people sacking groceries today. There are a lot of jobs maybe that have been priced out of the marketplace. I don't know if that is good.

I would rather have somebody get a job even if it doesn't pay very much because they start climbing the economic ladder. I would hate to pull that ladder up so high that maybe it would deny them the opportunity to start climbing, to start improving, to learn work habits.

One of the good things about a job—and many people like myself and others started when they were very young—is if they did not learn anything else they learned to be on time. You have to report to work. You have work habits. You have certain things to do that are expected. One of the things you learn many times is it is not enough money. They learned they can't get by. My daughter has already learned that working part time in a clothing store won't cut it. It is not enough. She demands more. So she knows she has to improve her skills and have a higher education so she can demand more in the workplace. But having that job is good.

If we start telling everybody all across America no, if the job doesn't pay at least 36 percent more than the present minimum wage, at least $7 an hour, sorry, I am afraid there will be a lot of jobs lost. I don't know how many hundreds of thousands of jobs this amendment would cost, but it will cost many.

I don't think we should try to legislate economics. As a matter of fact, I know a lot of businesses—I suspect there are a bunch in Montana and other places—particularly rural areas, that are struggling to survive. They might be small mom-and-pop stores, and Wal-Mart came in down the street. Maybe they are not making any money today. They might be struggling. Maybe it is a little hardware store in a town with a population of 12,000 and they have been there for 30 years. They have part-time help. They may pay somebody $5.15 or $6 an hour to work there. All of a sudden, a big Wal-Mart comes in. They are losing money and business. They are just trying to hang on.

Then Congress passes a bill which says the minimum wage is going to go up by 36 percent. Now you will have to increase that from $5.15 to $7 an hour.

We are not making any money now. We are losing money and can't compete. We are just hanging on. They realize they can't lose money forever. I am afraid they will have to close the doors.

How many rural communities have you seen where in downtowns they are really struggling? I wonder what this amendment will do to those towns. Some of those towns are trying to hang on. Some of those towns are trying to revive.

Again, maybe some Members in this body think it is a living wage, or it is getting people out of poverty. That is good. But it may be putting some people in poverty. It may be denying the opportunity for a young student who might be working part time to help pay for vo-tech, or maybe work part time so they can get through college, or to become a secretary, or you name it.

We are just arbitrarily going to say no. If you can't make $7 an hour, we have decided it is against the law for you to have a job. That is what this amendment would do.

If you ask the question in a poll if you support an increase in the minimum, a lot of people used to say yes. If you ask the question whether it should be against the law for anybody to work for less than $7 an hour, even though they might all agree it is not to their advantage to work for less than that, they would say no, it should not be against the law. That is what this says. But this amendment says it is against the Federal law.

Again, if the State of Massachusetts wants to do it, and its economy is good, and maybe wage patterns and living costs are so high, that might be appropriate. But many States have minimum wage laws. There is a lot of difference between them. There is a lot of variance, as well there should be.

But to come in and say we want to increase the federal minimum wage to $7—that may take away the chance for some people to start climbing that economic ladder.

It is far more important to give people opportunity to work than almost anything we do. The work habits and skills they obtain from their first job are very important. The first job for some people is a minimum wage job. I would hate to price people out of the marketplace in so many cases. Clearly, I think this would do it. Clearly, it would do it in some parts of the country.

One other comment: It was alluded to. We haven't raised this in several years. So now is the time. Why won't these Republicans let us do this?

The Democrats ran the Senate from June 2001 throughout 2002. They could have offered minimum wage. I heard it hasn't been increased since 1997. It has been 7 years and we want to increase it now. They ran the Senate most of 2001 and all of 2002, 4 and 5 years after the last increase. How many votes did we have in 2001 and 2002 when TOM DASCHLE was the majority leader? Senator KENNEDY was chairman of the Labor Committee. How many votes did we have?

We did not have any votes. They controlled the floor. They could have offered an amendment. They could have had a bill reported out of committee and sent it to the Senate floor, and we could have debated it. I would have debated it. But we did not have it. We did not have one during that timeframe.

So, I will mention, this is kind of interesting: they had plenty of chances to debate this when they were in the majority. They had the majority leader. They had control of the Senate. They could have offered the bill at any time during that period of time.

So I mention those issues. I do not want us to make a mistake. I do not want us to pass a bill that will probably cost hundreds of thousands of people jobs, and particularly hundreds of thousands of people who are at the low end of the economic scale. Let's give them a chance to climb that economic ladder. We do not do that by passing laws that say it is against the law for them to work for less than $7 an hour.

I would urge our colleagues, if and when we vote on the Kennedy amendment, to vote no on the Kennedy amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, the great British Prime Minister William Gladstone called the U.S. Senate "the most remarkable of all the inventions of modern politics." If you stop and think about that a little bit, in the political process there is probably no greater truth.

The Senate is a remarkable institution. It is unique. There is no other body, no other political body, no other democratic legislature in the world quite like the U.S. Senate. We have our unique rules and our unique procedures, which I think make it special, and which have stood the test of time and made this body the institution it is. I think it has added significantly to our country's well-being and has helped make the United States the best country in the world.

What are some of those distinctions? What are some of those qualities? One, clearly, is the right to debate. Once the Chair recognizes a Senator, that Senator can stand and talk as long as he or she wants, as long as he or she is physically able. That is a rule of the Senate. It means that if a Senator has something to say, that Senator cannot be denied the right to say whatever he or she wants to say, unless or until that Senator, for physical reasons, has to stop talking.

I think the record for standing and addressing the Senate is held by the late Senator from South Carolina, Strom Thurmond. My recollection is it was 25 hours and some minutes. He had something to say, and, my gosh, he said it. That is a distinct right in the U.S. Senate.

I do not know of any other body in the world where legislators are accorded that right, certainly not in the other body. As you know, in the other body, the standard rule is 5 minutes; that is, when any amendment or bill is up, even assuming under their rules a House Member has the opportunity to seek recognition, the basic rule is 5 minutes. In the Senate it is as long as you can possibly speak.

What is another unique right of the U.S. Senate? One other right is the right to offer any amendment on any bill at any time without notice.

Now, when you stop and think about that, on one level that sounds a little strange. That tends to make things a little disorderly, doesn't it? Yes, it does make things sometimes a little disorderly, but, nevertheless, that unique right to offer an amendment protects the minority interest; it protects an interest of a Senator who is representing some part of the country to be able to present his or her point of view, and to bring it up and have Senators act on it, to debate it, vote on it, and take action. It is very unique. It is very important. Those are two extremely important qualities that distinguish the U.S. Senate from any other legislative body in the world.

In a sense, it is that unique quality that is at the heart of this debate; that is, whether the Senate should vote on an amendment offered by the Senators from California and Massachusetts to raise the minimum wage. Senators have that right. They have the right to offer amendments. They have the right to stand up and be recognized and speak on their amendments. Senators who are opposed to the amendment have a right to stand up and oppose the amendment.

I believe that one of the best attributes—and I hope I am not "misattributing," if that is a correct word, the source of this to John Locke—is the "marketplace of ideas"—that is, the more people debate and, in good faith, talk about a subject, the more the sunshine is on that subject, the more likely it is the best result will be achieved; the more likely it is we will find the truth; we will find the right result.

It is pretty hard to find the right result to a controversial issue. Certainly raising the minimum wage has some controversy with it, without debating it. If we cannot debate it, it is fairly difficult—it is kind of hard—to know what the right result should be.

My guess is—and, frankly, I believe strongly—if we have a full and open debate on the underlying bill, the TANF bill, as well as on amendments that Senators want to legitimately offer, even if some of them may not be strictly germane, we are going to end up with a much better result, and we are going to be serving our country much better than we would if we just do not have debate on amendments or if the amendments are precluded from being brought up.

I strongly urge Senators, therefore, to think about what we are doing. It is not only the narrow subject of whether there should be a vote on the minimum wage or whether we are going to allow Senator KENNEDY to have a vote on his amendment. It is a broader question: What are we all about as an institution? What are we about as the U.S. Senate? Why do we seek these offices in the first place? Why are we here?

I think I can speak for every Senator, saying that he or she ran for the Senate because we want to help make this a better place; that is, we want to help our States and help America. We profoundly believe in the democratic process. We sought election to the U.S. Senate because we knew, either directly or intuitively, it is a special place where one does have the ability to have a voice in reaching a result, and, clearly, a result that we think is better than the status quo. So I remind all my colleagues that the nature of this Senate is somewhat at stake. It is in question.

My next point is a bit difficult, perhaps, but there are some Senators who have not been here very many years, and who only know the Senate as they have seen it and have experienced it. I have been here a few years. I am in my fifth term. I have seen the Senate operate in lots of different ways.

I saw the Senate operate, a few years ago, where we had votes. We voted on subjects. We voted on amendments. I might say, the last time, in a real legitimate sense, we took up this underlying legislation, the TANF bill, I think we were on it for 12 or 13 days, and there were 43 votes.

Senators offered amendments, Senators debated amendments, and Senators voted on amendments according to what each thought was correct.

And guess what happened. Most people hailed the 1996 bill as being a great step forward in welfare reform. Everyone talks about the great strides and advances this country took as a consequence of that bill that passed, in 1996, the Welfare Reform Act. We have had a 50-percent reduction in caseloads all across the country; and in some States more than that, up to a 70 percent reduction in welfare caseloads.

We did get rid of welfare as we knew it. Both President Clinton and President Bush said we needed to get rid of the former welfare system as we knew it. I forget exactly what the quotes were, but it happened. And I suggest it happened in part because we so solidly and so comprehensively debated welfare and welfare reform. We had 43 separate rollcall votes on that bill when we first passed it.

Contrast that with where we are today. We have had one vote. A cloture motion was filed yesterday. The point of that cloture motion clearly is to prevent a vote on the amendment offered by the Senator from Massachusetts—to prevent a vote. I do not see why we should prevent votes.

The amendment raises the minimum wage. Clearly that is related. I can't think of anything that is more related to the underlying bill. We are talking about getting people off welfare into work. Clearly, it is much easier to work if the wage that a person is paid is a wage that can allow a person to stay off of welfare.

I have met people personally who have told me they want to get off of welfare, but they can't because the minimum wage—this was several years ago—was so low. One single mother told me she couldn't because she realized childcare was taking up almost all of her income. It wouldn't work. So she had to go back on welfare, and it bothered her so much.

Clearly, this amendment is related. Clearly, Senators have the intelligence to debate the amendment. Clearly, Senators have the intelligence to know if they favor or do not favor it. Clearly, it is directly related. Even more clearly, if we respect the nature of the Senate, Senators should have a right to vote on it.

I urge all my colleagues to vote no on the cloture motion when we vote on cloture tomorrow because a "yes" vote would deprive Senators of the right to vote on a very significant amendment to this bill and deprive Senators the opportunity of debating and trying to find the best solution to a complex question; that is, what are the best changes we think should pass in welfare reform.

If that is not bad enough—that is, a cloture motion which is successful prevents us from voting on the Kennedy amendment—there was a proposal by the majority yesterday. Yesterday, on behalf of the majority, the Senator from Pennsylvania propounded a unanimous consent request on this bill. I will take a moment to explain the consequences of that proposal and how that proposed unanimous consent request would further undermine the fundamental rights of Senators to debate and to amend.

The proposed request had four parts: First, at a time determined by the majority leader, the Senate conduct back-to-back votes on the Republican minimum wage amendment and the Boxer amendment; that the bill then be limited to germane amendments; that at 9:30 a.m. on Thursday, the Senate proceed to vote on passage of the bill; and that the Senate request a conference with the House and the Chair and be authorized to appoint conferees on the part of the Senate.

I welcome the prospect of having side-by-side votes on the Republican minimum wage amendment and the Boxer-Kennedy minimum wage amendment. We have done that in the Senate. That is a fair way to proceed. We want to get to amendments and we want to have votes.

But the other three parts of the proposed unanimous consent request raise real problems. First, limiting amendments to only germane amendments is a very tight constraint. Senators often seek to offer amendments to a bill that are very relevant to the bill at hand but do not meet the strict standard of germaneness. Under previous majority leaders, the Senate often chose to limit amendments to relevant amendments but did not go further in limiting amendments to germane amendments. Limiting amendments to the more narrow standard of germaneness is unduly restrictive.

The proposed request sought to set a definite time to vote on passage of the bill. Setting a time for certain passage of a bill makes cloture pale by comparison. At least under cloture you get a right to vote on the amendments that are germane. But under this proposed agreement, a Senator could delay, could stand up and talk. He could use all the kinds of dilatory, delaying tactics one could use. That would prevent votes on amendments and more strict than cloture where you are entitled to a vote.

It is even more strict than reconciliation. In reconciliation, Senators can always offer amendments. Often there is not time to debate them, but they can still offer them. We then have a vote-a-thon. It is not the most illuminating practice, I grant you, but nevertheless, Senators have the right to vote.

Under this proposed consent request, Senators would not even get a right to vote on amendments that may have been brought up or to even bring up amendments.

Finally, the proposed consent agreement would seek to have the Senate go to conference on the bill. This raises probably the most problematic concern of all. If we went to conference and if the consent agreement were adopted, which would require the appointment of conferees and seeking a conference with the House, we would have to ask ourselves, what is in the House-passed bill.

Let me point out some of the provisions in the House-passed welfare reform bill. First, the House bill would impose unrealistically high work requirements on TANF recipients, much higher than under either the Senate bill or current law. Next, the House bill would provide minimum resources for childcare funding. We all know that the Senate passed an amendment which would increase childcare funding by an appropriate amount. The House has levels that are so low, according to CBO, childcare is underfunded by about $4.5 to $5 billion. We would have to work out that one, which would not be easy, particularly where the White House has issued a so-called statement of administrative practice which says not one thin dime for childcare. That would make it even more difficult for Senate conferees to work out a reasonable childcare amount, if we were to go to conference.

The House would not allow TANF recipients to continue education; that is, education they need to get and keep a good job beyond 1 year. That restrictive provision is in the House bill. Moreover, the House would provide what is called a superwaiver which would give the States extremely unprecedented broad authority to combine food stamps, Medicaid, childcare, and other programs, and use that money however they see fit, undermining the minimal safety net and low-income standards that low-income families have to rely on in their time of need.

It would also mandate full family sanctions, not just partial family. That means cutting families off of assistance if they do not comply with the rules, risking real harm to children in the absence of any fault of their own.

Finally, the House bill does not provide for legal immigrants.

The House-passed TANF bill raises serious concerns. Going to conference on such a measure would not be a simple thing. It is the position of the Democratic leader that we would have to have a number of assurances before Democrats would agree to going to conference on a matter that raised such serious concerns. That is extremely important. That is because a conference report is not subject to amendment. Let's not forget, we are in a unique situation where the same political party controls not only the White House but both bodies of Congress. Where the majority runs the conference process without substantial input from the minority, the conference process can substantially limit the rights of Senators in the minority.

Thus, the unanimous consent agreement proposed by the majority yesterday undercuts the basic rights of Senators. It would severely limit Senators' rights to offer even relevant amendments. It would seriously limit Senators' rights to debate; that is, cutting off debate abruptly at a certain time no matter how many amendments we had by then considered.

We on this side of the aisle do not wish to delay this bill. There is no way we want to delay it. We want votes. We will agree to time limits. Let's get this bill up and amendments up and let the Senate work its will. We are willing to do that. We are willing to work to get a finite list of amendments. We are willing to enter into time agreements on amendments. We are not asking for anything out of the ordinary.

During the 13-day period over which the Senate considered the 1995 welfare reform bill, September 7 to September 19, 1995, the Senate conducted 43 rollcall votes on amendments. So far this year we have conducted just one. So we are not asking for anything new. We ask merely that Senators be able to debate, to amend. We ask merely that Senators be able to do that which makes the Senate "the remarkable invention" about which Gladstone spoke.

I urge my colleagues to uphold the rights of Senators. I urge Senators to allow a vote on lifting the minimum wage, and I urge Senators to oppose cloture.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, we are hopefully at a position today where there is going to be some decision made by leadership—meaning the Democrat leader and Republican leader—on proceeding on this legislation. In the meantime, we will proceed with amendments and hopefully move along as best we can without having a certain finality.

I had a chance to listen to my colleagues' statements. I will make this commentary. We have already said to the minority, the Democratic leadership, that we are prepared to vote on amendments that are before the Senate. So the issue is not voting on amendments before the Senate. There is some feeling that we are going to get this bill to finality. That doesn't mean not voting on a lot of amendments. That can be worked in as well. All we want is some certainty that we are going to get to finality. Finality means getting to conference.

We have a couple pieces of legislation that have been sitting around this body, after the body has finished work on them, not being able to go to conference. One is the CARE Act, an acronym for legislation that encourages charitable giving. Another one is the Workforce Investment Act. These are two pieces of legislation that have been before the Senate, and the minority, the Democrats, will not let us go to conference on these pieces of legislation.

So, in a sense, the Senate has worked its will, but the legislative process has been shut down. It seems to me if this legislation includes so much of what the Democrats want to accomplish in the way of reform of welfare—particularly the vote we had yesterday, very dramatically increasing by $6 billion the amount to be spent on childcare—that they would want this legislation to become law. So we need some assurance from the other side that if we agree to voting on some amendments that they want to vote on—that is no longer an issue—we want to move ahead with germane amendments.

There is not an argument about the number at this point. We can get to a vote on this, but most important is not have it stalled in the Senate as those other two pieces of legislation. It seems to me the issue isn't a whole lot different now than it was 2 years ago. The only difference is the Republicans were in the minority, then and the Democrats were in the majority. At that particular time, we saw an Energy bill taken away from the Energy Committee and brought to the floor. That bill never became law. We saw a prescription drug bill taken over by the leadership on the floor of the Senate, with the committee effectively cut out. There were 2 weeks of debate on an Energy bill but nothing happened. There was not a budget adopted that year.

We Republicans referred to the leadership at that time as having a graveyard in the Senate because they wanted issues for that election as opposed to products. We Republicans said to the electorate at that time that we want products, not issues. So when we took over in the majority in 2003, the committee system was allowed to work, developing bipartisanship. Nothing gets done in the Senate without bipartisanship. We could bring the issues to the floor and work the will of the Senate and get things through the Senate. That is what we are elected to do—get things through the Senate and let the process work.

So there is nothing that my colleague from Montana said that I disagree with, except we ought to see light at the end of the tunnel. Is there anything wrong with saying: Are you guys—meaning the Democrats—going to do what you did on the Workforce Investment Act and the CARE Act and let the Senate become a graveyard again just because something is happening that you don't like?

It seems to me there would be a lesson learned from the last election. When the Senate became a graveyard, the people of this country sent a message that they don't want the Senate to be a graveyard. They gave the majority to the Republicans. We show that we can produce. Yet look what we are running into—the CARE Act, after a year of not going to conference. I don't know how long the Workforce Investment Act has been waiting to go to conference. We were stalled last week on a bill the Democrats agreed ought to become law, the FSC/ETI bill. That stalled.

I would not say the Welfare Act is stalled. But what do we know is down the road? What is wrong with a little bit of transparency. The transparency is that they present an amendment on minimum wage and they want a vote. So we present a plan to get to a vote on that very important issue, but we cannot get some assurance that we may not be in the same boat as with the CARE Act and the Workforce Investment Act.

When it comes to the minimum wage being important for welfare, I suggest to the other leaders that, as chairman of the committee, in a letter I received from them last year, which is not dated—I received this letter, and it was signed by 41 Democrats—telling us the things they wanted in this legislation that the Finance Committee was going to be working on at that particular time. They were setting out priorities they believed we had not adequately dealt with. In this letter, there was never any mention of minimum wage being an important part of welfare reform legislation.

I did take what they said in this letter very seriously, and they dealt with issues such as universal engagement, ending the caseload reduction credit, strengthening child support, extending TMA, providing additional State flexibility, issues dealing with postsecondary education, no superwaiver, no increase in work without State flexibility. Of all of those provisions they raised concern about, none dealt with minimum wage. I and the majority tried to accommodate the minority members who signed this letter and put these things in this legislation. These provisions are all in this bill.

Other priorities, as stated by the Democrats, included some additional funding for childcare, and we passed that overwhelmingly yesterday. It wasn't something I could get done in committee. I, obviously, agreed with that approach because I voted for it yesterday.

We also had a request from the Democrats in this letter to increase vocational education eligibility for legal immigrants. We have not dealt with that, but that is going to be an amendment before the Senate.

What we have tried to do in this whole process of Republicans gaining control of the Senate and letting the committee system work, as opposed to 2002 when very major legislation, such as prescription drugs and the Energy bill, was taken away from the committees and brought to the floor—we do not develop bipartisanship on the floor, and they never became law—we have tried to make the committee system work. When specific requests are made, such as 41 Democrats sending us a letter raising concerns about their issues, we try to put them in the legislation and accommodate them so that we have a product instead of an issue.

The other side ought to tell us if we are going down the same road we went down in 2002 to have the Senate become a graveyard for important legislation because they need issues instead of product. Did they learn a lesson from the last election? Do they want to lose more seats in the Senate? I don't think they do. But I think they have to get a better game plan than shutting down the Senate because we are in the majority to make this place work.

I know there are a lot of Democrats who are intent upon making this place work, and I know Senator BAUCUS, my ranking Democrat, is committed to making this place work. There should not be any reason we have to have a cloture vote, particularly when we made overtures to the other side to vote on a lot of important issues on which they want to vote. All we want to know is that we are going to get an opportunity to develop a product. This Senate is not the only body that passes legislation that goes to the President; it also takes the House of Representatives. We do not get to finality until there is a conference committee if there is a difference between the House and the Senate, and in most major pieces of legislation, we have to have a conference committee.

I do not understand why we can't get to conference on the CARE Act, a bill to encourage charitable giving by people who fill out the short form of the income tax by giving above-the-line deduction, or having the tax-free rollover IRAs for people who want to give some of their lifetime savings to charitable giving. There are a lot of other good provisions in that legislation as well.

Do you know what is wrong with that, Madam President? What is probably wrong with that legislation is it is one of the No. 1 goals of the President of the United States, and maybe the other side can't let him have a victory. Yet in the scheme of what the President of the United States has to do, it may be a No. 1 goal of his, but it is a very small part of the total agenda that this President has of leading this Nation and being the Chief Executive Officer for our Government.

What is wrong with the Workforce Investment Act? One would think that with the other side crying all the time about outsourcing—forgetting about insourcing; we have a $58 billion favorable balance of trade on insourcing versus outsourcing—but we all ought to be concerned about outsourcing. What does Senator KERRY, as a Democratic candidate for President, say we need to do about outsourcing? Educate our workforce. And we have opportunities to move legislation that does that, and we cannot get to conference. What is the game?

We have offered to the other side votes on important legislation they want. Can they let us see light at the end of the tunnel so we know there are not games being played? I would hope there are people on the other side of the body who want this place to work, and there are. I would hope people who want product instead of issues will rise to the top, as cream does, and as cream of the crop remind their leadership of what happened in the last election, and do they want to be a less significant minority than we presently are because I think what is good about the Senate is that it keeps the extremes from governing in America—the extreme on the left and the extreme on the right.

The Senate, when it cooperates and gets things done, governs from the center. Whether that is 60 votes or 70 votes or 80 votes, we govern from the center.

This is a body that is going to make sure that Nazis do not take over America or Communists take over America, and there are none of them in the Congress. But when you do not have the center rule, as Germany learned or as Korinsky learned and tried to show the people of Russia in 1917, when the extremes take over, democratic values are lost.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, as the cosponsor of this amendment with my friend and colleague, Senator BOXER, I do want to clarify for the record where we are and the view those who are sponsoring the amendment have with regard to proceeding on the TANF reauthorization legislation, which is before us.

Because we have had characterizations made about our amendment, I wish to clarify for the benefit of the Senate and, more importantly, for the American people exactly what the current situation is before the Senate.

Before the Senate, we have what we call the TANF legislation, to move people off welfare into employment. As has been mentioned on a number of occasions—I have a copy of the report—the point is made by the Republican floor manager that this amendment to increase the minimum wage is not pertinent to this legislation and, therefore, because of the fact we are offering it, we are delaying the whole process even though we indicated to the floor manager we were eager to enter into a very short time agreement, a 20-minute time agreement, time to be evenly divided, a time certain, and then move on to another amendment.

We want to make very clear, speaking for the supporters of the amendment, we are interested in coming to a resolution. The answer on the other side is, well, since this is not relevant to the subject at hand, we are not going to let a vote occur. That is a rather unusual process and procedure. As to amendments on legislation, unlike appropriations, the Senate rules permit a vote on legislation, but the majority does not choose to do so. Therefore, they refuse to let us get a vote on this and then criticize us for delaying the process even though we are prepared to vote this afternoon. It is 12:30 now; we can vote at 1, or whatever time the floor manager would permit us to do so.

I mention once again how ridiculous I think the argument is from the other side that this is not a relevant amendment. If one looks at the legislation itself dealing with TANF and looks through the report, as I have said previously, they can look under "strengthens work," that is what this legislation is supposedly all about. If we take the statement of the Secretary of HHS, Tommy Thompson—listen to this—regarding the TANF reauthorization requirements:

> This administration recognizes that the only way to escape poverty is through work, and that is why we have made work and jobs that will pay at least the minimum wage the centerpiece of the reauthorization proposal for the Temporary Assistance for Needy Families (TANF) program.

Here it is, the administration spokesman talking about the centerpiece of the TANF will pay a minimum wage. That is exactly what we are trying to do. How is it possible that the floor manager can say this is not relevant when the Secretary of HHS specifically refers to a minimum wage? How can they possibly take that position? How can they say we are trying to delay it when we are prepared to go ahead with a short time limit?

The American people must be greatly confused. Here it is, the Secretary of HHS, the President's representative on this issue, saying this administration recognizes the only way to escape poverty is through work and that is why we have made work and jobs that will pay at least the minimum wage the centerpiece of the reauthorization proposal for the Temporary Assistance for Needy Families program. That is the statement he had at that time on March 6, 2002.

As the report goes on, the other references I have talked about, "reasons for change," to move welfare recipients into good jobs, good jobs obviously suggest they are going to be halfway decent.

The committee refers to the reasons for the change, that the committee wants to build by increasing work and reducing the welfare and talking about good jobs. That is the reference all the way through. That is what the Secretary has said. We have indicated we are prepared to move ahead and move ahead immediately, but we are denied the opportunity to do so. And that is with regard to procedure.

I listened earlier to my friend and colleague from Oklahoma saying we really do not need a minimum wage; we ought to let the market decide and make these judgments and decisions. Well, we have heard that. I have heard that since I arrived in the Senate, not only every time we have the chance to debate the minimum wage. Then he talks about the challenges we are facing in rural areas are not the same challenges as they face in urban areas, which we have understood. That is why we have an exclusion for agricultural workers. We have a different kind of a financial situation for mom-and-pop stores rather than the large stores in many urban areas. That is why we have a cap and say if you have approximately $600,000 or less gross earnings, you do not have to observe the minimum wage provisions. We responded to these rifleshot ideas that have been constantly brought up during the debates on the minimum wage.

I would like to go back to the general kinds of themes that were brought out. As we understand, this is a minimum wage, not a maximum wage. We are talking about a minimum wage to meet minimum kinds of standards in this country. Hopefully we have gone beyond the debate about whether we were going to have the robber barons or the monopolists in this society have individuals who are in the workforce so thoroughly and completely exploited.

Many in the Senate have been up to visit the old mill towns of Massachusetts, and one can still travel up to Lowell and visit many of those old textiles and they will see the letters from children who are 7 and 8 years old who were writing and who were working in the mills 10 or 12 hours a day, in many instances 7 days a week. Some of the most moving of those letters are by these children who write looking outside the windows and seeing other children playing outside and dreaming of the time that they might be able to do so.

In the old days when we did not have any kind of protections for any workers, we had extraordinary exploitation of children in the workforce. Well, that goes back to the time where the Government was not involved. In 1938, after a great deal of struggle, sweat, and bloodshed, all that changed with the very important child labor laws. Some had been passed before. Basically, we established the minimum wage, the time and a half for overtime, and the Fair Labor Standards Act, even though the overtime issue in question is now threatened by this administration that wants to abolish overtime for some 8 million workers, mostly firefighters, policemen, and nurses who in many instances are our first responders. All one has to do is go to any hospital and talk to some of those nurses and find out how in many instances they are required to work overtime, and find out their views about quality of care.

Now imagine if overtime is eliminated and there is that kind of requirement. We have a shortage of nurses today. One can imagine what is going to happen tomorrow if that particular recommendation by the administration is put into effect. So basically we are talking about a minimum wage.

We can hear on the other side, as we heard earlier from the Senator from Oklahoma, well, it is important to get on the bottom rung of the ladder because if one gets on the bottom rung of the ladder, they develop certain kinds of skills and attitudes and will be able to move ahead and have a successful life.

Well, there are certain truths to getting on a bottom rung of the ladder if the bottom rung of the ladder is not so low it actually submerges a person and they cannot survive on the bottom rung of the ladder because they are so overwhelmed by the challenges of life, of being able to survive. That is what we are talking about, having the bottom rung of the ladder so that at least one can make a living wage, they are going to at least be treated with some sense of dignity in this country of ours, which is the richest country in the world.

There are people who are struggling. It does appear, by those who are opposed to the increase in the minimum wage, there is some dismissiveness about the individuals who are receiving it. I do not buy that. The minimum wage workers in the workforce I have met are among some of the most courageous and dignified men and women one will ever want to meet.

I am going to mention who we are really talking about. Who are these people who are earning the minimum wage? We have heard speeches on the floor. Let's put some human faces on these individuals. Shreveport, LA: It was early April, and 46-year-old Mrs. Williams was dressed in the dark blue uniform she wears at her first job caring for the aged and infirm at a nursing home. On top there was a gray apron she dons for her second job cleaning offices at night. The place where she works as a nursing assistant, Harmony House, was paying her $5.50 an hour, barely above the minimum wage, even though she had been there for 10 years as a union member and completed college courses to become certified. The cleaning job which she took up because she could not make ends meet pays right at the Federally mandated $5.15 an hour.

> "You think you are moving forwards," adds Ms. Williams, "but you're just moving backwards."

Mr. Valles earns his living serving hamburgers at a McDonald's restaurant in downtown Los Angeles. He's a family man. He and his wife, Lily, have two children.

> "I make $5.75 an hour. That's about $240 a week. One hundred ninety dollars after taxes. You can't really live on that. Lily works in a fast-food place, too. She makes the same as me. Two weeks of my pay and two weeks of her pay every month goes for rent. Then you have to pay the fare to go back and forth to work. You gotta pay for your food. You have bills. We're still paying on the sofa. . . ."
>
> I asked if they ever went on vacation. He looked at me as if I asked if his children could fly. "No," said Mr. Valles quietly. "There is no money for vacation."

The list goes on. We have this situation:

> As she weighs bunches of purple grapes or rings up fat chicken legs at the supermarket where she works, Fannie Payne cannot keep from daydreaming.
>
> "It's difficult to work at a grocery store all day, looking at all the food I can't buy," Mrs. Payne said. "So I imagine filling up my cart with one of those big orders and bringing home enough for all my kids."
>
> Instead, she said that she and her husband, Michael, a factory worker, routinely go without dinner to make sure their four children have enough to eat. They visit a private hunger center monthly for three days' worth of free groceries, to help stretch the $60 a week they spend on food.
>
> "We're behind on all our bills," Mrs. Payne said. "We don't pay electricity until they threaten a cut-off. To be honest, I'm behind two months on the mortgage—that's $600 a month. We owe $800 on the water bill and $500 for heat."
>
> The Euclid Hunger Center helped her seek aid from her parish, Saint William's Catholic Church, but it hurt that three cars broke down in six months.
>
> "They all died and we had to get Mike to work, so we bought a good used car we can't afford."
>
> The first thing to go was money for food herself and husband. "Some nights Mike and I eat our kids' leftovers, and if we don't have enough money for milk, I feed the kids soup for breakfast," she said.
>
> Living with housing hardship. Hector Cuatepotzo, a waiter in the upscale Miramar Hotel in Santa Monica, lives in a tiny, one-bedroom apartment with his wife, Maria, 6-year-old daughter, Ashley, and infant son, Bryan. All four sleep in the same small room, with Bryan's crib nestled in one corner, Ashley's bed in another.
>
> Cuatepotzo earns about $20,000 a year in salary and tips, equal to about $10 an hour, almost twice the minimum wage. But with $625 a month in rent and another $80 monthly gas and electricity, the family spends more than 40 percent of their income for housing. Cuatepotzo works from 6 a.m. to 2 p.m. and travels 40 miles round-trip to work each day because rents in buildings closer to his job are even higher.
>
> Since Maria took time off from her job in the restaurant to have the baby, they received several eviction notices for late payment.
>
> Cuatepotzo is thinking about getting a second job, but that would mean rarely seeing his children. Cuatepotzo, who has worked at the Miramar since arriving from Mexico 10 years ago, would like to own his own home someday. "It's my dream," he says. But he can't imagine how he'll ever get there when his family lives paycheck to paycheck.

This is what is happening all across this country. These are not people who are slackers; they are hard workers.

Here is Deborah, 23, from Pennsylvania, a single mother and survivor of domestic violence. She has two daughters. She was evicted from her home in New Jersey. She now resides in Clairton, PA, where she works as a salesperson in a grocery store earning $5.35 for 30 to 35 hours a week. Deborah has no health coverage for herself or her girls. Her earnings are spread thin to cover childcare expenses, transportation, food, and $50 a month for her bedroom at her aunt's. An increase in the minimum wage would help Deborah catch up on lagging bills, come closer to making ends meet, get needed doctor appointments for her children at a pay-for-service clinic, and purchase clothing for her children, who lost everything in the eviction and the escape from domestic violence.

Pat Rodriguez lives in Washington, has worked at a laundry and drycleaners in Washington for 8 years. She earns $6.15 an hour, the minimum wage for the District of Columbia. Currently she and her colleagues are on strike over low wages and other issues. The money she earns working full time is not enough to pay the rent, pay for the basic necessities for her family. She has a 2-year-old child and is expecting a second child. She has no pension, no access to affordable health care, and relies on Medicaid. She works full time and still does not make enough to be able to save for the children's education. Pat says, "I support raising the minimum wage, but I also want workers to be treated with respect, and for their work be valued accordingly."

Elaine Murphy and her three children, 16, 11 and 6, recently moved to Newburgh, NY, from Oregon. Mrs. Murphy is a teacher's aide and special needs bus aide in the local elementary school. Every morning she is in the bus yard at 6:30, waiting to escort handicapped children on the bus. Then she works in the school offices and in classrooms until around 3, when she gets back on the bus and escorts the handicapped children to their homes. In Oregon, she made $10 an hour doing similar work, but in the new job, she is paid the minimum wage.

The job suits her needs as a mother of three. She can be home in the afternoon to look after her 6-year-old, who is autistic and needs the kind of close supervision the school's afterschool program is not able to provide. There are daycare centers that could care for their son, but the cost is prohibitive. Her 16-year-old son is athletic, and after school she is able to drive him to practices and games.

Despite the fact that Elaine works full time, she is paid so little that she qualifies for food stamps and her children receive health care through Medicaid. This bothers Elaine. She doesn't want Government assistance. She wants to work hard and provide for her family. In the school district where she works, janitors and others are paid enough to support their families while Elaine has little choice but to turn to the Government for assistance. She perceives the problem as this: The assumption is that women who work as teachers' aides or do similar work are not supporting their families but, rather, working to supplement the household income. In her case, this is not true. Elaine is the sole provider for her three children.

For Elaine and her family, a higher minimum wage would mean a greater degree of self-sufficiency. Getting a second job is out of the question given her responsibilities at home. At the present rate of pay, making ends meet is impossible without Government subsidies. Elaine argues that working 40 hours a week for something as important as special needs education, she should not need Government handouts; that through hard work, she should be able to provide for her children.

This is it. These are the real faces of people who are out there, trying to make ends meet. Our proposal was to increase the minimum wage just to $7. I will show the chart here, what more has happened with regard to the minimum wage over recent years.

On the far side of the chart, this is purchasing power in the year 2000, dollar purchasing capability; in 1968 the equivalent of $8.50 for minimum wage. The red line indicates how the minimum wage has gradually dropped, how we were able to get it raised in 1990, and how we were able to get it raised in 1997 and 1998. Now we see it dropping without this increase to about its all-time low.

This is a minimum wage, not a maximum wage. We hear those saying, if you are going to go for $7, why not go $10 or $15? That is missing the point. What we are trying to do is get this increased to $7. That will still put it below where it was for a period of 12 or 14 years, but at least it gets it much closer to a living wage.

That is what this amendment is all about. We should understand it. This amendment affects real people. I gave some examples of real people. I have given examples of why the Secretary of HHS believes a minimum wage job is relevant to this bill. We have indicated we are prepared to vote on it. We daresay it is those on the other side, who do not want to vote on it, who are actually filibustering.

I want to come to this issue and talk a little bit about the impact on families, and particularly the impact on children in terms of hunger, the problems of hunger.

In 1938, we had the child labor law. We had minimum wage, and we put time and a half for overtime pay in there so workers would be considered. What we have looked at in more recent times, as hunger has been a defining aspect for people as well, we have tried to take a look at what the impact is on hunger, what the impact would be.

First of all, this chart: Hunger is increasing for minimum wage families. The Agriculture Department reported more than 300,000 more families are hungry today than when President Bush first took office. More than 12 million American households are worried that they would not have enough to eat, and nearly 4 million households had someone go hungry. African-American households, Latino households, and households headed by single mothers were much more likely than the national average to experience food insecurity, and also more likely to experience hunger.

I have the household food security for the United States. This study, put out by the Department of Agriculture, shows very clearly what is happening to families, and particularly families with minimum wage. What you find out is that in 1998, there were 14 million children who were living in families where there was a real problem in terms of food security, and then that went down in 1999 to 12 million.

In the year 2000, it is 12 million. Then we see in 2001 that it began to turn around. In 2002, it is 14 million going right back up again. We were seeing the decline in terms of the impact of hunger on children in this country. Now we see as a result of the economic policies and failure to increase the minimum wage the fact that hunger is again taking off in these minimum wage households.

This is an excellent report done by the State of Massachusetts. It is called "Walk For Hunger, Project Bread." I will include in the RECORD the appropriate parts of the study.

> According to the U.S. Department of Agriculture, 425,000 people in Massachusetts lack access to adequate food. In low-income communities in Massachusetts, 20 percent of households cannot afford to buy enough food to meet the basic nutritional needs of household members. The prevalence of hunger is highest among families with children. Today, in low-income communities, one child in three lives in a household struggling to put food on the table.

Our State is one of the most prosperous, fortunately, in the country. This is what is happening in households in my State. If it is happening in Massachusetts, it is happening in States across this country.

We have the broad figures. As we go along, I will have the opportunity to continue to give speeches and to point this out.

Listen to this one more time.

> According to the U.S. Department of Agriculture, 425,000 people in Massachusetts lack access to adequate food. In low-income communities in Massachusetts, 20 percent of the households cannot afford to buy enough food to meet the basic nutritional needs of household members. The prevalence of hunger is highest among families with children. Today, in low-income communities, one child in three lives in a household struggling to put food on the table.

And we have opposition to an increase in the minimum wage.

How much evidence do you need over there? How much child hunger do you need to increase the minimum wage? What more in the world do you need?

That is happening not only in my State but in States all over this country. Children are facing real hunger because the parents are falling further and further and further behind.

I have a book full of those examples, some of which I read. I have a book full of examples from all over the country. This is what is happening. The problem is getting worse.

The Department of Agriculture indicates there are 35 million Americans hungry or living on the edge of hunger for economic reasons—35 million of our fellow citizens. There are 290 million people in this country, and 35 million of them are facing serious challenges with hunger in the United States today.

We will have a chance in half an hour, if you want to take a very modest step to increase the minimum wage. It is not going to solve the problem, but it will sure do more about it than the current legislation which is before us. That we know.

There are 300,000 more families hungry today than when this administration first took office. Twenty-three million Americans sought emergency food assistance from the hunger relief organization Second Harvest.

Isn't that a fine description of what our country is coming to.

As I indicated, these are men and women of dignity and respect, people who are working hard. We find in a number of the hunger programs, the Food Stamp Program and others, they are vastly underutilized because men and women have a sense of pride. They don't want to take handouts from the Federal Government. Even some of the school lunch programs are underutilized in some areas because parents don't want to have their children appear to come from a poor community. They are used to a higher degree than food stamps, but, nonetheless, that happens.

These are men and women of pride. It is a real problem. These families, as I mentioned—23 million, Second Harvest—cannot afford balanced adequate diets. Parents are skipping meals so their children can eat. Nationwide, soup kitchens and food pantries and homeless shelters are increasingly serving the working poor—not just the unemployed.

Both the U.S. Conference of Mayors and Catholic Charities report witnessing sharp increases in the use of emergency services offered by the cities and the Catholic Charity agencies.

In 2003, the survey by the U.S. Conference of Mayors that looks at hunger found 39 percent of adults requesting food assistance were employed.

Effectively, 40 percent of people who are trying to get some additional food assistance are employed and work hard.

This is the conclusion of the U.S. Conference of Mayors, as well as Catholic Charities—a leading cause of hunger is low-paying jobs.

How much more evidence do you need? Do we think the U.S. Conference of Mayors is a tool of just the Democratic side of the Senate when Republican and Democrat mayors alike across this country are talking about the increasing problems they are facing and the challenges that families and their communities are facing when they say one of the principal reasons there is explosion in the hunger needs of children in this country is because of low-paying jobs?

That is what this amendment is about—to do something about low-paying jobs.

We have a chance to do something about it. We have done it in the past. We are denied the chance to do something right now about it.

If cloture is successful, we ought to say it as it is. It will defeat this amendment. Evidently, the Republican leadership fears voting on this amendment, for reasons I can't possibly fathom, so much they are delaying the Senate a whole day. Here we are on Wednesday at 1 o'clock, and we are not going to be permitted to vote. We could vote on this in half an hour. No, you can't vote on it. We are going to make sure the Senate doesn't do any work this afternoon because we feel so intensely about increasing the minimum wage. We are against it going to $7 an hour over a 2-year period. We are going to insist on cloture—the unusual step of cloture in the Senate—in order to bring that amendment down so we will not even have to vote on it even though the Secretary of HHS has indicated minimum wage is essential to the success of this program.

Is there anything more ludicrous? Is there anything that makes less sense?

It is absolutely out of our imagination that Republicans feel so intensely in opposition they will refuse to let this institution vote on this measure which can make a difference in terms of children in poverty, families in poverty, proud men and women who are trying to provide for their children, a step that we have taken 11 different times since the minimum wage was passed with Republicans and Democrats alike. But what it is about is this Republican leadership that says: No, we are not even going to let you vote on it.

We had difficulties other times trying to get a vote on it. I will certainly admit that. And the record will show that. But eventually we were able to do that, and eventually we were able to get it passed. But the ferocity of opposition this time is mind-boggling to this Senator.

Listen to this, again from the U.S. Conference of Mayors: Emergency food assistance increased by 14 percent. This is just in 1 year. These are the 2003 figures. Fifty-nine percent of those requesting emergency food assistance were members of families, children.

And then: City officials recommend raising the Federal minimum wage as a way the Federal Government can help alleviate hunger.

Here it is, the Conference of Mayors—Democrat, Republican, mayors from all over this country; North, South, East, West; Republican and Democrat—talking about hunger, talking about the particular hunger needs of children, talking about the problems of the growth of hunger for working families, and they make one single recommendation: increase the minimum wage. And we cannot even get a vote on it in the Senate.

Can you imagine people watching the Senate and hearing: Well, no, we can't vote on that. We can't vote on that. We are just not going to vote. And they say: Why? It looks as if those who are proposing it are ready to vote on it.

We are. When are you ready to vote on it? In 20 minutes, half an hour? We are prepared. We have offered time limitations.

They say: You are?

What is wrong with the other side? They say it is not relevant to the underlying bill. They say it is not relevant.

Let's see. Is that the way the Senate works?

Let me help you figure out why it is relevant because I have a statement from the President's representative on this bill. This is what the President says. The President says:

> This administration recognizes that the only way to escape poverty—

He is talking now about the underlying bill—

> is through work, and that is why we have made work and jobs that will pay at least the minimum wage the centerpiece of the reauthorization proposal for the Temporary Assistance for Needy Families (TANF) program.

Well, then they say: Wait a minute, I thought the Republicans said your amendment is not relevant. And now you are saying the Secretary of HHS says you should have a good job that pays an adequate minimum wage? Yes.

And they say: It would seem to me it would be relevant.

It does to me, too. That should be understandable to any third grader or fourth grader, but it is not to the Republican leadership because they do not want to pass it because they have powerful interest groups that do not want to pass it. That is the reason: special interest groups that refuse to let this pass. That is it. That is what this is about. You cannot get around it.

So we have taken a few examples of who the people are who are affected, what kind of lives they are living, and what has been happening in one State that is a pretty prosperous State, my own State of Massachusetts, that has done a very detailed study. I will include that, as I mentioned, as a fierce indictment in terms of the failure of both our State and the Federal Government to be able to provide the help and assistance.

We have the one recommendation by Republicans and Democrats alike, the mayors all over this country, who are close to the people on it and say: We have one single recommendation. They did not recommend the extension of TANF. They recommended one thing: increasing the minimum wage. That was their single recommendation.

We heard statements just yesterday. I, very briefly, will respond to the arguments that if we raise the minimum wage we are going to contribute to the problems of unemployment in our society. I am glad to go through this issue. We have extended charts. We have debated this frequently the other times we had the increase, with the Kruger studies from New Jersey, which are probably the most extensive studies. I have the whole working paper.

It goes into great detail as to the impact, historically, on the job market.

As I mentioned before, the yellow line on this chart is the rate of unemployment in the year we increased the minimum wage, showing the rate of unemployment in October, when we had the second increase in the minimum wage, and then several months later.

So you have the cumulative two increases in the minimum wage. And what was its impact on the rate of unemployment? As you see, going back to the 1996 increase, 1997, and then several months later, the unemployment rate remained at 4.7 percent.

If you break it out with regard to African Americans, Hispanics, and teens, it is very much the same. You had 10 percent unemployment for African Americans, and 9.5 percent. If you take both the increase in that year and this year, and then take the result for those two, look at the next year; it was at 9.3 percent. If you look among Hispanic Americans, it is the same pattern. And if you look among the teens, it is the same pattern.

Strong opposition said it is going to increase unemployment, it is going to increase teen unemployment, and minority unemployment. It does not do so.

Another factor is the issue about whether this is going to be an inflater. As I mentioned, if you look it over—for those who want to take the time, it is not very difficult to do—but if you take the increase, the total number of people who are going to be affected by the increase in the minimum wage, and take the total payroll, you will find out the impact.

We know increasing the minimum wage by $1.85, as I have pointed out, is vital to workers but a drop in the bucket to the national payroll. All Americans combined earn $5.7 trillion. And a $1.85 minimum wage increase would be less than one-fifth of 1 percent of the total national payroll. So spare us—spare us—the arguments about the adverse impact of an increase in the minimum wage on unemployment and on minorities and on teenagers, and spare us the argument that this is going to add to the issues of inflation because it does not do that.

What it will do is, it will help some extremely hard-working families. It will help many workers who work hard clearing out the buildings at nighttime, being assistants to our teachers in our high schools and elementary schools in our country, working in nursing homes as assistants. These are minimum wage workers, and they are men and women of dignity. They are not looking for Government handouts. They want to be able to work hard and raise their children and live with the respect of their children and spend time with their children.

That is why this is a women's issue because the great majority of those who receive the minimum wage are women. It is a children's issue because so many of those women have children. It is a family issue because the relationship between, primarily, single mothers—not always but primarily single mothers—and their children is dictated by whether the mother has one or two or even sometimes three minimum wage jobs. The time, or lack of time, they are able to spend with their children, obviously, is enormously important.

This minimum wage is also a civil rights issue because so many of the men and women who receive the minimum wage are men and women of color.

It is a civil rights issue, a children's issue, a family issue, a women's issue. Basically, it is a fairness issue because these men and women in this country believe if you work hard—you work hard—40 hours a week, 52 weeks of the year, you should not have to live in poverty.

If you look, after all is said and done, at where the poverty level is for a family of three, it will be something under $15,000. And even with our increase in the minimum wage, they are going to be well below that.

We are prepared to vote early this afternoon. We don't need more time. We can take more time, but we are prepared to vote at any particular time. This side has made its case. People in this body know what the issue is all about. It is not enormously complicated. They understand it. We are prepared to vote. It is a very simple vote. If it is finally enacted in the House—and I think with a strong vote here it will be—and if it is signed by the President—and if we have a strong vote in the House and the Senate, the President is going to sign it—it is going to make a big difference because 60 days after enactment, the first phase of it will begin to give some new hope to some of the hardest working men and women in the country.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are involved in debate on a nongermane amendment the Democrats have offered on which we Republicans have said we are willing to vote, assuming we can have finality on this legislation and make sure we get to conference.

In the meantime, while those procedural issues are being worked out, I wish to express some views on the subject of minimum wage.

The proponents of this legislation claim they want to make sure that workers are able to earn a livable wage. Who doesn't know that is necessary for people to get along in this world? It is not very clear to me what the term "livable wage" means. But those who use the term seem to believe a person working at a minimum wage ought to earn more than the poverty level.

So let us consider that goal for a moment. Although there is more than one way to define poverty, the Department of Health and Human Services publishes the poverty guidelines each year. These guidelines are used to determine eligibility for low-income programs like food stamps. For a single individual, the poverty guideline then would be $9,310 a year. Under current law, any job subject to the Federal minimum wage must pay at least $5.15 an hour. Assuming a person worked 40 hours a week, 52 weeks a year, at a minimum wage, they would earn over $10,000 a year. Even after deducting Federal income taxes owed on this amount, a minimum wage worker is left with more money than the poverty guidelines.

I would like to repeat that a full-time minimum wage worker already earns more than the poverty level.

Now, is that a livable wage? The answer is that it depends. Even in my State of Iowa not very many people would say that is very ideal; in fact, just the opposite. Most people would look for much higher than that. According to the Census Bureau, more than 2 million workers have hourly wages at or below the minimum wage. More than one-fourth of these workers are between the ages of 16 and 19.

So is $5.15 an hour a livable wage? If one is a teenager living at home with their parents, they probably feel like they are making a lot of money. But what about other minimum wage workers? According to the Census Bureau, 85 percent of the people earning the minimum wage live with their parents, have a working spouse or live alone. Only 15 percent of the minimum wage workers are trying to support a family.

For those few who are trying to support a family, $5.15 an hour is obviously not enough income. Fortunately, these families do not have to get by on $5.15 an hour because under current law these families are eligible for Federal assistance through the earned income tax credit and through the food stamp program, two programs that are meant to encourage people into the workforce in a way that there is good return on it.

A single mom with two children working full-time at minimum wage would qualify for more than $4,000 in refundable tax credits and more than $2,000 in food stamps. On an hourly basis, that works out to more than $8 an hour. Even after Federal taxes are withheld, a single mom with two children is left with more than $15,670, which is the poverty guideline for a family of three. Thus, the debate cannot really be about getting people out of poverty.

Some people might say that these workers should not have to rely on Government programs to escape poverty, and those people working would look for a day in the future when they were making enough money that they would not qualify for the earned income tax credit or qualify for food stamps. But other people might say that employers should not be so cheap, that they ought to pay their employees more than the poverty level wages.

As I have just explained, the poverty level varies by the size of the families. Employers cannot pay their workers based on the size of their families. I do not know that they ever have. When one stops at a local donut shop, they do not charge $5 on Tuesday when the cashier is a teenager living at home with his parents and then charge $7 on Thursday when the cashier is a single mom raising two children. That is not the way the real world of economics or the business place works. Any business that tried to do things that way would no longer be in business.

The wages earned by workers are determined by the value that consumers place on the goods and services produced by the workers. Employers cannot pay their employees more than customers are willing to pay. In fact, in most cases, customers do have choices of where to buy their goods and services. They do not have to stop at the local donut shop. If they want to, they can eat at home, or some may just decide to do without.

Those who support raising the minimum wage claim that they are helping workers earn a livable wage, but if Congress could wave a magic wand and if Congress would raise wages by legislative decree, why would they stop at $7 an hour? Why not $70? Why not $700? Then everybody could be a millionaire.

The reason supporters of a minimum wage stop at $7 is because they know if the minimum wage is raised higher it means yet higher prices and fewer jobs. To deny these facts is to deny economic reality.

Proof? There is plenty of proof. It is very evident by the fact that no one has proposed raising the minimum wage to $70 or $700 an hour. Raising the minimum wage by $7 or $70 or $700 all have ensuing ill effects. The only difference is the smaller the increase the smaller the effect. Those who support a smaller increase are hoping that by only raising the minimum wage to $7, the price increases and the job losses will be small enough that no one will complain too loudly.

Minimizing the damage will not stop the damage. Raising the minimum wage to $7 an hour is going to cost employers $6 billion a year. That is a $6 billion tax increase on a small segment of our economy, particularly the small business sector of the economy. Ironically, out of those costs of $6 billion, roughly $5 billion will go to workers who are not supporting a family while $1 billion is going to go to workers who are supporting a family.

In other words, raising the minimum wage for everyone means only $1 out of every $6 goes to those who are most in need and particularly those we are trying to help with this bill to move people from welfare to work. That is a very expensive way to help low-income families.

One might try to justify this costly and inefficient policy if it were the only way to help those in need, but as I have already discussed raising the minimum wage is not about getting people out of poverty. A single mom working full-time at the minimum wage, with one or two children, is already out of poverty, thanks to the earned income tax credit and thanks to food stamps. If we want to help low income workers, we should support policies like the earned income tax credit and food stamps that provide help to those who need it the most.

Congress does not have a magic wand. It cannot repeal the law of supply and demand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened to my friend from Iowa, and he is my friend. It is amazing to hear the response to an increase in the minimum wage. They say we are going to let other Government programs look out after these proud, hard workers who are trying to provide for themselves and for their families. Effectively, if we follow the way that the Senator from Iowa suggests, we are going to have to tax more people a lot more so that those programs are going to be there because we refuse to have employers do what they should do, and that is to pay a fair wage.

Sure, everybody could be put on welfare and not have any minimum wage. What is the possible logic? Those Senators on the other side have been trying to cut those programs back for years. The programs dealing with nutrition, home heating and programs for food, they have been trying to cut those back for years. This administration has been trying to make EITC much more difficult to get.

In order to oppose the increase in minimum wage, they say, well, the EITC program is out there. We are talking about proud men and women who want to work hard and look after their children and have a sense of dignity and not depend on welfare programs. The answer for those who are opposed to us is, give them more welfare programs.

That is an insult to these working men and women. We reject that as an argument. We reject it.

We are standing for the dignity of those working men and women who ought, in the richest country in the world, in the strongest economy, to be able to work hard and bring up their children with respect and dignity and not a handout.

The Senator makes the point why we need the increase in the minimum wage. Because those workers are not receiving it today on their own. They should be able to get it. We are committed to trying to get an increase on the minimum wage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: We are under a cloture motion that has been filed on this amendment?

The PRESIDING OFFICER. A cloture motion has been filed on this amendment.

Mr. HARKIN. Since I have been recognized and I have the floor, is there a time limit on how long this Senator can speak?

The PRESIDING OFFICER. There is no time limit at this point.

Mr. HARKIN. I thank the Presiding Officer.

Mr. President, first I ask unanimous consent I be added as a cosponsor on this amendment to raise the minimum wage. I strongly support the amendment offered by the distinguished Senator from California, Mrs. BOXER, and Senator KENNEDY.

Let's be clear at the outset. The current level of $5.15 an hour as a minimum wage is a poverty wage—actually less than a poverty wage, which I will show in a minute. It is a wage that does not respect the dignity of work, including the most humble work in this country. That is wrong. I say the President of the United States ought to be ashamed of himself, this Senate ought to be ashamed of itself, the House of Representatives ought to be ashamed of itself, that we would let the minimum wage get as low as it has gotten, forcing more and more families into poverty and on food stamps.

I just heard my colleague from Iowa saying, rather than raising the minimum wage, we ought to be putting more into food stamps. What kind of a solution is that? I thought we were going to give people the dignity of work. We ought to get them off welfare and get them into jobs. Now I hear some people say the best thing is giving them more food stamps. I am all for food stamps. It has been a real blessing to our society. But that is sort of a welfare answer. It sounds as if we turned the clock back and we go back on welfare again.

The economic policies of this administration are simply not working as advertised. It is still sputtering. The recovery remains fragile. The President has assured us again and again that tax cuts overwhelmingly for the wealthy will stimulate the economy and create more jobs and get this country moving. Over the last 3 years we have had nearly $2 trillion in tax cuts, but we have lost more than 2 million jobs. The President's economic policies, including tax cuts, outsourcing of jobs, not increasing the minimum wage, refusing to extend unemployment benefits, are not working. Trickle-down economics simply, again, is not working.

You don't have to be from Iowa or Nebraska to know you don't fertilize a tree from the top down. You fertilize the roots, and that is how we need to stimulate the American economy, by applying stimulus to the roots, not to the treetops.

There are obvious ways to do this. No. 1, instead of the tax cuts for the wealthy, you focus tax cuts on working people who need the money and who will actually spend the extra money here in America.

No. 2, you increase the minimum wage. You put more money in the pockets of people who will spend the money because they have to, out of necessity.

No. 3, you extend benefits for the long-term unemployed. Today, March 31, a record 1.1 million Americans will lose their unemployment benefits—this quarter. This is unfair. It is indecent. It is foolish, because it will create more drag on the economy. Again, we ought to be ashamed of ourselves for not extending the unemployment benefits to all these people who have now lost them.

I strongly support the Boxer amendment as one step we need to take in addressing the fact we have too many people out of work, and that people on the bottom of the economic ladder are falling further and further behind.

No one in America who works for a living should live in poverty. Yet for the millions of hard-working Americans with minimum wage jobs, that is exactly what is happening. In fact, if you look at what has happened over the last few years, you can see if this is the poverty line right here for a family of three, going back here to 1971, 1974, 1977, the minimum wage was pretty darned close to the poverty line. Then during the Reagan years it started coming down. During the Clinton years it went up a little bit. Now we are back down again. Look at this gap compared to where we were before, or even before 1970 when the minimum wage was actually above the poverty line. When you look at that, it is no wonder our society has problems. No wonder we are being torn apart in this country. We have more people working, yet falling further below the poverty line because we don't increase the minimum wage.

The other side filed a cloture motion, I understand. I asked the Presiding Officer. He said a cloture motion has been filed on this amendment. This bill we have before us is TANF, the Temporary Assistance to Needy Families. The other side has filed a cloture motion, saying an increase in the minimum wage is not germane, it is not pertinent to the TANF bill, to Temporary Assistance for Needy Families. They are saying it is not pertinent because if the cloture motion is successful tomorrow, this amendment will fall. So they say it is not pertinent.

Why don't they tell that to Secretary Thompson? Here is what he said regarding TANF reauthorization:

> This administration recognizes that the only way to escape poverty is through work and that is why we have made work and jobs that will pay at least the minimum wage the centerpiece of the reauthorization proposal for the Temporary Assistance for Needy Families Program.

It is the centerpiece. And they say it is not pertinent. Somebody better get hold of Mr. Thompson. You better start getting your story straight. He says it is the centerpiece.

If minimum wage is the centerpiece for TANF reauthorization, then we ought to be about discussing how much of a minimum wage—not whether it is pertinent but how much.

Bear in mind again, I heard some talk about teenagers. I keep hearing about teenagers making minimum wage. They are living at home, they have this and that. Teenagers, teenagers, teenagers, I hear that all the time. But you have to look at the facts. Facts are stubborn. Sometimes facts get in the way of stories. The fact is, 7 million workers would directly benefit from a minimum wage increase; 35 percent are the sole earners in their families—35 percent. Maybe some of them are teenagers. Maybe they are married and out of school, maybe they are 18, 19 years old. Mr. President, 61 percent of those affected are women and one-third of them are raising children; 15 percent are African American and 19 percent are Hispanic Americans.

What is this all about teenagers? This is not about teenagers. This is about Americans who go to work every day. As I said, they do some of the most humble work in America.

I think I heard my colleague from Iowa saying something about if you raise the minimum wage, it is bad for business because people will shop elsewhere because they will raise the price of goods and people still have choices. We are not putting the minimum wage on one company and not another, one employer and not another. This is across the board. So if all of them go up, then there is still competition out there. Maybe through the competitive urges of the free marketplace they will find other places to cut costs, be more productive. But don't take it out of the hides of those who work for a minimum wage.

That is what we are basically saying. That is what Congress is saying. That is what this President is saying, when we don't increase the minimum wage. They are saying to businesses all over America: If you want to cut costs, if you want to increase your profit margins, we will help you by keeping your minimum wage as low as possible.

If we raise the minimum wage, maybe businesses will find some other ways of cutting costs and being more productive.

I also heard that if you increase the minimum wage to $7 an hour, it is a drain on business. It doesn't help the family that much. There would be more help with food stamps, for example. An increase to $7 an hour for full-time, year-round workers would add about $3,800 to their income.

Maybe for Senators and Congressmen who make $150,000 a year—I assume most of us have stocks and different investments—when you look at the net worth of the Members of the House and the Senate, what is it? Is it 500 times more than the average American? Maybe $3,800 doesn't seem like a lot to people here, but to a family on minimum wage, for a low-income family, $3,800 would be more than a year of groceries. It would pay 9 months of rent, a year and a half of heat or electricity, or full tuition at a community college for one of the kids. That is nothing to scoff at.

People say, Well, it will impact business. Again, facts are stubborn things. History clearly shows that raising the minimum wage has never had an impact on jobs, employment, or inflation. In the 4 years after the last minimum wage increase passed, the economy experienced the strongest growth in over three decades. Nearly 11 million new jobs were added at a pace of 218,000 per month. There were 6 million new service industry jobs, including more than 112 million retail jobs of which nearly 600,000 were restaurant jobs.

This was after we raised the minimum wage last time. It sure made a bad impact on this country, didn't it?

It is long overdue. We should be ashamed of ourselves for letting it fall so low.

Now we are being told we can't have a vote on the TANF bill because it is not germane. That is exactly what Secretary Thompson said.

> Work and jobs that will pay at least a minimum wage is the centerpiece to the reauthorization proposal of TANF.

Those are Secretary Thompson's words.

We also have to keep in mind that a great majority—61 percent, as I have pointed out—who would be affected are single parents, mostly women with children. Unfortunately, the kind of jobs that women who leave welfare find are minimum wage jobs, which makes it difficult, if not impossible, to sustain families and meet the demands of raising children. For these people, survival is a daily goal. They work hard enough. Their hours are long enough to make ends meet, but only barely.

What this means is they don't have time for their families. They cannot participate in activities with their children, especially school-related activities that most of us take for granted.

I would like to do a survey in the Senate of everyone here. I wonder how many Senators know someone or a family living on the minimum wage. I wonder how many Senators would actually have some friends who are families on the minimum wage. I bet you would not find very many who would actually know anyone. They read about them, but I mean actually know them or maybe have them as neighbors or friends and meet with them and talk with them about how they are living on a minimum wage. That would be an interesting survey to take.

For these people, as I said, survival is their daily goal.

Bear in mind the real value of the minimum wage has fallen dramatically over the past 30 years. Here is the real value of the minimum wage shown earlier by Senators KENNEDY and BOXER. We have to keep showing them because these facts are stubborn things. People are working the same.

Back in 1968, in real 2003 dollars, the minimum wage was $8.50.

In other words, if we had indexed to inflation the minimum wage in 1968, it would be $8.50 an hour. That is just indexed for inflation. But if you look at where people were back in 1968, look where we are now. The people who were working back in 1968 at minimum wage jobs are the same people, the same kind of people, the same class of people who are working today. They are doing the same kind of jobs. Why was that job worth $8.50 in 1968, but that same job today is only worth $4.98 an hour?

You might say the minimum wage is $5.15. But if we don't increase it by the end of this year, the real value of that will be $4.98 an hour.

Why? It is the same job, the same work. Why was it worth $8.50 an hour then, and it is only worth $4.98 an hour now? It is because we haven't done our job about keeping up the minimum wage. We keep pushing people down.

That is why there is unrest in America. That is why low-wage people are saying there is nothing in the system for them because it is so skewed against them. They work hard and never can get ahead because the minimum wage is stuck.

The minimum wage employee working 40 hours a week, 52 weeks a year, earns $10,700 a year. That is $5,000 a year below the poverty line for a family of three.

Again, here is the poverty line. The red line is for a family of three. Here is where we were in the past. Before 1970, the minimum wage was above the poverty line. Now look at the gap. Look how far down it is.

Poll after poll after poll taken of low-income Americans show that they don't believe the system is fair. You can read the polls. Look at what happened to them. You add on to that they don't have health insurance. You add on to that they do not have any retirement benefits. You add on to that their pay goes for high heating bills this last winter. You add on to that many of these people earning the minimum wage are paying one-third to one-half of their paychecks just for rent.

How many of us pay one-half of our paycheck for rent?

As I said earlier, the minimum wage—I stand corrected. It is not a poverty wage; it is less than a subsistence wage. And we can't ignore it any longer.

Three million more Americans are in poverty today than when President Bush first took office.

I am not saying that to blame it all on the President. I am not going to say that. Of course not. I am just saying it is a fact.

Today, more than 34 million people live in poverty including 12 million children.

I am not blaming it on the President, or anybody else. I am just stating a fact.

Among full-time, year-round workers, poverty has doubled since the late 1970s—from about 1.3 million to 2.6 million in 2002. Poverty has doubled since the late 1970s.

There is a lot of blame to go around. Rather than blaming anybody, let's fix it. The best way to fix it is to raise the minimum wage. That is at the heart of this problem.

An increase to $7 an hour would affect nearly 7 million workers.

I just saw the figures as to what it would mean in Iowa. I have the figures here as to an increase in the minimum wage in Iowa. If we were to increase this minimum wage, there would be 104,000 workers in my State of Iowa who would be making more money—104,000 workers. Do you know what? They will spend that money. They will spend that money because they have to spend it, because their rent is high, their heating bills are high; if they have any health insurance at all, that is skyrocketing. They are paying for food, paying for the kids. That money gets spun around in the economy. It would be a shock of stimulus for the economy.

I am proud to cosponsor the amendment. To say it again, at the heart of this problem is the fact we are just not paying people for the work they do. Why is it people who do the dirtiest kind of work, the humblest kind of work—the kind of people you walk by, and you never notice them; you go into a restaurant, you go in to eat, and then walk out, and you do not notice them; a lot of times you go into stores, they are there, but you kind of walk by them—well, it is time we noticed them. They deserve to be noticed. They are Americans, and they are working hard. They are trying to raise their families and do the right thing, and what do we say to them? Forget it.

I almost hear echoes from some of the comments I have heard on this floor. I have heard echoes there should not even be a minimum wage. Now, I did not hear anybody say that. I said I sort of heard echoes of that: Well, if we set the minimum wage at $7, why can't we set it at $70 an hour or $700 an hour or $7,000 an hour or something like that? Well, that is sort of scoffing at these poor people who are working because it is almost like saying maybe we should not have a minimum wage at all.

There are a lot of countries that do not have the minimum wage. I suppose we could be like them. I always tell people: When it comes to things like having a minimum wage, just keep in mind, there is always someone poorer than you, more desperate than you, lower down on the ladder than you, who will work for less than you are going to work for because they need it. There is always someone poorer, more needy, more desperate.

Is that what our society says: The law of the jungle? Turn the clock backward and just have a welfare system? As Senator KENNEDY said, rather than taxing the American people to provide food stamps and welfare benefits and things like that, it is better to raise the minimum wage and give them a decent living wage rather than putting them on welfare. That is bad for the people on welfare.

I supported welfare to work. I believe in it. But in order to move people from welfare to work, they need some health care benefits; they need some childcare. Fortunately, we passed the Snowe amendment. We need an increase in the minimum wage, and they need housing. But keeping them at this less-than-subsistence wage will not do it.

I have almost heard some echoes, also, that this is some kind of a partisan issue. I went back to look at this issue. Senator KENNEDY pointed this out, and I have a chart to point it out again. I think it is very instructive. Since Franklin Roosevelt, when we got our first minimum wage in 1938, almost every President has raised the minimum wage, including Eisenhower, Gerald Ford, and George H. W. Bush. Interestingly, Reagan and this President Bush are both missing. But it has been bipartisan in the past. We have had Republican Presidents who have raised the minimum wage, as well as Democratic Presidents. So I do not think it is a partisan issue at all. It is an economic issue. And it is how you view the value of work.

Now if you believe people ought to go out there and work for whatever an employer wants to pay you, and if you don't like it, you can go somewhere else and try to get something better. We have tried that before in our country. We see that happening in other Third World countries because there is always some poor sucker worse off than you who will work for less than you will.

I really do not think that is the kind of country we want to become. Work should have honor and dignity, and the minimum wage today is not giving dignity to the work these people do.

I will close. I see the Senator from Idaho wants to speak. I will wrap up in a second.

We are talking about Temporary Assistance to Needy Families. The bill on the floor is food assistance.

Listen to this. A 2003 survey by the U.S. Conference of Mayors—these are not Democrats—looked at the hunger issue, and here is what they found: 39 percent of the adults requesting food assistance were employed. Thirty-nine percent seeking food assistance were employed. This is from the Conference of Mayors.

They found a leading cause of hunger was low-paying jobs. The Conference of Mayors found emergency food assistance increased by an average of 14 percent. Fifty-nine percent of those requesting emergency food assistance were members of families—children and their parents. Fifty-nine percent of those who sought emergency food assistance—which means they were at wits end; they had no money, and they had no other place to go, so they requested emergency food assistance—59 percent were members of families—children and their parents.

What did the mayors recommend? What did the Conference of Mayors recommend? They recommended raising the Federal minimum wage as a way the Federal Government could help alleviate hunger. We are being told we cannot do that; we cannot add it to this bill; we cannot even vote on it.

We saw the same thing on overtime: No, we can't vote on that. Put it someplace else. No, we can't vote on minimum wage either.

What is the Senate coming to? Why don't we do as the House of Representatives did, where we used to serve—have a rule where you can't do anything, just pass it. That is why the Senate is different than the House. That is why we are supposed to have open and free-form debate and be able to vote on these issues. But these parliamentary tactics keeping us from voting on things such as overtime, extending unemployment benefits, and now the minimum wage are unworthy of the Senate, unworthy of this country, unworthy of our jobs.

I close by saying again, this is an issue that cuts very deeply. I remember I was in my home State in the last year, and I found an interesting thing, that more people were relying upon the food banks in Iowa. I thought to myself: Why is that happening? Our unemployment is not that high. It went up a little bit, but why were more people going to food banks in increasing numbers than the unemployment rate was rising?

I found out these are low-income workers. They are minimum-wage workers. They get food stamps. But because we have cut back on food stamps, their food stamps run out about the 20th of the month, and they have to go to the food banks for the rest of the month. I have to believe if it is happening in Iowa, it is happening all over the country.

It is time to give dignity to the people who do the humblest work in our country. Let's get them back up to what they had in the past. If their job in the past was worth what today would be $8.50 an hour, it is at least worth $7 an hour now.

What if we took corporate CEO salaries from 1968 and said they have to now have the same percentage reduction this year as those on minimum wage? Boy, the hue and cry that would go up on that one.

I have made my point. I hope we defeat the cloture petition. I hope we have a vote on increasing the minimum wage, and I hope it passes overwhelmingly. I hope the President will be on board and support it so we can give dignity to our workers.

I thank the Senator from Idaho for his patience and yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Idaho.

Mr. CRAIG. Mr. President, I have listened most seriously to the Senator from Iowa on the issue of the minimum wage. My guess is, before the legislative year is out, we are going to vote on this issue. I believe it is important the Congress express its will. Certainly the minimum wage is a part of the total economic makeup of our country, and we need to be concerned about it. When we are talking about welfare reform, we know good-paying jobs are a part of getting people off welfare.

We also know creating an economic climate in which jobs can grow is another way of making sure we have good-paying jobs, be they minimum wage or slightly or substantially above. It is the whole of the economy that makes our country what it is. It provides for the middle class and the upper class and all of those others who have been the tremendous energy and engine of this economy for so long.

The day before yesterday and yesterday, I came to the Chamber to speak about the ever increasing price of energy. Today if the Senator from Iowa or the Senator from Idaho gassed their car up in this city or in Idaho or in Des Moines, we would have paid the highest price for gas ever paid in our history. Does that have impact on poor people or poorer people? You bet it does. They spend more of the total percentage of their income for energy than does someone who makes more money, who is in the upper class of society.

When we talk about the minimum wage and welfare reform and the economy, should we not be concerned about the price of energy as it relates to that minimum wage employee who drives to work and drives home and spends a higher percentage of the amount of money they get from the minimum wage on energy than any other segment of the economy? We ought to.

This Senate has denied us the right to speak to that. Now the other side is suggesting that again we have to go through multiples of amendments if we bring up an energy bill, even though we debated it a year ago and even though we debated it the year before that, and even though we passed it out of the Senate twice and we have had ample time. And tens of plus amendments later, we have to go through that again, when this country is hurting more on energy and energy costs than it ever has.

I think the American people expect more of us than just an endless debating society that never produces anything. What have I heard in the Chamber, as I have been speaking about energy the last several days? It is big oil's fault or it is the President's fault. It is somebody other than the Congress.

Let me suggest to my fellow Senators: No, it is not the President's fault and, no, it is not big oil's fault. It is the Senate's fault for denying the American people a modernized, contemporary energy policy.

The House passed a policy. The House passed the conference. But not the Senate. No, the Senate couldn't get there because too many of us had too many different ideas. We are here now sitting as Senators while the American consumer is spending more today for gas at the pump or gas that goes to the home for heating than ever in our history.

Shame on us. Shame on us for denying a contemporary, modern energy policy. We have not touched energy policy in our country for the last 14 years. As a result of that, our policy is obsolete. It doesn't fit modern America.

As I said yesterday and the day before: Consumption overall as a part of per capita has gone down, whether it be with the individual consumer or whether it be with corporate America or business and industry. But growth in our country has gone up. Yet we have largely denied our country a progressive supply-related energy policy. In other words, we have simply ignored the reality of the marketplace of supply and demand.

We have had all these cute ideas over the last several years about how we can conserve our way out of this one or we can deny the consumer the right to have more energy in one form or another and that will solve the problem. It didn't solve the problem.

During the decade of the 1990s, with unprecedented economic growth in our country, we used up all of the surpluses that had been built into the system. Whether it be gas supply for space heating, gas supply at the pump, whether it was commercial, we used it all up. At the end of the decade, we were beginning to experience blackouts in California. We were beginning to experience shortages. But most importantly, that supply/demand equation had begun to work and prices were edging up very rapidly.

Here we are, with a 14-year-old policy, and we haven't recognized the rest of the world has also grown. One of the great growth giants today in the world is China. China's crude oil imports grew 30 percent last year, from the same supplier that is supplying 60 percent of our crude oil, the crude oil markets of the world.

What is happening out there is this very rapid acceleration. We all want the economy to come back. We want our economy to come back. We want the world economy to come back so it can buy our goods and services. And as that economy comes back along with ours, they will demand more energy.

We know the facts for high gas prices. The price of crude oil yesterday was $36.25 a barrel. That is why we have high gas prices. Inventory stocks are down. Fragmented gas markets are different today, and the introduction of new fuels is phenomenal. We know those are the realities of what we are doing and what we are dealing with. I don't know that you can deny it in any other way, unless you want to play raw politics.

We also know what the situation is in our country today. We import 62 percent of our crude. So the same people supplying that phenomenal growth in China are also supplying us with our crude. Our refineries are now operating at record high rates. Gas production is running at record levels all over the country. Throughout the year, demand continues to be strong, as we try to get the economy going again. It is going, and it is growing. That is part of the reason for these record prices.

Let's talk a little bit about big oil. Let's talk about the collusion some suggest might be out there. The attorney general of the State of California did exactly what you would expect. We better go out and investigate big oil again because gas prices are over $2.30 in California. Investigate, if you will, but I offer the following for the record; that is, the reality of all of the investigations we have had. We have had 29 State and Federal investigations over the last several decades. Most recently, the U.S. Department of Energy looked at it and said: Demand exceeds supply. What happens when demand exceeds supply? The price goes up.

California Energy Commission—I guess the attorney general out in California ought to listen to the energy commission. What drove increases were unusually high costs for crude in a world market. Is that collusion, or is that supply and demand?

California, listen up. There is your problem. It is called not enough supply to meet demand of the drivers of California today.

Connecticut Department of Consumer Protection—while numerous factors contributed to sharp increases in gasoline prices this summer, wholesalers and retailers were not hiking prices to pad their profits.

Again, a marvelous thing is happening out there. The marketplace, supply and demand.

I ask unanimous consent to print in the RECORD a list, starting in May of 1973 and going through this past year of 2003, of literally almost 30 different investigations, State and Federal, as it relates to big oil. Every one of them found there was no collusion.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPLETED INVESTIGATIONS OF OIL INDUSTRY PRICING

Date of investigation	Investigating body	Description of probe
May 1973	FTC	". . . investigation of competition in the industry is incomplete and no decision about any antitrust action has made made"—New York Times.
August 1975	Pennsylvania	Grand jury investigation underway—Newsweek.
1977–1983	DOJ	"The Justice Department yesterday ended a six-year investigation it said produced scant evidence that the major oil companies had conspired to run up the price of Persian Gulf oil in the late 1970s."—Washington Post.
May 1979	DOJ	"President Carter orders investigation of gasoline shortages in California. Report cites loss of Iranian crude supplies following overthrow of the Shah and finds insufficient evidence of collusion."—Houston Chronicle, May 29, 1996.
1984	DOJ	"investigates increases in home heating oil prices in the winter of 1983–84."—Houston Chronicle, May 29, 1996.
1989	37 State Attorneys General	"Over half the states . . . have launched investigations of possible price-gouging . . . Thirty-seven state attorneys general wrote to the Justice department requesting an investigation of gas-price increases."—St. Petersburg Times.
January 1990	DOJ	". . . again looks into home heating oil and propane prices after prices spiked during an especially bitter cold snap in December 1990."—Houston Chronicle, May 29, 1996.
August 1990	DOJ	"The antitrust division began the investigation on Aug. 6 in response to the nearly immediate increase in gasoline prices after the invasion [of Kuwait]."—New York Times. "The investigation is called off two years later."—Houston Chronicle, May 29, 1996.
September 1990	United Kingdom	"The five major UK oil companies, Shell, Esso, BP, Texaco and Mobil, were today cleared by the Office of Fair Trading of fixing petrol pump prices . . . There was no evidence of collusion . . ."—Press Association.
1993–1995	North Carolina	"Apparently, the monopoly question needs further study."—Charleston Gazette (editorial).
AG Investigation Initiated in 1994	Minnesota.	
1994–1998	Arizona	"Gas prices in Arizona are high, but don't blame hush-hush price-fixing meetings in corporate boardrooms, the Attorney General's Office concluded in a report released Monday after a four-year investigation."—Arizona Republic.
May 1996–May 1997	DOJ	"Bingaman has set up a five-member panel of attorneys and economists within the division 'to study recent increases of gasoline prices.' If this task force finds that market forces are not responsible . . . it will investigate to determine whether there is any evidence of collusion within the industry."—BNA Antitrust & Trade Regulation Daily. "No enforcement action was taken," a DOJ spokeswoman said.—Houston Chronicle, May 20, 1997. "The [DOJ] completed its investigation of rapidly rising gasoline prices that occurred last spring by declaring it found no evidence that refiners and marketers engaged in price fixing or any illegal activity."—21st Century Fuels, June 1997.
May 1996	Canada	"The [Competition] Bureau first investigated allegations of collusion and price-fixing in 1973. Several subsequent inquiries have all produced the same result: no evidence was found to prove that the big oil companies act in concert to dictate retail gasoline prices."—Maclean's, May 27, 1996. "Officials from the departments of industry and natural resources say privately that the inquiry . . . is unlikely to uncover a sinister conspiracy by the oil companies to fix pump prices that often fluctuate in unison according to gas supplies and the time of year."—Maclean's, June 3, 1996.
October 1997	Connecticut	"The U.S. Conference of Northeast Governors (CONEG) . . . called on major oil companies to explain recent gasoline price increases, and Connecticut Gov. John Rowland (R) is expecting a report this month that might be referred to the State Attorney General for an investigation into possible price-fixing."—Octane Week, October 13, 1997.
May 1998	FTC	"After an almost three year investigation, the Commission found no evidence of conduct by the refiners [in the Western States] that violated federal antitrust laws." FTC press release, May 7, 2001. Investigation closed.
May 1998	Iowa	"The Iowa Attorney General's office launched an investigation into price fixing in Dubuque and Waterloo. The Attorney General's office said from the beginning that proving price-fixing without insider would be difficult and did not find evidence of it."—Des Moines Register.
GAO Study of California Prices Initiated 1999	GAO	GAO study of California gasoline prices requested by Sen. Feinstein finds the state's high gasoline prices are due to the strict supply and demand nature of gasoline.
AG Investigation Initiated Summer of 1999	California	Preliminary investigation reveals no evidence of wrongdoing; high gas prices may be the result of low competition in the market.
AG Investigation Initiated Summer of 1999	Alaska	"The investigation was initiated in 1999 in response to public complaints about the high price of gasoline in Alaska in comparison to other states," [AG] Botelho said, "I am closing the investigation because there is insufficient evidence indicating a violation of the antitrust laws."—Governor's Press Release (Nov. 21, 2002).
AG Investigation Initiated Summer of 2000	Iowa	"Iowa Attorney General Tom Miller said Thursday he uncovered no evidence of illegal price-fixing, collusion or antitrust violations while investigating spikes in gasoline prices last summer."—The Gazette, April 20, 2001.
AG Investigation Initiated Summer of 2000	Missouri	No evidence of wrongdoing. Investigation closed.
AG Investigation Initiated Summer of 2000	Indiana	No evidence of wrongdoing. Investigation closed.
Investigation of Midwest Prices Initiated Summer of 2000	FTC	No evidence of industry wrongdoing/collusion. Final FTC Report released March 30, 2001. Investigation closed.
AG Investigation Initiated Summer of 2001	New York	"Recent higher gasoline costs [in New York] are not the result of price gouging, price fixing or other collusion, conclude State Attorney General Eliot Spitzer."—Times Union, May 13, 2001.
AG Investigation Initiated Summer of 2000	Kentucky	Initial investigation of Kentucky gasoline prices last summer [2000] found no wrongdoing; specific investigation in Louisville's West End remains open.—Cairrier Journal, May 11, 2001
Impact of Mergers on Gas prices; Initiated Summer of 2002	GAO	GAO findings due to Senate Subcommittee on Investigations (Senate Government Reform Committee) by August 2002.
AG Investigations Initiated Summer of 2001	Minnesota	No evidence of illegal pricing behavior by retailers or refiners following terrorist activity of September 11.
DOE Investigation of Gasoline Price Increases; Initiated September 2003.	DOE.	
Department of Consumer Protection	Connecticut	DCP press release of 11/26/03 states, "While numerous factors contributed to a sharp increase in gasoline prices this summer, wholesalers and retailers were not hiking prices to pad their profits . . ."

Well, if they are not polluting, out there conspiring to fix the market, they are profiteering. They have got to be making huge amounts of money today at $2.35 a gallon in California, or $1.80 in my State.

Look at last year on this chart. This is from BusinessWeek magazine. Let's talk about the most profitable businesses in the economic sector of the United States. It is not profitable to own an oil company. You ought to own a bank. You ought to own diversified finances, real estate, semiconductor equipment, pharmaceuticals, and biotech. That is where the returns are, 19 percent, 17, 16, 14, and 12 percent. Let's go find big oil. Where is big oil? Well, let's see. Big oil is all the way down at the bottom in the utility area. I believe it is something like a return on investment of 1.4 percent. Oh, my goodness. Is that profiteering? I don't think it is profiteering. I think it is called return on investment versus competition versus price of input product. And the price of crude oil is $36. That is the reality of what we are dealing with.

Here is a problem out in California. Let's go to the next chart because California worries me. I am glad I don't live there at the moment. I am glad I am not paying $2.35 or $2.40 a gallon. I am sorry that Californians are. This is a very interesting chart. It deals with what we call U.S. gasoline requirements under the Clean Air Act. We know we have air problems in heavily congested areas where air is stagnant, and it doesn't move as rapidly as in some other areas. That is certainly true in the State of California.

Every one of these different colors on this map represents a requirement for the refining industry to produce a unique kind of product. We see in the State of California one, two, three—possibly four types of what we call boutique fuels, or certain blends of fuel. Every refinery has to shut down and readjust before they can produce that kind of fuel, and that kind of fuel costs more money than a standardized kind of fuel. As a result, it does drive prices up, and we know that to be a reality.

That is part of the problem we face when we look at our clean air standards in the Clean Air Act. I am not arguing we should not have the Clean Air Act, but there are times when reasonable flexibility ought to be offered when consumers are paying unprecedented prices, or maybe we ought to be concerned about refinery capability and capacity. We have lost numerous oil refineries in the continental United States over the last good number of years. Many of our companies today are saying it is better that we—here is that bad old word—outsource if we want to keep prices low in this country because Federal regulations and certain State standards are costing us a great deal of money.

In the area of gasoline, to understand the reason it is $1.80 in Idaho and $2.35 in California, look at the map. There is part of the reason. It is not all of the reason, but a substantial part of the reason that we are dealing with energy in a way that is very frustrating. Here is the most frustrating thing to do, along with not being able to pass an Energy bill. When we talk about the economy and jobs and job creation—this is the investor thinking at this moment—the average investor who puts money in the business that creates jobs—here is investor attitude this month. In fact, it comes from a headline in a Gallup poll survey. It says: "Overall investors' optimism declines for the second month in a row in March." The No. 1 reason for the decline in investor attitude was the price of energy because an investor looking at a company knows that company is going to have to pay for energy as a part of the output of that company, and it is going up dramatically. Sixty-four percent said high energy costs are hurting the economy a lot.

If you listen to the rhetoric on the floor of the Senate for the last several days, you would not have gained one inkling of that. Nobody has talked about passing an Energy bill and developing a national energy policy that gets us back into production. Yes, there is a Senator over there from Nebraska who agrees with me. We are talking about things that make for good political ads but darn bad economy, at this moment. I don't blame the American consumer, and now the American investor who drives the economy of our country, for saying high energy costs are going to hurt us and are hurting a lot.

I mentioned on the floor of the Senate yesterday that I talked with a banker in Idaho who does a lot of operating lines for farmers—not big farmers but medium-size and small farmers. He called all of his branch bank managers and said: See if that farmer can afford a 20- to 30-percent cost in doing business this year because that is where the energy costs are going to take them on the fertilizer and hydrous ammonia, a direct result of gas gone up almost 100 percent—how can we keep an abundant, safe, high-quality food supply if we are going to cause farmers to produce less because they cannot afford to produce more?

Now, all of our chemical companies are headed offshore to cheaper gasoline because we are too busy locking up the public lands of the West and denying exploration, all in the name of the environment. We are now talking about raising the minimum wage, and we cannot even create jobs in other wage categories because we will not allow the investment. One of the great competitive characteristics of our country is the tremendous ingenuity and initiative of the American workforce and low energy costs. Historically, our great wealth was driven by low energy costs. Now, we are no longer in that category. We are competing in a much tighter world market because somehow in the decades of the 1980s and 1990s, we forgot you had to produce it before you could use it. As a result, now we are 60-percent dependent upon foreign oil—60-percent dependent upon someone other than an American for determining the price of gasoline at the pump. Well, shame on us. It is a very real world we live in, and that is the consequence we are dealing with.

So why are we not debating an Energy bill on the floor of the Senate? Our President, when he came to office, while he was still President-elect, said the No. 1 priority in this country was to develop a national energy policy. He acted quickly, put a team together under the Vice President. They recommended a variety of ideas to us in their policy. That was 3 years ago, or more, and we are still sitting around debating it and saying we cannot get there. Now the American consumer is paying at the highest price ever.

Doesn't the Senate get it? I don't think so. I think the politics of energy is so sweet that somehow we deny the reality at hand. I think it is time to cease denying that reality. Here are the facts. The investment community is saying: Wait a minute, energy prices are high and getting higher, and they are hurting the economy. It is time that we do something about it.

Here is the only thing I can do about it, and I am willing to help my fellow Senators. Go to my Web site, if you would, craig.senate.gov. There are all the facts and statistics on energy. Anybody listening can go there, too, and they can see who voted for it and against it and their phone numbers. I don't think Senators ought to call Senators. They ought to talk to them on the floor and say that is the thing to do. There are Senators in this body who deserve a phone call and deserve to be asked why they voted against the conference report on energy, why they are denying the American consumer—the minimum wage person, along with the millionaire—a reasonable energy policy for this country, which sustains our economy and creates jobs, and that allows us that competitive force we have always had in the world market. We were not allowing it. The Senate is not allowing it.

There is a sole reason today why this country does not have a modern energy policy that involves production, that involves conservation, that involves new technologies, that involves new resources. The reason is the Senate is denying that. They have denied it now for 2 years, and it is time we ante up, we get honest with ourselves and have a vote.

Go to my Web site if you want, I say to my fellow Senators. There it is: Craig.senate.gov. All the facts and figures are there. The voting records are there. It is time we get honest with ourselves. It is time we drop the price at the pump instead of breaking the piggy bank from which we all live.

That is my priority, and I think as American consumers pay the bill, it will become their priority. I wish it was the Senate's priority.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I agree with much of what my colleague from Idaho said with respect to passing the Energy bill. I think it is important we find ways to become far more energy independent, rather than dependent, on foreign sources of oil. In addition to looking for ways to become self-sustaining in our energy needs, we need to look to the Western Hemisphere for a Western Hemisphere energy policy to bring together the countries in this hemisphere to work jointly for our energy needs. I will have more on this in the future. I commend my colleague for his comments about the importance of getting an Energy bill. We need to look at renewable sources of energy.

I know my colleague from Iowa will agree that soy diesel and ethanol would be just a few of the kinds of things we could do as an alternative energy policy, and they are all included in the Energy bill the Senate has passed on a couple of occasions and hopefully the White House will work with the House of Representatives to fashion their version of a bill that will mesh with ours so we can ultimately pass in the very near future an Energy bill for the United States so 60 percent reliance on foreign sources can be reduced as dramatically as we possibly can do it, as quickly as possible as well, so we can become self-sustaining with our energy needs.

I wish to also talk today about the effort that has been undertaken since at least 1996 by Congress and the previous administration, and that is the fundamental reform of the welfare system. This system, while seeking to prevent hardship among those hurt by economic deprivation by providing a safety net, had unfortunately become a spider web. Too many families were caught in the cycle of poverty, and the system that was supposed to help them became instead complicit in maintaining the cycle.

Chief among those reforms was providing more flexibility to States. As a Governor at the time, I saw firsthand the results of giving those closest to the unique challenges of the system, the States, the ability to implement changes to the welfare system.

In Nebraska, we instituted a program called Employment First. This was a fundamental change to the way welfare worked. No longer would a person automatically be entitled to benefits if able-bodied. He or she had to sign a contract which laid out a plan for becoming self-sufficient. The maximum period of being eligible for benefits was 2 years barring extraordinary circumstances. Yet Employment First also recognized some persons, especially single women with children, needed additional help with family matters such as childcare and transportation.

We provided transitional aid for these challenges, even after they found employment; if you will, a bridge from welfare to work, a bridge that was put in place to help people become self-sufficient in the process of finding employment and leaving welfare.

Public officials were encouraged to consider a new view of the measurement of assistance. Instead of focusing on how many were added to the rolls, they looked at how many entered employment. That change in vision produced dramatic results. The total Nebraska caseload dropped 11 percent by 1998, the lowest number in 18 years. Average monthly caseloads fell 30 percent from 1993 levels. A family's time on assistance had been cut almost two-thirds to 11 months from the time under the old system, and Nebraska taxpayers saved $14 million moving families from dependence to independence, from welfare to work.

This is important to note. Nebraska saved $14 million under the new system. It is important because States, including Nebraska, are now facing serious budget shortages. In fact, today's Lincoln Journal Star reports Nebraska leaders had to borrow from the State's cash reserve fund to make payroll and pay its bills this week. In fact, $58.2 million, which is the exact amount Nebraska received in additional Federal funds this year, was borrowed from the reserve to fund schools and other programs throughout the State.

The Federal funds stored in the State's reserve have helped States during this recession period. Those funds came from a State fiscal relief measure sponsored by my colleagues Senator SUSAN COLLINS of Maine, Senator JAY ROCKEFELLER of West Virginia, Senator GORDON SMITH of Oregon, and myself. This is exactly what that State fiscal relief effort intended: to provide fiscal assistance to help States, such as Nebraska, that are facing chronic budget shortfalls and help them meet their obligations.

It is important to remember this welfare reform bill will also help States continue to meet those obligations. For example, the State of Nebraska sharply cut back eligibility for childcare assistance from 185 percent of poverty to 120 percent of poverty. As a result, about 1,600 Nebraska children lost childcare assistance from the State.

Yesterday the Senate adopted an amendment to add $6 billion for childcare services to this bill. Under that amendment, Nebraska would receive $40.8 million of that money to help the State provide for Nebraska's children. I am proud to say I was one of those in the majority who voted for that amendment.

With flexibility, the States can tailor their programs to meet their specific needs and save money in the process. A large part of our success in Nebraska in the 1990s was due to the new flexibility allowed under the 1996 law. We now want to expand that flexibility so more States can craft their own unique methods to succeed.

Yet Employment First also recognized some persons, especially single women with children, needed additional help with family matters, such as childcare and transportation, and with the Federal funds that were provided were able to do that.

Today I wish to talk briefly about the Alexander-Nelson-Carper-Voinovich amendment or, if I am talking to Nebraskans, the Nelson-Alexander-Carper-Voinovich amendment that would provide that flexibility to the States.

Our amendment would create the accountability for a results demonstration project to provide greater flexibility to up to 10 years. But we wouldn't just provide flexibility, we would demand results and accountability. States participating in the project would be required to ensure all adult TANF recipients have a self-sufficiency plan, much like Nebraska.

As I said, we have put this to work in Nebraska. It has made a tremendous difference in how recipients look at their own lives. It helps them map out their own paths to success and assures they will have the institutional assistance they need to follow it.

Our amendment would also include targets for increasing the State's performance, not just increasing employment and job retention, but in tracking entry earnings and earnings gains and, most importantly, child well-being. This is vital because reducing the welfare rolls will mean little if it comes at the expense of children. The amendment would institute penalties for States that fail to meet their agreed-upon targets because it means little if it is not accompanied by results.

This proposal will expand upon existing reform measures and will help strengthen States' abilities to assist those most in need while giving them the tools they need to succeed. It is worth pointing out this amendment is sponsored by four former Governors.

We understand the role of the States in making welfare reform a success because we have all been there. States can do more. They want to do more. This amendment will help them meet the unique needs of their citizens by tailoring their programs to address the needs of recipients in their States.

I recall the times when it was necessary to come to Washington to get the approval of Health and Human Services to take a unique approach. This was time consuming, expensive, and delayed the process. What we want to do is give the Governors the opportunity, through their legislatures, to address the needs of recipients in their own respective States, under the theory of the States as the laboratories of democracy as envisioned by Thomas Jefferson. We want to give them the opportunity to make those changes and meet the needs of their respective citizens.

I thank my colleagues, Senator ALEXANDER, who has arrived on the floor, Senator CARPER, and Senator VOINOVICH for their hard work on behalf of welfare recipients and their efforts on this amendment. I urge my colleagues to support this amendment and help the States help their residents.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I simply wanted to congratulate the Senator from Nebraska on his comments. He and I served as Governors, as he said. We may not have gotten over that entirely as we look at legislation. We strongly support the revolutionary change in American life the welfare reform bill has brought since 1996. Half of those on the welfare rolls are off. The hardest cases remain.

What we are attempting to do with this amendment is to suggest that we want to try, with up to 10 States, to give the Secretary some flexibility in finding the best way to help people get from dependence to independence. If State plans using a combination of work and removal of barriers to work and a variety of other factors can do that according to measurable results, then that will give us some successes now and information we can use when we consider this bill in the future.

I congratulate the Senator from Nebraska on his leadership and look forward to working with him on the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

ENERGY

Mr. BINGAMAN. Mr. President, I rise to very briefly speak about some of the issues my colleague from Idaho raised related to the high price of gasoline at the pump. I am afraid the impression was created by my colleague that if the Senate were just to go ahead and pass the energy bill that is now on the Senate calendar, that would solve the problem of high gas prices for the American consumer. I think we need to dispel that notion if that was the impression that some people had.

The truth is, there are three big issues I heard referred to. One is clearly production of oil is not what it needs to be relative to demand today to bring prices down, and the world market is indicating that. We received the very unfortunate news this morning that OPEC had decided to go ahead with the cut in production they had earlier talked about. That is unfortunate. Some of the media has speculated that would result in $40 per barrel of oil in the reasonably near future. If that is the case, then we will see very high prices for gasoline in this summer driving season.

In a letter I sent to the President last week on March 24, I had urged the administration to do all it could to dissuade the OPEC nations from going ahead with that proposed cut in production. I do not know what actions the administration took. Clearly, if they did take actions they were not effective, and accordingly the amount of oil being produced by OPEC nations will decrease and that will add to the problem of high prices of gasoline at the pump.

A second item mentioned by my colleague from Idaho was that there is inadequate refining capacity. That is clearly true. I recognize that. It is one of the items we deal with in this letter I sent to the President last week. In that letter, I have urged that the President take the necessary steps to bring the parties together and to identify what the barriers are to the construction of additional refining capacity in this country.

That is not something we are proposing to legislate in an energy bill. There is nothing in the energy bill that deals with expanding refining capacity. I do not want anyone who has been watching this debate to think by passing an energy bill the problem of refining capacity will be solved.

The Presiding Officer asked the Energy Information Administration to do a report as to the effect of the pending energy legislation on prices, production, and availability of fuel in the future, and essentially the conclusion was the effect of that legislation would be negligible. Let's not give people the impression the problem of high prices at the pump is going to be solved by the Senate going ahead and passing a particular energy bill at this stage.

I would also point out what we all know, which is that we have passed an energy bill in this Senate in this Congress. We passed an energy bill in this Senate in the last Congress. So it is not that the Senate has been unwilling to act on responsible energy legislation.

The third item I wanted to talk about is this whole issue of boutique fuels. My colleague from Idaho correctly pointed out that one of the problems we have and one of the reasons why prices stay higher than they should is there is not enough what is called product flexibility, that we do not allow refiners to produce product which can be shipped to enough parts of the country. We have too many different types of boutique fuels and too many formulations for these boutique fuels around the country. There are estimated now to be 110 formulations of these boutique fuels.

What I recommended to the President is what the Cheney energy task force recommended nearly 3 years ago, and that is the Administrator of the EPA be directed by the President to work, with technical assistance from the Secretary of Energy, to require revisions of State implementation plans to reduce the overall number of fuel specifications by at least a factor of 5, and preferably closer to a factor of 10. This is not something that requires legislation. This did not require legislation when the Cheney task force recommended it; it does not require legislation now.

In fact, when people go back and look at the Cheney task force recommendations, there were 105 recommendations listed. They are all detailed in the appendix to that report. By the administration's own calculation, 76 of the 105 do not require legislative action; they are recommendations for administrative action.

This recommendation to the Director of the EPA to deal with this boutique fuels problem is one of those actions that can be taken by the administration without any action by this Congress. Again, it is one of the items I included in the letter we sent to the President last week urging that they move ahead with this. As far as I am informed, there has been no action taken on this since May of 2001, when the Cheney task force report was released.

These are things that could be done. None of them, in and of itself, is going to dramatically affect the price of gasoline at the pump, but together they would help moderate the prices of gasoline as we move into the summer driving season. For that reason, I think there are actions that should be taken. These are 3 of the 13 different recommendations contained in the letter. None of those recommendations requires legislation to be passed.

Clearly, there are provisions of law that I favor enacting and I think we should try to enact before the end of this Congress, and I hope we are able to do so. To leave the impression that inaction in dealing with the price of gasoline is purely a failure of the Congress is just misleading.

For that reason, I urge everyone to review that letter I sent last week. I hope we will have more debate in the coming days about those steps that can be taken in the near term to deal with the very high price of gasoline and to deal with the very high price of natural gas, which, of course, we are seeing in the utility and heating bills we all have to pay.

I know my colleagues are waiting to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I know we are here today to talk about TANF, the Temporary Assistance to Needy Families program. That program is a safety net for the American public. I want to talk about another safety net program—the safety net for American workers—that will provide its last benefit today, March 31. Today is the last day any American worker will receive benefits from the Temporary Emergency Unemployment Compensation program, which has been providing the last of the Federal unemployment benefits to those who came onto the program before it expired on December 21. As of today, there are 1.1 million people who have exhausted their State benefit without any Federal program to pick them up.

This is more than a dozen times that I have been to the floor to talk about this program and the need to reinstate the Federal unemployment benefits program. I think my colleagues clearly understand why I am here. In fact, we have had a majority of my colleagues in the Senate and a majority of my colleagues in the House support a reinstatement of this Federal program for unemployment benefits. The reason they have supported this program is that our economy has not recovered from the recession and has not created enough jobs to get America back to work. That means Americans who have been unemployed through no fault of their own, who are going out, hitting the pavement, trying to find jobs, can't find work.

The Federal program for unemployment benefits was created to take care of Americans during times like this. That is why we have, in the past 2 years, supported a Federal program that provides 13 weeks of Federal unemployment benefits to all states and 13 additional weeks for other States that have unemployment rates significantly higher than the national average.

I have come to the floor today because today we are leaving that last person in America, who today is receiving his or her last bit of federal help, out in the cold. And we are going to continue to see thousands more Americans left out in the cold every week.

I met with many of my constituents who have had to cash in their pensions, or who have had to withdraw from long-term savings meant for college tuition, or who have had to take all sorts of extraordinary measures to make sure they can continue to pay their bills. They have had to take these measures because we have not owned up to our obligation, which is to help individuals and the economy in a time of recession.

Let's recap this issue and how we got to this point. Many people look at this debate and see what amounts to fairly minor job growth and conclude that the economy is going to get better. I am all for the economy getting better. I actually believe in the potential of many sectors in the American economy to lead us back to a stronger place. I believe in aviation and biotech and nanotechnology and software. Someday jobs are going to grow in America.

Right now, however, we are still feeling the aftershocks of a recession. Back in 2002, the Bush administration projected that the economy would lose about 100,000. What happened in 2002, however, was that we actually lost 1.5 million jobs in America. The Administration did not have a handle on what was going on with the economy, which resulted in job projection that were way off.

In 2003, the Bush administration tried again. They projected that the economy was actually going to pick up. A lot of us, while we might not have agreed with the President's economic policies, wanted to hope for the best and wanted to see economic growth. We wanted those Americans who were without jobs to actually find employment. But, the economy in 2003 certainly didn't perform the way we thought it was going to perform. Even though the White House projected 1.7 million new jobs, the economy actually lost 406,000 jobs.

That leads us to 2004. The President and his economic advisers have projected that the economy will grow by 2.6 million jobs this year. And by God, this Member of the Senate would sit down and not say another word about unemployment benefits if this administration would say that they actually believe in their projection. I would sit down and not say another word on unemployment benefits, even though they were wrong in 2002 and 2003. But, in fact, three Cabinet Secretaries of the administration came to my State, and when asked about the projection of 2.6 million number jobs—their own projection—they basically said: Well, we don't really believe those numbers. It is kind of a rounding error.

I can tell you that the constituents of my State and across America are not a rounding error. They are people who are counting on a Federal program to help them. Their employers paid into this program for this very circumstance, when the economy is suffering from the aftershocks of a recession and there are no jobs to be had. That is why we want to help these individuals with a bill to reinstate the unemployment benefits program.

Let's look at the rest of the country because some of my colleagues seem to think that apart from a few states with high unemployment, things aren't so bad. I know Washington State has been hit hard. In fact, the Northwest as a region has topped the unemployment rate spectrum for some time. So, there are those who say this is a Washington state problem, or a Northwest problem. Yes, we were deeply affected by 9/11. Washington is heavily dependent on aviation. Yes, there was a huge downturn in the aviation industry. There is no surprise that people don't want to fly when you have an international recession going on. No wonder people don't want to travel. That has started to recover now, after almost 2 years. But this is not only a problem for the Northwest.

Look at these numbers throughout the country: In Ohio, 168,000 manufacturing jobs lost since 2001; in Texas, 175,000; my State, 66,000 jobs; California, 350,000; Pennsylvania, 154,000.

Practically all across America, save Nevada—maybe the Senators from Nevada could tell me why—and Alaska, every state has lost manufacturing jobs since Bush took office. This is only manufacturing jobs. In the Northwest we have lost jobs in software and in a variety of other industries. But this chart proves it is a nationwide problem. Everywhere in America, everywhere, we have lost manufacturing jobs. That has been a challenge to the American workers.

Let's talk about this as an economic issue because, having been in business, I want my colleagues to understand that this is a complex problem. We ought to celebrate the high productivity growth. This high growth means the economic pie is getting bigger but all that extra money in Gross Domestic Product has actually gone to corporate profits.

Now, it is not a bad thing for companies to be profitable. They need to be. They want to give a return to investors. There is nothing wrong with that, in and of itself. But what is wrong is when we fail to recognize that investors are winning, but laid-off workers are not. Our economy is not behaving the same way it did in the past. We are seeing a growth in productivity growth, but that has not actually helped us produce jobs.

In the 1990s we had some job loss, but we also had tremendous job growth. People don't think about that. They think in the 1990s it was probably just go-go-go and everything was very nice for America.

We actually had a lot of job loss in the 1990s.

The point is we had more job growth than we had job loss. So, unlike today, the people who lost their jobs in the 1990s were actually able to go somewhere else and get a new job. Today, people don't have that same opportunity once they have lost a job to find other employment.

A Business Week article came out just a few weeks ago entitled "Where Are The Jobs?" I recommend it to all my colleagues. It goes through each of these issues and greatly amplifies the problems we are facing and why it is imperative for us to do something about jobs and unemployment benefits. We see executive salaries have gone up and corporate profits have gone up, but then number of jobs has actually gone down.

Again, I am not saying it is horrible that we have had productivity increases—not at all. I'm just saying that if we only look at Gross Domestic Product, we miss a key part of the story. Everything isn't fine if you are not creating jobs.

Let's take a look at a cartoon from one of my favorite cartoonists from the Seattle paper. I thought this cartoon depicted the problem best. While the CEO compensation is going up, middle-class wages and the number of workers with health insurance is going down. These workers are the people who are barely holding on in this difficult economy.

That is what we have to recognize—millions of Americans are barely holding on. I am not saying our colleagues are totally heartless about this. But when you know that there are 1.1 million people without a paycheck or an unemployment check, and you know that you have the power to do something about that and you don't, I start to wonder whether either there is some heartlessness, or whether it is just a fundamental misunderstanding about what is going on with the economy. You can't just simplistically say everything is great because gross domestic product and productivity are up. It doesn't work that way. We have to get serious about this.

As the Business Week article pointed out, because of technology, cost pressures, the price of health care and political and economic problems the link between strong growth and job creation appears to be broken. We don't know what is wrong.

That is a quote from Business Week. That is a business publication that talks to businesses, reports on businesses, reports on profitability. So when Business Week asked where the jobs are, they answered that the link between strong growth and job creation appears to be broken.

This article chronicles these pressures, which are quite obvious if you think about it, how technology is increasing productivity, how we have increased global competition, how we have skyrocketing health care costs, and numerous other things. So, employers aren't hiring, but then why hasn't the unemployment rate increased?

Some of my colleagues have pointed out that the unemployment rate is holding at 5.6 percent. They say that we don't have to do anything about the unemployment insurance at the Federal level. Well, we cannot hang our hat on the 5.6 number because that number hides what is really going on with jobs in America; chiefly, that people are dropping out of the labor force.

If we count the 392,000 people who gave up looking for jobs, we find the unemployment rate would be more like 7.4 percent.

But, my colleagues want to say all is fine at 5.6 percent. That is a great number. We should be happy with it. Don't worry. Let us all go home. We have jobs. We can pay our mortgage payments, but not everybody in America can. We have 1.8 percent of the labor force totally out of the picture. If we look at the unemployment rate, it would be more like 7.4 percent.

The question is whether we are going to keep hiding behind these economic indicators and claim the economy is rosy for American workers. It may be rosy for corporate America and for shareholders, but it is not so rosy for the American worker. We have to come to terms with whether we are going to do our job are reinstate the Federal program or not.

Is that such a bad idea? I don't think it is such a bad idea. I think it is pretty simple.

I am kind of amazed it isn't more clear to my colleagues how unemployment insurance fits in with a constructive economic plan. My support for this program is not because it as a social program. As a former businessperson I view it as economic stimulus. With these benefits, laid-off workers continue to put money into the local economy and pay the mortgage and everything else. That is helpful.

When Alan Greenspan testified before a committee this month, he said, "Extending unemployment insurance is not a bad idea." In fact, he said, "At times like this, I support extension of unemployment insurance."

I wasn't surprised when later I heard that Treasury Secretary Snow last week at a hearing said, "If Congress acts, the President will sign the legislation."

Well, there is one hat in the hat trick gone of those who oppose this legislation. At least we know now the President is saying he is going to support it. I wish he would call on a few Members on the other side of the aisle. We could certainly use his help.

I am also bolstered by the fact that even the White House Press Secretary Scott McClellan, at a press conference after Snow's comments said, "We have always said we would work with Congress on the issue of unemployment benefits."

If that isn't an invitation to pass this legislation today, I don't know what is.

American workers who have been left out in the cold and who, with their employers, have paid into the unemployment trust fund ought to get the support they deserve.

I remind my colleagues that a majority of Members in both the House and the Senate—58 Members over here and 227 Members in the House of Representatives—have voted in support of reinstating this program.

The fundamental question for an unemployed person sitting at home—whether you are in Detroit or Pittsburgh or in Washington State—is if both the House and Senate have a majority of Members voting for this, if we have the Secretary of Treasury supporting it, if we have the President's spokespeople saying they will work with the Congress on it, why can't we get unemployment benefits for the American worker?

I am not going to continue to belabor this point on the floor.

I go back to my business experience. I trust the fact that people who understand business and how to stimulate the economy know something needs to happen.

This Business Week article didn't give a knee-jerk reaction to our problem. There are probably 40 pages in this publication about this issue—why we have the unemployment rate, what our economy's illnesses are, and what we can do to recover. It is a very thoughtful piece. They conclude that Government action will act as a bridge and will help the economy cross over the extended valley of almost nonexistent hiring.

I think they have said it best. It is time for us to act. It is time for us to do something on this issue.

UNANIMOUS CONSENT REQUEST

I ask unanimous consent that the Senate now proceed to calendar No. 470, S. 2250, a bill to extend the Temporary Extended Unemployment Compensation Act of 2002 for displaced workers, that the bill be read three times and passed, and the motion to reconsider be laid on the table without intervening action or debate.

The PRESIDING OFFICER. In my capacity as a Senator from New Hampshire, I object.

Objection is heard.

Mr. DODD. Mr. President, will my colleague yield before she yields the floor?

Ms. CANTWELL. Yes.

Mr. DODD. I commend my colleague from Washington. She has talked about this on numerous occasions. Again, she has very eloquently laid out a very thoughtful argument about exactly the problems which exist across the country when it comes to job creation. As someone who has spent an earlier part of her life in the private sector—very successfully, I might add—she brings a very special knowledge and awareness to these issues and this debate and discussion.

I wonder if my colleague has seen the most recent statistics. In fact, they were released today from the Bureau of Labor Statistics. I do not believe my colleague referenced them, but they illustrate the point she is making.

According to them:

> As of February 2004, 35 states have failed to get back to their pre-recession employment levels. Furthermore, 49 states have not created enough jobs to keep up with the natural growth in the number of potential workers, as job growth has lagged in working-age population since March 2001. As for the unemployed, 43 states have higher unemployment rates than when the recession began.

And, lastly, they go in and point out a projected job creation of 306,000 jobs per month. Obviously, we are way off those numbers.

According to the Bureau of Labor Statistics, which does not have a political ax to grind at all—national job creation has fallen over two million jobs short of that pace. . . .job growth projected for the Bush Administration's economic plan has fallen short in 49 of the 50 states as of February 2004. Thirteen states have actually lost jobs since the Administration's tax cut was supposed to start creating job growth.

I was not sure if my colleague was aware of those numbers. Don't they make the case even further? These are numbers released today, not going back 6 months. But they point out, once again, the sluggishness, to put it mildly, of job creation.

I wonder if my colleague has any statement on that?

Ms. CANTWELL. I thank the Senator for his question.

I had not seen those specific numbers, but for the year 2004, the estimate was for 2.6 million jobs. And if you take that by a monthly basis, our pace should be more at 250,000 jobs. We have now seen the January and February numbers, and they are nowhere close to that. In fact, December and January were actually revised down from their original projections.

Now, we will either see, this Friday or the following Friday, what the numbers are for March. I do not expect them to be anywhere near close to the 250,000 range that would keep us on pace for the original 2.6 million projection.

But the Senator is correct in saying the job growth is not happening, which is the point I was trying to make. I see the other side of the aisle has objected to my unanimous consent request. I have made my point on this issue.

Does the Senator have another question?

Mr. DODD. If my colleague will yield for one additional question. I heard the objection expressed by the distinguished chairman of the Finance Committee. Does my colleague from Washington have any indication when we might get a chance to actually vote on this matter? I think there have been 90,000 people a week, if I am not mistaken, who exhausted their unemployment benefits—90,000 of our fellow citizens. Yet we cannot even get a vote on whether or not we can extend these benefits.

Is there any indication my colleague has received or heard from the Republican leadership that we might get a chance to vote on whether we could extend these benefits?

Ms. CANTWELL. Again, I appreciate the comments of the Senator from Connecticut, and his question, because I think this must be about the 15th time or 16th time we have been to the floor to ask for unanimous consent to bring this issue up. It is a priority, we believe, for America, and it should be brought up.

As to your question, I have heard rumblings from House Members in positions of leadership from the other side that they, too, want a vote on it. They are interested in having us send them something. So I think the hat trick needs to stop. We need to tell America who is holding up this bill. We need to go forward in giving the American people the kind of security and support they need in this economic downturn.

I yield the floor.

Mr. DODD. I thank my colleague.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. If she is yielding the floor, then I want the floor.

The PRESIDING OFFICER. The Senator has been recognized.

Mr. DODD. Will my colleague from Iowa yield—maybe we can work out a sequence. I know the Senator from Texas has some comments. I presume others do, too——

Mr. GRASSLEY. Would it be OK if I take 5 minutes?

Mr. DODD. Absolutely. Even more.

Mr. GRASSLEY. Or even 6 or 7 minutes.

Mr. DODD. Even 10.

Mr. GRASSLEY. That is what I would like to do.

First of all, the Senator from Connecticut asks a legitimate question of the Senator from Washington about when this might come up. There is an orderly way of doing things around here. And usually in the Senate, the leader—and that is not me; that is Senator FRIST from Tennessee—sets the agenda for the Senate.

It is my understanding that right now we are working on it. I do not know whether the Senator from Washington or the Senator from Connecticut has been in contact with the leadership of the Senate so we can do things in an orderly way or whether they want to make political points. But I hope they want to do it in an orderly way because that is the way things get done around here. So it is not with pleasure that I object right now, and look like a bad person to the Senator from Washington—because she has always treated me very fairly in her service in the Senate—and to object particularly when we are probably, in a matter of hours or a few days, going to pass this legislation. I am sure it is going to be passed in a way so that the unemployment compensation is seamless for those who are otherwise entitled to it.

That is all I can do to answer the question of the Senator from Connecticut. It is my firm conviction it is going to happen.

Now, maybe I think things are going to happen, but they might not because of something beyond what I know now. But I think they are going to happen. I know there have already been suggestions made between the two leaders of the Senate's political parties—our respective caucuses—to move some of these important issues along.

But do the members of the Democratic Party in the Senate think only Democrats have important issues they want to bring up? Don't they think there might be a few Republicans who have something they want to bring up? So you work these accommodations out. That is what I think we ought to do.

But what I would like to do, for just a few minutes, is speak to—not to challenge anything the Senator from Washington said about unemployment because, factually, I do not think you can do that—but there are other thoughts that need to be put on the table at the same time.

I made a presentation here 2 weeks ago to try to bring into this debate points of view that are made by the intellectual wing of the Democratic Party to offset what we have just heard from the political wing of the Democratic Party. And I quoted a former Democratic Secretary of Labor in the Clinton administration, Robert Reich. I want to quote him again because he writes very eloquently about job changes going on in America and about job loss in America.

I will quote this long paragraph:

> It's true that U.S. manufacturing employment has been dropping for many years, but that's not primarily due to foreigners taking these jobs. Factory jobs are vanishing all over the world. Economists at Alliance Capital Management took a look at employment trends in 20 large economies and found that between 1995 and 2002, 22 million factory jobs had disappeared.

Now get this:

> The U.S. wasn't even the biggest loser. We lost about 11 percent of our manufacturing jobs in that period, but the Japanese lost 16 percent of theirs. Even developing nations lost factory jobs: Brazil suffered a 20 percent decline, China a 15 percent drop. What happened to factory jobs? In two words, higher productivity.

He says:

> I recently toured a U.S. factory containing two employees and 400 computerized robots. The two live people sat in front of computer screens and instructed the robots. In a few years this factory won't have a single employee on site, except for an occasional visiting technician who repairs and upgrades the robots, like the gas man changing your meter.

The points about productivity she made very well, I believe. But here is the other side of that. You can create jobs and not have productivity—be inefficient, be uncompetitive, and not have a business after a while. Or you can be productive because enhancing productivity in America is what it takes to raise wages. If you want to increase the standard of living in America, you have to raise wages. To raise wages, you have to enhance productivity.

So are they suggesting we ought to turn the clock back and forget about productivity, forget about raising the standard of living in America? Do they want us to become some Third World economy over the period of the next 50 years, if you went down that road, or do you want to do what America can do best, the other things Secretary Reich is referring to? We have a knowledge base in America. Take advantage of that knowledge base. Create jobs that are more productive and, in the process, raise wages and raise the standard of living. Those are the choices we have.

America is a dynamic economy. Every month 7 million jobs go out of existence, and 7 million jobs come into existence. It would be ideal if it were more than 7 million jobs coming on board. That hasn't happened, and that is why we have the 2.3 million jobs that are referred to all the time.

Do you think it is always going to be this way in America? Absolutely not, because of the dynamic economy we have. It is because we are always enhancing productivity that we are going to do better.

You don't have to be a defeatist when it comes to the economy. We have gone through tougher times. We have gone through tougher times when unemployment was 25 percent, not 5.6 percent. We got through it. America is stronger today. Don't lose faith in America.

Ms. CANTWELL. Will the Senator yield for a question?

Mr. GRASSLEY. Yes, I will yield for a question.

Ms. CANTWELL. I thank the Senator. This Senator has the utmost respect for him and his positions and his understanding of this issue. He is right. Productivity is something we want to embrace. It is good for America. You will not that I did not talk about the outsourcing issue. I talked about the fact that these things are good and there are lots of sectors of the economy that are going to be very robust for us in the future, issues the Senator is well advised on—nanotechnology, biotechnology, aerospace, and software. They are all going to be positive sectors.

The question is, what do we do in this particular recession when things haven't been so positive? I certainly respect the challenge the Senator has managing this particular legislation and moving it through the process. I have found him one of the most cooperative Members with whom to work.

But I feel compelled to ask: Is it possible, then, if we cannot pass this bill by Unanimous Consent, can we bring up amendment No. 2940 for an up-or-down vote which is a vote on the unemployment benefits and do that as part of the TANF legislation?

Mr. GRASSLEY. The Senator asks a very legitimate question. For my part, eventually we have to face this. I don't care how we face it, as a separate bill or as an amendment. I think she has to ask somebody just one step above my pay grade to get an answer to that. I am not prepared to answer that. I do not have an answer from the people that give it because, as I said, the leader sets the schedule. I respect the leader, and I don't want to put him in a position. I might be able to say, but I don't have certainty of it. So I don't want to put him in a bad position.

Ms. CANTWELL. I thank the Senator from Iowa.

The PRESIDING OFFICER. Does the Senator from Iowa yield the floor?

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there are three or four of us here. Maybe we should make a unanimous consent request. I plan on taking about 15 minutes. I would ask unanimous consent that I be allowed to proceed for 15 minutes. My colleague from Texas was next on the floor. I don't know how much time he would request, and then I know our colleagues from Wisconsin and from Delaware are here as well. Maybe we could set up a process so we will have predictability to proceed. May I ask my colleague how much time he would like?

Mr. CORNYN. Fifteen minutes.

Mr. DODD. And the Senator from Wisconsin?

Mr. FEINGOLD. Twenty minutes.

Mr. DODD. And my colleague from Delaware?

Mr. CARPER. Ten minutes.

Mr. DODD. Mr. President, I ask unanimous consent that at the conclusion of my remarks, the Senator from Texas be recognized for 15 minutes, the Senator from Wisconsin be recognized for 20 minutes, and the Senator from Delaware for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object, I don't think I need to object, but I think there ought to be some consideration that if other Republicans come to the Chamber, we don't have Democrats ganging up on us to give one point of view. There ought to be some accommodation to Republicans if they would come over here. I don't expect anybody beyond the Senator from Texas to come over and speak, but if they do, I would hope you will be a gentleman and try to work them in so we let America know there are two sides to every story.

Mr. DODD. I have no objection to that.

Mr. GRASSLEY. With that consideration, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

Mr. DODD. Mr. President, before my colleague from Iowa leaves the floor, I want to express my gratitude to the Senator from Iowa, as I did yesterday, for his support of the amendment offered by the Senator from Maine, Ms. SNOWE, and me on the childcare provisions. It was a significant vote: 78 to 20 was the final vote.

Certainly, the chairman of the Finance Committee, the Senator from Iowa, was tremendously helpful in that regard. I wouldn't want him to leave without once again expressing my sincere appreciation for his support. I have always been treated well by him. We have served together now for almost three decades in the Congress, and we have always had a strong and good relationship with each other.

I was disappointed by the position of the administration. To quote them from their bulletin:

> In considering this legislation, the administration would strongly oppose any amendment that increases funding for the Child Development Block Grant fund.

"Strongly oppose" is an indication of how they fail to understand what I think the Senator from Iowa pointed out—certainly the Senator from Maine did—the critical transition that is necessary from welfare to work, particularly considering the jobs these people are able to get. Most of them are very low-wage jobs. Having a strong childcare component is the lifeboat that will get them from one side of the shore of this raging river to the other, the side of the shore from welfare dependency to work.

If you cannot get across that gulf because you have young children, as many of these people do who are presently on welfare—trying to get to work, or those who work today barely holding on—then the likelihood they are going to succeed is very small.

There was a strong vote in this Chamber yesterday to support the effort to provide the assistance for literally thousands of young children who are on waiting lists in 24 States that we know about, some 600,000 who will need that kind of assistance.

I am terribly disappointed the administration strongly opposes childcare assistance. My hope is the position of this body will prevail in the conference, if we get there.

I also want to comment briefly on the issue of the minimum wage. I thank our colleagues from California and Massachusetts who have raised it. The better description of this might be called a livable wage. We talk about the minimum wage, but what we are really looking for is a livable wage. It is a standard we have embraced for years. Administrations, regardless of party, have always embraced the idea of setting a floor of what ought to be a livable wage. It is hardly livable when you consider the poverty level for a family of three is $15,700 and we are talking about people making $10,700 a year working full time making minimum wage. That is $5,000 below the poverty level. I can't even imagine anywhere in the United States one could live today as a family of three with a gross income of $10,700. And that is what we are talking about.

There are 34 million people who are living in poverty in the United States. In a nation of 280 million people, 12 million are children living in poverty. Obviously, we are not going to solve that problem simply by raising the minimum wage level, but we certainly want to give people a chance to be hired for a little more than $5 an hour in the 21st century. As we begin trying to move people from welfare to work so they at least have a chance, once they get that job, to hold on and then move into more independent living, they must be able to earn a livable wage.

So I am terribly disappointed again that we have not been able to have a vote on this matter. I don't think it is terribly complicated. A livable wage in the United States, certainly in light of what happened since the last time we raised it, is in order—considering that every administration, from the most progressive to the most conservative, has found time and space in which to increase the minimum wage. This is one of the longest periods of time we have ever gone without increasing that. It has been 7 years since we have actually raised the minimum wage.

During that same time, by the way, this body found room to increase our salaries six different times; six times we have raised our salaries. Yet, in 7 years, we have not increased the minimum wage. I have not objected to salary increases for Congress. I understand that. The point is, when we find time to debate and vote on matters that allow us on six different occasions to raise our salaries and not on one occasion have we been able to raise the minimum wage or the livable wage for people living in the levels of poverty they do, this is something I find rather distressing, to put it mildly.

The great majority of welfare payments go to single mothers. Unfortunately, the kinds of jobs women leaving welfare find are often minimum wage jobs, making it very difficult, if not impossible, to sustain a family and meet the demands of raising children. Life is precarious for low-income people, particularly for single mothers raising children. In the U.S., regardless of whether they have been on welfare or not, for them, survival is a daily goal. If they work hard enough and their hours are long enough, maybe they can make ends meet, but only barely. They don't have time for their families because they are working tremendous hours, sometimes a couple of jobs to make ends meet. They are not buying homes, going on vacation, going to the theater, or symphonies, or buying extra clothes. They are trying to hold their families together. The idea of buying gifts for children, taking them on special trips, that is not part of the family's agenda if you are part of the 34 million people in this country living in poverty. We are trying to get that minimum wage after 7 years to a point that makes it possible to at least make it a little easier to meet the daily goal of survival. We must stop asking families to do it alone. They are working too many hours for too little pay.

Often these children who are being raised in this environment are not entering our school system—particularly well prepared to learn. Talk to any teacher in any rural area where there is poverty, or to a teacher who works in our inner cities where poverty exists. Without exception, regardless of their politics, teachers will tell you children who are not getting the attention and time and care needed are starting their lives way behind.

Ultimately, we pay a price in this country for that. I will not suggest to you the minimum wage solves all of those problems. But should we not in this great country, after 7 long years, provide an extra couple of dollars an hour so people might have a little bit more income to provide for their children. We need to help raise wages for these families so they can make ends meet and improve the quality of their lives. One of the best first steps is to ensure the work pays a fair, livable wage. The real value of the livable wage has fallen dramatically over the past 30 years. The livable wage workers are being left further behind every year. Working families have waited long enough. Minimum wage employees work 40 hours a week, 52 weeks a year, and earn $10,700. That is if you work every week. Forget that 2 weeks vacation or even 1 week of vacation—you earn $10,700.

This is the 21st century. In America, what community can you live in with a family of 3 on $10,700? I don't think you are going to find one. The poverty level is approximately $15,000 for a family of 3. We must raise the minimum wage to $7 an hour, and I think we can do it.

Under the proposed bill, we go from $5.15 to $5.85 to, one year later, $6.45, and the year after that, to $7. That is what we are proposing. I suspect some negotiation might happen in order to get something done. But, we cannot even vote on the issue.

Today, more than 34 million people live in poverty, including 12 million children. Among full-time, year-round workers poverty has doubled since the late 1970s, from 1.3 million then to 2.6 million in 2002. An unacceptably low minimum wage is a key part of the problem we are trying to solve. Every day the minimum wage is not increased, it continues to lose value and workers fall farther behind.

Minimum wage workers have already lost all of the gains of the 1996–1997 increase, 7 long years ago. Today, the real value of the minimum wage is more than $3 below what it was in 1968. To have the purchasing power it had in 1968, the minimum wage would actually have to be closer to $8.50 an hour than to $5.15, which is where we are today.

In the past 7 years, salaries of lawmakers have gone up by $23,400, giving ourselves 6 raises, while minimum wage workers continue to earn $10,700 a year. Nearly 7 million workers would directly benefit from the proposed minimum wage increase 35 percent are their family's sole earners and 61 percent are women. Almost one-third of those women are raising children. An increase to $7 an hour for a full-time, year-round worker would add $3,800 to their income.

What does that buy? If you are living in affluence, not much. But $3,800 for a minimum wage worker and their families means buying more than a year of groceries; 9 months of rent; a year and a half of heat and electricity in their homes; or full tuition for a community college degree. I know there are those who object to this increase and believe it is going to slow economic growth in the country. That is not true.

Ever since there has been a minimum wage increase, there has been no ill effect on economic growth in the country. I suggest by doing this, there is a greater likelihood we are going to keep people in the workforce—even if they are minimum wage jobs—and allow them to provide the bare survival needs of their families, so they don't fall back into a dependency situation of one kind or another.

I think we all become winners if we give these people a chance to have a higher standard of living than that which they are presently getting with the $5.15 an hour wage.

I know it is not the job of the chairman of the Finance Committee to set the agenda. But somebody has to set the agenda around here. We have been debating other issues of almost total irrelevancy. I guess at some point we are going to debate gay marriage. Well, that is a compelling issue for the vast majority of people who are trying to make ends meet. Or we will debate medical malpractice where you cannot even negotiate what comes out of it. We can debate whether the gun manufacturers ought to be excused from any liability. Heaven forbid we take an hour or two and debate whether we increase the minimum wage a few dollars more than $5.15 an hour.

I will emphasize to you again $10,700. That is what the minimum wage provides today. I don't think anyone believes that is a condition or a circumstance, economically, in which you can expect a family of 3 to survive. You cannot make it, no matter how determined you are. I believe we ought to be able to take care of this issue and do it promptly. It would be a great piece of economic news for millions of Americans and not just for those living in poverty. I think for millions more who don't live in poverty and see people doing it every day there would be a sense of gratification that we are doing something for people. We are doing something for people who make the effort every day not to fall back into dependency, but to provide an opportunity for their families, to stay independent, become self-sufficient, and raise a family. I have often said that the best social program ever envisioned was a decent paying job. The second thing you and I ask a person we meet for the first time after their name is: What do you do?

Everybody I have ever met wants to take pride in what they do. By giving people a livable wage, we allow them to be able to say to their children and families and neighbors: I do something. I have value. I have worth.

Providing an additional $3,800 over 2 or 3 years is not asking too much. I would hope we could adopt the Boxer-Kennedy amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I rise to make a few comments about what I believe to be a better way than we have heard today, which has so far been a proposal for greater Government regulation and intervention, more of a straitjacket on those who create jobs and create those livable wages about which the Senator from Connecticut has spoken.

I also want to say a few words in response to the breathless negative comments we have heard in recent weeks about our economy and about job creation in this country, and in the process the attacks that are made repeatedly on this floor and elsewhere against President Bush.

Of course, in every election year, we all understand there will be a rise in political sniping, but no one should ever cross the line and mislead the American people about the fundamental strength of our economy or champion this negative view just because they view it to be in their own political self-interest to undermine public confidence in the economy.

Sadly, it seems there are some interested in playing on fear and anxiety. Some who talk about job loss and unemployment provoke, rather than actually working, as we have the opportunity to do on this floor, to actually fix some of the problems and some of the conditions that would give rise to job creation and more job security in this country.

The truth is we ought to be able to agree on the facts. The public policies we argue based on those facts are something else. We are going to have policy differences. We are going to have differences of position, and that is to be expected, and that is fine. But we should agree on the facts.

Fact No. 1: Home ownership is at an all-time high in the United States of America, and that is an enormously good and positive thing. More people in this country are achieving part of the American dream.

Interest rates we know are at a historic low. Productivity is booming which, in turn, increases the ability of employers to invest in their business and to create even more jobs. And indeed, the gross domestic product in this country is growing by leaps and bounds.

One fact we should and I think we can agree on is the unemployment rate is standing at about 5.6 percent. The interesting thing about that is the story we heard in 1996 from the distinguished minority leader from South Dakota, back at a time when we had a 5.6 percent unemployment rate. Senator DASCHLE said:

> The economy is doing extraordinarily well. . . . We have the lowest rate of inflation and unemployment we've had in 27 years.

What was the unemployment rate then, and what is the unemployment rate now? It is identical.

Today I read the comments of the junior Senator from New York who said with a 5.6 percent unemployment rate, it is obvious the economy is not creating any jobs. But indeed it was another Clinton back in 1996 who said:

> I was gratified to hear our partners praise the strength of our economy . . . Lower interest rates have helped us slash unemployment—

To what? That is right, to 5.6 percent.

It seems for many of our colleagues on the other side of the aisle, a 5.6 percent unemployment rate under a President named Bush is a travesty, but a 5.6 percent employment rate under a President named Clinton is just fine and dandy.

We have more than 138 million Americans working today, a figure we should be very proud of, the highest in our Nation's history. But you would not know that from listening to those who try to talk down the economy.

Something we can all agree on, I am sure, is any person out of work who wants to work is one person too many. Indeed, I would hope the one thing we would all be able to agree on is we ought to pursue policies which encourage full employment and we ought to provide everybody in this country who wants a job the ability to provide for themselves and their families.

Sometimes you get the idea our colleagues on the other side of the aisle really want to have it both ways. They want to have low unemployment, which is what we all want, but they also want to oppose policies which are designed to reduce unemployment and to encourage full employment. For example, I read this morning the reaction of some in this body to the comments made by Treasury Secretary John Snow who pointed out that outsourcing, a subject of frequent commentary in this body, is an important aspect and, indeed, an inevitable aspect of free trade that ultimately produces jobs in this economy.

The Senator from Massachusetts, who happens to be a candidate for President of the United States, said he wants to crack down on "Benedict Arnold CEOs and corporations" who engage in outsourcing as a way to maintain their competitiveness in this global economy. As the junior Senator from New York said, when it comes to outsourcing:

> I really don't know what reality the Bush administration is living in . . . [outsourcing] isn't good for America.

I suggest those who say outsourcing is something that we actually have the capacity to stop or they think is bad to job creation in global competitiveness sit down and have a conversation with Robert Reich, President Clinton's former Secretary of Labor, who claimed in a Washington Post op-ed on November 2, 2003, that "High-Tech Jobs Are Going Abroad, But That's Okay."

Getting a meeting with Professor Reich should be convenient, as Mr. Reich is candidate Kerry's top labor adviser and a member of his steering committee.

I think Mr. Snow, the Treasury Secretary, knows an awful lot about economics, but I also agree that so does Mr. Reich. They both agree outsourcing is an inevitable result of free trade that ultimately benefits America and America's competitiveness in the world economy.

As Mr. Reich wrote:

> It makes no sense for us to try to block efforts by American companies to outsource.

Just this month, Mr. Reich was interviewed in the Pittsburgh Post-Gazette and asked: What do you think about the move in Congress to bar Federal contracts from being outsourced to other lower cost countries? Mr. Reich's response:

> A silly political ploy.

Yet even as outsourcing continues to be a subject of discussion and even as some of my colleagues in this body throw it out as something that is bad and hurtful to America and America's competitiveness, we all seem to have forgotten it also goes the other way. Indeed, my State of Texas is one of the leading beneficiaries of what I will call insourcing; that is, foreign investments in America.

According to the Texas Department of Economic Development, Texas has more than $110 billion in foreign investment, direct investment in our State, and that is approximately $5,000 in foreign investment for every Texan—$5,000 for each of 22 million Texans in direct foreign investment because of free trade.

There are 430,000 jobs in Texas thanks to outsourcing by these foreign corporations. People who would otherwise be out of work if we did as some of my colleagues on the other side of the aisle suggested. Members who are appealing to the anxieties and fears of the American people rather than giving them the information they need to understand and that we all need to embrace in terms of maintaining our global competitiveness.

I ask my colleagues to tell me why creating jobs for the hard-working citizens of my State by encouraging this foreign investment in our country is a bad idea. If we are to cave in to fear mongering by those who want to erect a protectionist wall around our country, do my colleagues think other countries might choose to retaliate against the United States? You bet.

This is a two-way street, and there is a natural flux. New jobs are created and old jobs fade away. That is what being part of a market economy is all about. In the end, the net increase is a good one.

This week in my State, a study found we will lose 3,000 technology jobs over the next 5 years due to outsourcing. That is the bad news. The good news is we are going to gain 24,000 jobs over the same period.

I reassure my colleague from New York, according to this report, her State will have a net gain of more than 18,000 jobs over the same period thanks to outsourcing, which she has said is a bad idea and out of touch with reality.

When companies that provide employment save money and maintain their competitiveness in a global economy because of outsourcing, they can afford to hire more U.S. employees. As a matter of fact, if we were somehow trying to find a way to prohibit this phenomenon, the only choice some of these employers would have would be to pack up their American company and simply move it overseas. What good would that do? That would obviously cause more harm than good.

We are dealing with a simple economic truth, and one that far too many ignore or choose to distort for partisan political purposes in this election year. We have to recognize that in the 21st century, we are competing in a true global economy, and our job in Government ought to be to try to find ways to enhance America's competitiveness in the economy, not the other way around. That is why I believe education, job training, and the President's community college initiative he talked about during his State of the Union address are so important, steps also endorsed by Chairman Alan Greenspan. These programs, which I have seen in operation in communities across my State, from Amarillo to Houston to Austin, have created opportunities for young men and women to train and retrain, to hold better paying jobs in an ever-changing economy. I have seen the positive results of these partnerships between businesses and community colleges when it comes to training and retraining the workforce for these good, high-paying jobs.

High taxes, overregulation, and rising health care costs, in an environment that encourages people to sue first and ask questions later, are damaging our global competitiveness. Those on the other side who seem to persistently favor higher taxes and more regulation are at the same time complaining about America's inability to compete and to keep these jobs in America. Those who still honestly believe we can sue, tax, and regulate our way to economic growth and prosperity are just flat wrong.

In this body, we have had many opportunities to address some of these competitiveness issues. We had the opportunity earlier this year to pass class action reform and medical liability reform which would lower health care costs so more employers could provide health care coverage at a more reasonable cost to more employees. We have had a chance to reform our broken asbestos liability system. Yet, there are those who consistently vote against these reforms that would make America more competitive in this global economy and would increase the opportunity to create jobs. Members who now are prescribing the wrong medicine for what ails the American economy. This is even at a time when our economy is roaring back, thanks to the leadership of our President and the actions of this Congress in reducing the tax burden on hard-working Americans.

I hope our colleagues on the other side of the aisle, when they talk about their desire to increase competitiveness of American job creators in this global economy, will join us in reconsidering the position they have taken so far in opposing the JOBS bill, medical liability reform, a rational national energy policy, class action reform, asbestos litigation reform, and many other measures that would enhance America's competitiveness in this global economy. They need to allow us to vote.

I believe a bipartisan majority stands ready to pass many of these reforms which would create more jobs and improve the economy. Time and time again, when we have had the chance to fix these problems, when we have had a chance to address these issues, there are those on the other side whose only answer is, no, no vote, no closing off of debate, no improving of the competitiveness of America in the global economy.

In closing, I want to reinforce what I have tried to say throughout. There is a lot of good news I do not think is breaking through the clutter on the 24-hour cable news cycle in this highly politicized election year. There are those who want to bad-mouth the economy, increase the anxiety of people who are working, and compound the misery of those who are out of work by saying there is no hope; America cannot compete; the only way we can protect American workers is to build a wall around our country and to stop free markets.

I think that is absolutely the wrong medicine for what ails this country. What we need is to be true to our principles. Americans have always and will always be able to compete given a level playing field. This is not a time for us to lose confidence in America's ability to compete and to create jobs in a way that has made us the envy of the world. This is not the time to tell the American people that America cannot compete and our only hope is to retreat into our shell and to build the walls of protectionism around our country.

Indeed, we have been preaching to the entire free world, including the new democracies that have just joined NATO and will soon join the European Union, that free markets and free trade are the answer. America must stick by that answer because it is the last best hope for improved quality of life and freedom for people all across this planet.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Wisconsin.

THE 9/11 COMMISSION

Mr. FEINGOLD. Mr. President, yesterday the 9/11 Commission heard the public testimony of current and former Cabinet and National Security Council officials. It is critically important to make certain the historical record is accurate and complete and to establish all of the facts surrounding what the various elements of the U.S. Government knew about the terrorist threat before September 11, 2001.

The most important task before us, our first priority, should be to stop future attacks, to crush the terrorist organizations that are trying to kill us and trying to kill our children.

Over 2½ years have passed since that horrible day. We are dutybound to get our post-September 11 response right, and I think getting it right means keeping this fight focused on the terrorist networks that attacked this Nation. Putting it more simply, it means keeping our eye on the ball. We need to take this fight to the terrorists. That is why every Member of this body voted to go after those responsible for attacking this country on September 11, 2001. But the further we get from September 11, I am concerned that we are not doing enough to root out the terrorists in Afghanistan.

Recently, we have all heard a lot about the spring offensive in the border region between Afghanistan and Pakistan. I support the offensive and I remain deeply grateful for the service of our men and women in uniform. But why is this offensive happening this spring? We are talking about forces that attacked this country in 2001. This offensive should have taken place last spring. In fact, by the end of last spring, Rand Beers, who had served as counterterrorism adviser to this administration in the National Security Council, had resigned his job and was voicing his concerns about the insufficient effort in Afghanistan. "Terrorists move around the country with ease. We don't even know what is going on," he told a reporter.

The director of the Center on International Cooperation at New York University just found that "the low level of funding for the reconstruction of Afghanistan remains astonishing, given the importance with which major nations claim to regard it and the consequences of the previous neglect of that country."

When it comes to terrorists in Afghanistan, we need to finish the job and finish them off. Then we need to make sure that we support the Afghan people and help them create a climate in their country that will make it impossible for terrorist forces to survive there in the future.

Make no mistake: The al-Qaida network is not confined only to Afghanistan. It would be misleading and dangerous to suggest that eliminating a handful of al-Qaida leaders eliminates the threat from the network. None of these al-Qaida forces should ever know a moment's peace. We must wage a relentless campaign against al-Qaida around the world, and we will not be done until they have nowhere left to hide.

I joined my colleagues in authorizing the use of force against those responsible for the September 11 attacks. When I cast that vote, I expected a serious campaign targeting the terrorists who attacked this country. I am pretty confident most Americans expected the same thing. What we did not expect was that elements of that effort would be left to tread water so that we could focus resources on the war in Iraq instead.

Instead of keeping our eye on the ball, instead of focusing on winning the fight we are in, this administration launched into a tremendously costly initiative in Iraq. Of course, they have used a whole lot of different arguments to justify this war, and a lot of arguments trying to link the war to the fight against terrorism, even though on January 8 of this year, Secretary of State Colin Powell stated he had not seen any "smoking gun or concrete evidence" of ties between former Iraqi leader Saddam Hussein and al-Qaida. Even though the report The Network of Terrorism, published by the State Department in the wake of 9/11, which begins with the words of the President of the United States, listed 45 countries where al-Qaida or affiliated groups were known to have operated—and guess what, Iraq was not one of the 45. Iraq was not on the list in the report. Even though Richard Clarke, the man whom the Bush administration chose to head up counterterrorism policy within the National Security Council, told the President and members of his Cabinet that Iraq had nothing to do with 9/11.

By the summer of 2002, national security debates weren't about the fight against terrorism anymore; they were all about the invasion of Iraq. We got sidetracked. We are facing one of the most serious threats to our national security in the history of this country, and I dare anyone to say that is an exaggeration, but what did we do? We took our eye off the ball.

As I said before, even as our brave troops were taking Baghdad, 10 men allegedly involved in the bombing of the USS *Cole*—a terrorist attack that killed 17 American sailors—escaped from a prison in Yemen. That news was disturbing, and I wanted answers, answers about what we knew about their escape, the circumstances of their detention and the security of the facility, about the implications of this lapse. The answers were of a deeply troubling "no one is minding the store" variety. I can assure you I tried again and again to get some information about this.

This month, reports indicate these escapees have finally been recaptured. Of course this is good news. But we must take steps to avoid this kind of scenario in the future. We must give these issues the focus they deserve and devote resources and support to monitoring these situations closely and acting to protect our interests.

As you know, by October 2003, even Secretary of Defense Rumsfeld indicated in a memo that, despite over 2 years having passed since September 11, "relatively little effort" had gone into developing "a long range plan" to win the fight against terrorism. In the memo of the Secretary of Defense, he pointed out that there is no consensus within the national security community in the U.S. about how to even measure success in this fight. No thoughtful and useful way to tell where we stand? So not only have we lost our focus in this fight, we don't even have a way to measure our lack of focus. This is our most important national security priority. Something is not right with this picture.

Iraq is a mammoth undertaking. We only have so many national security resources, and all the resources we used to fight the war with Iraq—the military resources, the intelligence resources, the money, effort, and the long hours—all of them came from what is surely a finite supply. The fight against the terrorists who attacked this country had to be addressed with what was left, wedged into the margins.

Jeffrey Record, visiting professor at the Army War College, published a paper that very clearly acknowledged this problem. His analysis indicated that the U.S. fight against terrorism has been "strategically unfocused." He writes as follows:

> In the wake of the September 11, 2001, al-Qaida terrorist attacks on the United States, the U.S. Government declared a global war on terrorism. The nature and parameters of that war, however, remain frustratingly unclear. The administration has postulated a multiplicity of enemies, including rogue states; weapons of mass destruction proliferators; terrorist organizations of global, regional, and national scope; and terrorism itself. It also seems to have conflated them into a monolithic threat, and in so doing has subordinated strategic clarity to the moral clarity it strives for in foreign policy and may have set the United States on a course of open-ended and gratuitous conflict with states and nonstate entities that posed no serious threat to the United States. Of particular concern has been the conflation of al-Qaida and Saddam Hussein's Iraq as a single, undifferentiated terrorist threat.

He continues:

> This was a strategic error of the first order because it ignored critical differences between the two in character, threat level, and susceptibility to U.S. deterrence and military action. The result has been an unnecessary preventive war of choice against a deterred Iraq that has created a new front in the Middle East for Islamic terrorism and diverted attention and resources away from securing the American homeland against further assault by an undeterrable al-Qaida. The war against Iraq was not integral to the [Global War on Terrorism], but rather a detour from it.

Some have argued that Iraq itself is the central front in the fight against terrorism, despite the absence of significant evidence linking the Saddam Hussein regime to terrorists who attacked this country. They point to the indisputable fact that in post-Saddam Iraq, terrorists are operating in Iraq and they are targeting our brave American soldiers as well as innocent American and Iraqi and other civilians. This is a true statement. It is also a painful reality. But it is not a strategy for defeating al-Qaida. Just because there are attacks in Iraq does not mean there will not be attacks elsewhere. The terrorists working for and with the al-Qaida network will not all be attracted to Iraq. We can't bring them all in there and defeat them there.

Right now, terror cells are plotting and planning and operating in many other places around the world—in the Middle East, in east Africa, in southeast Asia, in northern Africa, in central Asia. Pretending that a "roach motel" strategy against terrorist networks is a viable way to protect our national security would be almost laughable if the consequences were not so deadly serious.

There are heartbreaking human costs to the families of killed and injured troops, and there are astronomical economic costs—costs that America is writing bad checks to cover—as well. And there is the cost we can never know or measure, the cost of missed opportunities to make progress in the fight against al-Qaida and associated terrorist networks.

I am glad the brutal dictator Saddam Hussein is gone. I am glad the Iraqi people have a chance at a better life. I recognize it is not in our national interest to let Iraq dissolve into chaotic disorder, but my first priority is my concern for the American people, and I doubt our effort in Iraq has helped to eliminate the terrorist threat we face from the forces that actually attacked us on September 11.

I also fear that the way the administration has approached Iraq—the blurring of facts, the conflating of villains, the shifting justifications for war—may undermine our capacity to lead the global fight against terrorism. As David Kay, the former chief U.S. weapons inspector in Iraq said on March 22, "We are in grave danger of having destroyed our credibility internationally and domestically with regard to warning about future events.''

International credibility matters. It is part and parcel of our country's power—our power to inspire, to motivate, to persuade. Our enemies have a global network. We must have a global response. That means close cooperation with countries around the world. It means sharing intelligence, and coordinating with other countries to clamp down on terrorist financing, squeezing terrorist networks out of the shadows in which they operate, leaving them vulnerable and exposed. But since September 11, we have seen a loss of this critical American power. In fact, today, a majority of people living in Jordan, Morocco, Pakistan and Turkey say they believe the U.S. is conducting its campaign against terror to dominate others and control the world's oil. Somehow the fight against terrorism, which was and should still be a rallying point for global unity and resolve, has become divisive.

We know that the military plays a critical role in fighting terrorism. But some have twisted the importance of the military's role into an argument that suggests that fighting terrorism is about nothing but military force. I believe at best this is delusional and wildly dangerous at worst. Military force absolutely must be part of our response, and all of us in the Senate voted to give the President the authority to use it. And the vast resources available to DOD, which unfortunately do not always trickle down to the level of our men and women in the field, makes it tempting to turn to our Armed Forces for solutions again and again. But we all know this is true: The answers do not lie with the military alone—and it is not fair to our brave men and women in uniform to make them bear the brunt of conducting the fight against terrorism all by themselves. We must also take a hard look at all the other forms of power that America has at its disposal, strengthen those tools, and apply them wisely.

Consider what a quick glance at the international section of daily newspapers tells us—uranium seizures at insecure borders, money laundering through the diamond trade that has been linked to terrorist financing, and pirates boarding chemical tankers, steering them for a while, and then disappearing.

As the ranking member of the Subcommittee on African Affairs, I know that we do not have the intelligence resources that we should around the world. I know that we do not really have any policy at all to deal with Somalia, a failed state in which terrorists have operated and found sanctuary. I know that there is a great deal of work to be done to help countries in which we know terrorists have operated. We need to improve the basic capacities of border patrols who could stop wanted individuals, and customs agents who could help stop weapons proliferation and auditors who could freeze terrorist assets. And we can do more to root out the corruption that undermines these safeguards at every turn.

In the wake of the terrible bombings in Madrid, my heart goes out to the people of Spain, and my judgment tells me that too many people are misinterpreting the subsequent Spanish election. I don't believe that the Spanish people will let their political choices be dictated to them by terrorists. The real lesson, the most important lesson that we can draw from recent events in Spain is this: A democracy cannot be unified and mobilized to fight terrorism when citizens believe that their government is willing to mislead them about the threats they face, and when they believe that their government does not have its eye on the ball.

Americans know that the battle against terrorism is not a matter of choice, and they know that the battle is worth fighting fiercely. We will not run scared, and we will not be frightened into abandoning our most cherished national values or liberties. So let us move forward to harness the strength of this great country, to learn from our mistakes, to use all of the tools at our disposal, and to stay focused on the most important national security priority before us—fighting and defeating the forces that have attacked our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I extend my appreciation to my friend from Wisconsin for his statement. When the senior Senator from Wisconsin comes to the floor, he is prepared. I am always so impressed with the substance of his statements. The Senator and I have traveled to parts of the world. He has a great concern about what is going on in the world. He is able to express himself very well. I acknowledge his statement today and extend for the second time this afternoon my appreciation for his statement.

Mr. President, there has been a lot of talk on the Senate floor today, but I am very disappointed it has only been talk. We are not legislating. For this very important bill on the floor, we have had one vote. There are many people in the Senate who have more experience than I as a national legislator, but I have been here 22 years. I know how the Senate operates. I know how it used to operate.

The way it operates today is not pleasant, I am sorry to say. There is no reason we cannot be real legislators, take these amendments and work through them. I am convinced this is not the right way to legislate.

I have the greatest respect for the majority leader. He is a fine man. He is a humanitarian, as shown by his chosen profession. He is a real medical expert. He is an organ transplant specialist. And he has, in his capacity as a Senator, gone to countries where there is a shortage of doctors, and he does work that he is overqualified for but that is badly needed, doing hernias and other types of surgery.

So I do not say this in any way to take away from the dignity of his job. I do not want, in any way, to demean him personally. But I am just saying, the Senate is not being handled right. I do not know if it is because of the advice he is getting from his other Senators or what the reason is. Maybe he is getting advice from the White House. I do not know. But we should be moving through these pieces of legislation.

For example, the FSC bill, this very important tax bill, Senator HARKIN offered an amendment on overtime. Why did he offer this amendment on overtime? Because we believe—and we have substantive facts to back us up—that 8 million people, because of actions taken by this administration, will no longer be entitled to overtime pay.

Who are these people? They are firemen; they are police officers; they are nurses. If someone disagrees with us, let them come and oppose the Harkin amendment in the light of day and say I don't like the Harkin amendment for this reason or this reason or this reason. And then let's vote on it.

Senator HARKIN has said, on many occasions, he will take a very short time agreement on the amendment. What does that mean? It means he would take 15 minutes. The majority could have 15 minutes. Let's have a vote on the amendment.

This amendment passed before. It passed the Senate last October. The House instructed its conferees to do exactly what the Senate did. But that bill was not allowed to move forward because there was an effort made—and successfully—not to vote on that overtime amendment.

So now we move to the reauthorization of the welfare bill, TANF. Senators BOXER and KENNEDY offered an amendment dealing with minimum wage. Certainly, on a welfare bill that is an amendment that seems to have some bearing. We want to do what we can. I have supported the welfare-to-work programs we have had going. But one of the things we have to do is make sure these people moving off welfare and on to work can earn a living.

As we have established on the Senate floor, quite clearly, minimum wage jobs are not jobs that are set aside for kids from high school to flip hamburgers or for old Americans who are in a state of semiretirement and need a little extra work. No. Sixty percent of the minimum wage jobs are held by women. And for the majority of those women, that is the only money they get for them and their families.

We want to raise the minimum wage from $5.15 an hour. If someone opposes, let's have a debate on whether we should raise the minimum wage. But, no, we are not allowed to vote on that issue. There have been some complaints that, well, there are other amendments. We will give you a vote on that maybe, but we have to have an agreement on the other amendments.

Why can't we legislate the way we used to? Just work our way through these amendments and produce a tax bill and produce a welfare bill? It might require we work a night or two. It might require we have votes on Friday and even Monday, but I do not understand why we are in this situation. I do not think it is good for the institution. I know it is not good for the American public.

We are not in control of the Senate. Because of the untimely death of Paul Wellstone, our margin dropped from 50 to 49. It would have been 50–50 had he not been untimely killed in that plane crash. Now we are in the minority, 51–49. We understand that. We understand there will be a day in the future when we will be in control, and we will want as much cooperation as we can get from the minority. I hope when we are in the majority we will be treated to the sense that the Senate is the Senate, as it has been for more than 200 years, and we will work through these amendments.

We have been concerned—and I am happy to see the fact that in a bill earlier today the leader of the Budget Committee, Senator NICKLES, and the ranking member, Senator CONRAD, agreed there would be a real conference where Democrats and Republicans sit down and try to work out differences between the bill. That is the way we need to do it.

There has been a pattern where Democrats are not even allowed into the room at a conference. My limited amount of math shows me we are in the minority. And when you have a conference, we are going to lose most of those votes anyway, but we are entitled to have a discussion in those conference committees about ideas we have. Maybe if our ideas are good enough, we can get somebody from the majority to agree with us and we can win on some issues in those conferences.

I can't imagine why we are not doing a better job on moving these pieces of legislation. I see my distinguished friend, the majority whip, my counterpart. Maybe he is here with some good news that we are going to start moving some of this legislation. I hope that is the case.

I want to be as constructive as I can to help work through this legislation. But for the life of me, I cannot see why we can't vote on overtime and on the minimum wage. It is good for the institution. It is good for the country. We are willing to take our chances. If there are more votes to defeat overtime and the minimum wage, that is OK. That is the way things happen. But we think we can win both measures and move past this on to something else that is related.

I have heard discussions of the ranking member, Senator BAUCUS, who has indicated some of the things we need to get done in the TANF bill. I have said on the Senate floor on a number of occasions, I don't know of two Senators, in leadership positions with committee assignments, who get along better than the senior Senator from Iowa and the senior Senator from Montana. They work out their differences.

I am convinced there is ground to be made up here. We can still do these two bills. We want both of them passed. Forty-nine Democrats want the welfare bill to pass. We also want the tax bill we were on last week to pass. We want these bills to pass, but we believe there are some institutional issues that are important, and the American people are entitled to votes. I am not going to be drawing any overtime, but there are 8 million people who are entitled to a vote on overtime, whether the administration should be able to take that away from them. There are tens of millions of people who are entitled to a minimum wage increase. We need to do that.

Some States have gone ahead and said Congress is acting too slowly, and they have a minimum wage above ours right now. There is going to be a ballot initiative in the State of Nevada this year—they have to get some signatures, but I am sure they will get enough—to raise the minimum wage in Nevada to $6.15 an hour, a dollar more than what we do. The people of the State of Nevada will vote on that in November. I don't think they should have to vote on it. We should be doing our job. But we are not able to do our job because we are being stopped from doing this because we are in the minority.

We are going to continue exercising the rights we have. The Senate allows us to offer amendments. People can say: Why do you offer amendments that have no bearing on what we are doing? I think everyone would acknowledge that this overtime pay issue does have a bearing on what we do. It would be without any foundation in logic to say we don't have a right on a welfare bill to offer a minimum wage amendment. We should be able to do so.

I repeat—I want the record spread—we are not trying to stall. We believe passage of these two measures is extremely important. We want them to pass. We have confidence in the two managers of the bill. But the leadership of the majority has to allow us to move past where we are now because we are in a deadlock, and that is too bad.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I listened carefully to my good friend from Nevada who is my counterpart on the Democratic side. I recall he said, just a few moments ago—I think this is a direct quote: "Why can't we legislate the way we used to?"

I say to my good friend from Nevada, I couldn't agree more. Why can't we legislate the way we used to? I have been here a while. But you wouldn't have had to be here all that long to remember how we used to legislate. Just as recently as a Congress ago, we didn't filibuster judges on the floor of the Senate. In fact, we hadn't done that for a couple hundred years.

Just as recently as the previous Congress, we didn't prevent the legislative process from going forward by prohibiting the appointment of conferees, but adhered to the normal legislative process, so that differences between legislation in the House and Senate can be reconciled and we can move forward.

I think we can stipulate the minority has always had a lot of power in the Senate, but never before has the minority insisted on writing legislation for the majority—not just in the Senate but in the House as well. That is the practical effect of preventing a conference. It is the minority of Senators saying: We won't allow the legislative process to go forward unless it is just the way we want it. Even though we are a minority in one of the two bodies, we are going to dictate to the other body the content.

When my friend from Nevada criticizes the majority leader for the way he is "handling the Senate," he is pointing the finger in the wrong direction. I say to my friends on the other side: You have met the enemy, and it is you.

I think I can safely speak for the majority when I say that we are perfectly happy to have votes on the Democratic Party outbasket items. But, of course, one of the privileges each Member of the Senate has is to prevent a time certain for a vote. And that is used around here frequently in order to make sure something else happens.

The something else the majority would like to have happen—and certainly the majority leader would like to have happen—is the chance of finishing a piece of legislation, getting it to conference, resolving the differences, and sending it on down to the President for signature. That is the way we used to legislate, I say to the Senator from Nevada, who was suggesting longingly that we ought to go back to the way we used to legislate, as he put it. That is the way we used to legislate.

Our position has been, as we have discussed this back and forth off the floor, let's see a limitation on amendments that allows the minority the opportunity to have their vote, allows the majority an opportunity to have a similar vote on a similar subject, to work our way through the legislative process, and then a guarantee at the end that there will be a conference allowed so the legislation we have spent time on has some chance of becoming law.

I can say to my friends on the other side, there is no chance—zero chance—that the majority in the House of Representatives is going to let the minority in the Senate dictate to them the final content of legislation that leaves the Senate. That is simply not going to happen.

I agree with my good friend from Nevada: Let's get back to legislating the way we used to. Legislating the way we used to means a limitation on amendments, amendments that are relevant certainly to the underlying bill but not just those, even those that are not relevant, with opportunities for the other side to offer their substitute ideas, and then a chance to get to the end of the process, to finally pass the bill, to get to conference, and to move along.

That is what the majority leader is looking for. We are going to continue our discussions, both on and off the floor, in the hopes that we can reach agreements to move forward on this important piece of legislation.

The Welfare Reform Act of 1996 was a conspicuous success story, a bipartisan success story passed by a Republican Congress, signed by a Democratic President, something all of us are proud of. It should be reauthorized. And the JOBS bill that had to be shelved last week because of an excessive number of amendments is something we know is extremely important to accomplish.

Levies have been put in place, a European tax on American manufacturers, at 5 percent beginning March 1. Tomorrow, it goes up to 6 percent, and then another percent each month until it is up to 17 percent—European taxes on American manufacturers, killing jobs here at home when we are told that jobs is an important issue.

So we need to do business. We need to do welfare reform. We need to get back, as my good friend from Nevada said, to legislating the way we used to. I hope we can reach that point very shortly.

TRIBUTE TO STEVEN J. LAW

Mr. McCONNELL. Mr. President, I rise to pay tribute to a good friend, Steven J. Law, who is the Deputy Secretary of the U.S. Department of Labor.

Deputy Secretary Law was nominated by the President and was confirmed by the Senate on December 9, 2003. Prior to holding his current position, he served the President and Secretary Elaine L. Chao as Chief of Staff at the Department. In that position, Steven has played a fundamental role in crafting major administration initiatives, such as the post 9/11 economic recovery plan, retirement security, and regulatory reform. Steven is valued as an asset to the Department, greatly admired by his peers, and respected throughout the Washington community.

Steven began his career in this city after graduating from the University of California at Davis. From there, he went on to receive his juris doctorate from Columbia University School of Law, where he was named the Harlan Fiske Stone Scholar and graduated cum laude.

It was after those academic pursuits that our lives happily crossed when he began in my office as a legislative assistant. Displaying the hard work and talent he is well known for, Steven quickly advanced to Chief of Staff shortly after successfully managing my 1990 reelection campaign.

Steven didn't just make a big impression on me. He was recognized by Roll Call as one of the 50 most influential staffers on the Hill. Eventually, he left my office to become executive director of the National Republican Senatorial Committee during my chairmanship and helped secure the Republican majority through both cycles. Over 4 years, and through 2 tough election cycles, he has very skillful and professionally managed that operation in an extraordinarily able fashion.

I have had the privilege of working with Steven for the past 15 years. I have had the honor of calling him my friend and confidant during that time as well.

Mr. President, it is easy to see why President Bush chose to nominate Steven to this high post. It is easy to see why my Elaine Chao, the Secretary of Labor, also exercised good judgment in giving this talented man this opportunity. I applaud his confirmation and wish both Steven and his marvelous wife, Elizabeth, and their two beautiful children, Charlotte and John James, continued success in their future endeavors. Elaine and I have been blessed to be a part of their lives for the last 15 years. This is truly a remarkable individual and a magnificent public servant. I wish him well not only in his new job as Deputy Secretary of Labor, but in all of the endeavors he may undertake in the coming years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, we have an opportunity to, based on the statement of the Senator from Kentucky, move some of this legislation. But I cannot understand why, when we finish running one race, we have to immediately go to the other race. We need a little time to rest.

What I am saying about that is that we have on many occasions passed bills in the Senate and accomplished the desire of the people working on that legislation by working things out with the House. We have done that without using conference. We have done this simply in negotiating the differences between the House and Senate. We have done it in the 108th Congress; we did it 21 times then. In the 107th Congress, we did it 51 times.

I think before the end of this year, if we can get a few things done on the floor, instead of 21 bills, we can get it up to maybe 40. We have done it on very important things, such as AIDS assistance, TANF extension, military family tax relief, national flood insurance, Syria accountability, veterans benefits, the Defense Production Act, which are very important pieces of legislation. There have been some things we have done with a conference. As some will recall, last year we had a difficult situation with the fair credit reporting. But Senator SHELBY and Senator SARBANES decided that the best thing they could do would be to set a standard and the two leaders said, yes, we are willing to go to conference, we think we can do a good job. They did that. It became law.

We are one step ahead of where we should be. We want legislation passed in the Senate. When that is done, there are many ways to resolve differences with the House. We can do it in conference and there are occasions when we need to do that. Some may ask why we have balked at conferences. Very simply, for example, the overtime measure which passed here went to conference, and Democrats weren't even invited into the room where the conference was held. A bill came back here and, of course, overtime was stripped from it, and we had a bill that did not go through the conference process. They did not follow the Shelby-Sarbanes model.

We are willing to work to get legislation passed. We have said we want to do that, we want to work our way through these amendments. But to come here and say we will do it if you only have 4 amendments, the best way to get these bills passed is to work on them. These bills don't come magically. We have 49 of us here and 51 on the other side. We all have ideas as to how the legislation could be improved. Sometimes our ideas are good and sometimes they are bad. But individual Senators—there are two Senators from every State with the ability to get elected. We have wide interests we represent in our States. We have an obligation to allow them to offer amendments and move through this legislation.

I am not an expert in parliamentary procedure in the Senate. I don't think many people can claim that. I do understand a lot of the procedures in the Senate, and I understand that the best way to do legislation is to work through it. If you have an amendment you don't agree with, speak against it and vote against it. But don't stop others from having the opportunity to vote.

So, again, we are being told today, yes, we will let you have some amendments, or we will let you have more than some, but if we do that, you have to agree to go to conference. We are not going to do that. We are going to do everything we can to get a bill passed.

As I have indicated, Mr. President, in the 108th Congress, 21 times we have been able to get legislation passed and sent to the President without a conference. We have negotiated our differences in the language between the House and Senate. We can continue to do that. We did it 51 times in 107th Congress. So as I said before, and I repeat, there is no reason we should not legislate the way we always have in days past: You introduce legislation, it goes to committee, comes to the floor, we debate it, offer amendments, and vote on it. When that is done, you figure out how you are going to work your way through the differences with the House.

We want to pass the tax bill that was in effect on the Senate floor last week. I repeat, we want to pass this welfare bill. The only way we can show that is by agreeing to work through these amendments. There is not a single Senator who wants to filibuster this bill. We are not going to be stopped from offering these amendments, and we will hold together as a body and not allow cloture to be invoked tomorrow. It is not fair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized first.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH GASOLINE PRICES

Mr. INHOFE. Mr. President, I rise today as consumers in America—businesses and farmers and families—are facing gasoline prices at a record high. Prices for natural gas, which is used to heat our homes and workplaces, have gone through the roof.

In fact, I chair the Environment and Public Works Committee, and we had a hearing this week on the crisis we are facing, and that is our farmers are having to pay twice as much as they did 6 months ago because of the skyrocketing costs of natural gas. And all of this is due to the fact we have a lot of the far-left environmental groups trying to keep us from being able to produce more oil and gas, and it is a crisis. It is a crisis, as we pointed out in this committee hearing. Unfortunately, due to obstructionist tactics led by the radical environmental groups, bipartisan energy policy legislation continues to just be out of grasp of passage in the Congress.

Yesterday, those who are against domestic energy production and in favor of higher costing energy prices plaguing us today were given a boost by the presumptive Democrat for President who said in a speech in San Diego, CA:

> We need a new direction on energy policy.

And went on to lay blame for the high cost of gas on the Bush administration, while attempting to put forth an energy plan of his own. Rather than advance a policy actually related to our Nation's energy needs and supplies, the Senator consistently suggested policies that would increase cost to consumers, that would consistently increase cost to businesses, that would consistently undermine our economy and force high-paying manufacturing jobs overseas. We have seen this taking place. It is taking place today. I heard our very eloquent junior Senator from Ohio talk about the number of jobs they have lost in the State of Ohio just for this reason.

His statements about the Bush administration are incorrect. One of the first proposals the Bush administration made was a comprehensive energy plan in 2001 that would increase domestic energy supplies and make America less dependent on foreign sources of energy.

Congress took up legislation and incorporated many aspects of the President's plan, and I note that the Senator who finds it easier to criticize than do was nowhere to be found when the bipartisan Energy bill, H.R. 6, was debated and passed by the Senate by a vote of 84 to 14 on July 13, 2003.

It intrigues me that this issue is important enough for the Member to take time to discuss it out of his busy campaign schedule, but not important enough for him to be present and vote on the bipartisan legislation that was brought before this body. In fact, to my recollection, the junior Senator from Massachusetts, prior to yesterday, never once proposed comprehensive energy legislation during his 19 years in the Senate.

What we heard from San Diego yesterday was really less of an energy policy for the Nation and more of a checklist of how to increase energy costs to consumers. I am not surprised at that fact since it is clear from his voting record over the last many Congresses that affordable domestically produced energy was far from a priority of the Senator. His claim yesterday to aggressively develop domestic oil and gas supplies does not seem genuine to me as he has no specific plan to do so and has spent a lot of his time stopping us and this country from being able to explore such areas as ANWR and offshore that would allow us to be energy independent.

Let me be perfectly fair. This goes back a number of years. I can remember even back during the Reagan administration making talks about the fact at that time we were 35 percent dependent on foreign countries for our ability to fight a war. And yet now it is closer to 60 percent. So there we are only 2,000 acres of ANWR's Coastal Plain, about the size of Dulles Airport, for oil exploration and development; 2,000 acres that could provide the United States with enough oil to replace imports from Saudi Arabia for the next 30 years.

But actually, as the junior Senator from Massachusetts proposes to solve the energy crisis, for one he is going against his own advice and now calling for President Bush to open the Strategic Petroleum Reserve, a move that would threaten our national security without any benefit.

We know from recent history that releasing oil from the Strategic Petroleum Reserve would have no impact on gasoline prices. On September 22, 2000, former President Clinton released 30 million barrels of oil from our strategic stockpiles. The effect, according to Energy Information Administration, was 1 penny savings per gallon of gasoline. So that does not work. It makes good conversation, it sounds good, but we know it does not work, and he knows it, too.

During that time, the junior Senator from Massachusetts stated himself that a release is not relevant. It would take months for the oil to get to the market, he said. Now he has flip-flopped and it is the cornerstone of an energy plan more about politics than meeting the real needs for American families and businesses.

Even experts such as the Federal Reserve Chairman Alan Greenspan, former Carter Energy Secretary James Schlesinger, and other top energy officials have warned for years that the Strategic Petroleum Reserve should not be used as a market management scheme. It is there for national security. I think we all understand that.

Further, it is important to note while we have a Strategic Petroleum Reserve, we do not release our strategically held resources to fit political whims but should only do it to address a major supply disruption, such as political instability from a source nation, which is highly likely, and I think we understand that situation. The relative instability of supply nations is well known. Our Strategic Petroleum Reserve is our Nation's buffer, a safety net. The junior Senator from Massachusetts would have us squander our Nation's strategic reserves for his political gain, forcing our country into a far weaker position.

The presumptive Democrat nominee's call to release oil from our strategic reserves is also surprising to me because what he is really calling for is to increase our domestic supplies. Experts agree that one of the principal reasons that our Nation was able to weather the oil embargo of the 1970s was largely because new supplies were coming online from Prudhoe Bay, AK. Yet, as I said before, the Senator staunchly opposes developing oil from the Alaska National Wildlife Reserve. The policy of the junior Senator from Massachusetts seems to be: Let us use our strategic reserves but not have any more oil to replenish them.

The Senator is also quick to praise himself for his foreign policy experience. Yet that experience must not have translated to the energy sector. Oil is a global commodity; therefore, the world market must be considered. What has happened in the global market? China's increased demand for oil has constrained world oil supplies which have only been exacerbated by OPEC's recent reduction restrictions.

We should also note that another key component of the Senator's plan to address our Nation's high gasoline prices is for the administration to get tough with or jawbone OPEC, the implication being that President Bush is not advocating America's interest, that he is too soft.

The foreign policy of the junior Senator from Massachusetts is interesting on this point. On one hand he criticized the President for not kowtowing to the United Nations and countries such as France in the war on terrorism and on the other hand suggests that the administration is too soft on oil-producing nations. You cannot have it both ways.

In addition, the Senator has been a supporter of drastic climate change legislation that would cripple our economy and legislation that would literally shut down powerplants in the United States, the outcome of which would send hundreds of thousands of American jobs overseas and seriously stress our supply of energy.

It was the Wharton Econometrics Survey that came out with the conclusion that if we signed on to the Kyoto Treaty, it would cost 1.4 million jobs—that is what we are talking about today: jobs—it would double the price of energy, it would cost an increase of 65 cents a gallon on gasoline, and it would cost the average family of four $2,700 a year. That is not JIM INHOFE talking; that is what came from the Wharton School of Economics.

In addition, the Senator has been a supporter of drastic climate change legislation that we have talked about that would be disastrous for this country. Again, since the Senator has not developed an energy policy before and failed to show up for the Energy bill vote, I must look to his words and not his actions to determine what is the intent of his energy policy.

The Senator's recommended energy and environmental policy seems to be tainted with an overriding intent to impose his utopian view of the future without any consideration on present reality at any cost. The junior Senator from Massachusetts makes nonhydropower renewable energy a cornerstone of his energy policy. Again, however, we must look to the Senator's words on the matter and not his deeds.

Last year's energy bill renewed a tax credit for wind and solar energy, a credit that expired on December 31. The Senator failed to show up for the crucial vote and the tax credit died. Prior to that vote, Randall Swisher of the American Wind Energy Association said: If the energy bill dies, extension of the wind production tax credit will also die for any time in the foreseeable future.

Swisher and many in the industry contend the credit is essential to maintaining their businesses. He said:

> If we weren't in the bill, the credit that is the foundation of our industry was going to expire and with it our industry would expire.

So, yes, it was important for them to see the energy bill move forward. President Bush recognizes the valuable contribution renewables can play in our Nation's energy mix. The President dedicated $1.7 billion over 5 years to develop hydrogen fuel cells and related technologies. In 2005, in his budget, it includes $228 million for a hydrogen fuel initiative, an increase of $69 million, or 43 percent, over the 2004 funding to develop the technologies to produce, store, and distribute hydrogen for the use of fuel cell vehicles, electricity generation, and other applications.

The 2005 budget proposes tax incentives totaling $4.1 billion through 2009 to spur the use of clean, renewable energy and energy-efficient technologies.

President Bush's plan invests in the future. He wisely recognizes nonhydropower renewable energy represents only about 1 percent of our Nation's energy mix.

The Senator, on the other hand, would mandate 20 percent of our Nation's electricity be generated with those very same renewable sources by 2020.

In 2003, DOE's Energy Information Administration concluded a 10-percent mandate could cost Americans more than $100 billion. However, the effect would likely be far more severe in certain regions of the country where "not in my backyard" and the risks seem to drive policy without regard to fixed and low-income residents.

The fact is wind energy, the most cost-effective renewable, is only effective when the wind blows. We already know where the rich elite stand on developing wind turbines off the coast of Cape Code in the Senator's home State of Massachusetts.

The presumptive Democrat nominee also supports legislation that would cap carbon dioxide under pollution-reducing bills as well as under the auspices of global climate change. Again, the Senator seeks to impose his utopian world view on people without bothering to consider our Nation's energy makeup, or more likely he is but does not seem to care.

Drastic carbon dioxide reduction strategies the Senator supports would effectively force coal out of use. I think we all understand that. Coal right now, whether the junior Senator from Massachusetts and his special interest radical supporters like it or not, makes up one-quarter of our country's energy mix.

Recently, it has been reported the junior Senator from Massachusetts supported a 50-cent per gallon tax on gasoline. The effects of such a tax on our country are obvious. However, I think it is important to note such a tax is another example of the Senator's overriding opposition to fossil fuels and his blind and unwavering support for nonhydropower renewables without regard to the state of our Nation's actual energy mix.

Nonhydropower renewable energy is a wonderful concept and with the administration's investments in developing technology, I am confident its use will increase considerably. However, today it is too costly, which leads me back to the Senator's overriding intent behind his suggested energy policies.

The presumptive Democrat nominee and his radical environmental group supporters also recognize renewables are not cost competitive compared with traditional energy sources today. Their answer: Embark on a strategy to make fossil fuel use so expensive and burdened with regulations that nonhydropower renewables suddenly become more cost effective by comparison.

Let's recap a few of the highlights of the recommendations of the junior Senator from Massachusetts. No. 1, empty the Strategic Petroleum Reserve. No. 2, do not produce domestic oil. No. 3, impose a tax on gasoline, some 50 cents a gallon. No. 4, impose a mandate increasing nonhydropower renewable energies from 1 percent to 20 percent in 15 years. No. 5, restrict carbon dioxide emissions, which translates to reducing U.S. economic production.

The Senator's energy policy is certainly bold, if nothing else. It is just that the Senator's utopian view of the future ignores our very real present.

Like his radical special interest supporters, the Senator's energy policies would increase costs on American consumers, disproportionately affect the low and fixed-income taxpayers, and drastically undermine the ability to compete in the global market.

If this were not a Presidential election year and we were asked to judge a man not on his words but on his actions, we would in large measure know what the Senator's energy policy would be: Do nothing but make speeches.

Some may scoff at what I am saying. We all know the Senator was too busy campaigning to do the job his constituents elected him to do and the job American taxpayers have paid him to do. Instead of actually doing some work and crafting an energy policy, the junior Senator from Massachusetts chooses to make outrageous allegations from the comfort of multimillion-dollar mansions in Beverly Hills.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I had not expected to hear the kind of statement with regard to the criticism of the Senator from Massachusetts, my colleague and friend JOHN KERRY, on the energy policy. I will include in my comments a response to Senator INHOFE.

I am wondering whether the Senator could possibly tell us what was the position of the President of the United States when OPEC continued to cut back on production today. We have a statement by a colleague talking about a candidate for the President of the United States when today OPEC primarily—

Mr. INHOFE. Madam President.

Mr. KENNEDY. I have the floor.

Mr. INHOFE. Madam President, I was asked a question, and I would like to answer the question.

Mr. KENNEDY. Regular order. Regular order.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. No, I do not yield.

We have today more than 150,000 servicemen who are over there protecting the oil countries in the Middle East, and American service men and women are dying every single day. If we have a President of the United States who is lacking in sufficient influence to try and indicate to our allies that it is of vital importance to the security of the families and industry in the United States that they increase their production, what kind of influence do we have? Where is our President of the United States on this issue? Why are we hearing Members who are so eager to talk about JOHN KERRY's policy on energy talking about what we ought to be doing over there today as OPEC is cutting back on its production?

We hear silence. We have silence about that. Where is the administration?

I remember last week we had my good friend Spencer Abraham, who is the Secretary of Energy, and I asked him the question whether this President was going to try and persuade the oil-producing countries in the Middle East to produce more energy, particularly at a time when we are faced with difficult economic significance. His answer was: This administration is not going to beg for oil.

Beg for oil? When we have 140,000 men and women over there protecting their interests and protecting their oil and they are cutting back production?

I would not think there would be many Members of the Senate who would be criticizing my colleague, who has done so, who recognize that their President should provide Presidential leadership. This election is about Presidential leadership. My colleague has been demanding that this President do something about the cutbacks in production.

We hear criticism—well, he didn't show up for a vote. Sure, he is running for the Presidency of the United States.

I will certainly respond to my colleague, but I am absolutely baffled that one of the major energy decisions being made in the world is being made within the last 24 hours by the OPEC countries, the primary producers, Saudi Arabia in the Middle East, other middle eastern countries whose security American servicemen have been fighting for and dying for, and this President and this administration has not sufficient influence to be able to stop them from cutting back in production or getting them to increase production. You talk about a bankrupt energy policy—there it is.

Every consumer ought to know when they pay those extra funds for the gasoline, they are paying it directly to countries over there in the Middle East whose security we are protecting and for which American lives are being lost. It is beyond belief to me.

AMENDMENT NO. 2945

Madam President, we have, over the course of the day, had a number of our colleagues speak about the amendment that is before us, and that is the increase in the minimum wage over a 2-year period, up to $7 an hour. I want to wrap up this evening and summarize a couple of important points because during the course of the afternoon, I followed the debate when I wasn't here for a few hours, meeting with the head of the VA about some of the challenges we are facing up in Massachusetts about veterans health.

We heard statements, speeches from some of our colleagues on the other side, that the increase in the minimum wage was delaying action on the TANF reauthorization. Of course nothing could be further from the truth. As Senator BOXER, my friend and colleague who introduced the legislation, and I have stated, we would have been willing to have a 20-minute time agreement, 10 minutes a side, and had a vote and final disposition and then moved ahead with other amendments.

But the opposition is so strong in opposition to this amendment that the Republican leadership has insisted we have, effectively, a cloture vote, delaying progress on the underlying bill for some 2½ days, so if they are successful in getting cloture, cutting off the debate, they will eliminate the possibility of even voting on an increase in the minimum wage.

Maybe there are those who are opposed to the increase in the minimum wage. We have heard some of them speak today in opposition. But the idea that this is not related and relevant to the underlying bill defies any logic and any fair understanding of what the underlying bill, the TANF bill, is all about.

I bring to their attention the statement that was made by Secretary Thompson regarding the TANF reauthorization when he testified on March 6, 2002. He said:

> This administration recognizes the only way to escape poverty is through work, and that is why we have made work and jobs that will pay at least the minimum wage the centerpiece of the reauthorization proposal for the Temporary Assistance for Needy Family Program.

That will pay at least the minimum wage. There it is in the words of the President's own representative. That is exactly the issue we are attempting to address and we are being denied getting final action on it.

I am going to take a moment to review for the benefit of the Senate about where the minimum wage is now. The purchasing power of the minimum wage has dramatically decreased.

We reviewed with the Senate what the impact of the increase in the minimum wage has been on unemployment and have shown many times when we have had increase in the minium wage it had virtually no adverse impact on the question of unemployment. We reviewed the fact if we have the increase in the minimum wage it virtually has no impact on the issue of inflation. We responded to the question of different conditions and different parts of the country. There are small mom-and-pop stores that would not be able to afford the increase in the minimum wage. We responded and pointed out those stores by and large are excluded under the provisions of the existing minimum wage.

We heard: We don't want to do this because we want to encourage young people to work in agriculture. We responded: It doesn't relate to agricultural workers.

We have addressed all of these kinds of conditions.

These minimum wage workers are men and women of dignity. They work hard and long. The men and women who clean out the buildings in this country at nighttime, teachers' aides, and assistants working in homes looking after the elderly are men and women of dignity. They do not want any assistance. They want to have a wage so they can provide for themselves and their children and their families.

I want to reiterate and give some examples. I gave some examples earlier. These are the real faces of people who are going to be affected by what we do here tomorrow on the floor of the Senate, whether we are going to be able to get a vote on the increase in the minimum wage or whether we are going to be denied that opportunity to do so.

The minimum wage affects a person such as Cynthia Porter.

> Cynthia Porter is not on welfare. She works as a certified nursing assistant at a nursing home in Marian, Alabama. When Cynthia comes on duty at 11:00 p.m., she makes rounds. She checks the residents for skin tears and helps them go to the toilet or use a bedpan. She has to make sure she turns the residents every two hours or they will get bedsores, and if bedsores are left unattended, they can get so bad that you can put your fist in them.
>
> But there aren't enough people on her shift. Often there are only two nursing assistants for forty-five residents. In addition to responding to the needs of the residents, Cynthia must also wash the wheelchairs, clean up the dining rooms, mop the floors and scrub out the refrigerator, drawers, and closets during her shift. Before she leaves, she helps the residents get dressed for breakfast.
>
> For all of this, Cynthia makes $350 every two weeks. She is separated from her husband, who gives her no child support. The first two weeks each month she pays her $150 rent. The next two weeks, she pays her water and her electric bills. It is difficult to afford Clorox or shampoo. Ensuring that her children are fed properly is a stretch, and she is still paying off the bicycles she bought for her children last Christmas.
>
> She can't afford a car, so she ends up paying someone to drive her the twenty-five miles to work. And there have been a few days when she couldn't find a ride. "I walked at twelve o'clock at night," she said. "I'd rather walk and be a little late than call in. I'd rather make the effort. I couldn't just sit here. I don't want to miss a day, otherwise, I might be fired." There is no public transportation that would take her to work.
>
> I first met Cynthia at a union meeting. She had a quiet, dignified presence with her dark suit and her hair pulled back in a bun. She and twenty-five others from the nursing home—all eighty of her coworkers are African American women like her—gathered in the little brick Masonic building outside of Marian to talk about having a union. Like Cynthia, none has ever gotten a raise of more than 13 cents. Some who had been there ten years were still making $6.00 an hour.

She is effectively a minimum wage worker.

These are the people this legislation is trying to help.

Linda Stevens:

> The only job she could find with a high school degree and some college courses was a part-time cashier's position at a small market called George and Stanley's, working the night shift from 6:00 p.m. to 10:00 p.m. Not surprisingly, the $5.00 an hour she made at her retail job was not enough to support her and her daughter, so she worked a second job from 2:00 to 5:00 p.m. as a receptionist at H&R Block, which paid $5.50 an hour. She liked the work and would have preferred to go full-time, but H&R Block only offered work from January through April. The money from these two part-time jobs still did not cover her bills, so she worked as a lunch supervisor for the Flint public schools from 11:30 a.m. to 1:00 p.m. She had to put planners up on the wall to keep track of her schedule. And even then, she had no benefits.
>
> After a year, Linda left her job at George and Stanley's after they refused to give her a 25 cent raise and went to work at Kessell's on the day shift for $5.25 an hour. But Kessell (which has since been purchased by Kroger) would only give her a part-time position and without full-time status, she still did not get benefits. Working three jobs became so exhausting that she left her lunch supervisor position, but had to continue to work her second job at H&R Block.
>
> Linda's typical day started at 6:00 a.m. when she got her daughter ready for school. Her job at Kessell started at 7:00 a.m. and ended at 3:00 p.m. She came home, changed, and went to her job at H&R Block at 5:00 p.m. and got off at 10:00 p.m. Her schedule left little time to spend with her daughter.

She needs a minimum wage to help that family.

Flor Segunda of Newark, NJ:

> Flor lives in a primarily African-American neighborhood of Newark, New Jersey, with her husband and three children: Jose, who is nine years old; Luis, who is two and a half; and Paul, who is one and a half. To reach Flor's place, you must walk down a flight of concrete stairs, through a narrow hall, and past the washer and dryer. Like most basement apartments, it is damp and dark. One small window allows the only daylight to enter. They pay $700 per month for this two-bedroom apartment without utilities. There are no parks near her apartment and she doesn't have a car. So most days, the children stay inside.
>
> At night when most workers are at home, Flor begins her day. She cleans, dusts, vacuums, dumps trash, and straightens the offices of law firms in a large suburban office building in West Orange, New Jersey. Flor is a janitor. She works for a private contractor who contracts with the owners of commercial buildings to provide cleaning services.

She would benefit from an increase in the minimum wage.

Finally, Judy Smithfield:

> Judy Smithfield works in a superstore as a pharmacy technical assistant, a "pharmacy tech." Her 12:00–9:00 p.m. shift begins with a call from a nurse in a doctor's office dictating a prescription over the phone or a customer at the counter giving her a prescription. Once she has the information, she gives it to the pharmacist to process in the computer. Then it is Judy's responsibility to check that information and get the proper medication from the shelf. She counts the pills that are prescribed, puts them into the bottle, affixes the proper label to the medication, gives the filled prescription to the pharmacist for her review, and puts it in the proper bin for the customer to pick up.
>
> Once the customer arrives, Judy must ensure that she has the right prescription and that the proper forms are filled out. She must ask the customer whether they understand the prescription, whether they want counseling or have any further questions. Their response must be put in writing.
>
> There are two pharmacy techs and three pharmacists on Judy's shift that fill over 400 prescriptions per day. If the pharmacy gets behind in the prescriptions, Judy stays late, sometimes until midnight. Many times she works six days a week because they don't have enough help. Her feet and back ache from standing all day.

This will help Judy.

I want to conclude again by talking about the impact of the minimum wage and the failure of increasing the minimum wage on families, particularly on children.

I pointed out earlier we have 35 million Americans, according to the Department of Agriculture, who are hungry or living on the edge of hunger for economic reasons—35 million in a country of 290 million.

Today 300,000 more families are hungry than there were 3 years ago. The 2003 survey by the U.S. Conference of Mayors that looked at hunger found effectively 39 percent of the adults requesting food assistance were employed. A leading cause of hunger is low-paying jobs.

Emergency food assistance increased by 14 percent. Of those requesting emergency food assistance, 59 percent were members of families with children and elderly parents.

City officials recommend raising of the Federal minimum wage as the way the Federal Government could alleviate hunger.

This is their No. 1 recommendation. This is the survey of the U.S. Conference of Mayors, Republican and Democrat alike, for raising the minimum wage.

Finally, I have the excellent report of the National Urban League, October 2002. I will read just parts of it. In the foreword, it says:

> Too often, changes in the minimum wage are viewed as poorly targeted to the needs of America's working families. Minimum wage workers are too often presented as teenagers, or wives in middle class families. Yet, the clear implications of this study are that the proposed increase in the minimum wage from $5.15 to $6.65 an hour would move 1.4 million American households to the level of being food secure, having enough money to buy nutritious and safe food for their families. And, a disproportionate share of the households that would benefit would be African American or Hispanic. Single parent households would also benefit disproportionately from an increase in the minimum wage.

Again raising the minimum wage is a clear policy solution for helping meet the needs of America's poor children.

Then it goes on in the executive summary:

> Second, we show that increases in the minimum wage raised the food security of households in which the householder, principal person in the household, has no more than a high school diploma or is a single parent or both. The increases in the minimum wage lessened hunger in all households, but particularly in low-income households and in those households in which the householder was less educated, African-American, Hispanic or was a single parent.

Finally, I will include in the RECORD the findings. These are briefly the findings.

> We find that:
>
> (1) Increases in the Federal minimum wage to $4.25 in October of 1996 and $5.15 per hour in September 1997—

That was 7 years ago—

> reduced hunger among all households and in particular, in low-income households where individuals had completed no more than a high school degree. . . . Hunger is defined as a psychological condition where household members experience an uneasy or painful sensation caused by the involuntary lack of food.

> (2) Relative to the general population, food security rates are lower among households in which the householder has no more than a high school degree. . . .
>
> (3) A direct relationship between food security and increases in the minimum wage was observed following two modest increases in the minimum wage in 1996 and 1997—when food security rates increased slightly; and following administration of the Food Security Supplement . . . of 1995. Food security rates also increased modestly following 1995. . . .
>
> (4) Inner city households have the highest levels of food insecurity, followed by suburban and rural households. Other studies have demonstrated that groups most-at-risk for food insecurity are those who are most economically vulnerable, and whose households are most directly impacted by increases in the minimum wage.

The failure of our increase in the minimum wage is wrong because Americans believe people who work 40 hours a week, 52 weeks a year, should not have to live in poverty in the United States of America. And it is wrong because we now have millions of children who are going hungry every night, and millions of families who are going hungry as well.

We can make some difference by increasing the minimum wage. It is now at a dramatically decreased level of purchasing power. Certainly, we can do better. We should do better. How can we possibly tolerate the conditions of our fellow Americans and not say that we need an increase in the minimum wage? I hope we will be able to do so tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I appreciate the opportunity to rise in support of the amendment offered by Senators KENNEDY and BOXER to raise the minimum wage over the next 2½ years.

My staff provided me with some information about the history of the minimum wage. One important date cited is 1968, which was my senior year at Ohio State University. I had a couple of jobs then. I was the pots-and-pans man at the Delta Gamma sorority house. I also had a part-time job at the university bookstore. I was paid the minimum wage for both jobs, which at the time was $1.60 per hour. If you adjust $1.60 for inflation, then the minimum wage would presently be $8.50 per hour.

Senators BOXER and KENNEDY propose that we gradually raise the minimum wage over the next 2½ years. They recommend raising it from the current level of $5.15 per hour to $5.85 in the next 60 days, from $5.85 to $6.45 a year later, and finally from $6.45 to $7 the following year.

Some have said that such an increase goes too far, too fast, and have suggested that we take a different approach. However, we should do some math on the decline of the real value of the minimum wage. The current minimum wage has been $5.15 per hour since 1997. If you adjust $5.15 for inflation, then we would have a minimum wage of $5.95 per hour. But, if you adjust the minimum wage for inflation from its 1968 level of $1.60, then the minimum wage would presently be $8.50.

Senators KENNEDY and BOXER are right in the middle between the two, and I would suggest to my colleagues that they are not far off the mark. In fact, their amendment is a pretty good compromise.

I know that some people do not want to raise the minimum wage, and that they are concerned by the potential for job losses if we were to do so. And some of our employers—both large and small—have expressed concerns with an increase in the minimum wage and urge us to be mindful of those concerns.

Having said that, we also need to be mindful of minimum wage workers. Senator KENNEDY shared with us some real-life examples. Let me share with you some of my own experience from when I was a college student earning the minimum wage. A lot of people who received the minimum wage in 1968 were not supporting a family. I was not supporting a family in 1968. Many of them were students or just out of school.

But a lot of the people who earn the minimum wage these days are people with a family, with one child, or maybe two. They may be in a two-parent family. But in a lot of cases, a minimum wage earner is a single parent.

I urge my colleagues to keep this statistic in mind as we consider whether to support an increase in the minimum wage. If you or I were working full time, 40 hours a week for 52 weeks a year, with no time off, then we would be making about $206 a week if we were paid the minimum wage. That is less than $11,000 per year.

Madam President, less than $11,000 per year does not crack the poverty line for one person, much less two or three.

As a Governor who worked on welfare reform in my state and with the National Governors Association I understand what it takes in order for people to move off of welfare. For people to move successfully from welfare to work, four things have to happen: One, they have to have a job to go to; they have to have a way to get to the job; they have to get some help with their health care; and they need some help with their childcare. Those four things: a job, the ability to get to a job, health care, and childcare are critical.

The other thing people have to have when they get off of welfare for work is the belief that they will be better off working than on welfare.

In my own State of Delaware, we adopted comprehensive welfare reform in the mid-1990s and phased in an increase in the minimum wage. Today, the minimum wage in Delaware is $6.15 per hour. We increased the minimum wage to help people move off of welfare. We wanted to make sure that they were better off working than on welfare.

I ask people to understand, whether you happen to be from Delaware or Maine—where the Presiding Officer is from—or from any other State, to try to make it these days on $11,000 per year, while trying to hold a family together. It is incredibly difficult to do so.

The other thing I want to say is on a more macro-issue with respect to welfare reform legislation currently on the Senate floor. We should be able to pass welfare reform legislation. Both sides agree on about 90 percent of the issues. For those issues that we do not agree on, we should be able to reconcile our differences.

I believe that legislation I introduced with Senator COLLINS, the Presiding Officer, and with Senator BEN NELSON is a consensus bill on welfare reform—we think it is a pretty good compromise from what has been reported out of the committee and has some of the changes that Democrats would like to see. That bill is a good compromise.

On our side, we want to have an opportunity to offer relevant amendments to legislation before the Senate. One amendment is an increase in the minimum wage, which I think is relevant to this particular bill. A second amendment is an extension in unemployment compensation benefits. We should extend unemployment compensation benefits until our economy is stronger and we have more jobs for people looking to work.

Senator HARKIN has an interest in offering an amendment on overtime regulations, which has already passed the House and the Senate. He is determined to make sure he has a chance to offer that again.

We are smart enough around here to be able to work with our Republican colleagues to come up with an agreement that allows those three amendments to be offered.

Once those amendments are offered, we should be able to offer other relevant amendments to this welfare bill. I have a few amendments to offer, and I know others do as well. We should be able to agree on a reasonable number of amendments—it could be 10, 20. We could also agree to an amount of time on such amendments, for example, 10 minutes for proponents of the amendment and 10 minutes for opponents of the amendment. When the debate on an amendment is completed the Senate should vote.

I would be very disappointed if we went along and, at the end of next week, were not able to close our differences on welfare reform legislation and the FSC bill.

The last thing I will mention has to do with conference committees. When the House passes one bill, and the Senate passes a different bill, we end up, a lot of times, in a conference negotiation to resolve differences between the bills. And we, in the Democratic Party, have been stung because we have not been allowed to participate in these conferences.

We saw that happen with respect to the Energy bill, where Democrats were not invited to participate. We saw it happen to a large extent in the conference on the Medicare prescription drug bill, where, for the most part, Democrats were not allowed to participate in conference negotiations. We cannot allow that to continue. Democrats are not going to allow that to continue. Someday Democrats will be in the majority. Someday our friends on the other side will be in the minority. I ask them to keep that in mind because what is good for the goose is good for the gander.

To the extent that we get closed out of conference committees without any active participation, the same thing could happen to them. I would not want to do it to them, and I do not like having it done to us.

Part of this universal agreement in moving welfare reform and getting the FSC bill onto the Senate floor is not just encouraging words about the conference, but a good, hard, fast agreement that Democrats will be full participants in a welfare reform conference with the House.

It is too bad that the presiding officer, Senator COLLINS, and I cannot work out these differences by ourselves. We would pass a bill that we negotiated with Senator NELSON of Nebraska. It would be pretty easy.

I do not mean to minimize nor make light of the toughness of the situation we face, but we can get this done. We need to get this done. We are going to take a recess week sometime around Good Friday. I sure hope we can go home having passed welfare reform legislation through the Senate, and to have made good progress on FSC legislation as well.

With respect to a reasonable increase in the minimum wage, we should be able to get that done. It is the right and fair thing to do. We need to have an extension of unemployment compensation benefits. While we have an official unemployment rate of about 5.6 percent, the rate is actually closer to 7.5 percent once you count all the people who have run out of benefits or stopped looking for employment.

If we agree to those things, we ought to be able to get those bills done and move on to the next step in welfare reform. Welfare reform is a great experiment, made successful by our Nation's Governors. Members of the Senate know how to make it even more successful going forward.

It has been a pleasure to do business with the Presiding Officer and Senator NELSON on our side. I hope we can take some of the provisions in our bill and have an opportunity to offer them as an amendment to the bill in the next day or two.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Madam President, the hour is getting late. I am going to take a few minutes of the Senate's time to talk a little bit about welfare reform. It is a subject that has been close to my heart for a long time. I was a freshman in the House when I introduced, along with then-Congressman Tim Hutchinson who subsequently served in this body, what we called the real welfare reform act.

The idea behind that bill was to stop talking about welfare reform in terms of whether we could save money or whether we could stop fraud in the welfare system and start talking about what was really at stake, which was replacing a system that had punished work, that had discouraged marriage, that had torn down neighborhoods, and had mired people in despair and replaced it with a system that encouraged work for able-bodied people, required it in some cases, that supported community-based solutions, and built up neighborhoods.

We talked about that bill for several years. Welfare reform gained steam. There were some who opposed it the whole time, who fought a last ditch effort on behalf of the status quo; a pretty lousy status quo it was, too. But eventually we passed the bill by very large majorities in both Houses. President Clinton signed it. There were predictions of doom. It has turned out to be—I guess now by consensus—the most successful legislation of the 1990s, and the most significant social reform passed in the last generation in this Congress. Now the extension of that bill, the new welfare reform bill, the attempt to extend the benefits of work and marriage to more and more people around this country, is being filibustered.

That is not a new thing in this Senate. I made a quick list. We can't approve nominations for judges; that is being filibustered. The Energy bill was filibustered. The liability relief bill was filibustered. The tax break for manufacturers to try and keep manufacturing jobs in the United States was filibustered. Now welfare reform is being filibustered in the name of passing a minimum wage increase.

Of course, there are varying opinions in the Senate and around the country about the minimum wage. I have supported it in the past, when it was linked to tax benefits or other kinds of support for small business because whatever you think of it, it is a mandate on small business. We ought to support small businesspeople, the ones who are creating the jobs in the country, if we are asking them to increase their payments.

Whether you do or you do not support the minimum wage, though, it is a terrible mistake to filibuster the welfare reform bill in the name of passing the minimum wage bill. As a matter of fact, my understanding is the leadership has offered to take votes on that and several other measures that Senators on the other side want to offer, if we can have some assurance the bill will pass, some assurance that going through these amendments that are not germane to the bill will allow us to pass the bill and then get to conference and finally pass the bill and send it to the President. That does not seem to me to be an unreasonable request.

Why is it so important that we pass welfare reform? What has happened since 1996? Mr. President, 3.6 million fewer Americans live in poverty now; 2.9 million fewer children live in poverty. Child poverty is at its lowest rate. Kids are not as poor as they were. In June 2002, there were 5 million welfare recipients, which was a 65-percent decrease from the 1994 level. The poverty rate of single moms is the lowest rate in U.S. history. Even the out-of-wedlock birth rate has stabilized and gone down slightly since 1996.

I was at a press conference earlier today when a lady talked about the effect of this on her life. Because of welfare reform, she is now working and supporting her family. She talked about what it meant to her kids. The first day she came home from work with a paycheck, they waited for her, and they wanted to go to the store and pay cash at the grocery store instead of having to use food stamps. They were proud of their mother. There are stories such as this all over the country.

Now in the name of helping the poor, some Members are holding up the welfare reform bill. There is an irony in that.

Let me talk a little bit about history. Poverty in the United States in the immediate postwar era was about 30 percent. It declined steadily for 20 years until 1965; reached about 15 percent in 1965. And that is when the Federal Government declared war on poverty, which was a good thing. One of the frustrations about this whole experience is there is a consensus. If we look beyond the politics of the 24-hour news cycle and look where the two great parties in this country have come from, what their mainstream beliefs are, there should be a consensus about welfare reform. There is on final votes.

Liberals, in 1965, got the Federal Government aggressively in the business of trying to do something about poverty. That was a good impulse. What went wrong with it was that they did it in such a way that showed a disrespect for the basic values that have always gotten people out of poverty. The two best antipoverty programs, historically, in the United States, the way people get out of poverty have been work and marriage, family. They work and they marry somebody who works. They get out of poverty.

Poverty is not that unusual an experience for Americans. Most Americans either grew up in poverty or they have a parent who grew up in poverty or at least a grandparent who grew up in poverty. That is how they got out of poverty.

For 30 years, from 1965 to 1995, in the name of fighting poverty, the Federal Government conditioned assistance to poor people on them not doing the two things that get people out of poverty. They offered a package of benefits that, to somebody coming from a low-income background, looked like a lot of money—cash benefits, Medicaid, housing subsidies, food stamps—but only on the condition they not get a job, they not get married, and they have children anyway. That is how we ran the welfare system for 30 years.

The poverty rate, which was 15 percent in 1965, 30 years later was 15 percent. But it was intractable poverty because if you are 18 or 19 years old, you have a child without being married, you don't have your education yet, a couple years later you realize it is hard now to climb the ladder. It is hard now to realize the American dream.

Well, we fixed that in 1996. We introduced a system where if you are able bodied, we are going to help you work. There is a constellation of benefits and supports in the bill to enable you to work. The other day, we passed an amendment increasing daycare in this bill. I supported that to enable people to work.

The bill extends the benefits of work to more people and makes sure that the States around this country have to keep trying to help people get off welfare and into self-sufficiency. We should define success not by how many people we get on the welfare rolls, but by how many we get off. We can open opportunities for millions of people who currently don't have it.

The bill contains a provision I strongly support. It was in a measure I had introduced, establishing a promarriage program. In 1996, we talked a lot about reducing the out-of-wedlock birth rate. That was a good thing to do. We wanted kids to have dads. I am glad we introduced that subject. In a sense, we were fighting the darkness by talking about what we were against. The bill we are debating today lights a candle. You cannot just fight the darkness; you have to let in the light.

There is a $300 million grant program here, encouraging the States to go to people when they apply for welfare and talk to them about the benefits of healthy marriage. The surveys show that a majority of folks applying for welfare—or many of them—are living with the partner with whom they are having a child. Many of them, if not most, are thinking about marriage. There may be many reasons in their minds why they don't want to do it. Maybe their parents had bad experiences. Maybe they are not certain about the partner. Maybe they have fights and they don't know how to resolve that. What an opportunity we have at that point—and often through community-based organizations that have grown up in the last 10 years—to approach them and say, here are the benefits to your children of being married, if you can do it in a healthy way. Here is how you can do it that way. We can help you learn how to resolve disputes, help you learn how to build healthy relationships. That is in this bill.

There are a lot of things in this bill we know will make a difference for people because they have made a difference for the last 7 or 8 years. It is being filibustered in the name of helping the poor.

Well, I don't really know what to say. It seems to me we ought to be able to come to some kind of an agreement here. I have been in meetings of Senators on this side of the aisle, when the Republican leaders have said, we are willing to give votes on some of these message amendments, but we want some assurance that we are going to have an opportunity to vote on the bill in final passage after a reasonable period of debate, and then go to conference.

I know the Senate is different than other legislative bodies. I am new here and it is an honor to be here. I have had the privilege of meeting and working with people on both sides of the aisle that I read about and saw on television for years, and they are an extremely able group of people. But most legislative bodies are about actually doing something. We have measures before us that I know, if we can get to final passage, would have substantial majorities—bipartisan majorities. This is one of them. How come we cannot get there?

It is hard not to reach the conclusion that politics is being played—not politics in the broadest sense because actually that is part of what democracy is about, not laying forward an agenda, presenting it to people, and driving distinctions between you and the people who disagree with you and getting support from the public so you can move an agenda that makes a difference, but the politics of controlling or shifting the discussion from an issue focus groups say doesn't help you on an issue, but the focus group says does help. I don't think that politics works. Here we are holding up legislation on behalf of—I am afraid to say it, but I think of politics that is not even very good politics and certainly will end up hurting a lot of people.

I have worked on this subject for a long time. I have an underlying faith that we are going to get our act together at some point and get this done. I know too many people of good will in this body. I emphasize again how important this is to real people. I have been all over this country, all over my State of Missouri, and I have talked to so many people, recipients, people who work with welfare recipients, who are excited about what has happened in the last 7 or 8 years as a result of the passage of the 1996 bill. We did something good.

Work and marriage can make a difference for people. We can have a Federal Government that is aggressive in helping people in a way that is consistent with the great values upon which we built this country. That is at stake with this bill.

I hope we can reach some kind of conclusion. I am certainly willing to vote on these other issues. I might have a few extraneous amendments I would not mind offering myself. But at the end of the day, we need to get this bill done, send it to the House, conference on it, and get it to the President. We can all be certain that when we do that, the bill we produce is not going to be perfect in anybody's eyes, but it will be a step down the road we took in 1996, which made a difference in the country to those who are the most powerless.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

THE ECONOMY

Mr. LAUTENBERG. Mr. President, I have a couple of statements I wish to make. I appreciate the recognition from the Presiding Officer for this purpose.

Earlier today, there were statements made on the floor, echoed by the junior Senator from Colorado, in which he claimed several times President Bush inherited a bad economy. I know my friends on the other side of the aisle genuinely want to believe that, but it is simply not true. That is not the fact.

The official arbiter of when recessions begin and end is the National Bureau of Economic Research, NBER. Despite intense and inappropriate political pressure from the White House, the NBER continues to insist the recession began in March of 2001, nearly 3 months after President Bush took office. Facts are stubborn.

On a related note, the junior Senator from Texas was on the floor some time ago with a poster that read: Most jobs ever. Perhaps he was referring to India. He certainly could not be referring to the United States.

Yesterday, we had another administration official—in this instance Treasury Secretary Snow—talking about how wonderful outsourcing is for our economy. Don't ask the people who are out of work, I can tell you that, and don't ask their families.

This notion the U.S. economy is currently generating record numbers of jobs is thoroughly specious. It would be laughable if it were not so pathetic. The claim is based on data selectively culled from something called the household survey. Economists from Alan Greenspan on down insist the accurate measure of jobs gained and lost is the payroll survey. Even the President's own Council of Economic Advisers relies on that which we call the payroll survey.

This is something I know something about. Before I came to the Senate, I was the chairman and CEO of a company called ADP, Automatic Data Processing. It was a company I started with two other neighborhood friends in the city of Paterson, NJ. The company was named in its earliest days Automatic Payroll. Later on, as we expanded our reach of services, it was changed to Automatic Data Processing, ADP. For the information we are discussing here, it specialized, among other services, in payroll processing—in other words, writing paychecks for client companies that relied on us to compute their payrolls. Now, I know a paycheck when I see one. ADP, the company I helped found and run for many years, pays over 30 million people each and every pay period. Approximately 10 million of them are outside our boundaries in other countries, but more than 20 million work in America and are paid right here. So I know something about payroll structure.

Interestingly, one of our most distinguished board members was a fellow named Alan Greenspan, the Alan Greenspan who is now the Chairman of the Fed. He was on the ADP board. He was on the ADP board as a very valuable director. He developed a service that was called the ‘‘econometrics'' plan. ADP, my company, the computer service company, would deliver this service—they called it an online service—and we would process the work we did for Alan Greenspan's company as well as for clients, over 500,000 of them today, through cities and towns across America.

When Alan Greenspan, the talented and credible Chairman of the Federal Reserve, says use the payroll survey to get reliable data on how many people have jobs and are getting paid that way, I think it has to be treated with great respect.

According again to the payroll survey—not the household survey. The household survey is done in a different manner. They are both done by BLS, the Bureau of Labor Statistics, but the payroll survey is the one that tells the true story—they say the economy has lost more than 2 million jobs since George Bush took office, making him the first President since Herbert Hoover—and I said this before and I mean no disrespect—and the Great Depression to preside over a net job loss during his term in office. Again, I mean no personal disrespect, but the facts ought to be presented accurately.

These are the facts: For every minute George Bush has been President, nearly two Americans have lost their private sector jobs. I know it is difficult for our friends on the other side. The Republicans have an impossible task of trying to convince Americans the economy is better now than it was before George Bush became President. It is a difficult task. They should try to refrain from saying things everyone knows are just plain untrue.

On Monday, I attended a symposium in New York City on the life and career of our dear friend and former colleague Pat Moynihan. As conservative columnist George Will noted, Pat was fond of saying: Everybody is entitled to their own opinions but not their own facts. I wonder if Members on the other side of the aisle agree with me.

I ask unanimous consent to have printed in the RECORD a statement Alan Greenspan and others have attested to. That statement refers to the household survey versus the payroll survey and it quotes several people. One is Alan Greenspan, who said at the House Budget Committee hearing on February 11, 2004: Everything we have looked at suggests that the payroll data is what has to be followed. Additionally, the establishment survey, the payroll survey, better reflects the state of labor markets. That is from CBO, the Congressional Budget Office. That was done in a report called the Budget and the Economic Outlook, an update, August 2003.

Another statement that the payroll survey is the best indicator of current job trends was made by Kathleen Utgoff, the Commissioner of the Bureau of Labor Statistics—which is the organization that conducts the surveys—at a hearing before the Joint Economic Committee, March of 2004. One final thing is the fact that the 2004 economic report of the President uses the payroll survey to assess the state of the labor market. I do not think there can be any doubt about which one is the more reliable one to use.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

‘‘Everything we've looked at suggests that it's the payroll data . . . which you have to follow.''—Alan Greenspan, testifying before a House Budget Committee Hearing, February 11th, 2004.

‘‘The establishment [payroll] survey better reflects the state of labor markets.''—Congressional Budget Office, The Budget and Economic Outlook: An Update, August 2003, page 34.

‘‘The payroll survey is the best indicator of current job trends.''—Kathleen Utgoff, Commissioner of the Bureau of Labor Statistics, which conducts the surveys, at a hearing before the Joint Economic Committee, March 2004.

The 2004 Economic Report of the President uses the payroll survey to assess the state of the labor market.

EMERGENCY CONTRACEPTION

Mr. LAUTENBERG. I would like to discuss another subject, if I might, and that is something that came about this week that was discussed in my State's largest newspapers about the administration's interference in the FDA's proposed approval of emergency contraception for over-the-counter sales. I believe the administration's activity is another example of their desire to establish a ‘‘maleogarchy'' in this country. ‘‘Maleogarchy'' is a phrase I coined. It talks about men making all the decisions that affect not only themselves but the female population of the country.

We saw that most notably on November 6, 2003, in the Washington Post when a group of men was standing with the President of the United States gleefully talking when the President signed a bill that restricted a woman's choice, even though it was made ostensibly with her doctor and in the best interest of her health. Yet again President Bush and other male politicians want to take away a woman's right to make decisions about her health and her body.

These are the facts: On December 16, 2003, two separate FDA advisory committees overwhelmingly recommended the emergency contraception known as plan B be made available to women over the counter. The FDA almost always follows the advice of its scientific advisory committees. But then a funny thing got in the way of the science. I will call it rightwing politics. Extremists, anti-choice groups, and their allies in Congress objected to the FDA advisory committee decision. They made their opposition loud and clear. Once again I say, these decisions are made by the FDA after their scientific advisory committees come up with their recommendations. Science first and then the decision.

The effect of this opposition? FDA suddenly announced, after they were ready to clear it, that it was delaying any decision on the approval of the drug. This is no coincidence. The Bush administration is caving to political pressure from ultraconservatives and risking the credibility of FDA's scientific panels.

For an understanding of what has taken place, it is hard to come up with a conclusion that this emergency contraception ought not to be available. These actions they took beg the question about who is running the FDA, scientists or politicians? I think the answer is clear. Science has taken a backseat to politics in this administration. It is disgraceful. Using the FDA to promote a political agenda not only threatens women's health but everyone's health. It threatens the health of our society.

Do we want to resemble what we see in places such as Iraq, where women are subjected to second-class treatment? I was once in Saudi Arabia, in the first Gulf war. I was in the airport. There was a fellow there wearing a turban and a long dress-type suit. At his feet was what I thought was a bag of rags, black rags, because it just looked tumbled together and there it was. The man was standing there smoking a cigarette. But when he moved to another location, the bag of rags turned out to be a lady, small in stature, wearing black over her face and her body, and she followed this man, and as soon as he stopped walking, she sat down again, curled herself up like a bag, covered herself over with the black cloth. I will never forget that. This disdain for a female, for the rights of women is so outrageous that every woman has to cover her face—whether she wants to or not, by the way. That's not an option. It's "you must."

In countries such as Saudi Arabia they have morals police who chase these women, embarrass them, and who will hit them. We in this country believe that, regardless of gender, people are appropriately treated as equals.

We see a dangerous trend by this administration. We see the corruption of science. In some ways they are adopting the scientific standards we saw in Afghanistan, allowing religious fundamentalists to trump legitimate science. The Bush administration's intrusions into scientific decisionmaking threaten the future credibility of American science.

Should high school science teachers tell students that the discoveries in their textbooks become null and void if rightwing politicians decide they don't like the results? No, that cannot happen. We are in the 21st century, but in many ways we are still fighting the Scopes trial. In fact, we have seen far right politicians in many States, and even here in Congress, continue to challenge the teaching of evolution in schools. What is next? Will the flat Earth theory make a comeback?

Aside from serious scientific concerns, there are grave consequences for women who are denied this drug. Each year, approximately 25,000 women in the United States become pregnant as a result of rape. An estimated 22,000 of these pregnancies could be prevented if these victims have access to emergency contraception. Increased use of emergency contraception could reduce the number of unintended pregnancies and abortions by half. Reducing abortions is something we would all like to see, but it is not our choice. It is the choice, it should be the choice, of the woman, her conscience, with her doctor and perhaps her entire family. But the choice is not ours to make. It is not for the "maleogarchy" to make those decisions.

The FDA advisory committee agreed that emergency contraception meets all of the standards for an over-the-counter drug: It is safe; it is effective; it is simple to use; it is not associated with any serious or harmful side effects; and it is not dangerous to women with particular medical conditions. Leading medical organizations including the American College of Obstetricians and Gynecologists, Society for Adolescent Medicine, and the American Academy of Pediatrics all support over-the-counter access to emergency contraception. It is time for the administration to stop playing games with women's health and the integrity of American science. The FDA should be allowed to act, free of political interference.

Mr. President, I ask unanimous consent that an article on the administration's action on emergency contraception from our State's largest paper, the Newark Star-Ledger, be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Newark Star-Ledger, Mar. 29, 2004]

FDA'S INDECISION ON 'MORNING AFTER' PILL STIRS CONCERN

(By Robert Cohen)

WASHINGTON.—A scientific advisory panel's overwhelming vote three months ago endorsing over-the-counter sales of the "morning after" pill left family planning groups confident of the Food and Drug Administration's approval.

But that was before the FDA unexpectedly delayed its decision after 49 conservative members of Congress wrote President Bush objecting to the panel's conclusion and urging that sales of the emergency contraceptive be restricted to prescription holders.

The FDA's action last month has raised fears among the pill's proponents that the panel's scientific and public health findings will be trumped by election-year politics.

"For some members of the Bush administration and the president's political base, this product being available without a prescription to young people files in the face of their message, which is abstinence or else. At this point, we're very concerned that politics was involved," said Kristen Moore of the Reproductive Health Technologies Project, a group that promotes contraception.

But FDA officials said the delay has nothing to do with politics, and that a final decision will be made by May. Susan Cruzan, an FDA spokeswoman, said the agency first wants to review data on use of the contraceptive by teenagers.

"The FDA bases its decisions on science," she said.

This is not the first time the Bush administration has been accused of politicizing science. Last month, 60 leading scientists, including 12 Nobel laureates, accused the administration of undermining the government's scientific advisory system by distorting and suppressing data to meet its policy goals.

Critics of the emergency contraceptive—mostly religious conservatives and anti-abortion groups—counter the claims of politics by accusing liberal, pro-abortion organizations of ignoring health concerns to foster their own agenda.

"When the supporters argue politics, they are simply trying to divert attention from the real risks of making this product readily available," said Wendy Wright, a policy director for Concerned Women for America, a conservative advocacy group dedicated to promoting biblical values.

"We don't know how this affects adolescents, who are the target market," she said.

Wright's group, along with the Catholic Medical Association, the American Life League and others, argue that making emergency contraceptives as easy to purchase as aspiring will increase sexual promiscuity among adolescents and cause the spread of sexually transmitted diseases.

Morning-after pills have been sold by prescription in the United States since 1998, and contain higher doses of the hormones used in regular birth control pills. The emergency contraceptives are considered effective in preventing pregnancy up to 72 hours after sex, but work best if taken in the first 24 hours.

Barr Laboratories of Woodcliff Lake recently purchased the rights to the contraceptive, known as Plan B, from the privately held Woman's Capital Corp. Barr holds the pending FDA application to sell its product without a prescription.

An FDA advisory panel voted 23–4 in December to recommend the over-the-counter sale of Plan B, finding it to be a safe and effective way to prevent unwanted pregnancies and reduce the number of abortions. The FDA normally follows the advice of its advisory committees.

But in January, 49 members of the House, led by Rep. David Weldon (F-Fla), sent their letter to President Bush.

"We are very concerned that no data is available to suggest what impact this decision will have on the sexual behavior of adolescents and the subsequent impact on adolescent sexual health," the letter said. "We are concerned that adolescent exposure to sexually transmitted infection will increase. This availability may ultimately result in significant increases in cancer, infertility, and HIV/AIDS."

The lawmakers are among the supporters of Bush's policy stressing abstinence rather than birth control and sex education. The president has proposed doubling the funding next year to $270 million for "abstinence only" programs for teens.

"Abstinence for young people is the only certain way to avoid sexually transmitted diseases," Bush said in his State of the Union address in January.

Carol Cox, a spokeswoman for Barr Labs, said the company has submitted the information sought by the FDA and will "continue to work with the agency." Cox said the company "does not view the delay as a positive development," but remains hopeful.

"We believe this product meets criteria of over-the-counter status," she said.

James Trussell, director of Princeton University's Office of Population Research and a member of the FDA advisory panel, said the studies sought by the FDA were thoroughly reviewed by the committee.

> "The studies find that easy availability of emergency contraception does not promote risk taking, does not discourage condom use or use of regular contraception. This product should go over-the-counter because it will reduce unintended pregnancies," Trussell said.
>
> "If the FDA does not approve Plan B to go over-the-counter, the decision will not have been based on the science because the science says the drug is safe and effective to be sold without a prescription," he said.
>
> Sarah Brown, director of the National Campaign to Prevent Teen Pregnancy, said pregnancy rates among adolescents in the United States have been dropping but are still the highest in the industrialized world. She said multiple strategies involving "less sex and more contraception" are needed.
>
> "The government should approve the over-the-counter availability of the emergency contraceptives," Brown said. "It probably will make some contribution to reduce teen pregnancies. Will it eliminate it or dramatically change adolescent sexual behavior? I doubt it."

The PRESIDING OFFICER. The Senator from Illinois.

ESCALATING GASOLINE PRICES

Mr. DURBIN. Mr. President, I thank my colleague from New Jersey for his leadership in the presentation he just made to the Senate. I would like at this time to address an issue that is extremely topical in Illinois and across the Nation, more so in some States than others, but it is the escalating gasoline prices people are facing.

Global crude oil prices are as high as they have been in a year. Domestically, retail gasoline prices are as high as they ever were, with the average price of gasoline $1.738, higher than a year ago. In Illinois, the current sale price of gas is $1.756 cents, which is higher than the current national average, higher than a month ago, and 4 cents higher than the average a year ago.

Gasoline prices affect Americans in the pocketbook. On the average, the cost of gasoline is about half of a family's transportation expenses. We love our cars, we love our trucks, we are in them a lot, and when gasoline prices go up, we pay more. The low-income families are hit the hardest by high transportation costs. The poorest 20 percent of American households, those earning less than $13,908 after taxes per year, spend 40 percent of their take-home pay on transportation.

There are many factors that have led to these high prices, some of them on the supply side and some on the demand side. U.S. crude oil inventories hit a 28-year low in January of this year. OPEC has been very prudent in putting oil on the market. I will get to the most current announcement on OPEC policy in a few minutes. In addition, refinery capacity in the United States has been down for years.

In the United States, cars, SUVs, pickup trucks, and minivans account for 40 percent of oil consumption, and the transportation sector itself accounts for 60 percent overall. Almost nothing has been done to curb this demand. The best way to address rising gasoline prices is to curb our Nation's insatiable thirst for guzzling gas.

I am leading the fight in the Senate to try to lessen overall demand for gas by improving the fuel efficiency of cars and light trucks. Last year, I offered an amendment to the energy bill which would have increased the Corporate Average Fuel Economy—or CAFE—law's standard for cars and SUVs to 40 miles a gallon by the year 2015, and the standard for trucks to 27.5 gallons in the same year.

I also introduced legislation that would discourage the building of more SUVs that achieve less than 15 miles per gallon, and to address the tax credit currently given to these SUVs, these gas guzzlers, and instead create a tax credit for consumers who purchase more fuel-efficient cars.

The Bush administration finalized regulations for SUVs and pickup trucks that would save at the most 20 billion gallons by 2015. This is one-sixth of the savings that would have occurred under the proposal I am offering—one-sixth. What I offered would have saved 123 billion gallons of gasoline by the year 2015—123 billion by reducing demand.

I urged my colleagues at the time to read the writing on the wall and realize if we didn't reduce the demand for gasoline for cars and trucks, we would not only have skyrocketing gasoline prices but even more pollution.

The New York Times editorial, Monday, March 22, 2004:

> A much better way to strengthen America's leverage . . . is for the United States to limit its own consumption of energy . . . [T]he most straightforward [way] is to raise fuel economy standards by significant amounts. This is exactly what the country did after the oil shocks of the 1970's, resulting in huge savings in imported oil.

Thanks to the Corporate Average Fuel Economy, CAFE, oil consumption is about 2.8 million barrels per day lower than it otherwise would be.

Studies have shown consumers can save as much as $2,000 over the lifetime of a car from higher fuel efficiency, even accounting for the cost of new vehicle technology.

Raising fuel economy standards to 40 miles per gallon would save consumers a cumulative $45.8 billion within about 10 years.

Unfortunately, since peaking at 22.1 miles per gallon in 1987 and 1998, average fuel economy declined nearly 8 percent to 20.4 in 2001, lower than it has been at any time since 1980.

Consider that for a moment. Instead of having more fuel efficiency and more fuel economy and less demand for foreign oil, our cars and trucks are less efficient burning gasoline, cause more pollution, and increase our dependence on foreign oil.

The Energy bill brought to us by the Bush administration didn't include any provision whatsoever to improve efficiency.

I will add, in all honesty and candor, that the automobile manufacturers in the United States and their unions also oppose increasing the fuel efficiency in cars. I think their reasoning is wrong. I think their excuses are lame. I think they are so shortsighted to believe that we can continue to build the most fuel-inefficient cars and trucks in the world and not run into the same problem we face today of increasing costs for fuel. As our demand increases, we can't produce enough fuel on our own. We import more and become more dependent on foreign fuel and, frankly, enslaved to OPEC. In a minute I will tell you what that enslaved position resulted in.

I say to my colleagues and many who have come to the floor to talk about gasoline prices, go back and check the CONGRESSIONAL RECORD. How did you vote when it came to making cars and trucks more fuel efficient? Sadly, very few of my colleagues joined me. It did not win a majority vote. I think those who complain today ought to take an inventory of their own voting record on this issue.

There are many things we should do. If we don't start fuel conservation and fuel efficiency and fuel economy, frankly, we will continue to be captives of the oil cartel. We will continue to watch these prices rise at the pump with very little we can do in response.

The next time we debate energy policy, I will be offering this amendment again. I hope we will do the right thing.

In the meantime, what do we do about the current prices? It is interesting what some have said when it comes to the current prices.

During the Republican primary debate in Manchester, NH, in the year 2000, in January, then-Governor Bush of Texas said:

> What I think the President ought to do is he ought to get on the phone with the OPEC cartel and say we expect you to open your spigots. One reason why the price is so high is because the price of crude oil has been driven up. OPEC has gotten its supply act together and it is driving the price like it did in the past, and the President of the United States must jawbone OPEC members to lower the price.

Faced with these skyrocketing gasoline prices, the obvious question is, Did President Bush do what candidate Bush suggested? The answer is no.

Listen to what the Secretary of Energy, Spencer Abraham, had to say on March 24, just a few days ago, when he was asked about whether the administration should put pressure on OPEC not to cut the supply of oil and raise prices in America.

I quote the Secretary of Energy, Spencer Abraham, from the Washington Times.

> Abraham said the administration would not temporarily stop filling the Strategic Petroleum Reserve to help lower oil prices and it would not publicly call on OPEC to

roll back production cuts scheduled for April 1st.

Here are the words of Secretary Abraham:

> We've . . . made clear we are not going to beg them for oil.

What it means is when candidate Bush went to Manchester, NH, and said we need a forceful President who will stand up to OPEC to defend businesses and families and individuals across America who are paying the price of higher gasoline prices, candidate Bush when he became President Bush suffered severe political amnesia. He forgot what he said. Look where we are today.

The unfortunate reality is that we have a press release today from Vienna, Austria, from Reuters, which said:

> "OPEC agreed Wednesday to endorse tighter curbs on oil production, ignoring concerns in some countries about crude oil prices near their highest level in 13 years," ministers said.
>
> "The Organization of Petroleum Exporting Countries decided to implement a deal cutting 1 million barrels a day from April 1," Iranian Oil Minister Bijan Zanganeh said. Libyan Oil Minister Fethi bin Chetwane also said that the cartel formally agreed Wednesday to implement the cuts, which were first proposed in Algiers in February.

Benchmark U.S. crude traded up 25 cents to $36.50 a barrel with the New York Mercantile Exchange's gasoline contracts sitting at an all-time high of $1.177 a gallon.

What is happening? Because this administration refuses to confront OPEC, because as Secretary of Energy Abraham said, we are not going to beg for oil, because President Bush forgot what he promised when he ran for President 4 years ago, American families and businesses will face oil prices at record high and historic levels.

What has been the response of the Bush administration to this reality? The response was to prepare a campaign ad attacking JOHN KERRY. The campaign ad just started to run. It is an ad which criticizes Senator JOHN KERRY, the purported Democratic nominee for President of United States, for supporting a 50-cent-a-gallon gas tax, saying that the tax increase will cause the average consumer to pay $657 more a year, and that he supported high gasoline taxes 11 times.

This morning, the Washington Post decided to look at the charges, the negative ad, that is being run against JOHN KERRY. Here is what they had to say:

> Unlike three previous negative ads, this spot softens its charges with a mocking tone and funny footage against the "wacky" Kerry.

This is from the Washington Post.

> But it unfairly presents a gas-tax hike as if it were the Senator's current position, when most of the examples are a decade old. Kerry voted in 1993 for the Clinton economic package, which included a 4.3 cent increase in the gas tax, and is widely credited with boosting the economy. He also opposed several Republican efforts to repeal the tax.

The article goes on to say, analyzing the Bush negative ad:

> Kerry spoke in favor of a 50-cent hike in 1994 and as a possible way of cutting the deficit, but no such proposal came to a vote and he later changed his mind. His only recent vote was in 2000, when Kerry opposed the GOP effort to suspend 18 cents in gas taxes for five months.

The article goes on to say, analyzing the Bush attack ad:

> The ad fails to mention that the President, who promised in 2000 to trim gas taxes, has never proposed such a cut. Bush campaign manager Ken Mehlman said Kerry last year opposed Bush's energy bill, designed to boost oil in part by allowing drilling in Alaska. Kerry's spokeswoman Stephanie Cutter called the measure "a giveaway" to the oil companies and a Republican-controlled Congress killed it. The Kerry camp dug out a quote in which Bush's top economic adviser [the ever-present and almost infamous] N. Gregory Mankiw, backed a 50-cent gas tax in 1999.

You may remember Mr. Mankiw. Mr. Mankiw was the man, the President's economic adviser, who sent the economic report to Congress. In it Mr. Mankiw, with his own insight as the top economist of the Bush administration, said that the outsourcing of jobs to India and China was a good thing. Now we were trading in new things like call centers. It was a good thing—Mankiw's own words.

So Mr. Mankiw, top economic adviser to George Bush, it turns out, was supporting a 50-cent increase in the gasoline tax in 1999. Interesting. And President Bush and his campaign continue to run ads attacking JOHN KERRY and saying that the real reason for the gasoline price increases that we are seeing across America is JOHN KERRY voting for a 4.3-cent gasoline tax increase 11 years ago.

Is that as good as they can get? Is that the best they can come up with? What they are ignoring is the obvious. They are ignoring the fact that this President has the power, as President of the United States, to put the pressure on OPEC, and refuses to do it. Why? Why is this President backing away? Is it this oil connection with the President and Vice President CHENEY? Is it the fact that some of the OPEC cartel countries have been some of the favorites of this administration for political and other reasons?

What is it all about? Why wouldn't this President, facing a gasoline crisis in America today, do what he said he would do when he ran for office in the year 2000? It is an answer I cannot come up with. But I will tell you, the American people will come up with it. They understand what this is all about.

The President can promise tiny little tax cuts for working families and massive tax cuts for the wealthy, and then turn around and fail to show leadership on gasoline prices, and watch whatever benefit those small tax cuts meant to lower-income families disappear.

The Bush administration's failed policies have created record high prices for gasoline. Americans are paying 12 percent more for gasoline since former oil industry executives President Bush and Vice President CHENEY took office on the pledge that their ties to the oil industry would lead to lower gas prices.

Well, it did not work, just as the President's economic policy did not work. Here we have a President who, in a matter of 3 years and a few months, has lost more jobs in America than any President in the last 70 years, and that includes Republicans and Democrats alike. Tax cuts to the wealthy did not create jobs. And the President's cozy relationship with the oil companies and the oil sector certainly has not kept gasoline prices under control. The President refuses to confront OPEC and tell them they have to stop taking advantage of American families and businesses.

Secretary Abraham: "We won't beg for oil."

Well, I do not think you have to beg. Many of these countries in the Middle East, as part of the OPEC cartel, depend on the United States for an important and valuable market. They depend on the United States for many security items. They depend on the United States and its friendship and alliance when things get tough, such as the instance in Kuwait and the Persian Gulf crisis.

Why wouldn't this President go to the leaders in OPEC and tell them what they were doing to America and the American economy, gripped with this so-called jobless recovery. Frankly, a jobless recovery is no recovery at all. We all know that. Facing a jobless recovery, this President will not confront OPEC and tell them: Keep gasoline prices low; increase your exports of crude oil so we do not run up the cost of business for small and large businesses alike, and run up the cost of living for average working families.

Economist David Rosenberg told CNN's Lou Dobbs:

> [P]ain at the pump has wiped out more than $20 billion of the coming $40 billion in tax refund checks.

How did he come to that conclusion? On January 5, American consumers paid $1.51 for an average gallon of gas. As of today, less than 3 months later, they are paying $1.75 a gallon—a 24-cent increase since January.

According to the Wall Street Journal:

> [E]very penny increase in a gallon of gas costs consumers $1 billion a year.

So if prices remain high, that means a $24 billion gas tax hike has been placed on the American people, for the failure of the Bush administration to confront the OPEC cartel, as he promised to do.

But that is not all.

Nationwide gas prices have risen 12 percent since the year 2000 and are expected to skyrocket upwards to $1.83 a gallon this summer when gasoline prices usually peak—a 17-percent increase in gasoline prices since President Bush took office.

So what is wrong with this picture? When it comes to employment, there is nothing but bad news in statistics. The unemployment rates continue to go up. When it comes to gasoline prices and its cost to families and businesses, more bad news from the Bush administration: a 17-percent anticipated increase by this summer.

Guy Caruso, the administrator of the Energy Information Administration, told the Senate Energy and Natural Resources Committee that an average family will spend about $1,700 for gasoline in 2004. At today's gas prices, this means the average family will spend over $300 more for gas than they would have if prices were at the level they were the week President George W. Bush took office.

As I said, candidate Bush knew what to do. President Bush refused to do it. Candidate Bush said: Confront the OPEC cartel. President Bush said: We are not going to dirty our hands by "begging for oil."

Because the Bush administration did not follow its own advice from 2000, OPEC has decided to pursue additional cuts, leaving American consumers more susceptible to higher gas prices.

Let me say, gas prices have been an issue for the Vice President, too. On October 9, 1986—since President Bush's campaign is dredging up history when it comes to JOHN KERRY—as a Member of the House of Representatives, DICK CHENEY, our Vice President, introduced a bill to establish a $24-per-barrel price floor on imported crude oil—a mandatory minimum price, indexed to inflation, that today would have reached as high as $36.12 a gallon. If Vice President CHENEY's bill had passed in 1986, consumers would have paid over $1.2 trillion in increased gas prices since that year, with $600 billion going to oil companies.

In 2001, as Vice President, former Halliburton CEO DICK CHENEY led an energy task force that met with energy industry officials in closed meetings to write the energy bill of this administration. The meetings led to the administration's energy policy, which has failed on the Senate floor. The administration has refused to release detailed records of the meetings to the General Accounting Office, the investigative branch of Congress. The secrecy surrounding the meetings is so unusual and unprecedented that the Supreme Court on April 27—just a few weeks from now—will hear arguments that the records for the meetings should be opened.

Republicans have criticized JOHN KERRY for supporting gas taxes in his Senate career, but, as I have said, these charges are grossly exaggerated and a distortion. This, frankly, is what I am afraid we can expect more of during this campaign. But I think the American people know, while Republicans make a lot of noise about opposing a gas tax, the record tells a different story.

Ronald Reagan said of the gas tax:

> The cost to the average motorist will be small, but the benefit to our transportation system will be immense.

Republican leaders in the House have pushed for a gas tax hike this year. In fact, House Transportation and Infrastructure Chairman DON YOUNG of Alaska proposed a 5.4-cent-per-gallon gas increase this Congress. And President Bush, who promised to cut the gas tax as a candidate, has never acted to do so once in office.

So I think what faces America is clear. We need leadership in the White House that is not afraid to confront OPEC. We need a President who is not afraid to get on the phone, through his Secretary of State, Secretary of Energy, and say to those in the OPEC cartel that they cannot unilaterally put us in a position where our economy—struggling to come out of recession, struggling to recover, struggling to create jobs—is going to end up hat in hand, in a situation where we have no recourse for families and for businesses.

But the Bush administration failed. They failed to do what the President should have done in showing leadership on this issue. The President said one thing in the campaign and has done another thing now in the White House.

American families are going to have to face that cost. When you look at this record, sadly, it is not too much of a surprise. Here we are faced with a struggling economy and an administration which, despite losing more jobs than any President in 7 years, refuses to support a payout of unemployment compensation to the workers and families who have lost their jobs, an administration which understands that more workers are working longer hours to make ends meet and comes up with a proposal to eliminate overtime pay for 8 million American workers.

We created the overtime law in 1938. Since we said that after you work 40 hours, you are going to be paid more under the law, every administration that has addressed this law has increased the eligibility of American workers until this administration. With the Bush administration, for the first time in history, a President has proposed cutting overtime pay for 8 million workers in America.

Think about that. If he is successful in doing that, it means that the workers who are going to work today will have to work longer hours just to keep up with the lost pay from this Bush administration policy. So who are these workers? They are policemen, firefighters, nurses, and people, frankly, who we count on every single day. This is an administration which won't provide unemployment compensation despite losing millions of jobs since the President was elected, an administration which cuts overtime pay for some 8 million workers, and an administration which has decided as a matter of policy it will not support an increase in the minimum wage for workers in America.

We are in the midst of debating the welfare bill. I voted for welfare reform. I hope I can vote for this bill. There are many positive aspects to it. But if we want to keep people off welfare, if we want to reward work and reward the right decisions, then we certainly should give fair and adequate compensation to those who struggle. Can you think of what life would be like if you faced $5.15 an hour, a little over $10,000 a year, as your total income, and then add on to that a second job, if you could get it, that has you working 16 hours a day and doubles your income to $20,000 or $22,000 a year?

These proud and hard-working people get up and go to work every single day. They are the visible Americans who make the beds in our hotel rooms, bus our tables in the restaurants, wash the dishes in back of the kitchen, deal with tending our children in daycare facilities. We have said, because of the refusal of this administration and Congress to increase the minimum wage, that we have so little respect for their work ethic we will not allow the minimum wage to be increased in America.

The insensitivity of this administration to working families and to the sad state of the economy has been documented again, not just with unemployment compensation, not just with overtime pay, not just with its resistance to increasing the minimum wage, but with the refusal of this President to keep his campaign promise from the year 2000 and to put pressure on OPEC not to cut the production of oil, forcing an increase in gasoline prices across America.

We need more compassion from this administration. We need more of a connection between this administration and working families across America. We need a change.

Mr. ENZI. Mr. President, I rise to speak about an amendment I wish to offer to the bill currently under consideration to reauthorize the Temporary Assistance for Needy Families program. This program is one of the largest Federal programs ever designed to help families reach self sufficiency. I believe this amendment is a strong addition to the current bill, and one that this body should pass. I thank my friend and colleague from Iowa, the chairman of the Finance Committee, for his hard work in preparing this bill for floor consideration and for making important improvements to the 1996 welfare reauthorization. The 1996 reauthorization is one of the greatest success stories of the recent past. Even now, it continues to produce positive results far beyond what many thought was possible. Now it only makes sense for us to pass this legislation to continue the reforms we began 8 years ago.

Mr. President, as I mentioned, the key principle of this welfare reauthorization is self-sufficiency. As this body considered welfare reform in 1996 we found that families could end their dependence on Federal assistance if we provided the incentives to help them find jobs and start providing for themselves. It was the most important change we could have ever made. In response, families went out and found good jobs that provided them with the resources they needed to make ends meet today and prepare for their future needs.

Even today, the results of that effort continue to speak for themselves. As my colleague from Pennsylvania has pointed out, child poverty has declined significantly since 1996. Families receiving welfare assistance have found a renewed sense of confidence and self worth by meeting life on their own terms. Their newfound jobs have given them a sense of security many have never had before.

We congratulate all those who have been able to work themselves off the welfare rolls and we encourage those who are trying to do the same not to be discouraged. That is why this legislation is so important. It enables us to continue that piece of the reform we started, to get people into work and on to self-sufficiency.

I don't think there is any more vital aspect of self-sufficiency than making sure that these families know how to budget and manage their money wisely so they can maintain their financial independence and work toward financial security. That calls for education in financial literacy.

When I served as mayor of Gillette, WY, I saw firsthand the effectiveness of helping individuals understand the importance of financial planning. This is a skill that is essential to self-sufficiency, and it should be a part of the welfare assistance program.

My amendment would permit welfare recipients to participate in a limited amount of financial literacy training that would allow them to learn about personal finance management, credit counseling, budgeting, and debt management. This important course work and study would then count toward the work requirement under the Financial bill. As my colleagues are aware, the Finance bill separates the permissible work hour activities into two groups: core work and work preparation activities, and allowable activities. Both are required for a recipient to meet the work hour requirement. My amendment would add financial literacy training as an allowable activity.

Financial literacy and education is an essential tool that must be mastered to fully participate in today's society. Only an educated individual consumer will be able to fully unlock the financial markets available to them. A basic understanding of the credit process and managing personal finances will prepare consumers and their families for making major financial purchases like a home, saving for college and planning for retirement. All of these are part of achieving self-sufficiency because they require people to create a plan that will enable them to meet short term needs and still reach long term goals.

It is essential that welfare recipients be given an opportunity to receive this training and that states have an incentive to provide it. The Federal Government operates several financial literacy and education information programs designed to help individuals make smart decisions about their finances. It is my hope that by including financial literacy training in the welfare reauthorization we will improve and build upon the growing Federal recognition of the importance of this training.

I thank the Chair.

Mr. JOHNSON. Mr. President, our support of childcare assistance is essential to ensuring the health and safety of children in working families. Without greater support for childcare, parents of young children may be forced to choose cheaper, poor quality care for their children or fail to provide it entirely. These families need to know their children are cared for while the parents do their part to attain self-sufficiency and to provide for their families.

At 73 percent, my State of South Dakota has the highest percentage of children six years of age and younger with both parents working and the highest number of children under the age of 6 in paid daycare, at 47 percent. This is almost double the national average of 24 percent. On average, 1 year of childcare costs families in South Dakota $4,000. This estimate is close to a semester of college at a State institution.

A study done by the South Dakota Coalition for Children found that parents seek a safe, nurturing environment for their children when they are under someone else's care. As more and more families need both parents to work in order to make ends meet, safe reliable day care has become essential to the peace of mind of working families in South Dakota and across the country. Without the increased funding for childcare that the Snowe-Dodd amendment provides, more parents will be forced to seek childcare that meets their budgets rather than their hopes for the care of their children. In some cases, families may go without childcare all together.

Without the increase in childcare funding provided by this amendment, hundreds of thousands of eligible children will lose childcare assistance over the next 5 years. At a time when only one out of seven eligible children is currently served, I urge my colleagues to strengthen our commitment to children in working families by supporting the Snowe amendment and providing additional resources to increase the number of children able to receive quality care.

Ms. MIKULSKI. Mr. President, I am proud to cosponsor the Boxer/Kennedy amendment to raise the minimum wage for the first time in seven years. This increase is long overdue. The last time Congress increased the minimum wage was in 1997. Yet inflation has already wiped out the real value of that increase. For working people, a full-time job should not mean full-time poverty.

I thought in this country, the best social program was a job. Yet minimum wage jobs aren't paying enough to keep families out of poverty. There are more than 100,000 Marylanders earning minimum wage. Most of them can't even afford a two-bedroom apartment. At $5.15 per hour, minimum wage workers working 40 hours per week, 52 weeks per year, earn an annual salary of only $10,700. That's $5,000 below the national poverty line for a family of three.

Every day the minimum wage is not increased, workers fall farther and farther behind. Throughout Maryland, I keep hearing about families turning to soup kitchens and local charities for help. They are forced to do this because the economy is bad, and their jobs simply don't pay them enough to stay afloat.

An increase in the minimum wage equals an increase in the standard of living for working Americans. This amendment would raise the minimum wage from $5.15 and hour to $7.00 an hour. It would help nearly 7 million working Americans. It helps low wage workers like the home health aides who take care of our elderly parents and the child care workers who take care of our children. It helps farm workers, security guards and housekeepers.

Right now we are debating the reauthorization of Welfare Reform. I voted for Welfare Reform in 1996 because I agree that the best way to help lift someone out of poverty is to help him or her get a job. But it doesn't help anyone to get a job that doesn't pay enough to stay off of public assistance. While we're working to move our most vulnerable citizens from welfare to work, we need to make sure those jobs pay a livable wage.

I urge my colleagues to vote for this amendment.

Mr. SARBANES. Mr. President, I rise in support of the Boxer-Kennedy amendment to raise the minimum wage. A fair increase is long overdue and the Congress must act to set a minimum wage that accurately reflects current economic conditions.

The majority has decried this amendment as non-germane and accused the minority of holding up the underlying legislation. While the amendment may not be germane in a procedural sense, it is certainly relevant, it is certainly appropriate, and it deserves an up or down vote.

Indeed, as my able colleague Senator KENNEDY mentioned earlier on the floor, the Secretary of Health and Human Services, as recently as March of 2002, has acknowledged that moving people to jobs that pay at least the minimum wage is the centerpiece of TANF. Minimum wage jobs are the centerpiece of TANF.

But in order for people to move off these rolls and still support their families, such jobs must provide a livable wage. Mr. President, if the true goal of this legislation—as has been stated—is to reduce the number of individuals enrolled in our Nation's welfare system, this amendment would directly serve to accomplish that goal.

To achieve self-sufficiency, a working family needs more. By working 40 hours a week, 52 weeks a year, an employee will earn $10,700 at the current minimum wage. For a family of three, that represents an income that falls $5,000 below the poverty line.

And this is a pervasive trend. The U.S. Census Bureau reported that in 2002 the number of working poor in the United States stood at 8,954,000. This is unacceptable. If Americans are willing and able to work full time jobs, they should be able to provide for their family.

At the current minimum wage, this situation is not likely to improve any time soon. According to the Congressional Research Service, the minimum wage today is at its lowest level in terms of purchasing power since the 1940s. And each day we fail to act, inflation continues to erode this purchasing power. As this happens, workers earning the minimum wage will only become more and more dependent on the government assistance to make ends meet.

If enacted, at its full implementation, the Kennedy amendment would increase this wage to $7 an hour. This would provide an increase in the incomes of minimum wage earners by $3,800 a year, which represents a positive step toward purchasing power that comports with modern day needs and prices.

The other side will argue that increasing the minimum wage will hurt business and stunt job growth. They argue that we need to give more tax cuts to the wealthiest among us, run large and growing Federal deficits, and hope that things improve.

Mr. President, this has been our policy for over three years since this Administration took office. In that time, we have seen the largest job loss in our Nation's history. We have seen Federal surpluses erased in favor of record deficits. And we have been told time and time again by the Administration that things will turn around soon.

However, today's release of state-level job growth data by the Bureau of Labor Statistics flies in the face of the Administration's assertions in this regard. These statistics indicate that 49 states failed to meet the Bush Administration's projections for job creation in the month of February 2004. As of February 2004, 35 states have failed to get back to their pre-recession employment levels. Furthermore, 49 states have not created enough jobs to keep up with the natural growth in the number of potential workers, as job growth has lagged the growth in working-age population since March 2001. As for the unemployed, 43 states have higher unemployment rates than when the recession began. As a Nation, the cumulative job growth shortfall is over two million jobs since July 2003, when the first of this Administration's tax cuts went into effect.

Raising the minimum wage will not only benefit low-income wage earners, it will provide economic stimulus by putting additional dollars in the hands of those who must spend them to make ends meet. When the Congress last increased the minimum wage, the economy experienced its strongest growth in over three decades. Nearly 11 million new jobs were added. This is quite a different result from the economic policies we have pursued under the current Administration.

Mr. President, increasing the minimum wage is the fair thing to do and it is sound economic policy. I urge my colleagues to support the Boxer-Kennedy amendment.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO CESAR CHAVEZ

Mr. REID. Mr. President, today is the 77th birthday of someone whom I admire greatly, Cesar Chavez. He was born March 31, 1927. I never had the opportunity to meet Cesar Chavez. I came close a couple of times, but I never had the opportunity to meet him.

He was a leader, a great father, a man of great moral character, and a humanitarian. He was a man whose name is synonymous with a broad social movement that accomplished substantive things. He was guided by principles of nonviolence and respect for human labor. He dedicated his life to helping those who had no voice. And that is an understatement.

Whether he was leading a 340-mile march from Delano to Sacramento or staging one of his prolonged hunger strikes, Cesar Chavez worked tirelessly to focus attention to the inhumane conditions endured by migrant farm workers.

He gave life, dignity, and strength to the United Farm Worker movement. He knew firsthand the plight of migrant farm workers. He went to work in the fields and vineyards when he was only 10 years old, which was fairly standard at the time. He was forced to leave school in the eighth grade to help support his family. But even though he didn't have a lot of book learning, so to speak, he was a brilliant man. In 1944, he served his country in the United States Navy.

Forty-two years ago, Mr. Chavez joined Dolores Huerta, whom I have had the opportunity to meet. She is still an avid activist and gives inspiration to people in the State of Nevada and throughout the country. Forty-two years ago, Chavez and Huerta founded United Farm Workers Association.

Cesar Chavez and the Farm Workers Union opened the eyes of the American people. For the first time, many Americans began to learn about the hard lives and inhumane treatment of the workers who helped put food on the table.

Cesar Chavez was an integral figure in the birth of La Causa, as our Nation's Latino civil rights movement is sometimes called. Organized labor, religious groups, minority students, and many other people of good will joined Chavez in his fight to secure the rights and improve the lives of migrant farm workers.

Cesar Chavez is probably our Nation's most recognized Hispanic American historical figure, but he did not help only Latinos but Irish, Asian, Indian, German, Mexican. When it came to aiding farm workers, Cesar Chavez drew no racial lines. He placed his life on the line many times. He did it by protesting, by denying his body nourishment, in order to nurture the cause he so well served.

In 1968, he staged a fast. For 25 days, he ate no food. In 1972, he repeated this for 24 days. But, in 1988, he fasted for a remarkable 36 days. He embraced the philosophy of Gandhi and Dr. Martin Luther King, Jr. He sought to bring about deep-rooted change through nonviolent means.

In those many difficult days migrant farm workers lived in makeshift homes with no plumbing, heat, or running water. It was not uncommon for them to be sent into a field or vineyard while the crop-dusting plane was actually dropping pesticides. And, in most cases, little or no attempt was made to educate the children of these farm workers.

Things have changed as a result of his work. Take, for example, the onion fields of northern Nevada, Lyon County. Farm workers now have very nice facilities. They have to meet certain standards. They watch how many hours they work. They have rights they never had but for this man, Cesar Chavez.

We have a lot of work to do on improving the lives of people who gather our food, but at least today they have dignity and hope. This is because Cesar Chavez gave them that dignity and hope. He personally led a very courageous life and, in my estimation, is a true American hero and an inspiration. He believed:

> The end of all education should surely be service to others.

He held this belief in his heart, and he lived this belief in his actions until his untimely death in 1993. I hope those of us in the Senate will understand that courage and commitment that guided Cesar Chavez's life and honor his legacy by looking out for those people with no voice.

Mr. KENNEDY. Mr. President, today would have been the 77th birthday of one of our country's greatest leaders, Cesar Chavez. His famous motto in life "sí se puede," "yes we can" is his legacy to all of us, and we are a better nation because of his life-long struggle to bring dignity and freedom for the working men and women and their families he cared so much about and did so much to help.

Cesar Chavez made powerful contributions to our society and has inspired countless individuals who continue his battle against injustice. My brother Robert Kennedy came to know Cesar Chavez well, and a special friendship grew. Bobby instinctively shared Cesar's extraordinary commitment to migrant farm workers, and his dedication to non-violent change, and he too was inspired by Cesar's passionate conviction. My brother was the only public official who was there in March of 1968, at the end of Cesar's 25-day fast for non-violence to help the grape workers. He was deeply moved by that day and called Cesar "one of the most heroic figures of our time."

Cesar is best known today for his leadership in founding the United Farmworkers of America, the largest farm workers' union in U.S. history. Under his 30 year leadership, it became the strongest and most consistent voice for farm workers' rights. His determination and vision led the fight for fair wages, decent medical coverage, reasonable pension benefits and better living conditions for their workers. His legacy guides us today as we continue the battle to enable today's farm workers to live and work with respect and dignity.

In fact, the Agricultural Jobs, Opportunity, Benefits and Security Act we hope to enact in this Congress is based on the far-reaching agreement between the UFW and the agriculture industry to treat immigrant farm workers fairly. Large numbers of men and women employed in agriculture are currently undocumented. Often they risk danger and even death to cross our borders only to be exploited by unscrupulous employers who pay inhuman wages under harsh and often dangerous job conditions. Our bill gives these deserving farm workers and their families the opportunity to earn legal status, and it gives agricultural businesses a legal workforce. By passing this bill, we pay tribute to Cesar and we win an important battle in ending injustices in farm work across America.

The legacy of Cesar Chavez also reminds us of the important role of education in helping children with the greatest need to have a better future. We know we can do much more to guarantee equality of opportunity, and fulfill the promise of a good education for millions of children living in poverty, especially for the children of migrant and seasonal farm workers.

Too often, schools attended by migrant families are substandard, and college is an impossible dream. Migrant students are among the most disadvantaged youth in the nation. Current estimates place their school dropout rate between 50 and 60 percent.

Cesar Chavez put it best in his own words:

> It is not enough to teach our young people to be successful . . . so they can realize their ambitions, so they can earn good livings, so they can accumulate the material things that this society bestows. Those are worthwhile goals. But it is not enough to progress as individuals while our friends and neighbors are left behind.

Those words remind us of our commitment to provide a better future for today's youth; especially those who live in poverty, work long hours in the fields, and are in the greatest need. They remind us of our commitment stated in law, but far from reality, to leave no child behind. They remind us of our unmet responsibility to achieve equal educational opportunity for all, invest in our nation's communities, and make a difference in the lives of millions of children.

Cesar's famous "Prayer for the Farm Worker's Struggle" sums up the qualities of strength, wisdom and compassion that are essential as we carry on his mission:

> Show me the suffering of the most miserable, so I will know my people's plight. Free me to pray for others, for you are in every person.
>
> Help me to take responsibility for my own life, so that I can be free at last.
>
> Give me honesty and patience, so that I can work with other workers.
>
> Bring forth song and celebration, so that the Spirit will live among us.
>
> Let the Spirit flourish and grow, so that we will never tire of the struggle.
>
> Let us remember those who have died for justice, for they have given us life. Help us love those who hate us, so we can change the world.

Happy birthday, Cesar—may your vision continue to guide us now as we seek a better world.

Ms. CANTWELL. Mr. President, today we celebrate the life of one of America's greatest civil rights and labor leaders, Cesar Chavez. The effects of his work on behalf of farm workers and to improve civil rights are still felt across America today, from Salinas to Selah. Although Chavez is best remembered for his decades of work to advance these causes, the principles that guided him are universal and enduring.

Chavez's motto, "sí se puede", it can be done, embodies the entrepreneurial spirit that made America great, and continues to make our Nation stronger every day. Although he labored to overcome tremendous obstacles, he is remembered not just for his grit and determination, but his optimism that those barriers could be surmounted.

Just as importantly, Chavez set goals to better the conditions not just of individuals, but of our society. As he once put it, "We cannot seek achievement for ourselves and forget about progress and prosperity for our community. . . . Our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own."

The values and philosophy Chavez embraced are as important to the challenges we face today—from educating our children, to improving health care, to creating opportunity for all our workers—as they were to the causes he championed decades ago. When we honor these principles, Cesar Chavez's legacy lives on.

Mrs. FEINSTEIN. Mr. President, today we honor the life and legacy of Cesar Chavez, a great champion of civil rights and workers' rights.

Cesar Chavez was one of our Nation's strongest advocates for social justice. He believed that the men and women who bring us the food we depend on deserve a safe work environment and a fair wage. He fought for America's farmworkers—men and women who worked so hard to provide a decent life for their families—and challenged all Americans to recognize their plight.

On this day, 77 years ago, Chavez was born at the Yuma, AZ farm his grandfather had homesteaded in the 1880's. Like many families during the Great Depression, his family lost their farm and began years of migrating from town to town throughout the southwest in search of steady work.

Chavez began working at the age of ten. He attended school when he could—thirty-seven different schools, in all—before abandoning his education after the eighth grade to help his family.

In 1945, he joined the Navy, serving in the Pacific just after World War II. Upon returning to the United States, he lived in several different Southwestern communities before settling in East San Jose.

It was there—as he worked in the apricot orchards—that he decided to devote his life to tackling the injustice that so many migrant workers lived under.

In 1952, Chavez became a full-time organizer with the Community Service Organization, a Mexican-American advocacy group. In this position, he organized farmworkers in California and Arizona, worked to stamp out racial discrimination, and built the influence of farmworkers through voter registration drives.

His activism led him to establish the National Farm Workers Association in Delano, CA in 1962. The new organization eventually became the United Farm Workers of America, the first union representing farmworkers in the United States.

Under the leadership of Chavez, the United Farm Workers successfully improved the once-dismal working conditions for hundreds of thousands of farmworkers throughout the nation. These efforts brought safety improvements, pay increases, benefits and job security to workers who had been among the most exploited.

The union's efforts also brought attention to the health problems facing farmworkers, including the exposure to harmful pesticides that affect workers and their children.

An adherent to the principles of Mahatma Gandhi and Dr. Martin Luther King, Jr., Chavez used nonviolent means to bring about these changes including economic boycotts, marches, civil disobedience, and fasts.

Chavez once declared to his followers, 'Nonviolence is our strength.' This message still rings true as the official slogan for the United Farm Workers Union.

A winner of the highest civilian honor our Nation can bestow—the Presidential Medal of Freedom—which he received posthumously in 1994, Chavez was a true American hero. He was a hero because he spoke up for so many who could not be heard.

Chavez once commented, "It's ironic that those who till the soil, cultivate and harvest the fruits, vegetables, and other foods that fill your tables with abundance have nothing left for themselves."

His life and this day remind us that as a society we have a responsibility to protect the rights of all Americans.

As Cesar Chavez often said, "Sí se puede!" Yes, we can!

Mr. DODD. Today, on the 77th anniversary of his birth, people across America will pay tribute to a remarkable man, Cesar Estrada Chavez.

I had the honor of meeting Cesar Chavez. No one was a more powerful or more passionate advocate for the men, women, and children who work on farms throughout this country.

It's easy for Americans to forget that the food they eat doesn't magically appear on a supermarket shelf. Every bunch of grapes, every box of cereal, every can of corn represents the labor for real human beings—so many of whom come to this country in search of a better life, but instead find low wages, poor housing, and substandard working conditions.

Cesar Chavez didn't just know about this struggle. He and his family lived it. He grew up moving from town to town and from school to school while his father worked in the fields. He himself became a farm worker as soon as he finished the eighth grade. Born out of his sweat and toil was a fierce determination to give a voice to people like him and his family who labored so hard and received so little in return.

Chavez became one of America's most well-known, beloved, and effective labor leaders. As the founder and leader of United Farm Workers of America, Chavez shed light on the shameful treatment of farm workers in our country. He led boycotts and marches. He helped register voters. He went on hunger strikes. And he united workers across America with a simple, yet powerful, message: "Sí se puede"—"Yes we can."

Ceasr Chavez represented farm workers. But the priorities he fought for are America's priorities: Better pay and benefits for workers. Better education for children. Expanded civil rights for minorities. All working Americans today owe a debt of gratitude to this outstanding individual.

Of course, Chavez's work is not done. There is still a great deal we can do to help to create a better life for working Americans, especially those who work on farms. One thing we can do right now is pass the bipartisan AgJOBS bill, which I'm proud to consponsor. This bill, sponsored by my colleagues Senator CRAIG and Senator KENNEDY, would give many hard-working nonimmigrant farm workers a chance to obtain legal status. This bill is the right thing to for these workers. And by increasing the number of legal farm workers, it's the smart thing to do for our economy. This legislation has the support of agricultural businesses, labor unions, as well as immigrant and civil rights groups. It deserves to become law.

But there is so much more we can and should do to make America a land where each and every person receives respect and opportunity. We can extend a helping hand to the children of nonimmigrant workers—by passing the DREAM Act to help those children get a college education. We can give every child in this country a chance at success—by making a real commitment to our public schools. We can ensure that a job in America is truly a gateway to a better life—by raising the minimum wage and making it a fair and living wage. And we can make access to health care a right—not a privilege—for every man, woman, and child in America.

By perpetuating his legacy, we will truly be honoring the memory of Cesar Chavez. Let us continue his commitment to achieving basic rights and dignity for all American workers. And let us use his vision as a guide as we strive to build a better tomorrow for all Americans.

CLARK COUNTY VICTORY IN NEVADA SCIENCE BOWL

Mr. REID. Mr. President, I rise today to congratulate Clark High School for its victory in the 13th Annual Nevada Regional Science Bowl. In fact, this is Clark High School's second consecutive victory in this competition.

I commend the students on this year's Clark High School team—Young Ran, Alex Cerjanic, Yung Wang, and Ryan Weicker—for their hard work and commitment to academic excellence. I would want to recognize their coach, Beth Issacs, for her instruction and strong leadership of the team.

This past February, 32 student teams from across Nevada participated in the Nevada Regional Science Bowl. The Clark High School team performed exceptionally well and earned the honor to represent Nevada in the National Science Bowl. The team's success not only demonstrates the benefits of hard work and diligent study, but also reflects well on the students, faculty, and administrators of Clark High School.

The Department of Energy's National Science Bowl began in 1991 as part of a national initiative to encourage America's students to excel in mathematics and science. Teams of four or five students coached by a teacher must demonstrate their knowledge by answering questions related to various scientific fields. Over the past 13 years, thousands of students have participated in this competition and have demonstrated the great potential of our Nation's youth.

Please join me in congratulating Clark High School for its commitment to academic excellence and victory in the Nevada Regional Science Bowl.

ELMO AND NANCY MARTINELLI 50TH ANNIVERSARY

Mr. REID. Mr. President, I rise today to congratulate Elmo and Nancy Martinelli on their 50th wedding anniversary. These two native Nevadans have demonstrated a remarkable commitment to each other and their family for these past five decades.

Raised in Sparks, NV, Elmo and Nancy were high school sweethearts and were married on April 25, 1954. The son of Italian immigrants, Elmo served in the Army and opened a barber shop, which he owned for more than 30 years until his retirement in 1994. Nancy worked as an office secretary and bookkeeper until motherhood arrived in 1955.

Throughout their lives, Elmo and Nancy have dedicated themselves to ensuring that their children—Greg, Craig, Sheila, and Julie—could enjoy the best possible opportunities life has to offer. Their family would grow over time to include five grandchildren and three great-grandchildren.

As their children grew and moved on to college, the Martinellis created a new and no less active life, which included regular weekly golf games, improvement and maintenance of their home, and worldwide travel. In fact, Elmo and Nancy have traveled throughout the United States in their motor home, visited most of Europe and the Far East, and have taken cruises on most of the world's major bodies of water.

In the mid-1990s, the couple sold their Reno home where they had lived for 39 years and embarked on a new adventure: the construction of their dream home. Elmo and Nancy built their new abode on an acre of land nestled in the foothills of the beautiful Sierra Nevada Mountains in southwest Reno. It is a testament to both Elmo and Nancy that their retirement has produced some of the most exciting times of their lives.

It gives me great pleasure to offer my sincerest congratulations to Elmo and Nancy on the occasion of their golden wedding anniversary.

SERBIA AND THE HAGUE

Mr. LEAHY. Mr. President, today, March 31, is the deadline in our law for the Secretary of State to certify that the Federal Government of Yugoslavia—now the Government of Serbia and Montenegro—is meeting three conditions enumerated in Section 572 of the Foreign Operations Appropriations Act of 2004. The first of those conditions is that the Government of Serbia and Montenegro is "cooperating with the International Criminal Tribunal for the Former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in the apprehension, including making all practicable efforts to apprehend and transfer Ratko Mladic." I am informed by the State Department that the Secretary declined to certify that Serbia has met this condition. I applaud his decision.

This law, first enacted in 2000, was instrumental in pressuring Serbian authorities to apprehend Slobodan Milosovic and transfer him to the ICTY. It has also been the impetus for further arrests of other indictees.

But over the years, Serbia's cooperation with The Hague has been inconsistent, often grudging, and usually only on the eve of a cut-off of U.S. assistance. President Kostunica has made no secret of his disdain for the tribunal. This is unfortunate, because unless the Serbian Government, and the Serbian people, support efforts by the ICTY to bring individuals accused of war crimes to justice, Serbia's political and economic development will continue to suffer. The fact that Ratko Mladic, who was responsible for some of the worst atrocities of the Balkans war, remains at large, is unacceptable.

Senator McCONNELL, the Chairman of the Foreign Operations Subcommittee, and I have worked together to maintain U.S. assistance to Serbia in the Foreign Operations budget, subject to the conditions. I join him in commending the Secretary for declining to make the certification. I also agree with Senator McCONNELL that if Mr. Mladic is turned over to the ICTY, we should review the certification law. While it is necessary that the other indictees be apprehended and surrendered, the capture of Mladic would be a very important, positive step.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On Saturday, March 13, 2004, nine large holes were punched in the windows of the only gay bar in Newport, RI, just 6 days after its opening. Mayor Richard C. Sardella said the incident was likely motivated by hate. A detective who is investigating the incident also stated that it didn't appear to be random.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

COAST GUARD AUTHORIZATION—2003

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, the Coast Guard Authorization Act authorizes nearly $15 billion in funding for the Coast Guard to carry out its mission for 2 years. This represents a significant increase in funding over previous years, and will go far to support an agency that has both civilian and homeland security responsibilities. The bill also includes funding for the Deepwater program, funding for port security measures, provisions aimed at preventing oil spills and helping fishermen, and protections for marine resources.

Let me begin by discussing the authorization included in the bill. The fiscal year 2005 budget authorization is 4 percent higher than what the President has requested. This difference represents $327 million, and the authorization itself is a $700 million increase over what the Congress appropriated for the current fiscal year. The funding increases in the bill will help the Coast Guard meet all of its missions. The Coast Guard has stretched its resources dramatically since September 11, and traditional missions such as enforcement of fishing and marine resource laws as well as search and rescue missions are still below pre-September 11 levels.

This legislation includes over $700 million for both fiscal year 2004 and fiscal year 2005 for the Coast Guard's Deepwater program, well over the $500 million in fiscal year 2004 and the $678 million in fiscal year 2005 requested by the President. Deepwater is an important program that will allow the Coast Guard to purchase new ships, planes, and navigation equipment and integrate those resources into its existing infrastructure.

This legislation also addresses security at our ports. Unfortunately, many of our Nation's ports and waterways remain vulnerable to terrorist attacks. Implementation of the Maritime Transportation Security Act is expected to take years. Therefore, it is important that the Coast Guard, the main Federal agency charged with port security, have adequate resources to meet current homeland security responsibilities. The bill includes $70 million to assess port security plans as well as $100 million for expenses that the Coast Guard incurs when the Government issues homeland security alerts. The bill also authorizes $36 million for three new maritime safety and security teams, MSSTs. The MSSTs have already become a vital security force for many of the Nation's busiest ports. Major port cities such as New York, Boston, and Los Angeles have benefitted from the deployment of MSSTs, and I am pleased that this legislation will allow other ports to receive the same level of protection. The bill also includes $40 million for the automatic identification system, AIS. Mandated by the Maritime Transportation Security Act, the AIS will allow the Coast Guard to track and monitor certain vessels that could pose a threat to port security. It is essential that this system operates at full capacity. The fiscal year 2005 authorizations include an overall 10-percent increase for operating expenses and general capital costs to ensure that port security priorities continue to be funded at appropriate levels.

I am pleased that the bill includes a number of environmental provisions, aid for fishermen affected by oilspills, and protections for living marine resources. In response to last year's oilspill in Buzzards Bay, MA, we included in this bill a provision that requires the Coast Guard to study the feasibility of speeding up the deadline for companies to start using double-hull tankers to transport oil. Also in the bill is a mandate for the Coast Guard to issue a report outlining the cost and benefits of requiring vessels to have electronic navigational equipment on board. In addition, to ameliorate the effects of oilspills on fishermen, we added language to the bill that will allow fishermen to receive loans from the oilspill liability trust funding during the period immediately following an oilspill.

The bill also addresses the issue of ship strikes of one of the most endangered whales in the world—the North Atlantic right whale. There are only about 300 individuals left in this entire species, and ship strikes are the No. 1 cause of mortality. While lobstermen and other fishermen in the Northeast have shouldered significant regulatory requirements to avoid entanglement of these whales in fishing gear, no actions have been taken to address the risks from ship strikes. The bill would require the Coast Guard to undertake studies to examine options for minimizing vessel strikes of North Atlantic right whales in accessing ports where this is an issue. In addition to these studies, the bill would require the Coast Guard to submit a report to Congress on the effectiveness and costs of such measures.

In conclusion, we have crafted a balanced bill that will benefit the Coast Guard and enhance our domestic security. The Congress has a responsibility to oversee the Coast guard and provide it with direction and resources. With this bill, we have met that responsibility. I urge my colleagues to support it. Mr. President, I would like to acknowledge the hard work of Senator McCAIN, Senator HOLLINGS, and Senator SNOWE in helping to draft this legislation. I respect and appreciate their dedication to these issues. Thank you.●

JOBS, PROTECTIONISM, AND FREE TRADE

Mr. INOUYE. Mr. President, one of the primary issues today is jobs, and one insight into the problem was outlined by my friend, Senator FRITZ HOLLINGS, in an article that appeared in the Washington Post's Outlook section on Sunday, March 21, 2004. The article was headlined "Protectionism Happens To Be Congress's Job." I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROTECTIONISM HAPPENS TO BE CONGRESS'S JOB

(By Ernest F. Hollings)

Free trade is like world peace—you can't get there by whining about it. You must be willing to fight for it. And the entity to fight for free trade is the U.S. Congress.

Instead, Congress—whose members are shouting "fair trade" and "level the playing field"—is the very group tilting the playing field when it comes to trade.

By piling items onto the cost of doing business here, Congress has helped end the positive trade balance that the United States ran right up until the early 1980s. Over the past 40 years, the minimum wage went up, the Environmental Protection Agency was established, and the Occupational Safety and Health Administration was set up. Lawmakers added the Equal Pay Act, the Age Discrimination in Employment Act and the Employment Retirement Income Security Act. Then came the sharp increase in payroll taxes for Social Security in 1983, measures requiring plant closing notice and parental leave, and the Americans With Disabilities Act. Health costs increased, too, making it $500 a car cheaper in health costs alone for General Motors to make Pontiacs in Canada. All this helped give us a trade deficit that hit a record $43.1 billion in January alone.

Even if wages were equalized, it would still pay for U.S. companies to move operations to places such as China, which requires none of these aspects of America's high standard of living. Recently, columnist George Will wrote: "The export of jobs frees U.S. workers for tasks where America has a comparative advantage." But in global competition, what matters is not the comparative advantage of our ability so much as the comparative disadvantage of our living standard.

To really level the playing field in trade would require lowering our living standard, which is not going to happen. We value our clean air and water, our safe factories and machinery, and our rights and benefits. Both Republicans and Democrats overwhelmingly support this living standard and many are prepared to raise it. The only course possible, then, is to protect the standard.

To talk in these terms raises cries of "protectionism." But the business of government is protection. The oath of the public servant is "to preserve, protect and defend." We have the Army to protect us from enemies without and the FBI to protect us from enemies within. We have Medicare and Medicaid to protect us from ill health, and Social Security to protect us from poverty in old age. We have the Securities and Exchange Commission to protect us from stock fraud; banking laws to protect us from usurpers; truth in lending laws to protect us from charlatans.

When it comes to trade, however, multinational corporations contend that we do not need to protect, but to educate and to improve skills; productivity is the problem, they say. But the United States is the most productive industrial nation in the world, with skills galore. BMW is producing better-quality cars in South Carolina than in Munich. There are other obstacles that need addressing. For 50 years we have tried to penetrate the Japanese market, but have barely done so. To sell textiles in Korea, U.S. firms must first obtain permission from the private Korean textile industry. If you want to sell in China, it's a lot easier if you produce in China.

"But we will start a trade war," is the cry. Wake up! We have been in a trade war for more than 200 years. And it's the United States that started it! Just after the colonies won their freedom, the mother country suggested that the United States trade what we produced best and, in exchange, Britain would trade back with what it produced best—as economist David Ricardo later described in his theory of "comparative advantage." Alexander Hamilton, in his famous "Report on Manufactures," told the Brits, in so many words, to bug off. He said, we are not going to remain your colony shipping you our natural resources—rice, cotton, indigo, timber, iron ore—and importing your manufactured products. We are going to build our own manufacturing capacity.

The second bill ever adopted by Congress, on July 4, 1789, was a 50 percent tariff on numerous articles. This policy of protectionism, endorsed by James Madison and Thomas Jefferson, continued under President Lincoln when he launched America's steel industry by refusing to import from England the steel for the Transcontinental Railroad. President Franklin Roosevelt protected agriculture, President Eisenhower protected oil and President Kennedy protected textiles. This economic and industrial giant, the United States, was built on protectionism and, for more than a century, financed it with tariffs. And it worked.

The Washington mantra of "retrain, retrain" comes up short. For example, Oneita Industries closed its T-shirt plant in Andrews, S.C., back in 1999. The plant had 487 employees averaging 47 years of age. Let's assume they were "retrained" and became 487 skilled computer operators. Who is going to hire a 47-year-old operator over a 21-year-old operator? No one is going to take on the retirement and health costs of the 47-year-old. Moreover, that computer job probably just left for Bangalore, India.

In global competition there is a clash between standards of living. I supported free trade with Canada because we have relatively the same standard of living. But I opposed free trade with Mexico, and therefore voted against the North American Free Trade Agreement (NAFTA), preferring to raise the standards in Mexico, as Europe did with Portugal, Spain and Greece before admitting them to Europe's common market. To be eligible for a free trade agreement you should first have a free market, labor rights, ownership of property, contract rights, rights of appeal and a respected judiciary. Mexico lacked these, and after NAFTA there was an immediate flow of jobs out of the United States because of Mexico's lesser standards. Australia, on the other hand, has labor rights, environmental rights and an open market, so the trade agreement reached with Australia this month should be approved.

We must engage in competitive trade. To eliminate a barrier, raise a barrier. Then eliminate them both.

Our trouble is that we have treated trade as aid. After World War II, we were the only country with industry, and in order to prosper we needed to spread prosperity. Through the Marshall Plan, we sent money, equipment and expertise to Europe and the Pacific Rim. And it worked. Capitalism defeated communism in the Cold War. Our hope in crying "free trade" was that markets would remain open for our exports. But our cries went unheeded, and now our nation's security is in jeopardy.

National security is like a three-legged stool. The first leg—values—is solid. Our stand for freedom and democracy is respected around the world. The second leg of military strength is unquestioned. But the third leg, the economic leg, is fractured and needs repair. We are losing jobs faster than we can create them. Some time ago the late Akio Morita, founder of Sony Corp., was lecturing leaders of third-world countries, admonishing them to develop their manufacturing capacity to become nation states. Then, pointing at me in the audience, he stated, "That world power that loses its manufacturing capacity will cease to be a world power."

What should we do? First, we need to stop financing the elimination of jobs. Tax benefits for offshore production must end. Royalty deductions allowed for offshore activities must be eliminated, and tax havens for corporations must be closed down.

Next, we need an assistant attorney general to enforce our trade laws and agreements. At present, enforcement is largely left to an injured party. It can take years to jump over legal hurdles. Then at the end, based on national security, the president can refuse to implement a court order. Rather than waste time and money, corporate America has moved offshore.

We need to organize government to produce and protect jobs, rather than export them. The Commerce Department recently co-sponsored a New York seminar, part of which advised companies on how to move jobs offshore. This aid for exporting jobs must stop. The Department of Commerce should be reconstituted as a Department of Trade and Commerce, with the secretary as czar over the U.S. trade representative. The department's International Trade Administration should determine not only whether goods have been dumped on the U.S. market, but how big the "injury" is to U.S. industry. The International Trade Commission should be eliminated.

While it is illegal to sell foreign-made goods below cost in the U.S. market (a practice called dumping), we refuse to enforce such violations. The Treasury Department reports $2 billion worth of illegal transshipments of textiles into the United States each year. Customs agents charged with drug enforcement and homeland security are hard-pressed to stop these transshipments. We need at least 1,000 additional Customs agents.

It won't be easy. A culture of free trade has developed. The big banks that make most of their money outside the country, as well as the Business Roundtable, the Conference Board, the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Retail Federation (whose members make bigger profits on imported articles) and the editorial writers of newspapers that make most of their profits from retail ads—all these descend on Washington promoting "free trade" to members of Congress. Members looking for contributions shout the loudest.

Not just jobs, but also the middle class and the strength of our very democracy are in jeopardy. As Lincoln said, "The dogmas of the quiet past, are inadequate to the stormy present. . . . As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country."

Today's dogma is the belief that protectionism will mean trade war and economic stagnation. But we are already in a trade war, one from which the president and the Congress are AWOL.

ADDITIONAL STATEMENTS

TRIBUTE TO EARLE C. CLEMENTS JOB CORPS CENTER

• Mr. BUNNING. Mr. President, today I would like to take the opportunity to honor the Earle C. Clements Job Corps Center in Morganfield, KY. One of Job Corps' oldest centers, Earle C. Clements, and its dedicated staff will be marking their 39th anniversary on Wednesday, April 7.

The shining record of the Earle C. Clements Job Corps Center is a strong example of the way Job Corps works. When I visited this center in August of 2002, I had the pleasure of witnessing firsthand the competent dedication with which the staff at this Job Corps Center approach the problems of men and women looking for a job and a way to better their lives. The work carried on at the center fills me with confidence that the Federal Government can rely on these men and women to train the American workforce for the needs of the economy and of the American people.

The importance of Job Corps and of the Earle C. Clements Center cannot be underestimated. A skilled workforce is the key to a strong economy, to happy and prosperous citizens, to a well-run government, and to a strong nation. The men and women who make our economy work are the backbone of America. Without them our great Nation would be forced to collapse on itself. Training the workforce of America is not simply an isolated act of kindness: every worker also makes an important contribution to the United States that enables it to succeed economically. I believe that a prosperous United States is not only good for the American people but good for the world.

I ask that may colleagues join me in honoring the 39 years of excellence and dedication of the Earle C. Clements Job Corps Center in Morganfield, KY. Their years of service and dedication have earned the praise and gratitude of the Senate. I hope for the very best in their continued years of service.•

HONORING THE ACCOMPLISHMENTS OF TYLER BROWN

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Tyler Brown of Louisville, KY, on his reception of the Lyman T. Johnson Distinguished Leadership Award given to him by the Louisville Central Community Centers. This award is given to an adult and a youth for outstanding volunteer work.

Tyler Brown has proven himself to be an ideal volunteer. While he is only 16 years old, he has already done more volunteer work than many people will do in their whole life. He has worked with Habit for Humanity in Colorado, Florida, and even in Canada. He is also very active in his church, Bethlehem Baptist, where he gives his time to their Dare to Care program in addition to numerous other projects.

The citizens of Louisville are fortunate to have a young man like Tyler Brown in their community. His example of dedication, hard work, and compassion should be an inspiration to all throughout the entire Commonwealth.

He has my most sincere appreciation for his work and I look forward to his continued service to Kentucky.•

MESSAGES FROM THE HOUSE

At 12:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 2057. An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

S. 2231. An act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes.

S. 2241. An act to reauthorize certain school lunch and child nutrition programs through June 30, 2004.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3036. An act to authorize appropriations for the Department of Justice for fiscal years 2004 through 2006, and for other purposes.

H.R. 3104. An act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

H.R. 3966. An act to amend title 10, United States Code, to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer.

ENROLLED BILLS SIGNED

At 5:35 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2584. An act to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

S. 2057. An act to require the Secretary of Defense to reimburse members of the United

States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

The following enrolled bills, previously signed by the Speaker of the House, were signed by the Acting President pro tempore (Mr. COLEMAN).

S. 2231. An act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes.

S. 2241. An act to reauthorize certain school lunch and child nutrition programs through June 30, 2004.

At 6:54 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4062. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3036. An act to authorize appropriations for the Department of Justice for fiscal years 2004 through 2006, and for other purposes; to the Committee on the Judiciary.

H.R. 3104. An act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom; to the Committee on Armed Services.

H.R. 3966. An act to amend title 10, United States Code, to improve the ability of the Department of Defense to establish and maintain Senior Reserve Officer Training Corps units at institutions of higher education, to improve the ability of students to participate in Senior ROTC programs, and to ensure that institutions of higher education provide military recruiters entry to campuses and access to students that is at least equal in quality and scope to that provided to any other employer; to the Committee on Armed Services.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6927. A communication from the Manager, Oak Ridge Operations Office, Department of Energy, transmitting, pursuant to law, the Oak Ridge Reservation Annual Site Environmental Report (ASER) for 2002; to the Committee on Energy and Natural Resources.

EC–6928. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a draft of legislation relative to authorizing appropriations for the Commission for fiscal year 2005; to the Committee on Environment and Public Works.

EC–6929. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Physicians Referrals to Health Care Entities With Which They Have Financial Relationships, Phase II" (RIN0938–AK37) received on March 29, 2004; to the Committee on Finance.

EC–6930. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Tax Return Preparers—Electronic Filing" (TD9119) received on March 29, 2004; to the Committee on Finance.

EC–6931. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Automatic Consent to Change an Accounting Method to a Method Provided in Section 1.263(a)-4 or -5" (Rev. Proc. 2004–23) received on March 29, 2004; to the Committee on Finance.

EC–6932. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Allocation and Apportionment of Interest Expense: Alternative Method for Determining Tax Book Value" (RIN1545–AB92) received on March 29, 2004; to the Committee on Finance.

EC–6933. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Fringe Benefits Aircraft Valuation Formula" (Rev. Rule 2004–36) received on March 29, 2004; to the Committee on Finance.

EC–6934. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Plan for the Transfer of Responsibility of Medicare Appeals; to the Committee on Finance.

EC–6935. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–6936. A communication from the Administrator, Agency for International Development, transmitting, pursuant to law, a report relative to the funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004; to the Committee on Foreign Relations.

EC–6937. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–390, "Choice in Drug Treatment Advisory Commission Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6938. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–391, "Interim Disability Assistance Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6939. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–392, "Georgetown Project Second Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6940. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–393, "Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6941. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–395, "Depreciation Allowance for Small Business De-Coupling from the Internal Revenue Code Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6942. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–394, "Owner-Occupant Residential Tax Credit and Homestead Deduction Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6943. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–396, "Low-Income, Long-Term Homeowner's Protection Clarification Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6944. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–397, "Enforced Leave Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6945. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–408, "Millicent Allewelt Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6946. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–409, "Vector-Borne Infectious Diseases Control Act of 2004"; to the Committee on Governmental Affairs.

EC–6947. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–410, "AccessRx Act of 2004"; to the Committee on Governmental Affairs.

EC–6948. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report relative to the Exchange Stabilization Fund (ESF) for fiscal year 2003; to the Committee on Governmental Affairs.

EC–6949. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department of Commerce's report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6950. A communication from the Director, National Gallery of Art, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2002; to the Committee on Governmental Affairs.

EC–6951. A communication from the Chairman, Defense Nuclear Facilities Board Safety Board, transmitting, pursuant to law, the Board's Performance Report for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–6952. A communication from the Chief Judge of the Superior Court of the District of Columbia, transmitting, pursuant to law, a report relative to the Transition Plan for the District of Columbia Family Court Act of 2001; to the Committee on Governmental Affairs.

EC–6953. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary, Office of Vocational and Adult Education, Department of Education, received on March 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6954. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary, Office of Secondary and Elementary Education, Department of Education, received on March 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6955. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Policy, Department of Labor, received on March 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6956. A communication from the Executive Director, Office of Compliance, transmitting, pursuant to law, the Office's Annual Report for Calendar Year 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–6957. A communication from the Rules Administrator, Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled "Final Rule: Visiting Regulations: Prior Relationship" (RIN1120–AA77) received on March 29, 2004; to the Committee on the Judiciary.

EC–6958. A communication from the Rules Administrator, Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled "Administrative Remedy Program: Excluded Matters" (RIN1120–AA72) received on March 29, 2004; to the Committee on the Judiciary.

EC–6959. A communication from the Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Oak Knoll District of Napa Valley Viticultural Area" (RIN1513–AA48) received on March 29, 2004; to the Committee on the Judiciary.

EC–6960. A communication from the Chief Financial Officer, Paralyzed Veterans of America, transmitting, pursuant to law, the report of audited financial statements for fiscal year 2003; to the Committee on the Judiciary.

EC–6961. A communication from the Director, Regulations Management, Veterans' Benefits Administration, transmitting, pursuant to law, the report of a rule entitled "Delegation of Authority—Property Management Contractor" (RIN2900–AL85) received on March 23, 2004; to the Committee on Veterans' Affairs.

EC–6962. A communication from the Director, National Cemetery Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Eligibility for an Appropriate Government Marker for a Grave Already Marked at Private Expense" (RIN2900–AL40) received on March 23, 2004; to the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. INHOFE, Ms. LANDRIEU, and Mr. LUGAR):

S. 2262. A bill to provide for the establishment of campaign medals to be awarded to members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom; to the Committee on Armed Services.

By Mr. THOMAS (for himself, Mr. SPECTER, and Mr. KYL):

S. 2263. A bill to amend the Internal Revenue Code of 1986 to create Lifetime Savings Accounts; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. ALEXANDER):

S. 2264. A bill to require a report on the conflict in Uganda, and for other purposes; to the Committee on Foreign Relations.

By Mr. ROBERTS (for himself and Mr. KENNEDY):

S. 2265. A bill to require group and individual health plans to provide coverage for colorectal cancer screenings; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for Mr. KERRY (for himself, Ms. CANTWELL, Mr. HARKIN, Mr. BAYH, Mr. PRYOR, Ms. LANDRIEU, Mr. BINGAMAN, and Mr. LEVIN)):

S. 2266. A bill to amend the Small Business Act to provide adequate funding for Women's Business Centers; to the Committee on Small Business and Entrepreneurship.

By Ms. SNOWE (for herself, Mr. DOMENICI, and Mr. CHAFEE):

S. 2267. A bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VOINOVICH (for himself, Mr. BIDEN, Mr. LUGAR, Mr. LIEBERMAN, and Mr. BROWNBACK):

S. Res. 326. A resolution condemning ethnic violence in Kosovo; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 451

At the request of Ms. SNOWE, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 560

At the request of Mr. CRAIG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 622

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 622, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 977

At the request of Mr. FITZGERALD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 977, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1008

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1008, a bill to provide for the establishment of summer health career introductory programs for middle and high school students.

S. 1063

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1063, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 1183

At the request of Mr. KYL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1183, a bill to develop and deploy technologies to defeat Internet jamming and censorship, and for other purposes.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1217

At the request of Mr. ENZI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1217, a bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

S. 1353

At the request of Mr. BROWNBACK, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1353, a bill to establish new special immigrant categories.

S. 1704

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1704, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 1792

At the request of Mr. DOMENICI, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Idaho (Mr. CRAIG) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 2056

At the request of Mr. BROWNBACK, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 2076

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2193

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2193, a bill to improve small business loan programs, and for other purposes.

S. 2213

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2213, a bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being.

S. 2252

At the request of Mr. KENNEDY, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2252, a bill to increase the number of aliens who may receive certain non-immigrant status during fiscal year 2004 and to require submissions of information by the Secretary of Homeland Security.

S. 2258

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. ENZI), the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2258, a bill to revise certain requirements for H-2B employers for fiscal year 2004, and for other purposes.

S. 2261

At the request of Mr. DEWINE, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 298

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 298, a resolution designating May 2004 as "National Cystic Fibrosis Awareness Month".

S. RES. 311

At the request of Mr. BROWNBACK, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

AMENDMENT NO. 2889

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 2889 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2943

At the request of Mr. CORNYN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of amendment No. 2943 intended to be proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

AMENDMENT NO. 2945

At the request of Mrs. BOXER, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from West Virginia (Mr. BYRD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 2945 proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 2945 proposed to H.R. 4, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. INHOFE, Ms. LANDRIEU, and Mr. LUGAR):

S. 2262. A bill to provide for the establishment of campaign medals to be awarded to members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom; to the Committee on Armed Services.

Mr. BINGAMAN. Mr. President, I rise today with my colleagues, Senators INHOFE, LANDRIEU, LUGAR, and LOTT, to introduce a bill to honor our service men and women in Iraq and Afghanistan who have served and continue to serve their country by working for a free, independent, and stable Iraq and a new Afghanistan. These missions have been difficult and the cost has been high; nearly 600 Americans have been killed and almost 3,000 Americans have been injured in Iraq, while more than 500 Americans have been injured and more than 100 U.S. service men and women have been lost in Afghanistan.

More than a year after the initial invasion, nearly 110,000 troops are still stationed in Iraq, working to build a new, stable beacon of freedom in the region. My fellow Senators, the liberation of Iraq is turning out to be the most significant military occupation and reconstruction effort since the end of World War II. We cannot understate the importance of the work being done there today.

The administration's focus on Iraq leaves the mission in Afghanistan incomplete. Despite constant progress there, the fighting is still not over. Recent assassinations of government officials, car bombings, and the lingering presence of terrorist forces and former Taliban fighters force thousands of our troops to stay in-country.

For there courageous efforts, the Department of Defense has decided to award our brave young men and women with the Global War on Terrorism Expeditionary Medal, GWOT, and no other medal. This is despite the fact the GWOT medal is meant for any individual who has served overseas during the war on terror and may have come within a few hundred miles of a combat zone. The dangers of serving in Iraq and Afghanistan are greater; therefore, along with my colleagues, Senators LOTT, LANDRIEU, INHOFE, and LUGAR, I propose to correct this mistake by passing legislation authorizing the Iraq and Afghanistan Liberation Medals in addition to the Global War on Terrorism Expeditionary Medal.

While some of us in this body have not shared the administration's view on this war, we are united when it comes to supporting our troops. These young men and women from Active Duty, National Guard, and Reserves are all volunteers and exemplify the very essence of what it means to be a patriot. We believe that what they are doing in Iraq and Afghanistan today differs from military expeditionary activities such as peacekeeping operations or no-fly-zone enforcement.

They continue to serve, even though they do not know when they will return home to family and friends. They continue to serve despite the constant threat to their lives and the tremendous hardships they face.

There is a difference between an expeditionary medal and a campaign medal. We only need to look at an excerpt from U.S. Army Qualifications for the Armed Forces Expeditionary Medal and Kosovo Campaign Medal. In order to receive the Armed Forces Expeditionary Medal, you don't need to go to war. You only need to be "placed in such a position that in the opinion of the Joint Chief of Staff, hostile action by foreign armed forces was imminent even though it does not materialize."

To earn the Kosovo Campaign Medal, the standard is higher. A military member must:

Be engaged in actual combat, or duty that is equally hazardous as combat duty, during the Operation with armed opposition regardless of time in the Area of Engagement. Or while participating in the Operation, regardless of time, [the service member] is wounded or injured and required medical evacuation from the Area of Engagement.

Many within the military agree that there is a difference. According to the Army Times, "Campaign medals help establish an immediate rapport with individuals checking into a unit." An expeditionary medal like the GWOT does not necessarily denote combat. A campaign medal is designed to recognize military personnel who have risked their lives in combat.

Campaign medals matter. "When a Marine shows up at a new duty station, commanders look first at his decorations and his physical fitness score—the first to see where he's been, the second to see if he can hang. They show what you've done and how serious you are," said GySgt James Cuneo. "If you're a good Marine, people are going to award you when it comes time. . . ."

My fellow colleagues, it is time. We must recognize the sacrifice of our young men and women who liberated Iraq, including great Americans like Army SPC Joseph Hudson from Alamogordo, NM, who was held as a prisoner of war. The Nation was captivated as we watched Specialist Hudson being interrogated by the enemy. Asked to divulge his military occupation, Specialist Hudson stared defiantly into the camera and said, "I follow orders." Those of us with sons and daughters were united in worry with Specialist Hudson's family. The entire Nation rejoiced when he was liberated.

We have also asked much from our Reserve and National Guard Forces. The reconstruction of Iraq would not be possible without the commitment and sacrifice of the 170,000 guardsmen and reservists currently on active duty.

My colleagues, Senators LOTT, LANDRIEU, INHOFE, LUGAR, and I are committed to honoring our over 200,000 heroes who liberated Iraq and Afghanistan. We believe that current administration policy does a disservice to our fighting men and women. Therefore we propose, in addition to the GWOT medal, new decorations that characterize the real missions in Iraq and Afghanistan, two that are distinctive and honor their sacrifice, the Iraq and Afghanistan Liberation Medals.

What we do today is not without precedent; Congress has been responsible for recognizing the sacrifice and courage of our military forces throughout history. Congress has had a significant and historically central role in authorizing military decoration. Our Nation's highest military decorations were authorized by Congress, including: the Medal of Honor, the Air Force Cross, the Navy Cross, the Army's Distinctive Service Cross, the Silver Star, and the Distinguished Flying Cross.

We have also authorized campaign and liberation medals similar to what we hope to accomplish with this legislation. A partial list includes the Spanish War Service Medal, the Army Occupation of Germany Medal, the World War II Victory Medal, the Berlin Airlift Medal, the Korean Service Medal, and the Prisoner of War Medal.

The list goes on and on. The great men and women of our military forces are doing their jobs every day in Iraq and Afghanistan. It is time to do our job and honor them with an award that truly stands for their heroic service, the Iraq and Afghanistan Liberation Medals.

I ask unanimous consent that an article from the Army Times and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Army Times, Mar. 15, 2004]

HILL SET TO CHALLENGE PENTAGON ON TERROR-WAR MEDAL

(By Rick Maze)

The Pentagon's determination to award a single campaign medal for the entire global war on terrorism will come under fire Wednesday when the House Armed Services Committee is expected to pass a bill ordering creation of separate campaign medals for combat operations in Iraq and Afghanistan. This is a bipartisan bill, first introduced in September, with 84 cosponsors. It is expected to pass the committee Wednesday with little or no discussion, but the next step is unclear, House aides said. The Defense Department has stood firm in the face of complaints about having a single Global War on Terrorism Expeditionary Medal instead of separate campaign medals, and is likely to lean on House Republican leaders to prevent passage of the bill, aides said. "Passing the committee isn't a problem. Getting the bill scheduled for a vote in the House of Representatives could be a lot tougher," said one Republican aide. Exactly who would get the campaign medals would be left to the Pentagon to determine. The bill, HR 3104, only orders the medals to be established and leaves eligibility rules to the military. Passage by the full House still wouldn't ensure the separate medals would ever be issued. The Senate debated the issue last year and by a 48–47 vote ended up siding with the Pentagon. Defense officials have argued that a single medal treats all deployments for the war on terrorism equally, whether the operations are in Iraq, Afghanistan, Africa, Colombia or the Philippines. The chief cosponsors of the House bill are all Vietnam veterans who serve on the armed services committee: Vic Snyder, D–Ark., a former Marine, and Army veterans Rob Simmons, R–Conn., and Silvestre Reyes, D–Texas. Snyder, the chief sponsor, said his combat experience is part of the reason why he is pushing for separate campaign medals. "I know the incredible pride and sense of accomplishment our military personnel feel about how well they have done in our most recent wars," he said. "In past wars, millions of soldiers, sailors, airmen, and Marines have received combat medals that have held intense meaning for them," Reyes added. "Soldiers who fought and are fighting in Iraq and Afghanistan deserve a medal of equal significance."

"As a Vietnam veteran and reservist, I am proud of the sacrifices made by our military men and women," said Simmons, who remained in the Army Reserve after his combat experience and retired from the military in 2000. "Whatever one thinks about the war on terror, our service men and women did what their country asked of them and did it very well. Congress should recognize these accomplishments." In addition to the campaign medal bill, the House Armed Services Committee is scheduled to take up three other measures on Wednesday. One bill would order the reimbursement of travel expenses for service members who used the Central Command's rest and recuperative leave program in its early stages last fall, a measure passed by the Senate last week. Also planned are votes on a bill attempting to expand access for military recruiters to college campuses and a non-binding resolution asking the Defense Department, banks and credit unions and the Federal Trade commission to all work to reduce the financial hardships of mobilized reservists. The planned markup is unusual because the House Armed Services Committee normally would wrap such bills into the larger defense authorization bill it approves each year. Aides who spoke on the condition of not being identified said there are two reasons for breaking with tradition to pass separate bills. One is that lawmakers want to move quickly on some issues, like R&R travel reimbursement, which have already been completed. The second reason is that House Republican leaders have been pleading with committees to have some bills ready for debate and passage on the House floor. The legislative calendar already is light because of the upcoming elections, aides said. Delays in House floor debate on the 2005 budget resolution, due to problems getting a consensus among Republicans about budget priorities, has left a big hole in the legislative schedule that House leaders would like to fill, aides said.

S. 2262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MILITARY CAMPAIGN MEDALS TO RECOGNIZE SERVICE IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.

(a) REQUIREMENT.—The President shall establish a campaign medal specifically to recognize service by members of the Armed Forces in Operation Enduring Freedom and a separate campaign medal specifically to recognize service by members of the Armed Forces in Operation Iraqi Freedom.

(b) ELIGIBILITY.—Subject to such limitations as may be prescribed by the President, eligibility for a campaign medal established pursuant to subsection (a) shall be set forth in uniform regulations to be prescribed by the Secretaries of the military departments and approved by the Secretary of Defense or in regulations to be prescribed by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

By Mr. FEINGOLD (for himself and Mr. ALEXANDER):

S. 2264. A bill to require a report on the conflict in Uganda, and for other purposes; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I am very pleased to be joined by my colleague, Senator ALEXANDER, in introducing legislation to draw attention to the horrifying situation in northern and eastern Uganda.

When most of my colleagues think of Uganda, they probably think, quite rightly, of Uganda's inspiring example of how a concerted effort on the part of government and civil society can save lives in the fight against HIV/AIDS. Or perhaps they recall the brutal history of the Amin era, and reflect on the extraordinary progress that the Ugandan people have made in closing that chapter of their history and rebuilding their country. Today, so much of Uganda is vibrant and exciting. A lively debate about the pace and depth of democratization has been underway for years. Ugandan leaders, including civil society leaders, work to fight against the insidious influence of corruption, just as leaders here in our country do. Ugandan officials devote time and energy to fostering a climate the encourages enterprise and increased trade and investment so that the next generation of Ugandans might know even more progress. And importantly Uganda is a strong partner in cooperating with the United States and with the rest of the vast global coalition committed to fighting international terrorist networks.

It is in part because there is so much that is positive and promising about Uganda and about our relationship with Uganda that the situation in northern and eastern Uganda is so very shocking. For more than 17 years, a conflict has raged between the Lord's Resistance Army and the Government of Uganda. All conflict comes with costs, but this one has been particularly atrocious. The LRA's campaign has been characterized by the forced abduction of thousands of Ugandan children—possibly over 25,000 children. These children have been terrorized, tortured, forced to participate in extraordinarily brutal acts, pressed into service as soldiers and used as cannon fodder, and forced into sexual servitude. Throughout the region, about 1.4 million people are displaced, often forced into camps by the government. They cannot plant their crops, they cannot support themselves, and insecurity makes it difficult to get humanitarian assistance to these populations. Acute malnutrition is widespread, sanitary conditions often do not meet even minimal standards.

Worse, often these camps have insufficient protection, and the LRA has targeted these civilian communities of the displaced. Just last month, a displaced persons camp was attacked by the LRA, and in a 3-hour period, some 200 unarmed civilians were hacked, shot, and burned to death. Many fear that targeting of civilians will only increase with the government's efforts to arm and train local defense forces, and local leaders warn of the potential for these forces to take the form of ethnic militias, harkening back to some of the worst days of Uganda's history.

Reputable human rights organizations have reported disturbing abuses committed by Ugandan security forces in the region, and an absence of reliable mechanisms for holding those responsible to account. The recent history of Ugandan military adventures in the Democratic Republic of the Congo, particularly in Ituri, does not inspire confidence. Thankfully, Uganda has withdrawn from the DRC. But lingering questions about the military's commitment to basic human rights standards remain. I believe that the Ugandan military and the Ugandan government want to answer those questions definitively, and to reaffirm their commitment to developing professional and responsible forces. But pretending that these questions and concerns do not exist is not in the interest of Ugandans, it is not in the interest of Americans, and it is not in the interest of the kind of solid, frank, genuine partnership that I believe we all wish to cultivate with Uganda.

The Women's Commission for Refugee Women and Children reports that at least 50,000 people—the majority of them children an adolescents—flee their homes nightly in search of secure places to stay until dawn. Dusk brings seemingly endless lines of children walking into town centers from homes that are often miles away, sleeping en masse in makeshift shelters if they are very lucky, sleeping on the streets where they are extremely vulnerable to exploitation if they are not. This is not something that happens occasionally. This has become a nightly ritual, a way of life, for the civilians caught up in this nightmare. Children, some of whom have been abducted and have escaped only to be abducted again, know much about fear. But they know little about school. They know little about safety. They know very little about the promise of a better future. And the entire structure of their community has been shattered.

The human tragedy is devastating and the implications are quite serious. If Sudan is continuing to support the LRA, I am concerned about what this tells us about the nature of the Sudanese regime. I am troubled by the prospect that some will, for their own purposes, cast the conflict in northern and eastern Uganda in purely ethnic terms, lumping civilians who have been victimized in with the LRA forces responsible for their suffering. I worry about the potential for regional fractures when one part of the country lives in such a different world from the rest, enjoying none of the stability and development that we all so admire. I want Uganda to succeed. I want the volume of positive news to increase. And that means that we must address this serious issue frankly today.

This legislation asks the administration to report to Congress on a number of issues relating to the situation in northern and eastern Uganda. I ask for these reports because I certainly do not have all of the answers. But I know enough about the problem to know that these reports will help the Congress to make informed decisions about how to proceed in our relationship with Sudan and about how to most effectively help the people of northern and eastern Uganda.

Once again, I thank my colleague from Tennessee for joining me in this effort. I urge my colleagues to support this legislation.

By Mr. ROBERTS (for himself and Mr. KENNEDY):

S. 2265. A bill to require group and individual health plans to provide coverage for colorectal cancer screenings; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the following bill, the Eliminate Colorectal Cancer Act, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the “Eliminate Colorectal Cancer Act of 2004”.

(b) FINDINGS.—The Congress finds the following:

(1) Colorectal cancer is the second leading cause of cancer deaths in the United States for men and women combined.

(2) It is estimated that in 2004, 146,940 new cases of colorectal cancer will be diagnosed in men and women in the United States.

(3) Colorectal cancer is expected to kill 56,730 individuals in the United States in 2004.

(4) When colorectal cancer is diagnosed early, at a localized stage, more than 90 percent of patients survive for 5 years or more. Once the disease has metastasized, 92 percent of patients die within 5 years. Yet, only 37 percent of colorectal cancer cases are diagnosed while the disease is still in the localized stage.

(5) If all men and women age 50 and over practiced regular colorectal cancer screening, without any new scientific discoveries, the United States could see up to a 50 to 90 percent reduction in deaths from this disease.

(6) Currently, many private insurance health plans are not providing coverage for the full range of colorectal cancer screening tests. Lack of insurance coverage can act as a barrier to care.

(7) Assuring coverage for the full range of colorectal cancer tests is an important step in increasing screening rates for these life saving tests.

SEC. 2. COVERAGE FOR COLORECTAL CANCER SCREENING.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

“TITLE XXIX—MISCELLANEOUS HEALTH COVERAGE

“SEC. 2901. COVERAGE FOR COLORECTAL CANCER SCREENING.

“(a) COVERAGE FOR COLORECTAL CANCER SCREENING.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide coverage for colorectal cancer screening consistent with this subsection to—

“(A) any participant or beneficiary age 50 or over; and

“(B) any participant or beneficiary under the age of 50 who is at a high risk for colorectal cancer.

“(2) DEFINITION OF HIGH RISK.—For purposes of subsection (a)(1)(B), the term ‘high risk for colorectal cancer’ has the meaning given such term in section 1861(pp)(2) of the Social Security Act (42 U.S.C. 1395x(pp)(2)).

“(3) REQUIREMENT FOR SCREENING.—The group health plan or health insurance issuer shall cover methods of colorectal cancer screening that—

“(A) are deemed appropriate by a physician (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))) treating the participant or beneficiary, in consultation with the participant or beneficiary;

“(B) are—

“(i) described in section 1861(pp)(1) of the Social Security Act (42 U.S.C. 1395x(pp)(1)) or section 410.37 of title 42, Code of Federal Regulations; or

“(ii) specified by the Secretary, based upon the recommendations of appropriate organizations with special expertise in the field of colorectal cancer; and

“(C) are performed at a frequency not greater than that—

“(i) described for such method in section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)) or section 410.37 of title 42, Code of Federal Regulations; or

“(ii) specified by the Secretary for such method, if the Secretary finds, based upon new scientific knowledge and consistent with the recommendations of appropriate organizations with special expertise in the field of colorectal cancer, that a different frequency would not adversely affect the effectiveness of such screening.

“(b) NOTICE.—A group health plan under this section shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

“(c) NON-PREEMPTION OF MORE PROTECTIVE STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—This section shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage that provides greater protections to participants and beneficiaries than the protections provided under this section.

“(d) DEFINITIONS AND ENFORCEMENT.—The definitions and enforcement provisions of title XXVII shall apply for purposes of this section.”.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

“SEC. 714. COVERAGE FOR COLORECTAL CANCER SCREENING.

“(a) COVERAGE FOR COLORECTAL CANCER SCREENING.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide coverage for colorectal cancer screening consistent with this subsection to—

“(A) any participant or beneficiary age 50 or over; and

“(B) any participant or beneficiary under the age of 50 who is at a high risk for colorectal cancer.

“(2) DEFINITION OF HIGH RISK.—For purposes of subsection (a)(1)(B), the term ‘high risk for colorectal cancer’ has the meaning given such term in section 1861(pp)(2) of the Social Security Act (42 U.S.C. 1395x(pp)(2)).

“(3) REQUIREMENT FOR SCREENING.—The group health plan or health insurance issuer shall cover methods of colorectal cancer screening that—

“(A) are deemed appropriate by a physician (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))) treating the participant or beneficiary, in consultation with the participant or beneficiary;

“(B) are—

“(i) described in section 1861(pp)(1) of the Social Security Act (42 U.S.C. 1395x(pp)(1)) or section 410.37 of title 42, Code of Federal Regulations; or

“(ii) specified by the Secretary, based upon the recommendations of appropriate organizations with special expertise in the field of colorectal cancer; and

“(C) are performed at a frequency not greater than that—

“(i) described for such method in section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)) or section 410.37 of title 42, Code of Federal Regulations; or

“(ii) specified by the Secretary for such method, if the Secretary finds, based upon new scientific knowledge and consistent with the recommendations of appropriate organizations with special expertise in the field of colorectal cancer, that a different frequency would not adversely affect the effectiveness of such screening.

“(b) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the third to last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.”.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

“Sec. 714. Coverage for colorectal cancer screening.”.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended by inserting after section 2752 the following new section:

“SEC. 2753. COVERAGE FOR COLORECTAL CANCER SCREENING.

“(a) IN GENERAL.—The provisions of section 2901(a) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.".

(2) TECHNICAL AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg-62(b)(2)) is amended by striking "section 2751" and inserting "sections 2751 and 2753".

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2005.

(2) INDIVIDUAL HEALTH INSURANCE.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2005.

(d) COORDINATED REGULATIONS.—The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which both Secretaries have responsibility under the provisions of this section (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing the Eliminate Colorectal Cancer Act of 2004. I especially commend Senator ROBERTS for his leadership, assistance, and support on this important legislation. This bipartisan bill is being introduced on the final day of National Colorectal Cancer Awareness Month, as a sign of our intention to do all we can to see that more effective action is taken as soon as possible to combat this deadly disease. Our goal in this is to give every American with health insurance the right to access a full range of screening tests for colorectal cancer.

The statistics are staggering. Colorectal cancer is the second leading cause of cancer deaths among men and women in America. Last year, 148,000 people were diagnosed with colorectal cancer, and 56,000 mothers, fathers, daughters, and sons died from the disease. Tragically these deaths are taking place despite the fact that this form of cancer is curable 90 percent of the time if detected early.

We know that screening can discover this cancer early, in fact, so early that growths can be identified and removed before they become cancerous. For no other disease are the guidelines for screening better defined and nationally recognized as the best way to prevent deaths from this cancer.

Screening for colorectal cancer will save lives, and it will also avoid thousands of dollars in later treatment costs for each patient. The Institute of Medicine estimated that such screenings cost less than 1 percent of later treatment for this cancer. Screening for colorectal cancer is obviously the right thing to do, and it is also the cost-effective thing to do.

The real tragedy is that fewer than half of those who fit the guidelines for screening are actually screened within the right timeframes, if at all. As a result, only 37 percent of colorectal cancers are diagnosed at the early, most curable stages.

Many citizens are aware, at least vaguely, that they should probably be screened, but they can't afford it, because it is not covered by their health insurance. In our view, no American should be denied access to these lifesaving screening procedures simply because their health insurance company will not pay for it.

Every American with insurance should have access to screening procedures that will prevent cancer. By requiring insurers to cover colorectal cancer screening, we will save thousands of lives each year, and save money too.

Some argue that it is wrong to require insurers to cover a test for a specific disease. Yet the evidence is clear that screening makes colorectal cancer preventable, treatable, and beatable.

National Colorectal Cancer Awareness Month has brought new attention to the fact we can eliminate a disease that causes immeasurable suffering and sadness in the lives of millions of Americans. With this legislation, we can save hundreds of thousands of lives over the next 5 years.

The need is clear and so is the solution. As National Colorectal Cancer Awareness Month comes to a close, let us do the right thing and work together to approve the Eliminate Colorectal Cancer Act of 2004.

By Mr. DASCHLE (for Mr. KERRY (for himself, Ms. CANTWELL, Mr. HARKIN, Mr. BAYH, Mr. PRYOR, Ms. LANDRIEU, Mr. BINGAMAN, and Mr. LEVIN)):

S. 2266. A bill to amend the Small Business Act to provide adequate funding for Women's Business Centers; to the Committee on Small Business and Entrepreneurship.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, today as ranking member of the Committee on Small Business and Entrepreneurship, I offer the Women's Business Center Safeguard Act, legislation to fix a funding gap that exists for the most experienced meritorious women's business centers.

I would first like to express my sincere disappointment that the Republican majority refused to include the bipartisan women's business center compromise that was agreed to by Chair SNOWE and the bipartisan leadership of the House Small Business Committee, and, in the best interest of women business owners across the country, I urge them to reconsider.

I also want to comment on the Bush administration's proposals to eliminate experienced, efficient, and effective women's business centers in favor of new, untested, and inexperienced centers. Moving forward with the administration's proposal and failing to correct this funding gap immediately would jeopardize women's business centers in 39 States and eliminate assistance for thousands of women in business. While, as my bill demonstrates, I support opening new centers to help women entrepreneurs who do not currently have access to this important assistance, this should only occur when the existing centers, whether in their initial or a later funding period, are fully funded. The administration's policy to sacrifice successful, experienced centers in the interest of opening new centers is unwarranted and unwise. Women entrepreneurs and their businesses are critically important to our economy and to U.S. job creation, and women's business centers help them succeed. I intend to continue to advocate on their behalf.

This legislation contains a small adjustment to the Women's Business Center program that updates an outdated funding formula, without added cost to the Treasury. The adjustment changes the portion of funding allowed for women's business centers in the sustainability part of the program to keep up with the increasing number of centers that will need funding this fiscal year. In short, this change directs the SBA to reserve 54 percent of the appropriated funds for the sustainability centers, instead of 30 percent, which will allow for full funding of the most experienced centers, while still allowing for new centers and protecting existing ones.

Currently there are 88 women's business centers. Of these, 35 are in the initial grant program and 53 will have graduated to the sustainability part of the program in this funding cycle. These sustainability centers make up more than half of the total women's business centers, but under the current funding formula are only allotted 30 percent of the funds. Without the change to 54 percent, all grants to sustainability centers could be cut in half—or worse, 23 experienced centers could lose funding completely. Cutting funding for these, our most efficient and successful centers, would not only be detrimental to the centers themselves, but also to the women they serve, to their local communities, to their States, and to the national economy.

As the author of the Women's Business Centers Sustainability Act of 1999, I can tell you that when the bill was signed into law, it was Congress's intent to protect the established and successful infrastructure of worthy, performing centers. The law was designed to allow all graduating Women's Business Centers that meet certain performance standards to receive continued funding under sustainability grants. This approach allows for new centers to be established—but not by penalizing those that have already demonstrated their worth. It was our intention to continue helping the most productive and well-equipped women's business centers, knowing that demand for such services was rapidly growing.

Today, with women-owned businesses opening at one-and-a-half times the rate of all privately held firms, the demand and need for women's business centers is even greater. Until Congress makes permanent the Women's Business Center Sustainability Pilot Program, as intended in Senate-passed legislation, an extension of authority and increase in sustainability funds is vital—not only to the centers themselves, but to the women's business community and to the millions of workers employed by women-owned businesses around the country.

This bill is necessary to continue the good work of SBA's Women's Business Center network, and I urge all of my colleagues to support it and its inclusion as part of any extension of SBA programs. I ask that the full text of this bill be printed in the RECORD.●

The bill follows.

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Center Safeguard Act".

SEC. 2. WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) in paragraph (2), by adding at the end the following:

"(C) FUNDING PRIORITY.—Subject to available funds, and reservation of funds, the Administration shall, for each fiscal year, allocate—

"(i) $150,000 for each women's business center established under subsection (b), except for any center that requests a lesser amount;

"(ii) from the remaining funds, not more than $125,000, in equal amounts, to each women's business center established under subsection (l), to the extent such funds are reserved under subsection (k)(4)(A), except for any center that requests a lesser amount; and

"(iii) any funds remaining after allocations are made under clauses (i) and (ii) to new eligible women's business centers and eligible women's business centers that did not receive funding in the prior fiscal year under subsection (b). "; and

(2) in paragraph (4)(A), by adding at the end the following:

"(v) For fiscal year 2004, 54 percent.".

(b) SUNSET DATE.—The amendments made by this section are repealed on October 1, 2004.

By Ms. SNOWE (for herself, Mr. DOMENICI, and Mr. CHAFEE):

S. 2267. A bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Sustainability Recovery Act of 2004".

SEC. 2. WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) in paragraph (2), by adding at the end the following:

"(C) FUNDING PRIORITY.—Subject to available funds, and reservation of funds, the Administration shall, for fiscal year 2004, allocate—

"(i) $150,000 for each eligible women's business center established under subsection (b), except for centers that request a lesser amount;

"(ii) from the funds reserved under subsection (k)(4)(A), not more than $125,000, in equal amounts, to each eligible women's business center established under subsection (l), except for centers that request a lesser amount; and

"(iii) any funds remaining after allocations are made under clauses (i) and (ii) to new eligible women's business centers and eligible women's business centers that did not receive funding in the prior fiscal year under subsection (b)."; and

(2) in paragraph (4)(A), by adding at the end the following:

"(v) For fiscal year 2004, 48 percent.".

(b) SUNSET DATE.—The amendments made by subsection (a) are repealed on October 1, 2004.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 326—CONDEMNING ETHNIC VIOLENCE IN KOSOVO

Mr. VOINOVICH (for himself, Mr. BIDEN, Mr. LUGAR, Mr. LIEBERMAN, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 326

Whereas ethnic violence erupted in Kosovo on March 17, 2004, claiming the lives of 20 individuals, including 8 Kosovo Serbs, 8 Kosovo Albanians, and 4 unidentified victims, injuring more than 600 others, and displacing more than 4,000 Kosovo Serbs and other minorities;

Whereas the violence also resulted in the destruction of more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and in the destruction of, or damage to, more than 30 churches and monasteries belonging to the Serbian Orthodox Church;

Whereas historic mosques in Belgrade and Nis, and an Islamic center in Novi Sad, were also destroyed or damaged;

Whereas in response to the violence, Commander in Chief of the North Atlantic Treaty Organization (NATO) Allied Forces South, Admiral Gregory Johnson, concluded, "This kind of activity, which essentially amounts to ethnic cleansing, cannot go on.";

Whereas Supreme Allied Commander, Europe, General James Jones ordered the deployment of NATO's Strategic Reserve Force on March 19, 2004, to calm the violence and end the destruction;

Whereas Deputy Secretary of State Richard Armitage and Foreign Minister of Serbia and Montenegro Goran Svilanovic met in Washington on March 19, 2004, and called for an immediate end to the violence, concurring that no party in Kosovo can be allowed to profit or advance a political agenda through violent measures;

Whereas a stable, secure, and functioning multiethnic society is in the best interest of all people of Kosovo, the broader region of Southeast Europe, and the world;

Whereas it is essential that political leaders in Kosovo support efforts to establish an environment in which all people in Kosovo have freedom of movement and the ability to live free from fear;

Whereas the United States and members of the international community have called on the people of Kosovo to implement 8 standards outlined by the United Nations Interim Administration in Kosovo (UNMIK), which are to be met prior to the consideration of the question of final status for Kosovo, including: the existence of effective, representative, and functioning democratic institutions; enforcement of the rule of law; freedom of movement; sustainable returns of refugees and displaced persons, and respect for the rights of communities; creation of a sound basis for a market economy; fair enforcement of property rights; normalized dialogue with Belgrade; and transformation of the Kosovo Protection Corps (KPC) in line with its mandate; and

Whereas it is in the long-term interest of all people of Kosovo that the UNMIK standards are achieved in order to promote peace, stability, and economic development, and to ensure a better future for all people in Kosovo: Now, therefore, be it

Resolved, That the Senate—

(1) urges all people in Kosovo to immediately stop the violence, end the destruction of homes, churches, and other cultural and religious sites, and cooperate with North Atlantic Treaty Organization's Kosovo Force (KFOR), the United Nations Interim Administration in Kosovo (UNMIK), and the Kosovo Police in identifying for prosecution the perpetrators of violence and the destruction of property;

(2) expresses its deep condolences to the families of those who have been killed in the recent violence;

(3) strongly condemns the destruction of personal and religious property in Kosovo, including more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and of 30 churches and monasteries belonging to the Serbian Orthodox Church, adding

to the more than 100 churches that have been destroyed since June 1999;

(4) strongly condemns the destruction of historic mosques in the cities of Belgrade and Nis, and of an Islamic center in Novi Sad;

(5) recognizes the commitment made by the Kosovo Assembly to establish a fund for the reconstruction of property, including homes and churches, destroyed during the attacks;

(6) recognizes the commitment made by Serbian officials to provide funds for the reconstruction of mosques in Belgrade and Nis, and an Islamic center in Novi Sad;

(7) urges political leaders to fulfill their commitment to rebuild what has been destroyed and to take all possible action to allow the more than 4,000 Kosovo Serbs and other minorities displaced during the violence to return quickly and safely to their homes and communities;

(8) encourages all political leaders in Kosovo to renounce the use of violence, and to proceed with efforts to establish a secure, peaceful, multiethnic society, which protects the rights of all people in Kosovo, and to take action to proceed with the implementation of the standards or "benchmark goals" outlined by UNMIK;

(9) strongly recommends that the United Nations review the structure and organization of UNMIK; and

(10) urges reinvigoration of dialogue between Belgrade and Pristina in an effort to move toward the establishment of a peaceful and secure environment guaranteeing freedom of movement and human rights for all people in Kosovo.

Mr. VOINOVICH. Mr. President, as many of my colleagues are aware, I continue to pay close attention to developments in Southeast Europe. During my time as a member of the Senate, I have been deeply concerned with the situation in Kosovo—particularly the situation for Kosovo's ethnic minorities.

I have traveled to Kosovo three times since the end of the military campaign in 1999, most recently in May 2002. At that time, I met with Kosovo Albanian leaders, including President Rugova and Prime Minister Rexhepi, as well as leaders of the Kosovo Serb community. In my conversations with all political leaders, I stressed the importance of moving forward with efforts to promote the rule of law and refugee return, as well as work to provide for the protection of human rights and freedom of movement for all people in Kosovo.

At that time, I reiterated a plea that I made during a trip to Pristina in February 2000, urging Kosovo's leaders to start a new paradigm of peace and stability for all people in Kosovo. I continue to believe it is essential that minorities in Kosovo, including Serbs, Roma, Egyptians, Bosniaks, Croats, Turks, Ashkalia, and others, are able to move about as they wish and live lives free from fear.

I could not agree more with a statement made in the Ninth Assessment of the Situation of Ethnic Minorities in Kosovo, a joint report released in May 2002 by the Organization for Security and Cooperation in Europe, OSCE, and the U.N. High Commission on Refugees, UNHCR. The report concludes, "Only when Kosovo's minorities feel confident in their long-term future and when all of Kosovo's displaced persons are able to exercise the choice to return to their homes, feeling assured of their safety and confident in their ability to access institutions and participate in social, economic and political life in Kosovo on a non-discriminatory basis, will it be possible to say that the situation of minorities in Kosovo is acceptable."

The latest round of ethnic violence in Kosovo, which erupted on March 17, 2004, resulted in the deaths of 20 people, including 8 Kosovo Serbs, 8 Kosovo Albanians, and 4 unidentified victims. It displaced more than 4,000 people, including Kosovo Serbs, Ashkalia, and others, and led to the destruction of more than 500 homes and more than 30 churches or monasteries belonging to the Serbian Orthodox Church—adding to the more than 100 churches that had already been destroyed during the last 5 years.

This is a tragic and urgent reminder of the work that remains to be done in Kosovo. I believe we must redouble our efforts and do all that we can to prevent continued violence in Kosovo. While the violence appears to be calming, the situation on the ground remains tense. There is a long road ahead as we look to work with the people of Kosovo not only to rebuild what has been destroyed, but also to secure an environment where respect for human rights and the rule of law are protected. Continued U.S. leadership is critical in this regard.

Today, I submit a resolution condemning the recent ethnic violence in Kosovo and calling for a renewed effort to promote long-term peace and stability there. I am joined by a number of my colleagues, including Senator JOE BIDEN, Senator DICK LUGAR, Senator JOE LIEBERMAN, and Senator SAM BROWNBACK.

I urge my colleagues to join me in supporting swift passage of this important measure, which reminds us of unfinished business in this part of the world.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2956. Mr. GRAHAM, of Florida (for himself, Mr. CHAFEE, Mr. CARPER, Ms. COLLINS, Mr. CORZINE, Mr. MCCAIN, Mrs. MURRAY, Ms. CANTWELL, Mrs. CLINTON, Mr. DURBIN, Mrs. FEINSTEIN, Mr. NELSON, of Florida, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table.

SA 2957. Mr. LEVIN (for himself, Mr. JEFFORDS, Mr. ROCKEFELLER, Ms. STABENOW, Mr. DURBIN, Mr. CARPER, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2958. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2959. Mr. REID (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2960. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2961. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2962. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2963. Mr. SANTORUM (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2964. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2965. Mr. JEFFORDS (for himself, Mr. SMITH, Ms. COLLINS, Mr. CHAFEE, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2966. Mr. LUGAR (for himself, Mr. LEAHY, Mrs. DOLE, and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2967. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2968. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2969. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2970. Mr. BAUCUS (for himself, Mr. HARKIN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2971. Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. LAUTENBERG, Mr. GRAHAM, of Florida, Mr. KENNEDY, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2972. Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. JOHNSON, Mr. BINGAMAN, Mr. AKAKA, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2973. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2974. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2975. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2976. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2977. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2978. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2979. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2980. Mr. ALEXANDER (for himself, Mr. VOINOVICH, Mr. NELSON, of Nebraska, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2981. Mr. ALEXANDER (for himself, Ms. SNOWE, Ms. COLLINS, Mr. BREAUX, Mr. BAYH, Mr. CARPER, Ms. LANDRIEU, Mrs. CLINTON, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2982. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2983. Mr. BIDEN (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2984. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2985. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2986. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2987. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2988. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2989. Mr. BINGAMAN (for himself, Mr. ALLEN, Mr. WYDEN, Mr. BURNS, Mr. AKAKA, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2990. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2991. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2992. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2993. Mr. ROCKEFELLER (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2994. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2995. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2996. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2997. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2998. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 2999. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3000. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3001. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3002. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3003. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3004. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3005. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3006. Mr. FRIST (for Mr. MCCAIN (for himself, Mr. STEVENS, Mr. DORGAN, and Mr. REID)) proposed an amendment to the bill S. 275, to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration.

TEXT OF AMENDMENTS

SA 2956. Mr. GRAHAM of Florida (for himself, Mr. CHAFEE, Mr. CARPER, Ms. COLLINS, Mr. CORZINE, Mr. MCCAIN, Mrs. MURRAY, Ms. CANTWELL, Mrs. CLINTON, Mr. DURBIN, Mrs. FEINSTEIN, Mr. NELSON of Florida, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. OPTIONAL COVERAGE OF LEGAL IMMIGRANTS UNDER THE MEDICAID PROGRAM AND SCHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

(2) by adding at the end the following:

"(4)(A) Only during the period described in subparagraph (C), a State may elect (in a plan amendment under this title) to provide medical assistance under this title for aliens who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance, within any of the following eligibility categories:

"(i) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

"(ii) CHILDREN.—Children (as defined under such plan), including optional targeted low-income children described in section 1905(u)(2)(B).

"(B)(i) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

"(ii) The provisions of sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not apply to a State that makes an election under subparagraph (A).

"(C) For purposes of subparagraph (A), the period described in this subparagraph is the period that begins on October 1, 2004, and ends on September 30, 2009.".

(b) TITLE XXI.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

"(E) Section 1903(v)(4) (relating to optional coverage of permanent resident alien children), but only if the State has elected to apply such section to that category of children under title XIX and only with respect to the period described in subparagraph (C) of that section.".

(c) EXTENSION OF CONVEYANCE/PASSENGER CUSTOMS USER FEES.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended to read as follows:

"(3)(A) Fees may not be charged under paragraphs (1) through (8) of subsection (a) after September 30, 2009.".

SA 2957. Mr. LEVIN (for himself, Mr. JEFFORDS, Mr. ROCKEFELLER, Ms. STABENOW, Mr. DURBIN, Mr. CARPER, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, between lines 9 and 10, insert the following:

(g) INCREASE IN NUMBER OF MONTHS OF VOCATIONAL EDUCATIONAL TRAINING.—Section 407(d)(8) (42 U.S.C. 607(d)(8)) is amended by striking "12" and inserting "24".

SA 2958. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ENSURING SAFETY AND SELF-SUFFICIENCY FOR ALL TANF RECIPIENTS.

(a) Addressing Domestic or Sexual Violence in the TANF Program.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended to read as follows:

"(7) Certifications regarding domestic or sexual violence.—

"(A) General provisions.—A certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to ensure domestic or sexual violence is comprehensively addressed, and a written document outlining how the State will do the following:

"(i) Address the needs of applicants or recipients or their families who are or have been subjected to domestic or sexual violence or are at risk of future such violence, including how the State will—

"(I) have trained caseworkers identify, and, at the option of the individual, assess individuals who are or have been subjected to domestic or sexual violence or are at risk of future such violence;

"(II) adequately inform each individual of eligibility and program requirements, confidentiality provisions, domestic or sexual violence services available within the community and within the program funded under this part, good cause exemptions modification and waiver of program requirements on the basis of domestic or sexual violence, benefits eligibility for immigrant victims of domestic or sexual violence, and the procedures to obtain such modifications, waivers, benefits, and services;

"(III) refer individuals who are or have been subjected to domestic or sexual violence or are at risk of future such violence to community-based domestic or sexual violence programs or other supportive services, modify or waive eligibility or program requirements or prohibitions to address domestic or sexual violence barriers, and ensure such individual's access to job training, vocational rehabilitation, child care, and other employment-related services as appropriate;

"(IV) implement procedures to maintain the privacy and confidentiality of applicants and recipients identified as being or having been subjected to domestic or sexual violence and restrict the disclosure of any identifying information obtained through any process or procedure implemented pursuant to this paragraph absent the individual's written consent or unless otherwise required to do so under law;

"(V) pursuant to a determination of good cause, waive, without time limit, any Federal or State eligibility or program requirement or prohibition for so long as necessary, in every case in which domestic or sexual violence has been verified for any individual or family receiving assistance under this part and the requirement makes it more difficult for the individual to address, escape or recover from the violence, unfairly penalizes the individual, or makes the individual or any child of the individual unsafe; and

"(VI) provide policies and procedures regarding verification of past, present, or the risk of future domestic or sexual violence that are flexible and not unduly burdensome, including accepting any one of the following forms of verification: documentation from police, court, medical or social service agencies, domestic or sexual violence counselors or organizations or others who have had contact with the applicant or recipient, written statements from third parties knowledgeable of the individual's circumstances, and signed written statements from the applicant or recipient.

"(ii) Coordinate or contract with State or tribal domestic or sexual violence coalitions or domestic or sexual violence programs in the development and implementation of standards, procedures, training, and programs required under this part to address domestic or sexual violence.

"(iii) Train caseworkers for recipients of assistance under the State program funded under this part in—

"(I) the nature and dynamics of domestic or sexual violence and the ways in which such violence may act to obstruct the economic security or safety of the individual and any child of the individual;

"(II) the standards, policies, and procedures implemented pursuant to this part, including the individual's rights and protections, such as notice and confidentiality;

"(III) how to screen for, and identify when, domestic or sexual violence creates barriers to compliance, how to make effective referrals for services, and how to modify eligibility and program requirements and prohibitions to address domestic or sexual violence barriers; and

"(IV) the process for determining good cause for noncompliance with an eligibility or program requirement or prohibition and granting waivers of such requirements.

"(iv) At State option, enter into contracts with or employ qualified professionals for the provision of services in each of the fields of domestic or sexual violence.

"(B) Definitions.—In this part:

"(i) Domestic or sexual violence.—The term 'domestic or sexual violence' has the meaning given the term 'battered or subjected to extreme cruelty' in section 408(a)(7)(C)(iii).

"(ii) Qualified professional.—The term 'qualified professional' includes a State or local organization with recognized expertise in the dynamics of domestic or sexual violence who has as one of its primary purposes to provide services to victims of domestic or sexual violence, such as a sexual assault crisis center or domestic or sexual violence program, or an individual trained by such an organization.".

(b) Assessment.—Section 408(b) (42 U.S.C. 608(b)), as amended by section 110(a)(2)(A), is amended—

(1) in paragraph (1)(A), in the matter preceding clause (i), by striking "and employability" and inserting "employability, and potential barriers, including domestic or sexual violence, mental or physical health, learning disability, substance abuse, English as a second language, child care needs, insufficient housing, or transportation"; and

(2) in paragraph (2)(A)—

(A) in clause (ii), by striking "and" at the end; and

(B) by inserting after clause (iii), the following:

"(iv) documents the individual's receipt of adequate notice of program requirements, confidentiality provisions, assessment and program services, and waivers available to individuals who have or may have been subjected to domestic or sexual violence or are at risk for future such violence, as well as the process to access such services or waivers; and

"(v) may not require the individual to participate in services to address domestic or sexual violence.".

(c) Review and Conciliation Process.—Section 408(a) (42 U.S.C. 608(a)) is amended by adding at the end the following:

"(12) Review and conciliation process for families subjected to domestic or sexual violence.—

"(A) In general.—A State to which a grant is made under section 403 shall not impose a sanction or penalty against an individual under the State program funded under this part on the basis of noncompliance by an individual or family with a program requirement where domestic or sexual violence is a significant contributing factor in the noncompliance.

"(B) Requirement.—Prior to imposing a sanction or penalty against an individual under the State program funded under this part, the State shall—

"(i) specifically consider whether the individual has been or is being subjected to domestic or sexual violence; and

"(ii) if such violence is identified—

"(I) make a reasonable effort to modify or waive program requirements or prohibitions; and

"(II) offer the individual referral to voluntary services to address the violence.".

(d) State Option To Include Survivors of Domestic or Sexual Violence in Work Participation Rates.—Section 407(c)(6) (42 U.S.C. 607(c)(6)), as amended by section 109(f), is amended by adding at the end the following:

"(G) State Option To Include Survivors of Domestic or Sexual Violence.—For purposes of determining monthly participation rates under subsection (b)(1)(B)(i), a State may deem an individual receiving services to address having been or being subjected to domestic or sexual violence, or receiving a waiver from program requirements under section 402(a)(7), as being engaged in work for the month.".

SA 2959. Mr. REID (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —BANNING ASBESTOS

SEC. 01. SHORT TITLE.

This title may be cited as the "Ban Asbestos in America Act of 2004".

SEC. 02. FINDINGS.

Congress finds that—

(1) the Administrator of the Environmental Protection Agency has classified asbestos as a category A human carcinogen, the highest cancer hazard classification for a substance;

(2) there is no known safe level of exposure to asbestos;

(3)(A) in hearings before Congress in the early 1970s, the example of asbestos was used to justify the need for comprehensive legislation on toxic substances; and

(B) in 1976, Congress passed the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(4) in 1989, the Administrator promulgated final regulations under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) to phase out asbestos in consumer products by 1997;

(5) in 1991, the United States Court of Appeals for the 5th Circuit overturned portions of the regulations, and the Government did not appeal the decision to the Supreme Court;

(6) as a result, while new applications for asbestos were banned, asbestos is still being

used in some consumer and industrial products in the United States;

(7) the United States Geological Survey has determined that in 2000, companies in the United States consumed 15,000 metric tons of chrysotile asbestos, of which approximately 62 percent was consumed in roofing products, 22 percent in gaskets, 12 percent in friction products, and 4 percent in other products;

(8) available evidence suggests that—

(A) imports of some types of asbestos-containing products may be increasing; and

(B) some of those products are imported from foreign countries in which asbestos is poorly regulated;

(9) many people in the United States incorrectly believe that—

(A) asbestos has been banned in the United States; and

(B) there is no risk of exposure to asbestos through the use of new commercial products;

(10) the Department of Commerce estimates that in 2000, the United States imported 51,483 metric tons of asbestos-cement products;

(11) banning asbestos from being used in or imported into the United States will provide certainty to manufacturers, builders, environmental remediation firms, workers, and consumers that after a specific date, asbestos will not be added to new construction and manufacturing materials used in this country;

(12) asbestos has been banned in Argentina, Australia, Austria, Belgium, Chile, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, Luxembourg, the Netherlands, Norway, Poland, Saudi Arabia, the Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom;

(13) asbestos will be banned throughout the European Union in 2005;

(14) in 2000, the World Trade Organization upheld the right of France to ban asbestos, with the United States Trade Representative filing a brief in support of the right of France to ban asbestos;

(15) the 1999 brief by the United States Trade Representative stated, "In the view of the United States, chrysotile asbestos is a toxic material that presents a serious risk to human health.";

(16) people in the United States have been exposed to harmful levels of asbestos as a contaminant of other minerals;

(17) in the town of Libby, Montana, workers and residents have been exposed to dangerous levels of asbestos for generations because of mining operations at the W.R. Grace vermiculite mine located in that town;

(18) the Agency for Toxic Substances and Disease Registry found that over a 20-year period, "mortality in Libby resulting from asbestosis was approximately 40 to 80 times higher than expected. Mesothelioma mortality was also elevated.";

(19)(A) in response to this crisis, in January 2002, the Governor of Montana requested that the Administrator of the Environmental Protection Agency designate Libby as a Superfund site; and

(B) on October 23, 2002, the Administrator placed Libby on the National Priorities List;

(20)(A) vermiculite from Libby was shipped for processing to 42 States; and

(B) Federal agencies are investigating potential harmful exposures to asbestos-contaminated vermiculite at sites throughout the United States;

(21) the Administrator has identified 14 sites that have dangerous levels of asbestos-tainted vermiculite and require cleanup efforts; and

(22) although it is impracticable to eliminate exposure to asbestos entirely because asbestos is a naturally occurring mineral in the environment and occurs in several deposits throughout the United States, Congress needs to do more to protect the public from exposure to asbestos and Congress has the power to prohibit the continued, intentional use of asbestos in consumer products.

SEC. ___03. ASBESTOS-CONTAINING PRODUCTS.

(a) In General.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended—

(1) by inserting before section 201 (15 U.S.C. 2641) the following:

"Subtitle A—General Provisions";

and

(2) by adding at the end the following:

"Subtitle B—Asbestos-Containing Products

"SEC. 221. DEFINITIONS.

"In this subtitle:

"(1) Asbestos-containing product.—The term 'asbestos-containing product' means any product (including any part) to which asbestos is deliberately or knowingly added or in which asbestos is deliberately or knowingly used in any concentration.

"(2) Contaminant-asbestos product.—The term 'contaminant-asbestos product' means any product that contains asbestos as a contaminant of any mineral or other substance, in any concentration.

"(3) Distribute in commerce.—

"(A) In general.—The term 'distribute in commerce' has the meaning given the term in section 3.

"(B) Exclusions.—The term 'distribute in commerce' does not include—

"(i) an action taken with respect to an asbestos-containing product in connection with the end use of the asbestos-containing product by a person that is an end user; or

"(ii) distribution of an asbestos-containing product by a person solely for the purpose of disposal of the asbestos-containing product in compliance with applicable Federal, State, and local requirements.

"(4) Durable fiber.—

"(A) In general.—The term 'durable fiber' means a silicate fiber that—

"(i) occurs naturally in the environment; and

"(ii) is similar to asbestos in—

"(I) resistance to dissolution;

"(II) leaching; and

"(III) other physical, chemical, or biological processes expected from contact with lung cells and other cells and fluids in the human body.

"(B) Inclusions.—The term 'durable fiber' includes—

"(i) richterite;

"(ii) winchite;

"(iii) erionite; and

"(iv) nonasbestiform varieties of crocidolite, amosite, anthophyllite, tremolite, and actinolite.

"(5) Fiber.—The term 'fiber' means an acicular single crystal or similarly elongated polycrystalline aggregate particle with a length to width ratio of 3 to 1 or greater.

"(6) Person.—The term 'person' means—

"(A) any individual;

"(B) any corporation, company, association, firm, partnership, joint venture, sole proprietorship, or other for-profit or nonprofit business entity (including any manufacturer, importer, distributor, or processor);

"(C) any Federal, State, or local department, agency, or instrumentality; and

"(D) any interstate body.

"SEC. 222. NATIONAL ACADEMY OF SCIENCES STUDY.

"The Administrator shall enter into a contract with the National Academy of Sciences to study and, not later than 18 months after the date of enactment of this subtitle, provide the Administrator, and other Federal agencies, as appropriate—

"(1) a description of the current state of the science relating to the human health effects of exposure to asbestos and other durable fibers; and

"(2) recommendations for the establishment of—

"(A) a uniform system for the establishment of asbestos exposure standards for workers, school children, and other populations; and

"(B) a uniform system for the establishment of protocols for detecting and measuring asbestos.

"SEC. 223. ASBESTOS POLICIES PANEL.

"(a) Panel.—

"(1) In general.—The Administrator shall establish an Asbestos Policies Panel (referred to in this section as the 'panel') to study asbestos and other durable fibers.

"(2) Membership.—The panel shall be comprised of representatives of—

"(A) the Secretary of Labor;

"(B) the Secretary of Health and Human Services; and

"(C) the Chairman of the Consumer Product Safety Commission;

"(D) nongovernmental environmental, public health, and consumer organizations;

"(E) industry;

"(F) school officials;

"(G) public health officials;

"(H) labor organizations; and

"(I) the public.

"(b) Duties.—The panel shall—

"(1) provide independent advice and counsel to the Administrator and other Federal agencies on policy issues associated with the use and management of asbestos and other durable fibers; and

"(2) study and, not later than 2 years after the date of enactment of this subtitle, provide the Administrator, other Federal agencies, and Congress recommendations concerning—

"(A) implementation of subtitle A;

"(B) grant programs under subtitle A;

"(C) revisions to the national emissions standards for hazardous air pollutants promulgated under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(D) legislative and regulatory options for improving consumer and worker protections against harmful health effects of exposure to asbestos and durable fibers;

"(E) whether the definition of asbestos-containing material, meaning any material that contains more than 1 percent asbestos by weight, should be modified throughout the Code of Federal Regulations;

"(F) the feasibility of establishing a durable fibers testing program;

"(G) options to improve protections against exposure to asbestos from asbestos-containing products and contaminant-asbestos products in buildings;

"(H) current research on and technologies for disposal of asbestos-containing products and contaminant-asbestos products; and

"(I) at the option of the panel, the effects on human health that may result from exposure to ceramic, carbon, and other manmade fibers.

"SEC. 224. STUDY OF ASBESTOS-CONTAINING PRODUCTS AND CONTAMINANT-ASBESTOS PRODUCTS.

"(a) In General.—In consultation with the Secretary of Labor, the Chairman of the

International Trade Commission, the Chairman of the Consumer Product Safety Commission, and the Assistant Secretary for Occupational Safety and Health, the Administrator shall conduct a study on the status of the manufacture, processing, distribution in commerce, ownership, importation, and disposal of asbestos-containing products and contaminant-asbestos products in the United States.

"(b) ISSUES.—In conducting the study, the Administrator shall examine—

"(1) how consumers, workers, and businesses use asbestos-containing products and contaminant-asbestos products that are entering commerce as of the date of enactment of this subtitle; and

"(2) the extent to which consumers and workers are being exposed to unhealthful levels of asbestos through exposure to products described in paragraph (1).

"(c) REPORT.—Not later than 18 months after the date of enactment of this subtitle, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

"SEC. 225. PROHIBITION ON ASBESTOS-CONTAINING PRODUCTS.

"(a) IN GENERAL.—Subject to subsection (b), the Administrator shall promulgate—

"(1) not later than 1 year after the date of enactment of this subtitle, proposed regulations that—

"(A) prohibit persons from manufacturing, processing, or distributing in commerce asbestos-containing products; and

"(B) provide for implementation of subsections (b) and (c); and

"(2) not later than 2 years after the date of enactment of this subtitle, final regulations that, effective 60 days after the date of promulgation, prohibit persons from manufacturing, processing, or distributing in commerce asbestos-containing products.

"(b) EXEMPTIONS.—

"(1) IN GENERAL.—Any person may petition the Administrator for, and the Administrator may grant an exemption from the requirements of subsection (a) if the Administrator determines that—

"(A) the exemption would not result in an unreasonable risk of injury to public health or the environment; and

"(B) the person has made good faith efforts to develop, but has been unable to develop, a substance, or identify a mineral, that—

"(i) does not present an unreasonable risk of injury to public health or the environment; and

"(ii) may be substituted for an asbestos-containing product.

"(2) TERMS AND CONDITIONS.—An exemption granted under this subsection shall be in effect for such period (not to exceed 1 year) and subject to such terms and conditions as the Administrator may prescribe.

"(c) DISPOSAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 3 years after the date of enactment of this subtitle, each person that possesses an asbestos-containing product that is subject to the prohibition established under this section shall dispose of the asbestos-containing product, by a means that is in compliance with applicable Federal, State, and local requirements.

"(2) EXEMPTION.—Nothing in paragraph (1)—

"(A) applies to an asbestos-containing product that—

"(i) is no longer in the stream of commerce; or

"(ii) is in the possession of an end user; or

"(B) requires that an asbestos-containing product described in subparagraph (A) be removed or replaced.

"SEC. 226. PUBLIC EDUCATION PROGRAM.

"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this subtitle, and subject to subsection (c), in consultation with the Chairman of the Consumer Product Safety Commission and the Secretary of Labor, the Administrator shall establish a program to increase awareness of the dangers posed by asbestos-containing products and contaminant-asbestos products in homes and workplaces.

"(b) GREATEST RISKS.—In establishing the program, the Administrator shall—

"(1) base the program on the results of the study conducted under section 224;

"(2) give priority to asbestos-containing products and contaminant-asbestos products used by consumers and workers that pose the greatest risk of injury to human health; and

"(3) at the option of the Administrator on receipt of a recommendation from the Asbestos Policies Panel, include in the program the conduct of projects and activities to increase public awareness of the effects on human health that may result from exposure to—

"(A) durable fibers; and

"(B) ceramic, carbon, and other manmade fibers.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) VERMICULITE INSULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Consumer Product Safety Commission shall begin a national campaign to educate consumers concerning—

(1) the dangers of vermiculite insulation that may be contaminated with asbestos; and

(2) measures that homeowners and business owners can take to protect against those dangers.

SEC. 04. ASBESTOS-CAUSED DISEASES.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

"SEC. 417D. RESEARCH ON ASBESTOS-CAUSED DISEASES.

"(a) IN GENERAL.—The Secretary, acting through the Director of NIH and the Director of the Centers for Disease Control and Prevention, shall expand, intensify, and coordinate programs for the conduct and support of research on diseases caused by exposure to asbestos, particularly mesothelioma, asbestosis, and pleural injuries.

"(b) ADMINISTRATION.—The Secretary shall carry out this section—

"(1) through the Director of NIH and the Director of the CDC (Centers for Disease Control and Prevention); and

"(2) in collaboration with the Administrator of the Agency for Toxic Substances and Disease Registry and the head of any other agency that the Secretary determines to be appropriate.

"(c) MESOTHELIOMA REGISTRY.—Not later than 1 year after the date of enactment of this section, the Director of the Centers for Disease Control and Prevention, in cooperation with the Director of the National Institute for Occupational Safety and Health and the Administrator of the Agency for Toxic Substances and Disease Registry, shall establish a mechanism by which to obtain data from State cancer registries and other cancer registries, which shall form the basis for establishing a Mesothelioma Registry.

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available for the purposes described in subsection (a) under other law, there are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2004 and each fiscal year thereafter.

"SEC. 417E. MESOTHELIOMA RESEARCH AND TREATMENT CENTERS.

"(a) IN GENERAL.—The Director of NIH shall provide $1,000,000 for each of fiscal years 2004 through 2008 for each of up to 10 mesothelioma disease research and treatment centers.

"(b) REQUIREMENTS.—The Centers shall—

"(1) be chosen through competitive peer review;

"(2) be geographically distributed throughout the United States with special consideration given to areas of high incidence of mesothelioma disease;

"(3) be closely associated with Department of Veterans Affairs medical centers to provide research benefits and care to veterans, who have suffered excessively from mesothelioma;

"(4) be engaged in research to provide mechanisms for detection and prevention of mesothelioma, particularly in the areas of pain management and cures;

"(5) be engaged in public education about mesothelioma and prevention, screening, and treatment;

"(6) be participants in the National Mesothelioma Registry;

"(7) be coordinated in their research and treatment efforts with other Centers and institutions involved in exemplary mesothelioma research; and

"(8) be focused on research and treatments for mesothelioma that have historically been underfunded.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2004 through 2008.".

SEC. 05. CONFORMING AMENDMENTS.

The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended—

(1) by inserting before the item relating to section 201 the following:

"Subtitle A—General Provisions";

and

(2) by adding at the end of the items relating to title II the following:

"Subtitle B—Asbestos-Containing Products

"Sec. 221. Definitions.
"Sec. 222. National Academy of Sciences Study.
"Sec. 223. Asbestos Policies Panel.
"Sec. 224. Study of asbestos-containing products and contaminant-asbestos products.
"Sec. 225. Prohibition on asbestos-containing products.
"Sec. 226. Public education program.".

SA 2960. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 194, strike line 7 and all that follows through page 210, line 9, and insert the following:

(f) DETERMINATION OF COUNTABLE HOURS ENGAGED IN WORK.—

(1) IN GENERAL.—Section 407(c) (42 U.S.C. 607(c)) is amended to read as follows:

"(c) DETERMINATION OF COUNTABLE HOURS ENGAGED IN WORK.—

"(1) SINGLE PARENT OR RELATIVE WITH A CHILD OVER AGE 6.—

"(A) MINIMUM AVERAGE NUMBER OF HOURS PER WEEK.—Subject to the succeeding paragraphs of this subsection, a family in which an adult recipient or minor child head of household in the family is participating in work activities described in subsection (d) shall be treated as engaged in work for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) as follows:

"(i) In the case of a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 20, but less than 25, hours per week in a month, as 0.675 of a family.

"(ii) In the case of a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 25, but less than 33, hours per week in a month, as 0.75 of a family.

"(iii) In the case of a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 33, but less than 40, hours per week in a month, as 0.875 of a family.

"(iv) In the case of a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 40 hours per week in a month, as 1 family.

"(B) DIRECT WORK ACTIVITIES REQUIRED FOR AN AVERAGE OF 24 HOURS PER WEEK.—Except as provided in subparagraph (C)(i), a State may not count any hours of participation in work activities specified in paragraph (9), (10), or (11) of subsection (d) of any adult recipient or minor child head of household in a family before the total number of hours of participation by any adult recipient or minor child head of household in the family in work activities described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the family for the month averages at least 24 hours per week.

"(C) STATE FLEXIBILITY TO COUNT PARTICIPATION IN CERTAIN ACTIVITIES.—

"(i) QUALIFIED ACTIVITIES FOR 3-MONTHS IN ANY 24-MONTH PERIOD.—

"(I) 24-HOURS PER WEEK REQUIRED.—Subject to subclauses (III) and (IV), for purposes of determining hours under subparagraph (A), a State may count the total number of hours any adult recipient or minor child head of household in a family engages in qualified activities described in subclause (II) as a work activity described in subsection (d), without regard to whether the recipient has satisfied the requirement of subparagraph (B), but only if—

"(aa) the total number of hours of participation in such qualified activities for the family for the month average at least 24 hours per week; and

"(bb) engaging in such qualified activities is a requirement of the family self-sufficiency plan.

"(II) QUALIFIED ACTIVITIES DESCRIBED.—For purposes of subclause (I), qualified activities described in this subclause are any of the following:

"(aa) Postsecondary education.

"(bb) Adult literacy programs or activities.

"(cc) Substance abuse counseling or treatment.

"(dd) Programs or activities designed to remove barriers to work, as defined by the State.

"(ee) Work activities authorized under any waiver for any State that was continued under section 415 before the date of enactment of the Personal Responsibility and Individual Development for Everyone Act.

"(III) LIMITATION.—Except as provided in clause (ii), subclause (I) shall not apply to a family for more than 3 months in any period of 24 consecutive months.

"(IV) CERTAIN ACTIVITIES.—The Secretary may allow a State to count the total hours of participation in qualified activities described in subclause (II) for an adult recipient or minor child head of household without regard to the minimum 24 hour average per week of participation requirement under subclause (I) if the State has demonstrated conclusively that such activity is part of a substantial and supervised program whose effectiveness in moving families to self-sufficiency is superior to any alternative activity and the effectiveness of the program in moving families to self-sufficiency would be substantially impaired if participating individuals participated in additional, concurrent qualified activities that enabled the individuals to achieve an average of at least 24 hours per week of participation.

"(ii) ADDITIONAL 3-MONTH PERIOD PERMITTED FOR CERTAIN ACTIVITIES.—

"(I) SELF-SUFFICIENCY PLAN REQUIREMENT COMBINED WITH MINIMUM NUMBER OF HOURS.—A State may extend the 3-month period under clause (i) for an additional 3 months in the same period of 24 consecutive months in the case of an adult recipient or minor child head of household who is receiving qualified rehabilitative services described in subclause (II) if—

"(aa) the total number of hours that the adult recipient or minor child head of household engages in such qualified rehabilitative services and, subject to subclause (III), a work activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month average at least 24 hours per week; and

"(bb) engaging in such qualified rehabilitative services is a requirement of the family self-sufficiency plan.

"(II) QUALIFIED REHABILITATIVE SERVICES DESCRIBED.—For purposes of subclause (I), qualified rehabilitative services described in this subclause are any of the following:

"(aa) Adult literacy programs or activities.

"(bb) Participation in a program designed to increase proficiency in the English language.

"(cc) In the case of an adult recipient or minor child head of household who has been certified by a qualified medical, mental health, or social services professional (as defined by the State) as having a physical or mental disability, substance abuse problem, or other problem that requires a rehabilitative service, substance abuse treatment, or mental health treatment, the service or treatment determined necessary by the professional.

"(III) NONAPPLICATION OF LIMITATIONS ON JOB SEARCH AND VOCATIONAL EDUCATIONAL TRAINING.—An adult recipient or minor child head of household who is receiving qualified rehabilitative services described in subclause (II) may engage in a work activity described in paragraph (6) or (8) of subsection (d) for purposes of satisfying the minimum 24 hour average per week of participation requirement under subclause (I)(aa) without regard to any limit that otherwise applies to the activity (including the 30 percent limitation on participation in vocational educational training under paragraph (6)(C)).

"(iii) HOURS IN EXCESS OF AN AVERAGE OF 24 WORK ACTIVITY HOURS PER WEEK.—If the total number of hours that any adult recipient or minor child head of household in a family has participated in a work activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) averages at least 24 hours per week in a month, a State, for purposes of determining hours under subparagraph (A), may count any hours an adult recipient or minor child head of household in the family engages in—

"(I) any work activity described in subsection (d), without regard to any limit that otherwise applies to the activity (including the 30 percent limitation on participation in vocational educational training under paragraph (6)(C)); and

"(II) any qualified activity described in clause (i)(II), as a work activity described in subsection (d).

"(2) SINGLE PARENT OR RELATIVE WITH A CHILD UNDER AGE 6.—

"(A) IN GENERAL.—A family in which an adult recipient or minor child head of household in the family is the only parent or caretaker relative in the family of a child who has not attained 6 years of age and who is participating in work activities described in subsection (d) shall be treated as engaged in work for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) as follows:

"(i) In the case of such a family in which the total number of hours in which the adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 20, but less than 24, hours per week in a month, as 0.675 of a family.

"(ii) In the case of such a family in which the total number of hours in which the adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 24 hours per week in a month, as 1 family.

"(B) APPLICATION OF RULES REGARDING DIRECT WORK ACTIVITIES AND STATE FLEXIBILITY TO COUNT PARTICIPATION IN CERTAIN ACTIVITIES.—Subparagraphs (B) and (C) of paragraph (1) apply to a family described in subparagraph (A) in the same manner as such subparagraphs apply to a family described in paragraph (1)(A).

"(3) 2-PARENT FAMILIES.—

"(A) IN GENERAL.—Subject to paragraph (6)(A), a 2-parent family in which an adult recipient or minor child head of household in the family is participating in work activities described in subsection (d) shall be treated as engaged in work for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) as follows:

"(i) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 26, but less than 30, hours per week in a month, as 0.675 of a family.

"(ii) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 30, but less than 33, hours per week in a month, as 0.75 of a family.

"(iii) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 33, but less than 40, hours per week in a month, as 0.875 of a family.

"(iv) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 40 hours per week in a month, as 1 family.

"(B) APPLICATION OF RULES REGARDING DIRECT WORK ACTIVITIES AND STATE FLEXIBILITY TO COUNT PARTICIPATION IN CERTAIN ACTIVITIES.—Subparagraphs (B) and (C) of paragraph (1) apply to a 2-parent family described in subparagraph (A) in the same manner as such subparagraphs apply to a family described in paragraph (1)(A), except that subparagraph (B) of paragraph (1) shall be applied to a such a 2-parent family by substituting '34' for '24' each place it appears.

"(4) 2-PARENT FAMILIES THAT RECEIVE FEDERALLY FUNDED CHILD CARE.—

"(A) IN GENERAL.—Subject to paragraph (6)(A), if a 2-parent family receives federally funded child care assistance, an adult recipient or minor child head of household in the family participating in work activities described in subsection (d) shall be treated as engaged in work for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) as follows:

"(i) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 40, but less than 45, hours per week in a month, as 0.675 of a family.

"(ii) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 45, but less than 51, hours per week in a month, as 0.75 of a family.

"(iii) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 51, but less than 55, hours per week in a month, as 0.875 of a family.

"(iv) In the case of such a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 55 hours per week in a month, as 1 family.

SA 2961. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 184, strike line 6 and all that follows through line 4 on page 185, and insert the following:

(c) MINIMUM PARTICIPATION RATE FLOOR.—Section 407(a), as amended by subsection (b), is amended by adding at the end, the following:

"(2) MINIMUM PARTICIPATION RATE FLOOR.—

"(A) IN GENERAL.—Notwithstanding any other provision of this part, a State to which a grant is made under section 403 for a fiscal year shall achieve a minimum participation rate floor under the State program funded under this part that is not less than—

"(i) 10 percent for fiscal year 2004;

"(ii) 20 percent for fiscal year 2005;

"(iii) 30 percent for fiscal year 2006;

"(iv) 40 percent for fiscal year 2007; and

"(v) 55 percent for fiscal year 2008 and each succeeding year.

"(B) CALCULATION OF PARTICIPATION RATES FOR PURPOSES OF DETERMINING THE MINIMUM PARTICIPATION RATE FLOOR.—The minimum participation rate floor of a State for a fiscal year shall be calculated according to subsection (b) except that—

"(i) the minimum participation rate floor for a State shall not be reduced by an employment credit under subsection (b)(2) or a caseload reduction credit under subsection (b)(3) (in the case of a State that has opted to phase-in replacement of that credit under section 109(d)(3)(B) of the Personal Responsibility and Individual Development for Everyone Act); and

"(ii) the options to exempt families for purposes of the determining monthly participation rates provided in paragraph (4) shall not apply.

"(C) DEFINITION OF ASSISTANCE.—For purposes of calculating the minimum participation rate floor under this paragraph, the term 'assistance' means assistance to a family that—

"(i) meets the definition of that term in section 419; and

"(ii) is provided—

"(I) under the State program funded under this part; or

"(II) under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)).

"(D) NO WORK REQUIREMENT IMPOSED FOR FAMILIES WITH AN INFANT.—Nothing in this paragraph shall be construed as requiring a State to require a family in which the youngest child has not attained 12 months of age to engage in work or other activities.

On page 194, line 23, insert "and the minimum participation rate floor under subsection (a)(2)" after "(b)(1)(B)(i)".

On page 225, line 10, insert "paragraph (1) or (2) of" after "section".

On page 225, line 17, insert "paragraph (1) or (2) of" after "section".

SA 2962. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 236, strike line 21 and all that follows through page 239, line 8, and insert the following:

SEC. 113. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

(a) REAUTHORIZATION OF TRIBAL FAMILY ASSISTANCE GRANTS.—Section 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)), as amended by section 3(h) of the Welfare Reform Extension Act of 2003, is amended by striking "1997, 1998, 1999, 2000, 2001, 2002, and 2003" and inserting "2005 through 2009".

(b) TRIBAL TANF IMPROVEMENT FUND.—

(1) TRIBAL TANF IMPROVEMENT GRANTS.—

(A) IN GENERAL.—Section 412(a) (42 U.S.C. 612(a)) is amended by striking paragraph (2) and inserting the following:

"(2) TRIBAL TANF IMPROVEMENT GRANTS.—

"(A) TRIBAL CAPACITY GRANTS.—

"(i) IN GENERAL.—Of the amount appropriated under subparagraph (D) for the period of fiscal years 2005 through 2009, $185,000,000 of such amount shall be used by the Secretary to award grants for tribal human services program infrastructure improvement (as defined in clause (v)) to—

"(I) Indian tribes that have applied for approval of a tribal family assistance plan and that meet the requirements of clause (ii)(I);

"(II) Indian tribes with an approved tribal family assistance plan and that meet the requirements of clause (ii)(II); and

"(III) Indian tribes that have applied for approval of a foster care and adoption assistance program under section 479B or that plan to enter into, or have in place, a tribal-State cooperative agreement under section 479B(c) and that meet the requirements of clause (ii)(III).

"(ii) PRIORITIES FOR AWARDING OF GRANTS.—The Secretary shall give priority in awarding grants under this subparagraph as follows:

"(I) First, for grants to Indian tribes that have applied for approval of a tribal family assistance plan, that have not operated such a plan as of the date of enactment of the Personal Responsibility and Individual Development for Everyone Act that will have such plan approved, and that include in the plan submission provisions for tribal human services program infrastructure improvement (as so defined) and related management information systems training.

"(II) Second, for Indian tribes with an approved tribal family assistance plan that are not described in subclause (I) and that submit an addendum to such plan that includes provisions for tribal human services program infrastructure improvement that includes implementing or improving management information systems of the tribe (including management information systems training), as such systems relate to the operation of the tribal family assistance plan.

"(III) Third, for Indian tribes that have applied for approval of a foster care and adoption assistance program under section 479B or that plan to enter into, or have in place, a tribal-State cooperative agreement under section 479B(c) and that include in the plan submission under section 471 (or in an addendum to such plan) provisions for tribal human services program infrastructure improvement (as so defined) and related management information systems training.

"(iii) OTHER REQUIREMENTS FOR AWARDING GRANTS.—In awarding grants under this subparagraph, the Secretary—

"(I) may not award an Indian tribe more than 1 grant under this subparagraph per fiscal year; and

"(II) shall award grants in such a manner as to maximize the number of Indian tribes that receive grants under this subparagraph.

"(iv) APPLICATION.—An Indian tribe desiring a grant under this subparagraph shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(v) DEFINITION OF HUMAN SERVICES PROGRAM INFRASTRUCTURE IMPROVEMENT.—In this subparagraph, the term 'human services program infrastructure improvement' includes (but is not limited to) improvement of management information systems, management information systems-related training, equipping offices, and renovating, but not constructing, buildings, as described in an application for a grant under this subparagraph, and subject to approval by the Secretary.

"(B) ADJUSTED TRIBAL TANF GRANTS FOR INCREASED CASELOADS.—

"(i) IN GENERAL.—Of the amount appropriated under subparagraph (E) for the period of fiscal years 2005 through 2009, $140,000,000 of such amount shall be used by the Secretary to make supplemental grants for each of fiscal years 2005 through 2009 to each Indian tribe that—

"(I) has an approved tribal family assistance plan; and

"(II) demonstrates that the number of Indian families receiving cash assistance under the tribal family assistance plan as of the first quarter of the third year of the operation of such plan has increased by at least 20 percent over such number for the first quarter of the first year of the operation of such plan.

"(ii) ALLOCATION OF FUNDS.—The Secretary, in consultation with Indian tribes with approved tribal family assistance plans, shall determine a formula for the allocation of $35,000,000 of the funds described in clause (i) for each fiscal year described in that clause in a manner that is proportionate to the size, service population, and percentage increase in the number of Indian families served by each Indian tribe eligible for an adjusted grant under this subparagraph for that fiscal year. If the amount available for allocation for a fiscal year is less than the total amount of funds requested for allocation among the Indian tribes for that fiscal year, the Secretary shall allocate the funds among such tribes on a pro rata basis.

"(C) MAINTENANCE OF EFFORT PAYMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), of the amount appropriated under subparagraph (E), $40,000,000 of such amount for each of fiscal years 2005 through 2009 shall be used by the Secretary to pay a State an amount equal to 50 percent of the total amount of qualified State expenditures (as defined in section 409(a)(7)(B)(i)) incurred by the State for each such fiscal year for support of tribal family assistance plans.

"(ii) PRO RATA REDUCTIONS.—If the amount available for making payments under clause (i) for a fiscal year is less than the total amount of payments otherwise required to be made under clause (i) for the fiscal year, then the amount otherwise payable to any State for the fiscal year under clause (i) shall be reduced by a percentage equal to the amount available divided by the total amount of payments required for that fiscal year.

"(D) TECHNICAL ASSISTANCE FOR INDIAN TRIBES.—

"(i) IN GENERAL.—Of the amount appropriated under subparagraph (E) for the period of fiscal years 2005 through 2009, $15,000,000 shall be used by the Secretary to provide technical assistance to Indian tribes—

"(I) considering applying for or carrying out a grant made under this paragraph;

"(II) considering applying for or carrying out a tribal family assistance plan under this section; or

"(III) related to best practices and approaches for State and tribal coordination on the transfer of the administration of social services programs to Indian tribes.

"(ii) RESERVATION OF FUNDS.—Not less than—

"(I) $5,000,000 of the amount described in clause (i) shall be used by the Secretary to support through grants or contracts peer-learning programs among tribal administrators; and

"(II) $5,000,000 of such amount shall be used by the Secretary for making grants to Indian tribes to conduct feasibility studies of the capacity of Indian tribes to operate tribal family assistance plans under this part.

"(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $500,000,000 for the period of fiscal years 2005 through 2009 to carry out this paragraph. Amounts appropriated under this subparagraph shall remain available until expended.".

(B) CONFORMING AMENDMENT.—Section 405(a) (42 U.S.C. 605(a)) is amended by striking "section 403" and inserting "sections 403 and 412(a)(2)(C)".

(2) ELIGIBILITY FOR BONUS TO REWARD EMPLOYMENT ACHIEVEMENT; CONTINGENCY FUND.—

(A) BONUS TO REWARD EMPLOYMENT ACHIEVEMENT.—Section 403(a)(4)(G) (42 U.S.C. 603(a)(4)(G)), as amended by section 105, is amended to read as follows:

"(G) RESERVATION OF FUNDS FOR DISTRIBUTION TO INDIAN TRIBES.—

"(i) IN GENERAL.—Of the amount available for grants under this paragraph for a bonus year, the Secretary shall reserve an amount equal to 3 percent of such amount to make grants pursuant to this subparagraph to each Indian tribe with an approved tribal family assistance plan that is a high performing Indian tribe for that bonus year.

"(ii) CRITERIA FOR DETERMINING TRIBAL PERFORMANCE.—

"(I) IN GENERAL.—Subject to subclause (II), the Secretary, in consultation with Indian tribes with approved tribal family assistance plans located throughout the United States, shall determine the criteria for determining which such tribes are high performing Indian tribes with respect to a bonus year.

"(II) INCLUSION OF CERTAIN FACTORS.—Such criteria shall include factors related to the employment of recipients of assistance under a tribal family assistance plan and to moving such recipients to self-sufficiency.".

(B) ELIGIBILITY FOR CONTINGENCY FUND.—Section 403(b)(1) (42 U.S.C. 603(b)(3)), as amended by section 106(a)(1), is amended—

(i) in subparagraph (A), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)";

(ii) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(iii) by inserting after subparagraph (C), the following:

"(D) INCREASED ECONOMIC HARDSHIP PAYMENTS TO INDIAN TRIBES.—

"(i) IN GENERAL.—Of the total amount appropriated pursuant to paragraph (2), $50,000,000 of such amount shall be reserved for making payments to Indian tribes with approved tribal family assistance plans that are operating in situations of increased economic hardship.

"(ii) DETERMINATION OF CRITERIA FOR TRIBAL ACCESS.—

"(I) IN GENERAL.—Subject to subclause (II), the Secretary, in consultation with Indian tribes with approved tribal family assistance plans, shall determine the criteria for access by Indian tribes to the amount reserved under clause (i).

"(II) INCLUSION OF CERTAIN FACTORS.—Such criteria shall include factors related to increases in unemployment, loss of employers, and loss of qualified State expenditures (as defined in section 409(a)(7)(B)(i)) in support of tribal family assistance plans.

"(iii) APPLICATION OF REQUIREMENTS FOR PAYMENTS TO STATES.—The Secretary, in consultation with Indian tribes with approved tribal family assistance plans located throughout the United States, shall determine the extent to which requirements of States for payments from the Fund shall apply to Indian tribes receiving payments under this subparagraph.".

(c) HIGH JOBLESSNESS ON NATIVE LANDS.—Section 408(a)(7)(D) (42 U.S.C. 608(a)(7)(D)) is amended—

(1) in the subparagraph heading, by striking "BY ADULT" and all that follows through "UNEMPLOYMENT" and inserting "IN AREAS OF INDIAN COUNTRY OR AN ALASKAN NATIVE VILLAGE WITH HIGH JOBLESSNESS";

(2) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—Subject to clause (ii), in determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available (or such other data submitted by a State or tribal program as the Secretary may approve) with respect to the month (or a period including the month) indicate that at least 20 percent of the adult recipients who were living in Indian country or in the village were jobless.";

(3) by redesignating clause (ii) as clause (iii); and

(4) by inserting after clause (i), the following:

"(ii) REQUIREMENT.—A month may only be disregarded under clause (i) with respect to an adult recipient described in that clause if the adult is in compliance with program requirements.".

(d) NATIVE FOSTER CARE; ADOPTION ASSISTANCE.—

(1) CHILDREN PLACED IN TRIBAL CUSTODY ELIGIBLE FOR FOSTER CARE FUNDING.—Section 472(a)(2) (42 U.S.C. 672(a)(2)) is amended—

(A) by striking "or (B)" and inserting "(B)"; and

(B) by inserting before the semicolon the following: ", or (C) an Indian tribe or tribal organization (as defined in section 479B(e)) or an intertribal consortium if the Indian tribe, tribal organization, or consortium is not operating a program pursuant to section 479B and (i) has a cooperative agreement with a State pursuant to section 479B(c) or (ii) submits to the Secretary a description of the arrangements (jointly developed or developed in consultation with the State) made by the Indian tribe, tribal organization, or consortium for the payment of funds and the provision of the child welfare services and protections required by this title".

(2) PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.—Part E of title IV (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

"SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.

"(a) APPLICATION.—Except as provided in subsection (b), this part shall apply to an Indian tribe or tribal organization that elects to operate a program under this part in the same manner as this part applies to a State.

"(b) MODIFICATION OF PLAN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of an Indian tribe or tribal organization submitting a plan for approval under section 471, the plan shall—

"(A) in lieu of the requirement of section 471(a)(3), identify the service area or areas and population to be served by the Indian tribe or tribal organization; and

"(B) in lieu of the requirement of section 471(a)(10), provide for the approval of foster homes pursuant to tribal standards and in a manner that ensures the safety of, and accountability for, children placed in foster care.

"(2) DETERMINATION OF FEDERAL SHARE.—

"(A) PER CAPITA INCOME.—

"(i) IN GENERAL.—For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe or tribal organization under paragraphs (1) and (2) of section 474(a), the calculation of an Indian tribe's or tribal organization's per capita income shall be based upon the service population of the Indian tribe or tribal organization as defined in its plan in accordance with paragraph (1)(A).

"(ii) CONSIDERATION OF OTHER INFORMATION.—An Indian tribe or tribal organization may submit to the Secretary such information as the Indian tribe or tribal organization considers relevant to the calculation of the per capita income of the Indian tribe or tribal organization, and the Secretary shall consider such information before making the calculation.

"(B) ADMINISTRATIVE EXPENDITURES.—The Secretary shall, by regulation, determine the proportions to be paid to Indian tribes and tribal organizations pursuant to section 474(a)(3), except that in no case shall an Indian tribe or tribal organization receive a lesser proportion than the corresponding amount specified for a State in that section.

"(C) SOURCES OF NON-FEDERAL SHARE.—An Indian tribe or tribal organization may use Federal or State funds to match payments for which the Indian tribe or tribal organization is eligible under section 474.

"(3) MODIFICATION OF OTHER REQUIREMENTS.—Upon the request of an Indian tribe, tribal organization, or a consortia of tribes or tribal organizations, the Secretary may modify any requirement under this part if, after consulting with the Indian tribe, tribal organization, or consortia of tribes or tribal organizations, the Secretary determines that modification of the requirement would advance the best interests and the safety of children served by the Indian tribe, tribal organization, or consortia of tribes or tribal organizations.

"(4) CONSORTIUM.—The participating Indian tribes or tribal organizations of an intertribal consortium may develop and submit a single plan under section 471 that meets the requirements of this section.

"(c) COOPERATIVE AGREEMENTS.—An Indian tribe, tribal organization, or intertribal consortium and a State may enter into a cooperative agreement for the administration or payment of funds pursuant to this part. In any case where an Indian tribe, tribal organization, or intertribal consortium and a State enter into a cooperative agreement that incorporates any of the provisions of this section, those provisions shall be valid and enforceable. Any such cooperative agreement that is in effect as of the date of enactment of this section, shall remain in full force and effect subject to the right of either party to the agreement to revoke or modify the agreement pursuant to the terms of the agreement.

"(d) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary shall, in full consultation with Indian tribes and tribal organizations, promulgate regulations to carry out this section.

"(e) DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGANIZATIONS.—In this section, the terms 'Indian tribe' and 'tribal organization' have the meanings given those terms in subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), respectively, except that, with respect to the State of Alaska, the term 'Indian tribe' has the meaning given that term in section 419(4)(B).".

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act.

(e) CLARIFICATION OF APPLICATION OF INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.—Section 412 (42 U.S.C.612), as amended by section 108(b)(2), is amended by adding at the end the following:

"(i) APPLICATION OF INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.—Notwithstanding any other provision of law, if an Indian tribe elects to incorporate the services it provides using funds made available under this part into a plan under section 6 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3405), the programs authorized to be conducted with such funds shall be—

"(1) considered to be programs subject to section 5 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3404); and

"(2) subject to the single plan and single budget requirements of section 6 of that Act (25 U.S.C. 3505) and the single report format required under section 11 of that Act (25 U.S.C. 3410).".

(f) JOB CREATION ON NATIVE LANDS.—

(1) DIAGNOSTIC AND DEVELOPMENT FUNDS.—

(A) ECONOMIC DIAGNOSTIC STUDIES.—

(i) ESTABLISHMENT.—There is established within the Administration for Native Americans within the Department of Health and Human Services, a fund to be known as the "Native American Economies Diagnostic Studies Fund" (referred to in this paragraph as the "Diagnostic Fund"), to be used to strengthen Indian tribal economies by supporting investment policy reforms and technical assistance to eligible Indian tribes.

(ii) USE OF AMOUNTS FROM DIAGNOSTIC FUND.—

(I) IN GENERAL.—An Indian tribe may amounts in the Diagnostic Fund to establish an interdisciplinary mechanism by which the tribe may—

(aa) conduct diagnostic studies of the tribe's economy; and

(bb) provide for reforms in the policy, legal, regulatory, and investment areas and general economic environment of the tribe.

(iii) CONDITIONS FOR STUDIES.—A diagnostic study conducted by an Indian tribe under clause (ii) shall, at a minimum, identify inhibitors to greater levels of private sector investment and job creation with respect to the Indian tribe.

(iv) EXPENDITURES FROM DIAGNOSTIC FUND.—

(I) IN GENERAL.—Subject to subclause (II), on request by an Indian tribe, the Administrator of the Administration for Native Americans within the Department of Health and Human Services shall transfer from the Diagnostic Fund to the tribe such amounts as are necessary to carry out this subparagraph.

(II) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Diagnostic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this subparagraph.

(B) NATIVE AMERICAN ECONOMIC DEVELOPMENT FUND.—

(i) ESTABLISHMENT.—There is established within the Administration for Native Americans within the Department of Health and Human Services, a fund to be known as the "Native American Economic Development Fund" (referred to in this paragraph as the "Economic Fund").

(ii) USE OF AMOUNTS FROM ECONOMIC FUND.—An Indian tribe shall be eligible to use amounts in the Economic Fund to ensure that Federal development assistance and other resources dedicated to Native American economic development are provided only to Native American communities with demonstrated commitments to—

(I) sound economic and political policies;

(II) good governance; and

(III) practices that promote increased levels of economic growth and job creation.

(C) APPROPRIATIONS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for each of fiscal years 2005 through 2009—

(i) $5,000,000 to the Diagnostic Fund; and

(ii) $5,000,000 to the Economic Fund.

(2) TAX-EXEMPT BOND FINANCE AUTHORITY.—

(A) IN GENERAL.—Paragraph (1) of section 7871(c) (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:

"(1) IN GENERAL.—Subsection (a) of section 103 shall apply to any obligation issued by an Indian tribal government (or subdivision thereof) only if—

"(A) such obligation—

"(i) is part of an issue 95 percent or more of the net proceeds of which are to be used to finance any facility located on an Indian reservation, and

"(ii) is issued before January 1, 2014, or

"(B) such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.".

(B) SPECIAL RULES AND DEFINITIONS.—Subsection (c) of section 7871 is amended by inserting at the end the following new paragraph:

"(4) SPECIAL RULES AND DEFINITIONS.—

"(A) EXCLUSION OF GAMING.—An obligation described in subparagraph (A) or (B) of paragraph (1) may not be used to finance any portion of a building in which class II or III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2702)) is conducted or housed.

"(B) INDIAN RESERVATION.—For purposes of this subsection, the term 'Indian reservation' means—

"(i) a reservation, as defined in section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and

"(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by a Native corporation as defined in section 3(m) of such Act (43 U.S.C. 1602(m)).".

(3) INDIAN EMPLOYMENT TAX CREDIT.—Section 45A(f) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2014".

(4) ACCELERATED DEPRECIATION ALLOWANCE.—Section 168(j)(8) of such Code (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2014".

SA 2963. Mr. SANTORUM (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 156, strike lines 1 through 3 and insert the following:

priated for grants under this paragraph—

"(I) for fiscal year 2004, $100,000,000; and

"(II) for each of fiscal years 2005 through 2008, $120,000,000.

On page 239, strike lines 21 and 22, and insert "$100,000,000 for fiscal year 2004 and $120,000,000 for each of fiscal years 2005 through 2008, which shall remain available to".

Beginning on page 289, strike line 24 and all that follows through page 290, line 5, and insert the following:

"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the purpose of carrying out this paragraph, $40,000,000 for each of fiscal years 2004 through 2008.".

SA 2964. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 344, between lines 3 and 4, insert the following:

SEC. ___. SSI EXTENSION FOR HUMANITARIAN IMMIGRANTS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

"(M) TWO-YEAR SSI EXTENSION THROUGH FISCAL YEAR 2007.—

"(i) IN GENERAL.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(A), the 7-year period described in subparagraph (A) shall be deemed to be a 9-year period during fiscal years 2005 through 2007.

"(ii) ALIENS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—

"(I) IN GENERAL.—Beginning on the date of the enactment of the SSI Extension for Elderly and Disabled Refugees Act, any qualified alien rendered ineligible for the specified Federal program described in paragraph (3)(A) during fiscal years prior to fiscal year 2005 solely by reason of the termination of the 7-year period described in subparagraph (A) shall be eligible for such program for an additional 2-year period in accordance with this subparagraph, if such alien meets all other eligibility factors under title XVI of the Social Security Act.

"(II) PAYMENT OF BENEFITS.—Benefits paid under subparagraph (I) shall be paid prospectively over the duration of the qualified alien's renewed eligibility.".

SA 2965. Mr. JEFFORDS (for himself, Mr. SMITH, Ms. COLLINS, Mr. CHAFEE, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, between lines 19 and 20, insert the following:

"(G) STATE OPTION TO RECEIVE CREDIT FOR RECIPIENTS WHO ARE DETERMINED BY APPROPRIATE AGENCIES WORKING IN COORDINATION TO HAVE A DISABILITY AND TO BE IN NEED OF SPECIALIZED ACTIVITIES.—

"(i) IN GENERAL.—At the option of the State, if the State agency responsible for administering the State program funded under this part works in collaboration or has a referral relationship with other governmental or private agencies with expertise in disability determination or appropriate services plans for adults with disabilities (including agencies that receive funds under this part), and one of those entities determines that an individual described in clause (iv) is not able to meet the State's full work requirements after the periods applicable under paragraph (1)(C) because of the individual's disability and continuing need for rehabilitative services, then for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) the State may receive credit in accordance with clause (ii) for certain activities undertaken with respect to the individual.

"(ii) CREDIT FOR ACTIVITIES UNDERTAKEN THROUGH COLLABORATIVE AGENCY PROCESS.—Subject to clause (iii), if the State undertakes to provide services for an individual to which clause (i) applies through a collaborative process that includes governmental or private agencies with expertise in disability determination or appropriate services for adults with disabilities, the State shall be credited for purposes of the monthly participation rate determined under subsection (b)(1)(B)(i) with the lesser of—

"(I) the sum of the number of hours the individual participates in an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month and the number of hours that the individual participates in rehabilitation services under this subparagraph for the month; or

"(II) twice the number of hours the individual participates in an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month.

"(iii) LIMITATION.—A State shall not receive credit under clause (ii) towards the monthly participation rate under subsection (b)(1)(B)(i) unless the State reviews the disability determination of an individual to which clause (i) applies and the activities in which the individual is participating not less than every 6 months.

"(iv) INDIVIDUAL DESCRIBED.—For purposes of this subparagraph, an individual described in this clause is an individual who the State has determined has a disability and would benefit from participating in rehabilitative services while combining such participation with other work activities.

"(v) DEFINITION OF DISABILITY.—In this subparagraph, the term 'disability' means a physical or mental impairment, including substance abuse, that—

"(I) constitutes or results in a substantial impediment to employment; or

"(II) substantially limits 1 or more major life activities.".

SA 2966. Mr. LUGAR (for himself, Mr. LEAHY, Mrs. DOLE, and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

After title VI insert the following:

TITLE ___—FOOD BANK DONATIONS

SEC. ___01. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

"(7) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—For purposes of this section—

"(A) CONTRIBUTIONS BY NON-CORPORATE TAXPAYERS.—In the case of a charitable contribution of food by a taxpayer, paragraph (3)(A) shall be applied without regard to whether or not the contribution is made by a corporation.

"(B) LIMIT ON REDUCTION.—In the case of a charitable contribution of food which is a qualified contribution (within the meaning of paragraph (3)(A), as modified by subparagraph (A) of this paragraph)—

"(i) paragraph (3)(B) shall not apply, and

"(ii) the reduction under paragraph (1)(A) for such contribution shall be no greater than the amount (if any) by which the amount of such contribution exceeds twice the basis of such food.

"(C) DETERMINATION OF BASIS.—For purposes of this paragraph, if a taxpayer uses the cash method of accounting, the basis of any qualified contribution of such taxpayer shall be deemed to be 50 percent of the fair market value of such contribution.

"(D) DETERMINATION OF FAIR MARKET VALUE.—In the case of a charitable contribution of food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraphs (A) and (B) of this paragraph) and which, solely by reason of internal standards of the taxpayer, lack of market, or similar circumstances, or which is produced by the taxpayer exclusively for the purposes of transferring the food to an organization described in paragraph (3)(A), cannot or will not be sold, the fair market value of such contribution shall be determined—

"(i) without regard to such internal standards, such lack of market, such circumstances, or such exclusive purpose, and

"(ii) if applicable, by taking into account the price at which the same or similar food items are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. ___02. TIME SENSITIVE GOODS MOVEMENT.

(a) IN GENERAL.—The Secretary shall enter into a contract or grant agreement with a nongovernmental organization described in subsection (b)(1) to establish and maintain a program for the tracking, collection, and delivery of time sensitive goods.

(b) DEFINITIONS.—For purposes of this section—

(1) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be a national nonprofit charitable organization selected by the Secretary on a competitive basis and shall—

(A) have several years experience in gathering information from virtually all of the States regarding time sensitive goods;

(B) have several years working experience with transport providers such as trucking companies in creating, coordinating, and maintaining transfer systems designed to assist, at the national level, the delivery of time sensitive goods to appropriate nationwide coordination centers;

(C) agree to contribute in-kind resources towards implementing this section and agree to provide services and information free of charge; and

(D) be capable of and experienced in working with major domestic food manufacturers and processors, grocery chains and stores, food warehouse operators, transport providers such as trucking companies, and public food assistance agencies.

(2) Time sensitive goods.—The term "tine sensitive goods" meand raw materials or finished goods that are nearing the end of their useful life.

(3) Secretary.—The term "Secretary" means the Secretary of the Treasury.

(c) Program Requirements.—The Secretary shall ensure that funds allocated under this section are used for—

(1) the development and maintenance of a computerized system for the tracking of time sensitive goods;

(2) capital and operating costs associated with the collection and transportation of time sensitive goods; and

(3) capital and operating costs associated with the storage and distribution of time sensitive goods.

(d) Audits.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

(e) Funding.—From amounts resulting from the amendments made by section 04, there is authorized to be appropriated and hereby appropriated to the Secretary $10,000,000 in each of fiscal years 2005 through 2010 to implement this section. The nongovernmental organization may contract with and provide funds to 1 additional nonprofit organization which the Secretary determines meets the requirements set forth in subsection (b)(1) to carry out some of the functions required by this section.

SEC. 03. SERVICE INSTITUTIONS.

(a) Operating Expenses.—Section 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended by striking subparagraph (A) and inserting the following:

"(A) In general.—A payment to a service institution shall be equal to the maximum amount for food service under subparagraphs (B) and (C).".

(b) Administrative Costs.—Section 13(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)) is amended by striking paragraph (3) and inserting the following:

"(3) Administrative costs.—Payment to a service institution for administrative costs shall be equal to the maximum allowable levels determined by the Secretary under the study required under paragraph (4).".

(c) Conforming Amendment.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (f).

SEC. 04. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) Deduction Allowed Only to the Extent of Basis.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,".

(b) Treatment of Contributions Where Donor Receives Interest.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) Special rules for contributions of patents and similar property where donor receives interest.—

"(A) Disallowance of deduction.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

"(B) Contributions with qualified interest.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

"(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

"(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

"(C) Qualified interest.—For purposes of this paragraph—

"(i) In general.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

"(ii) Secretarial authority.—

"(I) In general.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

"(II) Exceptions.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

"(iii) Limitation.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.".

(c) Reporting Requirements.—

(1) In general.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking "If" and inserting:

"(1) Dispositions of donated property.—If",

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

"(2) Payments of qualified interests.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

"(B) a description, and date of contribution, of the property to which the qualified interest relates,

"(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

"(D) the date and the amount of the payment pursuant to the qualified interest, and

"(E) a description of the terms of the qualified interest.".

(2) Conforming amendments.—

(A) The heading for section 6050L is amended by striking "**CERTAIN DISPOSITIONS OF**".

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking "certain dispositions of".

(d) Anti-Abuse Rules.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) Effective Date.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SA 2967. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT AMENDMENTS

SEC. 01. SHORT TITLE

This title may be cited as the "Caring for Children Act of 2004".

Subtitle A—Child Care and Development Block Grant Act of 1990

SEC. 11. SHORT TITLE AND GOALS.

(a) Heading.—Section 658A of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 note) is amended by striking the section heading and inserting the following:

"SEC. 658A. SHORT TITLE AND GOALS.".

(b) Goals.—Section 658A(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 note) is amended—

(1) in paragraph (3), by striking "encourage" and inserting "assist";

(2) in paragraph (4), by striking "parents" and all that follows and inserting "low-income working parents;";

(3) by redesignating paragraph (5) as paragraph (8); and

(4) by inserting after paragraph (4) the following:

"(5) to assist States in improving the quality of child care available to families;

"(6) to promote school preparedness by encouraging children, families, and caregivers to engage in developmentally appropriate and age-appropriate activities in child care settings that will—

"(A) improve the children's social, emotional, and behavioral skills; and

"(B) foster their early cognitive, pre-reading, and language development;

"(7) to promote parental and family involvement in the education of young children in child care settings; and".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended by striking "subchapter" and all that follows and inserting "subchapter $2,300,000,000 for fiscal year 2005, $2,500,000,000 for fiscal year 2006, $2,700,000,000 for fiscal year 2007, $2,900,000,000 for fiscal year 2008, and $3,100,000,000 for fiscal year 2009.".

SEC. 13. LEAD AGENCY.

Section 658D(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858b(a)) is amended by striking "designate" and all that follows and inserting "designate an agency (which may be an appropriate collaborative agency), or establish a joint interagency office, that complies with the requirements of subsection (b) to serve as the lead agency for the State under this subchapter.".

SEC. 14. STATE PLAN.

(a) Lead Agency.—Section 658E(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(1)) is amended by striking "designated" and inserting "designated or established".

(b) Policies and Procedures.—Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(2)) is amended—

(1) in subparagraph (A)(i)(II), by striking "section 658P(2)" and inserting "section 658T(2)";

(2) by striking subparagraph (D) and inserting the following:

"(D) Consumer and child care provider education information.—Certify that the State will—

"(i) collect and disseminate, through resource and referral services and other means as determined by the State, to parents of eligible children, child care providers, and the general public, information regarding—

"(I) the promotion of informed child care choices, including information about the quality and availability of child care services;

"(II) research and best practices concerning children's development, including early cognitive development;

"(III) the availability of assistance to obtain child care services; and

"(IV) other programs for which families that receive child care services for which financial assistance is provided under this subchapter may be eligible, including the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766), and the medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.); and

"(ii) report to the Secretary the manner in which the consumer education information described in clause (i) was provided to parents and the number of parents to whom such consumer education information was provided, during the period of the previous State plan.";

(3) by striking subparagraph (E) and inserting the following:

"(E) Compliance with State and tribal licensing requirements.—

"(i) In general.—Certify that the State (or the Indian tribe or tribal organization) involved has in effect licensing requirements applicable to child care services provided within the State (or area served by the tribe or organization), and provide a detailed description of such requirements and of how such requirements are effectively enforced.

"(ii) Construction.—Nothing in clause (i) shall be construed to require that licensing requirements be applied to specific types of providers of child care services.";

(4) in subparagraph (F)—

(A) in the first sentence, by striking "within the State, under State or local law," and inserting "within the State (or area served by the Indian tribe or tribal organization), under State or local law (or tribal law),"; and

(B) in the second sentence, by striking "State or local law" and inserting "State or local law (or tribal law)"; and

(5) by adding at the end the following:

"(I) Protection for working parents.—

"(i) Redetermination process.—Describe the procedures and policies that are in place to ensure that working parents (especially parents in families receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) are not required to unduly disrupt their employment in order to comply with the State's requirements for redetermination of eligibility for assistance under this subchapter.

"(ii) Minimum period.—Demonstrate that each child that receives assistance under this subchapter in the State will receive such assistance for not less than 6 months before the State redetermines the eligibility of the child under this subchapter, except as provided in clause (iii).

"(iii) Period before termination.—At the option of the State, demonstrate that the State will not terminate assistance under this subchapter based on a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 1 month, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance of a job training or educational program, as soon as possible.

"(J) Coordination with other programs.—Describe how the State, in order to expand accessibility and continuity of quality early care and early education, will coordinate the early childhood education activities assisted under this subchapter with—

"(i) programs carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including the Early Head Start programs carried out under section 645A of that Act (42 U.S.C. 9840a);

"(ii)(I) Early Reading First and Even Start programs carried out under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.); and

"(II) other preschool programs carried out under title I of that Act (20 U.S.C. 6301 et seq.);

"(iii) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

"(iv) State prekindergarten programs; and

"(v) other early childhood education programs.

"(K) Training in early learning and childhood development.—Describe any training requirements that are in effect within the State that are designed to enable child care providers to promote the social, emotional, physical, and cognitive development of children and that are applicable to child care providers that provide services for which assistance is made available under this subchapter in the State.

"(L) Public-private partnerships.—Demonstrate how the State is encouraging partnerships among State agencies, other public agencies, and private entities, to leverage existing service delivery systems (as of the date of submission of the State plan) for early childhood education and to increase the supply and quality of child care services for children who are less than 13 years of age.

"(M) Access to care for certain populations.—Demonstrate how the State is addressing the child care needs of parents eligible for child care services for which assistance is provided under this subchapter, who have children with special needs, work nontraditional hours, or require child care services for infants and toddlers.

"(N) Coordination with title IV of the Social Security Act.—Describe how the State will inform parents receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and low-income parents about eligibility for assistance under this subchapter.".

(c) Use of Block Grant Funds.—Section 658E(c)(3) the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (A), by striking "as required under" and inserting "in accordance with"; and

(2) in subparagraph (B)—

(A) by striking "The State" and inserting the following:

"(i) In general.—The State";

(B) in clause (i) (as designated in subparagraph (A)), by striking "appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)" and inserting "appropriate (which may include an activity described in clause (ii)) to realize any of the goals specified in paragraphs (2) through (8) of section 658A(b)"; and

(C) by adding at the end the following:

"(ii) Child care resource and referral system.—A State may use amounts described in clause (i) to establish or support a system of local child care resource and referral organizations coordinated by a statewide private, nonprofit, community-based lead child care resource and referral organization. The local child care resource and referral organizations shall—

"(I) provide parents in the State with information, and consumer education, concerning the full range of child care options, including child care provided during nontraditional hours and through emergency child care centers, in their communities;

“(II) collect and analyze data on the supply of and demand for child care in political subdivisions within the State;

“(III) submit reports to the State containing data and analysis described in clause (II); and

“(IV) work to establish partnerships with public agencies and private entities to increase the supply and quality of child care services.”.

(d) DIRECT SERVICES.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (A), by striking “(D)” and inserting “(E)”; and

(2) by adding at the end the following:

“(E) DIRECT SERVICES.—From amounts provided to a State for a fiscal year to carry out this subchapter, the State shall—

“(i) reserve the minimum amount required to be reserved under section 658G, and the funds for costs described in subparagraph (C); and

“(ii) from the remainder, use not less than 70 percent to fund direct services (as defined by the State).”.

(e) PAYMENT RATES.—Section 658E(c)(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)) is amended—

(1) in subparagraph (A), by striking “The State plan” and all that follows and inserting the following:

“(i) SURVEY.—The State plan shall—

“(I) demonstrate that the State has, after consulting with local area child care program administrators, developed and conducted a statistically valid and reliable survey of the market rates for child care services in the State (that reflects variations in the cost of child care services by geographic area, type of provider, and age of child) within the 2 years preceding the date of the submission of the application containing the State plan;

“(II) detail the results of the State market rates survey conducted pursuant to subclause (I);

“(III) describe how the State will provide for timely payment for child care services, and set payment rates for child care services, for which assistance is provided under this subchapter in accordance with the results of the market rates survey conducted pursuant to subclause (I) without reducing the number of families in the State receiving such assistance under this subchapter, relative to the number of such families on the date of introduction of the Caring for Children Act of 2004; and

“(IV) describe how the State will, not later than 30 days after the completion of the survey described in subclause (I), make the results of the survey widely available through public means, including posting the results on the Internet.

“(ii) EQUAL ACCESS.—The State plan shall include a certification that the payment rates are sufficient to ensure equal access for eligible children to child care services comparable to child care services in the State or substate area that are provided to children whose parents are not eligible to receive child care assistance under any Federal or State program.”; and

(2) in subparagraph (B)—

(A) by striking “Nothing” and inserting the following:

“(i) NO PRIVATE RIGHT OF ACTION.—Nothing”; and

(B) by adding at the end the following:

“(ii) NO PROHIBITION OF CERTAIN DIFFERENT RATES.—Nothing in this subchapter shall be construed to prevent a State from differentiating the payment rates described in subparagraph (A) on the basis of—

“(I) geographic location of child care providers (such as location in an urban or rural area);

“(II) the age or particular needs of children (such as children with special needs and children served by child protective services);

“(III) whether the providers provide child care during weekend and other nontraditional hours; and

“(IV) the State's determination that such differentiated payment rates are needed to enable a parent to choose child care that the parent believes to be of high quality.”.

SEC. 15. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended to read as follows:

“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

“(a) IN GENERAL.—

“(1) RESERVATION.—Each State that receives funds to carry out this subchapter for a fiscal year shall reserve and use not less than 6 percent of the funds for activities provided directly, or through grants or contracts with resource and referral organizations or other appropriate entities, that are designed to improve the quality of child care services.

“(2) ACTIVITIES.—The funds reserved under paragraph (1) may only be used to—

“(A) develop and implement voluntary guidelines on pre-reading and language skills and activities, for child care programs in the State, that are aligned with State standards for kindergarten through grade 12 or the State's general goals for school preparedness;

“(B) support activities and provide technical assistance in Federal, State, and local child care settings to enhance early learning for preschool and school-aged children, to promote literacy, to foster school preparedness, and to support later school success;

“(C) offer training, professional development, and educational opportunities for child care providers that relate to the use of developmentally appropriate and age-appropriate curricula, and early childhood teaching strategies, that are scientifically based and aligned with the social, emotional, physical, and cognitive development of children, including—

“(i) developing and operating distance learning child care training infrastructures;

“(ii) developing model technology-based training courses;

“(iii) offering training for caregivers in informal child care settings; and

“(iv) offering training for child care providers who care for infants and toddlers and children with special needs.

“(D) engage in programs designed to increase the retention and improve the competencies of child care providers, including wage incentive programs and initiatives that establish tiered payment rates for providers that meet or exceed child care services guidelines, as defined by the State;

“(E) evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall school preparedness; and

“(F) carry out other activities determined by the State to improve the quality of child care services provided in the State and for which measurement of outcomes relating to improved child safety, child well-being, or school preparedness is possible.

“(b) CERTIFICATION.—Beginning with fiscal year 2005, the State shall annually submit to the Secretary a certification in which the State certifies that the State was in compliance with subsection (a) during the preceding fiscal year and describes how the State used funds made available to carry out this subchapter to comply with subsection (a) during that preceding fiscal year.

“(c) STRATEGY.—The State shall annually submit to the Secretary—

“(1) beginning with fiscal year 2005, an outline of the strategy the State will implement during that fiscal year to address the quality of child care services for which financial assistance is made available under this subchapter, including—

“(A) a statement specifying how the State will address the activities carried out under subsection (a);

“(B) a description of quantifiable, objective measures that the State will use to evaluate the State's progress in improving the quality of the child care services (including measures regarding the impact, if any, of State efforts to improve the quality by increasing payment rates, as defined in section 658H(c)), evaluating separately the impact of the activities listed in each of such subparagraphs on the quality of the child care services; and

“(C) a list of State-developed child care services quality targets quantified for such fiscal year for such measures; and

“(2) beginning with fiscal year 2006, a report on the State's progress in achieving such targets for the preceding fiscal year.

“(d) IMPROVEMENT PLAN.—If the Secretary determines that a State failed to make progress as described in subsection (c)(2) for a fiscal year—

“(1) the State shall submit an improvement plan that describes the measures the State will take to make that progress; and

“(2) the State shall comply with the improvement plan by a date specified by the Secretary but not later than 1 year after the date of the determination.

“(e) CONSTRUCTION.—Nothing in this subchapter shall be construed to require that the State apply measures for evaluating quality of child care services to specific types of child care providers.”.

SEC. 16. OPTIONAL PRIORITY USE OF ADDITIONAL FUNDS.

The Child Care and Development Block Grant Act of 1990 is amended by inserting after section 658G (42 U.S.C. 9858e) the following:

“SEC. 658H. OPTIONAL PRIORITY USE OF ADDITIONAL FUNDS.

“(a) IN GENERAL.—If a State receives funds to carry out this subchapter for a fiscal year, and the amount of the funds exceeds the amount of funds the State received to carry out this subchapter for fiscal year 2004, the State shall consider using a portion of the excess—

“(1) to support payment rate increases in accordance with the market rate survey conducted pursuant to section 658E(c)(4);

“(2) to support the establishment of tiered payment rates as described in section 658G(a)(2)(D); and

“(3) to support payment rate increases for care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3)).

“(b) NO REQUIREMENT TO REDUCE CHILD CARE SERVICES.—Nothing in this section shall be construed to require a State to take an action that the State determines would result in a reduction of child care services to families of eligible children.

"(c) Payment Rate.—In this section, the term 'payment rate' means the rate of State payment or reimbursement to providers for subsidized child care.".

SEC. ___ 17. REPORTING REQUIREMENTS.

(a) Heading.—Section 658K of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i) is amended by striking the section heading and inserting the following:

"SEC. 658K. REPORTS AND AUDITS.".

(b) Required Information.—Section 658K(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i(a)) is amended to read as follows:

"(a) Reports.—

"(1) In general.—A State that receives funds to carry out this subchapter shall collect the information described in paragraph (2) on a monthly basis.

"(2) Required information.—The information required under this paragraph shall include, with respect to a family unit receiving assistance under this subchapter, information concerning—

"(A) family income;

"(B) county of residence;

"(C) the gender, race, and age of children receiving such assistance;

"(D) whether the head of the family unit is a single parent;

"(E) the sources of family income, including—

"(i) employment, including self-employment; and

"(ii) assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));

"(F) the type of child care in which the child was enrolled (such as family child care, home care, center-based child care, or other types of child care described in section 658T(5));

"(G) whether the child care provider involved was a relative;

"(H) the cost of child care for such family, separately stating the amount of the subsidy payment of the State and the amount of the co-payment of the family toward such cost;

"(I) the average hours per month of such care;

"(J) household size;

"(K) whether the parent involved reports that the child has an individualized education program or an individualized family service plan described in section 602 or 636 of the Individuals with Disabilities Education Act (20 U.S.C. 1401 and 1436); and

"(L) the reason for any termination of benefits under this subchapter, including whether the termination was due to—

"(i) the child's age exceeding the allowable limit;

"(ii) the family income exceeding the State eligibility limit;

"(iii) the State recertification or administrative requirements not being met;

"(iv) parent work, training, or education status no longer meeting State requirements;

"(v) a nonincome related change in status; or

"(vi) other reasons;

during the period for which such information is required to be submitted.

"(3) Submission to secretary.—A State described in paragraph (1) shall, on a quarterly basis, submit to the Secretary the information required to be collected under paragraph (2) and the number of children and families receiving assistance under this subchapter (stated on a monthly basis). Information on the number of families receiving the assistance shall also be posted on the website of such State. In the fourth quarterly report of each year, a State described in paragraph (1) shall also submit to the Secretary information on the annual number and type of child care providers (as described in section 658T(5)) that received funding under this subchapter and the annual number of payments made by the State through vouchers, under contracts, or by payment to parents reported by type of child care provider.

"(4) Use of samples.—

"(A) Authority.—A State may comply with the requirement to collect the information described in paragraph (2) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

"(B) Sampling and other methods.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary determines necessary to produce statistically valid samples of the information described in paragraph (2). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.".

(c) Period of Compliance and Waivers.—

(1) In general.—States shall have 2 years from the date of enactment of this Act to comply with the changes to data collection and reporting required by the amendments made by this section.

(2) Waivers.—The Secretary of Health and Human Services may grant a waiver from paragraph (1) to States with plans to procure data systems.

SEC. ___ 18. NATIONAL ACTIVITIES.

Section 658L of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858j) is amended to read as follows:

"SEC. 658L. NATIONAL ACTIVITIES.

"(a) Report.—

"(1) In general.—The Secretary shall, not later than April 30, 2005, and annually thereafter, prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and, not later than 30 days after the date of such submission, post on the Department of Health and Human Services website, a report that contains the following:

"(A) A summary and analysis of the data and information provided to the Secretary in the State reports submitted under sections 658E, 658G(c), and 658K.

"(B) Aggregated statistics on and an analysis of the supply of, demand for, and quality of child care, early education, and non-school-hour programs.

"(C) An assessment and, where appropriate, recommendations for Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

"(D) A progress report describing the progress of the States in streamlining data reporting, the Secretary's plans and activities to provide technical assistance to States, and an explanation of any barriers to getting data in an accurate and timely manner.

"(2) Collection of information.—The Secretary may make arrangements with resource and referral organizations, to utilize the child care data system of the resource and referral organizations at the national, State, and local levels, to collect the information required by paragraph (1)(B).

"(b) Grants To Improve Quality and Access.—

"(1) In general.—The Secretary shall award grants to States, from allotments made under paragraph (2), to improve the quality of and access to child care for infants and toddlers, subject to the availability of appropriations for this purpose.

"(2) Allotments.—From funds reserved under section 658O(a)(3) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the amount the State receives for the fiscal year under section 658 bears to the amount all States receive for the fiscal year under section 658O.

"(c) Toll-Free Hotline.—The Secretary shall award a grant or contract, or enter into a cooperative agreement for the operation of a national toll-free hotline to assist families in accessing local information on child care options and providing consumer education materials, subject to the availability of appropriations for this purpose.

"(d) Technical Assistance.—The Secretary shall provide technical assistance to States on developing and conducting the State market rates survey described in section 658E(c)(4)(A)(i).".

SEC. ___ 19. ALLOCATION OF FUNDS FOR INDIAN TRIBES, QUALITY IMPROVEMENT, AND A HOTLINE.

(a) In General.—Section 658O(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(a)) is amended—

(1) in paragraph (2), by striking "not less than 1 percent, and not more than 2 percent," and inserting "2 percent"; and

(2) by adding at the end the following:

"(3) Grants to improve quality and access.—The Secretary shall reserve an amount not to exceed $100,000,000 for each fiscal year to carry out section 658L(b), subject to the availability of appropriations for this purpose.

"(4) Toll-free hotline.—The Secretary shall reserve an amount not to exceed $1,000,000 to carry out section 658L(c), subject to the availability of appropriations for this purpose.".

(b) Conforming Amendment.—Section 658O(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(c)(1)) is amended by inserting "(in accordance with the requirements of subparagraphs (E) and (F) of section 658E(c)(2) for such tribes or organizations)" after "applications under this section".

SEC. ___ 20. DEFINITIONS.

(a) Eligible Child.—Section 658P(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(4)) is amended—

(1) in subparagraph (B), in the matter preceding clause (i), by striking "85 percent of the State median income for a family of the same size" and inserting "an income level determined by the State involved, with priority based on need as defined by the State"; and

(2) in subparagraph (C)—

(A) in clause (i), by striking "a parent or parents" and inserting "a parent (including a legal guardian or foster parent) or parents"; and

(B) by striking clause (ii) and inserting the following:

"(ii)(I) is receiving, or needs to receive, protective services (which may include foster care) or is a child with significant cognitive or physical disabilities as defined by the State; and

"(II) resides with a parent (including a legal guardian or foster parent) or parents not described in clause (i).".

(b) CHILD WITH SPECIAL NEEDS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended by inserting after paragraph (2) the following:

"(3) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means—

"(A) a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401);

"(B) a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.); and

"(C) a child with special needs, as defined by the State involved.".

(c) LEAD AGENCY.—Section 658P(8) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(8)) is amended by striking "section 658B(a)" and inserting "section 658D(a)".

(d) PARENT.—Section 658P(9) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(9)) is amended by inserting ", foster parent," after "guardian".

(e) NATIVE HAWAIIAN ORGANIZATION.—Section 658P(14)(B) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(14)(B)) is amended by striking "Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4))" and inserting "Native Hawaiian organization, as defined in section 7207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517)".

(f) REDESIGNATION.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) by redesignating section 658P as section 658T; and

(2) by moving that section 658T to the end of the Act.

SEC. 21. RULES OF CONSTRUCTION.

The Child Care and Development Block Grant Act of 1990 (as amended by section 20(f)) is further amended by inserting after section 658O (42 U.S.C. 9858m) the following:

"SEC. 658P. RULES OF CONSTRUCTION.

"Nothing in this subchapter shall be construed to require a State to impose State child care licensing requirements on any type of early childhood provider, including any such provider who is exempt from State child care licensing requirements on the date of enactment of the Caring for Children Act of 2004.".

Subtitle B—Enhancing Security at Child Care Centers in Federal Facilities

SEC. 31. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) CORRESPONDING CHILD CARE FACILITY.—The term "corresponding child care facility", used with respect to the Chief Administrative Officer of the House of Representatives, the Librarian of Congress, or the head of a designated entity in the Senate, means a child care facility operated by, or under a contract or licensing agreement with, an office of the House of Representatives, the Library of Congress, or an office of the Senate, respectively.

(3) ENTITY SPONSORING A CHILD CARE FACILITY.—The term "entity sponsoring", used with respect to a child care facility, means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care facility primarily for the use of Federal employees.

(4) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense and the Coast Guard; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (5)(B).

(5) EXECUTIVE FACILITY.—The term "executive facility"—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(6) FEDERAL AGENCY.—The term "Federal agency" means an Executive agency, a legislative office, or a judicial office.

(7) JUDICIAL FACILITY.—The term "judicial facility" means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (5)(B)).

(8) JUDICIAL OFFICE.—The term "judicial office" means an entity of the judicial branch of the Federal Government.

(9) LEGISLATIVE FACILITY.—The term "legislative facility" means a facility that is owned or leased by a legislative office.

(10) LEGISLATIVE OFFICE.—The term "legislative office" means an entity of the legislative branch of the Federal Government.

SEC. 32. ENHANCING SECURITY.

(a) COVERAGE.—

(1) EXECUTIVE BRANCH.—The Administrator shall issue the regulations described in subsection (b) for child care facilities, and entities sponsoring child care facilities, in executive facilities.

(2) LEGISLATIVE BRANCH.—The Chief Administrative Officer of the House of Representatives, the Librarian of Congress, and the head of a designated entity in the Senate shall issue the regulations described in subsection (b) for corresponding child care facilities, and entities sponsoring the corresponding child care facilities, in legislative facilities.

(3) JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts shall issue the regulations described in subsection (b) for child care facilities, and entities sponsoring child care facilities, in judicial facilities.

(b) REGULATIONS.—The officers and designated entity described in subsection (a) shall issue regulations that concern—

(1) matters relating to an occupant emergency plan and evacuations, such as—

(A) providing for building security committee membership for each director of a child care facility described in subsection (a);

(B) establishing a separate section in an occupant emergency plan for each such facility;

(C) promoting familiarity with procedures and evacuation routes for different types of emergencies (such as emergencies caused by hazardous materials, a fire, a bomb threat, a power failure, or a natural disaster);

(D) strengthening onsite relationships between security personnel and the personnel of such a facility, such as by ensuring that the post orders of guards reflect responsibility for the facility;

(E) providing specific, clear, and concise evacuation instructions for a facility, including instructions specifying who authorizes an evacuation;

(F) providing for good evacuation equipment, especially cribs; and

(G) promoting the ability to evacuate without outside assistance; and

(2) matters relating to relocation sites, such as—

(A) promoting an informed parent body that is knowledgeable about evacuation procedures and relocation sites;

(B) providing regularly updated parent contact information (regarding matters such as names, locations, electronic mail addresses, and cell phone and other telephone numbers);

(C) establishing remote telephone contact for parents, to and from areas that are not less than 10 miles from such a facility; and

(D) providing for an alternate site (in addition to regular sites) in the event of a catastrophe, which site may include—

(i) a site that would be an unreasonable distance from the facility under normal circumstances; and

(ii) a facility with 24-hour operations, such as a hotel or law school library.

Subtitle C—Removal of Barriers to Increasing the Supply of Quality Child Care

SEC. 41. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to a consortium of a small business and other appropriate entities located in the State to enable the small businesses to establish and operate child care programs. Such assistance may include—

(A) the acquisition, construction, renovation, and operation of child care facilities and equipment;

(B) technical assistance in the establishment of a child care program;

(C) assistance for the startup costs related to a child care program;

(D) assistance for the training of child care providers;

(E) scholarships for low-income wage earners;

(F) the provision of services to care for sick children or to provide care to school-aged children;

(G) the entering into of contracts with local resource and referral or local health departments;

(H) assistance for care for children with disabilities; or

(I) assistance for any other activity determined appropriate by the State (including loans, grants, investment guarantees, interest subsidies, or other mechanisms to expand the availability of, and improve the quality of, employer-operated child care in the State).

(2) APPLICATION.—To be eligible to receive assistance from a State under this section, a consortium shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—In providing assistance under this section, a State shall give priority to a consortium that desires to provide child care in a geographic area within the State where such care is not generally available or accessible.

(4) LIMITATION.—With respect to grant funds received under this section, a State may not provide in excess of $500,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a consortium receiving assistance from the State to carry out activities under this section—

(1) the consortium will make available non-Federal contributions to such costs in an amount equal to—

(A) for the first fiscal year in which the consortium receives such assistance, not less than 50 percent of such costs;

(B) for the second fiscal year in which the consortium receives such assistance, not less than 66⅔ percent of such costs; and

(C) for the third fiscal year in which the consortium receives such assistance, not less than 75 percent of such costs; and

(2) the consortium will make the contributions available—

(A) directly or through donations from public or private entities; and

(B) as determined by the State, in cash or in kind, fairly evaluated, including plant, equipment, or services.

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider—

(1) who receives assistance from a State shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State; and

(2) who recieves assistance from an Indian tribe or tribal organization shall comply with all applicable regulatory standards.

(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring consortia that receive assistance under such grant.

(2) AUDITS.—A State shall require each consortium receiving assistance under a grant awarded under this section to conduct an annual audit with respect to the activities of the consortium. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a consortium receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a consortium the repayment of an amount equal to the amount of any such misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(i) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of consortia to meet the child care needs of communities within States;

(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through consortia that received assistance through a grant awarded under this section and that remain in operation and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(j) DEFINITIONS.—In this section:

(1) CONSORTIUM.—The term "consortium" means 2 or more entities that—

(A) shall include at least 1 small business; and

(B) may include other small businesses, nonprofit agencies or community development corporations, local governments, or other appropriate entities.

(2) INDIAN COMMUNITY.—The term "Indian community" means a community served by an Indian tribe or tribal organization.

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms "Indian tribe" and "tribal organization" have the meanings given the terms in section 658T of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(4) SMALL BUSINESS.—The term "small business" means an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

(k) APPLICATION TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In this section:

(1) IN GENERAL.—Except as provided in subsection (f)(1), and in paragraphs (2) and (3), the term "State" includes an Indian tribe or tribal organization.

(2) GEOGRAPHIC REFERENCES.—The term "State" includes an Indian community in subsections (c) (the second and third place the term appears), (d)(1) (the second place the term appears), (d)(1)(I) (the second place the term appears), (d)(3) (the second place the term appears), and (i)(1)(A)(i).

(3) STATE-LEVEL ACTIVITIES.—The term "State-level activities" includes activities at the tribal level.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $30,000,000 for the period of fiscal years 2005 through 2009.

(2) EVALUATIONS AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than $2,500,000 of that amount may be used for expenditures related to conducting evaluations required under, and the administration of, this section.

(m) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2010.

SA 2968. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 181, between lines 7 and 8, insert the following:

(e) AUTHORITY TO USE FUNDS FOR CERTAIN EDUCATION AND TRAINING.—Section 404 (42 U.S.C. 604), as amended by subsection (d) is amended by adding at the end the following:

"(m) AUTHORITY TO USE FUNDS FOR CERTAIN EDUCATION AND TRAINING.—A State to which a grant is made under section 403 may use the grant to provide education and training to support adult recipients in self-employment activities.".

SA 2969. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 295, between lines 10 and 11, insert the following:

SEC. 121. EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.

(a) GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following

"(M) EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the specified Federal programs described in subparagraphs (A) and (B) of paragraph (3), paragraph (1) shall not apply to any individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with—

"(i) section 141 of the Compact of Free Association between the Government of the United States and the Government of the Federated States of Micronesia, approved by Congress in the Compact of Free Association Amendments Act of 2003;

"(ii) section 141 of the Compact of Free Association between the Government of the United States and the Government of the Republic of the Marshall Islands, approved by Congress in the Compact of Free Association Amendments Act of 2003; or

"(iii) section 141 of the Compact of Free Association between the Government of the

United States and the Government of Palau, approved by Congress in Public Law 99–658 (100 Stat. 3672).”.

(b) MEDICAID AND TANF EXCEPTIONS.—Section 402(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at the end the following:

“(G) MEDICAID EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the program defined in paragraph (3)(C) (relating to the medicaid program), section 401(a) and paragraph (1) shall not apply to any individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with a Compact of Free Association referred to in section 402(a)(2)(M).

“(H) TANF EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the temporary assistance for needy families program), section 401(a) and paragraph (1) shall not apply to any individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with a Compact of Free Association referred to in section 402(a)(2)(M).”.

(c) QUALIFIED ALIEN.—Section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)) is amended—

(1) in paragraph (6), by striking “or” at the end;

(2) in paragraph (7), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(8) an individual who lawfully resides in the United States (including territories and possessions of the United States) in accordance with a Compact of Free Association referred to in section 402(a)(2)(M).”.

SA 2970. Mr. BAUCUS (for himself, Mr. HARKIN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 152, strike line 1 and all that follows through page 157, line 18, and insert the following:

SEC. 103. HEALTHY MARRIAGE PROMOTION GRANTS.

(a) IN GENERAL.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read as follows:

“(2) HEALTHY MARRIAGE PROMOTION GRANTS.—

“(A) AUTHORITY.—

“(i) IN GENERAL.—From the amount appropriated under subparagraph (F) for a fiscal year and remaining after the application of clauses (ii), (iii), and (iv) of this subparagraph and subparagraph (E)(iii), the Secretary shall pay each State that satisfies the requirements of subparagraph (D), a grant equal to the product of—

“(I) such amount; and

“(II) the ratio (expressed as a percentage) of—

“(aa) the population of the State for the most recent year for which data is available; to

“(bb) the population of all States for such year.

“(ii) REQUIREMENT.—No State shall be paid a grant for a fiscal year under this paragraph that is less than $1,000,000.

“(iii) INDIAN TRIBES.—From the amount appropriated under subparagraph (F) for a fiscal year, the Secretary shall set aside an amount equal to 2 percent of such amount for making grants to Indian tribes that satisfy the requirements of subparagraph (D).

“(iv) TERRITORIES.—

“(I) IN GENERAL.—From the amount appropriated under subparagraph (F) for a fiscal year, the Secretary shall set aside $1,000,000 of such amount for purposes of making grants to territories described in subclause (III) that satisfy the requirements of subparagraph (D).

“(II) AMOUNT OF GRANT.—The amount of a grant made under this clause for a fiscal year is equal to the product of—

“(aa) $1,000,000; and

“(bb) the ratio (expressed as a percentage) of the population of the territory for the most recent year for which data is available to the population of all the territories described in subclause (III) for such year.

“(III) TERRITORY DESCRIBED.—For purposes of subclause (I), a territory described in this subclause is Puerto Rico, Guam, the United States Virgin Islands, and American Samoa.

“(B) MATCHING FUNDS.—A State or Indian tribe that receives a grant under this paragraph for a fiscal year shall expend at least $1 in non-Federal funds (in cash or in kind, fairly valued, including plant, equipment, or services) for every $4 of funds paid to the State or Indian tribe under this paragraph for the fiscal year.

“(C) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—Funds provided under a grant made under this paragraph shall be used for the cost of developing and implementing demonstration projects to promote stronger families, with an emphasis on the promotion of healthy marriages, through the testing and evaluation of a wide variety of approaches to strengthening families and shall be used to support any of the following programs or activities:

“(i) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

“(ii) Voluntary marriage education and marriage skills programs for nonmarried pregnant women and nonmarried expectant fathers.

“(iii) Voluntary premarital education and marriage skills training for engaged couples and for couples interested in marriage.

“(iv) Voluntary marriage enhancement and marriage skills training programs for married couples.

“(v) Marriage mentoring programs that use married couples as role models and mentors in at-risk communities.

“(vi)(I) Programs that offer individuals and families with multiple barriers to economic self-sufficiency and stability services that include community-based comprehensive, family development services provided by local organizations that have demonstrated experience and success in administering similar initiatives that encourage the formation and maintenance of healthy and economically self-sufficient families.

“(II) Programs under clause (I) shall provide a mix of comprehensive services and supports that further develop the capability of low-income parents to financially and emotionally support their children by caring for their children independently or in the context of mutually respectful, non-violent, and voluntary co-parenting relationships, securing and maintaining employment and child care, fulfilling other basic needs such as housing, hunger, mental health and health care, adopting appropriate approaches to income enhancement, and meeting child support obligations, linkages to community resources and other skills that will lead to greater family stability (including programs that replicate or adapt the Iowa Family Development and Self-Sufficiency Program and the demonstration program known as the Minnesota Family Investment Program).

“(III) The Secretary shall give preference in making awards under this paragraph to programs described in this clause.

“(vii) Teen pregnancy prevention programs.

“(viii) Development and dissemination of best practices for addressing domestic and sexual violence as a barrier to economic security, including caseworker training, technical assistance, and voluntary services for victims.

“(ix) Responsible fatherhood programs.

“(D) REQUIREMENTS FOR RECEIPT OF PAYMENT.—The Secretary may not make a grant to a State or Indian tribe under this paragraph unless the State or Indian tribe—

“(i) consults with national, State, local, or tribal organizations with demonstrated expertise in working with survivors of domestic violence;

“(ii) agrees to participate in the evaluation conducted under subparagraph (E);

“(iii) ensures that each sub-grantee complies with the requirements of clauses (i) and (ii);

“(iv) provides for a period of public comment on the use of funds paid to the State or Indian tribe under this paragraph; and

“(v) makes all sub-grant applications approved by the State or Indian tribe available to the public.

“(E) EVALUATION.—

“(i) IN GENERAL.—The Director of the National Academy of Sciences shall conduct, directly or through contracts, a rigorous comprehensive evaluation of a representative sample of the programs and activities described in subparagraph (C) and carried out with funds paid under this paragraph. The Director shall seek public input on both the methods and measures to be used in the evaluation.

“(ii) REQUIRED INFORMATION.—The evaluation conducted under this subparagraph shall, with respect to each program and activity described in subparagraph (C), include measures of family structure, levels of family conflict and violence, and child well-being (including measures of health status, educational performance, food security, and family income).

“(iii) FUNDING.—$5,000,000 of the amount appropriated under subparagraph (G) for each fiscal year shall be reserved for carrying out the evaluation required under this subparagraph.

“(F) REPORTS.—

“(i) INITIAL REPORT.—Not later than September 30, 2007, the Secretary shall submit an initial report to Congress describing the programs and activities funded under grants made under this paragraph.

“(ii) INITIAL EVALUATION FINDINGS.—Not later than September 30, 2008, the Director of the National Academy of Sciences shall submit a report to Congress describing the initial findings of the evaluation conducted under subparagraph (E).

“(iii) FINAL REPORTS.—Not later than September 30, 2010, the Secretary and the Director of the National Academy of Sciences shall each submit final reports on the activities funded under grants made under this paragraph and the evaluation conducted under subparagraph (E), respectively.

"(iv) GAO.—Not later than September 30, 2008, the Comptroller General of the United States shall submit a report to the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives and the Chairman and Ranking Member of the Committee on Finance of the Senate describing—

"(I) the programs and activities supported by grants made under this paragraph; and

"(II) the results of such programs and activities.

"(G) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated for each of fiscal years 2004 through 2008, $200,000,000 for purposes of carrying out this paragraph.".

(b) ELIMINATION OF FUNDING FOR RESEARCH, DEMONSTRATIONS, AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of law, section 413 of the Social Security Act (42 U.S.C. 613) shall be applied without regard to the amendment made by section 114(a) of this Act.

SA 2971. Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. LAUTENBERG, Mr. GRAHAM of Florida, Mr. KENNEDY, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DIRECT CONGRESSIONAL ACCESS TO THE OFFICE OF THE CHIEF ACTUARY IN THE CENTERS FOR MEDICARE & MEDICAID SERVICES.

(a) FINDINGS.—Congress finds the following:

(1) In creating the Office of the Actuary in the Health Care Financing Administration (now known as the Centers for Medicare & Medicaid Services) with the enactment of the Balanced Budget Act of 1997, Congress intended that the Office would provide independent advice and analysis to assist in the development of health care legislation.

(2) While the Congressional Budget Office would continue to serve as the official source for cost estimates for Congress, Congress created the Office of the Actuary in order to have—

(A) an additional, independent source for estimates in the development of health care legislation; and

(B) access to more detailed actuarial data and assumptions related to program participation, payments, and costs.

(3) While the joint explanatory statement of the committee of conference contained in the conference report for the Balanced Budget Act of 1997 provided a clear statement of the Congressional intent described in paragraphs (1) and (2), Congressional access to the Office of the Actuary has been inappropriately restricted over the past year.

(b) ACCESS.—Section 1117(b) of the Social Security Act (42 U.S.C. 1317(b)), as amended by section 900(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is amended by adding at the end the following new paragraphs:

"(4)(A) In exercising the duties of the office of the Chief Actuary, the Chief Actuary shall provide the committees of jurisdiction of Congress with independent counsel and technical assistance with respect to the programs under titles XVIII, XIX, and XXI.

"(B)(i) The Chief Actuary may directly provide Congress with reports, comments on, and estimates of, the financial effects of potential legislation, and other actuarial information related to the programs described in subparagraph (A).

"(ii) No officer or agency of the United States may require the Chief Actuary to submit to any officer or agency of the United States for approval, comments, or review, prior to the provision to Congress of such reports, comments, estimates, or other information.

"(C)(i) Any person who knowingly interferes with the Chief Actuary in complying with subparagraph (A) or (B)(i) or who knowingly violates the requirement under subparagraph (B)(ii) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil monetary penalty of not more than $250,000 for each violation involved.

"(ii) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(5) Beginning in 2005, on the same day the President submits to Congress the budget of the United States Government for the following fiscal year, the Chief Actuary shall submit to Congress, and publish on the Internet website of the Centers for Medicare & Medicaid Services, a report that contains—

"(A) the Chief Actuary's 10-year projections and assumptions with respect to the programs under titles XVIII, XIX, and XXI, based on current-law baselines with respect to such programs; and

"(B) cost estimates for proposed changes to the programs under titles XVIII, XIX, and XXI that are contained in such budget submission.".

SA 2972. Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. JOHNSON, Mr. BINGAMAN, Mr. AKAKA, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 236, strike line 21 and all that follows through page 239, line 8, and insert the following:

SEC. 113. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

(a) TRIBAL TANF PROGRAMS.—

(1) FINDINGS.—Congress makes the following findings:

(A) The Federal Government bears a unique trust responsibility for Indian tribes.

(B) Despite this responsibility, Indians remain remarkably impoverished. According to the Bureau of the Census, 25.9 percent of American Indians live in poverty, more than twice the national poverty rate. The average household income for Indians in 2000 was only 75 percent of that of the rest of Americans.

(C) In some States with substantial Indian populations, the percentage of the welfare caseload that is made up of Indians has increased since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 because some Indians face substantial barriers in their moving from welfare to work.

(D) A General Accounting Office review of data from the Bureau of the Census found that 25 of the 26 counties in the United States with a majority of American Indians had poverty rates "significantly" higher than average.

(E) Many Indian tribes are located in isolated rural areas that lack sufficient economic opportunities, including jobs and economic development, transportation services, child care, and other services necessary to ensure a successful transition from welfare to work.

(F) Tribal temporary assistance to needy families programs have demonstrated remarkable success in moving Indians from welfare to work.

(G) Tribal governments, unlike State governments, have not been afforded an opportunity to administer and fully participate in the Federal entitlement program for foster care and adoption assistance, a program Congress recognizes as an important component of welfare services.

(H) Welfare reform has not brought enough change to Indian Country. Welfare reform has not, and will not, succeed unless it adequately addresses the unique barriers many Indians face in moving from welfare to work.

(2) FUNDING FOR TRIBAL TANF PROGRAMS.—

(A) REAUTHORIZATION OF TRIBAL FAMILY ASSISTANCE GRANTS.—Section 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)), as amended by section 3(h) of the Welfare Reform Extension Act of 2003, is amended by striking "1997, 1998, 1999, 2000, 2001, 2002, and 2003" and inserting "2005 through 2009".

(B) TRIBAL TANF IMPROVEMENT FUND.—Section 412(a) (42 U.S.C. 612(a)) is amended by striking paragraph (2) and inserting the following:

"(2) TRIBAL TANF IMPROVEMENT GRANTS.—

"(A) TRIBAL CAPACITY GRANTS.—

"(i) IN GENERAL.—Of the amount appropriated under subparagraph (D) for the period of fiscal years 2005 through 2008, $35,000,000 shall be used by the Secretary to award grants for tribal human services program infrastructure improvement (as defined in clause (v)) to—

"(I) Indian tribes that have applied for approval of a tribal family assistance plan and that meet the requirements of clause (ii)(I);

"(II) Indian tribes with an approved tribal family assistance plan and that meet the requirements of clause (ii)(II); and

"(III) Indian tribes that have applied for approval of a foster care and adoption assistance program under section 479B or that plan to enter into, or have in place, a tribal-State cooperative agreement under section 479B(c) and that meet the requirements of clause (ii)(III).

"(ii) PRIORITIES FOR AWARDING OF GRANTS.—The Secretary shall give priority in awarding grants under this subparagraph as follows:

"(I) First, for grants to Indian tribes that have applied for approval of a tribal family assistance plan, that have not operated such a plan as of the date of enactment of the Personal Responsibility and Individual Development for Everyone Act that will have such plan approved, and that include in the plan submission provisions for tribal human services program infrastructure improvement (as so defined) and related management information systems training.

"(II) Second, for Indian tribes with an approved tribal family assistance plan that are not described in subclause (I) and that submit an addendum to such plan that includes provisions for tribal human services program infrastructure improvement that includes implementing or improving management information systems of the tribe (including management information systems training), as such systems relate to the operation of the tribal family assistance plan.

"(III) Third, for Indian tribes that have applied for approval of a foster care and adoption assistance program under section 479B or that plan to enter into, or have in place, a tribal-State cooperative agreement under section 479B(c) and that include in the plan submission under section 471 (or in an addendum to such plan) provisions for tribal human services program infrastructure improvement (as so defined) and related management information systems training.

"(iii) OTHER REQUIREMENTS FOR AWARDING GRANTS.—In awarding grants under this subparagraph, the Secretary—

"(I) may not award an Indian tribe more than 1 grant under this subparagraph per fiscal year;

"(II) shall award grants in such a manner as to maximize the number of Indian tribes that receive grants under this subparagraph; and

"(III) shall consult with Indian tribes located throughout the United States.

"(iv) APPLICATION.—An Indian tribe desiring a grant under this subparagraph shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(v) DEFINITION OF HUMAN SERVICES PROGRAM INFRASTRUCTURE IMPROVEMENT.—In this subparagraph, the term 'human services program infrastructure improvement' includes (but is not limited to) improvement of management information systems, management information systems-related training, equipping offices, and renovating, but not constructing, buildings, as described in an application for a grant under this subparagraph, and subject to approval by the Secretary.

"(B) TRIBAL DEVELOPMENT GRANTS.—

"(i) IN GENERAL.—Of the amount appropriated under subparagraph (D) for the period of fiscal years 2005 through 2008, $35,000,000 shall be used by the Secretary to award, through the Commissioner of the Administration for Native Americans, grants to nonprofit organizations, Indian tribes, and tribal organizations to enable such organizations and tribes to provide technical assistance to Indian tribes and tribal organizations in any or all of the following areas:

"(I) The development and improvement of uniform commercial codes.

"(II) The creation or expansion of small business or microenterprise programs.

"(III) The development and improvement of tort liability codes.

"(IV) The creation or expansion of tribal marketing efforts.

"(V) The creation or expansion of for-profit collaborative business networks.

"(VI) The development of innovative uses of telecommunications to assist with distance learning or telecommuting.

"(VII) The development of economic opportunities and job creation in areas of high joblessness in Alaska (as defined in section 408(a)(7)(D)(ii)).

"(ii) REQUIREMENTS.—

"(I) IN GENERAL.—At least an amount equal to 10 percent of the total amount of grants awarded under this subparagraph shall be awarded to carry out clause (i)(VII).

"(II) CONSULTATION.—In awarding grants under this subparagraph the Secretary shall consult with other Federal agencies with expertise in the areas described in clause (i).

"(iii) APPLICATION.—A nonprofit organization, Indian tribe, or tribal organization desiring a grant under this subparagraph shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(C) TECHNICAL ASSISTANCE.—

"(i) IN GENERAL.—Of the amount appropriated under subparagraph (D) for the period of fiscal years 2005 through 2008, $5,000,000 shall be used by the Secretary for making grants, or entering into contracts, to provide technical assistance to Indian tribes—

"(I) in applying for or carrying out a grant made under this paragraph;

"(II) in applying for or carrying out a tribal family assistance plan under this section; or

"(III) related to best practices and approaches for State and tribal coordination on the transfer of the administration of social services programs to Indian tribes.

"(ii) RESERVATION OF FUNDS.—Not less than—

"(I) $2,500,000 of the amount described in clause (i) shall be used by the Secretary to support, through grants or contracts, peer-learning programs among tribal administrators; and

"(II) $1,000,000 of such amount shall be used by the Secretary for making grants to Indian tribes to conduct feasibility studies of the capacity of Indian tribes to operate tribal family assistance plans under this part.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated $75,000,000 for the period of fiscal years 2005 through 2008 to carry out this paragraph. Amounts appropriated under this subparagraph shall remain available until expended.".

(C) CONFORMING AMENDMENT.—Section 405(a) (42 U.S.C. 605(a)) is amended by striking "section 403" and inserting "sections 403 and 412(a)(2)(C)".

(3) ELIGIBILITY FOR CONTINGENCY FUND.—

(A) IN GENERAL.—Section 403(b)(1) (42 U.S.C. 603(b)(3)), as amended by section 102(a)(1), is amended—

(i) in subparagraph (A), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)";

(ii) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(iii) by inserting after subparagraph (C), the following:

"(D) PAYMENTS TO INDIAN TRIBES.—

"(i) IN GENERAL.—Of the total amount appropriated pursuant to subparagraph (F), $25,000,000 of such amount shall be reserved for making payments to Indian tribes with approved tribal family assistance plans that are operating in situations of increased economic hardship.

"(ii) DETERMINATION OF CRITERIA FOR TRIBAL ACCESS.—

"(I) IN GENERAL.—Subject to subclause (II), the Secretary, in consultation with Indian tribes with approved tribal family assistance plans, shall determine the criteria for access by Indian tribes to the amount reserved under clause (i).

"(II) INCLUSION OF CERTAIN FACTORS.—Such criteria shall include factors related to increases in unemployment and loss of employers.

"(iii) APPLICATION OF REQUIREMENTS FOR PAYMENTS TO STATES.—The Secretary, in consultation with Indian tribes with approved tribal family assistance plans located throughout the United States, shall determine the extent to which requirements of States for payments from the contingency fund established under this subsection shall apply to Indian tribes receiving payments under this subparagraph.".

(B) CONFORMING AMENDMENTS.—Section 403(b)(1)(B) (42 U.S.C. 603(b)(1)(B)), as so amended, is further amended—

(i) in the matter preceding clause (i), by striking "subparagraph (D)(i)" and inserting "subparagraph (E)(i)";

(ii) in clause (i), by striking "subparagraph (D)(ii)" and inserting "subparagraph (E)(ii)"; and

(iii) in clause (ii), by striking "subparagraph (D)(iii)" and inserting "subparagraph (E)(iii)".

(4) TRIBAL JOB TRAINING PROGRAMS.—

(A) TRIBAL EMPLOYMENT SERVICES PROGRAMS.—

(i) IN GENERAL.—Section 412(a) (42 U.S.C. 612(a)), as amended by paragraph (2)(B), is amended by adding at the end the following:

"(4) GRANTS FOR TRIBAL EMPLOYMENT SERVICES PROGRAMS.—

"(A) PURPOSE.—The purpose of this paragraph is to support comprehensive services to enable eligible beneficiaries to support themselves through employment without requiring cash benefits from public assistance programs for themselves or their families.

"(B) STATEMENT OF POLICY.—The programs funded under grants made under this paragraph shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

"(C) DEFINITIONS.—In this paragraph:

"(i) ALASKA NATIVE ORGANIZATION.—The term 'Alaska Native organization' has the meaning given the term 'Indian tribe' with respect to the State of Alaska in section 419(4)(B).

"(ii) DEPARTMENT.—Unless otherwise specified, the term 'Department' means the Department of Labor.

"(iii) ELIGIBLE BENEFICIARY.— The term 'eligible beneficiary' means—

"(I) an individual who is an Indian or Alaska Native receiving or eligible to receive cash benefits for the individual or the individual's family under the State program funded under this part, a tribal family assistance program under this section, or the General Assistance program;

"(II) an individual who is an Indian or Alaska Native transitioning from receipt of cash benefits under any such programs to employment;

"(III) an individual who is an Indian or Alaska Native with a history of long-term dependence (as defined in clause (v)) on cash benefits under any such programs or under the aid for families with dependent children program under this part (as in effect before August 22, 1996);

"(IV) an individual who is an Indian or Alaska Native who is a non-custodial parent of a minor child receiving, eligible to receive, or with a history of receiving cash benefits under any such programs, or an individual who has an obligation to provide support for such children; or

"(V) an individual who is an Indian or Alaska Native and is a member of a family who is at risk of becoming dependent on cash benefits under any such programs or who has exhausted eligibility for such benefits because of the application of time limits on benefits.

"(iv) GENERAL ASSISTANCE.—The term 'General Assistance' means the General Assistance program supported through the Bureau of Indian Affairs in the Department of the Interior.

"(v) LONG-TERM DEPENDENCE.—The term 'long-term dependence' means receipt of cash benefits under a program referred to in clause (iii)(III) for at least 24 months, which need not be consecutive.

"(vi) SECRETARY.—Unless otherwise specified, the term 'Secretary' means the Secretary of Labor.

"(D) AUTHORITY TO MAKE GRANTS.—

"(i) DIRECT SERVICES.—The Secretary shall make grants to Indian tribes, tribal organizations, and Alaska Native organizations on the basis of a formula determined in accordance with subparagraph (H)(ii) to carry out the activities described in subparagraph (E).

"(ii) PROGRAM SUPPORT.—The Secretary shall, through grants or contracts with entities, or interagency agreements, carry out the activities described in subparagraph (F).

"(iii) APPROPRIATION.—

"(I) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated $37,000,000 for each of fiscal years 2005 through 2009 to carry out this paragraph.

"(II) RESERVATION OF FUNDS FOR PROGRAM SUPPORT.—The Secretary may reserve an amount equal to not more than 1.5 percent of the amount appropriated under subclause (I) for a fiscal year to make grants or enter into contracts under clause (ii).

"(E) DIRECT SERVICE ACTIVITIES.—

"(i) IN GENERAL.—A recipient of a grant made under subparagraph (D)(i) shall use the funds provided under the grant to support any services which may be useful in preparing eligible beneficiaries to enter or reenter the workforce, to retain employment or to advance to positions which may enable the eligible beneficiary and the beneficiary's family to become economically self-sufficient.

"(ii) SERVICES PERMITTED.—Services provided with funds made available under a grant made under subparagraph (D)(i) may include—

"(I) assessment;

"(II) education;

"(III) job readiness and placement;

"(IV) occupational training (including on-the-job training);

"(V) work experience;

"(VI) wage subsidies;

"(VII) job retention;

"(VIII) job creation specifically for eligible beneficiaries;

"(IX) case management;

"(X) counseling;

"(XI) supportive services, including (but not limited to) child care, transportation, mental health and substance abuse treatment, and prevention services important to employability; and

"(XII) counseling and other services to promote marriage, discourage teen pregnancies, assist in the formation and stabilization of 2-parent families, and address situations involving domestic violence.

"(iii) RETENTION OF ELIGIBILITY FOR OTHER SERVICES.—An eligible beneficiary who receives services through funds provided under a grant made under subparagraph (D)(i) shall not be precluded from receiving other services from any State, local, or tribal government agency, or any other entity.

"(iv) DISREGARD.—Income or services received by an eligible beneficiary under this paragraph shall be disregarded for purposes of determining eligibility for benefits under any means-tested program for which the eligibility requirements are established under Federal law.

"(F) PROGRAM SUPPORT ACTIVITIES.—

"(i) IN GENERAL.—In order to improve the effectiveness of services provided by Indian tribes, tribal organizations, and Alaska Native organizations under grants made under this paragraph, the Secretary shall support, through grants, contracts, or interagency agreements, activities that—

"(I) enhance the capacity of Indian tribes, tribal organizations, and Alaska Native organizations under this section to deliver the services authorized under subparagraph (E); and

"(II) test or demonstrate new or improved methods of providing such services.

"(ii) PREFERENCE.—In awarding grants or contracts under subparagraph (D)(ii) to carry out this subparagraph, the Secretary shall implement a preference policy consistent with the terms of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

"(G) ADDITIONAL REQUIREMENTS.—

"(i) DIRECT SERVICE ACTIVITIES.—

"(I) AUTHORITY TO CONSOLIDATE FUNDS.—An Indian tribe, tribal organization, or Alaska Native organization receiving a grant under subparagraph (D)(i) may consolidate funds received under the grant with assistance received from other programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) or the provisions of the Tribal Self-Governance Act of 1994 (25 U.S.C. 458aa et seq.).

"(II) OPTION TO EXCLUDE PARTICIPANTS FROM DETERMINATION OF WORK PARTICIPATION RATES.—A State, Indian tribe, or tribal organization may exclude individuals participating in a direct services program funded under a grant made under subparagraph (D)(i) for a month from the calculation of the work participation rate for the State or tribe for such month.

"(ii) APPLICABLE RULES.—Any amount paid to an Indian tribe, tribal organization, or Alaska Native organization under this part that is used to carry out the activities described in subparagraph (E) or (F) shall not be subject to the requirements of this part, but shall be subject to the requirements specified in the regulations required under subparagraph (H)(iii), and the expenditure of any amount so used shall not be considered to be an expenditure under this part.

"(iii) AVAILABILITY OF FUNDS.—Funds provided to a recipient of a grant or contract under subparagraph (D)(ii) shall remain available for obligation for 2 succeeding fiscal years after the fiscal year in which the grant is made or the contract is entered into.

"(H) PROGRAM ADMINISTRATION.—

"(i) DESIGNATION OF OFFICE WITH PRIMARY RESPONSIBILITY.—The Secretary shall designate a single organizational unit within the Department that shall have as its primary responsibility the administration of the activities authorized under this paragraph and of any related Indian programs administered by the Department.

"(ii) CONSULTATION.—

"(I) IN GENERAL.—The Secretary shall consult with Indian tribes and tribal organizations eligible to administer activities authorized under this paragraph that are located throughout the United States on all aspects of the operation and administration of such activities, including the promulgation of regulations, the design of a formula for the allocation of funds among Indian tribes and tribal organizations, and the implementation of program support activities described in subparagraph (F).

"(II) ADVISORY COMMITTEE.—The Secretary may utilize a broadly based advisory committee whose members are nominated by Indian tribes and tribal organizations eligible to administer activities authorized under this paragraph as part of the consultation required under subclause (I), except that the consultation process shall not be limited to discussions with such committee.

"(iii) REGULATIONS.—The Secretary may issue regulations for the conduct of activities under this paragraph. All requirements imposed by such regulations, including reporting requirements, shall take into full consideration tribal circumstances and conditions.".

(ii) TRANSITION FROM OTHER TANF INDIAN EMPLOYMENT PROGRAMS.—

(I) IN GENERAL.—Subject to subclause (II), the Secretary of Health and Human Services shall provide for an orderly close-out of activities under the work program authorized in section 412(a)(2) of the Social Security Act (42 U.S.C. 612(a)(2)) (commonly referred to as the "Native Employment Works program" or the "NEW" program) as such section is in effect on September 30, 2003.

(ii) REQUIREMENT.—In closing out the activities referred to in clause (i), the Secretary of Health and Human Services shall provide that grantees under a program referred to in that subparagraph shall be permitted to provide services through June 30, 2005, and shall be permitted to spend funds on administrative activities related to the close-out of grants under programs for up to 6 months after that date.

(B) APPLICATION OF INDIAN EMPLOYMENT, TRAINING, AND RELATED SERVICES DEMONSTRATION ACT OF 1992.—Section 412(a) (42 U.S.C. 612(a)), as amended by subparagraph (A)(i), is amended by adding at the end the following:

"(5) APPLICATION OF INDIAN EMPLOYMENT, TRAINING, AND RELATED SERVICES DEMONSTRATION ACT OF 1992.—Notwithstanding any other provision of law, if an Indian tribe elects to incorporate the services it provides under this part into a plan under section 6 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 U.S.C. 3405), the programs authorized to be conducted with grants made under this part shall be—

"(A) considered to be programs subject to section 5 of the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 U.S.C. 3404); and

"(B) subject to the single plan and single budget requirements of section 6 of that Act (25 U.S.C. 3405) and the single report format required under section 11 of that Act (25 U.S.C. 3410).".

(5) TRIBAL FAMILY ASSISTANCE PLANS.—

(A) EQUITABLE ACCESS.—Section 412(b)(1) (42 U.S.C. 612(b)(1)), as amended by section 101(c), is amended—

(i) in subparagraph (F), by striking "and" at the end;

(ii) in subparagraph (G), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(H) describes how the Indian tribe will ensure equitable access to benefits and services provided under the plan for each member of the population to be served by the plan.".

(B) CONSULTATION BETWEEN STATES AND INDIAN TRIBES OR OTHER INDIANS RESIDING ON A RESERVATION.—

(i) STATE PLAN REQUIREMENT.—Section 402(a)(5) (42 U.S.C. 602(a)(5)) is amended to read as follows:

"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—

"(A) IN GENERAL.—A certification by the chief executive officer of the State that, during the fiscal year, the State will—

"(i) subject to subparagraph (B), consult with Indian tribes located within the State regarding the State plan in an effort to ensure equitable access to benefits or services provided under the plan for any member of such a tribe who is not eligible for assistance under a tribal family assistance plan approved under section 412; and

"(ii) provide each member of an Indian tribe, who is domiciled in the State and is not eligible for assistance under a tribal family assistance plan approved under section 412, with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government.

"(B) EXCEPTION.—Clause (i) of subparagraph (A) shall not apply to the State of Alaska.".

(ii) TRIBAL FAMILY ASSISTANCE PLAN REQUIREMENT.—Section 412(b)(1) (42 U.S.C. 612(b)(1)), as amended by subparagraph (A), is amended—

(I) in subparagraph (G), by striking "and" at the end;

(II) in subparagraph (H), by striking the period and inserting "; and"; and

(III) by adding at the end the following:

"(I) provides that the Indian tribe will consult with each State in which a service area of the plan is located on the operation of the plan and the provision of assistance or services to families under the plan.".

(C) AUTHORITY FOR CERTAIN TRIBES TO OPERATE A 6-YEAR PLAN.—Section 412(b) (42 U.S.C. 612(b)) is amended by adding at the end the following:

"(4) AUTHORITY FOR CERTAIN TRIBES TO OPERATE A 6-YEAR PLAN.—Notwithstanding paragraph (1), in the case of an Indian tribe that has operated an approved tribal family assistance plan for at least 9 years, the Secretary shall approve, at the request of such Indian tribe, a 6-year tribal family assistance plan submitted by such Indian tribe that otherwise satisfies the requirements of paragraph (1).".

(6) AREAS WITH HIGH JOBLESSNESS.—Section 408(a)(7)(D) (42 U.S.C. 608(a)(7)(D)) is amended—

(A) in the subparagraph heading, by striking "BY ADULT" and all that follows through "UNEMPLOYMENT" and inserting "IN AREAS OF INDIAN COUNTRY OR AN ALASKAN NATIVE VILLAGE WITH HIGH JOBLESSNESS"; and

(B) in clause (i)—

(i) by striking "In" and inserting "Subject to clauses (ii) and (iii), in"; and

(ii) by striking "50 percent" and all that follows through the period and inserting "20 percent of the adults who were living in Indian country were jobless.";

(C) by redesignating clause (ii) as clause (iv); and

(D) by inserting after clause (i), the following:

"(ii) ALASKAN NATIVE VILLAGE.—With respect to an Alaskan Native village, this subparagraph shall be applied—

"(I) in clause (i), by substituting '50 percent of the adults living in in the village were not employed' for '20 percent of the adults who were living in Indian country were jobless'; and

"(II) without regard to clause (iii).

"(iii) REQUIREMENT.—A month may only be disregarded under clause (i) with respect to an adult recipient described in that clause if the adult is in compliance with program requirements.".

(7) ADVISORY COMMITTEE ON THE STATUS OF INDIANS WHO DO NOT RESIDE IN INDIAN COUNTRY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall convene an advisory committee on the status of Indians who do not reside in Indian country (as defined in section 1151 of title 18, United States Code).

(B) DUTIES.—The committee established under clause (i) shall make recommendations regarding how to ensure that Indians who do not reside in Indian country (as so defined) receive appropriate assistance under the temporary assistance to needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other publicly funded assistance programs.

(C) MEMBERSHIP.—

(i) IN GENERAL.—The committee established under clause (i) shall include representatives of—

(I) Federal, State, and tribal governments; and

(II) Indians who do not reside in Indian country (as so defined).

(ii) MAJORITY.—A majority of the members of such committee shall be representatives of Indians who do not reside in Indian country (as so defined).

(8) GAO STUDY AND REPORT.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the demographics of Indians who do not—

(i) reside in Indian country (as defined in section 1151 of title 18, United States Code);

(ii) reside in Alaska; or

(iii) receive assistance under a tribal family assistance plan under section 412 of the Social Security Act (42 U.S.C. 612).

(B) REQUIREMENT.—The study conducted under subparagraph (A) shall include economic and health information regarding the Indians described in that paragraph, as well as information regarding the access of all Indians to benefits or services available under non-tribal publicly funded programs serving low-income families.

(C) REPORT.—Not later than June 30, 2005, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

(b) AUTHORITY OF INDIAN TRIBES TO RECEIVE FEDERAL FUNDS FOR FOSTER CARE AND ADOPTION ASSISTANCE.—

(1) CHILDREN PLACED IN TRIBAL CUSTODY ELIGIBLE FOR FOSTER CARE FUNDING.—Section 472(a)(2) (42 U.S.C. 672(a)(2)) is amended—

(A) by striking "or (B)" and inserting "(B)"; and

(B) by inserting before the semicolon the following: ", or (C) an Indian tribe or tribal organization (as defined in section 479B(e)) or an intertribal consortium if the Indian tribe, tribal organization, or consortium is not operating a program pursuant to section 479B and (i) has a cooperative agreement with a State pursuant to section 479B(c) or (ii) submits to the Secretary a description of the arrangements (jointly developed or developed in consultation with the State) made by the Indian tribe, tribal organization, or consortium for the payment of funds and the provision of the child welfare services and protections required by this title".

(2) PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.—Part E of title IV (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

"SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.

"(a) APPLICATION.—Except as provided in subsection (b), this part shall apply to an Indian tribe or tribal organization that elects to operate a program under this part in the same manner as this part applies to a State.

"(b) MODIFICATION OF PLAN REQUIREMENTS.—

"(1) SERVICE AREA; STANDARDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), in the case of an Indian tribe or tribal organization submitting a plan for approval under section 471, the plan shall—

"(i) in lieu of the requirement of section 471(a)(3), identify the service area or areas and population to be served by the Indian tribe or tribal organization; and

"(ii) in lieu of the requirement of section 471(a)(10), provide for the approval of foster homes pursuant to tribal standards and in a manner that ensures the safety of, and accountability for, children placed in foster care.

"(B) SPECIAL RULE.—With respect to an Indian tribe located in the State of Alaska—

"(i) clause (ii) of subparagraph (A) shall not apply; and

"(ii) the requirement of section 471(a)(10) shall apply to a plan submitted by such tribe.

"(2) DETERMINATION OF FEDERAL SHARE.—

"(A) PER CAPITA INCOME.—

"(i) IN GENERAL.—For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe or tribal organization under paragraphs (1) and (2) of section 474(a), the calculation of an Indian tribe's or tribal organization's per capita income shall be based upon the service population of the Indian tribe or tribal organization as defined in its plan in accordance with paragraph (1)(A).

"(ii) CONSIDERATION OF OTHER INFORMATION.—An Indian tribe or tribal organization may submit to the Secretary such information as the Indian tribe or tribal organization considers relevant to the calculation of the per capita income of the Indian tribe or tribal organization, and the Secretary shall consider such information before making the calculation.

"(B) ADMINISTRATIVE EXPENDITURES.—The Secretary shall, by regulation, determine the proportions to be paid to Indian tribes and tribal organizations pursuant to section 474(a)(3), except that in no case shall an Indian tribe or tribal organization receive a lesser proportion than the corresponding amount specified for a State in that section.

"(C) SOURCES OF NON-FEDERAL SHARE.—An Indian tribe or tribal organization may use Federal or State funds to match payments for which the Indian tribe or tribal organization is eligible under section 474.

"(3) MODIFICATION OF OTHER REQUIREMENTS.—Upon the request of an Indian tribe, tribal organization, or a consortia of tribes or tribal organizations, the Secretary may modify any requirement under this part if, after consulting with the Indian tribe, tribal organization, or consortia of tribes or tribal organizations, the Secretary determines that modification of the requirement would advance the best interests and the safety of children served by the Indian tribe, tribal organization, or consortia of tribes or tribal organizations.

"(4) CONSORTIUM.—The participating Indian tribes or tribal organizations of an intertribal consortium may develop and submit a single plan under section 471 that meets the requirements of this section.

"(c) COOPERATIVE AGREEMENTS.—An Indian tribe, tribal organization, or intertribal consortium and a State may enter into a cooperative agreement for the administration or payment of funds pursuant to this part. In any case where an Indian tribe, tribal organization, or intertribal consortium and a State enter into a cooperative agreement that incorporates any of the provisions of this section, those provisions shall be valid and enforceable. Any such cooperative agreement that is in effect as of the date of enactment of this section, shall remain in full force and effect subject to the right of either party to the agreement to revoke or modify the agreement pursuant to the terms of the agreement.

"(d) Regulations.—Not later than 1 year after the date of enactment of this section, the Secretary shall, in full consultation with Indian tribes and tribal organizations, promulgate regulations to carry out this section.

"(e) Definitions of Indian Tribe; Tribal Organizations.—In this section, the terms 'Indian tribe' and 'tribal organization' have the meanings given those terms in subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), respectively, except that, with respect to the State of Alaska, the term 'Indian tribe' has the meaning given that term in section 419(4)(B).".

(3) Effective date.—The amendments made by this subsection take effect on October 1, 2005, without regard to whether regulations to implement such amendments have been promulgated as of such date.

(c) Break the Cycle Demonstration Grants.—

(1) Authority to award grants.—

(A) In general.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall award grants to up to 10 Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) to carry out the activities described in paragraph (2).

(B) Application.—An Indian tribe desiring a grant under this subsection shall submit—

(i) an application to the Secretary of Health and Human Services, at such time, in such manner, and containing such information as the Secretary may require; and

(ii) a plan outlining how the tribe intends to use funds made available under the grant to carry out activities described in paragraph (2) to help children of Indian families receiving assistance under the temporary assistance to needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (in this subsection referred to as "TANF") obtain a secondary school diploma or its recognized equivalent.

(C) Criteria for awarding grants.—

(i) Consultation with Indian tribes.—The Secretary of Health and Human Services shall consult with Indian tribes regarding the establishment of criteria for awarding grants under this subsection.

(ii) Priority.—The criteria established under clause (i) shall require the Secretary of Health and Human Services to give priority to awarding grants to those Indian tribes applying that have the highest percentages of individuals that have not obtained a secondary school diploma or its recognized equivalent.

(D) State partnerships.—An Indian tribe awarded a grant under this subsection may enter into a partnership with a State, a local educational agency, or a private elementary or secondary school to carry out the activities described in paragraph (2).

(E) Definition of child.—In this subsection, the term "child" means an individual who has not attained age 21.

(2) Activities described.—The activities described in this paragraph include—

(A) mentoring activities;

(B) tutoring activities;

(C) adjusting requirements applicable to the child or family under TANF;

(D) teen pregnancy prevention activities; and

(E) any other activities approved by the Secretary of Health and Human Services that are related to achieving the purpose described in paragraph (1)(B)(ii).

(3) Evaluation and report.—

(A) In general.—Of the amount appropriated under paragraph (4) for fiscal year 2006, $1,000,000 shall be reserved by the Secretary of Health and Human Services for the purpose of conducting, through grant, contract, or interagency agreement, an evaluation of the activities carried out under grants awarded under this subsection.

(B) Report.—The Secretary of Health and Human Services shall submit a report to Congress on the evaluation conducted under subparagraph (A).

(4) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Health and Human Services to carry out this subsection, $20,000,000 for each of fiscal years 2006 through 2009.

SA 2973. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, between lines 9 and 10, insert the following:

(g) Work Activities.—

(1) In general.—Section 407(d) (42 U.S.C. 607(d)) is amended—

(A) in paragraph (11), by striking "and" at the end:

(B) in paragraph (12), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(13) marriage education, marriage skills training, conflict resolution counseling in the context of marriage, and participation in programs that promote marriage.".

(2) Conforming amendment.—Section 407(c)(1)(B) (42 U.S.C. 607(c)(1)(B)), as amended by subsection (f), is amended by striking "or (11)" and inserting "(11), or (13)".

SA 2974. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, between lines 9 and 10, insert the following:

(g) Sense of the Senate.—

(1) Findings.—The Senate makes the following findings:

(A) Under current law in the temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (in this subsection referred to as "TANF"), a single parent with a child under age 6 must participate in work-related activities for at least 20 hours a week to count toward program participation rates. Other single parents must participate for at least 30 hours a week in order to count toward participation rates.

(B) Under current program rules, States have been very successful in increasing employment among families receiving welfare. Between 1994 and 2002, the nation's caseload fell from 5,000,000 to 2,000,000 families and most families that left welfare and are employed work full-time jobs.

(C) The Department of Health and Human Services reports that according to Census Bureau data, the employment rate among single mothers with children rose from 57 percent in 1994 to 70 percent in 2000. For single mothers with children under age 6, employment increased from 46 percent in 1994 to 64.5 percent in 2000. Employment rates among single mothers now exceed the rates of married mothers. While some of these employment gains have been lost during the recent period of labor market weakness, a significantly higher proportion of single mothers are employed today than in the mid-1990s.

(D) The design of the TANF block grant is intended to provide States with broad flexibility to decide how to further the employment and other goals of the program. States are free to set required hours of participation above the level that counts toward Federal participation rates, and some States have chosen to do so.

(E) The PRIDE Act increases the hours a recipient must participate in work activities to fully count toward the State's work participation rates from 20 hours a week to 24 hours a week for single parents of children under 6, and from 30 hours a week to 34 hours a week for other single parent families.

(F) There is no evidence that increasing the required hours of participation above those in the PRIDE Act would lead to States running better programs, or would lead to more families becoming employed. However, increasing the required hours of participation would add to program and child care costs. Most families receiving assistance (54 percent) have a child under the age of 6. Increasing child care costs for these families would force States to redirect resources that could be used to help other families get and keep jobs.

(G) The decision about whether to further increase the number of hours of participation for families above the levels set in the PRIDE Act is best left to State legislatures and Governors.

(2) Sense of the senate.—It is the sense of the Senate that any conference report or legislation enacted into law that reauthorizes TANF—

(A) should not increase hours of required program participation for families beyond the hours specified in the PRIDE Act; and

(B) should provide States with the flexibility they need in determining appropriate hours of program participation for families with young children to ensure that program requirements are consistent with family responsibilities and available resources.

SA 2975. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 184, strike line 6 and all that follows through page 185, line 4, and insert the following:

(c) Limitation on Reduction of Participation Rate Through Application of Credits.—

(1) IN GENERAL.—Section 407(a) (42 U.S.C. 607(b)), as amended by subsection (b), is amended by adding at the end the following:

"(2) LIMITATION ON REDUCTION OF PARTICIPATION RATE THROUGH APPLICATION OF CREDITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the net effect of any percentage reduction in the minimum participation rate otherwise required under this section with respect to families receiving assistance under the State program funded under this part as a result of the application of any employment credit, caseload reduction credit, or other credit against such rate for a fiscal year, shall not exceed—

"(i) 40 percentage points, in the case of fiscal year 2004;

"(ii) 35 percentage points, in the case of fiscal year 2005;

"(iii) 30 percentage points, in the case of fiscal year 2006;

"(iv) 25 percentage points, in the case of fiscal year 2007; or

"(v) 20 percentage points, in the case of fiscal year 2008 or any fiscal year thereafter.

"(B) NONAPPLICATION TO GOOD JOBS BONUS UNDER THE EMPLOYMENT CREDIT.—With respect to the number of percentage points of the employment credit for a State for a fiscal year that is attributable to clause (iv) of subsection (b)(2)(B) (relating to special rule for former recipients with higher earnings)—

"(i) the limitation under subparagraph (A) on the percentage reduction in the minimum participation rate with respect to families receiving assistance under the State program funded under this part for a fiscal year shall be applied without regard to such number of percentage points; and

"(ii) the minimum participation rate otherwise required under this section for the State for such fiscal year shall be reduced by such number of percentage points.".

(2) TECHNICAL AMENDMENT.—Clause (iv) of section 407(b)(2)(B) (42 U.S.C. 607(b)(2)(B)), as amended by subsection (d), is amended by striking "33" and inserting "42".

SA 2976. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . YOUTH PREGNANCY PREVENTION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399O. YOUTH PREGNANCY PREVENTION.

"(a) AT-RISK TEEN PREGNANCY PREVENTION GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out teenage pregnancy prevention activities that are targeted at areas with large ethnic minorities and other youth at-risk of becoming pregnant.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

"(A) be a State or local government or a private nonprofit entity; and

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) ELIGIBLE ACTIVITIES.—Activities carried out under a grant under this subsection may include—

"(A) youth development for adolescents;

"(B) work-related interventions and other educational activities;

"(C) parental involvement;

"(D) teenage outreach; and

"(E) clinical services.

"(b) MULTIMEDIA PUBLIC AWARENESS AND OUTREACH GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to establish multimedia public awareness campaigns to combat teenage pregnancy.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

"(A) be a State government or a private nonprofit entity; and

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) ACTIVITIES.—The purpose of the campaigns established under a grant under paragraph (1) shall be to prevent teenage pregnancy through the use of advertising using television, radio, print media, billboards, posters, the Internet, and other methods determined appropriate by the Secretary.

"(4) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that express an intention to carry out activities that target ethnic minorities and other at-risk youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out subsection (a), $30,000,000 for each of fiscal years 2005 through 2009; and

"(2) to carry out subsection (b), $20,000,000 for each of fiscal years 2005 through 2009.".

SA 2977. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 355, lines 1 and 2, strike ", and to any proposals to amend such projects, that are approved or extended" and insert "that are approved".

SA 2978. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE CONCERNING THE POVERTY LINE.

(a) FINDINGS.—The Senate finds that—

(1) the official United States poverty line is used in determining eligibility for many Federal and State public assistance programs and in determining the allocation of Federal funds to States and localities;

(2) the official poverty line is based on the cost of a minimum diet of an average family in 1955 multiplied by three to allow for expenditures on other goods and services and is adjusted each year for estimated price changes;

(3) the current measure of the poverty line has remained virtually unchanged over the past 40 years, yet during that time, there have been marked changes in the nation's economy and society and in public policies that have affected families' economic wellbeing;

(4) in 1990 Congress commissioned a study by the National Academy of Sciences/National Research Council to provide a basis for a possible revision of the poverty measure;

(5) in 1995 the National Research Council released a report that called for the Office of Management and Budget to revise the measure of poverty used by the Federal Government, citing that the current measure no longer provides an accurate picture of the differences in the extent of economic poverty among population groups or geographic areas of the country;

(6) the National Research Council proposed that the new poverty measure be based on costs comprised within a basic family budget including food, clothing, shelter, utilities, and a small additional amount to allow for other needs;

(7) while the current poverty measure counts only pre-tax income, the National Research Council proposed that the new poverty measure count disposable after-tax income, including in-kind benefits and deducting expenses such as child care and out-of-pocket medical costs;

(8) while the current poverty measure is the same for all areas of the country, the National Research Council proposed that the new poverty measure be adjusted for geographic differences in the cost of living;

(9) Federal agencies, including the Census Bureau, have carried out substantial research to evaluate and determine the feasibility of implementing the recommendations in the National Research Council's report; and

(10) the Census Bureau publishes alternative measures of poverty that incorporate many of the recommendations of the National Research Council.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the improvement of the current measure of income poverty is an important goal;

(2) the Office of Management and Budget, in consultation with the National Research Council and other related agencies, should work to implement an improved poverty measure as expeditiously as possible;

(3) any action taken by the Office of Management and Budget to implement an improved poverty measure should be cognizant of the recommendations and review provided by the National Research Council; and

(4) before taking action to implement a new poverty measure, the Office of Management and Budget should consider the impact of alternative poverty measures on federally funded programs.

SA 2979. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 154, between lines 10 and 11, insert the following:

"(viii)(I) Programs that offer individuals and families with multiple barriers to economic self-sufficiency and stability services that include community-based comprehensive, family development services provided by local organizations that have demonstrated experience and success in administering similar initiatives that encourage the formation and maintenance of healthy and economically self-sufficient families.

"(II) Programs under clause (I) shall provide a mix of comprehensive services and supports that further develop the capability of low-income parents to financially and emotionally support their children by caring for their children independently or in the context of mutually respectful, non-violent, and voluntary co-parenting relationships, securing and maintaining employment and child care, fulfilling other basic needs such as housing, hunger, mental health and health care, adopting appropriate approaches to income enhancement, and meeting child support obligations, linkages to community resources and other skills that will lead to greater family stability (including programs that replicate or adapt the Iowa Family Development and Self-Sufficiency Program).

"(III) The Secretary shall give preference in making awards under this paragraph to programs described in this clause."

SA 2980. Mr. ALEXANDER (for himself, Mr. VOINOVICH, Mr. NELSON of Nebraska, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 253, between lines 6 and 7, insert the following:

(d) DEMONSTRATION PROJECTS TO ACHIEVE BETTER RESULTS THROUGH GREATER FLEXIBILITY.—Section 413 (42 U.S.C. 613), as amended by subsection (a), is amended by adding at the end the following:

"(m) DEMONSTRATION PROJECTS TO ACHIEVE BETTER RESULTS THROUGH GREATER FLEXIBILITY.—

"(1) PURPOSE.—The purpose of this subsection is to allow up to 10 States to conduct a demonstration project to test the premise that a State program funded under this part can achieve better results, helping people achieve true self-sufficiency, if the State is given greater flexibility to best meet individual needs, and to test ways to improve coordination of the State program funded under this part with activities funded under the Workforce Investment Act of 1998.

"(2) REQUIREMENTS FOR PARTICIPATION.—

"(A) IN GENERAL.—In order to be selected to conduct a demonstration project under this subsection, a State shall submit an application to the Secretary that—

"(i) describes how the State will ensure that all adult recipients of assistance under the State program funded under this part have a self-sufficiency, employment plan that satisfies the requirements of section 408(b);

"(ii) contains an assurance that, if selected to conduct the demonstration project, the State shall agree to enter into a performance agreement with the Secretary that—

"(I) includes targets for increasing the State's performance above a baseline level, as determined under subparagraph (C), on 1 or more State-defined outcomes measures for each of the areas described in subparagraph (B); and

"(II) requires, in the case of a State that fails to meet the agreed upon performance targets, the State, at the discretion of the Secretary, to carry out one or more of the following—

"(aa) enter into a corrective compliance plan with the Secretary;

"(bb) renegotiate the performance targets with the Secretary; or

"(cc) terminate the demonstration project;

"(iii) contains an assurance that the State will arrange for an evaluation of the demonstration project to determine if the State is able to achieve improved employment outcomes for the families of the adult recipients participating in the demonstration project; and

"(iv) contains such other information or assurances as the Secretary may require.

"(B) AREAS DESCRIBED.—For purposes of subparagraph (A)(ii), the areas described in this subparagraph are the following:

"(i) Employment.

"(ii) Success in activities designed to improve employment and related outcomes.

"(iii) Job retention.

"(iv) Entry earnings and earnings gains.

"(v) Child well-being.

"(C) DETERMINATION OF BASELINE PERFORMANCE LEVELS.—The State shall negotiate with the Secretary a mechanism for measuring baseline performance levels for purposes of subparagraph (A)(ii)(I). Such baseline levels may be calculated during the initial year of the project or may be calculated based on data from years immediately prior to the commencement of the project.

"(3) MODIFICATIONS OF REQUIREMENTS OF THIS PART.—In the case of a State selected to conduct a demonstration project under this subsection, the State must be able to demonstrate to the Secretary that a reasonable share of adult recipients are participating in welfare to work activities and that moving from welfare to work is central to the project, consistent with the purpose of the project, which is to achieve the targets defined as outcome measures described in clauses (i) through (v) of paragraph (2)(B). If the Secretary is provided with the assurances described in the preceding sentence, the Secretary shall waive such requirements of subsections (a) through (d) of section 407 as determined to be necessary for the State to conduct such project.

"(4) STATEWIDE OR SUB-STATE DEMONSTRATION PROJECTS.—The Secretary may approve a demonstration project under this subsection to be conducted on a statewide or sub-State basis. In the case of a State that is approved to conduct a sub-State demonstration project, the Secretary shall determine the minimum participation rate for the State under section 407 without regard to the sub-State area in which the demonstration project is conducted.

"(5) APPROVAL OF APPLICATIONS.—

"(A) VARIETY OF SITES.—In selecting States to conduct demonstration projects under this subsection, the Secretary shall, to the extent practicable, select States that will result in demonstration projects being conducted in a geographic variety of States and sub-State areas.

"(B) COORDINATION WITH WORKFORCE INVESTMENT ACT.—The Secretary shall ensure that at least 2 of the demonstration projects approved under this subsection include assurances that the State will improve coordination of the State program funded under this part with activities funded under the Workforce Investment Act of 1998.

"(C) STRENGTH OF EVALUATION.—In selecting States to conduct demonstration projects under this subsection, the Secretary shall consider the strength and rigor of the research designs that States propose to use in conducting evaluations of such demonstration projects.

"(D) LENGTH OF PROJECTS.—A demonstration project approved under this subsection—

"(i) shall be conducted for an initial period of not more than 5 years; and

"(ii) may be renewed for an additional period of not more than 5 years.

"(6) REPORTS.—

"(A) INITIAL REPORT.—Not later than the end of the fourth year in which demonstration projects are conducted under this subsection, the Secretary shall submit a report to Congress on the progress of the demonstration projects in achieving the results described in paragraph (1). Such report shall contain data sufficient to enable demonstration project results to be taken into consideration by Congress in the reauthorization of the program under this part.

"(B) FINAL REPORT.—Not later than 1 year after the date on which the initial period of the demonstration projects expires (as provided for in paragraph (5)(B)(i)), the Secretary shall submit a final report to Congress concerning the results of such demonstration projects.

"(C) OTHER REPORTING REQUIREMENTS.—The Secretary and the State shall work out mechanisms to satisfy other reporting requirements that may be necessary.".

SA 2981. Mr. ALEXANDER (for himself, Ms. SNOWE, Ms. COLLINS, Mr. BREAUX, Mr. BAYH, Mr. CARPER, Ms. LANDRIEU, Mrs. CLINTON, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 253, between lines 6 and 7, insert the following:

(d) TEEN PREGNANCY PREVENTION RESOURCE CENTER.—Section 413 (42 U.S.C. 613), as amended by subsection (a), is amended by adding at the end the following:

"(m) TEEN PREGNANCY PREVENTION RESOURCE CENTER.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary shall make a grant to a nationally recognized, nonpartisan, nonprofit organization that meets the requirements described in subparagraph (B) to establish and operate a national teen pregnancy prevention resource center (in this subsection referred to as the 'Resource Center') to carry out the purpose and activities described in paragraph (2).

"(B) REQUIREMENTS.—The requirements described in this subparagraph are the following:

"(i) The organization has at least 7 years of experience in working with diverse sectors of society to reduce teen pregnancy.

"(ii) The organization has a demonstrated ability to work with and provide assistance to a broad range of individuals and entities, including teens, parents, the entertainment and news media, State, tribal, and local organizations, networks of teen pregnancy prevention practitioners, businesses, faith and community leaders, and researchers.

"(iii) The organization is research-based and has capabilities in scientific analysis and evaluation.

"(iv) The organization has comprehensive knowledge and data about teen pregnancy prevention strategies.

"(v) The organization has experience operating a resource center that carries out activities similar to the activities described in paragraph (2)(B).

"(2) Purposes and activities.—

"(A) Purposes.—The purposes of the Resource Center are to improve the well-being of children and families and encourage young people to delay pregnancy until marriage. Specifically, the Resource Center shall—

"(i) provide information and technical assistance to States, Indian tribes, local communities, and other public or private organizations seeking to reduce rates of teen pregnancy;

"(ii) support parents in their essential role in preventing teen pregnancy by equipping them with information and resources to promote and strengthen communication with their children about sex, values, and healthy relationships, including marriage; and

"(iii) assist the entertainment media industry by providing information and by helping that industry develop content and messages for teens and adults that can help prevent teen pregnancy.

"(B) Activities.—The Resource Center shall carry out the purposes described in subparagraph (A) through the following activities:

"(i) Synthesizing and disseminating research and information regarding effective and promising practices, and providing information on how to design and implement effective programs to prevent teen pregnancy.

"(ii) Providing information and reaching out to diverse populations, with particular attention to areas and populations with the highest rates of teen pregnancy.

"(iii) Helping States, local communities, and other organizations increase their knowledge of existing resources that can be used to advance teen pregnancy prevention efforts, and build their capacity to access such resources and develop partnerships with other programs and funding streams.

"(iv) Raising awareness of the important of increasing the proportion of children born to, and raised in, healthy, adult marriages.

"(v) Linking organizations working to reduce teen pregnancy with experts and peer groups, including the creation of technical assistance networks.

"(vi) Providing consultation and resources about how to reduce teen pregnancy to various sectors of society such as parents, other adults (such as teachers, coaches, and mentors), community and faith-based groups, the entertainment and news media, businesses, and teens themselves, through a broad array of strategies and messages, including a focus on abstinence, responsible behavior, family communication, relationships, and values.

"(vii) Assisting organizations seeking to reduce teen pregnancy in their efforts to work with all forms of media and to reach a variety of audiences (including teens, parents, and ethnically diverse groups) to communicate effective messages about preventing teen pregnancy.

"(viii) Providing resources for parents and other adults that help to foster strong relationships with children, which has been proven effective in reducing sexual activity and teen pregnancy, including online access to research, parent guides, tips, and alerts about upcoming opportunities to use the entertainment media as a discussion starter.

"(ix) Working directly with individuals and organizations in the entertainment industry to provide consultation and serve as a source of factual information on issues related to teen pregnancy prevention.

"(3) Collaboration with other organizations.—The organization operating the Resource Center shall collaborate with other organizations that have expertise and interest in teen pregnancy prevention, and that can help reach out to diverse audiences.

"(4) Funding.—

"(A) Appropriation.—Out of any money in the Treasury of the United States not otherwise appropriated, there is appropriated to carry out this subsection, $5,000,000 for fiscal year 2005. Funds appropriated under this subparagraph shall remain available for expenditure through fiscal year 2007.

"(B) Authorization of appropriations.—There are authorized to be appropriated to the Secretary to carry out this subsection, $3,000,000 for fiscal year 2007 and each fiscal year thereafter.".

SA 2982. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INCLUSION OF PRIMARY AND SECONDARY PREVENTATIVE MEDICAL STRATEGIES FOR CHILDREN AND ADULTS WITH SICKLE CELL DISEASE AS MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM.

(a) In General.—Section 1905 (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (26);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26), the following:

"(27) subject to subsection (x), primary and secondary preventative medical strategies, including prophylaxes, and treatment and services for individuals who have Sickle Cell Disease; and"; and

(2) by adding at the end the following:

"(x) For purposes of subsection (a)(27), the strategies, treatment, and services described in that subsection include the following:

"(1) Chronic blood transfusion (with deferoxamine chelation) to prevent stroke in individuals with Sickle Cell Disease who have been identified as being at high risk for stroke.

"(2) Genetic counseling and testing for individuals with Sickle Cell Disease or the sickle cell trait.

"(3) Other treatment and services to prevent individuals who have Sickle Cell Disease and who have had a stroke from having another stroke.".

(b) Federal Reimbursement for Education and Other Services Related to the Prevention and Treatment of Sickle Cell Disease.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (D), by striking "plus" at the end and inserting "and"; and

(2) by adding at the end the following:

"(E) 50 percent of the sums expended with respect to costs incurred during such quarter as are attributable to providing—

"(i) services to identify and educate individuals who have Sickle Cell Disease or who are carriers of the sickle cell gene, including education regarding how to identify such individuals; or

"(ii) education regarding the risks of stroke and other complications, as well as the prevention of stroke and other complications, in individuals who have Sickle Cell Disease; plus".

(c) Demonstration Program for the Development and Establishment of Systemic Mechanisms for the Prevention and Treatment of Sickle Cell Disease.—

(1) Authority to conduct demonstration program.—

(A) In general.—The Administrator, through the Bureau of Primary Health Care and the Maternal and Child Health Bureau, shall conduct a demonstration program by making grants to up to 40 eligible entities for each fiscal year in which the program is conducted under this section for the purpose of developing and establishing systemic mechanisms to improve the prevention and treatment of Sickle Cell Disease, including through—

(i) the coordination of service delivery for individuals with Sickle Cell Disease;

(ii) genetic counseling and testing;

(iii) bundling of technical services related to the prevention and treatment of Sickle Cell Disease;

(iv) training of health professionals; and

(v) identifying and establishing other efforts related to the expansion and coordination of education, treatment, and continuity of care programs for individuals with Sickle Cell Disease.

(B) Grant award requirements.—

(i) Geographic diversity.—The Administrator shall, to the extent practicable, award grants under this section to eligible entities located in different regions of the United States.

(ii) Priority.—In awarding grants under this subsection, the Administrator shall give priority to awarding grants to eligible entities that are—

(I) Federally-qualified health centers that have a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health; or

(II) Federally-qualified health centers that intend to develop a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health.

(2) Additional requirements.—An eligible entity awarded a grant under this subsection shall use funds made available under the grant to carry out, in addition to the activities described in paragraph (1)(A), the following activities:

(A) To facilitate and coordinate the delivery of education, treatment, and continuity of care for individuals with Sickle Cell Disease under—

(i) the entity's collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity that works with individuals who have Sickle Cell Disease;

(ii) the Sickle Cell Disease newborn screening program for the State in which the entity is located; and

(iii) the maternal and child health program under title V of the Social Security Act (42 U.S.C. 701 et seq.) for the State in which the entity is located.

(B) To train nursing and other health staff who specialize in pediatrics, obstetrics, internal medicine, or family practice to provide health care and genetic counseling for individuals with the sickle cell trait.

(C) To enter into a partnership with adult or pediatric hematologists in the region and other regional experts in Sickle Cell Disease at tertiary and academic health centers and State and county health offices.

(D) To identify and secure resources for ensuring reimbursement under the medicaid program, State children's health insurance program, and other health programs for the prevention and treatment of Sickle Cell Disease, including the genetic testing of parents or other appropriate relatives of children with Sickle Cell Disease and of adults with Sickle Cell Disease.

(3) NATIONAL COORDINATING CENTER.—

(A) ESTABLISHMENT.—The Administrator shall enter into a contract with an entity to serve as the National Coordinating Center for the demonstration program conducted under this subsection.

(B) ACTIVITIES DESCRIBED.—The National Coordinating Center shall—

(i) collect, coordinate, monitor, and distribute data, best practices, and findings regarding the activities funded under grants made to eligible entities under the demonstration program;

(ii) develop a model protocol for eligible entities with respect to the prevention and treatment of Sickle Cell Disease;

(iii) develop educational materials regarding the prevention and treatment of Sickle Cell Disease; and

(iv) prepare and submit to Congress a final report that includes recommendations regarding the effectiveness of the demonstration program conducted under this subsection and such direct outcome measures as—

(I) the number and type of health care resources utilized (such as emergency room visits, hospital visits, length of stay, and physician visits for individuals with Sickle Cell Disease); and

(II) the number of individuals that were tested and subsequently received genetic counseling for the sickle cell trait.

(4) APPLICATION.—An eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

(5) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Health Resources and Services Administration.

(B) ELIGIBLE ENTITY.—The term "eligible entity" means a Federally-qualified health center, a nonprofit hospital or clinic, or a university health center that provides primary health care, that—

(i) has a collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity with experience in working with individuals who have Sickle Cell Disease; and

(ii) demonstrates to the Administrator that either the Federally-qualified health center, the nonprofit hospital or clinic, the university health center, the organization or entity described in clause (i), or the experts described in paragraph (2)(C), has at least 5 years of experience in working with individuals who have Sickle Cell Disease.

(C) FEDERALLY-QUALIFIED HEALTH CENTER.—The term "Federally-qualified health center" has the meaning given that term in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)).

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $10,000,000 for each of fiscal years 2005 through 2009.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect on the date of enactment of this Act and apply to medical assistance and services provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date.

SA 2983. Mr. BIDEN (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___02. ENHANCED ASSISTANCE FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—At the request of a State, Indian tribal government, or unit of local government, the Attorney General shall provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State or Indian tribe; and

(3) is committed against a person under 18 years of age.

(b) PRIORITY.—If the Attorney General determines that there are insufficient resources to fulfill requests made pursuant to subsection (a), the Attorney General shall give priority to requests for assistance to—

(1) crimes committed by, or believed to be committed by, offenders who have committed crimes in more than 1 State; and

(2) rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 2004 through 2008.

SA 2984. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate section, insert the following:

SEC. . FINDINGS.

Congress makes the following findings:

(1) Research shows that caring adults can make a difference in children's lives. Forty five percent of mentored teens are less likely to use drugs. Fifty nine percent of mentored teens have better academic performance. Seventy three percent of mentored teens achieve higher goals generally.

(2) Children that have mentors have better relationships with adults, fewer disciplinary referrals, and more confidence to achieve their goals.

(3) In 2001, over 163,000 children in the foster care system were under the age of 5 years.

(4) In 2001, over 124,000 children were under the age of 10 when they were removed from their parents or caretakers.

(5) The International Day of the Child, sponsored by Children United Nations, has served as a great tool to recruit mentors and partner them with needy foster care children.

(6) On November 10, 2002, as many as 3,000 children will be matched with mentors as a result of the International Day of the Child.

(7) States should be encouraged to incorporate mentor programs into the delivery of their foster care services. The State of California serves as a great example, matching close to half a million mentors with needy children.

(8) Mentor programs that serve foster children are unique and require additional considerations including specialized training and support necessary to provide for consistent, long term relationships for children in care.

(9) Mentor programs are cost-effective approaches to decreasing the occurrence of so many social ills such as teen pregnancy, substance abuse, incarceration and violence.

SEC. . PROGRAMS FOR MENTORING CHILDREN IN FOSTER CARE.

Subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629 et seq.) is amended by adding at the end the following:

"SEC. 440. PROGRAMS FOR MENTORING CHILDREN IN FOSTER CARE.

"(a) PURPOSE.—It is the purpose of this section to authorize the Secretary to make grants to eligible applicants to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

"(b) DEFINITIONS.—In this section:

"(1) CHILDREN IN FOSTER CARE.—The term 'children in foster care' means children who have been removed from the custody of their biological or adoptive parents by a State child welfare agency.

"(2) MENTORING.—The term 'mentoring' means a structured, managed program in which children are appropriately matched with screened and trained adult volunteers for one-on-one relationships, that involves meetings and activities on a regular basis, and that is intended to meet, in part, the child's need for involvement with a caring and supportive adult who provides a positive role model.

"(3) POLITICAL SUBDIVISION.—The term 'political subdivision' means a local jurisdiction below the level of the State government, including a county, parish, borough, or city.

"(c) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a program to award grants to States to support the establishment or expansion and operation of programs using networks of public and private community entities to provide mentoring for children in foster care.

"(2) GRANTS TO POLITICAL SUBDIVISIONS.—The Secretary may award a grant under this subsection directly to a political subdivision if the subdivision serves a substantial number of foster care youth (as determined by the Secretary).

"(3) APPLICATION REQUIREMENTS.—To be eligible for a grant under paragraph (1), the chief executive officer of the State or political subdivision shall submit to the Secretary an application containing the following:

"(A) PROGRAM DESIGN.—A description of the proposed program to be carried out using amounts provided under this grant, including—

"(i) a list of local public and private organizations and entities that will participate in the mentoring network;

"(ii) the name, description, and qualifications of the entity that will coordinate and oversee the activities of the mentoring network;

“(iii) the number of mentor-child matches proposed to be established and maintained annually under the program;

“(iv) such information as the Secretary may require concerning the methods to be used to recruit, screen support, and oversee individuals participating as mentors, (which methods shall include criminal background checks on the individuals), and to evaluate outcomes for participating children, including information necessary to demonstrate compliance with requirements established by the Secretary for the program; and

“(v) such other information as the Secretary may require.

“(B) Training.—An assurance that all mentors covered under the program will receive intensive and ongoing training in the following areas:

“(i) Child Development, including the importance of bonding.

“(ii) Family dynamics, including the effects of domestic violence.

“(iii) Foster care system, principles, and practices.

“(iv) Recognizing and reporting child abuse and neglect.

“(v) Confidentiality requirements for working with children in care.

“(vi) Working in coordination with the public school system.

“(vii) Other matters related to working with children in care.

“(C) Screening.—An assurance that all mentors covered under the program are appropriately screened and have demonstrated a willingness to comply with all aspects of the mentor program, including—

“(i) a description of the methods to be used to conduct criminal background checks on all prospective mentors; and

“(ii) a description of the methods to be used to ensure that the mentors are willing and able to serve as a mentor on a long term, consistent basis.

“(D) Educational requirements.—An assurance that all mentors recruited to serve as academic mentors will—

“(i) have a high school diploma or its equivalent; and

“(ii) have completed at least 1 year of study in a program leading to a graduate or post graduate degree.

“(E) Community consultation; coordination with other programs.—A demonstration that, in developing and implementing the program, the State or political subdivision will, to the extent feasible and appropriate—

“(i) consult with public and private community entities, including religious organizations, and including, as appropriate, Indian tribal organizations and urban Indian organizations, and with family members of potential clients;

“(ii) coordinate the programs and activities under the program with other Federal, State, and local programs serving children and youth; and

“(iii) consult and coordinate with appropriate Federal, State, and local corrections, workforce development, and substance abuse and mental health agencies.

“(F) Equal access for local service providers.—An assurance that public and private entities and community organizations, including religious organizations and Indian organizations, will be eligible to participate on an equal basis.

“(G) Records, reports, and audits.—An agreement that the State or political subdivision will maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may find necessary for purposes of oversight of project activities and expenditures.

“(H) Evaluation.—An agreement that the State or political subdivision will cooperate fully with the Secretary's ongoing and final evaluation of the program under the plan, by means including providing the Secretary access to the program and program-related records and documents, staff, and grantees receiving funding under the plan.

“(4) Federal share.—

“(A) In general.—A grant for a program under this subsection shall be available to pay a percentage share of the costs of the program up to 75 percent for each year for which the grant is awarded.

“(B) Non-federal share.—The non-Federal share of the cost of projects under this subsection may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

“(5) Considerations in awarding grants.—In awarding grants under this subsection, the Secretary shall take into consideration—

“(A) the overall qualifications and capacity of the State or political subdivision program and its partners to effectively carry out a mentoring program under this subsection;

“(B) the level and quality of training provided to mentors under the program;

“(C) evidence of coordination of the program with the State's or political subdivision's social services and education programs;

“(D) the ability of the State or political subdivision to provide supervision and support for mentors under the program and the youth served by such mentors;

“(E) evidence of consultation with institutes of higher learning;

“(F) the number of children in care served by the State or political subdivision; and

“(G) any other factors that the Secretary determines to be significant with respect to the need for or the potential success of carrying out a mentoring program under this subsection.

“(6) Use of funds.—Of the amount awarded to a State or political subdivision under a grant under this subsection the State or subdivision shall—

“(A) use not less than 50 percent of the total grant amount for the training and ongoing educational support of mentors; and

“(B) use not more than 10 percent of the total grant amount for administrative purposes.

“(7) Maximum grant amount.—

“(A) In general.—In awarding grants under this section, the Secretary shall consider the number of children served by the jurisdiction and the grant amount relative to the need for services.

“(B) Limit.—The amount of a grant awarded to a State or political subdivision under this subsection shall not exceed $600,000.

“(8) Annual report.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall prepare and submit to Congress a report that includes the following with respect to the year involved:

“(A) A description of the number of programs receiving grant awards under this subsection.

“(B) A description of the number of mentors who serve in the programs described in subparagraph (A).

“(C) A description of the number of mentored foster children—

“(i) who graduate from high school;

“(ii) who enroll in college; and

“(iii) who are adopted by their mentors.

“(D) Any other information that the Secretary determines to be relevant to the evaluation of the program under this subsection.

“(9) Evaluation.—Not later than 3 years after the date of enactment of this section, the Secretary shall conduct an evaluation of the effectiveness of programs funded under this section, including a comparison between the rate of drug and alcohol abuse, teenage pregnancy, delinquency, homelessness, and other outcome measures for mentored foster care youth and non-mentored foster care youth.

“(10) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection, $15,000,000 for each of fiscal years 2004 and 2005, and such sums as may be necessary for each succeeding fiscal year.

“(d) National Coordination of Statewide Mentoring Partnerships.—

“(1) In general.—The Secretary may award a competitive grant to an eligible entity to establish a National Hotline Service or Website to provide information to individuals who are interested in becoming mentors to youth in foster care.

“(2) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection, $4,000,000 for each of fiscal years 2004 and 2005, and such sums as may be necessary for each succeeding fiscal year.

“(e) Loan Forgiveness.—

“(1) Definitions.—In this subsection:

“(A) Eligible mentor.—The term ‘eligible mentor’ means an individual who has served as a mentor in a statewide mentor program established under subsection (c) for at least 200 hours in a single calendar year.

“(B) Federal student loan.—The term ‘Federal student loan’ means any loan made, insured, or guaranteed under part B, D, or E of tide IV of the Higher Education Act of 1965.

“(C) Secretary.—The term ‘Secretary’ means the Secretary of Education.

“(2) Relief from indebtedness.—

“(A) In general.—The Secretary shall carry out a program to provide for the discharge or cancellation of the Federal student loan indebtedness of an eligible mentor.

“(B) Method of discharge or cancellation.—A loan that will be discharged or canceled under the program under subparagraph (A) shall be discharged or canceled as provided for using the method under section 437(a), 455(a)(1), or 464(c)(1)(F) of the Higher Education Act of 1965, as applicable.

“(C) Amount of relief.—The amount of relief to be provided with respect to a loan under this subsection shall—

“(i) be equal to $2,000 for each 200 hours of service of an eligible mentor; and

“(ii) not exceed a total of $20,000 for an eligible individual.

“(3) Facilitation of claims—The Secretary shall—

“(A) establish procedures for the filing of applications for the discharge or cancellation of loans under this subsection by regulations that shall be prescribed and published within 90 days after the date of enactment of this section and without regard to the requirements of section 553 of title 5, United States Code; and

“(B) take such actions as may be necessary to publicize the availability of the program established under this subsection for eligible mentors.

"(4) FUNDING.—Amounts available for the purposes of making payments to lenders in accordance with section 437(a) of the Higher Education Act of 1965 for the discharge of indebtedness of deceased or disabled individuals shall be available for making payments to lenders of loans to eligible mentors as provided for in this subsection.".

SA 2985. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 184, strike line 10 and all that follows through page 185, line 4, and insert the following:

"(2) LIMITATION ON REDUCTION OF PARTICIPATION RATE THROUGH APPLICATION OF CREDITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the net effect of any percentage reduction in the minimum participation rate otherwise required under this section with respect to families receiving assistance under the State program funded under this part as a result of the application of any caseload reduction credit or other credit against such rate for a fiscal year, shall not exceed—

"(i) 40 percentage points, in the case of fiscal year 2004;

"(ii) 35 percentage points, in the case of fiscal year 2005;

"(iii) 30 percentage points, in the case of fiscal year 2006;

"(iv) 25 percentage points, in the case of fiscal year 2007; or

"(v) 20 percentage points, in the case of fiscal year 2008 or any fiscal year thereafter.

"(B) NONAPPLICATION TO THE EMPLOYMENT CREDIT.—The limitation under subparagraph (A) on the percentage reduction in the minimum participation rate with respect to families receiving assistance under the State program funded under this part for a fiscal year shall be applied without regard to the employment credit for a State as determined under subsection (b)(2).".

SA 2986. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF MEDICARE COST-SHARING FOR THE MEDICARE PART B PREMIUM FOR QUALIFYING INDIVIDUALS.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) (42 U.S.C. 1396a(a)(10)(E)(iv)), as amended by section 103(f)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173, 117 Stat. 2160), is amended by striking "2004" and inserting "2005".

(b) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(c)(1)(E) (42 U.S.C. 1396u-3(c)(1)(E)), as amended by section 401(b) of Public Law 108–89, is amended by striking "and 2003" and inserting ", 2003, and 2005".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 2004.

SA 2987. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 353, strike line 6 and all that follows through page 355, line 3.

SA 2988. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 339, strike line 9 and all that follows through page 341, line 8, and insert the following:

SEC. 321. STATE NONCOMPLIANCE WITH CHILD SUPPORT ENFORCEMENT PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Section 409(a)(8) (42 U.S.C. 609(a)(8)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—If the Secretary finds, with respect to a State's program under part D—

"(i) on the basis of data submitted by a State pursuant to section 454(15)(B), or on the basis of the results of a review conducted under section 452(a)(4), that the State program failed to achieve the paternity establishment percentages (as defined in section 452(g)(2)), or to meet other performance measures that may be established by the Secretary;

"(ii) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C)(i) that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; or

"(iii) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C) that a State failed to substantially comply with 1 or more of the requirements of part D (other than paragraph (24), or subparagraph (A) or (B)(i) of paragraph (27), of section 454), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by the amount specified in subparagraph (B)."; and

(2) by adding at the end the following:

"(D) NO PENALTY IF STATE CORRECTS NONCOMPLIANCE PURSUANT TO CORRECTIVE COMPLIANCE PLAN.—The Secretary shall not reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year as a result of a finding made under subparagraph (A) if the Secretary determines that the State has corrected or discontinued the violation pursuant to the corrective compliance plan required under subsection (c).".

(b) CONFORMING AMENDMENTS.—Subsections (b)(2) and (c)(4) of section 409 (42 U.S.C. 609) are each amended by striking "(8),".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective with respect to findings of State noncompliance for fiscal year 2003 and succeeding fiscal years.

(d) SPECIAL RULE FOR FISCAL YEARS 2001 AND 2002.—Notwithstanding any other provision of law, the Secretary shall not take against amounts otherwise payable to a State, a reduction with respect to a finding described in section 409(a)(8)(A) of the Social Security Act (42 U.S.C. 609(a)(8)(A)) for fiscal year 2001 or 2002.

SA 2989. Mr. BINGAMAN (for himself, Mr. ALLEN, Mr. WYDEN, Mr. BURNS, Mr. AKAKA, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 295, between lines 10 and 11, insert the following:

SEC. ___. STATE OPTION TO EXTEND CURRENT WAIVERS AND CREATION OF TANF WAIVER AUTHORITY.

Section 415 (42 U.S.C. 615) is amended by adding at the end the following:

"(e) STATE OPTION TO CONTINUE WAIVERS.—

"(1) IN GENERAL.—Notwithstanding paragraphs (1) (A) and (2)(A) of subsection (a), or any other provision of law, but subject to subsection (g), with respect to any State that is operating under a waiver described in paragraph (2) which would otherwise expire on a date that occurs during the period that begins on January 1, 2002, and ends on September 30, 2008, the State may elect to continue to operate under that waiver, on the same terms and conditions as applied to the waiver the day before the date the waiver would otherwise expire, through the earlier of such date as the State may select or September 30, 2008.

"(2) WAIVER DESCRIBED.—For purposes of paragraph (1), a waiver described in this paragraph is—

"(A) a waiver described in subsection (a); or

"(B) a waiver that was granted to a State under section 1115 or otherwise and that relates only to the provision of assistance under a State program under this part.

"(f) WAIVER AUTHORITY FOR ALL STATES.—

"(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (g), the Secretary may waive any statutory or regulatory requirement of this part at the request of a State or Indian tribe operating a State or tribal program funded under this part.

"(2) REQUEST FOR WAIVER.—

"(A) IN GENERAL.—A State or Indian tribe that wishes to seek a waiver with respect to a State or tribal program funded under this part shall submit a waiver request to the Secretary that—

"(i) describes the Federal statutory or regulatory requirements proposed to be waived;

"(ii) describes how the waiving of such requirements will improve or enhance achievement of 1 or more of the purposes of this part;

"(iii) describes the State's proposal for an independent evaluation of the program under the waiver; and

"(iv) in the case of a State, includes a copy and description of relevant State statutes and, if applicable, State regulations that would allow the State to implement the waiver if it were approved by the Secretary.

"(B) NOTICE AND COMMENT.—The Secretary shall provide through the Federal Register for a 30-day period for notice and comment on the waiver request, and otherwise consult with members of the public, to solicit comment on the waiver request prior to acting on the request.

"(3) RESTRICTIONS.—

"(A) IN GENERAL.—The Secretary shall not waive the following statutory sections or any regulatory requirements related to such sections:

"(i) Section 401(a).

"(ii) Paragraphs (1) through (4) of section 403(a).

"(iii) Section 409(a)(7).

"(iv) Section 408(d).

"(v) Section 407(e)(2).

"(vi) Section 407(f).

"(4) DURATION AND EXTENSION OF WAIVER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a waiver approved by the Secretary under this subsection may be for a period not to exceed 5 years.

"(B) EXTENSION.—The Secretary may extend the period described in subparagraph (A) if the Secretary determines that the waiver has been effective in enabling the State or Indian tribe to carry out the activities for which the waiver was requested and the waiver has improved or enhanced performance related to 1 or more of the purposes of this part.

"(5) APPROVAL PROCEDURE.—

"(A) IN GENERAL.—Not later than 60 days after the date of receiving a request for a waiver under this subsection, the Secretary shall provide a response that—

"(i) approves the waiver request;

"(ii) provides a description of modifications that would be necessary in order to secure approval for the waiver;

"(iii) denies the request and describes the grounds for the denial; or

"(iv) requests clarification of the waiver request.

"(B) APPROVAL DECISIONS.—The Secretary shall not approve any waiver request that does not include all the information required in subparagraph (2)(A) and shall take into account how the waiver is likely to further the purposes of section 401(a) and comments received regarding the waiver request.

"(C) WAIVER APPROVALS AND DENIALS.—All waiver approvals and denials shall be made publicly available by the Secretary.

"(6) REPORTS ON PROJECTS.—The Secretary shall provide annually to Congress a report concerning waivers approved under this subsection, including—

"(A) the projects approved and denied for each applicant;

"(B) the number of waivers granted under this subsection

"(C) the specific statutory provisions waived; and

"(D) descriptive information about the nature and status of approved waivers, including findings from interim and final evaluation reports.

"(g) COST-NEUTRALITY REQUIREMENT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of law (except as provided in paragraph (2)), the total of the amounts that may be paid by the Federal Government for a fiscal year with respect to the programs in a State for which a waiver has been granted under subsection (e) or (f) shall not exceed the estimated total amount that the Federal Government would have paid for the fiscal year with respect to the programs if the waiver had not been granted, as determined by the Director of the Office of Management and Budget.

"(2) SPECIAL RULE.—If an applicant submits to the Director of the Office of Management and Budget a request to apply the rules of this paragraph to the programs in the State with respect to which a waiver under subsection (e) or (f) has been provided, during such period of not more than 5 consecutive fiscal years in which the waiver is in effect, and the Director determines, on the basis of supporting information provided by the applicant, to grant the request, then, notwithstanding any other provision of law, the total of the amounts that may be paid by the Federal Government for the period with respect to the programs shall not exceed the estimated total amount that the Federal Government would have paid for the period with respect to the programs if the waiver had not been granted.".

SA 2990. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, strike lines 9 through 17, and insert the following:

(c) RESEARCH ON INDICATORS OF CHILD WELL-BEING.—Section 413 (42 U.S.C. 613), as amended by section 114(a), is amended by adding at the end the following:

"(m) INDICATORS OF CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary, through grants, contracts, or interagency agreements shall develop comprehensive indicators to assess child well-being in each State.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—The indicators developed under paragraph (1) shall include measures related to the following:

"(i) Education.

"(ii) Social and emotional development.

"(iii) Health and safety.

"(iv) Family well-being, such as family structure, income, employment, child care arrangements, and family relationships.

"(B) OTHER REQUIREMENTS.—The data collected with respect to the indicators developed under paragraph (1) shall be—

"(i) statistically representative at the State level;

"(ii) consistent across States;

"(iii) collected on an annual basis for at least the 5 years preceding the year of collection;

"(iv) expressed in terms of rates or percentages;

"(v) statistically representative at the national level;

"(vi) measured with reliability;

"(vii) current; and

"(viii) over-sampled, with respect to low-income children and families.

"(C) CONSULTATION.—In developing the indicators required under paragraph (1) and the means to collect the data required with respect to the indicators, the Secretary shall consult and collaborate with the Federal Interagency Forum on Child and Family Statistics.

"(3) ADVISORY PANEL.—

"(A) ESTABLISHMENT.—The Secretary shall establish an advisory panel to make recommendations regarding the appropriate measures and statistical tools necessary for making the assessment required under paragraph (1) based on the indicators developed under that paragraph and the data collected with respect to the indicators.

"(B) MEMBERSHIP.—

"(i) IN GENERAL.—The advisory panel established under subparagraph (A) shall consist of the following:

"(I) One member appointed by the Secretary of Health and Human Services.

"(II) One member appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

"(III) One member appointed by the Ranking Member of the Committee on Ways and Means of the House of Representatives.

"(IV) One member appointed by the Chairman of the Committee on Finance of the Senate.

"(V) One member appointed by the Ranking Member of the Committee on Finance of the Senate.

"(VI) One member appointed by the Chairman of the National Governors Association, or the Chairman's designee.

"(VII) One member appointed by the President of the National Conference of State Legislatures or the President's designee.

"(VIII) One member appointed by the Director of the National Academy of Sciences, or the Director's designee.

"(ii) DEADLINE.—The members of the advisory panel shall be appointed not later than 2 months after the date of enactment of the Personal Responsibility and Individual Development for Everyone Act.

"(C) MEETINGS.—The advisory panel established under subparagraph (A) shall meet—

"(i) at least 3 times during the first year after the date of enactment of the Personal Responsibility and Individual Development for Everyone Act; and

"(ii) annually thereafter for the 3 succeeding years.

"(4) APPROPRIATIONS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for each of fiscal years 2004 through 2008, $10,000,000 for the purpose of carrying out this subsection.".

SA 2991. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 253, between lines 6 and 7, and insert the following:

(d) RESEARCH ON INDICATORS OF CHILD WELL-BEING.—Section 413 (42 U.S.C. 613), as amended by subsection (a), is amended by adding at the end the following:

"(m) INDICATORS OF CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary, through grants, contracts, or interagency agreements shall develop comprehensive indicators to assess child well-being in each State.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—The indicators developed under paragraph (1) shall include measures related to the following:

"(i) Education.

"(ii) Social and emotional development.

"(iii) Health and safety.

"(iv) Family well-being, such as family structure, income, employment, child care arrangements, and family relationships.

"(B) OTHER REQUIREMENTS.—The data collected with respect to the indicators developed under paragraph (1) shall be—

"(i) statistically representative at the State level;

"(ii) consistent across States;

"(iii) collected on an annual basis for at least the 5 years preceding the year of collection;

"(iv) expressed in terms of rates or percentages;

"(v) statistically representative at the national level;

"(vi) measured with reliability;

"(vii) current; and

"(viii) over-sampled, with respect to low-income children and families.

"(C) CONSULTATION.—In developing the indicators required under paragraph (1) and the means to collect the data required with respect to the indicators, the Secretary shall consult and collaborate with the Federal Interagency Forum on Child and Family Statistics.

"(3) ADVISORY PANEL.—

"(A) ESTABLISHMENT.—The Secretary shall establish an advisory panel to make recommendations regarding the appropriate measures and statistical tools necessary for making the assessment required under paragraph (1) based on the indicators developed under that paragraph and the data collected with respect to the indicators.

"(B) MEMBERSHIP.—

"(i) IN GENERAL.—The advisory panel established under subparagraph (A) shall consist of the following:

"(I) One member appointed by the Secretary of Health and Human Services.

"(II) One member appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

"(III) One member appointed by the Ranking Member of the Committee on Ways and Means of the House of Representatives.

"(IV) One member appointed by the Chairman of the Committee on Finance of the Senate.

"(V) One member appointed by the Ranking Member of the Committee on Finance of the Senate.

"(VI) One member appointed by the Chairman of the National Governors Association, or the Chairman's designee.

"(VII) One member appointed by the President of the National Conference of State Legislatures or the President's designee.

"(VIII) One member appointed by the Director of the National Academy of Sciences, or the Director's designee.

"(ii) DEADLINE.—The members of the advisory panel shall be appointed not later than 2 months after the date of enactment of the Personal Responsibility and Individual Development for Everyone Act.

"(C) MEETINGS.—The advisory panel established under subparagraph (A) shall meet—

"(i) at least 3 times during the first year after the date of enactment of the Personal Responsibility and Individual Development for Everyone Act; and

"(ii) annually thereafter for the 3 succeeding years.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2005 through 2009, $10,000,000 for the purpose of carrying out this subsection.".

SA 2992. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 230, between lines 22 and 23, insert the following:

(b) LIMITATION ON PENALTY FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES FOR IMPROVING STATES.—Section 409(a)(3) (42 U.S.C. 609(a)(3)), as amended by section 110(a)(2)(B), is amended—

(1) in subparagraph (A), by striking "If the Secretary" and inserting "Subject to subparagraphs (C) and (D), if the Secretary"; and

(2) by adding at the end the following:

"(D) LIMITATION ON APPLICATION OF PENALTY FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATE.—Notwithstanding the preceding subparagraphs of this paragraph, in the case of a State that has a participation rate under section 407(b) for the fiscal year that is at least 5 percentage points more than the participation rate determined under that section for the State for the preceding fiscal year, the Secretary shall not reduce the grant payable to a State under section 403(a)(1) for the immediately succeeding fiscal year based on the failure of the State to comply with section 407(a). In the case of a State that operated a State program under this part under waiver authority under section 415, 1115, or otherwise, that expired during the preceding fiscal year, the Secretary shall take the expiration of such waiver into account for purposes of applying this subparagraph to that State for the immediately succeeding fiscal year.".

SA 2993. Mr. ROCKEFELLER (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, between lines 9 and 10, insert the following:

(g) STATE OPTION FOR EXCLUSION OF CERTAIN RECIPIENTS FROM THE DETERMINATION OF MONTHLY PARTICIPATION RATES.—Section 407(b)(1)(B) (42 U.S.C. 607(b)(1)(B)) is amended—

(1) in clause (i), by inserting ", but not including any family for which the State has exercised the option described in clause (ii)(I)" before the semicolon; and

(2) in clause (ii)—

(A) in subclause (I), by inserting ", but (at State option for all such families or on a case-by-case basis) not including families for which the adult or minor child head of household who received assistance during the month was subsequently determined eligible for supplemental security income benefits under title XVI during the fiscal year" before the semicolon; and

(B) in subclause (II), by inserting "and (if the State elected the option described in subclause (I)) not including families for which the adult or minor child head of household who received assistance during the month was subsequently determined eligible for supplemental security income benefits under title XVI during the fiscal year" before the period.

SA 2994. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —PARENTAL RESPONSIBILITY OBLIGATIONS MET THROUGH IMMIGRATION SYSTEM ENFORCEMENT

SEC. ___01. SHORT TITLE OF TITLE.

This title may be cited as the "Parental Responsibility Obligations Met through Immigration System Enforcement Act" or "PROMISE Act".

SEC. ___02. ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT.

Section 212(a)(10) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)) is amended by adding at the end the following:

"(F) NONPAYMENT OF CHILD SUPPORT.—

"(i) IN GENERAL.—Except as provided in clause (ii), an alien who is legally obligated under a judgment, decree, or order to pay child support and whose failure to pay such child support has resulted in arrearages that exceed the amount specified in section 454(31) of the Social Security Act (42 U.S.C. 654(31)) is inadmissible.

"(ii) EXCEPTION.—An alien described in clause (i) may be admissible when—

"(I) child support payments under the judgment, decree, or order are satisfied; or

"(II) the alien is in compliance with an approved payment agreement.

"(iii) FEDERAL PARENT LOCATOR SERVICE.—The Federal Parent Locator Service, established under section 453 of the Social Security Act (42 U.S.C. 653), shall be used to determine if an alien is inadmissible under clause (i).

"(iv) REQUEST BY FOREIGN COUNTRY.—For purposes of clause (i), any request for services by a foreign reciprocating country or a foreign country with which a State has an arrangement described in section 459A(d) of the Social Security Act (42 U.S.C. 659a(d)) shall be treated as a State request.".

SEC. ___03. AUTHORITY TO PAROLE ALIENS EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT.

Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended by adding at the end the following:

"(C)(i) The Secretary of Homeland Security may, in the Secretary's discretion, parole into the United States, or in the case of an alien who is applying for a visa at a consular post, grant advance parole, to any alien who is inadmissible under subsection (a)(10)(F)(i) if—

"(I) the Secretary of Homeland Security places such alien into removal proceedings;

"(II) the alien demonstrates to the satisfaction of the Secretary of Homeland Security that such parole is essential to the compliance and fulfillment of child support obligations;

"(III) the alien demonstrates that the alien has employment in the United States and is authorized by law for employment in the United States; and

"(IV) the alien is not inadmissible under any other provision of law.

"(ii) The Secretary of State may permit an alien described in clause (i) to present himself or herself at a port of entry for the limited purpose of seeking parole pursuant to clause (i).".

SEC. ___04. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON ESTABLISHMENT OF GOOD MORAL CHARACTER.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) in paragraph (8), by striking the period at the end and inserting "; or"; and

(2) by inserting after paragraph (8) the following:

"(9) one who is legally obligated under a judgment, decree, or order to pay child support (as defined in section 459(i) of the Social Security Act (42 U.S.C. 659(i))) and whose failure to pay such child support has resulted in arrearages that exceed the amount specified in section 454(31) of that Act (42 U.S.C. 654(31)), unless support payments under the judgment, decree, or order are satisfied or the alien is in compliance with an approved payment agreement.".

SEC. ___05. AUTHORIZATION TO SERVE LEGAL PROCESS IN CHILD SUPPORT CASES ON CERTAIN VISA APPLICANTS AND ARRIVING ALIENS.

Section 235(d) of the Immigration and Nationality Act (8 U.S.C. 1225(d)) is amended by adding at the end the following:

"(5) AUTHORITY TO SERVE PROCESS IN CHILD SUPPORT CASES.—

"(A) IN GENERAL.—To the extent consistent with State law, immigration officers are authorized to serve on any alien who is an applicant for admission to the United States, legal process with respect to—

"(i) any action to enforce a legal obligation of an individual to pay child support (as defined in section 459(i) of the Social Security Act (42 U.S.C. 659(i)); or

"(ii) any action to establish paternity.

"(B) DEFINITION.—For purposes of subparagraph (A), the term 'legal process' means any writ, order, summons, or other similar process that is issued by—

"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States; or

"(ii) an authorized official pursuant to an order of such a court or agency or pursuant to State or local law.".

SEC. ___06. AUTHORIZATION TO OBTAIN INFORMATION ON CHILD SUPPORT PAYMENTS BY ALIENS.

Section 453(h) (42 U.S.C. 653(h)) is amended by adding at the end the following:

"(4) PROVISION TO ATTORNEY GENERAL, SECRETARY OF HOMELAND SECURITY, AND SECRETARY OF STATE OF INFORMATION ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and in accordance with the requirements of subsection (b), on request by the Attorney General, Secretary of Homeland Security, or Secretary of State, the Secretary of Health and Human Services shall provide and transmit to authorized persons through the Federal Parent Locator Service such information as the Secretary of Health and Human Services determines may aid the authorized person in establishing whether an alien is delinquent in the payment of child support.

"(B) AUTHORIZED PERSON DEFINED.—For purposes of subparagraph (A), the term 'authorized person' means any administrative agency, immigration officer, or consular officer (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) having the authority to investigate or enforce the naturalization laws of the United States with respect to the legal entry and status of aliens.".

SEC. ___07. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act and shall apply to aliens who apply for benefits under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on or after such effective date.

SA 2995. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 154, between lines 15 and 16, insert the following:

"(ix) Training for individuals who will conduct any of the programs or activities described in clauses (i) through (viii).

On page 239, between lines 8 and 9, insert the following:

(c) CLARIFICATION OF APPLICATION OF INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.—Section 412 (42 U.S.C.612), as amended by section 108(b)(2), is amended by adding at the end the following:

"(i) APPLICATION OF INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.—Notwithstanding any other provision of law, if an Indian tribe elects to incorporate the services it provides using funds made available under this part into a plan under section 6 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3405), the programs authorized to be conducted with such funds shall be—

"(1) considered to be programs subject to section 5 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3404); and

"(2) subject to the single plan and single budget requirements of section 6 of that Act (25 U.S.C. 3505) and the single report format required under section 11 of that Act (25 U.S.C. 3410).".

On page 305, line 22, insert "or calculated by the State based on such order" before the first period.

SA 2996. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—FAMILY OPPORTUNITY ACT

SEC. ___01. SHORT TITLE OF TITLE.

This title may be cited as the "Family Opportunity Act of 2004" or the "Dylan Lee James Act".

SEC. ___02. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking "or" at the end of subclause (XVII);

(ii) by adding "or" at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

"(XIX) who are disabled children described in subsection (cc)(1);"; and

(B) by adding at the end the following new subsection:

"(cc)(1) Individuals described in this paragraph are individuals—

"(A) who have not attained 18 years of age;

"(B) who would be considered disabled under section 1614(a)(3)(C) but for having earnings or deemed income or resources (as determined under title XVI for children) that exceed the requirements for receipt of supplemental security income benefits; and

"(C) whose family income does not exceed such income level as the State establishes and does not exceed—

"(i) 250 percent of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved; or

"(ii) such higher percent of such poverty line as a State may establish, except that—

"(I) any medical assistance provided to an individual whose family income exceeds 250 percent of such poverty line may only be provided with State funds; and

"(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.".

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

"(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

"(i) require such parent to apply for, enroll in, and pay premiums for, such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

"(ii) if such coverage is obtained—

"(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

"(II) treat such coverage as a third party liability under subsection (a)(25).

"(B) In the case of a parent to which subparagraph (A) applies, a State, subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.".

(b) STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking "subsection (g)" and inserting "subsections (g) and (h)"; and

(2) by adding at the end the following new subsection:

"(h)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), subject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

"(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

"(A) the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) does not exceed 5 percent of the family's income; and

"(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.".

(c) Conforming Amendment.—Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(d) Rule of Construction.—Notwithstanding any other provision of law, nothing in the amendments made by this section shall be construed as permitting the application of the enhanced FMAP (as defined in section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)) to expenditures that are attributable to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIX)) (as added by subsection (a) of this section).

(e) Effective Date.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after October 1, 2006.

SEC. ___03. TREATMENT OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21 IN HOME OR COMMUNITY-BASED SERVICES WAIVERS.

(a) In General.—Section 1915(c) (42 U.S.C. 1396n(c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting ", or would require inpatient psychiatric hospital services for individuals under age 21," after "intermediate care facility for the mentally retarded"; and

(B) in the second sentence, by inserting ", or would require inpatient psychiatric hospital services for individuals under age 21" before the period;

(2) in paragraph (2)(B), by striking "or services in an intermediate care facility for the mentally retarded" each place it appears and inserting "services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21";

(3) in paragraph (2)(C)—

(A) by inserting ", or who are determined to be likely to require inpatient psychiatric hospital services for individuals under age 21," after ", or intermediate care facility for the mentally retarded"; and

(B) by striking "or services in an intermediate care facility for the mentally retarded" and inserting "services in an intermediate care facility for the mentally retarded, or inpatient psychiatric hospital services for individuals under age 21"; and

(4) in paragraph (7)(A)—

(A) by inserting "or would require inpatient psychiatric hospital services for individuals under age 21," after "intermediate care facility for the mentally retarded,"; and

(B) by inserting "or who would require inpatient psychiatric hospital services for individuals under age 21" before the period.

(b) Effective Date.—The amendments made by subsection (a) apply with respect to medical assistance provided on or after October 1, 2006.

SEC. ___04. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501 (42 U.S.C. 701) is amended by adding at the end the following new subsection:

"(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support of family-to-family health information centers described in paragraph (2)—

"(i) there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

"(I) $3,000,000 for fiscal year 2006;

"(II) $4,000,000 for fiscal year 2007; and

"(III) $5,000,000 for fiscal year 2008; and

"(ii) there is authorized to be appropriated to the Secretary, $5,000,000 for each of fiscal years 2009 and 2010.

"(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

"(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and

"(ii) remain available until expended.

"(2) The family-to-family health information centers described in this paragraph are centers that—

"(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

"(B) provide information regarding the health care needs of, and resources available for, children with disabilities or special health care needs;

"(C) identify successful health delivery models for such children;

"(D) develop with representatives of health care providers, managed care organizations, health care purchasers, and appropriate State agencies a model for collaboration between families of such children and health professionals;

"(E) provide training and guidance regarding caring for such children;

"(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

"(G) are staffed by families of children with disabilities or special health care needs who have expertise in Federal and State public and private health care systems and health professionals.

"(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) in accordance with the following:

"(A) With respect to fiscal year 2006, such centers shall be developed in not less than 25 States.

"(B) With respect to fiscal year 2007, such centers shall be developed in not less than 40 States.

"(C) With respect to fiscal year 2008, such centers shall be developed in all States.

"(4) The provisions of this title that are applicable to the funds made available to the Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

"(5) For purposes of this subsection, the term 'State' means each of the 50 States and the District of Columbia.".

SEC. ___05. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.

(a) In General.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting "(aa)" after "(II)";

(2) by striking ") and" and inserting "and";

(3) by striking "section or who are" and inserting "section), (bb) who are"; and

(4) by inserting before the comma at the end the following: ", or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase 'the first day of the month following' ".

(b) Effective Date.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after January 1, 2006.

SA 2997. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 295, between lines 10 and 11, insert the following:

SEC. 121. APPLICATION OF PROVISIONS RELATING TO CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS TO CONTRACTS TO PROVIDE SERVICES UNDER THE SOCIAL SERVICES BLOCK GRANT.

(a) In General.—Section 104(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 604a(a)(2)) is amended by adding at the end the following:

"(C) The program to provide block grants to States for social services established under title XX of the Social Security Act (42 U.S.C. 1397 et seq.).".

(b) Effective Date.—The amendment made by subsection (a) takes effect on the date of enactment of this Act.

SA 2998. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 121. FRAUD PREVENTION.

(a) Enforcement of Prohibition on Assistance For Fugitive Felons and Probation and Parole Violators.—Section 408(a)(9) (42 U.S.C. 608(a)(9)) is amended by adding at the end the following:

"(C) Enforcement.—

"(i) Requirement to compare applicants against FBI database.—Beginning with fiscal year 2005, each State to which a grant is made under section 403 shall compare information on each adult applicant for assistance under the State program funded under this part, benefits under the food stamp program, supplemental security income benefits under title XVI, or cash benefits under the unemployment compensation law of a State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986, against the database of wanted felons maintained by the Federal Bureau of Investigation in order to determine if the applicant is a wanted felon.

"(ii) REQUIREMENT TO NOTIFY LAW ENFORCEMENT AUTHORITIES.—If an adult applicant matches an individual listed in the database referred to in clause (i), the State shall immediately notify the appropriate law enforcement authorities of the match.".

(b) REQUIREMENT TO USE ACCURATE EMPLOYMENT INFORMATION.—Section 408 (42 U.S.C. 608), as amended by this Act, is further amended by adding at the end the following:

"(h) STATE REQUIREMENT TO UTILIZE ACCURATE EMPLOYMENT INFORMATION.—

"(1) COMPARISON OF RECIPIENTS WITH INFORMATION IN THE NATIONAL DIRECTORY OF NEW HIRES.—Not later than July 2004, and each month thereafter, each State to which a grant is made under section 403 promptly shall compare each adult recipient of assistance under a State program funded under this part with information in the National Directory of New Hires established under section 453(i) to determine if the adult recipient has earnings that have not been reported to the State agency responsible for administering the program funded under this part.

"(2) REDUCTION OF CASH ASSISTANCE AND PENALTIES.—If the comparison under paragraph (1) demonstrates that an adult recipient has unreported earnings, the State shall reduce cash assistance to the adult recipient and apply penalties, as appropriate.".

SA 2999. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, to authorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(   ) REQUIREMENT.—Notwithstanding any other provision of law, with respect to any Federal means-tested public benefit (as defined for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) that, before the date of enactment of this Act, could not be provided to an alien and, as a result of a provision of, or an amendment made by, this Act, may be provided to an alien on or after such date, such benefit shall not be provided unless the sponsor of the alien executes an affidavit attesting that the sponsor lacks the means to provide the benefit or its equivalent to the alien.

SA 3000. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(   ) REQUIREMENT.—Notwithstanding any other provision of law, with respect to any Federal means-tested public benefit (as defined for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) that, before the date of enactment of this Act, could not be provided to an alien and, as a result of a provision of, or an amendment made by, this Act, may be provided to an alien on or after such date, such benefit shall not be provided unless proof of legal immigrant status is submitted with the application for such benefit.

SA 3001. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(   ) REQUIREMENT.—Notwithstanding any other provision of law, with respect to any Federal means-tested public benefit (as defined for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) that, before the date of enactment of this Act, could not be provided to an alien and, as a result of a provision of, or an amendment made by, this Act, may be provided to an alien on or after such date, such benefit shall not be provided unless—

(1) proof of legal immigrant status is submitted with the application for such benefit; and

(2) the sponsor of the alien executes an affidavit attesting that the sponsor lacks the means to provide the benefit or its equivalent to the alien.

SA 3002. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(   ) REQUIREMENT.—Notwithstanding any other provision of law, with respect to any medical assistance under the medicaid program that, before the date of enactment of this Act, could not be provided to an alien and, as a result of a provision of, or an amendment made by, this Act, may be provided to an alien on or after such date, such assistance shall not be provided unless proof of legal immigrant status is submitted with the application for such assistance.

SA 3003. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(   ) REQUIREMENT.—Notwithstanding any other provision of law, with respect to any medical assistance under the medicaid program that, before the date of enactment of this Act, could not be provided to an alien and, as a result of a provision of, or an amendment made by, this Act, may be provided to an alien on or after such date, such assistance shall not be provided unless the sponsor of the alien executes an affidavit attesting that the sponsor lacks the means to provide the assistance or its equivalent to the alien.

SA 3004. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . REIMBURSEMENT FOR MEANS-TESTED PUBLIC BENEFITS PROVIDED TO SPONSORED ALIENS.

(a) IN GENERAL.—Section 1137(d) (42 U.S.C. 1320b–7(d)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) If such an individual is not a citizen or national of the United States, there must be presented—

"(A) either—

"(i) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number); or

"(ii) such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status; and

"(B) such information and documentation as is necessary in order for the State to determine if the alien has a sponsor in order to comply with the requirements of section 213A of the Immigration and Nationality Act."; and

(2) by striking paragraph (3) and inserting the following:

"(3) If documentation required under paragraph (2) is presented, the State shall—

"(A) utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(i) utilizes the individual's name, file number, admission number, or other means permitting efficient verification; and

"(ii) protects the individual's privacy to the maximum degree possible;

"(B) verify through such system whether the alien has a sponsor and if so, the existence of an affidavit of support executed by such sponsor; and

"(C) if such an affidavit of support exists, request reimbursement by the sponsor in an amount equal to the unreimbursed costs of any benefits that have been or will be provided to the alien in accordance with section 213A of the Immigration and Nationality Act.".

(b) CONFORMING AMENDMENT.—Section 1137(d)(4) (42 U.S.C. 1320b–7(d)(4)) is amended by striking "paragraph (2)(A)" and inserting "subparagraphs (A)(i) and (B) of paragraph (2)".

SA 3005. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

(   ) REQUIREMENT.—Notwithstanding any other provision of law, with respect to any Federal means-tested public benefit (as defined for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) that, before the date of enactment of this Act, could not be provided to an alien and, as a result of a provision of, or an amendment made by, this Act, may be provided to an alien on or after such date, such benefit shall not be provided unless—

(1) proof of legal immigrant status is submitted with the application for such benefit; and

(2) the sponsor of the alien executes an affidavit attesting that the sponsor lacks the means to provide the benefit or its equivalent to the alien.

SA 3006. Mr. FRIST (for Mr. MCCAIN (for himself, Mr. STEVENS, Mr. DORGAN, and Mr. REID)) proposed an amendment to the bill S. 275, to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Professional Boxing Amendments Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Professional Boxing Safety Act, of 1996.
Sec. 3. Definitions.
Sec. 4. Purposes.
Sec. 5. United States Boxing Commission approval, or ABC or commission sanction, required for matches.
Sec. 6. Safety Standards.
Sec. 7. Registration.
Sec. 8. Review.
Sec. 9. Reporting.
Sec. 10. Contract requirements.
Sec. 11. Coercive contracts.
Sec. 12. Sanctioning organizations.
Sec. 13. Required disclosures by sanctioning organizations.
Sec. 14. Required disclosures by promoters.
Sec. 15. Judges and referees.
Sec. 16. Medical registry.
Sec. 17. Conflicts of interest.
Sec. 18. Enforcement.
Sec. 19. Repeal of deadwood.
Sec. 20. Recognition of tribal law.
Sec. 21. Establishment of United States Boxing Commission.
Sec. 22. Study and report on definition of promoter.
Sec. 23. Effective date.

SEC. 2. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) COMMISSION.—The term 'Commission' means the United States Boxing Commission.

"(2) BOUT AGREEMENT.—The term 'bout agreement' means a contract between a promoter and a boxer that requires the boxer to participate in a professional boxing match for a particular date.

"(3) BOXER.—The term 'boxer' means an individual who fights in a professional boxing match.

"(4) BOXING COMMISSION.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

"(5) BOXER REGISTRY.—The term 'boxer registry' means any entity certified by the Commission for the purposes of maintaining records and identification of boxers.

"(6) BOXING SERVICE PROVIDER.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

" (7) CONTRACT PROVISION.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

"(8) INDIAN LANDS; INDIAN TRIBE.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

"(9) LICENSEE.—The term 'licensee' means an individual who serves as a trainer, corner man, second, or cut man for a boxer.

"(10) MANAGER.—The term 'manager' means a person other than a. promoter who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

"(11) MATCHMAKER.—The term 'matchmaker' means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match.

"(12) PHYSICIAN.—The term 'physician' means a, doctor of medicine legally authorized to practice medicine by the State in which the physician per forms such function or action and who has training and experience in dealing with sports injuries, particularly head trauma.

"(13) PROFESSIONAL BOXING MATCH.—The term 'professional boxing match' means a. boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Commission.

"(14) PROMOTER.—The term 'promoter'—

"(A) means the person primarily responsible for organizing, promoting, and producing a professional boxing match; but

"(B) does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless—

"(i) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match; and

"(ii) there is no other person primarily responsible for organizing, promoting, and producing the match.

"(15) PROMOTIONAL AGREEMENT.—The term 'promotional agreement' means a contract, for the acquisition of rights relating to a boxer's participation in a professional boxing match or series of boxing matches (including the right to sell, distribute, exhibit, or license the match or matches), with—

"(A) the boxer who is to participate in the match or matches; or

"(B) the nominee of a boxer who is to participate in the match or matches, or the nominee is an entity that is owned, controlled or held in trust, for the boxer unless that nominee or entity is a licensed promoter who is conveying a, portion of the rights previously acquired.

"(16) STATE.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

"(17) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

"(A) between boxers who are residents of different States; or

"(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

"(18) SUSPENSION.—The term 'suspension' includes within its meaning the temporary revocation of a boxing license.

"(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the same meaning as in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).".

. (b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

"SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a. tribal organization may establish a, boxing commission to regulate professional boxing matches held on Indian land under the jurisdiction of that tribal organization.

"(b) STANDARDS AND LICENSING.—A tribal organization that establishes a boxing commission shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

"(1) the otherwise applicable requirements of the State in which the Indian land on which the professional boxing match is held is located; or

"(2) the guidelines established by the United States Boxing Commission.

"(c) APPLICATION OF ACT TO BOXING MATCHES ON TRIBAL LANDS.—The provisions of this Act apply to professional boxing matches held on tribal lands to the same extent and in the same way as they apply to professional boxing matches held in any State.".

SEC. 4. PURPOSES.

Section 3(2) (15 U.S.C. 6302(2)) is amended by striking "State".

SEC. 5. UNITED STATES BOXING COMMISSION APPROVAL, OR ABC OR COMMISSION SANCTION, REQUIRED FOR MATCHES.

(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

"SEC. 4. APPROVAL OR SANCTION REQUIREMENT.

"(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match within the United States unless the match—

"(1) is approved by the Commission; and

"(2) is held in a State, or on tribal land of a tribal organization, that regulates professional boxing snatches in accordance with standards and criteria established by the Commission.

"(b) Approval Presumed.—

"(1) In general.—For purposes of subsection (a), the Commission shall be presumed to have approved any match other than—

"(A) a match with respect to which the Commission has been informed of an alleged violation of this Act and with respect to which it has notified the supervising boxing commission that it does not approve;

"(B) a match advertised to the public as a championship match;

"(C) a, match scheduled for 10 rounds or more; or

"(D) a match in which 1 of the boxers has—

"(i) suffered 10 consecutive defeats in professional boxing matches; or

"(ii) has been knocked out 5 consecutive times in professional boxing matches.

"(2) Delegation of approval authority.—Notwithstanding paragraph (1), the Commission shall be presumed to have approved a match described in subparagraph (B), (C), or (D) of paragraph (1) if—

"(A) the Commission has delegated its approval authority with respect to that match to a boxing commission: and

"(B) the boxing commission has approved the match.

"(3) Knocked-out defined.—Except as may be otherwise provided by the Commission by rule, in paragraph (1)(D)(ii), the term 'knocked out' means knocked down and unable to continue after a count of 10 by the referee or stopped from continuing because of a technical knockout.".

(b) Conforming Amendment.—Section 19 (15 U.S.C. 6310) is repealed.

SEC. 6. SAFETY STANDARDS.

Section 5 (15 U.S.C. 6304) is amended—

(1) by striking "requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:" and inserting "requirements:";

(2) by adding at the end of paragraph (1) "The examination shall include testing for infectious diseases in accordance with standards established by the Commission.";

(3) by striking paragraph (2) and inserting the following:

"(2) An ambulance continuously present on site.";

(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

"(3) Emergency medical personnel with appropriate resuscitation equipment continuously present oil site."; and

(5) by striking "match." in paragraph (5), as redesignated, and inserting "match in an amount prescribed by the Commission.".

SEC. 7. REGISTRATION.

Section 6 (15 U.S.C. 6305) is amended—

(1) by inserting "or Indian tribe" after "State" the second place it appears in subsection (a)(2);

(2) by striking the first sentence of subsection (c) and inserting "A boxing commission shall, in accordance with requirements established by the Commission, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.";

(3) by striking "should" in the second sentence of subsection (c) and inserting "shall, at a minimum,"; and

(4) by adding at the end the following:

"(d) Copy of Registration and Identification Cards To Be Sent to Commission.—A boxing commission shall furnish a copy of each registration received under subsection (a), and each identification card issued under subsection (b), to the Commission.".

SEC. 8. REVIEW.

Section 7 (15 U.S.C. 6306) is amended—

(1) by striking "that, except as provided in subsection (b), no" in subsection (a)(2) and inserting "that, no";

(2) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

"(3) Procedures to review a summary suspension when a hearing before, the boxing commission is requested by a boxer, licensee, manager, match maker; promoter, or other boxing service provider which provides an opportunity for that person to present evidence.";

(3) by striking subsection (b); and

(4) by striking "(a) Procedures.—

SEC. 9. REPORTING.

Section 8 (15 U.S.C. 6307) is amended—

(1) by striking "48 business hours" and inserting "2 business days";

(2) by striking "bxoing" and inserting "boxing"; and

(3) by striking "each boxer registry." and inserting "the Commission.".

SEC. 10. CONTRACT REQUIREMENTS.

Section 9 (15 U.S.C. 6307a) is amended to read as follows:

"SEC. 9. CONTRACT REQUIREMENTS.

"(a) In General.—The Commission, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

"(b) Filing and Approval Requirements.—

"(1) Commission.—A manager or promoter shall submit a copy of each boxer-manager contract and each promotional agreement between that manager or promoter and a boxer to the Commission, and, if requested, to the boxing commission with jurisdiction over the bout.

"(2) Boxing commission.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it and approved by it.

"(c) Bond or Other Surety.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission.".

SEC. 11. COERCIVE CONTRACTS.

Section 10 (15 U.S.C. 6307b) is amended—

(1) by striking paragraph (3) of subsection (a);

(2) by inserting "OR ELIMINATION" after "MANDATORY" in the heading of subsection (b); and

(3) by inserting "or elimination" after "mandatory" in subsection (b).

SEC. 12. SANCTIONING ORGANIZATIONS.

(a) In General.—Section 11 (15 U.S.C. 6307c) is amended to read as follows:

"SEC. 11. SANCTIONING ORGANIZATIONS.

"(a) Objective Criteria.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2004, the Commission shall develop guidelines for objective and consistent written criteria, for the rating of professional boxers based on the athletic merits and professional record of the boxers. Within 90 days after the Commission's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.

"(b) Notification of Change in Rating.—A sanctioning organization shall, with respect to a change in the rating of a boxer previously rated by such organization in the top 10 boxers—

"(1) post a copy, within 7 days after the change, on its Internet website or home page, if any, including an explanation of the change, for a period of not less than 30 days;

"(2) provide a copy of the rating change and a thorough explanation in writing under penalty of perjury to the boxer and the Commission;

"(3) provide the boxer an opportunity to appeal the ratings change to the sanctioning organization; and

"(4) apply the objective criteria for ratings required under subsection (a) in considering any such appeal.

"(c) Challenge of Rating.—If, after disposing with an appeal under subsection (b)(3), a sanctioning organization receives a petition from a boxer challenging that organization's rating of the boxer, it shall (except to the extent otherwise required by the Commission), within 7 days after receiving the petition—

"(1) provide to the boxer a written explanation under penalty of perjury of the organization's rating criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

"(2) submit a copy of its explanation to the Association of Boxing Commissions and the Commission for their review.".

(b) Conforming Amendments.—Section 18(e) (15 U.S.C. 6309(e)) is amended—

(1) by striking "Federal Trade Commission," in the subsection heading and inserting "United States Boxing Commission"; and

(2) by striking "Federal Trade Commission," in paragraph (1) and inserting "United States Boxing Commission,".

SEC. 13. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

Section 12 (15 U.S.C. 6307d) is amended—

(1) by striking the matter preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization, if any, for that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match, a written statement of—";

(2) by striking "will assess" in paragraph (1) and inserting "has assessed, or will assess,"; and

(3) by striking "will receive" in paragraph (2) and inserting "has received, or will receive,".

SEC. 14. REQUIRED DISCLOSURES BY PROMOTERS AND BROADCASTERS.

Section 13 (15 U.S.C. 6307e) is amended—

(1) by striking "**PROMOTERS.**" in the section caption and inserting "**PROMOTERS AND BROADCASTERS.**";

(2) by striking so much of subsection (a) as precedes paragraph (1) and inserting the following:

"(a) Disclosures to Boxing Commissions and the Commission.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the

Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match—";

(3) by striking "writing," in subsection (a)(1) and inserting "writing, other than a bout agreement previously provided to the commission,";

(4) by striking "all fees, charges, and expenses that will be" in subsection (a)(3)(A) and inserting "a written statement of all fees, charges, and expenses that have been, or will be,";

(5) by inserting "a written statement of" before "all" in subsection (a)(3)(B);

(6) by inserting "a statement of" before "any" in subsection (a)(3)(C);

(7) by striking the matter in subsection (b) following "BOXER.—" and preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the promoter of the match shall provide to each boxer participating in the bout or match with whom the promoter has a bout or promotional agreement a statement of—";

(8) by striking "match;" in subsection (b)(1) and inserting "match, and that the promoter has paid, or agreed to pay, to any other person in connection with the match;"; and

(9) by adding at the end the following:

"(d) REQUIRED DISCLOSURES BY BROADCASTERS.—

"(1) IN GENERAL.—A broadcaster that owns the television broadcast rights for a professional boxing match of 10 rounds or more shall, within 7 days after that match, provide to the Commission—

"(A) a statement of any advance, guarantee, or license fee paid or owed by the broadcaster to a promoter in connection with that match;

"(B) a copy of any contract executed by or on behalf of the broadcaster with—

"(i) a boxer who participated in that match; or

"(ii) the boxer's manager, promoter, promotional company, or other representative or the owner or representative of the site of the match; and

"(C) a list identifying sources of income received from the broadcast of the match.

"(2) COPY TO BOXING COMMISSION.—Upon request from the boxing commission in the State or Indian land responsible for regulating a match to which paragraph (1) applies, a broadcaster shall provide the information described in paragraph (1) to that boxing commission.

"(3) CONFIDENTIALITY.—The information provided to the Commission or to a boxing commission pursuant to this subsection shall be confidential and not revealed by the Commission or a boxing commission, except that the Commission may publish an analysis of the data in aggregate form or in a manner which does not disclose confidential information about identifiable broadcasters.

"(4) TELEVISION BROADCAST RIGHTS.—In paragraph (1), the term 'television broadcast rights' means the right to broadcast the match, or any part thereof, via a broadcast station, cable service, or multichannel video programming distributor as such terms are defined in section 3(5), 602(6), and 602(13) of the Communications Act of 1934 (47 U.S.C. 153(5), 602(6), and 602(13), respectively).".

SEC. 15. JUDGES AND REFEREES.

(a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is amended—

(1) by inserting "(a) LICENSING AND ASSIGNMENT REQUIREMENT.—" before "No person";

(2) by striking "certified and approved" and inserting "selected";

(3) by inserting "or Indian lands" after "State"; and

(4) by adding at the end the following:

"(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the Commission.

"(c) ROLE OF SANCTIONING ORGANIZATION.—A sanctioning organization may provide a list of judges and referees deemed qualified by that organization to a boxing commission, but the boxing commission shall select, license, and appoint the judges and referees participating in the match.

"(d) ASSIGNMENT OF NONRESIDENT JUDGES AND REFEREES.—A boxing commission may assign judges and referees who reside outside that commission's State or Indian land.

"(e) REQUIRED DISCLOSURE.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian land a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Commission.".

(b) CONFORMING AMENDMENT.—Section 14 (15 U.S.C. 6307f) is repealed.

SEC. 16. MEDICAL REGISTRY.

The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

"SEC. 14. MEDICAL REGISTRY.

"(a) IN GENERAL.—The Commission shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.

"(b) CONTENT; SUBMISSION.—The Commission shall determine—

"(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

"(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

"(c) CONFIDENTIALITY.—The Commission shall establish confidentiality standards for the disclosure of personally identifiable information to boxing commissions that will—

"(1) protect the health and safety of boxers by making relevant information available to the boxing commissions for use but not public disclosure; and

"(2) ensure that the privacy of the boxers is protected.".

SEC. 17. CONFLICTS OF INTEREST.

Section 17 (15 U.S.C. 6308) is amended—

(1) by striking "enforces State boxing laws," in subsection (a) and inserting "implements State or tribal boxing laws, no officer or employee of the Commission,";

(2) by striking "belong to," and inserting "hold office in," in subsection (a);

(3) by striking the last sentence of subsection (a);

(4) by striking subsection (b) and inserting the following:

"(b) BOXERS.—A boxer may not own or control, directly or indirectly, an entity that promotes the boxer's bouts if that entity is responsible for—

"(1) executing a bout agreement or promotional agreement with the boxer's opponent; or

"(2) providing any payment or other compensation to—

"(A) the boxer's opponent for participation in a bout with the boxer;

"(B) the boxing commission that will regulate the bout; or

"(C) ring officials who officiate at the bout.".

SEC. 18. ENFORCEMENT.

Section 18 (15 U.S.C. 6309) is amended—

(1) by striking "(a) INJUNCTIONS.—" in subsection (a) and inserting "(a) ACTIONS BY ATTORNEY GENERAL.—";

(2) by inserting "any officer or employee of the Commission," after "laws," in subsection (b)(3);

(3) by inserting "has engaged in or" after "organization" in subsection (c);

(4) by striking "subsection (b)" in subsection (c)(3) and inserting "subsection (b), a civil penalty, or"; and

(5) by striking "boxer" in subsection (d) and inserting "person".

SEC. 19. REPEAL OF DEADWOOD.

Section 20 (15 U.S.C. 6311) is repealed.

SEC. 20. RECOGNITION OF TRIBAL LAW.

Section 22 (15 U.S.C. (6313) is amended—

(1) by insert. "**OR TRIBAL**" in the section heading after "**STATE**"; and

(2) by inserting "or Indian tribe" after "State".

SEC. 21. ESTABLISHMENT OF UNITED STATES BOXING COMMISSION.

(a) IN GENERAL.—The Act is amended by adding at the end the following:

"TITLE II—UNITED STATES BOXING COMMISSION

"SEC. 201. PURPOSE.

"The purpose of this title is to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.

"SEC. 202. UNITED STATES BOXING COMMISSION.

"(a) IN GENERAL.—The United States Boxing Commission is established as a commission within the Department of Commerce.

"(b) MEMBERS.—

"(1) IN GENERAL.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—Each member of the Commission shall be a citizen of the United States who—

"(i) has extensive experience in professional boxing activities or in a field directly related to professional sports;

"(ii) is of outstanding character and recognized integrity; and

"(iii) is selected on the basis of training, experience, and qualifications and without regard to political party affiliation.

"(B) SPECIFIC QUALIFICATIONS FOR CERTAIN MEMBERS.—At least 1 member of the Commission shall be a former member of a local boxing authority. If practicable, at least 1 member of the Commission shall be a physician or other health care professional duly licensed as such.

"(C) DISINTERESTED PERSONS.—No member of the Commission may, while serving as a member of the Commission—

"(i) be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing;

"(ii) have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match; or

"(iii) serve as a member of a boxing commission.

"(3) Bipartisan membership.—Not more than 2 members of the Commission may be members of the same political party.

"(4) Geographic balance.—Not more than 2 members of the Commission may be residents of the same geographic region of the United States when appointed to the Commission. For purposes of the preceding sentence, the area of the United States east of the Mississippi River is a geographic region, and the area of the United States west of the Mississippi River is a geographic region.

"(5) Terms.—

"(A) In general.—The term of a member of the Commission shall be 3 years.

"(B) Reappointment.—Members of the Commission may be reappointed to the Commission.

"(C) Midterm vacancies.—A member of the Commission appointed to fill a vacancy in the Commission occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that unexpired term.

"(D) Continuation pending replacement.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

"(6) Removal.—A member of the Commission may be removed by the President only for cause.

"(c) Executive Director.—

"(1) In general.—The Commission shall employ an Executive Director to perform the administrative functions of the Commission under this Act, and such other functions and duties of the Commission as the Commission shall specify.

"(2) Discharge of functions.—Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act.

"(d) General Counsel.—The Commission shall employ a General Counsel to provide legal counsel and advice to the Executive Director and the Commission in the performance of its functions under this Act, and to carry out such other functions and duties as the Commission shall specify.

"(e) Staff.—The Commission shall employ such additional staff as the Commission considers appropriate to assist the Executive Director and the General Counsel in carrying out the functions and duties of the Commission under this Act.

"(f) Compensation.—

"(1) Members of commission.—

"(A) In general.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

"(B) Travel expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(2) Executive director and staff.—The Commission shall fix the compensation of the Executive Director, the General Counsel, and other personnel of the Commission. The rate of pay for the Executive Director, the General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"SEC. 203. FUNCTIONS.

"(a) Primary Functions.—The primary functions of the Commission are—

"(1) to protect the health, safety, and general interests of boxers consistent with the provisions of this Act; and

"(2) to ensure uniformity, fairness, and integrity in professional boxing.

"(b) Specific Functions.—The Commission shall—

"(1) administer title I of this Act;

"(2) promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions;

" (3) except as otherwise determined by the Commission, oversee all professional boxing matches in the United States;

"(4) work with the boxing commissions of the several States and tribal organizations—

"(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

"(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

"(C) to improve the status and standards of professional boxing in the United States;

"(5) ensure, in cooperation with the Attorney General (who shall represent the Commission in any judicial proceeding under this Act), the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

"(6) review boxing commission regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Commission under this title;

"(7) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

"(8) if the Commission determines it to be appropriate, publish a newspaper, magazine, or other publication and establish and maintain a website consistent with the purposes of the Commission;

"(9) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Commission determines to be reasonable; and

"(10) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this title.

"(c) Prohibitions.—The Commission may not—

"(1) promote boxing events or rank professional boxers; or

"(2) provide technical assistance to, or authorize the use of the name of the Commission by, boxing commissions that do not comply with requirements of the Commission.

"(d) Use of Name.—The Commission shall have the exclusive right to use the name 'United States Boxing Commission'. Any person who, without the permission of the Commission, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Commission for the purpose of inducing the sale or exchange of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Commission for the remedies provided in the Act of July 5, 1946 (commonly known as the 'Trademark Act, of 1946'; 15 U.S.C. 1051 et seq.).

"SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

"(a) Licensing.—

"(1) Requirement for license.—No person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

"(2) Application and term.—

(A) In general.—The Commission shall—

"(i) establish application procedures, forms, and fees;

"(ii) establish and publish appropriate standards for licenses granted under this section; and

"(iii) issue a license to any person who, as determined by the Commission, meets the standards established by the Commission under this title.

"(B) Duration.—A license issued under this section shall be for a renewable—

"(i) 4-year term for a boxer; and

"(ii) 2-year term for any other person.

"(C) Procedure.—The Commission may issue a license under this paragraph through boxing commissions or in a manner determined by the Commission.

"(b) Licensing Fees.—

"(1) Authority.—The, Commission may prescribe and charge reasonable fees for the licensing of persons under this title. The Commission may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Commission.

"(2) Limitations.—In setting and charging fees under paragraph (1), the Commission shall ensure that, to the maximum extent practicable—

"(A) club boxing is not adversely effected;

"(B) sanctioning organizations and promoters pay comparatively the largest portion of the fees; and

"(C) boxers pay as small a portion of the fees as is possible.

"(3) Collection.—Fees established under this subsection may be collected through boxing commissions or by any other means determined appropriate by the Commission.

"SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

"(a) Requirement for Registry.—The Commission shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.

"(b) Contents.—The information in the registry shall include the following:

"(1) Boxers.—A list of professional boxers and data, in the medical registry established under section 114 of this Act, which the Commission shall secure from disclosure, in accordance with the confidentiality requirements of section 114(c).

"(2) Other personnel.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Commission as performing a professional activity for professional boxing matches.

"SEC. 206. CONSULTATION REQUIREMENTS.

"The Commission shall consult with the Association of Boxing Commissions—

"(1) before proscribing any regulation or establishing any standard under the provisions of this title; and

"(2) not less than once each year regarding matters relating to professional boxing.

"SEC. 207. MISCONDUCT.

"(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

"(1) AUTHORITY.—The Commission may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Commission finds that—

"(A) the license holder has violated any provision of this Act;

"(B) there are reasonable grounds for belief that a standard prescribed by the Commission under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

"(C) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest.

"(2) PERIOD OF SUSPENSION.—

"(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Commission except as provided in subparagraph (B).

"(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension or denial of the license of a boxer for medical reasons by the Commission, the Commission may terminate the suspension or denial at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Commission shall prescribe the standards and procedures for accepting certifications under this subparagraph.

"(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

"(b) INVESTIGATIONS AND INJUNCTIONS.—

"(1) AUTHORITY.—The Commission may—

"(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

"(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated;

"(C) in its discretion, publish information concerning any violations; and

"(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

"(2) POWERS.—

"(A) IN GENERAL.—For the purpose of any investigation under paragraph (1) or any other proceeding under this title—

"(i) any officer designated by the Commission may administer oaths and affirmations, subpena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records the Commission considers relevant or material to the inquiry; and

"(ii) the provisions of sections 6002 and 6004 of title 18, United States Code, shall apply.

"(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

"(3) ENFORCEMENT OF SUBPOENAS.—

"(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena. issued to, any person, the Commission may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Commission to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

"(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

"(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

"(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

"(A) IN GENERAL.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, in obedience to the subpoena of the Commission, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

"(B) LIMITED IMMUNITY.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning the matter about which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(5) INJUNCTIVE RELIEF.—If the Commission determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Commission may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

"(6) MANDAMUS.—Upon application of the Commission, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Commission.

"(c) INTERVENTION IN CIVIL ACTIONS.—

"(1) IN GENERAL.—The Commission, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

"(2) AMICUS FILING.—The Commission may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

"(d) HEARINGS BY COMMISSION.—Hearings conducted by the Commission under this Act shall be public and may be held before any officer of the Commission. The Commission shall keep appropriate records of the hearings.

"SEC. 208. NONINTERFERENCE WITH BOXING COMMISSIONS.

"(a) NONINTERFERENCE.—Nothing in this Act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

"(b) MINIMUM STANDARDS.—Nothing in this Act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Commission under this Act.

"SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

"Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Commission, upon the request of the Commission, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

"SEC. 210. REPORTS.

"(a) ANNUAL REPORT.—The Commission shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include—

"(1) a detailed discussion of the activities of the Commission for the year covered by the report; and

"(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions.

"(b) PUBLIC REPORT.—The Commission shall annually issue and publicize a report of the Commission on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Commission.

"(c) FIRST ANNUAL REPORT ON THE COMMISSION.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

"SEC. 211. INITIAL IMPLEMENTATION.

"(a) TEMPORARY EXEMPTION.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a boxing commission to perform that activity as of the effective date of this title.

"(b) EXPIRATION.—The exemption under subsection (a) with respect to a license issued by a boxing commission expires on the earlier of—

"(A) the date on which the license expires; or

"(B) the date that is 2 years after the date of the enactment of the Professional Boxing Amendments Act of 2004.

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for the Commission for each fiscal year such sums as may be necessary for the Commission to perform its functions for that fiscal year.

"(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

"(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

"(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(3) shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—

(1) PBSA.—The Professional Boxing Safety Act of 1996, as amended by this Act, is further amended—

(A) by amending section 1 to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Professional Boxing Safety Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Section 1. Short title; table of contents.
"Sec. 2. Definitions.

"Title I—Professional Boxing Safety

"Sec. 101. Purposes.
"Sec. 102. Approval or sanction requirement.
"Sec. 103. Safety standards.
"Sec. 104. Registration.
"Sec. 105. Review.
"Sec. 106. Reporting.
"Sec. 107. Contract requirements.
"Sec. 108. Protection from coercive contracts.
"Sec. 109. Sanctioning organizations.
"Sec. 110. Required disclosures to State boxing commissions by sanctioning organizations.
"Sec. 111. Required disclosures by promoters and broadcasters.
"Sec. 112. Medical registry.
"Sec. 113. Confidentiality.
"Sec. 114. Judges and referees.
"Sec. 115. Conflicts of interest.
"Sec. 116. Enforcement.
"Sec. 117. Professional boxing matches conducted on Indian lands.
"Sec. 118. Relationship with State or Tribal law.

"Title II—United States Boxing Commission

"Sec. 201. Purpose.
"Sec. 202. Establishment of United States Boxing Commission.
"Sec. 203. Functions.
"Sec. 204. Licensing and registration of boxing personnel.
"Sec. 205. National registry of boxing personnel.
"Sec. 206. Consultation requirements.
"Sec. 207. Misconduct.
"Sec. 208. Noninterference with boxing commissions.
"Sec. 209. Assistance from other agencies.
"Sec. 210. Reports.
"Sec. 211. Initial implementation.
"Sec. 212. Authorization of appropriations.";

(B) by inserting before section 3 the following: **"TITLE I—PROFESSIONAL BOXING SAFETY"**;

(C) by redesignating sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and 22 as sections 101 through 118, respectively;

(D) by striking subsection (a) of section 113, as redesignated, and inserting the following:

"(a) IN GENERAL.—Except to the extent required in a legal, administrative, or judicial proceeding, a boxing commission, an Attorney General, or the Commission may not disclose to the public any matter furnished by a promoter under section 111.";

(E) by striking "section 13" in subsection (b) of section 113, as redesignated, and inserting "section 111";

(F) by striking "9(b), 10, 11, 12, 13, 14, or 16," in paragraph (1) of section 116(b), as redesignated, and inserting "107, 108, 109, 110, 111, or 114,";

(G) by striking "9(b), 10, 11, 12, 13, 14, or 16" in paragraph (2) of section 116(b), as redesignated, and inserting "107, 108, 109, 110, 111, or 114";

(H) by striking "section 17(a)" in subsection (b)(3) of section 116, as redesignated, and inserting "section 115(a)";

(I) by striking "section 10" in subsection (e)(3) of section 116, as redesignated, and inserting "section 108"; and

(J) by striking "of this Act" each place it appears in sections 101 through 120, as redesignated, and inserting "of this title".

(2) COMPENSATION OF MEMBERS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Members of the United States Boxing Commission.".

SEC. 22. STUDY AND REPORT ON DEFINITION OF PROMOTER.

(a) STUDY.—The United States Boxing Commission shall conduct a study on how the term "promoter" should be defined for purposes of the Professional Boxing Safety Act.

(b) HEARINGS.—As part of that study, the Commission shall hold hearings and solicit testimony at those hearings from boxers, managers, promoters, premium, cable, and satellite program service providers, hotels, casinos, resorts, and other commercial establishments that host or sponsor professional boxing matches, and other interested parties with respect to the definition of that term as it is used in the Professional Boxing Safety Act.

(c) REPORT.—Not, later than 12 months after the date of the enactment of this Act, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study conducted under subsection (a). The report shall—

(1) set forth a proposed definition of the term "promoter" for purposes of the Professional Boxing Safety Act; and

(2) describe the findings, conclusions, and rationale of the Commission for the proposed definition, together with any recommendations of the Commission, based on the study.

SEC. 23. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVISIONS.—Sections 205 through 212 of the Professional Boxing Safety Act of 1996, as added by section 21(a) of this Act, shall take effect 1 year after the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 31, 2004, at 10 a.m., to conduct a hearing on "Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 31, 2004, at 2:30 p.m., to conduct a hearing on "Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the full committee on Environment and Public Works be authorized to meet on Wednesday, March 31, at 9:30 a.m., to conduct a nominations hearing to consider the nominations of: Stephen L. Johnson, to be Deputy Administrator, EPA; Ann R. Klee, to be General Counsel, EPA; Charles Johnson, to be Chief Financial Officer, EPA; Benjamin Grumbles, to be Assistant Administrator for the Office of Water, EPA; and Gary Lee Visscher, to be a Member of the Chemical Safety and Hazard Investigation Board.

The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 31, 2004, at 9:30 a.m., to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 31, 2004, at 2:30 p.m., to hold a hearing on the effects of the Madrid terrorist attacks on U.S.-European cooperation in the war on terrorism.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 31, 2004, at 2:30 p.m., to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Personnel

Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on March 31, 2004, at 9:30 a.m., in open session to receive testimony on Active and Reserve military and civilian personnel programs, in review of the Defense authorization request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be authorized to meet on Wednesday, March 31, at 1:30 p.m., to conduct a hearing to consider the role of the U.S. Army Corps of Engineers in meeting the Nation's water resource needs in the 21st century.

The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Shawn Gallagher, a fellow in the office of the Democratic leader, be granted the privileges of the floor during consideration of H.R. 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that John Collison be given floor privileges for the remainder of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROFESSIONAL BOXING AMENDMENTS ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 98, S. 275.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 275) to amend the Professional Boxing Safety Act of 1996, and to establish a United States Boxing Administration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) Short Title.—This Act may be cited as the "Professional Boxing Amendments Act of 2003".

[(b) Table of Contents.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. Amendment of Professional Boxing Safety Act of 1996.
[Sec. 3. Definitions.
[Sec. 4. Purposes.
[Sec. 5. USBA approval, or ABC or commission sanction, required for matches.
[Sec. 6. Safety standards.
[Sec. 7. Registration.
[Sec. 8. Review.
[Sec. 9. Reporting.
[Sec. 10. Contract requirements.
[Sec. 11. Coercive contracts.
[Sec. 12. Sanctioning organizations.
[Sec. 13. Required disclosures by sanctioning organizations.
[Sec. 14. Required disclosures by promoters.
[Sec. 15. Judges and referees.
[Sec. 16. Medical registry.
[Sec. 17. Conflicts of interest.
[Sec. 18. Enforcement.
[Sec. 19. Repeal of deadwood.
[Sec. 20. Recognition of tribal law.
[Sec. 21. Establishment of United States Boxing Administration.
[Sec. 22. Effective date.

[SEC. 2. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

[Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

[SEC. 3. DEFINITIONS.

[(a) In General.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

["SEC. 2. DEFINITIONS.

["In this Act:

["(1) Administration.—The term 'Administration' means the United States Boxing Administration.

["(2) Bout agreement.—The term 'bout agreement' means a contract between a promoter and a boxer which requires the boxer to participate in a professional boxing match with a designated opponent on a particular date.

["(3) Boxer.—The term 'boxer' means an individual who fights in a professional boxing match.

["(4) Boxing commission.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

["(5) Boxer registry.—The term 'boxer registry' means any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers.

["(6) Boxing service provider.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

["(7) Contract provision.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

["(8) Indian lands; Indian tribe.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

["(9) Licensee.—The term 'licensee' means an individual who serves as a trainer, second, or cut man for a boxer.

["(10) Local boxing authority.—The term 'local boxing authority' means—

["(A) any agency of a State, or of a political subdivision of a State, that has authority under the laws of the State to regulate professional boxing; and

["(B) any agency of an Indian tribe that is authorized by the Indian tribe or the governing body of the Indian tribe to regulate professional boxing on Indian lands.

["(11) Manager.—The term 'manager' means a person who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

["(12) Matchmaker.—The term 'matchmaker' means a person that proposes, selects, and arranges the boxers to participate in a professional boxing match.

["(13) Physician.—The term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action.

["(14) Professional boxing match.—The term 'professional boxing match' means a boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Administration.

["(15) Promoter.—The term 'promoter' means the person responsible for organizing, promoting, and producing a professional boxing match. The term 'promoter' does not include a premium or other cable or satellite program service, hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless—

.["(A) the premium or other cable or satellite program service, hotel, casino, resort, or other commercial establishment has a promotional agreement with a boxer in the match; or

["(B) there is another person responsible for organizing, promoting, and producing the match who is affiliated with the premium or other cable or satellite program service, hotel, casino, resort, or other commercial establishment.

["(16) Promotional agreement.—The term 'promotional agreement' means a contract between a any person and a boxer under which the boxer grants to that person the right to secure and arrange all professional boxing matches requiring the boxer's services for—

["(A) a prescribed period of time; or

["(B) a prescribed number of professional boxing matches.

["(17) State.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

["(18) Effective date of the contract.—The term 'effective date of the contract' means the day upon which a boxer becomes legally bound by the contract.

["(19) Sanctioning organization.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

["(A) between boxers who are residents of different States; or

["(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

["(20) Suspension.—The term 'suspension' includes within its meaning the revocation of a boxing license.

[“(21) TRIBAL ORGANIZATION.—The term ‘tribal organization’ has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).”.

[(b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

[“SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

[(a) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization may establish a boxing commission to regulate professional boxing matches held on Indian land under the jurisdiction of that tribal organization.

[“(b) CONTRACT WITH A BOXING COMMISSION.—A tribal organization that does not establish a boxing commission shall execute a contract with the Association of Boxing Commissions, or a boxing commission that is a member of the Association of Boxing Commissions, to regulate any professional boxing match held on Indian land under the jurisdiction of that tribal organization. If the match is regulated by the Association of Boxing Commissions, the match shall be regulated in accordance with the guidelines established by the United States Boxing Administration. If the match is regulated by a boxing commission from a State other than the State within the borders of which the Indian land is located, the match shall be regulated in accordance with the applicable requirements of the State where the match is held.

[“(c) STANDARDS AND LICENSING.—A tribal organization that establishes a boxing commission shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

[“(1) the otherwise applicable requirements of the State in which the Indian land on which the professional boxing match is held is located; or

[“(2) the guidelines established by the United States Boxing Administration.”.

[SEC. 4. PURPOSES.

[Section 3(2) (15 U.S.C. 6302(2)) is amended by striking ‘State’.

[SEC. 5. USBA APPROVAL, OR ABC OR COMMISSION SANCTION, REQUIRED FOR MATCHES.

[(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

[“SEC. 4. APPROVAL OR SANCTION REQUIREMENT.

[“(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match within the United States unless the match—

[“(1) is approved by the Administration; and

[“(2) is supervised by the Association of Boxing Commissions or by a boxing commission that is a member of the Association of Boxing Commissions.

[“(b) APPROVAL PRESUMED.—For purposes of subsection (a), the Administration shall be presumed to have approved any match other than—

[“(1) a match with respect to which the Administration has been informed of an alleged violation of this Act and with respect to which it has notified the supervising boxing commission that it does not approve;

[“(2) a match advertised to the public as a championship match; or

[“(3) a match scheduled for 10 rounds or more.

[“(c) NOTIFICATION; ASSURANCES.—Each promoter who intends to hold a professional boxing match in a State that does not have a boxing commission shall, not later than 14 days before the intended date of that match, provide assurances in writing to the Administration and the supervising boxing commission that all applicable requirements of this Act will be met with respect to that professional boxing match.”.

[(b) CONFORMING AMENDMENT.—Section 19 (15 U.S.C. 6310) is repealed.

[SEC. 6. SAFETY STANDARDS.

[Section 5 (15 U.S.C. 6304) is amended—

[(1) by striking “requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:” and inserting “requirements:”;

[(2) by adding at the end of paragraph (1) “The examination shall include testing for infectious diseases in accordance with standards established by the Administration.”;

[(3) by striking paragraph (2) and inserting the following:

[“(2) An ambulance continuously present on site.”;

[(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

[“(3) Emergency medical personnel with appropriate resuscitation equipment continuously present on site.”; and

[(5) by striking “match.” in paragraph (5), as redesignated, and inserting “match in an amount prescribed by the Administration.”.

[SEC. 7. REGISTRATION.

[Section 6 (15 U.S.C. 6305) is amended—

[(1) by inserting “or Indian tribe” after “State” the second place it appears in subsection (a)(2);

[(2) by striking the first sentence of subsection (c) and inserting “A boxing commission shall, in accordance with requirements established by the Administration, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.”;

[(3) by striking “should” in the second sentence of subsection (c) and inserting “shall, at a minimum,”; and

[(4) by adding at the end the following:

[“(d) COPY OF REGISTRATION TO BE SENT TO ADMINISTRATION.—A boxing commission shall furnish a copy of each registration received under subsection (a) to the Administration.”.

[SEC. 8. REVIEW.

[Section 7 (15 U.S.C. 6306) is amended—

[(1) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

[“(3) Procedures to review a summary suspension when a hearing before the boxing commission is requested by a boxer, licensee, manager, matchmaker, promoter, or other boxing service provider which provides an opportunity for that person to present evidence.”;

[(2) by striking subsection (b); and

[(3) by striking “(a) PROCEDURES.—”.

[SEC. 9. REPORTING.

[Section 8 (15 U.S.C. 6307) is amended—

[(1) by striking “48 business hours” and inserting “2 business days”; and

[(2) by striking “each boxer registry.” and inserting “the Administration.”.

[SEC. 10. CONTRACT REQUIREMENTS.

[Section 9 (15 U.S.C. 6307a) is amended to read as follows:

[“SEC. 9. CONTRACT REQUIREMENTS.

[“(a) IN GENERAL.—The Administration, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

[“(b) FILING AND APPROVAL REQUIREMENTS.—

[“(1) ADMINISTRATION.—A manager or promoter shall submit a copy of each boxer-manager contract and each promotional agreement between that manager or promoter and a boxer to the Administration, and, if requested, to the boxing commission with jurisdiction over the bout.

[“(2) BOXING COMMISSION.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it and approved by it.

[“(c) BOND OR OTHER SURETY.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission.”.

[SEC. 11. COERCIVE CONTRACTS.

[Section 10 (15 U.S.C. 6307b) is amended—

[(1) by striking paragraph (3) of subsection (a);

[(2) by inserting “or elimination” after “mandatory” in subsection (b).

[SEC. 12. SANCTIONING ORGANIZATIONS.

[(a) IN GENERAL.—Section 11 (15 U.S.C. 6307c) is amended to read as follows:

[“SEC. 11. SANCTIONING ORGANIZATIONS.

[“(a) OBJECTIVE CRITERIA.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2003, the Administration shall develop guidelines for objective and consistent written criteria for the rating of professional boxers based on the athletic merits of the boxers. Within 90 days after the Administration's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.

[“(b) NOTIFICATION OF CHANGE IN RATING.—A sanctioning organization shall, with respect to a change in the rating of a boxer previously rated by such organization in the top 10 boxers—

[“(1) post a copy, within 7 days after the change, on its Internet website or home page, if any, including an explanation of the change, for a period of not less than 30 days;

[(2) provide a copy of the rating change and a thorough explanation in writing under penalty of perjury to the boxer and the Administration;

[“(3) provide the boxer an opportunity to appeal the ratings change; and

[“(4) apply the objective criteria for ratings required under subsection (a) in considering any such appeal.

[“(c) CHALLENGE OF RATING.—If a sanctioning organization receives an inquiry from a boxer challenging that organization's rating of the boxer, it shall (except to the extent otherwise required by the Administration), within 7 days after receiving the request—

[“(1) provide to the boxer a written explanation under penalty of perjury of the organization's rating criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

[“(2) submit a copy of its explanation to the Association of Boxing Commissions and the Administration.”.

[SEC. 13. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

[Section 12 (15 U.S.C. 6307d) is amended—

[(1) by striking the matter preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization for that match shall provide to the boxing commission in the State or on Indian land responsible for regulating the match, and to the Administration, a statement of—";

[(2) by striking "will assess" in paragraph (1) and inserting "has assessed, or will assess,"; and

[(3) by striking "will receive" in paragraph (2) and inserting "has received, or will receive,".

[SEC. 14. REQUIRED DISCLOSURES BY PROMOTERS.

[Section 13 (15 U.S.C. 6307e) is amended—

[(1) by striking the matter in subsection (a) preceding paragraph (1) and inserting the following:

["(a) Disclosures to Boxing Commissions and Administration.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the boxing commission in the State or on Indian land responsible for regulating the match, and to the Administration—";

[(2) by striking "writing," in subsection (a)(1) and inserting "writing, other than a bout agreement previously provided to the commission,";

[(3) by striking "all fees, charges, and expenses that will be" in subsection (a)(3)(A) and inserting "a statement of all fees, charges, and expenses that have been, or will be,";

[(4) by inserting "a statement of" before "all" in subsection (a)(3)(B);

[(5) by inserting "a statement of" before "any" in subsection (a)(3)(C);

[(6) by striking the matter in subsection (b) following "Boxer.--" and preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the promoter of that match shall provide to each boxer participating in the match a statement of—"; and

[(7) by striking "match;" in subsection (b)(1) and inserting "match, and that the promoter has paid, or agreed to pay, to any other person in connection with the match;".

[SEC. 15. JUDGES AND REFEREES.

[(a) In General.—Section 16 (15 U.S.C. 6307h) is amended—

[(1) by inserting "(a) Licensing and Assignment Requirement.—" before "No person";

[(2) by striking "certified and approved" and inserting "selected";

[(3) by inserting "or Indian lands" after "State"; and

[(4) by adding at the end the following:

["(b) Championship and 10-round Bouts.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the Administration or selected by a boxing commission.

["(c) Sanctioning Organization Not To Influence Selection Process.—A sanctioning organization—

["(1) may provide a list of judges and referees deemed qualified by that organization to a boxing commission; but

["(2) shall not influence, or attempt to influence, a boxing commission's selection of a judge or referee for a professional boxing match except by providing such a list.

["(d) Assignment of Nonresident Judges and Referees.—A boxing commission may assign judges and referees who reside outside that commission's State or Indian land if the judge or referee is licensed by a boxing commission in the United States.

["(e) Required Disclosure.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian land a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Administration.".

[(b) Conforming Amendment.—Section 14 (15 U.S.C. 6307f) is repealed.

[SEC. 16. MEDICAL REGISTRY.

[The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

["SEC. 14. MEDICAL REGISTRY.

[(a) In General.—The Administration, in consultation with the Association of Boxing Commissions, shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.

["(b) Content; Submission.—The Administration shall determine—

["(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

["(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

["(c) Confidentiality.—The Administration shall establish confidentiality standards for the disclosure of personally identifiable information to boxing commissions that will—

["(1) protect the health and safety of boxers by making relevant information available to the boxing commissions for use but not public disclosure; and

["(2) ensure that the privacy of the boxers is protected.".

[SEC. 17. CONFLICTS OF INTEREST.

[Section 17(a) is amended by inserting "no officer or employee of the Administration," after "laws,".

[SEC. 18. ENFORCEMENT.

[Section 18 (15 U.S.C. 6309) is amended—

[(1) by striking "(a) Injunction.—" in subsection (a) and inserting "(a) Actions by Attorney General.—";

[(2) by inserting "or criminal" after "civil" in subsection (a);

[(3) by inserting "any officer or employee of the Administration," after "laws," in subsection (b)(3);

[(4) by inserting "has engaged in or" after "organization" in subsection (c);

[(5) by inserting "or criminal" after "civil" in subsection (c);

[(6) by striking "fines" in subsection (c)(3) and inserting "sanctions"; and

[(7) by striking "boxer" in subsection (d) and inserting "person".

[SEC. 19. REPEAL OF DEADWOOD.

[Section 20 (15 U.S.C. 6311) is repealed.

[SEC. 20. RECOGNITION OF TRIBAL LAW.

[Section 22 (15 U.S.C. 6313) is amended—

[(1) by insert "**OR TRIBAL**" in the section heading after "**STATE**"; and

[(2) by inserting "or Indian tribe" after "State".

[SEC. 21. ESTABLISHMENT OF UNITED STATES BOXING ADMINISTRATION.

[(a) In General.—The Act is amended by adding at the end the following:

["TITLE II—UNITED STATES BOXING ADMINISTRATION

["SEC. 201. PURPOSE.

["The purpose of this title is to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.

["SEC. 202. ESTABLISHMENT OF UNITED STATES BOXING ADMINISTRATION.

["(a) In General.—The United States Boxing Administration is established as an administration of the Department of Labor.

["(b) Administrator.—

["(1) Appointment.—The Administration shall be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate.

["(2) Qualifications.—The Administrator shall be an individual who—

["(A) has extensive experience in professional boxing activities or in a field directly related to professional sports;

["(B) is of outstanding character and recognized integrity; and

["(C) is selected on the basis of training, experience, and qualifications and without regard to party affiliation.

["(3) Compensation.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

["The Administrator of the United States Boxing Administration.".

["(4) Term of office.—The Administrator shall serve for a term of 4 years.

["(c) Assistant Administrator; General Counsel.—The Administration shall have an Assistant Administrator and a General Counsel, who shall be appointed by the Administrator. The Assistant Administrator shall—

["(1) serve as Administrator in the absence of the Administrator, in the event of the inability of the Administrator to carry out the functions of the Administrator, or in the event of a vacancy in that office; and

["(2) carry out such duties as the Administrator may assign.

["(d) Staff.—The Administration shall have such additional staff as may be necessary to carry out the functions of the Administration.

["SEC. 203. FUNCTIONS.

["(a) Primary Functions.—The primary function of the Administration are—

["(1) to protect the health, safety, and general interests of boxers consistent with the provisions of this Act; and

["(2) to ensure uniformity, fairness, and integrity in professional boxing.

["(b) Specific Functions.—The Administrator shall—

["(1) administer title I of this Act;

["(2) promulgate uniform standards for professional boxing in consultation with the boxing commissions of the several States and tribal organizations;

["(3) except as otherwise determined by the Administration, oversee all professional boxing matches in the United States;

["(4) work with sanctioning organizations, the Association of Boxing Commissions, and the boxing commissions of the several States and tribal organizations—

["(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

["(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

["(C) to improve the status and standards of professional boxing in the United States;

["(5) ensure, through the Attorney General, the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

[“(6) review local boxing authority regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Administration under this title;

[“(7) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

[“(8) if the Administrator determines it to be appropriate, publish a newspaper, magazine, or other publication and establish and maintain a website consistent with the purposes of the Administration;

[“(8) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Administration determines to be reasonable; and

[“(9) take any other action that is necessary and proper to accomplish the purpose of this title consistent with the provisions of this title.

[“(c) PROHIBITIONS.—The Administration may not—

[“(1) promote boxing events or rank professional boxers; or

[“(2) provide technical assistance to, or authorize the use of the name of the Administration by, boxing commissions that do not comply with requirements of the Administration.

[“(d) USE OF NAME.—The Administration shall have the exclusive right to use the name ‘United States Boxing Administration’. Any person who, without the permission of the Administration, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Administration for the purpose of inducing the sale of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Administration for the remedies provided in the Act of July 5, 1946 (commonly known as the ‘Trademark Act of 1946’; 15 U.S.C. 1051 et seq.).

[“SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

[“(a) LICENSING.—

[“(1) REQUIREMENT FOR LICENSE.—No person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

[“(2) APPLICATION AND TERM.—

[“(A) IN GENERAL.—The Administration shall—

[“(i) establish application procedures, forms, and fees;

[“(ii) establish and publish appropriate standards for licenses granted under this section; and

[“(iii) issue a license to any person who, as determined by the Administration, meets the standards established by the Administration under this title.

[“(B) DURATION.—A license issued under this section shall be for a renewable—

[“(i) 4-year term for a boxer; and

[“(ii) 2-year term for any other person.

[“(C) PROCEDURE.—The Administration may issue a license under this paragraph through local boxing authorities or in a manner determined by the Administration.

[“(b) LICENSING FEES.—

[“(1) AUTHORITY.—The Administration may prescribe and charge reasonable fees for the licensing of persons under this title. The Administration may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Administration.

[“(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Administration shall ensure that, to the maximum extent practicable—

[“(A) club boxing is not adversely effected;

[“(B) sanctioning organizations and promoters pay the largest portion of the fees; and

[“(C) boxers pay as small a portion of the fees as is possible.

[“(3) COLLECTION.—Fees established under this subsection may be collected through local boxing authorities or by any other means determined appropriate by the Administration.

[“SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

[“(a) REQUIREMENT FOR REGISTRY.—The Administration, in consultation with the Association of Boxing Commissions, shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.

[“(b) CONTENTS.—The information in the registry shall include the following:

[“(1) BOXERS.—A list of professional boxers and data in the medical registry established under section 114 of this Act, which the Administration shall secure from disclosure in accordance with the confidentiality requirements of section 114(c).

[“(2) OTHER PERSONNEL.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Administration as performing a professional activity for professional boxing matches.

[“SEC. 206. CONSULTATION REQUIREMENTS.

[“The Administration shall consult with local boxing authorities—

[“(1) before prescribing any regulation or establishing any standard under the provisions of this title; and

[“(2) not less than once each year regarding matters relating to professional boxing.

[“SEC. 207. MISCONDUCT.

[“(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

[“(1) AUTHORITY.—The Administration may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Administration finds that—

[“(A) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest;

[“(B) there are reasonable grounds for belief that a standard prescribed by the Administration under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

[“(C) the licensee has violated any provision of this Act.

[“(2) PERIOD OF SUSPENSION.—

[“(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Administration except as provided in subparagraph (B).

[“(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension or denial of the license of a boxer for medical reasons by the Administration, the Administration may terminate the suspension or denial at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Administration shall prescribe the standards and procedures for accepting certifications under this subparagraph.

[“(b) INVESTIGATIONS AND INJUNCTIONS.—

[“(1) AUTHORITY.—The Administration may—

[“(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this title or any regulation prescribed under this title;

[“(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the matter to be investigated;

[“(C) in its discretion, publish information concerning any violations; and

[“(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this title, in the prescribing of regulations under this title, or in securing information to serve as a basis for recommending legislation concerning the matters to which this title relates.

[“(2) POWERS.—

[“(A) IN GENERAL.—For the purpose of any investigation under paragraph (1), or any other proceeding under this title, any officer designated by the Administration may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Administration considers relevant or material to the inquiry.

[“(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

[“(3) ENFORCEMENT OF SUBPOENAS.—

[“(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Administration may file an action in any court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Administration to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

[“(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that Court.

[“(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

[“(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

[“(A) IN GENERAL.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Administration, in obedience to the subpoena of the Administration, or in any cause or proceeding instituted by the Administration, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

[“(B) LIMITED IMMUNITY.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning the matter about which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

[“(5) INJUNCTIVE RELIEF.—If the Administration determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this title, or of any regulation prescribed under this title, the Administration may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

[“(6) MANDAMUS.—Upon application of the Administration, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Administration.

[“(c) INTERVENTION IN CIVIL ACTIONS.—

[“(1) IN GENERAL.—The Administration, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a United States district court.

[“(2) AMICUS FILING.—The Administration may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

[“(d) HEARINGS BY ADMINISTRATION.—Hearings conducted by the Administration under this title shall be public and may be held before any officer of the Administration or before a boxing commission that is a member of the Association of Boxing Commissions. The Administration shall keep appropriate records of the hearings.

[“SEC. 208. NONINTERFERENCE WITH LOCAL BOXING AUTHORITIES.

[“(a) NONINTERFERENCE.—Nothing in this title prohibits any local boxing authority from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this title.

[“(b) MINIMUM STANDARDS.—Nothing in this title prohibits any local boxing authority from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Administration under this title.

[“SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

[“Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Administration, upon the request of the Administration, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

[“SEC. 210. REPORTS.

[“(a) ANNUAL REPORT.—The Administration shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include the following:

[“(1) A detailed discussion of the activities of the Administration for the year covered by the report.

[“(2) A description of the local boxing authority of each State and Indian tribe.

[“(b) PUBLIC REPORT.—The Administration shall annually issue and publicize a report of the Administration on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Administration.

[“(c) FIRST ANNUAL REPORT ON THE ADMINISTRATION.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

[“SEC. 211. INITIAL IMPLEMENTATION.

[“(a) TEMPORARY EXEMPTION.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a boxing commission to perform that activity as of the effective date of this title.

[“(b) EXPIRATION.—The exemption under subsection (a) with respect to a license issued by a boxing commission expires on the earlier of—

[“(A) the date on which the license expires; or

[“(B) the date that is 2 years after the date of the enactment of the Professional Boxing Amendments Act of 2003.

[“SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

[“(a) IN GENERAL.—There are authorized to be appropriated for the Administration for each fiscal year such sums as may be necessary for the Administration to perform its functions for that fiscal year.

[“(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

[“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

[“(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

[“(3) shall remain available until expended.”.

[(b) CONFORMING AMENDMENTS.—

[(1) PBSA.—The Professional Boxing Safety Act or 1966, as amended by this Act, is further amended—

[(A) by amending section 1 to read as follows:

[“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[“(a) SHORT TITLE.—This Act may be cited as the ‘Professional Boxing Safety Act’.

[“(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[“Section 1. Short title; table of contents.
[“Sec. 2. Definitions.

[“TITLE I—PROFESSIONAL BOXING SAFETY

[“Sec. 101. Purposes.
[“Sec. 102. Approval or sanction requirement.
[“Sec. 103. Safety standards.
[“Sec. 104. Registration.
[“Sec. 105. Review.
[“Sec. 106. Reporting.
[“Sec. 107. Contract requirements.
[“Sec. 108. Protection from coercive contracts.
[“Sec. 109. Sanctioning organizations.
[“Sec. 110. Required disclosures to state boxing commissions by sanctioning organizations.
[“Sec. 111. Required disclosures for promoters.
[“Sec. 112. Medical registry.
[“Sec. 113. Confidentiality.
[“Sec. 114. Judges and referees.
[“Sec. 115. Conflicts of interest.
[“Sec. 116. Enforcement.
[“Sec. 117. Professional boxing matches conducted on indian lands.
[“Sec. 118. Relationship with State or tribal law.

“TITLE II—UNITED STATES BOXING ADMINISTRATION

[“Sec. 201. Purpose.
[“Sec. 202. Establishment of United States Boxing Administration.
[“Sec. 203. Functions.
[“Sec. 204. Licensing and registration of boxing personnel.
[“Sec. 205. National registry of boxing personnel.
[“Sec. 206. Consultation requirements.
[“Sec. 207. Misconduct.
[“Sec. 208. Noninterference with local boxing authorities.
[“Sec. 209. Assistance from other agencies.
[“Sec. 210. Reports.
[“Sec. 211. Initial implementation.
[“Sec. 212. Authorization of appropriations.”;

[(B) by inserting before section 3 the following:

[“TITLE I—PROFESSIONAL BOXING SAFETY” ;

[(C) by redesignating sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and 22 as sections 101 through 118, respectively;

[(D) by striking “section 13” each place it appears in section 113, as redesignated, and inserting “section 111”;

[(E) by striking “section 4.” in section 117(a), as redesignated, and inserting “section 102.”;

[(F) by striking “9(b), 10, 11, 12, 13, 14, or 16,” in paragraph (1) of section 116(b), as redesignated, and inserting “107, 108, 109, 110, 111, or 114,”;

[(G) by striking “9(b), 10, 11, 12, 13, 14, or 16” in paragraph (2) of section 116(b), as redesignated, and inserting “107, 108, 109, 110, 111, or 114”;

[(H) by striking “section 17(a)” in subsection (b)(3) of section 116, as redesignated, and inserting “section 115(a)”;

[(I) by striking “section 10” in subsection (e)(3) of section 116, as redesignated, and inserting “section 108”; and

[(J) by striking “of this Act” each place it appears in sections 101 through 120, as redesignated, and inserting “of this title”.

[(2) COMPENSATION OF ADMINISTRATOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

[“The Administrator of the United States Boxing Administration.”.

[SEC. 22. EFFECTIVE DATE.

[(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this

Act shall take effect on the date of enactment of this Act.

[(b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVISIONS.—Sections 205 through 212 of the Professional Boxing Safety Act or 1996, as added by section 21(a) of this Act, shall take effect 1 year after the date of enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Professional Boxing Amendments Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Professional Boxing Safety Act of 1996.
Sec. 3. Definitions.
Sec. 4. Purposes.
Sec. 5. USBA approval, or ABC or commission sanction, required for matches.
Sec. 6. Safety standards.
Sec. 7. Registration.
Sec. 8. Review.
Sec. 9. Reporting.
Sec. 10. Contract requirements.
Sec. 11. Coercive contracts.
Sec. 12. Sanctioning organizations.
Sec. 13. Required disclosures by sanctioning organizations.
Sec. 14. Required disclosures by promoters.
Sec. 15. Judges and referees.
Sec. 16. Medical registry.
Sec. 17. Conflicts of interest.
Sec. 18. Enforcement.
Sec. 19. Repeal of deadwood.
Sec. 20. Recognition of tribal law.
Sec. 21. Establishment of United States Boxing Administration.
Sec. 22. Effective date.

SEC. 2. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATION.—The term 'Administration' means the United States Boxing Administration.

"(2) BOUT AGREEMENT.—The term 'bout agreement' means a contract between a promoter and a boxer that requires the boxer to participate in a professional boxing match with a designated opponent on a particular date.

"(3) BOXER.—The term 'boxer' means an individual who fights in a professional boxing match.

"(4) BOXING COMMISSION.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

"(5) BOXER REGISTRY.—The term 'boxer registry' means any entity certified by the Administration for the purposes of maintaining records and identification of boxers.

"(6) BOXING SERVICE PROVIDER.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

"(7) CONTRACT PROVISION.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

"(8) INDIAN LANDS; INDIAN TRIBE.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

"(9) LICENSEE.—The term 'licensee' means an individual who serves as a trainer, second, or cut man for a boxer.

"(10) LOCAL BOXING AUTHORITY.—The term 'local boxing authority' means—

"(A) any agency of a State, or of a political subdivision of a State, that has authority under the laws of the State to regulate professional boxing; and

"(B) any agency of an Indian tribe that is authorized by the Indian tribe or the governing body of the Indian tribe to regulate professional boxing on Indian lands.

"(11) MANAGER.—The term 'manager' means a person who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

"(12) MATCHMAKER.—The term 'matchmaker' means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match.

"(13) PHYSICIAN.—The term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action.

"(14) PROFESSIONAL BOXING MATCH.—The term 'professional boxing match' means a boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Administration.

"(15) PROMOTER.—

"(A) IN GENERAL.—The term 'promoter' means the person responsible for organizing, promoting, and producing a professional boxing match.

"(B) NON-APPLICATION TO CERTAIN ENTITIES.—The term 'promoter' does not include a premium or other cable or satellite program service, hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless it—

"(i) is responsible for organizing, promoting, and producing the match; and

"(ii) has a promotional agreement with a boxer in that match.

"(C) ENTITIES ENGAGING IN PROMOTIONAL ACTIVITIES THROUGH AN AFFILIATE.—Notwithstanding subparagraph (B), an entity described in that subparagraph shall be considered to be a promoter if the person responsible for organizing, promoting, and producing a professional boxing match—

"(i) is directly or indirectly under the control of, under common control with, or acting at the direction of that entity; and

"(ii) organizes, promotes, and produces the match at the direction or request of the entity.

"(16) PROMOTIONAL AGREEMENT.—The term 'promotional agreement' means a contract between a any person and a boxer under which the boxer grants to that person the right to secure and arrange all professional boxing matches requiring the boxer's services for—

"(A) a prescribed period of time; or

"(B) a prescribed number of professional boxing matches.

"(17) STATE.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

"(18) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

"(A) between boxers who are residents of different States; or

"(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

"(19) SUSPENSION.—The term 'suspension' includes within its meaning the temporary revocation of a boxing license.

"(20) TRIBAL ORGANIZATION.—The term 'tribal organization' has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).".

(b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

"SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization may establish a boxing commission to regulate professional boxing matches held on Indian land under the jurisdiction of that tribal organization.

"(b) STANDARDS AND LICENSING.—A tribal organization that establishes a boxing commission shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

"(1) the otherwise applicable requirements of the State in which the Indian land on which the professional boxing match is held is located; or

"(2) the guidelines established by the United States Boxing Administration.

"(c) APPLICATION OF ACT TO BOXING MATCHES ON TRIBAL LANDS.—The provisions of this Act apply to professional boxing matches held on tribal lands to the same extent and in the same way as they apply to professional boxing matches held in any State.".

SEC. 4. PURPOSES.

Section 3(2) (15 U.S.C. 6302(2)) is amended by striking "State".

SEC. 5. USBA APPROVAL, OR ABC OR COMMISSION SANCTION, REQUIRED FOR MATCHES.

(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

"SEC. 4. APPROVAL OR SANCTION REQUIREMENT.

"(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match within the United States unless the match—

"(1) is approved by the Administration; and

"(2) is supervised by the Association of Boxing Commissions or by a boxing commission that is a member in good standing of the Association of Boxing Commissions.

"(b) APPROVAL PRESUMED.—For purposes of subsection (a), the Administration shall be presumed to have approved any match other than—

"(1) a match with respect to which the Administration has been informed of an alleged violation of this Act and with respect to which it has notified the supervising boxing commission that it does not approve;

"(2) a match advertised to the public as a championship match; or

"(3) a match scheduled for 10 rounds or more.".

(b) CONFORMING AMENDMENT.—Section 19 (15 U.S.C. 6310) is repealed.

SEC. 6. SAFETY STANDARDS.

Section 5 (15 U.S.C. 6304) is amended—

(1) by striking "requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:" and inserting "requirements:";

(2) by adding at the end of paragraph (1) "The examination shall include testing for infectious diseases in accordance with standards established by the Administration.";

(3) by striking paragraph (2) and inserting the following:

"(2) An ambulance continuously present on site.";

(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

"(3) Emergency medical personnel with appropriate resuscitation equipment continuously present on site."; and

(5) by striking "match." in paragraph (5), as redesignated, and inserting "match in an amount prescribed by the Administration.".

SEC. 7. REGISTRATION.

Section 6 (15 U.S.C. 6305) is amended—

(1) by inserting "or Indian tribe" after "State" the second place it appears in subsection (a)(2);

(2) by striking the first sentence of subsection (c) and inserting "A boxing commission shall, in accordance with requirements established by the Administration, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.";

(3) by striking "should" in the second sentence of subsection (c) and inserting "shall, at a minimum,"; and

(4) by adding at the end the following:

"(d) COPY OF REGISTRATION AND IDENTIFICATION CARDS TO BE SENT TO ADMINISTRATION.—A boxing commission shall furnish a copy of each registration received under subsection (a), and each identification card issued under subsection (b), to the Administration.".

SEC. 8. REVIEW.

Section 7 (15 U.S.C. 6306) is amended—

(1) by striking "that, except as provided in subsection (b), no" in subsection (a)(2) and inserting "that no";

(2) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

"(3) Procedures to review a summary suspension when a hearing before the boxing commission is requested by a boxer, licensee, manager, matchmaker, promoter, or other boxing service provider which provides an opportunity for that person to present evidence.";

(3) by striking subsection (b); and

(4) by striking "(a) PROCEDURES.—".

SEC. 9. REPORTING.

Section 8 (15 U.S.C. 6307) is amended—

(1) by striking "48 business hours" and inserting "2 business days";

(2) by striking "broing" and inserting "boxing"; and

(3) by striking "each boxer registry." and inserting "the Administration.".

SEC. 10. CONTRACT REQUIREMENTS.

Section 9 (15 U.S.C. 6307a) is amended to read as follows:

"SEC. 9. CONTRACT REQUIREMENTS.

"(a) IN GENERAL.—The Administration, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

"(b) FILING AND APPROVAL REQUIREMENTS.—

"(1) ADMINISTRATION.—A manager or promoter shall submit a copy of each boxer-manager contract and each promotional agreement between that manager or promoter and a boxer to the Administration, and, if requested, to the boxing commission with jurisdiction over the bout.

"(2) BOXING COMMISSION.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it and approved by it.

"(c) BOND OR OTHER SURETY.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission.".

SEC. 11. COERCIVE CONTRACTS.

Section 10 (15 U.S.C. 6307b) is amended—

(1) by striking paragraph (3) of subsection (a);

(2) by inserting "OR ELIMINATION" after "MANDATORY" in the heading of subsection (b); and

(3) by inserting "or elimination" after "mandatory" in subsection (b).

SEC. 12. SANCTIONING ORGANIZATIONS.

(a) IN GENERAL.—Section 11 (15 U.S.C. 6307c) is amended to read as follows:

"SEC. 11. SANCTIONING ORGANIZATIONS.

"(a) OBJECTIVE CRITERIA.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2003, the Administration shall develop guidelines for objective and consistent written criteria for the rating of professional boxers based on the athletic merits of the boxers. Within 90 days after the Administration's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.

"(b) NOTIFICATION OF CHANGE IN RATING.—A sanctioning organization shall, with respect to a change in the rating of a boxer previously rated by such organization in the top 10 boxers—

"(1) post a copy, within 7 days after the change, on its Internet website or home page, if any, including an explanation of the change, for a period of not less than 30 days;

"(2) provide a copy of the rating change and a thorough explanation in writing under penalty of perjury to the boxer and the Administration;

"(3) provide the boxer an opportunity to appeal the ratings change to the sanctioning organization; and

"(4) apply the objective criteria for ratings required under subsection (a) in considering any such appeal.

"(c) CHALLENGE OF RATING.—If, after disposing with an appeal under subsection (b)(3), a sanctioning organization receives a petition from a boxer challenging that organization's rating of the boxer, it shall (except to the extent otherwise required by the Administration), within 7 days after receiving the petition—

"(1) provide to the boxer a written explanation under penalty of perjury of the organization's rating criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

"(2) submit a copy of its explanation to the Association of Boxing Commissions and the Administration.".

(b) CONFORMING AMENDMENTS.—Section 18(e) (15 U.S.C. 6309(e)) is amended—

(1) by striking "FEDERAL TRADE COMMISSION," in the subsection heading and inserting "UNITED STATES BOXING ADMINISTRATION"; and

(2) by striking "Federal Trade Commission," in paragraph (1) and inserting "United States Boxing Administration,".

SEC. 13. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

Section 12 (15 U.S.C. 6307d) is amended—

(1) by striking the matter preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization for that match shall provide to the Administration, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match, a statement of—";

(2) by striking "will assess" in paragraph (1) and inserting "has assessed, or will assess,"; and

(3) by striking "will receive" in paragraph (2) and inserting "has received, or will receive,".

SEC. 14. REQUIRED DISCLOSURES BY PROMOTERS.

Section 13 (15 U.S.C. 6307e) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (1) and inserting the following:

"(a) DISCLOSURES TO BOXING COMMISSIONS AND ADMINISTRATION.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the Administration, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match—";

(2) by striking "writing," in subsection (a)(1) and inserting "writing, other than a bout agreement previously provided to the commission,";

(3) by striking "all fees, charges, and expenses that will be" in subsection (a)(3)(A) and inserting "a statement of all fees, charges, and expenses that have been, or will be,";

(4) by inserting "a statement of" before "all" in subsection (a)(3)(B);

(5) by inserting "a statement of" before "any" in subsection (a)(3)(C);

(6) by striking the matter in subsection (b) following "BOXER.—" and preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the promoter of the match shall provide to each boxer participating in the match with whom the promoter has a promotional agreement a statement of—"; and

(7) by striking "match;" in subsection (b)(1) and inserting "match, and that the promoter has paid, or agreed to pay, to any other person in connection with the match;".

SEC. 15. JUDGES AND REFEREES.

(a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is amended—

(1) by inserting "(a) LICENSING AND ASSIGNMENT REQUIREMENT.—" before "No person";

(2) by striking "certified and approved" and inserting "selected";

(3) by inserting "or Indian lands" after "State"; and

(4) by adding at the end the following:

"(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the Administration.

"(c) SANCTIONING ORGANIZATION NOT TO INFLUENCE SELECTION PROCESS.—A sanctioning organization—

"(1) may provide a list of judges and referees deemed qualified by that organization to a boxing commission; but

"(2) shall not influence, or attempt to influence, directly or indirectly, a boxing commission's selection of a judge or referee for a professional boxing match except by providing such a list.

"(d) ASSIGNMENT OF NONRESIDENT JUDGES AND REFEREES,—A boxing commission may assign judges and referees who reside outside that commission's State or Indian land if the judge or referee is licensed by a boxing commission in the United States.

"(e) REQUIRED DISCLOSURE.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian land a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Administration.''.

(b) CONFORMING AMENDMENT.—Section 14 (15 U.S.C. 6307f) is repealed.

SEC. 16. MEDICAL REGISTRY.

The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

"SEC. 14. MEDICAL REGISTRY.

''(a) IN GENERAL.—The Administration, in consultation with the Association of Boxing Commissions, shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.

''(b) CONTENT; SUBMISSION.—The Administration shall determine—

''(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

''(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

''(c) CONFIDENTIALITY.—The Administration shall establish confidentiality standards for the disclosure of personally identifiable information to boxing commissions that will—

''(1) protect the health and safety of boxers by making relevant information available to the boxing commissions for use but not public disclosure; and

''(2) ensure that the privacy of the boxers is protected.''.

SEC. 17. CONFLICTS OF INTEREST.

Section 17(a) (15 U.S.C. 6308(a)) is amended—

(1) by striking ''enforces State'' and inserting ''enforces State or Tribal'';

(2) by inserting ''no officer or employee of the Administration,'' after ''laws,''; and

(3) by striking ''as described in section 4.'' and inserting '' or under the jurisdiction of another tribal organization.''.

SEC. 18. ENFORCEMENT.

Section 18 (15 U.S.C. 6309) is amended—

(1) by striking ''(a) INJUNCTIONS.—'' in subsection (a) and inserting ''(a) ACTIONS BY ATTORNEY GENERAL.—'';

(2) by inserting ''or criminal'' after ''civil'' in subsection (a);

(3) by inserting ''any officer or employee of the Administration,'' after ''laws,'' in subsection (b)(3);

(4) by inserting ''has engaged in or'' after ''organization'' in subsection (c);

(5) by inserting ''or criminal'' after ''civil'' in subsection (c);

(6) by striking ''fines'' in subsection (c)(3) and inserting ''sanctions''; and

(7) by striking ''boxer'' in subsection (d) and inserting ''person''.

SEC. 19. REPEAL OF DEADWOOD.

Section 20 (15 U.S.C. 6311) is repealed.

SEC. 20. RECOGNITION OF TRIBAL LAW.

Section 22 (15 U.S.C. 6313) is amended—

(1) by insert ''**OR TRIBAL**'' in the section heading after ''**STATE**''; and

(2) by inserting ''or Indian tribe'' after ''State''.

SEC. 21. ESTABLISHMENT OF UNITED STATES BOXING ADMINISTRATION.

(a) IN GENERAL.—The Act is amended by adding at the end the following:

"TITLE II—UNITED STATES BOXING ADMINISTRATION

"SEC. 201. PURPOSE.

''The purpose of this title is to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.

"SEC. 202. ESTABLISHMENT OF UNITED STATES BOXING ADMINISTRATION.

''(a) IN GENERAL.—The United States Boxing Administration is established as an administration of the Department of Labor.

''(b) ADMINISTRATOR.—

''(1) APPOINTMENT.—The Administration shall be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—The Administrator shall be an individual who—

''(A) has extensive experience in professional boxing activities or in a field directly related to professional sports;

''(B) is of outstanding character and recognized integrity;

''(C) is selected on the basis of training, experience, and qualifications and without regard to political party affiliation; and

''(D) is a United States citizen.

''(3) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''The Administrator of the United States Boxing Administration.''.

''(4) TERM OF OFFICE.—The Administrator shall serve for a term of 4 years.

''(c) ASSISTANT ADMINISTRATOR; GENERAL COUNSEL.—The Administration shall have an Assistant Administrator and a General Counsel, each of whom shall be appointed by the Administrator. The Assistant Administrator shall—

''(1) serve as Administrator in the absence of the Administrator, in the event of the inability of the Administrator to carry out the functions of the Administrator, or in the event of a vacancy in that office; and

''(2) carry out such duties as the Administrator may assign.

''(d) STAFF.—The Administration shall have such additional staff as may be necessary to carry out the functions of the Administration.

"SEC. 203. FUNCTIONS.

''(a) PRIMARY FUNCTIONS.—The primary functions of the Administration are—

''(1) to protect the health, safety, and general interests of boxers consistent with the provisions of this Act; and

''(2) to ensure uniformity, fairness, and integrity in professional boxing.

''(b) SPECIFIC FUNCTIONS.—The Administrator shall—

''(1) administer title I of this Act;

''(2) promulgate uniform standards for professional boxing in consultation with the boxing commissions of the several States and tribal organizations;

''(3) except as otherwise determined by the Administration, oversee all professional boxing matches in the United States;

''(4) work with the boxing commissions of the several States and tribal organizations—

''(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

''(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

''(C) to improve the status and standards of professional boxing in the United States;

''(5) ensure, through the Attorney General, the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

''(6) review local boxing authority regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Administration under this title;

''(7) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

''(8) if the Administrator determines it to be appropriate, publish a newspaper, magazine, or other publication and establish and maintain a website consistent with the purposes of the Administration;

''(9) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Administration determines to be reasonable; and

''(10) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this title.

''(c) PROHIBITIONS.—The Administration may not—

''(1) promote boxing events or rank professional boxers; or

''(2) provide technical assistance to, or authorize the use of the name of the Administration by, boxing commissions that do not comply with requirements of the Administration.

''(d) USE OF NAME.—The Administration shall have the exclusive right to use the name 'United States Boxing Administration'. Any person who, without the permission of the Administration, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Administration for the purpose of inducing the sale or exchange of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Administration for the remedies provided in the Act of July 5, 1946 (commonly known as the 'Trademark Act of 1946'; 15 U.S.C. 1051 et seq.).

"SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

''(a) LICENSING.—

''(1) REQUIREMENT FOR LICENSE.—No person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

''(2) APPLICATION AND TERM.—

''(A) IN GENERAL.—The Administration shall—

''(i) establish application procedures, forms, and fees;

''(ii) establish and publish appropriate standards for licenses granted under this section; and

''(iii) issue a license to any person who, as determined by the Administration, meets the standards established by the Administration under this title.

''(B) DURATION.—A license issued under this section shall be for a renewable—

''(i) 4-year term for a boxer; and

''(ii) 2-year term for any other person.

''(C) PROCEDURE.—The Administration may issue a license under this paragraph through local boxing authorities or in a manner determined by the Administration.

''(b) LICENSING FEES.—

''(1) AUTHORITY.—The Administration may prescribe and charge reasonable fees for the licensing of persons under this title. The Administration may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Administration.

''(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Administration shall ensure that, to the maximum extent practicable—

''(A) club boxing is not adversely effected;

''(B) sanctioning organizations and promoters pay the largest portion of the fees; and

''(C) boxers pay as small a portion of the fees as is possible.

''(3) COLLECTION.—Fees established under this subsection may be collected through local boxing authorities or by any other means determined appropriate by the Administration.

"SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

''(a) REQUIREMENT FOR REGISTRY.—The Administration, in consultation with the Association of Boxing Commissions, shall establish and *maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.*

“(b) CONTENTS.—The information in the registry shall include the following:

“(1) BOXERS.—A list of professional boxers and data in the medical registry established under section 114 of this Act, which the Administration shall secure from disclosure in accordance with the confidentiality requirements of section 114(c).

“(2) OTHER PERSONNEL.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Administration as performing a professional activity for professional boxing matches.

“SEC. 206. CONSULTATION REQUIREMENTS.

“The Administration shall consult with local boxing authorities—

“(1) before prescribing any regulation or establishing any standard under the provisions of this title; and

“(2) not less than once each year regarding matters relating to professional boxing.

“SEC. 207. MISCONDUCT.

“(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

“(1) AUTHORITY.—The Administration may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Administration finds that—

“(A) the licensee has violated any provision of this Act;

“(B) there are reasonable grounds for belief that a standard prescribed by the Administration under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

“(C) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest.

“(2) PERIOD OF SUSPENSION.—

“(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Administration except as provided in subparagraph (B).

“(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension or denial of the license of a boxer for medical reasons by the Administration, the Administration may terminate the suspension or denial at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Administration shall prescribe the standards and procedures for accepting certifications under this subparagraph.

“(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

“(b) INVESTIGATIONS AND INJUNCTIONS.—

“(1) AUTHORITY.—The Administration may—

“(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

“(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the matter to be investigated;

“(C) in its discretion, publish information concerning any violations; and

“(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

“(2) POWERS.—

“(A) IN GENERAL.—For the purpose of any investigation under paragraph (1), or any other proceeding under this Act, any officer designated by the Administration may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Administration considers relevant or material to the inquiry.

“(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

“(3) ENFORCEMENT OF SUBPOENAS.—

“(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Administration may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Administration to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

“(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

“(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

“(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

“(A) IN GENERAL.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Administration, in obedience to the subpoena of the Administration, or in any cause or proceeding instituted by the Administration, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

“(B) LIMITED IMMUNITY.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning the matter about which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

“(5) INJUNCTIVE RELIEF.—If the Administration determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Administration may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

“(6) MANDAMUS.—Upon application of the Administration, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Administration.

“(c) INTERVENTION IN CIVIL ACTIONS.—

“(1) IN GENERAL.—The Administration, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

“(2) AMICUS FILING.—The Administration may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

“(d) HEARINGS BY ADMINISTRATION.—Hearings conducted by the Administration under this Act shall be public and may be held before any officer of the Administration. The Administration shall keep appropriate records of the hearings.

“SEC. 208. NONINTERFERENCE WITH LOCAL BOXING AUTHORITIES.

“(a) NONINTERFERENCE.—Nothing in this Act prohibits any local boxing authority from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

“(b) MINIMUM STANDARDS.—Nothing in this Act prohibits any local boxing authority from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Administration under this Act.

“SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

“Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Administration, upon the request of the Administration, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

“SEC. 210. REPORTS.

“(a) ANNUAL REPORT.—The Administration shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include—

“(1) a detailed discussion of the activities of the Administration for the year covered by the report; and

“(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions.

“(b) PUBLIC REPORT.—The Administration shall annually issue and publicize a report of the Administration on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Administration.

“(c) FIRST ANNUAL REPORT ON THE ADMINISTRATION.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

“SEC. 211. INITIAL IMPLEMENTATION.

“(a) TEMPORARY EXEMPTION.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a boxing commission to perform that activity as of the effective date of this title.

"(b) EXPIRATION.—The exemption under subsection (a) with respect to a license issued by a boxing commission expires on the earlier of—

"(A) the date on which the license expires; or

"(B) the date that is 2 years after the date of the enactment of the Professional Boxing Amendments Act of 2003.

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for the Administration for each fiscal year such sums as may be necessary for the Administration to perform its functions for that fiscal year.

"(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

"(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

"(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(3) shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—

(1) PBSA.—The Professional Boxing Safety Act of 1996, as amended by this Act, is further amended—

(A) by amending section 1 to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Professional Boxing Safety Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Definitions.

"TITLE I—PROFESSIONAL BOXING SAFETY

"Sec. 101. Purposes.
"Sec. 102. Approval or sanction requirement.
"Sec. 103. Safety standards.
"Sec. 104. Registration.
"Sec. 105. Review.
"Sec. 106. Reporting.
"Sec. 107. Contract requirements.
"Sec. 108. Protection from coercive contracts.
"Sec. 109. Sanctioning organizations.
"Sec. 110. Required disclosures to State boxing commissions by sanctioning organizations.
"Sec. 111. Required disclosures by promoters.
"Sec. 112. Medical registry.
"Sec. 113. Confidentiality.
"Sec. 114. Judges and referees.
"Sec. 115. Conflicts of interest.
"Sec. 116. Enforcement.
"Sec. 117. Professional boxing matches conducted on Indian lands.
"Sec. 118. Relationship with State or Tribal law.

"TITLE II—UNITED STATES BOXING ADMINISTRATION

"Sec. 201. Purpose.
"Sec. 202. Establishment of United States Boxing Administration.
"Sec. 203. Functions.
"Sec. 204. Licensing and registration of boxing personnel.
"Sec. 205. National registry of boxing personnel.
"Sec. 206. Consultation requirements.
"Sec. 207. Misconduct.
"Sec. 208. Noninterference with local boxing authorities.
"Sec. 209. Assistance from other agencies.
"Sec. 210. Reports.
"Sec. 211. Initial implementation.
"Sec. 212. Authorization of appropriations.";

(B) by inserting before section 3 the following:

"TITLE I—PROFESSIONAL BOXING SAFETY";

(C) by redesignating sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and 22 as sections 101 through 118, respectively;

(D) by striking subsection (a) of section 113, as redesignated, and inserting the following:

"(a) IN GENERAL.—Except to the extent required in a legal, administrative, or judicial proceeding, a boxing commission, an Attorney General, or the Administration may not disclose to the public any matter furnished by a promoter under section 111.";

(E) by striking "section 13" in subsection (b) of section 113, as redesignated, and inserting "section 111";

(F) by striking "9(b), 10, 11, 12, 13, 14, or 16," in paragraph (1) of section 116(b), as redesignated, and inserting "107, 108, 109, 110, 111, or 114,";

(G) by striking "9(b), 10, 11, 12, 13, 14, or 16" in paragraph (2) of section 116(b), as redesignated, and inserting "107, 108, 109, 110, 111, or 114";

(H) by striking "section 17(a)" in subsection (b)(3) of section 116, as redesignated, and inserting "section 115(a)";

(I) by striking "section 10" in subsection (e)(3) of section 116, as redesignated, and inserting "section 108"; and

(J) by striking "of this Act" each place it appears in sections 101 through 120, as redesignated, and inserting "of this title".

(2) COMPENSATION OF ADMINISTRATOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"The Administrator of the United States Boxing Administration.".

SEC. 22. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVISIONS.—Sections 205 through 212 of the Professional Boxing Safety Act of 1996, as added by section 21(a) of this Act, shall take effect 1 year after the date of enactment of this Act.

Mr. MCCAIN. Mr. President, I am pleased that the Senate has agreed by unanimous consent to pass S. 275, the Professional Boxing Amendments Act of 2004 (Act). I would like to thank the bill's cosponsors, Senators STEVENS, DORGAN, and REID for their commitment to professional boxing and the warriors who sustain the sport.

This amendment is designed to strengthen existing Federal boxing laws by making uniform certain health and safety standards, establishing a centralized medical registry to be used by local commissions to protect boxers, reducing arbitrary practices of sanctioning organizations, and providing uniformity in ranking criteria and contractual guidelines. It also would establish a Federal entity, the United States Boxing Commission—USBC—to promulgate minimum uniform standards for professional boxing and enforce Federal boxing laws.

Over the past 7 years, the Commerce Committee has taken action to address the problems that plague the sport of professional boxing. The committee has already developed two Federal boxing laws that have been enacted, the Professional Boxing Safety Act of 1996, and the Muhammad Ali Boxing Reform Act of 2000. These laws established minimum uniform standards to improve the health and safety of boxers, and to better protect them from the often coercive, exploitative, and unethical business practices of promoters, managers, and sanctioning organizations. While these laws have had a positive impact on professional boxing, the sport remains beset by a variety of problems, some beyond the scope of local regulation.

Promoters continue to steal fighters from each other, sanctioning organizations make unmerited ratings changes without offering adequate explanations, promoters refuse to pay fighters who have put their lives on the line, local boxing commissions fail to ensure the protection of boxers' health and safety, boxers are contractually and financially exploited, and the list continues. Most recently, we have learned of a federal law enforcement investigation that reportedly may yield a dozen or more indictments for charges of fight fixing.

All too often my office receives a call from a parent whose child was killed in a match asking why proper medical or safety precautions were not taken by the local commission with jurisdiction, or from a boxer who has worked tirelessly to escape poverty, only to find themselves subject to the exploitation of the unscrupulous few who control the sport.

Professional boxing is the only major sport in the United States that does not have a strong, centralized association or league to establish and enforce uniform rules and practices. There is no widely established union of boxers, no collective body of promoters or managers, and no consistent level of regulation among state and tribal commissions. Due to the lack of uniform business practices or ethical standards, the sport of boxing has suffered from the physical and financial exploitation of its athletes.

The General Accounting Office confirmed in a July 2003 report on professional boxing regulation that, because professional boxing is regulated predominantly on a state-by-state basis, there is a varying degree of oversight depending on the resources and priorities of each state or tribal commission. The report also indicates that the lack of consistency in compliance with Federal boxing law among state and tribal commissions "does not provide adequate assurance that professional boxers are receiving the minimum protections established in Federal law."

The consequences of this vacuum of effective public or private oversight has led to decades of scandals, controversies, unethical practices, and far too many unnecessary deaths in professional boxing. Yet another tragic, but precise example, of poor local regulation occurred just last year in Utah where a 35-year-old boxer collapsed and died in a boxing ring. The young man should never have been allowed to participate in the bout given that he had suffered 25 consecutive losses over a three-year period leading up to the fight, including a loss only one month earlier to the same opponent against whom he was fighting when he died. While tragic in its own right, this is merely one in a seemingly endless series of incidents that continue to occur as a direct result of inadequate state regulation.

This measure would improve existing boxing law, and also establish the USBC. The primary functions of the commission would be to protect the health, safety, and general interests of boxers. More specifically, the USBC would, among other things: administer Federal boxing laws and coordinate with other federal agencies to ensure that these laws are enforced; oversee all professional boxing matches in the United States; and work with the boxing industry and local commissions to improve the status and standards of the sport. The USBC also would maintain a centralized database of medical and statistical information pertaining to boxers in the United States that would be used confidentially by local commissions in making licensing decisions.

There has been quite a bit of confusion among local boxing commissions regarding the effect that this bill would have on them. Let me be clear. The purpose of the USBC would not be intended to micro-manage boxing by interfering with the daily operations of local boxing commissions. Instead, the USBC would work in consultation with local commissions, and only exercise its authority should reasonable grounds exist for intervention.

The problems that plague the sport of professional boxing compromise the safety of boxers and undermine the credibility of the sport in the public's view. This bill is urgently needed to provide a realistic approach to curbing such problems.

The ACTING PRESIDENT pro tempore. The Democratic whip.

Mr. REID. Mr. President, this legislation has been long in coming. Senator McCain and I have worked on this for months. I think it is a tremendous step forward. It is a perfect example of how we have to cooperate with each other. This is not everything that Senator McCain wanted, it is not everything I wanted, but it is legislation that now is going to pass the Senate. It is something that has been needed for some time. It is the Professional Boxing Safety Act, but it also will take a very close look at promoters, including those who are the networks, HBO, Showtime. It sets up a national boxing commission. It is important.

This is a multimillion-dollar industry, and it needs Federal oversight as a result of deaths that occur with boxers. We had a death of a person from Nevada who went to Utah to fight. He had been knocked out 21 times. He went to Utah to fight and got knocked out again and died.

As many of my colleagues know, I come to my work on boxing with a perspective that was formed both inside and outside the ring. Before I entered the political arena, I personally was a boxer. I also worked ringside as a judge in hundreds of fights, in all weight classes, and have judged championship fights. As a lawyer in private practice, I also represented professional fighters.

My State of Nevada hosts most of the premier boxing matches in the world. Nevada's state-of-the-art resorts provide fight venues that are unmatched in any other part of the world, and Nevadans take great pride in the historical role the State has played in boxing. The Nevada State Athletic commission is the most respected boxing commission in the world. It has led our country and the world in implementing terms of boxing safety and ethical treatment of fighters, promoters, and ringside personnel. Nevada's commission, under the outstanding direction of Marc Ratner, serves as a model for a national commission and has guided my work on this legislation.

Is there a need for the establishment of a national commission patterned after Nevada's commission to regulate boxing throughout the United States? The answer is a yes.

Last July, a boxer named Brad Rone fought in Utah and died at the age of 35. While Brad lived in Las Vegas, he had been banned from fighting in Nevada for more than three years. The Nevada Commission felt that he was at risk of getting seriously injured every time he stepped into the ring. Unfortunately, this ban didn't prevent him from fighting in other States. So despite the fact that he lost 26 consecutive fights, Brad was allowed to step into the ring in Utah to fight Billy Zumbrun. After only one uneventful round of what was to be an eight-round fight, Brad passed out and died. He wasn't knocked out. He was hit once and started to walk away and collapsed. An autopsy later revealed that Brad technically died of a heart attack, but many acknowledge that the continual physical abuse inside the ring contributed to his untimely death.

Unfortunately, the rules governing professional boxing and the enforcement of those rules vary widely among States. This legislation today will help avoid future tragedies like Brad's, and ensure a vibrant future for the sport of boxing and the Nation's boxers. If this legislation had been enacted before Brad's death, it would have required that his fights be approved by a Federal Commission after either his 10th defeat or fifth consecutive knockout.

This bill creates the United States Boxing Commission, USBC. The USBC will prescribe and enforce uniform regulations for professional boxing in order to protect the health and safety of boxers and ensure fairness in the sport. While it will not supercede States with higher standards, like Nevada, it will establish minimum standards and conformity for all States. The USBC will also have the ability to defer its authority to States with strong commissions when deemed appropriate.

Among other things, the USBC will maintain a national computerized registry for the collection of specific information on professional boxers and boxing personnel as well as certify for each boxing match the participating boxers' medical histories. It will require sites to have both an ambulance and emergency medical personnel with resuscitation equipment continuously present. There are some places today that have only one ambulance. Once a boxer is hurt, and the ambulance takes him away, there is no remaining personnel or equipment for the other fights on the card. This poses unnecessary and sometimes fatal risks to boxers and ring personnel. The USBC will also review plans submitted by all State athletic commissions for uniformity.

This uniformity will discontinue the use of forum shopping that we witnessed in 2002 with the Mike Tyson v. Lennox Lewis fight. That fight was originally scheduled to take place in Las Vegas, but the Nevada State Athletic Commission declined to grant Tyson a license to fight because of his violent behavior, both inside and outside the ring. The Association of Boxing Commissions, ABC, recommended that other State commissions honor Nevada's decision not to let Tyson fight. However, the ABC acts only as a quasi-federal agency and has no enforcement authority. Obviously, the ABC's recommendation was ignored, as Tyson was permitted to fight Lewis in Tennessee.

Another important problem this legislation begins to remedy is broadcasters acting as de facto fight promoters. Broadcasters who effectively operate as promoters ought to be held to the same standards and scrutiny as traditional promoters. They should be regulated in the same manner. This is only fair. Many broadcasters control when the fighters fight, who they fight, where they fight, and how much they are paid. This is the role of the promoter, and the media companies are acting as the fighters' de facto promoters. However, despite the fact that these companies are acting as promoters, they are not regulated by boxing commissions. While traditional promoters are regulated under the Muhammad Ali Boxing Reform Act, Ali Act, and State athletic commission laws, the media companies have been virtually free from regulation.

This legislation will require the broadcaster to make certain disclosures to the USBC similar to what promoters must do. Broadcasters will have to provide to the USBC statements of fees paid and owed to promoters, copies of all contracts, and a list of the sources of income they receive from the broadcast of the match.

Additionally, the bill requires the USBC to study for one year the definition of a promoter and report back to Congress their proposed revised definition, speculatively, to include broadcasters as appropriate. When Congress enacted the Ali Act, one of the main goals was to protect boxers from being unfairly treated by promoters. The Ali Act provided contractual reforms that prevented exploitive business practices that at that time allowed for coercive and lengthy contracts tying a fighter to a promoter for years. Today, many fighters are entering into promotional agreements directly with the broadcaster. Thus, in order to really give the Ali Act any weight, it is necessary that those who are conducting the business of a promoter comply with the regulations set forth in the Ali Act. The broadcasters should not evade the restrictions placed on promoters by the Ali Act simply by slipping through some technical loopholes.

The USBC should focus on two particular issues when making this important promoters decision. Both, I believe, strongly suggest that broadcasters be included in the promoter definition. First, it should examine the situation that exists when a broadcaster or network hires another individual or entity as the per se "promoter" to stage a boxing event. While the broadcaster pays this local promoter a fee, the broadcaster contracts to retain the boxer's rights to the fight, for example, the right to sell, distribute, exhibit, or license the match or in some cases several matches, and retains the right to choose dates, sites, and opponents. In this scenario, the broadcaster is really acting as a de facto promoter and should be subject to the regulations and disclosure requirements imposed by the Ali Act. However, since the local promoter is contractually charged with complying with federal and state laws, he is the only one required under current law to file financial disclosures with the boxer. The broadcaster who hires this local promoter does not have to disclose to the fighter how much the broadcaster is earning for the fight. Since conventional promoters determine when a fighter fights, where he fights, who he fights and how much he is paid, the broadcaster is doing all the work of a promoter yet circumventing the requirements of the Ali Act. It is the fighter who is left in the dark.

This situation I have described is illustrated by the roles of HBO and Showtime in the Lennox Lewis vs. Mike Tyson fight. Lewis was under contract to HBO and Tyson was under contract to Showtime. These two media companies signed an agreement to promote the Lewis/Tyson fight and a possible rematch. However, neither HBO nor Showtime was required to file their agreements with the two fighters or with a State athletic commission since they are not technically "promoters" under the Ali Act. Instead, they hired a local promoter to "stage" the fight, and because the local promoter was not a party to the master agreements for the fight, those agreements may have never been filed with the commission. Furthermore, the disclosures under the Ali Act which require a promoter to inform the fighters how much revenue is to be earned by it from the event may not necessarily have been provided since the "promoter" was only being paid a fee to stage the fight. Oftentimes, the "multi-fight" agreements which these broadcasters have with their fighters may contain terms beyond those permitted by law to promoters.

The second scenario the commission should examine is where the broadcaster contracts directly with the boxer or with the boxer's representative. By "boxer's representative" I am talking about any entity or company that employs the boxer or to whom the boxer has transferred the rights to his boxing services. Even if a broadcaster only obtains rights to the boxer through this entity, the broadcaster should still be deemed a promoter and be subject to the Ali Act because in essence, they are contracting with the boxer. Here is an example. When Tyson and Lewis fought, HBO contracted with Lion Promotions. Lion Promotions is—for all practical purposes—Lewis's company, yet legally, Lewis may or may not own or be employed by Lion Promotions. However, when HBO contracted with Lyon, they effectively contracted with Lewis directly. Thus, the contractual protections given the boxer in the Ali Act should apply in this type of situation.

In determining whether a broadcaster is acting as a de facto promoter, the USBC must study the contracts between broadcasters and such entities and any attached ratifications by the boxer him/herself; the contracts with local promoters; the contracts between the local promoters and the boxer; and the contracts between any involved broadcasters. The USBC is also directed to look at the sources of income received from the broadcast of a fight and examine the amounts received from each of these sources. Effectively defining the role of a promoter requires looking at who is contracting with a boxer for the rights to the boxer's service. These rights include the rights to sell, grant, convey, distribute, exhibit, and license the match or matches.

Conventional promoters control the rights to a fighter's boxing career and the right to exploit the boxer's name and image in connection with his/her boxing matches. By determining who is circumventing the requirements placed on a promoter under the Ali Act and thereafter including them within the definition of a promoter, the USBC will protect the fighter from exploitive business practices, regardless of the source.

It is envisioned that the commission created under this legislation, the USBC, will monitor the boxing world, creating an environment that will enable both the sport and its participants to thrive. I am proud of the work that Senator McCain and I have done to help in the reform of this great sport.

Mr. DORGAN. I am pleased to support with my colleague, Senator McCain, the Professional Boxing Amendments Act of 2003.

This is an issue that we have now been examining for some time, and I am pleased that the Senate is moving this legislation forward.

The Senate Commerce Committee had the opportunity over the past years to spend time with figures such as Roy Jones Junior, Muhammad Ali, Bert Sugar, Lou Dibella, and Bernard Hopkins, and we heard some things that caused great concern.

I grew up as a boxing fan who wants to see the sport succeed, but I have worried about how the sport is doing, and I believe this legislation will take an important step.

Professional boxing is the only major sport in the United States that does not have a strong, centralized association or league to establish and enforce uniform rules and practices for its participants. There is no union, no organization that polices promoters or managers, and unfortunately no consistent level of state regulation among the state athletic commissions.

Part of the problem is the alphabet soup of 29 sanctioning bodies—all with different titles and rankings—and another part is a lack of faith that anyone, not the state commissions, managers or promoters are on the up and up.

I believe that a system based on state commissions alone just takes us to the lowest common denominator. We are in desperate need of some basic national standards and uniform enforcement.

There continue to be stories about how some people are exploiting the patchwork of federal and state boxing regulations to the detriment of boxers and their fans.

This manipulation is often tolerated, or tacitly permitted by the state boxing commissions, and too often current laws are rarely enforced by the state attorneys general, or the U.S. Attorney's office who are too busy or just not interested.

This bill will create a United States Boxing Commission to oversee the sport. The federal Commission would have the responsibility to license promoters, managers, and sanctioning organizations. The Commission would be able to keep things in line by revoking or suspending licenses as situations warrant.

It is imperative that we establish this federal mechanism in order to protect not only the boxers, but also the overall integrity of the sport.

Mr. FRIST. Mr. President, I ask unanimous consent that the McCain substitute be agreed to; the committee substitute, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3006) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 275), as amended, was read the third time and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Nos. 596, 598, 599, 600, 601, 602, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NOMINATIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Alphonso R. Jackson, of Texas, to be Secretary of Housing and Urban Development.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Charles C. Baldwin, 2219

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Cecil R. Richardson, 3790

IN THE ARMY

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., Section 12203:

To be major general

Brigadier General James J. Bisson, 6236
Brigadier General Ronald G. Crowder, 6091
Brigadier General William W. Goodwin, 8895
Brigadier General Michael A. Gorman, 3651
Brigadier General Robert G.F. Lee, 0590

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1395 Air Force nomination of Arthur R. Homer, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1396 Air Force nomination of William R. Kent, III, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1397 Air Force nomination of Lori J. Fink, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1398 Air Force nominations (2) beginning PATRICIA K. COLLINS, and ending JEFFREY E. SHERWOOD, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1399 Air Force nominations (2) beginning CHRISTOPHER D. BOYER, and ending MATTHEW E. COOMBS, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1400 Air Force nomination of Richard G. Hutchison, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1401 Air Force nomination of Jeffery C. Sims, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1408 Air Force nominations (53) beginning DOUGLAS R. ALFAR, and ending FI A. YI, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2004.

PN1425 Air Force nomination of Christine R. Gundel, which was received by the Senate and appeared in the Congressional Record of March 11, 2004.

PN1426 Air Force nominations (3) beginning BOIKAI B. BRAGGS, and ending CHARLES W. FOX, which nominations were received by the Senate and appeared in the Congressional Record of March 11, 2004.

PN1435 Air Force nomination of David W. Puvogel, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1436 Air Force nomination of Terrance J. Wohlfiel, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

IN THE ARMY

PN1166 Army nominations (338) beginning DALE A. ADAMS, and ending NICHOLAS E. ZOELLER, which nominations were received by the Senate and appeared in the Congressional Record of November 21, 2003.

PN1248 Army nominations (56) beginning THOMAS M. BESCH, and ending ALBERT M. ZACCOR, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1249 Army nominations (26) beginning KENNETH L. ALFORD, and ending JAMES R. YONTS, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1250 Army nominations (46) beginning THOMAS E. BAILEY, and ending DANIEL S. ZUPAN, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1251 Army nominations (315) beginning EILEEN M. AHEARN, and ending x4578, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1382 Army nomination of Gary W. Stinnett, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1383 Army nomination of James M. Ives, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1384 Army nomination of Paul Swicord, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1385 Army nomination of Stephen A. Bernstein, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1386 Army nomination James R. Hudson, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1387 Army nomination of Gary J. Garay, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1388 Army nomination of John W. Ervin, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1402 Army nominations (8) beginning FLOYD T. CURRY, and ending JEFFREY B. WHEELER, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1403 Army nominations (19) beginning JOHN E. ARMITSTEAD, and ending EUGENE R. WOOLRIDGE, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1409 Army nomination Randall J. Vance, which was received by the Senate and appeared in the Congressional Record of March 1, 2004.

PN1410 Army nomination of Craig M. Doane, which was received by the Senate and appeared in the Congressional Record of March 1, 2004.

PN1441 Army nomination of Carol A. Cullinan, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1442 Army nomination of Christopher B. Soltis, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1443 Army nominations (2) beginning JEFFREY A. TONG, and ending TIMOTHY M. WARD, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1444 Army nominations (2) beginning JAMES M. GAUDIO, and ending BEVERLY A. HERARD, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1445 Army nominations (2) beginning MICHAEL J. HARRIS, and ending ROBERT L. LEGG, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1446 Army nominations (2) beginning DAVID N. AYCOCK, and ending DAVID E. LINDBERG, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1447 Army nomination of Michael T. Lawhorn, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1448 Army nominations (20) beginning DERRON A. ALVES, and ending ALISA R.

WILMA, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1449 Army nominations (27) beginning JOEL R. BACHMAN, and ending SHERRY L. WOMACK, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1450 Army nominations (106) beginning CURTIS J. *ABERLE, and ending PAMELA M. *WULF, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1451 Army nominations (129) beginning GINA M. *AGRON, and ending JEFFREY V. ZOTTOLA, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1453 Army nominations (4) beginning BRUCE M. FREDERICKSON, and ending WILLIAM A. PETTY, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

IN THE NAVY

PN1427 Navy nomination of David R. Agle, which was received by the Senate and appeared in the Congressional Record of March 11, 2004.

PN1452 Navy nominations (10) beginning HUGH B BURKE, and ending JEANINE B WOMBLE, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PROTOCOL TO THE AGREEMENT OF THE INTERNATIONAL ATOMIC ENERGY AGENCY REGARDING SAFEGUARDS IN THE UNITED STATES—TREATY DOCUMENT 107–7

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 16, Treaty Document No. 107–70, on today's Executive Calendar.

I further ask that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; further, that the committee conditions and understandings be agreed to, that any statements be printed in the Congressional Record as if read, and that the Senate immediately proceed to a vote on the resolution of ratification; further, that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The treaty will be considered to have passed through the various parliamentary stages up to and including the presentation of the resolution of ratification.

The resolution of ratification reads as follows:

[(Treaty Doc. 107–7) The Protocol to the Agreement of the International Atomic Energy Agency Regarding Safeguards in the United States, with 2 conditions and 8 understandings;]

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS AND UNDERSTANDINGS.

The Senate advises and consents to the ratification of the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107–7) subject to the conditions in section 2 and the understandings in section 3.

SEC. 2. CONDITIONS

The advice and consent of the Senate under section 1 is subject to the following conditions, which shall be binding upon the President:

(1) Certifications regarding the national security exclusion, managed access, and declared locations.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the appropriate congressional Committees that, not later than 180 days after the deposit of the United States instrument of ratification—

(A) all necessary regulations will be promulgated and will be in force regarding the use of the National Security Exclusion under Article 1.b of the Additional Protocol, and that such regulations shall be made in accordance with the principles developed for the application of the National Security Exclusion;

(B) the managed access provisions of Articles 7 and 1.c of the Additional Protocol shall be implemented in accordance with the appropriate and necessary inter-agency guidance and regulation regarding such access; and

(C) the necessary security and counter-intelligence training and preparation will have been completed for any declared locations of direct national security significance.

(2) Certification regarding site vulnerability assessments.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the appropriate congressional Committees that the necessary site vulnerability assessments regarding activities, locations, and information of direct national security significance to the United States will be completed not later than 180 days after the deposit of the United States instrument of ratification for the initial United States declaration to the International Atomic Energy Agency (in this resolution referred to as the "Agency") under the Additional Protocol.

SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings:

(1) Implementation of additional protocol.—Implemenation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representatives to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

(2) Notification to congress of added and deleted locations.—

(A) Added locations.—The President shall notify the appropriate congressional Committees in advance of declaring to the Agency any addition to the lists of locations within the United States pursuant to Article 2.a(i), Article 2.a.(iv), Article 2.a.(v), Article 2.a.(vi)(a), Article 2.a.(vii), Article 2.a.(viii), and Article 2.b.(i) of the Additional Protocol, together with a certification that such addition will not adversely affect the national security of the United States. During the ensuing 60 days, Congress may disapprove an addition to the lists by joint resolution for reasons of direct national security significance, under procedures identical to those provided for the consideration of resolutions under section 130 of the Atomic Energy Act of 1954 (42 U.S.C. 2159).

(B) Deleted locations.—The President shall notify the appropriate congressional Committees of any deletion from the lists of locations within the United States previously declared to the Agency pursuant to Article 2.a.(i), Article 2.a.(iv), Article 2.a.(v), Article 2.a.(vi)(a), Article 2.a.(vii), Article 2.a.(viii), and Article 2.b.(i) of the Additional Protocol that is due to such location having a direct national security significance, together with an explanation of such deletion, as soon as possible prior to providing the Agency information regarding such deletion.

(3) Protection of classified information.—The Additional Protocol will not be construed to require the provision, in any manner, to the Agency of "Restricted Data" controlled by the provisions of the Atomic Energy Act of 1954.

(4) Protection of confidential information.—Should the President make a determination that persuasive information is available indicating that—

(A) an officer or employee of the Agency has willfully published, divulged, disclosed, or made known in any manner or to any extent contrary to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America and the Additional Protocol, any United States confidential business information coming to him or her in the course of his or her official duties relating to the implementation of the Additional Protocol, or by reason of any examination or investigation of any return, report, or record made to or filed with the Agency, or any officer or employee thereof, in relation to the Additional Protocol; and

(B) such practice or disclosure has resulted in financial losses or damages to a United States person;

the President shall, not later than 30 days after the receipt of such information by the executive branch of the United States Government, notify the appropriate congressional Committees in writing of such determination.

(5) Report on consultations on adoption of additional protocols in non-nuclear weapon states.—Not later than 180 days after entry into force of the Additional Protocol, and annually thereafter, the President shall submit to the appropriate congressional Committees a report on measures that have been taken or ought to be taken to achieve the adoption of additional protocols to existing safeguards agreements signed by non-nuclear weapon states party to the Nuclear Non-Proliferation Treaty.

(6) Report on United States assistance to the Agency for the purpose of additional protocol implementation and verification of the obligations of non-nuclear weapon states.—Not later than 180 days after the entry into force of the Additional Protocol, and annually thereafter, the President shall submit to the appropriate

congressional Committees a report detailing the assistance provided by the United States to the Agency in order to promote the effective implementation of additional protocols to safeguards agreements signed by non-nuclear weapon states party to the Nuclear Non-Proliferation Treaty and the verification of the compliance of such parties with Agency obligations.

(7) SUBSIDIARY ARRANGEMENTS AND AMENDMENTS.—

(A) The subsidiary arrangement.—The Subsidiary Arrangement to the Additional Protocol between the United States and the Agency, signed at Vienna on June 12, 1998 contains an illustrative, rather than exhaustive, list of accepted United States managed access measures.

(B) Notification of additional subsidiary arrangements and amendments.—The President shall notify the appropriate congressional Committees not later than 30 days after—

(i) agreeing to any subsidiary arrangement with the Agency under Article 13 of the Additional Protocol; and

(ii) the adoption by the Agency Board of Governors of any amendment to its Annexes under Article 16.b.

(8) AMENDMENTS.—Amendments to the Additional Protocol will take effect for the United States in accordance with the requirements of the United States Constitution as the United States determines them.

SEC. 4. DEFINITIONS.

In this resolution:

(1) ADDITIONAL PROTOCOL.—The term "Additional Protocol" means the Protocol Additional to the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes and a Subsidiary Agreement, signed at Vienna June 12, 1998 (T. Doc. 107–7).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Armed Services of the Senate and the Committee on International Relations and the Committee on Armed Services of the House of Representatives.

(3) NUCLEAR NON-PROLIFERATION TREATY.—The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970.

Mr. LUGAR. Mr. President, today the Senate considers the Additional Protocol to the Agreement between the United States and the International Atomic Energy Agency, IAEA, Regarding Safeguards in the United States.

Last February, at the National Defense University, President Bush called on the Senate to ratify the U.S. Additional Protocol, and today, I am pleased to bring this resolution of ratification to the floor on behalf of the Committee on Foreign Relations.

The United States signed the Additional Protocol in Vienna on June 12, 1998, and President Bush submitted it to the Senate on May 9, 2002. The State Department submitted the implementing legislation to Congress on November 19, 2003. At the administration's request, I introduced the implementing legislation in the Senate last December.

Since Senate ratification of the Nuclear Non-proliferation Treaty, the NPT, in 1969, and our Voluntary Offer to accept IAEA safeguards in 1980, 188 states have now approved the NPT. The NPT and the IAEA's existing safeguards agreements sufficed to forestall nuclear weapons programs in the world's advanced industrial states, several of which were weighing the nuclear option 40 years ago. Unfortunately, the NPT and the IAEA's existing safeguards agreements have been insufficient to prevent the diversion of resources in Non-Nuclear Weapon States determined to cheat. At the same time, we have witnessed an increase in the global availability of nuclear weapons materials, reprocessing and enrichment technologies. To ensure that materials and technologies are devoted only to peaceful uses, it is in the interest of the United States that the IAEA have the power to conduct intrusive inspections and verify imports and exports of sensitive materials and equipment in states suspected of diverting resources to a weapons program. The Additional Protocol, when universally ratified and implemented by all member states of the IAEA, will not solve all of our proliferation problems, but Senate ratification will further ensure that U.S. efforts to persuade all member states to adopt the Additional Protocol will be supported by concrete U.S. action.

When the NPT was constructed, in order to gain its acceptance by states without weapons or complete fuel cycles, the world allowed for peaceful uses of the atom by states who forswore weapons. This was an outgrowth of the U.S. "Atoms for Peace Program." Thus, Article IV of the NPT states:

> Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

Those last words, "in conformity with Article I and II of this Treaty," are key in our consideration of the Additional Protocol. Non-Nuclear Weapon States under Article II of the NPT are obliged not to undertake any steps toward development of a weapon, and in so doing, secure their right to peaceful uses of the atom; peaceful uses verified by the IAEA under safeguards. When the Committee on Foreign Relations reported the NPT to the Senate in 1968, it did so with some reservations concerning this safeguards system. As the committee report noted:

> [T]he implementation of the treaty raises uncertainties. The reliability and thereby the credibility of international safeguards systems is still to be determined. No completely satisfactory answer was given to the Committee on the effectiveness of the safeguards systems envisioned under the treaty. But [the Committee] is equally convinced that when the possible problems in reaching satisfactory safeguards agreements are carefully weighed against the potential for a worldwide mandatory safeguards system, the comparison argues strongly for the present language of the treaty.

Today, many have come to the realization that the existing framework of the NPT, as verified by status quo safeguards, is unable to provide adequate verification of Non-Nuclear Weapon States' obligations and alert the world community to broken commitments to the IAEA and under the NPT.

I believe that acting today to ratify the Additional Protocol will put us back on the right track, a track toward complete verification and effective enforcement of Article II.

In 2003, the international community was confronted with two cases involving declared Non-Nuclear Weapon States violating their commitments under the NPT by pursuing nuclear weapon programs.

Iran's clandestine drive toward a nuclear weapons capability was partly exposed by an Iranian resistance group and confirmed by the IAEA. Then, Germany, France, and the United Kingdom concluded separate negotiations with Tehran in which the regime agreed to abandon its uranium enrichment program and to cease all efforts to pursue nuclear weapons. Iran signed an Additional Protocol with the IAEA last December. In January, Iranian Foreign Minister Kharrazi appeared to hedge on Iran's commitment by suggesting that Tehran had agreed "to the suspension, not stopping, of the uranium enrichment process." Then, last February, in his latest report on Iran, IAEA Director General ElBaradei noted that inspectors had found in Iran technical designs for so-called "P–2" centrifuges similar to those the Agency discovered in Libya, designs not declared to the IAEA. Iran has also failed to declare a pilot uranium enrichment facility, importation of many nuclear fuel cycle components, and experiments with plutonium separation.

Lastly, with regard to Iran, there are extremely disturbing press accounts of inspectors finding traces of highly enriched Uranium-235, which could have but one use, in a nuclear weapon. The United States has made no secret of our view that Iran is developing nuclear weapons.

In Libya, we witnessed an important nonproliferation success. Following intense negotiations with the Bush administration and the United Kingdom, Libya admitted that it had WMD programs and agreed to abandon these efforts and work with international treaty regimes to verify Libya's commitment. I applaud President Bush and his team for a victory in the war against the proliferation of weapons of mass destruction. Through our experience in Libya, we have learned of the extent of the nuclear proliferation network run by Pakistan's "father of the bomb," A.Q. Khan. Similarly, we have also seen the dangers posed by exports of sensitive technologies by many European and Asian countries that contributed to Libya's nuclear weapons program. It is important to note in this regard how the Additional Protocol incorporates and provides for reporting on the Nuclear Suppliers' Group, NSG, Trigger List items in Annex II as well as uranium mining, enrichment and reactor activities in Annex I.

Events in Iran and Libya are important to our consideration of the Additional Protocol. In 1980, the Senate ratified the U.S. commitment to voluntarily accept safeguards to demonstrate a firm commitment to the IAEA and to the NPT. As a Nuclear Weapon State party to the NPT, the United States is not required to accept any safeguards. Our decision sent an important message to the world: the preeminent superpower, with a large civilian nuclear power industry, could accept IAEA safeguards.

The Additional Protocol seeks to fill holes in the existing patchwork of declarations and inspections. It will require the declaration of many locations and activities to the IAEA not previously required, and allow, with less than 24 hours' notice, inspections of such locations.

The United States, as a declared Nuclear Weapon State party to the NPT, may exclude the application of IAEA safeguards on its activities. Under the Additional Protocol, the United States also has the right to exclude activities and sites of direct national security significance in accordance with its National Security Exclusion contained in Article 1.b. This provision is crucial to U.S. acceptance of the Additional Protocol and provides the basis for the protection of U.S. nuclear weapons-related activities, sites, and materials as a declared nuclear power.

The Additional Protocol does not contain any new arms control or disarmament obligations for the United States. Although there are increased rights granted to the IAEA for the conduct of inspections in the United States, the administration has assured the Committee on Foreign Relations that the likelihood of an inspection occurring in the United States is very low. Nevertheless, should an inspection under the Additional Protocol be determined to be potentially harmful to U.S. national security, the United States has the right, through the National Security Exclusion, to prevent the inspection.

For the past 9 months, the majority and minority staffs of the committee have been working closely with the administration to craft a resolution of ratification that will gain broad support in the Senate. On January 29, the committee held a hearing with administration witnesses. On March 4, the resolution of ratification before the Senate today was approved at a committee business meeting by a vote of 19 to 0. I thank Senator BIDEN and his staff for their cooperation in this effort. I am pleased to inform all Members that the administration fully supports the committee's recommended resolution of ratification, without changes.

In sum, I believe the Additional Protocol is necessary to further ensure effective verification and enforcement of the Article II obligations of Non-Nuclear Weapon States. Continued enjoyment of Article IV rights should come only with an increase in our ability to verify compliance with obligations to the IAEA and under the NPT. I do not believe that the Additional Protocol will be a burden for the United States, given that our ratification and implementation of the Protocol does not constitute a statement about U.S. adherence to nonproliferation commitments, but rather as a demonstration of our continued leadership in furtherance of the nonproliferation objectives contained in it. It is a first step toward realization of the objectives set forth by President Bush last February.

I urge my colleagues to support the committee's resolution of ratification and to ratify the Additional Protocol.

Mr. BIDEN. Mr. President, I am very pleased to recommend that the United States Senate give its advice and consent to ratification of the Additional Safeguards Protocol between the United States and the International Atomic Energy Agency, the IAEA. Ratification of the Additional Protocol will make a real contribution to U.S. nuclear non-proliferation efforts, and it will do so without putting at risk any sensitive national security information.

As my colleagues surely know, the Additional Protocol is an outgrowth of the world's discovery in 1991 that Iraq had come perilously close to developing a nuclear weapon, without the IAEA realizing it. One reason for Iraq's near-success was that the IAEA was allowed to inspect only those facilities that Iraq declared to it. If a uranium enrichment facility was across the hall from a declared facility—and in some cases it was about that bad—the IAEA had no mandate to inspect it. We, the world, and the IAEA itself realized that a revised safeguards regime was needed.

The Additional Protocol that was developed to address this concern requires a signatory to provide yearly reports covering more nuclear facilities than those included in the declarations required by the so-called "comprehensive" safeguards agreements that have defined the IAEA's role in recent decades. It also allows the IAEA to inspect non-declared facilities, if the organization believes that illegal nuclear activities may be taking place there. This is a significant expansion of IAEA inspection rights, and it's something that the United States rightly wants to be adopted by all the non-nuclear weapons states under the Nuclear Non-Proliferation Treaty (the NPT).

The United States, as a recognized nuclear weapons state under the NPT, is not required to provide information to the IAEA or to accept IAEA inspections. In 1967, however, when the NPT was being negotiated, President Lyndon Baines Johnson announced that the United States would voluntarily submit to safeguards on nuclear materials. He did this to assuage the concerns of non-nuclear weapons states that feared that the five nuclear weapons states would otherwise enjoy an unfair commercial advantage regarding their nuclear power industries. Accordingly, a U.S.-IAEA safeguards agreement, also known as the "Voluntary Offer," has been in place since 1980. Truth be told, this Voluntary Offer is more symbolic than real; until 1994, the IAEA only applied safeguards to two commercial power reactors and two fuel fabrication facilities in the United States, from a list of 250 eligible facilities. In recent years, it has inspected only sites for which the United States requested inspections, like the site where we store the highly enriched uranium we removed from Kazakhstan.

Our willingness to accept IAEA safeguards helped to secure the world's agreement to the NPT. Similarly, our stated willingness to accept the Additional Protocol was crucial to gaining the world's agreement, in 1995, to the indefinite extension of the NPT. And our ratification of the Additional Protocol will strengthen our ability to convince more non-nuclear weapons states to sign their own additional protocols.

When the Additional Protocol enters into force, the United States will submit additional information on civil nuclear facilities on an annual basis and identify additional civilian facilities, a small number of which might someday be inspected. All implementation activities under the Additional Protocol will be subject to a "National Security Exclusion," however, that will allow our Government to exclude the application of the Additional Protocol wherever it would result in "access by the Agency to activities with direct national security significance to the United States or to locations or information associated with such activities." Just as under the Voluntary Offer, the United States will retain the trump card of not declaring a facility, not submitting certain information, or denying or halting an inspection if our national security interests come into play. If we decide to permit an IAEA inspection, we will also have the right to employ "managed access" to protect national security information. (All countries will have the right to use managed access to protect confidential business information; because the United States is a recognized nuclear weapons state, we will have the right to use managed access more broadly.)

The Senate Foreign Relations Committee has looked carefully at how our special rights would be invoked and whether sensitive facilities will be prepared to accept an IAEA inspection if the President or the interagency process decides to permit that inspection. We are satisfied that a Federal agency with a legitimate national security concern will have no difficulty ensuring that sensitive information is protected.

The resolution of ratification that the Committee recommends will ensure that the U.S.-IAEA Additional Protocol does not enter into force until the President certifies that all the necessary regulations will be in place and all the necessary site vulnerability assessments will have been completed within 180 days of entry into force. (No reporting to the IAEA is required until 180 days after entry into force, so no inspections of newly-declared facilities would occur before then.) The resolution of ratification also addresses the protection of classified and proprietary information, the addition or deletion of locations from U.S. reports to the IAEA, U.S. intent to use its special rights as a nuclear weapons state under the NPT, and the adoption of subsidiary arrangements or amendments under the Additional Protocol. In short, the Committee has covered all the bases to ensure that adoption of the Additional Protocol will support our nuclear non-proliferation policy without endangering sensitive national security information.

The resolution of ratification also calls for annual reports on U.S. efforts to get all the non-nuclear weapon states to adopt additional protocols and on U.S. help to the IAEA to conduct effective inspections. Those are important efforts that every member of this body should support. For all the difficulties it faces in gaining access to sites of concern, the IAEA has shown a real determination to get into those sites. Getting more states to sign and implement additional protocols will help the IAEA to gain that access. And once they get in, IAEA inspectors have shown a real ability to uncover information that rogue states thought they had concealed. But they are vitally dependent upon member states—and especially the United States—for the equipment and training that enable them to know what to look for and how to detect it in a manner that is scientifically valid, maximizes detection capabilities, and preserves a chain of custody so as to leave no doubt about the validity of their analysis.

U.S. ratification of our Additional Protocol is only one step among many that are needed to make nuclear non-proliferation work. Even to bring the Additional Protocol into force, we will then need to enact implementing legislation; the Executive branch will then have to promulgate appropriate regulations; and preparations for possible IAEA inspections will have to be completed.

In addition, the United States must marshal all its foreign policy tools to move states of concern away from nuclear weapons and to foster further international cooperation on non-proliferation. Some good work has been done in recent months. Libya signed an agreement with the United States and the United Kingdom to give up its weapons of mass destruction and long-range ballistic missile programs. The Proliferation Security Initiative was created and cooperating states agreed to coordinate their interdiction efforts while adhering to international law. The permanent members of the United Nations Security Council agreed on a draft resolution to bar proliferation to non-state entities.

At the same time, however, much remains to be done. For example, North Korea continues to move toward having a large enough nuclear arsenal that it might contemplate using it, or even selling or giving away some of its nuclear weapons or fissile material. Meanwhile, although we have engaged in six-party talks that included North Korea, both we and the North Koreans have yet to give our negotiators the authority to get down to business and discuss a phased agreement under which North Korea would gradually dismantle all its nuclear weapons and long-range ballistic missile programs, in return for various security assurances and diplomatic or economic benefits. So nothing significant has yet been achieved on the diplomatic front, while the clock keeps ticking on the nuclear weapons front. And we face the risk that South Korea, a crucial player on this issue, will develop a policy that is at odds with ours.

The situation regarding Iran is also difficult, although much has been achieved in the last year. Exposure of Iran's two decades of lying and deception regarding its nuclear activities has led Iran to sign the Additional Protocol and to permit IAEA inspections that have proven quite embarrassing to Iran. Pursuant to an agreement with the foreign ministers of the United Kingdom, France and Germany, Iran has also agreed to suspend all its uranium enrichment and reprocessing activities. Iran has tried to backtrack on its commitments, and I personally have no confidence that Iran has come clean on its nuclear weapons efforts. So we must continue to press Iran to realize that its national interest will best be served by rejecting nuclear weapons. We must work to maintain solidarity with our European allies, with the Russian Federation, with Japan, and with the IAEA to send the message that Iran's real choice is between international acceptance and world rejection. I don't think that Iran wants to become another North Korea. We must make clear that the path of nuclear weapons can lead only to such a fate, and also that the path of non-proliferation will lead to a better future for Iran and all of its people.

We must also work to make the international nuclear non-proliferation regime still more effective. One element of the NPT is a promise to non-nuclear weapons states that, in return for forswearing nuclear weapons, they will enjoy the benefits of peaceful nuclear technology. That bargain has become frayed. Iran, Iraq and North Korea have all used their ostensibly civilian facilities to mask covert weapons programs.

In Iran and North Korea, we were at least able to sound the alarm. Both states had secret efforts to produce weapons-grade plutonium and highly enriched uranium and were caught. In Iraq, however, absent the Gulf War of 1991, Saddam Hussein might have obtained highly enriched uranium without anybody realizing it.

A smarter state, using a civilian program as the rationale, could build uranium enrichment facilities, spent fuel reprocessing cells, and the like—and properly report these efforts to the IAEA. It could acquire weapons-grade plutonium or highly enriched uranium, and place the material under IAEA safeguards. In other words, it could become a potential nuclear weapons power without violating safeguards. Then it could withdraw from the NPT, and develop and assemble nuclear weapons in a short time.

That's the challenge we need to address. How do we counter not just states that do things in a ham-handed manner, but states that skillfully exploit the loopholes of the NPT? The Additional Protocol can help make it much harder to hide a covert nuclear program, if we persuade the rest of the world to sign such protocols as well. But how can we combat the "break-out" scenario?

One idea gaining currency is to allow non-nuclear weapons states to continue to possess civilian nuclear programs, but not a closed nuclear fuel cycle. A state could have civilian nuclear reactors to produce electrical power, but must import the nuclear reactor fuel and return any spent fuel. This would ensure that a state did not obtain fissile material needed for a nuclear weapon.

IAEA Director General Mohammed El-Baradei would allow only multinational facilities to produce and process nuclear fuels, and give legitimate end-users assured access to these fuels at reasonable rates. Gen. Brent Scowcroft and Dr. William Perry recently endorsed this proposal, adding that states that refuse this bargain should be subject to sanctions. President Bush has not endorsed multinational facilities, but called upon members of the Nuclear Suppliers Group to refuse to export enrichment and reprocessing equipment to any state that does not already possess full scale enrichment and reprocessing plants.

Any agreement on revising the nuclear non-proliferation regime will be difficult to achieve. Non-nuclear weapons states will ask what they will get for surrendering a well established right. States with nuclear fuel industries may worry that they will go out of business if only a few multinational facilities are allowed to operate enrichment and reprocessing activities. But the United States and other concerned states should set a goal of reaching a consensus in time for next year's NPT Review Conference. We have a window of opportunity, and we should use it.

There is another bargain central to the NPT, one that this administration largely prefers to ignore. In return for forswearing nuclear weapons, non-nuclear weapons states received a commitment from the five permanent nuclear powers, reaffirmed as recently as 2000, to seek eventual nuclear disarmament.

Nobody, including me, expects the United States to give up its nuclear deterrent any time in the foreseeable future. But the administration's drive to research and possibly produce new nuclear weapons—including low-yield nukes—is a step in the wrong direction. It signals to the rest of the world that even the preeminent global power needs new nuclear weapons to assure its own security.

The administration threatens to take another backward step on a Fissile Material Cutoff Treaty. An FMCT has been a U.S. objective for eight years, and this administration castigated other countries for preventing negotiations from starting. Now that there is a chance of success, however, the administration says that we may refuse to negotiate. This only undermines solidarity with our allies, which have worked for years to help us convince other countries to negotiate.

For all the flaws of the NPT, it is an essential treaty. It has been vital to encouraging states like Ukraine, Belarus, Kazakhstan, South Africa, Brazil and Argentina to end their nuclear weapons programs. The United States must work to improve the nuclear non-proliferation regime, and it must also do all that it can to abide by the bargains between the nuclear "haves" and the nuclear "have nots" that underlie world willingness to eschew the most awesome and awful weapons mankind has ever invented.

In conclusion, I want to congratulate and thank my chairman, Senator DICK LUGAR, for his fine leadership in bringing this resolution of ratification to fruition. It was not an easy task, and he demonstrated exceptional leadership. I am grateful also to our staffs, especially Ken Myers, III and Thomas Moore on the majority side, and Edward Levine and Jofi Joseph on the Democratic side. Finally, I want to commend the interagency committee that worked with us, and especially Ms. Susan Koch of the National Security Council staff. She is a real professional, and we would not have gotten to this day without her.

Mr. FRIST. Mr. President, I ask for a division vote on the resolution of ratification.

The ACTING PRESIDENT pro tempore. A division vote is requested. Senators in favor of the resolution of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now return to legislative session.

ORDERS FOR THURSDAY, APRIL 1, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, April 1. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee. I further ask unanimous consent that following the 60 minutes of morning business, the Senate resume consideration of H. R. 4, the welfare reauthorization bill; provided that there be 60 minutes of debate equally divided between the chairman and the ranking member of the Finance Committee for debate only; provided further, that the Senate then proceed to the cloture vote on the substitute amendment to the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow, following morning business, we will resume consideration of the welfare bill. Shortly after 11:30 in the morning, the Senate will proceed to the cloture vote on the substitute amendment. It is unfortunate we have had to proceed with the cloture vote on this very important piece of legislation, but given the desire to offer unrelated amendments, the procedural vote is necessary. If cloture is invoked, we will be able to continue to consider welfare amendments, and we will finish the bill this week. It will be very unfortunate if cloture fails and we are unable to complete this bill this week because of unrelated issues. Additional votes are possible tomorrow, and Senators will be notified when votes are scheduled.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator GRASSLEY.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Iowa.

NATIONAL ENERGY POLICY

Mr. GRASSLEY. Mr. President, there has been a lot of discussion about high gasoline prices lately, and rightly so because gasoline prices are as high as they have ever been in the history of our country and, in the process, not only taking a lot of money out of the pockets of working men and women, but harming the overall economy. And the full impact has not been felt yet.

In the process of hearing so many remarks and concerns about this situation, as we heard for a half hour a few minutes ago from one of our colleagues from the other side of the aisle, I wonder if we are not hearing so many speeches from the other side of the aisle on the issue of energy because it was the other side of the aisle that led a filibuster against the national energy policy we had before us last November. Maybe there is some guilt on their part about defeating a national energy policy, as it was through a Democratic filibuster.

I thought since that vote, when we had 58 votes and only needed 2 more to get cloture, to get to finality on a bill that was passed overwhelmingly by this body, that bill would have been the national energy policy. It would have been the first national energy policy that passed this body for probably a dozen or more years, and it is now needed more than ever before, but we needed two more votes. It is so puzzling to me that 46 out of 49 Democrats can stick together when they want to defeat very well-qualified judges the President sends up here, so well qualified they have the highest rating of the American Bar Association, and yet when we had a national energy policy, we adopted that national energy policy 3 or 4 months after the Northeast blackout last August and just before we knew energy prices were going to go up because OPEC announced they were going to shut off the spigot, why couldn't we get more than 13 out of 49 Democrats, considering the unanimity of holding the caucus together to defeat judges, and the Democratic leader was very much in favor of the Energy bill but he voted to stop debate? Why couldn't more than 13 Democrats help bring about a national energy policy?

Now we are hearing so much from the other side that one wonders if they don't have a somewhat guilty conscience about that vote.

We only needed two more Democrats. There are at least four Democrats from corn-producing States who should have been voting for cloture because this bill was so good for the ethanol industry, as an example, producing ethanol, a renewable fuel to mix with gasoline, to stretch gasoline, but we had four Democrats on the other side from corn-producing States who did not vote. We only needed two of them.

Also, this was a very comprehensive energy policy, so comprehensive it was well balanced with tax incentives for fossil fuels, tax incentives for renewables and alternative energy, and tax incentives for conservation. In fact, the speech we just heard was a lot about conservation, tax incentives for conservation, and they do not want to vote to stop a Democratic filibuster and move the bill along? It is very puzzling. I do not understand it. It makes one wonder: Are we hearing all these speeches now since gas is way up, at the highest level in history, because maybe they have some shame because they didn't want to vote to stop that filibuster last fall?

Then I hear some criticism toward the President about high gasoline prices. But what about the President of the United States leading the way ever since he has been in office to get this Congress to adopt a national energy policy, and Congress came within two votes, but a Democratic filibuster killed it, and the President is getting blamed for a national energy policy he has been pushing that the other side killed?

Is there some guilt, some shame on the other side trying to detract from what the President has been trying to do? Is there some shame on the other side when they were in the majority in 2001 and 2002 and could not produce a national energy policy?

We have had an opportunity to move forward with a national energy policy, and those people who are giving the speeches condemning the President or concerned about high prices, what about helping us to reconsider that vote of last November—it can be reconsidered—and bring cloture and finality to the bill, and we can have a national energy policy?

Is a national energy policy going to make a difference when it comes to high energy prices? You bet it is because it is sending a signal to OPEC that we have our act put together and we are prepared to respond.

It very much broke the stranglehold of OPEC in 1982 when President Reagan deregulated the cost controls that we had on petroleum. For the next 20 years, OPEC was irrelevant because it told the rest of the world that we are not going to hold our product off the market. When we establish not only our own incentives for producing our own fossil fuels to a greater extent than we are today but also that we are going a whole new route of having a national energy policy on renewables and alternative energy and also that we are going to have incentives for conservation, it is going to send that same clear signal to OPEC?

OPEC is meeting maybe right this very day to say to the rest of the world: We are going to shut our spigots down another million barrels a day. And all the time the Senate is languishing because of a Democrat filibuster last November of the Energy bill. They see inactivity on our part, and to a great extent it encourages them the same way they were encouraged when we had price controls on petroleum from 1979, 1980, and 1981 until Reagan finally took them off. I hope we will have less speeches from the other side and votes in favor of ethanol and biodiesel, all of those things that are good for the agricultural communities of Illinois, Indiana, and Wisconsin, as well as Iowa and Minnesota. They are good for the environment because ethanol and biodiesel are cleaner burning than fossil fuels; good for the agricultural economy because when the bill is fully implemented, we would be using 20 percent of our corn crop to produce ethanol and will eventually be doing the same thing with the soybean crop and biodiesel. We will also be conserving as well.

Yet what do we get from the Members of those States when they have an opportunity to do something? They vote no, under some excuse that we are not going to be able to maybe have some lawsuits that they want to have.

Do they want chocolate cake for lawyers or do they want lower gasoline prices? Do they want chocolate cake for their lawyers—because the whole new realm of lawsuits after tobacco and after asbestos, that is where those lawyers are going to go, suing the energy companies—or do they want a cleaner environment? Do they want chocolate cake for their lawyers or do they want to help their farmers? Do they want chocolate cake for their lawyers or do they want to send a signal to OPEC that we have our act together and we are going to play in this energy game and we are not going to be in a stranglehold by those oil sheiks? I think the choice is pretty clear. I hope we get some action and less words.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until tomorrow, Thursday, April 1, at 9:30 a.m.

Thereupon, the Senate, at 7:27 p.m., adjourned until Thursday, April 1, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 31, 2004:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ALPHONSO R. JACKSON, OF TEXAS, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. CHARLES C. BALDWIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. CECIL R. RICHARDSON

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL JAMES J. BISSON
BRIGADIER GENERAL RONALD G. CROWDER
BRIGADIER GENERAL WILLIAM W. GOODWIN
BRIGADIER GENERAL MICHAEL A. GORMAN
BRIGADIER GENERAL ROBERT G.F. LEE
BRIGADIER GENERAL ROBERTO MARRERRO-CORLETTO
BRIGADIER GENERAL JOSEPH J. TALUTO
BRIGADIER GENERAL ARTHUR H. WYMAN

To be brigadier general

COLONEL FLOYD E. BELL, JR.
COLONEL JAMES A. BRUNSON
COLONEL JOSEPH J. CHAVES
COLONEL JOSEPH L. CULVER
COLONEL PAUL C. GENEREUX, JR.
COLONEL MARTIN L. GRABER
COLONEL MARK W. HAMPTON
COLONEL YAROPOLK R. HLADKYJ
COLONEL GEORGE E. IRVIN, SR.
COLONEL JAMES A. KRUECK
COLONEL ROGER A. LALICH
COLONEL JACK E. LEE
COLONEL RICHARD B. MOORHEAD
COLONEL JAMES W. NUTTALL
COLONEL BILLY L. PIERCE
COLONEL STEVER D. SAUNDERS
COLONEL WILLIAM D. SCHNEIDER
COLONEL KING E. SIDWELL
COLONEL MICHAEL C. SWEZEY
COLONEL OMER C. TOOLEY

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. ELIZABETH A. HIGHT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) NANCY E. BROWN

AIR FORCE NOMINATION OF ARTHUR R. HOMER.
AIR FORCE NOMINATION OF WILLIAM R. KENT III.
AIR FORCE NOMINATION OF LORI J. FINK.

AIR FORCE NOMINATIONS BEGINNING PATRICIA K. COLLINS AND ENDING JEFFREY E. SHERWOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 2004.

AIR FORCE NOMINATIONS BEGINNING CHRISTOPHER D. BOYER AND ENDING MATTHEW E. COOMBS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 2004.

AIR FORCE NOMINATION OF RICHARD G. HUTCHISON.

AIR FORCE NOMINATION OF JEFFERY C. SIMS.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS R. ALFAR AND ENDING FI A. YI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2004.

AIR FORCE NOMINATION OF CHRISTINE R. GUNDEL.

AIR FORCE NOMINATIONS BEGINNING BOIKAI B. BRAGGS AND ENDING

CHARLES W. FOX, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 2004.

AIR FORCE NOMINATION OF DAVID W. PUVOGEL.

AIR FORCE NOMINATION OF TERRANCE J. WOHLFIEL.

ARMY NOMINATIONS BEGINNING DALE A ADAMS AND ENDING NICHOLAS E ZOELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 21, 2003.

ARMY NOMINATIONS BEGINNING THOMAS M. BESCH AND ENDING ALBERT M. ZACCOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

ARMY NOMINATIONS BEGINNING KENNETH L. ALFORD AND ENDING JAMES R. YONTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

ARMY NOMINATIONS BEGINNING THOMAS E. BAILEY AND ENDING DANIEL S. ZUPAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

ARMY NOMINATIONS BEGINNING EILEEN M. AHEARN AND ENDING X4578, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 2004.

ARMY NOMINATION OF GARY W. STINNETT.

ARMY NOMINATION OF JAMES M. IVES.

ARMY NOMINATION OF PAUL SWICORD.

ARMY NOMINATION OF STEPHEN A. BERNSTEIN.

ARMY NOMINATION OF JAMES R. HUDSON.

ARMY NOMINATION OF GARY J. GARAY.

ARMY NOMINATION OF JOHN W. ERVIN.

ARMY NOMINATIONS BEGINNING FLOYD T. CURRY AND ENDING JEFFREY B. WHEELER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 2004.

ARMY NOMINATIONS BEGINNING JOHN E ARMITSTEAD AND ENDING EUGENE R WOOLRIDGE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 2004.

ARMY NOMINATION OF RANDALL J. VANCE.

ARMY NOMINATION OF CRAIG M. DOANE.

ARMY NOMINATION OF CAROL A. CULLINAN.

ARMY NOMINATION OF CHRISTOPHER B. SOLTIS.

ARMY NOMINATIONS BEGINNING JEFFREY A. TONG AND ENDING TIMOTHY M. WARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

ARMY NOMINATIONS BEGINNING JAMES M. GAUDIO AND ENDING BEVERLY A. HERARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

ARMY NOMINATIONS BEGINNING MICHAEL J. HARRIS AND ENDING ROBERT L. LEGG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

ARMY NOMINATIONS BEGINNING DAVID N. AYCOCK AND ENDING DAVID E. LINDBERG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

ARMY NOMINATION OF MICHAEL T. LAWHORN.

ARMY NOMINATIONS BEGINNING DERRON A. ALVES AND ENDING ALISA R. WILMA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

ARMY NOMINATIONS BEGINNING JOEL R. BACHMAN AND ENDING SHERRY L. WOMACK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004. ARMY NOMINATIONS BEGINNING CURTIS J. *ABERLE AND ENDING PAMELA M. *WULF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

ARMY NOMINATIONS BEGINNING GINA M. *AGRON AND ENDING JEFFREY V. ZOTTOLA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

ARMY NOMINATIONS BEGINNING BRUCE M. FREDERICKSON AND ENDING WILLIAM A. PETTY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

NAVY NOMINATION OF DAVID R. AGLE.

NAVY NOMINATIONS BEGINNING HUGH B BURKE AND ENDING JEANINE B WOMBLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.

EXTENSIONS OF REMARKS

TRIBUTE TO MR. DENNIS WELLER

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. WALSH. Mr. Speaker, I rise today in tribute to Mr. Dennis Weller. Mr. Weller was awarded the Contractor of the Year Award by the Associated Builders and Contractors on February 26, 2004. This award is given annually to an individual who has demonstrated significant accomplishment for Associated Builders and Contractors, the merit shop, and the construction industry.

Mr. Weller is president and chief executive officer of Structural Associates, Inc. in East Syracuse, New York. In addition, he has held numerous leadership positions with Associated Builders and Contractors, including vice chairman on the national executive committee and chairman of the chapter development committee.

Kirk Pickerel, Associated Builders and Contractors president and CEO, said of Weller, "He and his firm have pursued a free enterprise, merit shop approach to construction in a State and region that has long been dominated by those who oppose such concepts." Mr. Weller is a source of pride to our community and should be commended for his hard work and dedication.

TRIBUTE TO ELDER ELLIS SMITH, JR.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. PAYNE. Mr. Speaker, I am proud to rise today to recognize a respected member of my district, Elder Ellis Smith, Jr., as he and his congregation celebrate the dedication of their church on April 4, 2004. Elder Smith celebrates this event with his beloved wife, First Lady Elresia Smith, their three sons, Ellis Tarique III, Ellis Jerod IV, and Terrell, and their daughter, Jullisa.

Elder Smith was born in Newark in 1961, which makes him my neighbor for almost 43 years and counting. He is a graduate of West Side High School in Newark, Evangelical Bible Institute in Parsippany, and he attended Upsala College in East Orange.

Elder Smith formed Siloah Church in 1997 and had the first services at his kitchen table at his Parsippany residence. Sunday afternoon services were held for a brief period at Rouzeu's Manor in Orange. The Smith family eventually converted the family room of their residence into a Sanctuary, where Sunday morning services and Bible study continued until they acquired a site in East Orange in early 2001, changing the ministry's name to The Love of Christ.

From its nascency, assembled around his kitchen table, to its full emergence as The Love of Christ Ministry, Elder Smith has nurtured this growing gathering of the faithful. As they celebrate and dedicate this special event, I hope that he will be encouraged as he sees the fruits of his labors and will be refreshed to continue his ministry with excitement and vigor.

It is my distinct honor to join with his congregation and our community in offering our encouragement and support as they celebrate the dedication of their church. I hope that this will be a time of great blessing for him and his family.

We are all grateful for his leadership and vision, as well as his community involvement through the Statewide Parent Advocacy Network and the Coalesce Youth Organization.

Mr. Speaker, please join me in extending my thanks to Elder Smith for his years of pastoral ministry, and I invite my colleagues to join me in wishing him the strength and grace to continue for many years to come.

CELEBRATING THE 25TH YEAR OF THE TAIWAN RELATIONS ACT

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. TANCREDO. Mr. Speaker, as Members of Congress and friends of Taiwan get ready to celebrate the 25th anniversary of the Taiwan Relations Act, I rise to express my continued support for friendship between America and the Republic of China on Taiwan. Despite the regrettable fact that our two nations no longer enjoy formal diplomatic relations, the U.S. and the Republic of China on Taiwan have remained strong allies for the better part of a century.

Much of this strong relationship is based on the Taiwan Relations Act, which has been instrumental in maintaining peace, security and stability in the Taiwan Strait and the Western Pacific since its enactment in 1979. Over the last quarter century, the Republic of China on Taiwan has built a strong economy and a healthy, vibrant and fully functioning multiparty democracy, conducting free elections at all levels, including the recent and razor-thin reelection of incumbent President Chen Shui-Bian.

The 1979 Taiwan Relations Act viewed Taiwan's membership in international organizations as conducive to Taiwan's stability and economic prosperity. Over the years, the U.S. has continued to support the participation of Taiwan in international affairs, its accession to the World Trade Organization and the ROC's ongoing efforts to become an observer in the World Health Organization. I believe Taiwan's active participation and contributions to these and all international organizations will be beneficial not just to the people of Taiwan but to the international community at large.

Mr. Speaker, the last 25 years under the framework of the TRA have been positive for both the Republic of China on Taiwan and the United States. The Taiwan Relations Act has helped to maintain stability and security for the people of the United States, the people of Taiwan and for those in neighboring countries.

Maintaining and enhancing the close strategic, commercial and military cooperation between the United States and the Republic of China on Taiwan have been of critical importance for the last 25 years and will remain so in the future, in large part thanks to the TRA.

CHINA AND WTO RULES

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. SMITH of Michigan. Mr. Speaker, there is a problem that Congress needs to pay attention to in terms of the dramatic increase in the price of scrap steel. It is hurting manufacturing in Michigan and around our country. China is bidding up the price and hoarding steel. If China won't conduct business and comply with WTO rules, then we need to consider drastic action, such as cutting off imports coming from China. If the shelves of some of our discount stores go bare, buy American.

TRIBUTE TO THE JAMESVILLE-DEWITT BOYS' VARSITY BASKETBALL TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. WALSH. Mr. Speaker, I rise today in tribute to the Jamesville-Dewitt boys' varsity basketball team. The team went undefeated this season with 29 wins and no losses or ties. The team rose to become class A State federation champions, defeating St. Joseph's of Buffalo in overtime by a score of 78 to 73. The team's 29 wins were the most recorded by any team in section three history.

There were six outstanding players who made big plays to bring their team to victory in the final game of the season. Senior co-captain Jeremy Black led the squad with 20 points and was 6 of 8 from behind the three-point line. Junior Andy Rautins, the tournament MVP, finished with 18 points and six assists. Junior Ari Greenberg also scored 18 points; and senior Reggie Flynn scored 8

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

points, grabbed 10 rebounds and had five assists. Jamesville-Dewitt's coach, Bob McKenney said of the team, "I've never had a group with a will to win like these guys."

The team includes Brian Becker, Jeremy Black, Zach Bratek, Corey Chavers, Andrew Cottet, Zachary Drescher, Reggie Flynn, Aaron Greenberg, Manuel Karam, Tim Palma, Andy Rautins, John Romano, Justin Stern, Spencer Traino, Micke Triche, and Chris Vieau. They are coached by Bob McKenney along with assistant coaches Lisa McKenney and Charlie Falgiatano. These boys are a source of pride to our community and should be commended for their hard work and dedication.

CELEBRATING GREECE'S 183RD INDEPENDENCE DAY

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. HINCHEY. Mr. Speaker, as a long time supporter and member of the Hellenic Caucus, I would like to recognize and congratulate the people of Greece on their Independence Day, which they celebrated last week. 183 years ago, the Greek people won their freedom and independence from the Ottoman Empire. This is a great event, not only for Greece, but for all countries because it represents and reaffirms our belief in self-determination and democracy.

Our nation is built on the principles of the ancient Greek philosophers. Our founding fathers looked to Greek political and philosophical ideals while forming our nation. Years later, we were able to return the favor when the United States independence movement helped fuel the strength of the Greek people in seeking their own sovereignty from a foreign empire.

I am also proud to say that the Greek community is especially prominent in New York State. We have the largest Greek Community in the U.S. and we are home to the Orthodox Archdiocese of America.

I am honored to join my colleagues in celebration of this significant achievement in history and to congratulate the Greek people on their independence day.

TRIBUTE TO ARMY SPECIALIST ADAM FROEHLICH

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. ANDREWS. Mr. Speaker, I rise today to pay tribute to Army Specialist Adam Froehlich who was killed while serving our country in Baqubah, Iraq on March 25, 2004. He was a member of 2nd Platoon, Charlie Battery, 1st Battalion, 6th Field Artillery, a part of the 1st Infantry Division and stationed in Bamberg, Germany.

Specialist Froehlich was a true patriot who, deeply moved by the attacks of September 11th, joined the Army after graduating from Overbrook High School in Pine Hill, New Jersey. At Overbrook High School he was a varsity wrestler. After fulfilling his commitment to the Army, Specialist Froehlich planned to use the GI bill to attend college and become a gym teacher.

Specialist Froehlich's love of his country predated his enlistment in the Army. His decision to serve his country was a natural path for him to take. Even at his young age, he understood the connection between the freedom that we all enjoy and the historical sacrifices of those in uniform.

Specialist Froehlich is survived by his parents Stephen and Rosemarie, his brothers Steve and Jeff, his sister April and his grandfather John, all of South Jersey. He will be laid to rest with full military honors on Saturday April 3, 2004 in Berlin, New Jersey.

I extend my deepest sympathy to the Froehlich family and express my immense gratitude for the heroic service of Specialist Adam Froehlich.

TRIBUTE TO CURTIS WILLIAMS, SR.

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. DUNCAN. Mr. Speaker, a few days ago, Curtis Williams, a great and patriotic American, passed away in Lenoir City, Tennessee.

Mr. Williams, or Curtis to almost everyone, was a City Councilman in Lenoir City and a former member of the Loudon County Commission. He served on many boards and committees and worked with numerous civic and charitable organizations. He loved people and obviously wanted to help as many as he could.

Curtis was not rich or famous, but much more importantly, he was a kind and good man. He loved his family first and his community and his Country next, and this shone through in everything he said and did.

This Nation is a better place today because of the life Curtis Williams led, and I want to commend and praise the work he did.

I want to also call to the attention of my colleagues and other readers of the RECORD the article about Curtis that was published by the Knoxville News Sentinel.

[From the Knoxville News Sentinel, Mar. 31, 2004]

COUNCILMAN'S DEATH LEAVES BIG HOLE IN LC COMMUNITY

(By Ann Hinch)

Monday's presentation of a $215,000 FEMA grant at Lenoir City Fire Station No. 1 promises all the hallmarks of an event Curtis Williams Sr. would've loved: his little city and his firefighters benefiting from much-needed federal funds, politics and old friends.

Sadly, the famously cheerful councilman will attend the April 5 presentation only in memory. Williams, 77, died of congestive heart failure at midnight March 15.

He'd been absent from most of the semimonthly council meetings in the months preceding his death, wanting to attend but ultimately too ill and tired to do so. He would have especially enjoyed Monday's event, as he was also the city's fire commissioner and helped snag the FEMA grant.

"He'd get ready to come to the meetings, but at the last minute, he'd just be too tired," daughter Debbie Cook explained.

Cook, one of Williams' and wife Tiajaunia "Ty's" three children, said her father's doctor told the family in January that Williams didn't have long to live. In typical fashion, rather than mourn his mortality, she said her father asked frankly about funeral plans, regaled with old stories and made the most of time with family during his last weeks.

"I remember telling him that last weekend, how when I was growing up I remember him always helping the 'little man,' " Cook recalled, adding with a laugh, "and he answered, 'Well, I was the little man!'

"He saw himself as a true public servant. If someone called him asking for help to get a job, or a place to live, or food, he'd help them as much as he could."

Williams served on the city council from 1997 until his death, but was hardly a political neophyte. He spent 11 years on the Loudon County Commission until a heart attack forced him to leave in 1980 and also retire from his job as assistant plant manager with the local Charles H. Bacon Co. textile plant.

Taking a break from political office didn't mean a break in politics. An avid Democrat all his life, Williams volunteered for at least six boards, not including the committees he chaired and served on during his 18 years of elected office. And he even counted the occasional Republican among his political comrades, including Rep. JOHN J. DUNCAN Jr., and his father, the late Rep. John J. Duncan.

"It seemed almost every time me or my dad came to Loudon County, we would see him," recalled Duncan, whose father began campaigning for office there while the younger Duncan was in high school. "He was a real strong supporter of both of us."

"I think that he set a good example for anyone in public office. He had a heart for service and liked to help people."

Duncan will make the grant presentation.

Loudon County Attorney Harvey Sproul was county mayor while Williams served on the commission. He recalls the projects they worked on to modernize thle county, including being one of the first Tennessee counties to institute planning and zoning in 1972.

"He was supportive of trying to get things done and trying to establish a foundation for future county growth," Sproul said. "He was almost unequaled in public service; he served on so many boards, and was very progressive."

Duncan had the most contact with Williams through veterans' organizations. Williams was proud of his three-year tour of duty in the Navy during World War II; Cook said Williams was proud to serve his country, to the point of having his legal guardians (he and his siblings were orphaned young and lived with relatives) help him lie about his age at 17 so he could join the Navy in 1943.

"They didn't ask for anything (age proof) back then," Cook said. "They just said, 'Do you want to fight?'" Williams helped storm the beach at Normandy on D-Day and was a gunner in the Pacific.

After the war, Williams returned to his job at Bacon, where he'd worked since he was a boy; he would work there 36 years. He married his childhood sweetheart, earned his GED, and attended classes at the University of Tennessee not toward a degree, but simply to learn more. Two of his three children—Cook and Curtis Williams Jr.—followed him into local politics (daughter Bernita Gamble did not). He left behind a large family, including seven grandchildren and five great-grandchildren.

He also left a hole on the city council, where his term would have ended next April. Mayor Matt Brookshire, who is now responsible for appointing the position, said, "His presence here was missed for a long time, and he'll continue to be missed. He did enjoy (his work)."

IN HONOR OF MATTIE RHODES CELEBRATING 110 YEARS OF SERVICE IN 2004

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to honor an agency that has supported Kansas City area children, families and communities for 110 years. The Mattie Rhodes Center provides social services, mental health counseling and provides emerging artists a venue for their work.

The center is named for Mattie Rhodes, a young woman who worked for the less fortunate with a group of Sunday school friends call the Little Gleaners. In 1890, at the age of 19 she died of typhoid fever. Mattie left $500 to be used for the benefit of children. The Little Gleaners honored her wish and founded the Mattie Rhodes Memorial Society in 1894 with this pledge: "I promise to do all I can to help the needy and suffering by working for them, learning about them, giving for them, and trying to interest others in them."

That pledge made 110 years ago remains a reality today. The mission of the Mattie Rhodes Center is to "strengthen children, families and community by providing social services, mental health counseling and art experiences in a bilingual, culturally sensitive environment." Mattie Rhodes offers services such as individual and family counseling, Hispanic mental health programs, job readiness and placement and educational experiences for children. More than 650 individuals and families access family services each year through the Mattie Rhodes Center. The majority are of Mexican descent and are recent immigrants who speak little or no English. Each year more than 1,700 children benefit from mentoring programs, youth support groups and arts education geared to youth from the suburbs and Kansas City's urban core. The Mattie Rhodes Art Center continues to be a place where children can have fun, learn about, appreciate and create art. In 1999, the Mattie Rhodes Center reached out to Hispanic artists and art patrons by establishing the Mattie Rhodes Art Gallery. It provides a unique experience for Latino artists to display their work, and for the community to view and appreciate. The exhibits educate children and the public about the importance of Latino arts in the West Side community and the greater metropolitan area.

Area daycare centers, elementary and high schools, community organizations and individuals constitute the broad based sector reached by Mattie Rhodes Center programs. These groups include Garcia School, McCoy School, Northeast High School, Rose Brooks Domestic Violence Shelter, Hand-In-Hand and the Missouri Division of Family Services, Hispanic artists and patrons.

Mr. Speaker, please join me in honoring the Mattie Rhodes Center in Kansas City, Missouri for its 110 years of outstanding service. I congratulate this excellent organization in conjunction with The Mattie Rhodes Art of the Mask Auction on April 3, 2004. The auction has grown from a children's art center project into a community celebration. This year's auction will be the twelfth in Mattie Rhodes Center's history. I am proud to have contributed by creating a clay mask for the event.

Ms. Mattie Rhodes would have been proud of these accomplishments. Eleven decades after her wish, the Mattie Rhodes Center continues to care for those less fortunate by providing programs that help children and families become more self reliant, confident, creative and productive members of their communities. From the humble beginnings of a committed young girl's dying wish to her name sake agency that now serves thousands of Kansas Citians, the Mattie Rhodes Center is keeping her promise alive and making a dramatic difference in the lives of the less fortunate.

REIMBURSING MEMBERS OF UNITED STATES ARMED FORCES FOR CERTAIN TRANSPORTATION EXPENSES

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of Senate bill 2057, a bill to reimburse members of the Armed Forces for certain travel expenses incurred while on leave before the Central Command Rest and Recuperation Leave Program was expanded to include domestic travel.

This bill, which recently passed the Senate, directs the Secretary of Defense to reimburse members of the Armed Forces for transportation expenses for up to one domestic round trip that was taken between September 25 and December 18, 2003.

Mr. Speaker, the past few years have been a difficult and strenuous time for the brave and dedicated men and women of our Armed Forces. Our soldiers are tasked in missions across the globe, from Iraq and Afghanistan to South Korea and the Philippines. Many of these missions involve combat or other extreme hardships.

In addition to being kept apart for months at a time, military families have to cope with rising health care costs and uncertainties about the future. Deployment orders for reservists and the National Guard are increasing, and stop-loss measures have been put in place for enlisted personnel who thought they were on the verge of going home. Tens of thousands of military families lack adequate housing and affordable medical care, and Democratic efforts to increase family separation and danger pay have been defeated by Republicans in this body.

Each deployment period, soldiers only receive a brief period of leave to reunite with their families and enjoy respite from the hazards of serving abroad. That soldiers, in some instances, should have had to pay for their own transportation costs while on leave is most unfortunate.

Mr. Speaker, it is reasonable for Congress to demonstrate its gratitude to the men and women of the Armed Forces by ensuring that they do not have to pay out of pocket for travel expenses incurred while transitioning from the difficulties of deployment to the welcoming arms of their families at home.

I urge my colleagues to support this bill.

BACK OUR VETERANS HEALTH

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. FILNER. Mr. Speaker, since the creation of the Department of Veterans Affairs (DVA) health system, the Nation's doctors of chiropractic (DCs) have been kept outside the system and all but prevented from providing proven, cost-effective and much-needed care to veterans, including those among the most vulnerable and in need of the range of health care services DCs are licensed to provide. In 2002, 4.5 million patients received care in DVA health facilities, including 75 percent of all disabled and low-income veterans. Although the DVA health care budget is roughly $26 billion, in 2002, less than $370,000 went toward chiropractic services for veterans.

I am proud to introduce legislation—H.R. 4051, the Better Access to Chiropractors to Keep Our Veterans Healthy Act (BACK Our Veterans Health Act)—that is designed to provide veterans with direct access to a doctor of chiropractic, if that is their choice, through the veterans health care system. In developing this bill, I have worked closely with chiropractic patients, particularly our veterans, who know the benefits of chiropractic care and bear witness to the positive outcomes and preventative health benefits of chiropractic care. I was also pleased to work with the American Chiropractic Association (ACA), the Nation's largest chiropractic organization and the national voice of doctors of chiropractic and their patients. I am told by the ACA that there are more than 60,000 doctors of chiropractic and in excess of 25 million chiropractic patients across America.

Specifically, my bill seeks to amend title 38 of the United States Code to permit eligible veterans to have direct access to chiropractic care at Department of Veterans Affairs hospitals and clinics. Section 3 of the measure states that "The Secretary [of Veterans Affairs] shall permit eligible veterans to receive needed [health care] services, rehabilitative services, and preventative health services from a licensed doctor of chiropractic on a direct access basis at the election of the eligible veteran, if such services are within the State scope of practice of such doctor of chiropractic." The measure goes on to directly prohibit discrimination among licensed health care providers by the DVA when determining which services a patient needs.

Over the years, Mr. Speaker, representatives of the Department of Veterans Affairs have come before the House Veterans Affairs Committee, a panel on which I serve, and have insisted that chiropractic benefits are available to veterans and that no bias exists within the DVA against the chiropractic profession. But the facts I cited above speak otherwise. For all practical purposes, access to chiropractic care has been nonexistent within the DVA system. Chiropractic care has so seldom been offered to veterans that it can be fairly said to be a phantom benefit—and for years, Mr. Speaker, the DVA has done nothing to correct this deficiency. There is simply no evidence that the DVA has ever acted proactively in any meaningful and substantive way to ensure that chiropractic care is made available to veterans—and because of that track record of neglect that the U.S. Congress felt compelled to take action. And as a result, Congress in recent years has enacted three separate statutes seeking to ensure veterans access to chiropractic care—Public Law 106–117, Public Law 107–135 and Public Law 108–170. The last of those statutes gives explicit authority to the DVA to hire doctors of chiropractic as full-time employees. I'm proud to have worked with colleagues on both sides of the aisle to help advance those initiatives—and I am hopeful that a reluctant DVA has finally seen the light.

I understand that the VA Secretary Principi has just released some new policy directives regarding chiropractic care and that, at last, we may be on our way to seeing the true and full integration of chiropractic care into the DVA. But Mr. Speaker, if the past is any guide to the future, then I must remain concerned until I see these new polices firmly in place and working well in all DVA treatment facilities. To help ensure that in the future, barriers to veterans who want and need chiropractic care are fully removed, I am pleased to introduce legislation that would require the DVA to make chiropractic care available on a direct access basis to our veterans. If the previous legislation had actually been implemented, my legislation would not be necessary—because referrals to doctors of chiropractic would actually be taking place with the encouragement and support of the DVA leadership. I hope this is what happens under Secretary Principi's new guidance—but as insurance, Mr. Speaker, in case the Department loses their newfound enlightenment somewhere along the way—perhaps under a less supportive Secretary—then the enactment of the legislation I propose would guarantee the right of a veteran to obtain this important service without the cost and stumbling blocks of going through potentially hostile gatekeepers. Accordingly, I urge my colleagues to join me in supporting unimpeded access to chiropractic care throughout the veterans health care system and help enact this measure.

HONORING LEW AND SUSAN MANILOW

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. EMANUEL. Mr. Speaker, I rise to congratulate Susan and Lew Manilow of Chicago on their recent 30th wedding anniversary.

Both Susan and Lew have been active members of the community and continue to support the many causes important to them.

Lew is a retired attorney who has wide interests in the arts, public policy and business. He grew up in Chicago and has lived there all his life, where his passion for theater continues to grow.

Lew has served as the former chair of the United States Advisory Committee on Public Diplomacy and was a key member of the Democratic Leadership Council. He is a longtime member of the board of directors of the National Democratic Institute for International Affairs and was the founding chair of its Middle East Committee.

In addition, Lew is a founding trustee and former president of the Goodman Theatre and leading advocate for the North Loop Theatre District. In addition, he is on the board of trustees for both the Museum of Contemporary Art and The Art Institute. Lew's generosity and devotion to the fine arts earned him the prestigious distinction of being one of 24 recipients of the National Medal of Arts and Humanities awarded by President Clinton in December 2000.

Dr. Susan Manilow, also actively involved in our community, has been a chairman of both the Mount Sinai Health System and the Chicago Health Policy Research Center. She is currently a chairman for the Foster A. McGaw Prize Committee, which recognizes health care organizations that are committed to community service, and to improving and expanding care.

Family has also always been a priority in Lew and Susan's life. Her two children, Edwin and John Eisendrath, are the proud parents of six grandchildren. His children, David, Karin, and John, are parents to seven grandchildren, with one more on the way.

Mr. Speaker, I join with the fifth district and entire Chicago community in congratulating my friends Lew and Susan Manilow on their 30th anniversary, and wish them, and their extended family, all the happiness in the future.

HONORING THE PUBLIC SERVICE OF ANTONIA HERNÁNDEZ

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Ms. ROYBAL-ALLARD. Mr. Speaker, today, my colleagues Mr. ANÍBAL ACEVEDO-VILÁ, Mr. JOE BACA, Mr. XAVIER BECERRA, Mr. DENNIS CARDOZA, Mr. CHARLIE GONZALEZ, Mr. RAÚL GRIJALVA, Mr. LUIS GUTIERREZ, Mr. RUBÉN HINOJOSA, Mr. ROBERT MENENDEZ, Mrs. GRACE NAPOLITANO, Mr. SOLOMON ORTIZ, Mr. ED PASTOR, Mr. SILVESTRE REYES, Mr. CIRO RODRIGUEZ, Ms. LINDA SÁNCHEZ, Ms. LORETTA SANCHEZ, Mr. JOSÉ SERRANO, Ms. HILDA SOLIS, Ms. NYDIA VELÁZQUEZ and I join together to honor the career of Antonia Hernández as President and General Counsel of the Mexican American Legal Defense and Educational Fund (MALDEF), a nationally recognized non-profit organization. Through the legal system, community education, research and advocacy MALDEF is dedicated to protecting the civil rights of the nation's 40 million Latinos. We would like to take this opportunity to congratulate Ms. Hernández on her 23 years of distinguished service at MALDEF and to thank her for her tireless advocacy on behalf of the Latino community in this country.

In so many ways, Antonia Hernández is a role model for all Americans. Born in Mexico, she and her family moved to the United States when she was only 8 years old. They settled in the Maravilla area of East Los Angeles where her father supported his wife and six children as a gardener and laborer. As the eldest child, Antonia Hernández learned English quickly and excelled in school. She would later go on to attend UCLA where she received her bachelor's degree, teaching certificate and, in 1974, her law degree.

Soon after passing the California State Bar exam, Antonia Hernández became a U.S. citizen. She later told a Los Angeles Times reporter that her patriotism to this country helped to inspire her interest in public service. "I love (this country) more than most because I don't take the rights and privileges of an American citizen for granted. I remembered there was a knot in my throat when I took the oath (of citizenship)," The Los Angeles Times reported in 1985.

An expert in civil rights and immigration issues, she began her legal career as a Staff Attorney with the Los Angeles Center for Law and Justice and worked as counsel to the United States Senate Committee on the Judiciary under the leadership of Senator EDWARD KENNEDY. In 1981, Ms. Hernández joined MALDEF as Regional Counsel in Washington, DC. Ms. Hernández was elected to MALDEF's presidency in 1985 where she was responsible for directing all litigation and advocacy programs, managing a $6.2 million annual budget, and supervising a 75 person staff.

Ms. Hernández's management expertise guided the organization to long-term financial stability. In 1991, she created a permanent endowment for MALDEF by raising funds for the national headquarters building in Los Angeles. She has been pivotal in overseeing the national expansion of the organization, which today has offices in Chicago, Houston, Sacramento, Washington DC, San Antonio, and Atlanta. Most recently, Ms. Hernández directed the opening of the Atlanta office in 2002, to serve the burgeoning Latino population in the Southeast.

A tireless champion for educational equity, Ms. Hernández has numerous accomplishments in this area. She led MALDEF's legal challenge to the state of Texas in Edgewood Ind. Sch. Dist. v. Kirby to counter the economic and racial disparities used in financing Texas public schools. This legal battle, which began in 1984, ended successfully in 1995 when the Texas Supreme Court held that the

Texas legislature had the authority to require wealthier school districts to share their funding with poorer districts, in turn creating an educational system that provides greater opportunities for all Texas children.

In California, MALDEF successfully challenged a similar school financing system in Godinez v. Davis. The state had a system that short-changed urban schools while providing more money to suburban areas. This case resulted in the award of hundreds of millions of dollars for urban area schools, many with a significant number of Latino students.

Antonia Hernández fought for the rights of limited-English proficient students by mounting a case against the Denver School District in 1984 for their lack of programs to educate non-English speakers. As a result of their legal victories, MALDEF won the creation of noted bilingual and multicultural programs for the Latino students of Denver.

Antonia Hernández also won key victories for Latino students by expanding their access to higher education. In 1993, MALDEF was victorious in LULAC v. Richards, where the Texas Supreme Court ruled that the lack of higher education programs in the predominantly Latino area of South Texas violated the state constitution.

Under Ms. Hernández's leadership, MALDEF helped to secure the right for undocumented students in California to attend state universities. In 2001, MALDEF developed a successful grassroots campaign in support of legislation that allows undocumented students in California to enroll at any publicly financed California university for the same cost as other state residents. To further this effort nationwide, in 2003, she established the Ellen and Federico Jimenez Scholarship Fund for undocumented students who are ineligible for state or federal financial school assistance. This scholarship makes the critical difference in the lives of students who would otherwise be unable to afford the cost of a higher education.

As a mother of three children, Antonia Hernández also realizes the tremendous influence parents have in lives of their children. That's why, under her leadership, MALDEF graduated thousands of parent leaders from its Parent School Partnership (PSP) program, which instructs parents on how to become involved in their children's education.

In the area of employment, Antonia Hernández has provided opportunities for Latinos by mounting legal battles for fair hiring practices. Her work on the landmark legal case of Ballasteros v. Lucky forced the food service industries to allow Latinos to work in every major grocery chain in California. The victory resulted in the hiring of Latinos in several hundred retail stores.

Antonia Hernández has been a tenacious defender of immigration reform. Working with Congress and state governments, she has been a devoted advocate on behalf of fair and just immigration reform. Most notably, in 1985, MALDEF successfully halted the implementation of California's Proposition 187, which would have barred immigrants from receiving public education, medical services, and other public benefits.

Underlying all of MALDEF's efforts is a steadfast commitment to political empowerment in the Latino community. With this in mind, under Antonia Hernández's leadership, MALDEF has vigorously defended the Voting Rights Act of 1965. In 1982, she helped to create a new section of the Act that explicitly outlaws discriminatory election practices. She also championed a bilingual provision to protect limited-English proficient voters. In order to ensure a strong political voice for Latinos throughout the country, MALDEF led nationwide census outreach campaigns in 1990 and 2000. Over the years, MALDEF has won many Latino-majority voting districts, one of which resulted in the first Latino seat in 100 years in Los Angeles County (1990 Garza v. County of L.A.) and another which created the state of Illinois' first Latino Congressional district as a remedy for past discrimination in the Chicago area (1995 King v. Illinois State Board of Elections).

Antonia Hernández has worked to ensure that Latinos receive their fair share of public services, including access to medical insurance, language translation for public services, and fair and equitable treatment in land-use decisions. Just one example is the 2001 case in which MALDEF won a case against the City of Poth, a South Texas town that finally agreed to pave the streets in its Latino neighborhoods.

Mr. Speaker, Ms. Hernández is a visionary. Through her work at MALDEF, her service to the Latino community has truly improved lives and helped to carry out the organization's unwavering mission to remove obstacles that prevent the Latino community from realizing its dreams. We thank her for her many years of public service and we are grateful that she will continue her work in the community as she moves on to serve as President and CEO of the California Community Foundation. Her courage, compassion, and, above all, her dedication to helping others have made a difference at MALDEF and in the Latino community. We trust that this is indeed not an end to her work in public service, but a new beginning to even greater victories ahead.

USES AND MISUSES OF INTELLIGENCE

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. HOLT. Mr. Speaker, in just over 3 years the United States has faced two acute intelligence failures. The first was the tragic events of September 11, 2001. The second can be found in the arguments made to go to war in Iraq. Weapons of mass destruction have not been found. Anti-American sentiment has been strengthened and spread across the Islamic world. In the aftermath the United States has been saddled with a long-term commitment to pay the rising costs of war and endure the continuing loss of life in Iraq. It is in this context America's hard-won lessons from its past covert activities should be turned to, to guide us in our current endeavors.

Mr. Speaker, I would like to include in the RECORD a copy of the following speech by Professor Raymond H. Close delivered to the Princeton Middle East Society at Princeton University last month on the uses and misuses of intelligence in the conflict with Iraq.

USES AND MISUSES OF INTELLIGENCE

(By Raymond H. Close)

Today I want to describe to you the details of a few specific situations that took place a number of years ago where intelligence estimates and covert actions were employed, and in some cases deliberately distorted, in a manner calculated to support policy objectives of the U.S. Government that might otherwise not have received the support of the American people and the approval of the world community. From an assessment of those experiences in the past, perhaps we can draw some useful lessons to guide our intelligence officials today in fulfilling their professional obligations more honestly and appropriately.

My own experiences in the twenty years that I spent actually engaged in clandestine operations in the Middle East were entirely in the areas of old-fashioned espionage and so-called covert action—which I define as the effort to achieve specific strategic objectives for the United States through secret intervention in the political processes of another country. As you all know, the term "covert action" can also include the employment of lethal violence in some situations to accomplish objectives that could not otherwise be justified by our own legal system or by humanitarian principles, carried out by methods designed to hide our government's role behind a shield of "plausible denial".

Let me start by telling you about some of my experiences in Lebanon during the years 1952–1958, from which some lessons can still be drawn, I think.

In 1957, I participated in a covert action operation in Lebanon, explicitly ordered by President Eisenhower, in which it was our objective to keep a government in power that was committed to the open and enthusiastic support of American policy objectives in the region, but was under assault by internal elements determined that their country should adopt a more independent stance. We were initially successful, but our crude manipulation of the democratic process during Lebanon's 1957 parliamentary elections contributed directly to a civil war that was ended only on the landing of a large U.S. Marine and Army military force one year later. To justify that armed intervention, we deliberately and knowingly provided false intelligence to the United Nations purporting to prove that our forces had responded to indirect aggression against the freely elected government by forces inspired and supported by international communism. This was pure fabrication. By the autumn of 1958, following our military intervention, the government that we had supported by our covert action had been replaced by a regime composed primarily of individuals who had been leaders of the political opposition, but who were not by any objective standard enemies of the United States. The supreme irony, I always thought, was that shortly thereafter Barry Goldwater wrote a book in which he extolled the glorious success of our ill-advised and ultimately counterproductive covert action operation in Lebanon. Goldwater recorded that, in a triumphant demonstration of how to employ U.S. power in the cause of freedom, a communist regime had been overthrown in Lebanon and replaced by a pro-western government. This breathtaking contradiction of historical fact was an example to me of how effective the big lie can be, and has, particularly in recent months, reminded me to keep an open mind when it comes to assertions of fact by senior American policymakers. A case in point: On February 5th, 2003, just one year ago, Secretary of State Colin Powell, in his now-famous report to the United Nations Security Council, said this: "My colleagues, every statement I make today is backed up by sources, solid sources. These are not assertions. What we're giving you are facts and conclusions based on solid intelligence." Secretary Powell's use of the pronoun "we" in this statement was clearly intended to include CIA Director George Tenet, whose face appeared right over Powell's shoulder throughout the presentation. Tenet's presence could only have been intended to put the CIA's official stamp of approval on everything Powell was reporting—even information that Tenet must have known was highly questionable.

The Bush Administration apparently felt under pressure to strengthen its case for war in Iraq by persistent enhancement of whatever intelligence happened to be available that seemed to support their policy objectives. The details of how that corruption was implemented are much less important, however, than the violation of principles that allowed a preemptive war to be initiated on the basis of evidence that was known by the senior levels of our government to be inconclusive, and even demonstrably false in some cases. This misuse of intelligence will have long-term costs, first among which is that American and world public opinion will, in future crisis situations, be so dubious about the credibility of American intelligence that approval and support of other U.S. military actions overseas may be withheld by the international community even in situations where intervention is urgently called for. Secondly, the personal image of George W. Bush relying on questionable information to make life and death decisions has drastically compromised his credibility and effectiveness as a national and world leader. Finally, the present crisis has revealed flaws in the way various intelligence agencies in Washington evaluate their product, and how honestly and objectively it is packaged and marketed to their customers in a competitive political arena in which the possession of allegedly "solid" secret information can provide such a formidable advantage.

Another appropriate example, from which valuable lessons can still be derived today, concerns events in Africa in the late summer of 1998, when the Clinton Administration retaliated against terrorist bombings of the American embassies in Nairobi and Dar-es-Salaam by launching long-range Tomahawk missiles at targets in Afghanistan and the Sudan. The missile attack on Khartoum, in particular, because it was based on embarrassingly inaccurate intelligence, made subsequent American counter-terrorism strategy much more difficult to implement. At that time, in September 1998, I wrote the following in an op-ed piece published in the Sunday Outlook Section of the Washington Post under the headline: "We Can't Defeat Terrorism with Bombs and Bombast". This is an extract from that article, written exactly three years before 9/11:

"To launch missiles into countries with which we are technically at peace—and to kill their citizens—is to declare that the United States is free to make its own rules for dealing with the international problem of terrorism. What standing will we have in the future to complain about any other country that attacks the territory of its neighbor, citing as justification the need to protect itself from terrorism? Did those who authorized these attacks think through the long-term implications of this short-sighted and dangerous precedent?

"Let's get down to practical realities. The new threat we face is often stateless, without sovereign territory or official sponsorship. Friendly governments around the world—especially those with large Muslim populations such as India, Pakistan, Egypt, Turkey, Jordan, Indonesia, Malaysia, the Gulf states and the new republics of Central Asia—share a common need for internal and regional stability. Terrorism is a weapon that threatens all civil authority. This set of circumstances provides an unprecedented incentive, which is to say a God-given opportunity, to establish new systems and procedures for intergovernmental cooperation, even among states that may differ on other basic issues. But the fight against a silent and hidden common enemy requires infinite patience and tact on the part of law enforcement agencies and intelligence services. It demands absolute secrecy, mutual trust and professional respect. If the United States loses its cool without warning, if it is seen by others as a loose cannon that resorts to sudden violent action on a massive scale, the critically needed cooperation will not be there." Later in the same article I added: "President Clinton and others have labeled all Islamic terrorists as members or 'affiliates' of the 'Osama bin Laden Network of Terrorism.' This is, of course, the common mistake of demonizing one individual as the root of all evil. In fact, elevating bin Laden to that status only gives him a mantle of heroism now and, more ominously, will guarantee him martyrdom if he should die. Informed students of the subject have known for years that although the various militant Islamist movements around the world share a common ideology and many of the same grievances, they are not a monolithic international organization. Our recent attacks, unfortunately, may have inflamed their common zeal and hastened their unification and centralization—while probably adding hosts of new volunteers to their ranks. We are rolling up a big snowball."

I received many complimentary messages after that article appeared in the Washington Post, including one from Robert Bryant, Deputy Director of the FBI, who invited me to lunch and told me that he had instructed all his officers who were working on the terrorism target to read it. He particularly appreciated the emphasis that I had put on dealing with terrorism by patient criminal investigation and cooperation with other international law enforcement agencies rather than by what I had dubbed "bombs and bombast". The intelligence indicating that the pharmaceutical factory in Khartoum was producing a precursor of biological weapons was completely incorrect—another case of bad intelligence having been seized upon to justify a violent military initiative that proved to be unjustified and seriously counter-productive. Thomas Pickering was Deputy Secretary of State for Political Affairs at the time. I clearly remember when this distinguished and highly respected statesman, a former U.S. ambassador to Jordan, Israel, India, the Philippines and the United Nations, appeared on national television to explain and defend the Clinton Administration's Tomahawk missile attack on the Sudan, offering confident and positive assurances of the accuracy of U.S. intelligence reports that the Daral-Shifa plant was a critically dangerous installation—putting himself in exactly the same humiliating position that Colin Powell is in today as a result of his similarly inaccurate testimony before the United Nations one year ago.

Finally, I would like to take a look at some important features of the present situation in Iraq, looking again for lessons that should have been drawn from earlier experience, but were ignored. Here I am prepared to go out on a limb with some current intelligence estimates of my own. In other words, I'm ready to make some predictions about the future, based on my own past experiences. I offer these predictions with confidence, but with sincere hopes that they will prove to be wrong.

The United States began its invasion of Iraq operating under a number of seriously flawed expectations that were based on nothing other than bad intelligence, construed by dedicated ideologues to suit their own preconceived misjudgments.

One expectation was that gratitude toward the United States for liberating their country from Saddam's terrible dictatorship would be the determining factor in shaping Iraq's political future, in defiance of overwhelming evidence that their own social and cultural heritage would inevitably take precedence over American dictates. Secondly, the U.S. has maintained a confident expectation that a new government of Iraq would grant the U.S. long-term leases on military bases from which the U.S. could project its power throughout the entire Middle East and Central Asian region for a long time into the future. Another expectation has been that the new Iraqi government will continue in the future to cooperate closely with the United States in the management of its oil and gas resources, even when Iraq's own economic and political needs might be in conflict with American objectives. And fourthly, the Bush Administration leadership (and especially the neo-cons and their allies in Congress) have all confidently expected that Iraq would become a fully cooperative partner in dealing with the Israeli-Palestinian problem, even when U.S. policies are in conflict with Iraqi conceptions justice. It is as if our intelligence experts have suffered total amnesia when it comes to the historic realities of nationalism in the Arab world.

My prediction is this: Any new political group aspiring to leadership of Iraq must recognize that its popularity and its credibility will depend on the degree to which it can demonstrate its independence (read that as "defiance") of American influence. When this finally becomes apparent, the United States Government will decide to interfere with the political process to whatever extent, and by whatever means, are necessary to ensure that control of the country remains with acceptably cooperative and compliant Iraqis. I think that such an operation would of necessity be anything but covert, and I'm ready to predict that it will be a messy failure. My conviction that the CIA will be directed to ensure the installation of a compliant new regime in Iraq is based on my experiences in Lebanon and elsewhere, which demonstrated that men who occupy the Oval Office seem inevitably to develop an irrational confidence that by pushing a button they can have their dirty tricks department across the Potomac River in Langley perform a covert action operation to fix the problem—justifying the action as necessary to protect the freedom of the American people and the welfare of all humanity.

In my opinion, the hard reality is that when push comes to shove, the Bush Administration, for all its exalted protestations of virtue and Godliness, is not going to allow a government that defies U.S. policy objectives to take power in Baghdad. High principles will, as I have seen so many times in my own experience, be compromised as necessary to produce results that can be presented as justification for a preemptive war costing thousands of human lives and uncounted billions of dollars. The end result will be that the entire Middle East will be destabilized, while the forces supporting and sustaining terrorism will be injected with new vigor.

IN HONOR OF SERGEANT LAVERN JOHNSON-REYNOLDS

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. BECERRA. Mr. Speaker, it is with the utmost pleasure and privilege that I rise today to recognize, pay tribute to, and celebrate the retirement of Sergeant Lavern Johnson-Reynolds. Joining the United States Capitol Police on February 12th, 1979, Sergeant Reynolds served our country honorably for over 25 years. During these 25 years of dedicated service, her duties entailed a variety of assignments, which included the United States Capitol Police's Senate Division, Communications Division, Capitol Division and Criminal Investigations Division. Additionally, Sergeant Lavern Johnson-Reynolds served as an instructor in the Training Academy for 10 years. She earned her promotion to Sergeant in December of 1995.

On a personal note, Laverne married Dr. Gary Reynolds and gave birth to their daughter Destiny Johnson-Reynolds during her tenure on the force.

Mr. Speaker, as family, friends and colleagues gather to celebrate Sergeant Lavern Johnson-Reynolds' many accomplishments, it is with great admiration and pride that I ask my colleagues to join me today in saluting this exceptional officer whose dedicated service will be sorely missed. She served our country proudly with the United States Capitol Police for over 25 years, training future officers, and protecting this institution; Members of Congress, and staff. Mr. Speaker, I ask that the House of Representatives join me in conveying our appreciation for Sergeant Lavern Johnson-Reynolds' dedicated service, and reciprocate the honor she has illustrated through her dedication, loyalty, and service to our country.

NATIONAL OUTSTANDING YOUNG FARMERS AWARD

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. BEREUTER. Mr. Speaker, this Member would ask his colleagues join in congratulating Brad and Amy Williams of Cedar Bluffs, Nebraska, for being one of the four winners of the 48th Annual National Outstanding Young Farmers Awards presented by the U.S. Junior Chamber (Jaycees) and the John Deere Company. The 2004 awards event marked the 38th year that the John Deere Company sponsored the program, which is administered by The U.S. Junior Chamber (Jaycees), and supported by the Outstanding Farmers of America Fraternity and the National Association of County Agricultural Agents.

Brad and Amy Williams both stated that they didn't think they would win. But win, they did. An AP wire article on the Williamses stated, "The Cedar Bluffs couple underestimated themselves and their farming operation. Before the ceremony was over, they were in the spotlight." And, it is a well-deserved spotlight as the couple won the award by farming 2,015 acres of corn, soybeans and hay along with working a 2,700 swine farrow-to-feeder pig operation.

In addition, the Williamses have increased their number of no-tilled acres during the past 16 years. In 2003, they used the no-till method on 65 percent of the 2,015 acres they farm thereby conserving soil moisture, reducing erosion and lessening soil compaction. In doing so, they also provided additional cover for wildlife including pheasants and quail.

But, farming for Brad and Amy Williams is not just about conservation, it is also about keeping up with rapidly changing technology and becoming more efficient. In all of these areas, Brad and Amy Williams' efforts have paid off—not only in receiving this award for being Outstanding Young Farmers, but also about in being successful stewards of the land.

ELECTED PUBLIC OFFICIAL BECOMES THE FIRST DIABETIC TO STEP ONTO INTERNATIONAL FREESTYLE WRESTLING MAT

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. HOLDEN. Mr. Speaker, I rise today as a member of the Congressional Diabetes Caucus to report on an extraordinary sports history that soon unfolds. This April 8th, at USA Wrestling's U.S. Nationals in Las Vegas, Peter J. Wirs, the elected State Constable for the City of Harrisburg's Fourth Ward, will become the first diabetic ever to step onto an international freestyle wrestling mat; notwithstanding that Mr. Wirs is 49 years old; suffered a heart attack December, 2001; and suffers from acute and chronic asthma.

Constable Wirs' success story of overcoming diabetes to participate in a sport he has longed to compete in since junior high school marks an important lesson for all of us. Today, diabetes is now epidemic, according to the Centers for Disease Control, the National Institutes of Health, the American Diabetes Association and other national healthcare leaders. This is all the more critical as more and more Americans are suffering from obesity.

Unfortunately, this problem is not new. President Kennedy, speaking at the 1962 Army-Navy Game in Philadelphia, asserted that: "We are under-exercised as a Nation." Kennedy initiated the President's Council on Physical Fitness to urge America to pursue more exercise and sports in our daily lifestyles.

Today, over one-third of all Americans are obese, and more then 60 percent of Americans are overweight, according to the Centers for Disease Control. Obesity is a major precursor for Type II diabetes, where the pancreas produces too much insulin or the body otherwise cannot process the insulin the pancreas creates.

Diabetes is now an epidemic, as reported by Time magazine this past December 8th, 2003. 16 million Americans are expected to contract Type II diabetes. "Type II diabetes is increasingly being diagnosed in children and adolescents," according to the ADA National Diabetes Fact Sheet. Type II now appears to be at the "highest risk" during puberty, according to the ADA's October, 2003 issue of Diabetes Forecast. While approximately one in every 400 children and adolescents have Type I diabetes; recent Government reports indicate that one in every three children born in 2000 will suffer from obesity, which as noted is a predominant Type II precursor.

Among adults age 20–55; 8.3 percent of all adult men will be inflicted with diabetes, while 8.9 percent of all adult women age 20 will contract it.

Diabetes is even more prevalent among minorities. 13 percent of African-Americans age 20 and older, and 10.2 percent of all Hispanic-Latino Americans have or will have diabetes, meaning that on average, Hispanic Americans are 1.9 times more likely to have diabetes than non-Hispanic whites of similar age.

As a result, diabetes represents a substantial economic toll. In 2000, $91.8 billion was spent on direct medical costs for diabetes, while an additional $39.8 billion was spent on disability, work loss, premature mortality, etc., resulting from diabetes. In other words, the annual cost is $7,764 for every U.S. diabetic. Medical expenditures per capita for diabetics is 6.5 times that of nondiabetics.

Yet, studies universally show that "lifestyle interventions"—this is to say a regimen of diet and exercise—can reduce development of diabetes by 40 percent to 60 percent. However, lifestyle intervention requires discipline with a tangible end result that is within reach. It requires personal resolve, a lifelong commitment.

That's what makes the story unfolding this April 8th at the USA Wrestling's Nationals so impressive. Constable Wirs, a constituent and good friend of mine, two years ago weighed over 250 pounds. Two years ago, his Type 11 diabetes was so out of control that Wirs would lose a whole day a week from insulin shock, a situation where a diabetic loses motor movement coordination, the only remedy is in essence to sleep it off. This means that Pete Wirs would lose 52 days or over seven weeks a year to diabetes. Over the past 25 years, diabetes has cost Mr. Wirs over 1,300 days or 185 weeks out of his life. It took all of his energies and effort to simply pursue his professional career as a journalist, publisher and political leader. He had nothing left for personal pursuits, leisure or sports, let alone a social life.

However, Pete Wirs always wanted to compete in wrestling, the one sport he was shown to be good at in junior high school physical education classes. However, back in the 1960's and 70's, we didn't know about Type II diabetes, only what today we call Type I or insulin-dependent diabetes. Because Wirs' Type II diabetes was unknown, no one was able to ascertain why he was so heavy, sluggish and constantly out of breath. His diabetes was finally diagnosed in 1975 by the late Philadelphia Councilwoman Dr. Ethel D. Allen.

Two years ago, Pete Wirs finally said enough was enough, in his own words he was "sick and tired of diabetes controlling him, now he was going to control diabetes." Pete Wirs started to exercise every day. I would repeatedly see him exercise at the Harrisburg YMCA. Pete Wirs also started jogging, and now jogs five miles a day up and down Harrisburg's Riverfront Park through City Island. He dropped from 250 pounds to 167 pounds. And Pete Wirs got involved in the one sport he always wanted to compete. It wasn't an easy sport like golf, but among the most physically and emotionally demanding sports man partakes in—wrestling.

Today, Pete Wirs had his life back, so much that this past November 22nd, he got married, to the very attractive Anna May Casper in Historic Old St. George's Methodist Church inside Independence National Historical Park in Philadelphia.

And on April the 8th, Pete Wirs, despite being 49 years old and a heart attack victim, will become the first diabetic ever to step onto an international freestyle wrestling mat in the USA Wrestling Nationals and Veterans Championships at the Las Vegas Convention Center.

Mr. Speaker, we don't know whether Constable Wirs will win or lose his first match. Although in the Veterans Division, competitors are divided into both age and weight, there is no doubt that Pete Wirs will be up against seasoned, experienced amateur wrestlers. But no matter what the score, Pete Wirs will have scored a morale victory by simply stepping onto the mat; by getting his diabetes under control, and proving to all of us that physical fitness is not a diet, a fad, but a life-long commitment to healthy eating, continuous exercise and sports activity.

Mr. Speaker, so important is this milestone for all diabetics, the Pennsylvania Wrestling Club of which Constable Wirs serves as executive president, is administering a nationwide public service program to encourage diabetics to commit themselves, as has Mr. Wirs, to a lifestyle of dietary control and exercise. Entitled "Going for the Gold," the campaign will award up to 500 "Diabetic Control Points" for diabetics engaging in continuous exercise and participation in an organized amateur athletic sport, all while raising money for the American Diabetes campaign.

Mr. Speaker, Constable Wirs is an inspiration to all diabetics and indeed to all of us. In President Kennedy's words, Pete Wirs becomes a "profile in courage" when he steps onto the freestyle wrestling mat this April 8th for his first competitive match. Our congratulations to Constable Wirs, and all of his fellow team members, coaches and boosters in this important sports history in the making.

PREVENTIVE SCREENING FOR COLORECTAL CANCER

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Ms. SLAUGHTER. Mr. Speaker, I am pleased to re-introduce the Eliminate Colorectal Cancer Act, a bill that can save the lives of thousands of people who might otherwise fall victim to the only completely preventable form of cancer.

Few people realize that colorectal cancer is the second leading cause of cancer death in the U.S. for men and women combined. It kills more Americans every year than either breast cancer or prostate cancer. An estimated 146,940 people will be diagnosed with this cancer in 2004, and 56,730 will die from it.

This is an unspeakable tragedy because colorectal cancer is preventable, treatable, and curable when detected at an early stage. When colorectal cancer is detected before it has spread, the five year survival rate is over 91 percent.

Further, colorectal cancer is the only cancer we know how to prevent. If polyps are discovered in the colon, they can be removed before they become cancerous and the cancer will never develop.

And yet tens of thousands of Americans continue to die from this disease, mostly because their cancer is detected at a later, less treatable stage.

No one should die of colorectal cancer. This cancer is preventable and detectable. It is slowgrowing and easy to stop in its tracks. The fact that over 56,000 Americans die of this disease is nothing more than a massive failure of our preventive health system.

For most Americans, two barriers effectively block their access to colorectal cancer screening: ignorance, and lack of insurance coverage. Many people simply don't realize they are at risk. When they are educated by their doctors and other sources, however, the vast majority are ready to undergo screening.

This brings them to the second major obstacle—insurance coverage. Not all insurers cover colorectal cancer screening, even for those groups at higher risk. All men and women over the age of 50 should be screened regularly, as well as those under 50 at high risk. Screening tests are crucial because colorectal cancer often causes no symptoms until it is widespread.

A recent Lewin Group study of the insurance plans offered under the Federal Employees Health Benefits Program (FEHBP) is illustrative. Lewin researchers reviewed the plan materials offered to subscribers to determine which covered the full range of colorectal cancer screening methods. In 2002, only 3 percent of FEHBP plans covered screening colonoscopy. In 2003, that number jumped dramatically to 28 percent. Clearly, insurers are realizing that these screening exams make sense. Colorectal cancer screening is cost-effective, considering that treatment for a patient with an advanced form of cancer can easily be $40,000 or more. Preventive screening is good policy, good health care, and good economics.

I am therefore proud to introduce today the Eliminate Colorectal Cancer Act, a bill to require insurers to cover a regular colorectal cancer screening exam. Doctors and patients will be able to decide together the appropriate screening method and frequency of testing. My friend and colleague, Rep. PETER KING, has joined me as original cosponsor of this vital initiative. In the Senate, a companion bill is being introduced today by Senators EDWARD KENNEDY and PAT ROBERTS.

I am pleased to report that a wide range of respected organizations have already lent their support to this initiative, including the American Cancer Society. These organizations will be working diligently to educate Members of Congress about the need for this legislation and to urge their support for it.

The wall at the Vietnam Veterans Memorial lists the names of 58,235 Americans who lost their lives over the course of that conflict. Every year, we lose almost that many men and women to colorectal cancer. But we have the power to eliminate colorectal cancer. I urge all of my colleagues to cosponsor the Eliminate Colorectal Cancer Act and put us on the path to realizing this worthy goal.

RECOGNIZING APRIL AS SEXUAL ASSAULT AWARENESS MONTH

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mrs. CAPPS. Mr. Speaker, I rise today to recognize April as Sexual Assault Awareness Month. Rape and sexual assault affects women, children, and men of all racial, cultural, and economic backgrounds. I commend the work of local organizations to end this type of violence.

The importance of these issues is illustrated by statistics that indicate that there were 10,176 forcible rapes reported in 2002; and that the Bureau of Justice Statistics estimates that over 70 percent of rapes are never reported to police; and that one in three women, one in four girls, one in six boys and one in eleven men will be victims of sexual violence at least once in their lifetimes.

While one person, organization, agency or community cannot eliminate sexual assault on their own, we must work together to educate our entire society about what can be done to prevent sexual assault, as well as to support survivors and their significant others, and increase support for agencies providing these services.

Santa Barbara Rape Crisis Center has led the way in Santa Barbara in addressing sexual assault by providing 24-hour hotline services to survivors and their significant others, responding to emergency calls, offering support and comfort to those impacted by sexual assault during medical exams, criminal proceedings, and empowering those impacted by sexual assault to chart their own course for healing.

Santa Barbara Rape Crisis Center has set an important example of how forging collaborative relationships between service agencies and organizations improves the quality of service for those most profoundly and directly impacted by sexual violence.

Ending sexual assault in Santa Barbara must include active public and private efforts in collaboration with Santa Barbara Rape Crisis Center, including dialogue about what sexual violence is, how to prevent it and how to help survivors connect with crucial counseling and support services.

As a nurse, I understand firsthand the importance of education as it pertains to healthcare and to the prevention and elimination of sexual assault. I commend the efforts of the Santa Barbara Rape Crisis Center as they work to educate our community and provide crucial services to victims and their family members and significant others.

I want to express my strong support for all programs aimed at the elimination of sexual violence and hereby proclaim April as Sexual Assault Awareness Month.

TRIBUTE TO LARRY DOYLE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. LEVIN. Mr. Speaker, I rise to pay tribute to Larry Doyle, a friend and a talented local government administrator, who is retiring today after 21 years of dedicated service to the city I am pleased to call home: Royal Oak, MI.

Throughout his tenure, Mr. Doyle was instrumental in guiding the city of Royal Oak through many exciting changes. I have been privileged to work with him and have seen first hand his professionalism and his dedication to the city and its residents.

His service began during the initial stages of the city's revival, first as Deputy City Attorney in 1983, then as city attorney in 1990. With the completion of Interstate 696 on the southern border, Royal Oak began reaping the benefits of its central position in southeast Michigan. With his active involvement businesses quickly utilized the location and the opening of diverse restaurants and unique shops brought visitors as frequently as local residents.

After a nationwide search, the city leadership rightly asked Larry to take the management helm of the city in 1994. Over the following years, he set policies that aided in bringing the city a new ice arena, a new district court, improvements in city parks, as well as tremendous growth in property values. These efforts lead to the recent "Cool City" designation by Governor Jennifer Granholm, not only for a vibrant downtown, but for a desirable hometown community for residents.

Larry's commitment to the city did not end with the workday. As an advocate and a resident, he can be found supporting any number of local events such as the Woodward Dream Cruise or the St. Patrick's Day Parade. The people of Royal Oak have indeed been well-served by all of his efforts.

Mr. Speaker, I ask my colleagues to join me in recognizing a dedicated public servant. I am pleased to join with the residents of Royal Oak in thanking Larry Doyle for his service to our community and wishing him and his wife of 30 years, Sue, good health, happiness and success in the years ahead.

RECOGNIZING THE PUBLIC SERVICE OF THE UNION LEADER AND WMUR–TV

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. BASS. Mr. Speaker, it gives me great pleasure to announce significant milestones for two New Hampshire institutions: 141 years for the Manchester Union Leader and 50 years for WMUR–TV.

As Presidential candidates competing in our First-in-the-Nation Primary can tell you every 4 years—and I can tell you every day—these media outlets provide vital information to thousands of Granite Staters every day. The Union Leader has done it since March 31, 1863—WMUR for the past 50 years this month.

The breadth and depth of the coverage these different sources provide ought to be a model for local press everywhere. One is locally owned and the other by one of the world's largest diversified communications companies.

At a time when citizens have access to more sources of news, weather, and entertainment than ever before, each is a significant part of the New Hampshire community and a respected center of journalism.

I offer my congratulations for the Union Leader's and WMUR's many decades of community service and best wishes for continued coverage in the decades to come.

HONORING MILDRED WALLHAUSEN

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mrs. EMERSON. Mr. Speaker, I rise today to honor the accomplishments of Mildred Wallhausen, a great Missourian, a great American, and a great friend of mine. Millie is more than a hero to the many men and women whose lives she has touched—she is a mentor. I and many others owe Millie a tremendous debt of gratitude for her selfless service.

Millie will turn 90 on April 3, 2004. For the great majority of her 90 years, she has participated in the public life of my congressional district. For 68 of her 90 years, Millie has been a member of the newspaper staff of the Charleston Enterprise-Courier. She and her family have published the paper since her husband's death in 1969.

Over the years, Millie has served as reporter, photographer, editorialist, bookkeeper, file clerk, advertising salesperson, and editor in addition to her long service as publisher. She is a member of the Missouri Press Association Hall of Fame.

Millie cannot be defined in terms of the titles she has held at the newspaper, however. She has been a pillar of her community. Serving on nearly every committee in the community and encouraging participation in public affairs are just the start. After the death of her husband, Millie adopted three young women, wards of the juvenile court, and provided a stable home environment for them. Millie knew firsthand the value of an adult role model to these girls, she herself was orphaned at the age of 4.

Among her other civic activities, Millie has served as president of the PTA and two women's federated clubs, as a member of the State Mental Health Task Force, and as a Sunday School teacher at various churches in the communities in which she has lived. Even at the age of 90, Millie is still an active member of the Boards of the Mississippi County Community Sheltered Workshop and the East Prairie Housing Authority.

Not only has Mildred Wallhausen changed our communities, she has forever changed the lives of the people who call them home. She has always looked upon her responsibilities at her newspaper as a form of public service. As a personal hero of mine, she has shown uncommon strength in her desire to both do good through her own actions and communicate good through her work. She is an invaluable servant of our Nation, and she is an example for women everywhere.

Congratulations Millie, on your 90th birthday, and thank you for your guidance and kindness to me, your community, State, and Nation.

COMMENDING THE TAIWAN PRESIDENTIAL ELECTION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mrs. MALONEY. Mr. Speaker, I rise to commend the voters in Taiwan, an astounding 80 percent of whom participated in the recent Presidential election, for once again demonstrating their commitment to exercising their democratic rights.

Taiwan's political system has undergone dramatic changes. Fifty years ago the country was ruled by an authoritarian dictatorship under martial law. Today it is a vibrant, multiparty democracy, having completed its third direct Presidential election. Taiwan has robust political parties with free and fair elections at all levels of government.

The margin of the Presidential victory in Taiwan was very small. However, recount issues and open demonstrations were part of the democratic process in which free expression is revered and protected. These impassioned times are the tests of true democracies.

Taiwan and the United States share a strong bond in their commitment to the ideals of a free society. Taiwanese-Americans, many living in the New York City area, are a vital part of that relationship. The Taiwanese-American community, which numbers in the hundreds of thousands, is actively engaged in our own political system, and its citizens are enthusiastically involved in the betterment of local communities across our country.

As we hope for dialogue and stability in cross-strait relations, we can also hope that one day the people of mainland China will be able to select their own leaders by democratic means.

Today, I commend the people of Taiwan for embracing democratic ideals and providing an important symbol of freedom in the Asia-Pacific region.

THE AMERICAN LEGACY FOUNDATION

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. LANGEVIN. Mr. Speaker, I rise on this, the fifth anniversary of the American Legacy Foundation, to recognize the tremendous strides this organization has made in improving the health of millions of Americans. Through its various programs such as Circle of Friends, Great Start, and Priority Population, as well as its Truth Campaign, the Foundation has played a tremendous role in promoting both the cessation and the prevention of tobacco use in our country. As the largest youth smoking prevention campaign in the United States, the Truth Campaign in particular has been cited as a factor in the current 28-year low in youth smoking rates.

Smoking costs our society not only in the lives lost but also in the billions of dollars spent on related health care. Smoking is the leading cause of preventable deaths in our country, killing 440,000 people each year, and exposes thousands of children to the harmful effects of second-hand smoke. I strongly hope that the American Legacy Foundation will continue to receive the Federal funding it needs in order to carry out its campaign for a tobacco-free nation. Mr. Speaker, I thank you for allowing me to recognize the American Legacy Foundation for its ongoing contributions to the health of our great nation.

HONORING THE LIFE OF CESAR E. CHAVEZ

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Ms. SOLIS. Mr. Speaker, I am proud to rise today to recognize and celebrate the birthday of Cesar E. Chavez. Cesar Chavez, an icon in the Latino community and beyond, would have been 77 today.

Cesar Chavez was born near Yuma, Arizona, and grew up in migrant labor camps, into the poverty of a migrant worker's life. He became a historical figure who embodied humility and extraordinary strength in his peaceful struggle towards social justice. He dedicated his life to tirelessly championing the rights of farm laborers and along with Dolores Huerta, founded the United Farm Workers union, fighting for better wages, conditions and respect for farmworkers.

I have introduced the Cesar E. Chavez Lands Legacy Act (H.R. 1034) to ensure that Americans can fully understand his life, vision, and impact on improving the lives of millions of Americans. I hope that his legacy and memory will someday become a fundamental piece of American history so that all Americans will understand the fight that Cesar Chavez began in the fields, a fight for social justice, civil rights, and human rights that continues today. Thanks to this fight, the Latino community, including myself, has been able to enjoy certain benefits and privileges that otherwise might not have been possible.

TRIBUTE TO CESAR CHAVEZ

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. BACA. Mr. Speaker, I rise today to pay tribute to an individual of great significance to the history of our country. He provided a voice for those that could not be heard and hope for those that no longer believed.

Above all, Cesar Chavez was a man who fought for those that could not fight for themselves. Through his nonviolent struggle for economic and social equality, Cesar touched the lives of millions of people and inspired a generosity of spirit and love for our fellow man.

Born of a Mexican immigrant, Cesar Chavez grew up working with migrant farm workers, toiling in the fields while receiving below average wages.

His firsthand knowledge of the plight of the farm worker helped shape Cesar's beliefs and led him to become an advocate for the migrant working community.

He committed himself to organizing these workers to campaign for safe and fair working conditions, reasonable wages, decent housing, and outlawing child labor.

As the founder of the National Farm Workers Association, he provided hope that farm workers may one day realize the basic protections and rights deserved by all Americans.

His influence, however, extends far beyond agriculture.

He organized voter registration drives in urban areas, initiated complaints against mistreatment by police and welfare officials, and empowered workers to seek advancement in education and politics.

To gain national attention to the growing civil rights movement, Cesar frequently staged non-violent strikes, boycotts, and pickets.

He also used fasting as a way to peacefully protest without resorting to the violence that existed throughout our society.

However, many in his community refused to accept his notion of equality and resorted to killing and beating of many of his workers.

Yet through it all, Cesar never wavered in his commitment to La Causa.

He was a dedicated champion of equal rights; not just for farm workers, but for all Americans.

This was recognized in 1994 when he became only the second Mexican-American to be honored with the highest civilian award in the United States: the Presidential Medal of Freedom.

This is why I stand here today on his birthday. I have previously introduced a resolution urging Congress and the President to declare this day a national holiday to honor this great Latino visionary.

But today, I want to further honor this great leader by introducing a bill that awards him the Congressional Gold Medal.

With faith, discipline, and soft-spoken humility, Cesar Chavez led a very courageous life.

His tremendous passion and resolve to fight for civil rights was an exhibition in selflessness and love.

By awarding him the Congressional Gold Medal, we are saying that we understand these sacrifices that Cesar Chavez made for our country.

He has left an enormous legacy that has provided hope for the hopeless, inspiration for the uninspired, and the prospect of a better life for all.

For those of us that have ever lost faith, Cesar Chavez teaches us never to give up.

With hard work and the belief that all men and women are indeed created equal, we can aspire to greater things.

I urge all my colleagues to honor Cesar Chavez and his legacy, not only on this day, but every day.

His inspirational words will always ring true: Sí, se puede! Yes, we can!

HONORING THE 77TH ANNIVERSARY OF CESAR CHAVEZ'S BIRTHDAY

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. RODRIGUEZ. Mr. Speaker, I rise today as we honor Cesar Chavez on the anniversary of his 77th birthday, and ask the Members of the House to join us in paying respects to a man who brought awareness of labor injustices to national light. His efforts made a path for all those who came after him, so that they would be able to continue his fight for justice.

Cesar Chavez grew up in the fruit and vegetable fields, working the land with his own hands from dawn to dusk. He knew the injustices that faced labor workers on a daily basis, and understood the need for change.

From those fields, Chavez rose to be the head of the United Farm Workers of America (UFW) instilling in the UFW the principles of non-violence practiced by Gandhi and Dr. Martin Luther King, Jr.

When the UFW began striking in the 1960's, to protest the treatment of farm workers, the strikers took a pledge of non-violence, determined not to detract from the message of improved labor conditions.

For those of us who lived through this tumultuous time period, we heard of the great odds Chavez faced as he led a successful five-year strike-boycott. Through this boycott, Chavez was able to forge a national support coalition of unions, church groups, students, minorities, and consumers.

By the end of the boycott everyone knew the famous inspirational chant "Sí se puede!" — "Yes we can". The chant unified diverse groups by encouraging them to become active participants, by taking pride in with what is just and fair while all along preserving the dignity of their efforts.

Chavez also spoke out in other areas and helped communities to mobilize by assisting them with voter registration drives and insisting that minority communities had just as much a right to have equitable access to educational opportunities.

To this day Chavez's legacy lives on. His influence can be seen in the legislation that comes to this very floor. Legislation that aims to provide for our children's education, improve healthcare in our community, and ensure our civil rights and liberties are respected.

We must also continue the fight to ensure that in today's world, the rights of workers are still protected. Whether it's working in the fields, in the kitchens, or in our factories, the blue-collar worker is an invaluable resource to America and to the American economy.

It is important that these workers be treated with the respect and dignity that they deserve and that all the rights afforded to those working in air conditioned offices is also extended to those working in the sun heated fields and the like.

America has seen few leaders like Chavez. He is in a rare group of people who made their life mission count. His life and his deeds have left a lasting imprint on American history.

We can only hope to continue to fulfill his vision as we walk through the halls of Congress to create a better tomorrow for the Hispanic community and all Americans.

HONORING NATIONAL WOMEN'S HISTORY MONTH

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to honor National Women's History Month. The National Women's History Project was founded in 1980 and is a non-profit educational organization committed to recognizing and celebrating the diverse and significant historical accomplishments of women. The legacy of others who shaped society inspires one's own longings to contribute. For young women, role models can inspire their sense of what is possible. Knowledge of women's strengths and contributions builds respect and nourishes self esteem.

During Women's History Month, our nation celebrates the many accomplishments of women. Women are leaders in business, government, law, science, medicine, the arts, education, and many other fields. As bosses, mothers, sisters, daughters, wives and friends, they bring compassion and integrity to our work spaces and community settings and teach our children the values that make our country great.

Thousands of outstanding Kansas City women have left their mark on our community by blazing new trails; by being the first woman to make a significant contribution in the greater metropolitan area. A beloved woman in Kansas City, known as the matriarch, is the late Lucille Bluford. Always a voice of conscience and reason, a woman of influence and great moral character, she began her career in 1930 as a reporter for The Kansas City Call. After owner Chester A. Franklin died in 1955, Ms. Bluford became managing editor, publisher and the first woman owner of a newspaper in the community. Her leadership, guidance and direction raised the consciousness of the African American community to the struggles of the Civil Rights Movement in the 60s and 70s and rallied the readers to call for political action. In 1990, the University of Kansas awarded her it's Distinguished Service Citation, the highest honor to be bestowed upon a KU graduate for service to humanity. She was the second African American student to major in journalism at KU. Among her many countless awards, she received an honorary doctorate from the University of Missouri, which years earlier denied her admission. In 1939, she bravely sued MU, but lost the case. While she may have lost that battle, her action prompted a series of legal challenges that ultimately led to the abolishment of the "separate but equal" doctrine in education.

Ms. Bluford's career accomplishments opened doors for another female entrepreneur in journalism, Clara Reyes, who started Kansas City's first bilingual newspaper, Dos Mundos, in 1981 in her basement. She had sold real estate to people from different countries who often asked where to find bilingual professionals. Reyes took it upon herself to fill the void. She did not know much about the publishing world, but thought that if she could sell real estate, she could surely sell advertising.

For more than 20 years, Clara Reyes has been a strong voice in the Hispanic community who wrote about issues important to Latinos in the Greater Kansas City area. Clara Reyes has helped "Dos Mundos" grow to become one of the leading bilingual newspapers in the Midwest dedicated to serving the community through daily news and information.

Martha W. Gilliland, Ph.D., Chancellor of the University of Missouri-Kansas City holds a doctorate in environmental engineering/systems ecology from the University of Florida. On August 30, 2002, she received a prestigious national honor from the Policy Studies Organization: "Top Public Policy Practitioner."

Under her leadership, UMKC, has established a progressive and ambitious agenda for the urban campus of 14,000 students. Chancellor Gilliland and her leadership team are poised to transform UMKC into a 21st century institution and a national model in scholarships and creative activity by attracting and nurturing responsive community leaders while providing the resources to achieve the University's vision of creating a vibrant environment of learning and campus life experience.

Today, the vision of these Kansas City women: Lucille Bluford, Clara Reyes and Martha Gilliland, inspire women in our community to blaze new trails and seek their dreams.

Mr. Speaker, please join me in honoring National Women's History Month, as we celebrate the many ways women strengthen and enrich America. Their lives and work provide guideposts of hope for our future and for our children, and remind us all of what the human spirit can achieve when our collective eyes are fixed upon helping reach our greatest potential. I salute them one and all in honor of National Women's History Month.

IN SUPPORT OF H.R. 3550

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. FALEOMAVAEGA. Mr. Speaker. I rise today in support of H.R. 3550, the Transportation Act—A Legacy for Users (TEA–LU). I am pleased that my good friends Chairman DON YOUNG and Ranking Member JIM OBERSTAR of the House Transportation Committee have agreed to increase transportation funding for the Territories.

Congresswoman MADELEINE BORDALLO (Guam), Congresswoman DONNA CHRISTENSEN (VI) and I have worked on this issue for the past year and Congressman NICK RAHALL, Ranking Member of the House Resources Committee, has supported our efforts.

As a result of our work, the Territorial Highway Program (which includes American Samoa, Guam, the U.S. Virgin Islands and CNMI) will be increased from $33 million to $40 million for FY 04, FY 05 and FY 06. For FY 07, FY 08 and FY 09, funding will increase to $50 million. Despite the Transportation Act (now known as TEA–LU) being $100 billion less than what was originally proposed, the Territorial set aside will increase by 23.6%.

Moreover, I have worked closely with Chairman YOUNG and Ranking Member OBERSTAR to include $14 million for high priority projects in American Samoa. This funding is in addition to American Samoa's annual federal highway funds and will be used for village road improvements, drainage mitigation, shoreline protection and upgrades and repairs of the Ta'u ferry terminal facility.

In consultation with the Honorable Togiola Tulafono, Governor of American Samoa, I have asked the Committee to set aside $9.4 million for village road improvements in the Eastern, Western, Central and Manu'a districts of American Samoa.

In further consultation with Senator Tuaolo Fruean and High Paramount Chief Mauga and members of the Pago Pago council of chiefs, we have also set aside $1 million for drainage mitigation for Pago Pago village roads.

In consultation with Senator Tago Suilefaiga, Representative Fagasoaia Lealaitafea and Representative Mary Taufete'e and members of the Nuuli council of chiefs, we have set aside $1 million for shoreline protection and drainage mitigation for Nuuli village roads.

In consultation with Senator Faamausili Pola and members of the Ta'u village council of chiefs, we have set aside $1.6 million to upgrade and repair the Ta'u harbor facility.

Finally, in consultation with Senator Faiivae Galea'i, Senator Lualemaga Faoa and members of the Leone and Malaeloa councils of chiefs, we have set aside $1 million for drainage mitigation for Malaeloa-Leone village roads.

Again, I thank my colleagues, both Democrat and Republican, and I also thank the local leaders of American Samoa, including Governor Togiola, for working closely with me to make sure that American Samoa's needs are addressed in this historic and important initiative.

I urge passage of this bill and I again commend Chairman YOUNG and Ranking Member OBERSTAR for their leadership and support.

HONORING JEFFEREY OBLER

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in honor of Jeffrey Obler, longtime professor of political science at the University of North Carolina at Chapel Hill. He lost his battle with pneumonia last Saturday at the age of 62.

I, knew Jeff as a fellow educator and colleague, and several members of my staff who attended Carolina also knew him as a mentor, one with an extraordinary talent for teaching. It is at their request—and utilizing their thoughts, words, and memories—that I rise today in his honor.

Dr. Obler started his path in education at New York University and earned his doctorate from the University of Wisconsin before landing at the UNC Department of Political Science. A teacher of international relations and political philosophy, he was a leading academic voice on campus and an outstanding citizen in the greater community. For more than 25 years of his life, Dr. Obler served the university with distinction, touching the lives of countless students and leaving an indelible mark on the community.

Dr. Obler's work, which focused on the link between moral theory and public policy, has been published in many prestigious academic journals, including Political Theory, Comparative Politics, and the British Journal of Political Science. He received numerous awards and distinctions during his tenure at UNC, including two Tanner Teaching Awards and a Students' Undergraduate Teaching Award. Yet Dr. Obler's most meaningful legacy was built through his unparalleled dedication to teaching.

In the classroom, Dr. Obler displayed an intellectual curiosity that never waned, inspiring his students to join him in the pursuit of knowledge with a style of teaching that was more engaging conversation than lecture. He could explain complex moral and political arguments with depth and conviction, while always encouraging students to arrive at their own conclusions and beliefs. This accessible style made Obler a favorite among undergraduates, who regularly lined up outside his door during office hours to seek his mentorship on issues large and small.

His abilities also won him great respect among his peers in the UNC faculty, many of whom have described him as the best classroom professor in the department. This respect was so great that Dr. Obler was selected from among the entire political science faculty to lead a course about teaching methods for graduate students. He also served the department as Director of Undergraduate Studies and Director of Internships and Awards.

Dr. Obler is survived by his two children, a long-time companion, and students like my staffers who will forever treasure the lessons he has taught them. His legacy is one that will be treasured for generations.

ARTS ADVOCACY DAY

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to recognize and support Arts Advocacy Day. I would like to thank the artists who have come to Capitol Hill to visit with members of Congress regarding support for arts education as essential to the creative ingenuity of the cultural fabric of our society. We appreciate their extraordinary talent and we welcome them to Washington.

The Congress must provide sufficient funding for arts education in our schools and the National Endowment for the Arts. These programs are vital to supporting the creation, preservation and presentation of the arts and humanities in America. In my district, numerous schools have taken essential steps toward integrating arts education in their student's daily routines. Unfortunately, budget cuts threaten the longevity of these programs. Studies have demonstrated that reading and math scores improve with participation in arts education classes. A U.S. Department of Justice study found that arts education reduced student delinquency in San Antonio by 13% and increased the communications skills of students in Atlanta by 57%. Test Results from the College Board have shown that college bound students involved in the arts and humanities have higher overall SAT scores that other students. I'm proud to have been part of the legislative effort to empower the Secretary of Education to fund arts education programs in our schools through the No Child Left Behind Education Act of 2003.

Beyond our borders, the WTO must stand firm against the piracy of our artists' intellectual property. We in Congress must strengthen our commitment and effort with our trading partners to end piracy. Theft of intellectual property has a significant economic affect on the United States. The recording industry, for example, reports a loss of $286 million in sales with our trading partner, China. In addition, market access and investment barriers prevent the entertainment industry from serving markets overseas thus and increases demand for pirated U.S. entertainment products. The Congress and the United States Trade Representative need to work together to apply pressure to the governments of countries where piracy is rampant.

Mr. Speaker, please join me in paying tribute to Arts Advocacy Day.

HONORING CESAR CHAVEZ ON HIS 77TH BIRTHDAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. HONDA. Mr. Speaker, I rise today to honor Cesar Chavez on his birthday. I ask the members of the House to join us in paying our respects to a man who brought awareness of farm labor injustices to national light, and who made a path for all those who came after him.

Chavez's legacy continues to live on today. His influence can be seen in the legislation that comes to this very floor. Recently, Leader PELOSI and I have joined national civil rights leader JOHN LEWIS, in introducing H.R. 3809, the FAIRNESS Act, comprehensive civil rights legislation that will protect workers from discrimination and workplace abuse.

We also continue the fight to ensure that in today's world, the rights of workers are still protected. That is why those of us who work daily on the issues of fairness, justice and equity know that even though we have been fighting these battles for more than half a century, we have not won the war and discrimination still exists. That is why it is important to ensure our laws stay current with the times. We cannot allow loopholes to create a situation where it is legal to discriminate against segments of our population. Under the Fairness Act all workers—and that is a very important point—all workers may obtain relief for unfair labor practices.

As you know, Democrats in Congress have advocated on behalf of immigrants for years to help them earn status as lawful permanent residents, secure a path towards citizenship, and pursue opportunities in higher education.

Mr. Speaker, we must keep in mind that immigrants make indispensable contributions to our economy. They compose an increasingly essential proportion of our workforce. Their tax payments help finance government programs, of which they are both users and beneficiaries. Making immigrants true stakeholders in our society means not only bringing them out from the shadows of the undocumented, but also providing them access to lawful permanent residency status. Ultimately, the value of immigrants to our society should not be valued just in dollar terms. Rather, we should measure the enrichment to our culture and the overall vitality immigrants bring to American society.

I remain committed to improving the lives of all immigrants in this country, and I will continue advocating for programs that offer immigrant workers meaningful access to permanent legal status and a clear path towards citizenship. Today we can still hear Mr. Chavez say his chant of encouragement, pride and dignity: "Sí, se puede!"—yes, it can be done.

Mr. Speaker, thank you for letting me address the House of Representatives today to honor Mr. Chavez on the occasion of what would have been his 77th birthday.

HONORING THE BIRTHDAY OF CESAR ESTRADA CHAVEZ

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to speak in honor of Cesar Chavez. Cesar Chavez was born on this day in 1927.

Cesar Chavez once said, "Real education should consist of drawing the goodness and the best out of our own students. What better books can there be than the book of humanity?" He believed that "the end of all education should surely be service to others." It is a belief that he practiced until his untimely death.

In Dallas, Texas where I serve, to honor his love for education, the city opened the Cesar Chavez Learning Center. The Center enrolls almost 900 students and maintains an attendance rate of 96.6 percent.

Mr. Chavez could have written his own book on humanity and service to others. He was willing to sacrifice his own life so that others could have a better life. He built a great union through persistence, hard work, faith, and nonviolence.

Blending the nonviolent resistance of Gandhi with the organizational skills of his mentor, the social activist Saul Alinsky, Mr. Chavez captured worldwide attention in the 1960's. Leading an initially lonely battle to unionize the fields and the orchards of California, he issued a call to boycott grapes. It soon became the cause to celebrate.

Mr. Chavez, who was described by Robert F. Kennedy in 1968 as "one of the heroic figures of our time," was widely acknowledged to have done more to improve the lot of the migrant farm worker than anyone else.

Asked what had motivated his stubborn fight, he said, "For many years I was a farm worker, a migratory worker, and, well, personally—and I'm being very frank—maybe it's just a matter of trying to even the score."

But he ultimately failed to realize his dream of forging a nationwide organization. In most of America, farm workers continue to toil for low wages, without job security. They are still vulnerable to exploitation.

Along with thousands of other families during the depression in the Southwest, Cesar Chavez's family fell on hard times. They sought a new life in California. They found it picking carrots, cotton and other crops in arid valleys, following the sun in search of the next harvest and the next migrants' camp.

Mr. Chavez never graduated from high school, and once counted 65 elementary schools he had attended "for a day, a week or a few months."

Beginning with the Industrial Workers of the World at the turn of the century, unions tried for decades to organize immigrant unskilled workers, first Chinese, then Japanese and later Filipinos and Mexican-Americans, on whom California growers depended.

But the field hands, their organizing drives vulnerable to the competition of other poor migrants seeking work, found themselves fighting not only powerful growers, but also the police and government officials.

By 1965 Mr. Chavez had organized 1,700 families and persuaded two growers to raise wages moderately. His fledging union was too weak for a major strike. But 800 workers in a virtually moribund AFL–CIO group, the Agricultural Workers Organizing Committee, struck grape growers in Delano. Some of the members of his group demanded to join the strike.

That was the beginning of 5 years of La Huelga—"the strike"—in which the frail labor leader, who was 5 feet 6 inches tall, became familiar to people in much of the world as he battled the economic power of the farmers and corporations in the San Joaquin Valley.

A New York Times article stated, "He was shy and not an outstanding public speaker. But he showed humility that, with his shyness and small stature, piercing dark eyes and facial features that hinted at Indian ancestors, gave him an image as a David taking on the Goliaths of agriculture.

Mr. Chavez's style was monastic, almost religious. He said his life was dedicated only to bettering the lives of the exploited farm workers. He was a vegetarian, and his weekly salary of $5 was a virtual vow of poverty. Articles about him often spoke of his "saintly" and even "messianic" qualities.

By 1968, Mr. Chavez had urged Americans not to buy table grapes produced in the San Joaquin Valley until growers agreed to union contracts. The boycott proved a huge success. A public opinion poll found that 17 million Americans had stopped buying grapes because of the boycott.

On April 29, 1993, Cesar Chavez was honored in death by those he led in life. He left this world better than he found it and for that we honor him today.

ATTACKS ON ETHNIC SERBS IN KOSOVO

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. TANCREDO. Mr. Speaker, the values of Western civilization are being tested in Kosovo today. Since Wednesday, March 24, 30 Serbian Orthodox churches and monasteries dating as far back as the 12th century have been burned to the ground by Kosovar Albanians, as have numerous ethnic Serb villages. Dozen of Serbs have been murdered or are missing. Despite the presence of 18,000 international troops, tyranny and terror has returned to Kosovo.

These acts of terror are designed to eradicate the remaining physical and cultural presence of the Serbian people in Kosovo, and therefore of the Christian presence in the region. No other explanation of these sickening events is credible. Spontaneous reactions of embittered communities never manifest themselves like this.

Derek Chappell, the U.N.'s Kosovo Mission spokesman said of the recent attacks against Serbs, "It was planned in advance." Another U.N. official, speaking on the condition of anonymity, stated that "This is planned, coordinated, one-way violence from the Albanians against the Serbs. It is spreading and has been brewing for the past week . . . Wherever there is a Serbian population, there is Albanian action against them."

Recent violent reactions by hooligans in Serbia that resulted in the torching of two mosques—one in Belgrade and another in the second largest city of Nis—were tragic and cannot be justified. The reaction of the Belgrade authorities in condemning these acts and arresting the perpetrators was swift and efficient. Hundreds of rioters were arrested and the situation is under control. Acting Secretary Armitage also praised on March 19 the quick action of Belgrade authorities in quelling violence against Muslim religious sites and properties in Serbia, and thanked the Serbian Government for effectively strengthening measures to protect diplomatic missions and minority cultural sites.

Why are similar measures not being taken in response to the violence against the Kosovar Serbs and their Orthodox churches and monasteries?

Just as we did in Bosnia, we should make aid, assistance, positive diplomatic relations, and loan guarantees conditional upon an improvement in the human rights situation. In particular, we must make it absolutely clear to the leadership of the Kosovar Albanians that we expect them to investigate these and previous crimes against Kosovo's Serb minority and arrest and prosecute the perpetrators of these crimes. Since 1999, not a single homicide against a Kosovar Serb has even gone to trial. This cannot stand.

Additionally, we must double our efforts to create secure conditions for the successful and permanent return of a critical mass of Kosovo Serbs. We must make it clear to the Albanian leadership that their abuse of the U.N.-created interim institutions of Kosovo cannot continue. A free people committed to the principles of democracy and representative government, human rights standards and the principle of religious freedom, cannot translate that into tyranny of the majority.

CHAD CAMPBELL WINS BAY HILL INVITATIONAL

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 2004

Mr. BURGESS. Mr. Speaker, I rise today to recognize Chad Campbell for his outstanding performance at the Bay Hill Invitational Golf Tournament. Campbell finished at 18-under-par 270, to win the invitational.

Campbell has been a rising star in the golf world since he graduated from the Buy.Com Tour in 2001 to the U.S. PGA Tour. He won three events in his first season in 2001 on the Buy.Com Tour and quickly progressed to the U.S. PGA Tour in less than a month. In 2002 alone, he secured two top-10s and safely kept his card for 2003, where he would win four top-10s by the end of March. Chad Campbell would finish the season with one win, three second places, and total winnings of $4 million.

A challenging invitational, Chad Campbell competed neck-in-neck with fellow golfer Stuart Appleby. On the ninth hole, Appleby lost the lead when he got another bogey and fell behind for the first time in 27 holes. Appleby later three-putted the par-3 14th hole, leaving a potential opening for Campbell.

Next, Campbell holed his birdie putt. Now Campbell held Appleby by a two-shot lead with three holes to play. By the last round, though, Campbell trailed four behind Appleby. The strong, determined player that he is, Campbell answered the challenge by producing a rock-solid, bogey-free round of 66, leaving him within one shot at the turn and tied after the 12th hole. He finished the day with a birdie on every putt. Chad Campbell's victory at the invitational allows him to return to next year's Mercedes Championships.

Once again, I articulate my sincere congratulations to Mr. Campbell for his hard work and rally at the Bay Hill Invitational in Orlando, Florida; and I look forward to watching his outstanding career in the years ahead.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 1, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 2

9:30 a.m.
Armed Services
Emerging Threats and Capabilities Subcommittee
To hold hearings to examine the proposed Defense Authorization Request for fiscal year 2005, focusing on the Department of Defense Counternarcotics Program; to be followed by a closed session in SR–232A.
SR–222

Joint Economic Committee
To hold hearings to examine the employment situation for March.
1334 LHOB

APRIL 4

2:30 p.m.
Intelligence
Closed business meeting to consider pending intelligence matters.
SH–219

Intelligence
Closed business meeting to consider pending intelligence matters.
SH–219

APRIL 6

9:30 a.m.
Environment and Public Works
Fisheries, Wildlife, and Water Subcommittee
To hold hearings to examine S. 1366, to authorize the Secretary of the Interior to make grants to State and tribal governments to assist State and tribal efforts to manage and control the spread of chronic wasting disease in deer and elk herds.
SD–406

2 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Veterans Affairs.
SD–192

APRIL 7

9:30 a.m.
Foreign Relations
To hold hearings to examine the United Nations oil-for-food program.
SD–419

10 a.m.
Governmental Affairs
To resume hearings to examine U.S. Postal Service reform issues, focusing on the chairmen's perspective on governance and rate-setting.
SD–342

Indian Affairs
Business meeting to consider pending calendar business.
SR–485

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine a proposal to split the Ninth Circuit.
SD–226

2 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the National Bank Preemption Rules.
SD–538

Governmental Affairs
Financial Management, the Budget, and International Security Subcommittee
To hold hearings to examine S. 346, to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.
SD–342

2:30 p.m.
Foreign Relations
African Affairs Subcommittee
To hold hearings to examine fighting HIV/AIDS in Africa; to be followed by a nominations hearing.
SD–419

Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine crude oil relating to higher gas prices.
SD–226

Environment and Public Works
Fisheries, Wildlife, and Water Subcommittee
To hold an oversight hearing to examine the detection of lead in District of Columbia drinking water, focusing on needed improvements in public communications and the status of short- and long-term solutions.
SD–406

Appropriations
Military Construction Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for Army and Navy military construction programs.
SD–138

APRIL 8

9:30 a.m.
Armed Services
To hold closed hearings to examine military implications of the United Nations Convention on the Law of the Sea; to be followed by an open hearing at 10 a.m. in SH–216.
SH–219

2:30 p.m.
Foreign Relations
European Affairs Subcommittee
To hold hearings to examine anti-Semitism.
SD–419

Appropriations
Foreign Operations Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign operations.
SD–138

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine National Park Service concessions program, including implementation of the National Park Service Concessions Management Improvement Act (Public Law 105–391).
SD–366

APRIL 21

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign assistance and to combat international terrorism.
SD–124

APRIL 27

10 a.m.
Energy and Natural Resources
To hold an oversight hearing to examine sustainable, low emission, electricity generation.
SD–366

MAY 11

10 a.m.
Energy and Natural Resources
To hold hearings to examine the impacts and costs of last year's fires, focusing on the problems faced last year and what problems agencies and the land they oversee may face next season, including aerial fire fighting assests and crew, and overhead availability.
SD–366

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

SENATE—*Thursday, April 1, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain, Rev. Roy C. Smith of Shrewsbury North Temple, in Shrewsbury, PA.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Our most precious Heavenly Father, we come to You this day with hearts full of thanksgiving for Your almighty grace and sweet mercy. We daily walk in Your loving kindness and see Your majesty displayed before us. Thank You for this great country we live in. All of us proudly declare our gratitude for being able to live in a land of freedom.

We lift this prayer to You for a special blessing upon our Senate this day. May they find comfort and joy in You. It is a privilege to be in service to our country and to our God. I am honored to stand in a room where history has been made, to give courage and fortitude for the days ahead. You promised if we would have the faith as the grain of a mustard seed we could accomplish all things. May Your might now abundantly flow to our Senators and all the staff that make each day a success.

May we never grow weary in well doing. Let us choose to see those around us and ourselves with hearts of love. In You, there is joy for the journey. In You, there is peace for the mind. In You, there is wisdom for decisions. In You, there is love to reach a hurting world. In You, there is faith for the days ahead. You truly are our all in all. We ask these things according to Your perfect and holy will. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS.)

The assistant journal clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 1, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE FOR APRIL FOOLS' DAY

Mr. FRIST. Mr. President, this morning there will be a period of morning business for up to 60 minutes.

I want to have the attention, just very briefly, of the assistant Democratic leader.

We are going to have a period for morning business for 60 minutes. Under the previous unanimous consent agreement, we will finish the welfare reauthorization bill and allow that bill to go to conference in order to reach an accord with the House. That bill will be followed by the final passage of the FSC/ETI legislation. Upon completion of the FSC/ETI bill, we will proceed to the nominations and agreement to the 22 judicial nominations that are available on the calendar. Votes will occur on the confirmation of those judges.

I thank all Members, especially the assistant Democrat leader, and other Members on their side of the aisle, for their cooperation in meeting these consent agreements.

Mr. REID. Mr. President, is this the unanimous consent agreement you are going to offer?

Mr. FRIST. Mr. President, this is my opening statement for April 1, and I will withdraw any request for those consent agreements.

It is an April 1 wish. It is what we should be doing. But we will proceed in the normal order.

Mr. REID. If the Senator will yield for a brief comment, every Thursday morning Senator ENSIGN and I hold a breakfast for Nevada constituents. Today we had a very large crowd. Probably there were 60 people there, plus our staffs. I opened it by calling on a doctor who just returned from the USS *Boxer*, from sea, introduced our Cherry Blossom Princess, and then I asked this gentleman to come up. I said: JOHN, you remember this thing we talked about—and gave him this certificate.

The man's name was a mixture between a Hungarian and a Hawaiian name—real long. And JOHN stumbled through that reading, but what a hero he was. You can tell JOHN was so flustered. When he stopped for a second I said, "April Fools'."

I have to say, it was probably the greatest April Fools' joke I have ever been involved in.

Senator DASCHLE just came on the floor. He, Senator FRIST, just offered what we would accomplish today. It was just an April Fools' joke, even though he meant it sincerely.

Mr. FRIST. I did mean it sincerely, and it included all, I say to the Democratic leader. It included welfare, FSC/ETI, the 22 judicial nominations. We would really be rolling if that were the case. Unfortunately, it is April 1.

SCHEDULE

Mr. FRIST. With that, Mr. President, this morning there will be a period of morning business for up to 60 minutes, and that morning business will be followed by an additional 60 minutes of debate with regard to the cloture motion with respect to the welfare reauthorization bill. At the conclusion of that 60 minutes of debate time, we will proceed to a rollcall vote on invoking cloture on the committee substitute to H.R. 4. That is the welfare legislation.

As I stated in closing last night, if we invoke cloture on this bill, I hope we will be able to finish it this week. Over the last few days I had hoped we could reach an agreement to finish the bill in reasonable fashion, but because we were unable to reach a formal consent agreement, we will go forward with the procedural vote in hopes of bringing this bill to a conclusion. If we do invoke cloture, Senators will still be able to bring forward their amendments, and I believe we could finish the bill this week.

If cloture is not invoked, it will be clear that this legislation will be gridlocked by these unrelated matters and therefore will be difficult to finish.

We also continue to seek ways to finish and complete the JOBS bill, the FSC/ETI bill from last week. That bill has been held up as Members insist on offering amendments that have little to do with the underlying legislation.

Additional procedural votes will occur in relation to that bill as we try to find a way to get the FSC bill done.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

ORDER OF PROCEDURE

Mr. President, in order to facilitate the use of our time this morning, I ask unanimous consent that during the period for morning business the Republican-controlled time be divided in the following manner: Senator CORNYN, 5 minutes; Senator ENSIGN, 5 minutes; Senator THOMAS, 5 minutes; Senator SMITH, 10 minutes; Senator COCHRAN, 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I have a few comments to make in terms of an opening statement. I will be happy to turn to the Democratic leader.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. DASCHLE. Mr. President, I also have a statement I will make, but as I understand it, the first hour will be divided equally between the Republicans and Democrats. Is it my understanding the second one will also be divided equally in time?

Mr. FRIST. Debate for reauthorization.

Mr. DASCHLE. That is debate on the cloture vote itself?

Mr. FRIST. On cloture.

Mr. DASCHLE. I say I will make further comments after the distinguished majority leader has made his.

The ACTING PRESIDENT pro tempore. The majority leader.

JOBS

Mr. FRIST. Mr. President, I will be making my comments on leader time. We will have the hour of morning business as laid out in the unanimous consent for our side so people can plan their morning. My remarks will only be about 10 minutes or so.

Mr. President, I want to take a moment to comment on the Democrats' decision last week to filibuster the JOBS Act, the FSC/ETI and the Jumpstart JOBS bill. It is a bill that goes right at the heart of manufacturing job creation in this country. It is critical to our manufacturing jobs base. As has been pointed out again and again, it was developed in a strong, bipartisan fashion under the leadership of the chairman and ranking member of the Finance Committee. It is critically important. It has broad support, yet every Senate Democrat except Senator MILLER from Georgia voted to sustain the Democrat-led filibuster.

Since that time we tried to work out some sort of agreement so we could consider this bill and have debate on germane amendments, but every time we attempt to do so we are met with an increasing list of irrelevant, mainly political message amendments that the other side insists be a part of this bill. Last week a filibuster was open on the floor. This week, in a less obvious way, it continued by foot dragging.

What does a filibuster mean? What are the practical implications of this filibuster? It means leaving in place a Euro tax the European Union began imposing on March 1 last month against the U.S. manufacturers. The Europeans have been authorized by the WTO to impose $4 billion in sanctions that began March 1—30 days ago. The tariff started at 5 percent of the $4 billion authorized and will increase 1 percent on the first of every month thereafter.

Thus, in supporting this filibuster, whether it is the active filibuster last week or the more passive filibuster of this week, the Democrats are supporting the sanctions. Again, today being April 1st, it will kick up another 1 percent, another $40 million increase, in those sanctions because of the delay.

If the other side of the aisle is not in favor of this JOBS bill, then what do they support? Let me look at some of the legislation that has been introduced and statements made in the Senate. As of late, a lot has been made about outsourcing—a lot of conversation, a lot of proposed amendments—regarding the whole issue of offshoring. Time and again, the Senate Democrats have introduced amendments, bills, and statements expressing grave concern over this issue.

The conversation has, unfortunately, been quite one-sided. When we look at the numbers—and increasingly people are looking at the numbers—we learn foreigners outsource far more work to the United States than American companies actually send abroad.

Indeed, the value of insourcing, what is coming into the United States—including legal work, computer programming, banking, telecommunications, engineering, management consulting, other private services—was $133 billion in 2003. Outsourcing of such private services was valued at $77 billion and $133 billion for insourcing.

When measuring outsourcing to insourcing, the United States posted a $54 billion surplus last year in trade and private services with the rest of the world. Again, look at both sides of the equation.

Far from being bad for the economy as a whole, this balance of offshoring and insourcing creates a net additional value for the United States economy, lowering prices to consumers who are making purchases and, in effect, increasing their standard of living. Each dollar of cost that is outsourced creates $1.46 of value globally. Of that $1.46, the United States captures $1.13 and the receiving country captures the 33 cents.

These numbers suggest, by the way I have described it, that efforts to restrict outsourcing will backfire by provoking a retaliation which is detrimental to our economy and our trading partners.

Federal Reserve Chairman Alan Greenspan captured the gist in these words on this issue: These alleged cures would make matters worse, rather than better. They would do little to create jobs. And if foreigners were to retaliate, we would surely lose jobs.

Where would the jobs be lost? Everywhere. The Census Bureau says in the year 2000, 6.4 million Americans were employed in jobs that were insourced by foreign companies operating in the United States. Mr. President, 223,000 of the jobs were in Massachusetts; 246,000 were in Michigan. Washington State had 104,000. Pennsylvania had 281,000. My home State of Tennessee had almost 149,000 insourced jobs, but that is less than half of the 307,000 jobs in Florida and well behind the 259,000 in Ohio.

When we talk about outsourcing, we need to remember there is another side of the equation, a side representing 6.4 million jobs. We cannot lose sight of that.

While we all agree the loss of any job to outsourcing is regrettable, we need to focus on the training, retraining, and education. If we look at the solutions offered by our colleagues on the other side of the aisle, we find them to be surprising and startling.

Senator KERRY has introduced S. 1873, requiring operators at call centers to disclose their physical location. Senator KERRY described this bill as being necessary to "address the growing problem of United States corporations moving hundreds of thousands of service sector jobs abroad."

I have to admit Senator KERRY's premise strikes me as a bit unusual. It seems there should be some sort of assumption that if Americans discovered a foreigner was on the other end of that telephone, they would either hang up the telephone or otherwise lodge some sort of protest upon hearing that foreigner was in another country. The only way this bill would save jobs is if we assume Americans are so violently xenophobic we do not and would not tolerate even this modest level of international agreement.

Senator KERRY's legislation is indicative of the choice we face as a country. We can choose the path of freedom, where every individual and every company can do as he or she sees fit and trust that people are going to work hard on their own behalf, and in doing so promote the common good or we can choose a path of more Government, more Government mandates with less freedom, with less prosperity, and fewer jobs, one in which every time you call a company to see if they have an item in stock, the Federal Government will force you and the company to identify the exact longitude and latitude of the operator who is on the other end of that telephone call.

The reality is we compete today in a global economy. We cannot close our borders to the world. Some think we can retreat into economic isolationism, but we simply cannot. Times are different. We shouldn't. That, in many ways, given our world economy, would be a declaration of defeat.

We are the most innovative society in the world today. Our workers lead all others in the world in productivity. If we are allowed to compete on a fair playing field, United States manufacturers can and indeed will lead the world.

We had a chance last week to help U.S. manufacturers by repealing the Euro tax on our U.S. manufacturers. Unfortunately, we were met by obstruction on the other side. While I was disappointed at this outcome, recent history indicates that should not have been much of a surprise. If there has been one thing consistent over the last several months, it has been the Democrats' steadfast refusal toward legislation that would help reduce the cost of manufacturing in the United States. Every time we attempt to move legislation forward that addresses the concerns of manufacturing, we have been met by obstruction. With class action, with energy, with medical liability, to Workforce Investment Act, we have been blocked. It is either by filibuster or by objections going to conference.

Next month we are going to be addressing issues that I hope will bring some fairness and justice to certain challenges that we have today.

I have pointed out that we would like to address the issue of asbestos litigation reform. I look forward to hopefully being able to address that in a bipartisan way.

The loss of a few hundred thousand jobs per year to offshoring is a small part of the constant pace of job creation and destruction that goes on in the U.S. labor market. We need to address dislocation. We can do that with aggressive education and training.

But it is precisely because each job loss is painful that we need to focus on ways to stimulate employment generally rather than focusing on legislation to address a tiny percent of the population.

In closing, we need to keep our focus on proposals that look to the future to help companies create and keep new jobs. We cannot be focused on the past but really the present. We need to be looking ahead all the time.

As Federal Reserve Board Chairman Alan Greenspan stated earlier this month:

> Time and again through our history, we have discovered that attempting merely to preserve the comfortable features of the present, rather than reaching for new levels of prosperity, is a sure path to stagnation.

We only need to look across the Atlantic to see the results of those policies of stagnation. Instead, Republicans will keep working for policies of growth and for innovation to help America compete and win in the 21st century.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

SENATE SCHEDULE

Mr. DASCHLE. Mr. President, I appreciate very much the desire of the majority leader and our friends on the other side of the aisle in addressing many of these issues. He mentioned the JOBS bill, welfare reform reauthorization, and the importance of reaching some agreement on energy. I have indicated on several occasions that we are more than prepared to work through each one of these bills. We simply want to be heard on amendments about which we care a great deal.

I will not ask consent to do it this morning, but I would entertain a unanimous consent agreement to go to the energy bill today and work through the amendments. I think there would be a good debate. Ultimately, there could be a conclusive debate about the energy bill.

We will see what happens in our work with the House, which we have had to do now on several occasions. The same is true with the FSC/ETI bill. We would be prepared to go to the floor with a number of amendments.

People on the other side of the aisle, for whatever reason, have refused to allow us an opportunity to have an up-or-down vote on protecting worker's overtime, on minimum wage, and on unemployment compensation.

There are other outsourcing amendments that we think ought to be debated. What better place to debate them than on a bill that relates to international commerce.

It isn't our unwillingness to have a good debate; it is our unwillingness to be locked out of the process. Whether it is in conference or whether it is on the floor, we have been prevented closure on each of these bills. I am hopeful that over the course of the next 2 days we can reach some accommodation.

I have indicated that I thought we could finish the welfare bill by the end of next week. We will work to see that happens. But unfortunately, we are not at a point where any kind of procedural agreement has been reached to allow that to happen, either. I will continue to talk with the distinguished majority leader about ways in which to accommodate our concerns and his very understandable concerns about completing the work.

TRANSPORTATION

Mr. DASCHLE. Mr. President, the House was scheduled to take up its version of the transportation bill yesterday.

At the eleventh hour—or rather at 7 a.m. this morning—the Rules Committee met and appears to have finally found a way to bring the bill to the House floor and allow for debate, although they will not allow a clear vote on a key amendment that would raise the level of investment in the bill.

Let me just say, this is astounding.

We have already gone 184 days with one temporary extension after another. These unnecessary delays have cost our Nation roughly 100,000 jobs.

State and local governments could not begin the contracting process, and employers couldn't plan ahead. As a result, there are 100,000 fewer Americans working today than there should be.

Unless we agree on a transportation bill before the end of April, when the current extension expires, tens of thousands more jobs will be lost.

Let us put this delay in perspective.

First, let us all remember who controls not only the House and Senate but the executive branch of our government—one party controls all three.

The President has claimed he was going to change the way government works. Well, he has everything he needs—control of the U.S. House of Representatives and the U.S. Senate.

And how has he done on changing the way government works? In the instance of our Nation's transportation infrastructure, he has steered us toward a real-life work stoppage.

It was 184 days ago that the law that governs our Nation's transportation infrastructure and all of the programs that deal with transportation expired.

We have been operating on temporary extensions to the law for 184 days.

Is the delay because Democrats have blocked a bill or used parliamentary tactics? No.

In fact, it wasn't until November that a bill was even reported by a Senate committee and not until February when we passed the bill in the Senate.

That was a good bill and Chairman INHOFE and Ranking Member JEFFORDS and others—including Senators FRIST, BOND and REID—deserve high praise for finally getting the bill finished.

That bill garnered 76 bipartisan votes.

The delay that occurred in the House was certainly not due to Democrats.

A bill that was introduced and appeared to have a majority of support was scrapped by the Republican leadership at the behest of President Bush and slashed by $100 billion.

And the new reduced bill wasn't passed by the House committee until last week.

One-hundred and eighty-four days behind schedule as we continue to inch toward actually shutting down the Department of Transportation.

I have hopes that we will get a bill approved by the House this week so we can begin to pre-conference the two bills and get a bill to the President before the most recent short-term extension expires at the end of April.

But as recently as this morning, it is still unclear if the House will complete their work before they leave town for 2 weeks.

One-hundred and eighty-four days without passing a transportation bill. Simply amazing on a bill that is critical to our Nation.

Why the delay? One reason. The opposition of President Bush himself.

A veto has threatened the Senate bill—a bill that, as I said, was approved with Republicans and Democrats alike.

The President opposed the original House bill, and now, to the dismay of almost the entire transportation community—including many groups such as the Chamber of Commerce who have long supported the President—the administration is even threatening a veto by President Bush of the scaled back $275 billion bill that the House is set to consider.

It appears the President would rather not have a transportation bill that would create 1.7 million jobs—this in light of the 3 million private sector jobs already lost under this administration's watch.

Let us be clear. It has been 184 days since those who control the House and Senate and the Presidency have not been able to move a transportation bill onto the President's desk—and it has not been as a result of Democrats in any way.

There are some serious politics being played here with peoples lives, and I, for one, don't want to be a part of it.

This inaction has made it nearly impossible for us to even think about approving another short-term extension—because that may be the only thing that places pressure on Congress to approve the longer-term bill.

It has been 184 days and there is still a month to go before the Republicans let the law lapse and shut down the Department.

There is still time before the extension runs out to move a good bill. But, I will not be a part of another extension that encourages further inaction and shortchanges our transportation infrastructure and denies Americans the jobs that they so desperately need and deserve.

One-hundred and eighty-four days so far. We will keep counting.

But let us all know what is going on here. The delays are due to the President's opposition to approving a thoughtful transportation bill.

This, despite the majority in Congress who want to address this fundamental issue.

Why is the majority so strong for a transportation bill and the administration so out of step?

There are many reasons, but to make it simple, the Bush administration is focused like a laser beam on tax cuts for the most affluent—the privileged few—and they do not have time or want to bother with investments in our Nation's infrastructure.

The transportation investment proposal that the Bush administration put forward was dead on arrival in the Congress because it wouldn't even keep up with inflation.

At a time when 9 million Americans are out of work and job creation is virtually nonexistent, any more delays are unconscionable. And if it were not for the President, we could avoid that.

In many States, such as my home State of South Dakota, the construction season is short—sometimes only 6 months.

If contracts are not entered into in April, it will be nearly impossible to plan and get the work completed before the construction season comes to an end early next fall.

Another year could be lost.

It is time for Congress and the administration to get together and approve a bill that brings new investments to our decaying transportation infrastructure and new jobs to the American economy.

The Senate's transportation bill would create 1.7 million jobs this coming year. It would bring welcome relief from the longest jobs slump our Nation has endured since the Depression. So in addition to repairing America's transportation infrastructure, this legislation will reinvigorate the economy.

In States such as Texas, California, and Florida, the Senate bill increases transportation investment by roughly 40 percent—four times the increase proposed by the House, the House level the President opposes.

We are not just talking about numbers on a budget spreadsheet; the additional investment in the Senate bill translates into hundreds of thousands of jobs for Americans.

In Florida, for example, the Senate bill would create 44,000 jobs, while the House bill would create 13,000. In Texas, the Senate bill would create 80,000 jobs; the House bill 13,000. In Missouri, 22,000 versus 6,000; Illinois, 45,000, versus 10,000; California, 90,000 versus 25,000; Tennessee, 20,000 versus 6,000; and in my State of South Dakota, 6,500 versus 1,500.

In all, the House bill falls 500,000 jobs short of the Senate bill. We have all heard from the administration, and all we have heard they oppose both the Senate and House versions of the bill. For the Bush administration, it appears it is their way or—if you might pardon the pun—the highway, or, in this case, no highway funding.

We cannot afford to let our transportation investments fall victim to this kind of rigid partisanship. Every day we fail to make investments in our transportation infrastructure, every hour Americans lose in traffic, every delay in the shipment of goods, carries a cost to the American economy and slows job growth.

There is a broad coalition of groups and industries—including the Chamber of Commerce, the Association of General Contractors, the American Public Transportation Association, and the International Union of Operating Engineers—who are united in their support of the Senate level of $318 billion.

They recently delivered a letter that was unequivocal. They wrote:

> As business and labor organizations, we cannot support any legislation below the Senate investment level for a six-year bill.

Time is running short, but, as I said, we can still deliver real relief to the American economy. If the House passes a bill this week, and staff and Members would start working immediately, there is absolutely no reason we should not be able to complete this bill in April. We can avoid letting the President and the Republican House leadership singlehandedly shut down the Department of Transportation.

It has been 184 days since the Republican Congress and President Bush began failing our Nation's transportation system and all who rely upon it. I know we can do better than this, put aside partisan politics, and begin to focus on the important work that is before us all. I hope that can be done in the next day.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield.

Mr. REID. Is the distinguished Democratic leader aware that the work done in the Senate bill—$318 billion for transit and highways—was done on a bipartisan basis? I have been chairman of that full committee on two occasions. I understand it. I understand the committee very well. But there was cooperation such as I have never seen. With Senator INHOFE, Senator BOND, Senator JEFFORDS, and me being ranking member on the subcommittee now, there was no partisanship.

Is the Senator—I am sure—also aware this bill does not increase taxes at all, it is paid for with existing dollars, plus trust fund moneys? So anyone who thinks this is breaking the bank simply is mistaken. This is no new taxes, totally funded, no deficit spending. Is the Senator aware of that?

Mr. DASCHLE. Mr. President, I answer the distinguished assistant Democratic leader by saying that is exactly the case. We had an extraordinarily effective demonstration of bipartisanship in taking up the highway bill. I worked closely with Senator FRIST. I say to the Senator, you worked closely with Senator INHOFE. We got the job done on time and, as you say, on budget.

This does not represent 1 dollar of additional deficit spending. It is a commitment to jobs. It is a commitment to infrastructure. It is a commitment to our fiscal soundness that I think is one of the best moments we have experienced in this Congress to date. It demonstrated again Democrats and Republicans can truly work together.

I only hope we could do the same in the House, and we will certainly do the same as we try to resolve whatever differences there will be with the House, including the amount committed to infrastructure in the coming days.

I thank the Senator for his excellent question.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leader time is served.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee.

The Senator from Nevada.

DEBATE IN THE SENATE

Mr. REID. Mr. President, I will yield very quickly. I want to say this. I understand the procedures here in the Senate. I certainly understand the majority has the right of first recognition. If the majority decides they do not want us to participate in debate, it is difficult for us to be part of the debate.

But I want the RECORD to be spread with the fact today we have heard—and I hope it is wrong—when we complete action today on the underlying bill, that is, the welfare bill, the majority is going to go to the floor and prevent us from being part of the debate; they are going to talk about what Democrats are doing is wrong and what they are doing is right, and not allow us to have recognition. Now I say, as the Chair is aware, that we heard once before, not long ago, the majority was going to do this, and you will recall at that time I got the floor and kept the floor for a long time. That did not set a good tone, that the majority was, in effect, trying to force us out of the debate. The Senate is a debating body, and we should be part of that.

I say for the second time this morning, we know the majority can keep us from being recognized. It would set a very bad tone. I do not think it would be appropriate or fair, and we would do whatever we could to protect our right, and everyone should understand that.

Mr. President, I yield, on the time we have remaining, 20 minutes to the Senator from New York.

The PRESIDING OFFICER (Mr. TALENT). The Senator from New York is recognized for 20 minutes.

Mrs. CLINTON. Mr. President, I thank my leader from Nevada.

APRIL FOOLS' ON US

Mrs. CLINTON. Mr. President, many years ago when I was a schoolgirl, on this day someone might come up to me in the hallway and say: Hillary, your skirt is ripped. I would turn around in panic, and they would say: April Fools'. Or maybe somebody would stop me after class and say: Hillary, I heard Janie is really mad at you, and I don't know what you did to her, but you'd better talk to her. I would feel terrible. Before I could do anything about it, someone would say: April Fools'.

Well, today is April 1, and there is a long tradition of people playing jokes on each other, pulling stunts, and then causing someone to be upset or worried or anxious or maybe even happy that they have been told something is going to happen, only to have the rug pulled out from under them when someone says, either jokingly or sometimes a little cruelly: April Fools'.

Thankfully, that day only came once a year, so you only had to endure your friends or maybe your not-so-friendly classmates' jokes and stunts for 24 hours. But I sometimes feel that it is April Fools' Day every single day here on Capitol Hill, on the other end of Pennsylvania Avenue in the White House, because on issue after issue of profound importance to the American people, our Government is basically saying: April Fools'.

Do you remember when they introduced their budget in 2001 and said: "If you drastically cut taxes on the wealthiest of Americans, why, my goodness, revenues will increase in the budget. You don't have to worry about all the expenses that we have keeping this great country going because this will work"? Well, 3 years later, we are facing a $500 billion deficit. Guess what. April Fools' on us.

Do you remember when they said: "Our policies are going to generate jobs"? Well, we saw during the 1990s 22 million new jobs created in America. What a difference that made in so many people's lives. What have been the results of this administration's economic policies? The loss of nearly 3 million jobs.

So for all those Americans who believed this administration's policies would work to create jobs and economic opportunity, guess what. April Fools' on you.

When it comes to the Medicare prescription drug benefit, the administration knew there was an estimate by the man responsible for calculating how much Medicare will cost that was much higher than what had been discussed in the debate over the bill. Here in this Chamber we were told the bill would cost $400 billion. That is a lot of money. It was a lot of money for what, frankly, our seniors are going to get, which is going to be a lot of confusion because so much of the money is going to drug companies and insurance companies. But, lo and behold, we wake up and find out that it was not a $400 billion bill; it was a $534 billion bill. And the actuary, the civil servant at Medicare—he is not political; he works year in and year out for whoever is in office—was ordered not to tell the truth to the American Congress or the people about the cost of the Medicare prescription drug benefit or he would be fired.

So we passed the bill. I didn't vote for it but a majority did. We passed it. The President signed it. Guess what. April Fools': It is not going to cost $400 billion, it is going to cost $534 billion.

Then, of course, we have No Child Left Behind, which many of us so hoped would make a difference in the education of our children. But we conditioned our support for this education reform on the promise by the President that it would be fully funded, that the money our teachers and principals and superintendents and school boards, but particularly our children, would need would be there.

Well, no longer is that promise even credible. The President signed the bill and then presented a budget which didn't provide the money required to fully implement No Child Left Behind. Once again, April Fools' on us.

Americans have been fooled time and time again by this administration, fooled by promises and fooled by predictions. Indeed, for 3½ years, this administration has said one thing and done something else. The list is far longer than what I have even mentioned. This was an administration that said: We are going to do something about global climate change and carbon dioxide in the atmosphere that is warming our climate. We just received a report from the Pentagon talking about what that means to our national security. So the President gave speeches when he was running for office saying we are going to deal with that. Lo and behold, he gets into office, and forget it. April Fools': climate change, no such thing is going forward under this President.

We have just seen some recent examples with respect to rising gas prices. That is a big concern. It is a concern in my State and around the country. We are seeing OPEC cutting production which will cause even higher prices for gasoline. When the President was running for office, he said: Why doesn't anyone do anything to get these gas prices down? When I am elected, I will make sure OPEC doesn't raise gas prices on us.

Well, OPEC did it. They cut production. All the President said was how disappointed he was. That doesn't sound like much of a strong case being made on behalf of the American people. Again, what should we expect? It is the same story from this administration. Say one thing, do something differently; fool the people, not just one day a year but every single day.

It is as if words don't matter anymore with the administration—and, regrettably, with the Republican leadership in Congress. There are a lot of serious issues facing the people I represent. We are losing jobs. A lot of people are losing their health care benefits. The cost of education to send a child to college is going up. We have a lot of challenges we should be working together to meet.

On this side of the aisle we have tried to raise the minimum wage. Why have we done that? Because it has not been raised for about 8 years. There are a lot of decent, hard-working people who are falling further and further behind because their costs are going up, but their incomes sure are not.

We also want to do something about overtime because what this administration has done is to say: We want to change the rules which would take away overtime compensation from about 8 million Americans. Can you imagine what a horrible experience that would be for somebody working a shift as a police officer or a firefighter or a nurse to be told: Well, your Government, your President doesn't want you to be paid for the hours you have to work extra. April Fools' on you. You are going to work but not get paid for it.

We don't like that. Is that obstructionist, that we Democrats think it is not fair that people should have to work and not be paid for it? I don't think so. I think that is in the tradition of American fair play. But we can't get a vote on it here because the Republicans know that if they had to have a vote on it, it would actually pass. That would really embarrass the President and his administration. So they don't want us to vote on it.

Unemployment benefits, it is the same thing. A lot of people are not only out of work, but they can't find work because there are so few jobs being created in this economy. The administration doesn't want to help these people. They don't want to give them that extra unemployment benefit that can tide them over until maybe we can start seeing some jobs created that will put people back to work. So our friends on the other side of the aisle don't want to vote on that because the administration would be embarrassed, because they know if Republicans had to vote on it, they would actually vote for it. So they don't want that to happen.

Time and time again, we have seen the President and the majority say one thing and do something else. It is April Fools' Day today, but that is no way to run a government. It is no way to run a great country.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. CLINTON. Certainly.

Mr. DURBIN. I would like to ask the Senator from New York, through the Chair, is there not also an important issue that affects families and businesses across the United States with the increase in gasoline prices? If I recall correctly, Governor Bush, when he was a candidate for President, said, in Manchester, NH, he thought in that circumstance, the President should use the power of his office to force the OPEC nations to try to expand their exports of oil so gasoline prices did not go up in America. Isn't it true at this point that this administration not only has failed to do what the President promised as a candidate he would do, but, in fact, OPEC has announced it is going to reduce their exports to the United States and force greater increases in gasoline prices which will hurt the American economy and American families?

Mrs. CLINTON. The Senator from Illinois is absolutely right. Not only did the President, when he was running for office, say that he would jawbone and fight back hard against OPEC if they tried to limit supply or raise prices, he even said he would use his connections in the oil industry to make sure that got done. We all know about his connections and the Vice President's connections. There has never been an administration in our history that is so closely connected to big oil and big gas and big coal and everything else.

So what happens? OPEC meets. Whatever they tried to do behind the scenes sure didn't work because they voted to cut production 4 percent. When that was announced, what did the President do? He said he was disappointed.

There has also never been a President or anyone in any administration who is closer or whose family is closer to many of the big oil-producing countries such as Saudi Arabia. They have connections and relationships and friendships going back decades. One would think that if any President could force OPEC not to take this damaging action against the American consumer, it would be this President.

But I see no signs of that. I see no real effort in that. Once again, it is say one thing, do something else. April Fools' on the American people.

Mr. DURBIN. If the Senator will further yield. I also believe, in Illinois, as I travel around and speak to families and businesses, there is one consuming issue, and that is the cost of health care, the cost of health insurance. Small businesses see these dramatic increases in health insurance premiums, and with these increases they are faced with the terrible prospect of either reducing or eliminating coverage for their employees; that has, unfortunately, led to more and more uninsured Americans.

Is it not true that, given the chance on the floor, with the prescription drug bill, where the Bush administration could have stepped forward and spoken for these families and businesses and said to pharmaceutical companies that you have to, as Canada has done, restrain drug price increases, is it not true that on this issue relating directly to the competitiveness of American products, the welfare of American families, and the future of businesses and jobs, that this administration has once again caved in to the special interest groups—the drug companies and HMOs in this case—at the expense of the American economy?

Mrs. CLINTON. Once again, the Senator from Illinois is absolutely correct. As he well remembers, the debate on the floor concerning prescription drugs benefited many opportunities to try to rein in the cost of prescription drugs, to try to give permission to Medicare to negotiate, as any big institutional buyer would have the right to do, and also to import the drugs that are American-made, American-approved, back from Canada so we could get the lower prices.

Again, this administration and the Republican majority steadfastly stood against the American public, against our seniors, and stood for the pharmaceutical industry. As a result, the cost is going to be much greater, and much of that increased cost is not going to help our seniors and lower drug costs so we can perhaps have even more prescription drugs available for our people. Instead, it will go right into the pockets of the pharmaceutical companies and insurance companies.

Mr. DURBIN. Is it not also the case that this administration took taxpayer dollars to buy advertising on television for their prescription drug program and, frankly, misrepresented what the program meant in terms of savings for seniors? It is bad enough that the bill itself didn't keep the cost of prescription drugs under control. The administration took taxpayer dollars and used them to basically put a message out that at least wasn't complete, and perhaps was distorted, misleading many seniors into believing that this prescription drug bill is going to be of some benefit?

Mrs. CLINTON. Well, the Senator from Illinois has raised another important issue because the administration is using taxpayer dollars to convey a misleading impression of the Medicare prescription drug benefit, and to do so as a way of boosting the President's reelection opportunity. So taxpayer dollars, instead of his campaign dollars, are being used to try to persuade the American people against the evidence that this massive bill, with so many benefits for the pharmaceutical industry and insurance companies, is good for them. It is regrettable. As the Senator knows, many of us tried to prevent that from happening and say let's do this right, in a bipartisan, unified manner, where we really provide a prescription drug benefit for our seniors.

As the Senator also is aware, in the last several weeks, the President's campaign has been accusing one of our colleagues, the Democratic nominee for President, of flip-flopping, saying one thing one day and saying something else at a later date. It is the pot calling the kettle black at the very least because it is this administration which, on every important issue to the American people, has either changed position or has persisted in providing a misleading and inaccurate argument on behalf of a position they have taken.

The long and distinguished career in public and military service of the Senator from Massachusetts, Senator KERRY, is one that needs no defense from me or anyone else. It stands on its own merits. It is regrettable that an administration, increasingly known for its two-sided approach and its talking out of both sides of its mouth at the same time, saying one thing and doing something else, would be accusing anyone of engaging in that kind of behavior.

Mr. President, it is April Fools' Day once a year. Thankfully, that is only once a year in most of our lives. Here in Washington, it is every single day, 365 days a year. The administration has engaged in April Fools' tricks on the people of this country repeatedly. But I think people are waking up and starting to say:

Wait a minute, where is that big surplus you promised if we did everything you said?

How come my taxes are going up as a middle income American while taxes on the richest are going down?

How come this is the first President in our Nation's history that has led us to war and cut taxes at the same time?

How come the White House didn't tell us the truth about the cost of the Medicare prescription drug?

How come the administration didn't fund No Child Left Behind the way it had been promised?

How come we are having a transportation bill that the President threatened to veto when it is the only jobs bill on the horizon that can put people to work and repair the infrastructure and modernize our transportation system in a way that will make us richer and stronger in the future?

Well, the April Fools' Day jokes are coming to an end. Fool me once, shame on you; fool me twice, shame on me. The American people are starting to ask the hard questions. They are not just questions coming from Democrats, but from independents and Republicans, and coming from longtime Government employees who don't have any partisan affiliation, like Richard Clarke, asking hard questions that deserve honest answers.

At the end of the day, what really matters is that the American people have trust in their Government and believe their President when he talks to them about matters of life and death. That is what we are talking about—life and death. So let's hope that when this day ends, maybe we can have some good news from this administration in the form of admissions and some corrections that will put us back on the path of unity, that will create the tone the President promised that would be a positive tone in Washington, where we could deal with the real problems facing Americans.

I am not optimistic, but I am hopeful that we could see that happen because these are matters of profound importance. It is imperative that we as a Nation have faith in our leaders in these dangerous and difficult times.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada has approximately 8 minutes left. Who seeks recognition?

The Senator from Mississippi is recognized.

JUMPSTART OUR BUSINESS STRENGTH BILL

Mr. COCHRAN. Mr. President, one of the serious problems facing the Senate is the passage of the Jumpstart Our Business Strength, or JOBS, bill. The Senate needs to pass this bill now.

Since the World Trade Organization has ruled against the United States over our foreign sales corporation and extraterritorial income tax rules, we have had ample time to address this issue. The Senate Finance Committee reported legislation which would bring the United States into compliance with our trade obligations on October 1, 2003.

Today, the European Union's 5-percent tariff will increase to 6 percent, and every month it will increase another percent. This will make American agricultural and manufactured products increasingly less competitive in international markets.

Exports of U.S. agricultural products will approach $60 billion this year. If we allow the EU to continue with these tariffs, we will continue to lose market share and export opportunities. When our farm exports are pressured, the truckers, rail lines, and shippers feel the ill effects.

The EU retaliation list includes about 400 agricultural, food, and forest product tariff lines of imports from the United States.

These are very serious threats to our American agricultural economy, and this is why. The values of our annual exports to the EU are live animals, $23.7 million; meat and meat products, $44.4 million; vegetables, $35.6 million; oil seeds, $64.6 million; rawhides and skins, $41.3 million; wood products, $140 million; sugar and confectionery products, $21.2 million. The annual total of all these and other agricultural products amounts to more than $691 million a year.

Let me also remind everyone that much of the food industry operates on very small profit margins. So the initial tariff increase of 5 percent, plus the additional 1 percent per month, can have a serious effect.

Also, the EU currency has been very strong against the U.S. dollar. This means it has been comparatively easier for our trading partners in Europe to buy our products, but the import tariff erodes that advantage and makes it easier for competitors—other countries—to take away our markets in the European area.

It is my hope that the Senate will complete action on the JOBS bill without any further delay so we can send that bill to the President, which he is prepared to sign immediately, so we can avert the lost sales, regain lost jobs in the agricultural sector, and restore hope in America's farms and factories.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, we appreciate Senator COCHRAN speaking when he did. We have 8 minutes remaining. I ask unanimous consent that the time be reserved. We had someone who was going to speak but has not shown up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition? The Senator from Texas is recognized for 5 minutes under the previous order.

DEMOCRATIC LEADERSHIP'S OBSTRUCTION

Mr. CORNYN. Mr. President, today is day 7 of the Democratic leadership's unprecedented obstruction of President Bush's nominees for various executive positions and judicial nominations. In fact, I have in my hand the Executive Calendar which reflects 46 of the President's nominees who stand ready to be confirmed by the Senate so they can get to work on behalf of the American people. But unfortunately, as appears to be a growing trend and one where our Democratic colleagues continue to dig in their heels, the answer to every entreaty we might offer, every suggestion we have in terms of creating jobs, in terms of putting people on the bench to decide cases that go unheard because judges are not being confirmed to these posts, we continue to get a consistent response on behalf of our Democratic colleagues of "no."

The answer they give to jobs and manufacturing, medical liability reform, a national energy policy, workforce investment, judges, small business, class action reform, and faith-based and charities legislation is "no."

Particularly on the judicial nominees, I point out, once again, that this obstructionism is unprecedented in the history of the Senate. Where we have a bipartisan majority in the Senate who stand ready to confirm highly qualified nominees, such as Justice Priscilla Owen of the Texas Supreme Court of my home State, people such as Janice Rogers Brown who serves on the California Supreme Court, or people such as Miguel Estrada who, after waiting for so long to have his confirmation heard on the Senate floor, finally had to give up and go about his daily life because of this unprecedented obstruction.

The worst part of this is that it has not only been about blocking President Bush's highly qualified judicial nominees and other people who he has proposed for various boards and commissions serving the American people, this, unfortunately, has also involved a character assassination as well. Judicial nominees have been called names by Senators on the other side of the aisle that are really unbecoming of the dignity of this body, names such as "kooks," "Neanderthals," "turkeys," and other names that are just entirely inappropriate to the civil discourse and debate that people have come to expect and deserve a right to hear from Members of the Senate.

We can disagree about policy matters. We can have a different proposal for the American people about which direction this country should go on a number of these issues. But surely—surely—the Senate should continue to conduct its discussions in a civil way and one that allows majorities to govern, not that allows obstinate minorities led by the Democratic leadership to block vote after vote on matters that are important to the people of the United States.

The problem we now hear is they are objecting to proceeding on any nominees because President Bush has used the authority given to him under the Constitution to make recess appointments. They act as if this has never been heard of, that it is unprecedented in U.S. history. The fact is, there have been more than 300 recess appointments made during the course of this Nation's history, including by President Clinton, before President George W. Bush, and others. Indeed, this is a constitutional response to unconstitutional filibusters.

Unfortunately, we know the nature of this process is such that if the Democrat obstructionists get away with blocking President Bush's nominees, not from voting against them but by preventing a vote on them at all, this is a tactic once determined to be successful that will likely be employed by others when the shoe is on the other foot.

When the next Democrat is President of the United States and Republicans are in the minority in the Senate, how is it we are going to explain to our Republican colleagues that, no, you should not use this tactic which, up until now, has been out of bounds but which has now been employed successfully against the Democratic minority against this President?

We ask for an up-or-down vote today on President Bush's judicial nominees, and we would ask that rather than answering "stop" to all of the Republican agenda on behalf of the American people, we could at least get an up-or-down vote.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Texas has expired. Who seeks recognition?

The Senator from Nevada is recognized for 5 minutes under the previous order.

MEDICAL LIABILITY REFORM

Mr. ENSIGN. Mr. President, the theme we are talking about this morning is obstructionism. We have heard about judges. Later on we are going to hear about the Democrats obstructing legislation that would create jobs in the United States. It is called the FSC/ETI bill. It really is a jobs bill. This is legislation that will actually bring hundreds of thousands, if not millions, of jobs back home to the United States. Democrats have been blocking, as far as jobs are concerned, asbestos reform, bankruptcy reform, class action litigation reform—all of those items make American companies less competitive and make it tougher to have new job growth in the United States.

Outsourcing is a big issue. As we hear more and more about this issue, we have to understand some of the reasons surrounding it. Right now the other side of the aisle is blocking a lot of the legislation that would allow companies to bring new jobs to this country to make our country more competitive.

What I want to talk about this morning very briefly is the answer to what has caused a severe access to care crisis in many States, and that is the issue of the medical liability reform. My home State, the State of Nevada, is one of those 19 States that are truly in crisis. In fact, only five States across the United States are showing no signs of a crisis. Unfortunately, the rest of the states are all headed in Nevada's direction, and it is only going to continue to get worse unless we fix the problem right here in Washington, DC. This is a national problem and it requires an immediate national solution.

One of the main reasons we need a national solution is because the Federal Government now pays 60 percent—60, 6–0 percent—of all the medical bills in the United States with regard to Medicare, Medicaid, and the Veterans Administration. There is a huge amount of money the Federal Government pays in taxpayer dollars that goes toward paying medical bills in this country.

For this and many other reasons this is a national problem that requires a national solution. We are losing doctors and other medical professionals at an alarming rate all over America. They are not going into the specialty and high-risk fields, especially in the numbers that we need in this country. There used to be a huge demand for many of these residencies. Now, some of our schools cannot even fill their residency programs. Unbelievably, often times they are not even getting any applications for these residencies.

A few weeks ago I heard about the problems in Utah. There are tremendous medical facilities there. They are having problems getting doctors to go into some of the fields we want our best and our brightest to go into—those fields that require the most technically brilliant people—because of the fear that when they get out of medical school they will not be able to afford to practice because the medical liability premiums are too high.

Why are the medical liability premiums too high? Well, it is pretty simple. It is because we have an overly-litigious society where unscrupulous trial lawyers basically say bring your Rolodex and we will find out who we can sue. More and more, this practice has spread into the medical profession where hard-working and honest professionals are being subjected to frivolous lawsuits.

I am a veterinarian, and I know medicine is not an exact science. Mistakes are made. If there is medical malpractice, the patient deserves to get compensated, no questions asked, and our civil justice system has the ability to do that. But because the courts are so filled up with frivolous lawsuits these days, and some of the jury awards are so incredibly high, it motivates people to basically say let's go hit the lawsuit lottery because the system is broken. It is a situation where because of the backlog, the people who are really injured die before they ever get compensation. It can take 6, 7, 8, 9, 10 years in the courts before their case actually has a final resolution, and that is unacceptable for those patients who are injured. That is one of the major reasons we need to have medical liability reform. Unfortunately, the other side continues to obstruct our efforts in this area.

If opponents want to debate differences, if they want to amend the bill, fine, but they will not even let us go to a vote on a bill. In fact, they keep obstructing us even moving to debate a bill. They are filibustering, just as they are doing on judges and many other things. It is a shame because it is a crisis. It is a crisis with OB/GYNs—arguably the most dire of circumstances with regard to access to care—but it is also a crisis with trauma doctors, neurosurgeons, and even with general surgeons.

Some of the best people who practice medicine in my State are either leaving practice or now, unfortunately, not going into those high-risk specialties. We need to enact reform to protect every American's access to quality care, and to keep the best and the brightest practicing and entering into the medical profession. In order to so, this obstructionism by our opponents must stop, and it must stop right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada has yielded the floor. Who seeks recognition?

The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. I ask that when we move to the welfare bill, TANF, that on our side for 30 minutes 7 minutes be given to our manager, Senator BAUCUS; 7 minutes to Senator KENNEDY, the ranking member of the full committee; 5 minutes to Senator REED from Rhode Island; and 5 minutes to Senator BOXER from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

ENERGY POLICY

Mr. THOMAS. Mr. President, I rise to speak about where we are, where we are going, and some of the difficulties we are finding in getting there. I was listening earlier as the Senator from New York and the Senator from Illinois were discussing some of the issues they consider to be problems with this administration.

They talked about the cost of energy. One of the reasons we are having some problems with the cost of energy is we have not been able to get an Energy bill passed that gives us any direction because it has been obstructed by the other side of the aisle, and it continues to be. So that is not a surprise.

They talked a lot about the health care problems. One of the reasons we have health care problems is the obstruction on the other side that will not allow us to move forward with malpractice insurance.

The same thing, of course, is true with Medicare. They were critical of doing something with Medicare. I remind my colleagues this is the first time in 30 years we have done something to help change Medicare, and it is going to be implemented over a period of time because there will need to be some changes in it. For the first time, people will be given an opportunity to get pharmaceuticals at less cost, and we will begin to have an opportunity to change Medicare from the way it was originally structured. It is very difficult to do that with the obstruction on the other side.

It is frustrating to be in the Senate where we are supposed to be making decisions, supposed to be moving forward. We do not all agree, that is certainly true, but we do have a system that allows us to go forward. That is what votes are for, but we cannot take votes. We continue to sit here and only talk about things.

I am particularly interested in the energy issue, of course. I think it is certainly one that we have talked about for a very long time. It now becomes more important because of the cost increases, because of the difficulties we are having with energy. It begins to be more apparent that we need to have an energy policy that has some plans for where we go over the next 5 or 10 years. We need to do that as soon as we can.

One of the things the Bush administration, Vice President CHENEY and the President, did was to seek to have an energy policy. All we have heard are complaints and criticisms and still there is obstruction to having an energy policy, when it is so clear that that is precisely what we need to have.

We have higher gas prices at the pumps, partly because OPEC has backed off somewhat, but also because we have made it necessary for refiners to put into place about 18 different combinations of fuel. There have been unexpected disruptions from Venezuela and elsewhere. We are having higher home heating bills because of the stress on natural gas where the consumption is going up much faster than the production, and it is predicted to do that in the future for some time.

So we are still talking about these issues. People are more aware of them because of the blackout, because of the cost, and because of the difficulties. So we need to make some changes, but we need a policy. We are not talking about all that we can do instantly. We are saying we need a general policy, and that is what this policy is. It has to do with alternative sources. It has to do with efficiency. It has to do with conservation. It has to do with more research so that, for instance, there can be more clean coal burned.

Today, the Wall Street Journal said finally people are saying we are having trouble with natural gas because of the demand, but coal is the fuel that we have with the most fossil reserves in this country, and we can do it in a clean way. Particularly, western coal is low in Btu and low in C02.

We need to be moving in that direction. We need a balanced bill, and there are things we can do to accomplish that. We are going to have to change the fuels over a period of time.

Some, particularly on the other side of the aisle, say: Oh, well, we have to start using alternatives up to 40 percent in the next 5 years.

Right now, of all of our energy production, 3 percent is produced by alternatives such as wind. We can do much more in the future, and we hope that we do, but we cannot turn that corner right away. It is a very difficult thing to do.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. THOMAS. Mr. President, I certainly urge that we stop obstructing and move forward with an energy policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming yields the floor.

The Senator from Oregon is recognized for 10 minutes.

Mr. REID. Mr. President, I ask the Senator if he will yield for a unanimous consent.

Mr. SMITH. Yes, I yield to the Senator from Nevada.

Mr. REID. Mr. President, our remaining time will be yielded to the Senator from Wisconsin, Mr. FEINGOLD.

THE DREAD OF ELECTION YEAR POLITICS

Mr. SMITH. Mr. President, as the new year arrived, I looked to coming back to Congress with, frankly, a sense of dread because I knew we were entering a political year, a year where the stakes are high, and the President stands for reelection. I knew there would be an awful lot of my work and the work of all of us tied up in partisan gamesmanship.

I will confess to my colleagues, I do not much enjoy it. I look at my friend from Nevada, Senator REID, and I see a great human being. When I look at Senator FEINGOLD, I see another great human being. I love the message of compassion of the Democratic Party. I know where their hearts are. This is not about good people or bad people. This is about competing ideas.

But because I had that view—my father was a Republican, and my mother, a Udall from Arizona—I understand good people can differ on these issues. Because of that sort of bipartisan approach to life I have always had, in my former life as a businessman, as candidates for public office would come to our company and ask to meet with us and our employees, I welcomed Democrats and Republicans alike equally.

Unfortunately, what I often came away with was the feeling those on the Democratic side loved my employees but they hated employers. That is because they would demand we create jobs and then they would say the way you do that is you raise the minimum wage, increase your regulations, and raise your taxes. I came to understand by doing the books, by doing accounting, one of my most significant costs was Government overhead.

All of them are well meaning. But all of them make it more difficult for capital to come together so labor can be given work to do.

As my colleagues have come to the floor and complained about various aspects of this current obstructionist period—you know, we talk about medical liability, the Senator from Wyoming talked about energy, others have talked about judges—I have to talk today about the whole issue of FSC/ETI and how critical it is we find a way through this morass of partisanship to getting this bill done. What we do by failing the American people is to impose on manufacturers a European tax and a penalty to American potential for creating jobs. I don't think that is what Senators intend, but that is what is happening if we don't get FSC/ETI through this process.

As I mentioned earlier, I love the compassion I hear from my Democratic friends. Yet when I look at some of the policies that are advanced, what I see are policies designed to make the United States more like Western Europe, more like socialist democratic welfare states.

I recently had an experience on a trip with Senator SHELBY and Senator CANTWELL when we had traveled to Berlin to meet with Gerhard Schroeder. The German Chancellor was explaining to us his policies to reduce taxes, to reduce regulation, to reform medicine and Social Security. I said in humor, Mr. Chancellor, your policies would make Ronald Reagan smile.

His response was: It isn't because I want to do this, but I must do this because Germany no longer grows. We no longer have opportunity for our people. Our economy is dead in the water and yours is growing at a spectacular rate.

He even commented to the effect: You worry about losing jobs? We wonder why Mercedes and BMW are building plants in South Carolina.

It is because you can get a return on investment here.

I think we have to get beyond this lamentable side of the Democratic message, we love employees but we hate their employers, because the truth is both have to win and there is room for both. These policies that are punitive are well-intended. They want a vote on the minimum wage. I am ready to vote on that. They want to vote again on the overtime provision. We have voted on all these things before. These are not reasons to hold up progress on FSC/ETI. But that is what is happening.

We have to vote two, three, four times on policies already decided by this bicameral Capitol Hill. It is so very frustrating. I don't want America to become a democratic socialist welfare state. I don't care how well meaning all that was when they constructed the French and German economies, but I know, as Vice President CHENEY pointed out last week, while our economy was growing at nearly 8 percent in the last half of last year, their economies were growing at 1.4 percent.

So as we look to where these policies that are being proposed lead, let's understand we don't want to become like that. We want to be Americans. We want the American economy to produce jobs and to ensure freedom. All the well-intentioned taxes, regulations, and burdens of costs that are put upon employers ultimately translate into harm to employees. I think we have to start pointing that out.

In the FSC/ETI bill we passed through the Finance Committee, there was included in that a very important provision I was proud to sponsor. It was the repatriation provision. One of the good things the Europeans do and many of the other countries with whom we compete do, when their companies invest over here they let them take the money back to their home country without a tax. They let it be taxed once here. They don't retax it.

As to American companies who compete overseas, we allow them to be taxed over there and then we tax them again when they come back. So this repatriation provision, which for 1 year would have treated our companies like our competitors treat their companies, would have dropped the tax from 35 percent to 5.25 for 1 year. That would have created over 650,000 jobs. All the economists said that. It would have brought $300 billion into the economy, and it would have increased Federal tax receipts by nearly $12 billion a year. It is a win-win. Yet we are stuck trying to re-vote on votes we have already voted, holding up this critical legislation, which I promise you is a vote against jobs. To obstruct this bill is a vote against American jobs. It is a vote for a European tax increase on American workers.

Repatriation is a component of ending the FSC regimen that promoted exports by helping to bring into balance with our competitors American taxation on our companies which export abroad.

I listened with some humor last week when my colleague Senator KERRY, the Democratic nominee for President, introduced his tax plan. It contained my repatriation provision. But when we put it through the Finance Committee, Senator KERRY voted against it. But now it is included. I don't know. I am glad he changed his mind, but I don't know why the flip-flop. It is a great idea. It is important to do. I am glad he is now with us. I wish he were here today to vote on it. We could use his vote to get this off the Senate floor, to a conference, and into the American economy. It truly does produce jobs.

While I think it is easy to hate employers, it is easy to bash corporations, at the end of the day that is how American free enterprise does its work.

I know not all corporations are perfect. There is always a rotten apple or two to spoil the barrel. But most employees don't hate their employers, and most employers care about their employees. Most American companies are anxious to see America succeed. These are patriotic people. We have to understand there needs to be a win-win here. Right now the obstruction on FSC/ETI is a lose-lose for the American people.

If we want to see jobs created, we need to pass this bill. We need not to accede to a European tax through the WTO on the issue of FSC/ETI. We need to fix it now. We needed to fix it yesterday. We need to get it to the House so we can get it to the President and then get it to the union shop, the corporate board room, so labor can be reemployed, because American capital comes home.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Wisconsin is recognized.

CORPS OF ENGINEERS MODERNIZATION AND IMPROVEMENT ACT OF 2004

Mr. FEINGOLD. Mr. President, I rise today to discuss the Corps of Engineers Modernization and Improvement Act of 2004, S. 2188, which I introduced right before the March recess. I am pleased that the senior Senator from Arizona, Senator MCCAIN, and senior Senator from South Dakota, Senator DASCHLE, joined me in cosponsoring this legislation.

This legislation is particularly timely because it comes at a time when Congress is debating the Nation's budget, and when we cannot ignore the record-breaking deficits that the Nation faces. Time and time again we have heard that fiscal responsibility and environmental protection are mutually exclusive. Through this legislation, however, we can save taxpayers billions of dollars and protect the environment. As evidence of this fact, this bill is supported by Taxpayers for Commonsense, the National Taxpayers Union, the National Wildlife Federation, American Rivers, the Corps Reform Network, and Earthjustice.

Reforming the Army Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a Federal agency rocked by scandals and constrained by endlessly growing authorizations and a gloomy Federal fiscal picture, and yet an agency that Wisconsin, and many other states across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps provides aid to navigation, environmental remediation, water control and a variety of other services in my State alone.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul district offices that service Wisconsin, and I want the fiscal and management cloud over the Corps to dissipate so the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. In response to my initiative, the bill's managers, which included the former Senator from New Hampshire, Senator Bob Smith, and the senior Senator from Montana, Senator BAUCUS, adopted an amendment as part of their managers' package to require a National Academy of Sciences study on the issue of peer review of Corps projects.

S. 2188 includes many provisions that were included in two bills, one of which I authored and the other I cosponsored, in the 107th Congress. It codifies the idea of independent review of the Corps, and it provides a mechanism to speed up completion of construction for good Corps projects with large public benefits by deauthorizing low priority and economically wasteful projects.

The bill puts forth bold, comprehensive reform measures. It modernizes the Corps project planning guidelines, which have not been updated since 1983. It requires the corps to use sound science in estimating the costs and evaluating the needs for water resources projects. Under this bill, a project's benefits must be 1.5 times greater than the costs to the taxpayer, which alone would save the taxpayers over $4 billion. And, to receive Federal project funding, local communities must take on a greater share in the costs of the project.

The bill requires independent review of Corps projects. The National Academy of Sciences, the General Accounting Office, and even the Inspector General of the Army agree that independent review is essential to assure that each Corps project is economically justified.

The bill also requires strong environmental protection measures. S. 2188 requires the Corps to mitigate the environmental impacts of its projects in a variety of ways, including by avoiding damaging wetlands in the first place and either holding other lands or constructing weltands elsewhere when it cannot avoid destroying them. The Corps requires private developers to meet this standard when they construct projects as a condition of receiving a federal permit, and the federal government should live up to the same standard.

Too often, the Corps does not complete required mitigation and actually enhances environmental risks. I feel strongly that the Corps must complete its mitigation and the public should be able to track the progress of mitigation projects. In addition, the concurrent mitigation requirements of this bill would actually reduce the total mitigation costs by ensuring the purchase of mitigation lands as soon as possible.

This bill streamlines the existing automatic deauthorization process for the $58 billion project backlog, and it will keep the Corps focused on its primary missions of flood control, navigation, and environmental protection. Under the bill a project authorized for construction but never started is deauthorized if it is denied appropriations funds towards construction for 5 straight years. In addition, a project that has begun construction but been denied appropriations funds toward construction for 3 straight years is deauthorized. The bill also preserves congressional prerogatives over setting the Corps' construction priorities by allowing Congress a chance to reauthorize any of these projects before they are automatically deauthorized. This process will be transparent to all interests, because the bill requires the Corps to make an annual list of projects in the construction backlog available to Congress and the public at large.

This measure will bring about a comprehensive revision of the project review and authorization procedures at the Army Corps of Engineers. My goals for the Corps are to increase transparency and accountability, to ensure fiscal responsibility, and to allow greater stakeholder involvement in their projects. I remain committed to these goals, and to seeing Corps reform enacted as part of this Congress' water resources bill.

I feel that this bill is an important step down the road to a reformed Corps of Engineers. This bill establishes a framework to catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, end old unjustified projects, and provide planners desperately needed support against the never-ending pressure of project boosters. Those boosters, include congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance. All too often Members of Congress have seen Corps projects as a way to bring home the bacon, rather than ensuring that the taxpayers get the most bang for their Federal buck.

I wish it were the case that the changes we are proposing today were not needed, but unfortunately, I see that there is need for this bill. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing the taxpayers more than the Corps estimated, do not have unanticipated environmental impacts, and are built in an environmentally compatible way. This bill will help the Corps do a better job, which is what the taxpayers and the environment deserve.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PERSONAL RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4) to reauthorize and improve the program of block grants to the States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Pending:

Boxer/Kennedy amendment No. 2945, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes equally divided between the chairman and ranking member of the Finance Committee.

The Senator from Rhode Island is recognized for 5 minutes.

Mr. REED. Mr. President, I rise in support of the amendment offered by Senators BOXER and KENNEDY to raise the minimum wage.

The last time we increased the minimum wage was in 1997, and workers have already lost all of those gains of that increase. To have the purchasing power the minimum wage had in 1968, the minimum wage would have to be more than $8 an hour, not the $5.15 today.

In 1968, we could afford it. In 1968, we could provide the wages that would enable Americans to save for homes, to purchase homes, to save for college education, and to educate young people. Today, working Americans do not have that opportunity because the minimum wage is not sufficient to support a family and support the aspirations that all Americans have to better themselves and their children.

Indeed, what is very startling is if we had increased the minimum wage at the same rate CEO compensation had increased, the minimum wage today would be $22 an hour. In fact, it raises the fundamental question we will address over many months and years ahead, which is whether the rest of the world is going to become like the United States with a strong middle class with opportunities to move forward or will we become more like the rest of the world with a huge divergence between the very wealthy and those who are working for very little.

I believe we have to have a society that continues to produce a strong middle class, that continues to make work something that allows an individual to provide for their families and to aspire to all of the dreams of American home ownership, education for their children, and a comfortable and secure retirement.

Indeed, the fact that the minimum wage has relatively decreased has contributed to a doubling of poverty. A minimum wage earner for a family of three who works 40 hours a week 52 weeks a year earns $10,700. That is $4,500 below the poverty line. Today, if you are working 40 hours a week for minimum wage, you are in poverty.

The proposed increase would bring the minimum wage to $7 an hour, and even this modest increase would only raise the annual salary of families to about $14,000.

It is not sufficient to replace what people had in 1968. It is not sufficient to ensure all families are above poverty. But increasing the minimum wage will at least give more opportunity, more hope, and more sustenance to the families in America.

Today, one in five children lives below the poverty line in our Nation. This is the richest Nation in the world. That poverty has an effect on them; indeed, in the long run, it has an effect on everyone. There is an adage: You can pay now or you can pay later. We are not paying now and we will pay later. We pay later in terms of children who do not have the educational skills or the health to become the most constructive workers in our society they could become. In fact, some of them, unfortunately, wander into crime and other areas which cost us immensely. We have to be able to ensure people can afford to live in this country.

One of the other aspects of the minimum wage is a family earning a minimum wage in this country cannot effectively afford a two-bedroom apartment in any of the major metropolitan areas and in many rural areas. That is unfortunate. Without proper housing, how can one ensure family stability and the opportunity to move up in society?

We all understand and we all praise the hard-working Americans who, day in and day out, go to their jobs and labor for their families and communities. But too many of them are working at wages that do not reward this great effort. We can do something and should do something about that by increasing the minimum wage.

We should recognize and understand by increasing the minimum wage, we are not likely to have any negative impact on our economy. In fact, we will probably stimulate our economic activity. In the 7 years after the last minimum wage increase was enacted, there were nearly 11 million new jobs added at the pace of 218,000 jobs per month. There was no break in employment because the minimum wage went up. There were more Americans with more disposable income, buying more goods and services in our economy.

Most people, through my experience, who are working in jobs that pay the minimum wage or slightly above the minimum wage, tend to spend a good deal of their income on taking care of children, on taking care of their rent, on taking care of things that put money into our economy today.

We have to do this. Indeed, it would benefit our economy, not just those recipients of increased wages.

There are about 7 million workers and a third of working women who will benefit. I hope we can move forward and ensure this minimum wage is increased.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, we are facing a filibuster on an amendment I offered with Senator KENNEDY, with great support across the board. I thank Senator REED for his support of this very simple amendment.

We are facing a filibuster on whether we can vote on raising the minimum wage. I cannot think of a more cruel filibuster in my life. Why on Earth would anyone, Republican or Democrat, try to block a vote on this very important matter? I hear all about compassionate conservatism. Fine. Show it to me. Where is it?

People at the minimum wage have been stuck there for 7 years. That is how long it has been since we raised it. Give us a chance to have an up-or-down vote on raising the minimum wage. I ask my colleagues to try and live on $10,800 a year. Think about your rent or your mortgage payment. If it is $800 a month, that is it. You use up all of your money.

Some Members say we are trying to raise it way out of proportion. We are not. It is a rather modest increase, from $5.15 to $7 an hour.

I will show a few charts that tell the story better. People who work at the minimum wage are working well below the poverty line. This red line on this chart is the poverty line for a family of three. A family of three is way below the poverty line. They are headed straight down, as shown on this chart. I do not understand why we want to keep people below the poverty line.

Nearly three-quarters of minimum wage workers are adults. We are not talking about kids. When I was a kid, I used to work at the minimum wage. Fine. It was great. I made 50 cents an hour. That gives away my age. Imagine if those Members of the Senator were still in the Senate. We would still have a minimum wage of 50 cents an hour. My goodness, we need to raise the minimum wage.

Seventy-two percent are adults. How can we look at these people and tell them they do not deserve an increase? By the way, they will still be below poverty even after we raise them to $7.

Every day we delay, minimum wage workers fall further behind. All the gains of the 1996 minimum wage increase have been lost already. The time is long overdue that we raise the minimum wage.

People are working hard but losing ground. The real value of the minimum wage: Today it is worth $4.98. That is what hard-working people are getting, $10,800 a year for a family of three. With our minimum wage increase, there would be a $3,800 yearly increase in wages. That would pay far more than 2 years of childcare.

We talk about how important this welfare bill is. As a matter of fact, my friend from Pennsylvania had a chart showing how wonderful it has been that children have been lifted out of poverty. Of course, we are seeing now an increase in poverty. During the Clinton years, that was true. There were so many jobs, 22 million jobs created, compared to 3 million jobs lost under Bush. Kids were lifted out of poverty.

This minimum wage increase would give children more childcare. That is important. It provides 2 years of health care; provides full tuition for a community college degree; provides a year and a half of heat and electricity; provides more than a year of groceries; provides more than 9 months of rent.

When we give to people at the lower echelon an increase in the minimum wage, they will spend it, and that will fuel our economic recovery. I ask our friends on the other side, Why are you opposing us?

We will look at which Presidents have signed minimum wage increases into law: FDR, Harry Truman, Dwight Eisenhower, Republican; John Kennedy, Democrat; Lyndon Johnson, Democrat; Gerald Ford, Republican; James Carter, Democrat; George H.W. Bush, Republican; William Clinton, Democrat.

The people who are trying to stop an increase in the minimum wage are going against a whole array of Democratic and Republican Presidents. Our increase is quite modest as shown by my chart.

American families are suffering since the Bush administration took hold. Look what has happened: 13 million children hungry; 8 million Americans unemployed; 8 million workers losing overtime. That is what they want to do. There are 7 million low-wage workers, some waiting 7 years for a minimum wage increase. All we want is an up-or-down vote. They are filibustering it. There are 3 million more Americans in poverty since President Bush took office and 90,000 workers a week losing unemployment benefits.

I hope compassionate Senators on both sides of the aisle, I hope savvy Senators on both sides of the aisle, will definitely allow a vote on this very simple proposition. Seven years ago we raised the minimum wage. It is time to do it again.

Take it to the people in your States. Ask them how they feel. The polls are overwhelming. More than 70 percent of the people want to see an increase in the minimum wage. Yet in this Chamber, one would think we are asking for something that makes no sense. We want to get people off of welfare. That is the point of the underlying bill. Let's get them into work that pays.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. Mr. President, I retain the remainder of our time on this side.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Mr. President, I yield myself such time as I may consume.

I would ask the Senator from California—she suggested we are not going to allow a vote. I would be very happy to allow a vote. We suggested we would be happy to give a vote on the issue of minimum wage. But I think it is important, if we are going to give a vote on a "message amendment"—that is the term that has been used by Members on your side of the aisle, a message amendment—we would be happy to give you a vote on your message amendment in exchange for you giving us a vote on something that is actually going to help people in poverty; that is, passage of this bill and going to conference. In fact, we have offered to the Democratic leader that in exchange for a vote on your message amendment, you allow us to pass and go to conference on a bill that is actually going to help low-income people get out of poverty.

So I would be happy to offer, as I did yesterday, a unanimous consent request to give you a vote on your amendment, in exchange for you allowing us to have a vote on passage, at a time certain, and a commitment to go to conference on this legislation.

I ask the Senator: Would you agree to such a proposal?

Mrs. BOXER. Thank you very much for asking. We are ready to vote on the minimum wage right now. We do not need any more debate time.

Mr. SANTORUM. I would be happy to——

Mrs. BOXER. The message we are sending is to the people in America who need to have an increase. That is the message. We want to have that vote.

Mr. SANTORUM. Reclaiming my time.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. Mr. President, I ask unanimous consent that we have a vote on the minimum wage Boxer amendment, followed by a vote on the McConnell amendment on minimum wage, and then a vote on passage of the welfare reform bill, with the appointment of conferees, three Republicans and two Democrats. And then, on top of that, let's get everything done. Let's move, then, to the FSC/ETI bill, have a commitment to pass that bill by Thursday of next week, and a final vote, let's say, at 5 o'clock on Thursday.

So if you are committed to getting things done and helping manufacturing jobs, and you are committed to helping get welfare reform done, I offer that as a unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I say to my friend, there are a series of amendments that are important to the working people of this country. Overtime—the Bush administration is trying to take away overtime—we want a vote on that. The unemployment insurance, which has run out for millions of Americans, we want a vote on that. There are a series of amendments that deal with making lives better for the people.

Mr. SANTORUM addressed the floor.

The PRESIDING OFFICER. Does the Senator object?

Mrs. BOXER. This Senate is not the House. We are Senators. We are free to offer amendments.

The PRESIDING OFFICER. Does the Senator object?

Mrs. BOXER. I absolutely would agree if he would modify his request. We can agree on time agreements for these and keep it open for the rest of the amendments, and then we will agree.

The PRESIDING OFFICER. Does the Senator object?

Mrs. BOXER. I object, as he has done it. But I will agree to modify it.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Senator FRIST has offered to the Democratic leader a vote on all three of the amendments that the Senator from California asked for; that is, minimum wage, the issue of overtime, as well as the issue of unemployment insurance. We have agreed to votes on all three of those amendments, in exchange for votes on two things we would like to do; that is, pass a welfare reform bill that is actually going to help reduce poverty in America, help stabilize and build families, reconnect fathers with their children, and to pass a JOBS Act otherwise known as the FSC bill, which will help manufacturers compete in the international marketplace, save jobs, and create new jobs, and avoid harmful tariffs which are now in the process of being assessed against American workers by the European Union.

We have agreed to pay a ransom, to get two victims returned. The victims of the filibuster are the victim of welfare and the JOBS Act to help create manufacturing jobs. But we are not going to pay a ransom and not get a victim back. We are not going to pay a ransom to have votes on theme or message amendments and not get back for the American public two things that are absolutely necessary to help alleviate poverty and create jobs. This is not just going to be a political exercise.

The leader and the Republicans want to get things done. We are not here to message for Presidential politics. We are here because we want to do a job for the American people. We have a welfare bill that has worked—the 1996 welfare bill.

I will quote—by the way, not a Republican—June O'Neill, who was at the Congressional Budget Office, who said:

> Politicians and experts from the left and the right acknowledge that welfare reform has succeeded beyond the most optimistic expectations.

The 1996 Welfare Act, which Members on the other side of the aisle say: "We are not trying to block. Oh, yes, we'll eventually get to it"—they say they are not trying to block it, so what do they do? Right out of the box, they offer an amendment and say: You either give us a vote on this amendment or we can't move forward on the bill.

They did not wait until we worked our will, until we had several amendments we were trying to work through. There are supposedly 30 germane amendments on the other side of the aisle. They did not wait to offer their 30 germane amendments. They did not work through the process.

Right out of the box comes an amendment that has nothing to do with welfare, that we said, from the very beginning, if you offer this amendment, then we will be happy to vote on it in exchange for a commitment to finish this bill. But no. No. We have to get our message amendments out. Why? Because I believe there are many on the other side of the aisle who do not want a welfare bill, who want message amendments instead of improving a bill that we know works for the American public.

Now, why would I say that? Well, let's listen to the Senator from Massachusetts, 8 years ago, on the floor of the Senate, dealing with this first welfare bill that we are trying to reauthorize and modestly improve. I underscore modest. This is not a major revamp of welfare in this bill. There are some modest improvements, tinkering, because we know what is out there is working. We want to make sure what has been put in place stays in place and make some minor tinkering to try to improve it. That is why this bill came out of the committee in a bipartisan basis, because these are not major changes. These are minor changes which amplify what we know has already been working out among the States.

But what did the Senator from Massachusetts say about this bill in 1996, which he voted against?

> These provisions are a direct assault on children and have nothing at all to do with meaningful reform.

Let's see if they had anything to do with a direct assault on children. Children in America who were at the highest poverty rates, when this bill passed, were African-American children. Let's see if Senator KENNEDY's assault, as he termed it, came to be. No. Wrong. The assault was on poverty, not on children. The assault that Senator KENNEDY foretold never happened. Over 40 percent of poverty was among African-American children in 1996. Now the rate of poverty among African-American children is the lowest ever recorded—the lowest ever recorded. Why? Because this bill works. Why? Because requiring work works. That is what this bill did. And that is what Senator KENNEDY was vehemently against—vehemently against.

He goes on to say:

> Here we are talking about American children living in poverty, the innocent victims of fate.

"[T]he innocent victims of fate."

> If this bill passes, they will be the innocent victims of their own Government.

Let me change that around. For 30 years, African-American children in poverty were the innocent victims of their Government, in programs created by the Senator from Massachusetts, which locked them in poverty. And we have the courage on this floor to say: Stop this "compassion" that is killing America's children. We stood up and said, just because you are poor, you are not disabled, that we do not have a prejudice against you because you are poor, but we believe you can achieve just like the rest of Americans, if given the chance.

So we passed a bill that fundamentally changed the structure that the Senator from California and the Senator from Massachusetts, and far too many others, believed was the best for children—well-meaning but very wrong.

Instead of admitting this is the proper course, they now offer an extraneous amendment, having nothing to do with welfare, to block this hugely successful program in helping millions of families—millions of families—get off of welfare. How many millions? Two point eight million families. So 2.8 million families who used to get a welfare check now bring home a paycheck.

You ask, How big a difference is that in our world? I will give you a story of a young lady who told her story. She works for CVS. She had been on welfare for many years. She said after she had her first week of work and got her first paycheck, all of the children piled into her car and wanted to go to the store. Why? They wanted to go to the store because they wanted to go through the checkout line and have their mom pay with cash instead of food stamps. They wanted not to feel looked at as someone who was using the person behind them and their money to help pay for their food, but they had earned it themselves.

You don't think that has an impact on a little child's life? You don't think that being dependent upon the Government has an impact on the psychology of little children who grow up in that environment? Do you think we are doing people a favor by saying, We will take care of you?

If we don't pass this welfare reform bill today, the majority of Americans on welfare will no longer have a work requirement. If we don't pass a welfare reform bill, a majority of Americans on welfare will be in the old welfare system prior to the reform in 1996.

You say, well, this bill doesn't really make any difference? It makes a huge difference because the incentives will not be there anymore. I can't tell you the number of welfare mothers I have talked to. As I mentioned before, we have employed nine in my State office. I have worked personally, hand in hand, in trying to deal with the difficulties of taking people from welfare to work. It makes an enormous difference in their lives. They have said to me, one after another: I probably would not be where I am today had welfare reform not passed and the Government changed their expectation of me. I had to look at myself differently. It forced me to do something I never had the courage to do because to get that first job is scary.

It is a frightening thing, if you have very little skills, to go out and hold yourself up to failure. Let's be honest. Remember your first job. You knew nothing about what it meant to work. You knew nothing. How did you sign up? Where did you get your paycheck? What timecard did you fill out? There are so many things in the world of work that you have no concept of if you have no experience in it. That first job can be frightening, particularly if you are unskilled. Taking that first step or staying at home and letting the Government send you a check, that is an option that far too many people took.

Well, we didn't allow that in this bill. And it was not cruel. It was a step in the right direction for 2.8 million families, 2.3 million children out of poverty, 700,000 African-American children out of poverty. And we are blocking a bill that would make this a reality for future generations of people who may have to go through the welfare system?

I yield the floor to the Senator from Iowa. I thank the chairman for his tremendous effort in bringing this bill to the floor and fighting to get it through cloture and on to passage and to reality. He has been a warrior for children on this issue. I thank him for his work.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume.

I thank the Senator from Pennsylvania for managing the bill while I had to be in a conference to work out compromises on the pension bill. But more importantly, going back to his days in the House of Representatives, he has been a trailblazer in the cause of moving people from welfare to work so that those people have an opportunity to move themselves up the ladder.

Families on welfare and low-income families need childcare, and they need it now. This bill will help do that. If Democrats obstruct passage of this welfare bill, we risk losing a significant opportunity to substantially increase childcare funding for welfare families as well as for poor working families. If we simply continue the level of childcare funding under current law, hundreds of thousands of children and working families will lose their childcare. Estimates have been made that nearly 225,000 children could lose childcare assistance by the year 2006, and more than 360,000 children could lose it by the year 2008.

Is that what the Democrats want? Is that what they stand for in their vote against cloture on this legislation? That is playing politics on the welfare bill, and playing politics will not get this bill passed.

This bill is good policy. Democrats know that. And good policy is good politics.

Let me be clear: If Democrats succeed in their efforts to derail consideration of the welfare bill, hundreds of thousands of children will lose childcare. In other words, in order to score political points, Democrats are leaving poor children and their working single moms out in the cold. Without additional childcare resources, many States will be forced to make painful childcare cuts or institute waiting lists or increase copays.

If childcare funds are not available, low-income families, working families trying to do the right thing will be unable to help pay for childcare. Children work; children suffer. Or else children don't suffer and parents don't work.

Under this situation, they would be forced to resort to inadequate, unstable, probably unsafe childcare arrangements, or even be forced to give up their jobs and return to welfare, all so that political points can be made. That doesn't make sense to me, especially for a party that brags about putting the care of the people in need uppermost in their platform.

I think that is shameful. Democrats ought to be ashamed of themselves for making political hay on the backs of these low-income people.

In addition to the loss of childcare funding increases, if we are not able to enact this legislation—and you have to have cloture to get to finality, or else you have to have an agreement on the number of amendments and their germaneness to move ahead. So without one or the other, we are not able to enact welfare reform. In addition, we would also fail to make needed improvements to child support enforcement programs. We would fail to provide transitional medical assistance for 5 years as well as give States access to the contingency funds they have not been able to use because we liberalized States' access to those contingency funds. We leave States in the dark about what a reauthorization bill next year would look like. Why leave 50 State legislatures in a lurch when if we acted, they can put their State programs in place and move on with certainty?

When this is all added together—and there are a lot of other things we could say—it is an extraordinarily irresponsible policy that ends up with the lack of finality on the part of this Senate on welfare reform.

But then maybe welfare reform has never been a priority for Democrats. In the 107th Congress, even though my friend, Senator BAUCUS, reported a bill out of committee with $5.5 billion for childcare, welfare never made it to the floor of the Senate. This year, the Senate Finance Committee reported out a bill with significant Democratic priorities in it, but no Democrat voted for it.

Our Republican leader, Senator FRIST, gave us a week out of a very crowded legislative schedule because welfare reform—taking care of the needs of the poor, the needs of children—is high on the agenda of Senator FRIST. But it also has to be worked in with a very crowded legislative schedule. But he gave us time. He has many Members and many committee chairmen besides this Senator pressuring him for floor time to take up their bills, to consider legislation; yet, this had the high priority of our Republican leader.

We passed the bipartisan and Republican-sponsored Snowe amendment, increasing childcare by $6 billion, and still it looks like Democrats are prepared to block action on this bill, this bill that helps poor people, because they have an agenda that somehow outranks welfare. Obviously, their agenda is to make political points. I am sad to say that ultimately children and their working moms are the ones who will pay the price for this political grandstanding.

I hope we can do better by them, Mr. President. I have worked hard so that we could in fact do better for these people. It would be a shame if we are prevented from passing a bill that would genuinely help those in need just so the other side can score political points, or at least what they perceive to be political points.

The question is whether the Democrats will be held accountable if they succeed in killing welfare reform and killing an additional $7 billion for childcare. This issue is not about a vote on minimum wage. Republicans are willing to take a vote on minimum wage. As my colleague from Missouri, Senator TALENT, said yesterday, "We are willing to pay the ransom. We just need some assurances that we get the victim back." We need to know we can pass this bill and get it to conference. That is the issue over which Democrats are obstructing.

It is very unprecedented that Democrats are objecting to appointing conferees. Let me say that more broadly. It is almost unprecedented for the legislative process not to work the way the Constitution writers intended, and that is you get to a point where you work out compromises between the other body and this one, and that takes a conference committee to do it. If you want a product instead of politics, you go to conference. That begs the point, are we ever, then, going to be able to pass anything around here? In order to get a bill enacted, it has to pass both bodies.

We have $7 billion in childcare on the table right here. In order to score political points, Democrats are going to leave this banquet that is out there for people in need.

Again, the issue is not about getting a vote on minimum wage. Republicans are willing to take a vote on minimum wage. The issue is about getting a bill done, reaching finality. Democrats are preventing us from getting a welfare bill through the legislative process. I hope they have a surprise for this Senator and that we get cloture, and that they deliver to the people what they promised. This is very unfortunate for our country and for families who could have benefited from the bill that it looks like Democrats are going to kill today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Almost 18 minutes under Senator BAUCUS's time.

Mr. KENNEDY. I thank the Chair. I ask the Chair to remind me when I have a minute and a half left.

The PRESIDING OFFICER. The Chair will do so.

Mr. KENNEDY. Mr. President, we are voting at noontime today on a cloture motion, and those, obviously, in the Senate understand what this is all about. Before the Senate at the present time is a proposal offered by the Senator from California and myself to increase the minimum wage up to $7 in just over a 2-year period. The minimum wage has not been increased for the last 7 years. Now we find the minimum wage purchasing power is at an all-time low.

Now, those on the other side—we just heard from my friend Senator GRASSLEY—are saying we are somehow stalling this legislation. We are not. When this amendment was offered, the Senator from California and myself agreed to a 20-minute time limitation so we could move ahead with the rest of the debate on the TANF reauthorization. That was objected to. And then the majority leader put down a cloture motion.

I welcome the opportunity to speak on the minimum wage because there is so much to say about it, about the people who are experiencing it and the impact of our failure to increase the minimum wage, particularly the impact on children. We have not had an opportunity to have a vote in the Senate for the last 7 years on this. It is time that we do. We are being precluded from doing so because of the parliamentary maneuvers of the majority to deny the Senate of the United States a vote up or down on whether we think some of the hardest working Americans ought to have an increase in the minimum wage.

The Republicans are so frightened about voting on this, so they do the parliamentary tricks in order to try to deny the Senate an opportunity to vote on the minimum wage. Well, it is beyond me why they don't want to take the hard vote. Why not go back to your constituents and say, I am for this or against it. If you are against it, explain why. But we are being denied. It is not just denying the sponsors; they are denying over 7 million hard-working Americans the opportunity to get an increase in their pay.

As I pointed out in the beginning, the purchasing power of the minimum wage now, at the end of this year, will be near an all-time low since it passed in 1938. We have a chance to do something about it and do something now.

A quick response to my colleagues on the other side regarding the whole question of how increasing the minimum wage isn't really related to getting people off welfare into jobs. Well, it is difficult for people who have listened to the debate to accept that, particularly when the Secretary of HHS himself said this in comment to the underlying program, TANF:

> This administration recognizes that the only way to escape poverty is through work, and that is why we have made work and jobs that will pay at least the minimum wage . . .

Do you hear that? Secretary Thompson said this:

> . . . the centerpiece of the reauthorization proposal for the TANF program.

Still our Republican friends say our amendment is not related to this. Of course it is. The President's spokesman indicated that. Still we are unable to get this.

Mr. President, I have stated who these people are who are earning the minimum wage. They are men and women of pride and dignity. They deal with tough jobs—cleaning out buildings of our country, all over our Nation. They work in schools as assistant teachers. They work in nursing homes providing help and assistance for our senior citizens.

Let me read one short story which is typical about a minimum wage worker. The name of this person is Fannie:

> She weighs bunches of purple grapes or rings up fat chicken legs at the supermarket where she works, Fannie Payne cannot keep from daydreaming.
>
> "It's difficult to work at a grocery store all day, looking at all the food I can't buy," Mrs. Payne said. "So I imagine filling up my cart with one of those big orders and bringing home enough for all my kids."
>
> Instead, she said that she and her husband, Michael, a factory worker, routinely go without dinner to make sure their four children have enough to eat. They visit a private hunger center monthly for three days' worth of free groceries, to help stretch the $60 a week they spend on food.
>
> "We're behind on all our bills," Mrs. Payne said. "We don't pay electricity until they threaten a cut-off. To be honest, I'm behind two months on the mortgage—that's $600 a month."

The PRESIDING OFFICER. The Senator has 1½ minutes remaining.

Mr. KENNEDY. I yield myself 5 more minutes from Senator BAUCUS's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. She continues:

> "We owe $800 on the water bill and $500 for heat."

These are the real workers who are going to benefit from an increase in the minimum wage.

What has happened over the last 3 years? We have seen the number of Americans who are living in poverty grow from 31 million up to more than 34 million. These are 3 million Americans who are living in poverty, including hundreds of thousands of children, in the richest country in the world, who are living in poverty and, in so many instances, in hunger in the United States of America.

This is what the 2003 survey by the U.S. Conference of Mayors that looked at hunger found. These are mayors, Republicans and Democrats: 39 percent of the adults requesting food assistance were employed. Why? Because the minimum wage cannot provide sufficient income. These are hard-working individuals trying to look out after their families and feed them, and they cannot make enough to provide food for their families.

No. 2, a leading cause of hunger was low-paying jobs. We have a chance to do something about that by increasing the minimum wage. This is what the mayors from all over the country, Republican and Democrat, say, that a leading cause of hunger is low-paying jobs.

Emergency food assistance increased by 14 percent just this last year.

Fifty-nine percent of those requesting food assistance were members of families, with children and elderly parents. This is what is going on in this country. We can make a difference.

Finally, one of the major recommendations they make is raising the Federal minimum wage as a way the Federal Government could help alleviate hunger. Do we hear that? That is the recommendation of the mayors of this country.

Look at what happened in a study the National Urban League did on the issue of minimum wage. They say:

> Minimum wage workers are too often presented as teenagers or wives in the middle class. Yet the clear implication of this study is that the proposed increase in the minimum wage from $5.15 to $6.65 an hour, or to $7 an hour in the case today, would move 1.4 million American households to the level of being food secure, having enough money to buy nutritious, safe food for their families.

It continues:

> The increase in the minimum wage lessens hunger in all households, but particularly in low-income households and in those households in which the householder was less educated, in African, Hispanic, or single parents.

This is what is happening. There is an increased number of those who are living in poverty and an increase in the number of children living in poverty.

Look at the impact of hunger, the consequences of hunger and food insecurity on children. This is the Heller study, June of 2002:

> Elementary-school children from food-insufficient families were more likely to have repeated a grade in school in both a national sample of elementary-school children and a study of low-income families from the Pittsburgh area.
>
> Hungry and at-risk for hunger children from 4 inner-city schools in Philadelphia and Baltimore were absent from school more days than other children and also had higher rates of tardiness. A similar finding with respect to missing school was found in a multistate survey of low income households.

These are the studies. Children are going hungry in America. This proposal is not going to answer all the problems, but it will help 7 million Americans. That is something worthy of this body this day. But we are going to be denied by our Republicans the opportunity of even voting on this amendment.

As I have said often, this is a women's issue because the great majority of individuals who receive the minimum wage are women. This is a children's issue because a great majority of those women have children. It is a women and children's issue. This is a family issue affecting women and children. This is a civil rights issue because so many of these men and women are of color. And finally, this is a fairness issue because people in the United States of America understand fairness, and they believe if you work 40 hours a week, 52 weeks a year, you should not have to live in poverty.

Let's vote up or down, at least have the courage of convictions on the other side and give us a chance and give these 7 million Americans who deserves an increase in the minimum wage an opportunity to have some hope at the end of the day because the Senate did the right thing.

I yield the floor.

Mr. GRASSLEY. Mr. President, yesterday I asked unanimous consent to have printed in the RECORD a letter to myself and Senator BAUCUS signed by 41 Democrat Senators. However, at the time of printing it was missing its second page. I again ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC.

Hon. CHUCK GRASSLEY, Chairman,
Hon. MAX BAUCUS, Ranking Member,
Senate Committee on Finance, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR BAUCUS: We believe reauthorizing the Temporary Assistance for Needy Families (TANF) program is an important item on the congressional agenda for this year. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) made dramatic changes in our Nation's welfare laws that have had a profound impact on disadvantaged families. We agree with the President that the main goal of welfare programs should be to strengthen families and support self-sufficiency. We would like to work with you to build on the strengths of the new system, as well as address areas where the new law falls short.

We are encouraged by the number of families who have moved successfully from welfare to work. However, 33 million Americans still live in poverty. The current economic downturn has led to increases in both unemployment and, more recently in many States, the welfare caseload. Today, almost every State in the Nation faces a fiscal crisis. Under these circumstances, a concerted, bipartisan effort is necessary to preserve the progress we have seen so far, as well as encourage States to help more families become independent.

We strongly support several of the concepts the President has outlined, if designed and implemented appropriately. "Universal engagement" of welfare recipients would help make sure each family's specific circumstances are considered and addressed. Ending the current "caseload reduction credit," which gives States credit for people who are not working, and replacing it with an "employment credit," would provide stronger incentives for States to move families not only off of welfare but into jobs. Similarly, bipartisan proposals to strengthen child support would encourage better relations between non-custodial parents and their children, and help families stay off welfare. We would like to work with you to make sure all States can participate and that families receive the child support they are owed. We also agree that transitional Medicaid benefits should be extended so parents who leave welfare will know their children will have health care as their families make the transition to work.

We are concerned, however, that the administration's proposals lack several key reforms that will help more families achieve self-sufficiency. We believe reauthorization should include four important components to achieve this goal.

First, to be successful, a work-oriented welfare program must demonstrate that work will be fairly rewarded, and that families will be better off if they play by the rules. We must make sure states can provide critical work supports, especially quality child care. Child care assistance is essential if parents are to get a job and stay employed.

A significant increase in funding for child care is needed not only to support the current level of child care provided to low-income working families, but also to improve the quality of care provided and cover the millions of eligible children currently without assistance. We know there are significant additional costs associated with increases in work requirements. Any welfare reform bill must include sufficient funding to ensure that we are not cutting child care services currently provided to low-income working families in order to pay for child care for families receiving TANF cash assistance. In addition, funding must be provided to improve the quality of child care to ensure that low-income children enter kindergarten ready to learn, as well as to increase access for the millions of families who are eligible but currently receive no child care assistance.

This investment is even more important because of the states' fiscal crises. At least 13 states cut their investments in child care in 2002 because of budget pressures, and more are likely to be forced to do so this year or even next year. In this climate, it is not realistic to rely on states to restore these needed funds, or fill in gaps left by federal policies. Failure to strengthen the federal investment in child care will have dire consequences for many low-income families that are trying to succeed in the workplace. We are pleased that the Senate Budget Resolution rejects the President's proposal to freeze child care funding, but we are still concerned that the proposed funding will not sustain current levels of support, let alone improve the quality of care or allow for increased work requirements.

Second, we must recognize the role legal immigrant families play in our economy. Most legal immigrants came to this country to find work; they contribute economically to their communities and play important roles in the labor force. Because of language and other barriers, many must take lower paying jobs and thus can be buffeted by economic dislocation. At their annual winter meeting, the nation's governors reiterated that immigration, which is controlled by the federal government, creates demands at the state level for education, job training, social and health services, and other assistance that is necessary to help immigrants integrate into our communities and become self-sufficient members of society. Currently, 31 states use their own funds, without federal support, to provide TANF benefits and services or health assistance to legal immigrants, and other states often absorb emergency health care costs for these families. Giving states the options to use federal funds for benefits and services to legal immigrants is an issue of fundamental fairness, and it would provide needed fiscal relief for states.

Third, states need more flexibility to make sure workers have the skills to succeed in the workplace. At a minimum, we support the provisions included in the bill reported by the Finance Committee last year. Full-time, work-related vocational training and education, post-secondary education, basic adult education, work-study, and other similar activities can lead to better jobs, more opportunities for advancement, increased family incomes, and a more competitive workforce. We should not arbitrarily limit states' ability to support these activities, since they provide a true "ticket to independence."

Fourth, we support state and local innovation, but will not support a "superwaiver" that merely shifts resources from one pot to another and eliminates basic protections for families, while bypassing Congressional oversight. A broad, vague superwaiver is no substitute for providing states with the flexibility within TANF to craft welfare-to-work programs that meet the particular needs of their state economies and the families they serve.

Finally, we would like to express concern over Administration and House proposals to significantly increase work participation standards and work hours, without flexibility and adequate increases in work supports. We agree that TANF recipients should be engaged in work activities that will help them to ultimately become self-sufficient. However, we feel strongly that we should not impose rigid requirements that would undermine successful state programs, or reduce states' flexibility, which allows them to consider and address the individual needs of participating families, including disabilities and other barriers to employment.

We would also like to point out that states have been successful in reducing their cash assistance caseloads because they have taken advantage of the flexibility in TANF to support low-income working families, including not only those receiving cash assistance, but also those who have left welfare or those who are at risk of needing welfare. These innovative efforts are already in danger because of the states' fiscal crises; increasing work participation requirements threatens the success of these programs by significantly reducing the help available to support low-income working families for child care, and other key services. We believe this would be a major step in the wrong direction.

We would also like to correct the perception that states can support higher work participation standards without additional resources. An argument has been made that states have more resources per TANF family than they had in 1996. This claim is misleading for several reasons. This line of reasoning assumes that non-TANF Child Care and Development Block grants (CCDBG), which support many low-income working families, are used only to support families receiving TANF cash assistance. In fact, the statute specifically states that CCDBG funds are to be used not only for families receiving assistance, but also for, "families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program." (PRWORA, Section 603).

The Administration's figures also assume that all TANF resources are used to support only families receiving assistance. But states have been successful in reducing their cash assistance caseloads because they have taken advantage of the flexibility in TANF to support low-income working families, including those who have left welfare or those who are at risk of needing welfare. The General Accounting Office reported in April 2002 that "at least 46 percent more families than are counted in the reported TANF caseload are receiving services funded, at least in part, with TANF/MOE funds."

The President has said, "It is not yet a post-poverty America." If we are to reach this goal, we must maintain strong federal and state support for welfare reform, so that families can escape the ravages of poverty and become self-sufficient. We look forward to working with you on a bipartisan basis to achieve these important goals.

Sincerely,

Tom Daschle, Bob Graham, Jay Rockefeller, Blanche L. Lincoln, John F. Kerry, John Breaux, Edward M. Kennedy, Jeff Bingaman, Hillary Rodham Clinton, Patty Murray, Jon S. Corzine, Barbara A. Mikulski, Maria Cantwell, Chuck Schumer.

Frank R. Lautenberg, Herb Kohl, Tom Harkin, Daniel K. Akaka, Russell D. Feingold, Byron L. Dorgan, Mary L. Landrieu, Paul Sarbanes, Dianne Feinstein, Joe Lieberman, Tim Johnson, Barbara Boxer, Dick Durbin, John Edwards.

Carl Levin, Daniel Inouye, Debbie Stabenow, Harry Reid, Jim Jeffords, Chris Dodd, Ron Wyden, Patrick Leahy, Mark Pryor, Fritz Hollings, Jack Reed, Kent Conrad, Joe Biden.

Mr. DASCHLE. Mr. President, how much time remains?

The PRESIDING OFFICER. Seven minutes forty seconds.

Mr. DASCHLE. Mr. President, if you could tell me when I have used 3 minutes, I would appreciate it. I want to leave some time for the distinguished manager of the bill.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, this issue is very important. If we really want to help people move from welfare to work, we ought to increase the minimum wage.

First, I wish to identify myself with the distinguished Senator from Massachusetts and what he just said about the importance of the minimum wage issue, but I want to talk more to the procedural question.

In 1995, when we debated welfare reform the first time, the Senate had 40 rollcall votes—40 rollcall votes. The next year when we dealt with it a second time, because the bill had been vetoed, the Senate had 30 rollcall votes, even under reconciliation. So we have had 70 rollcall votes in the consideration of this bill on two occasions in fewer than 10 years.

We have had one vote—one vote—on this bill so far. It was a good vote. I am very appreciative of the commitment made on a bipartisan basis to childcare. But the real question is, Can you have the kind of debate that has been experienced in the past, that should be anticipated now with the benefit of one vote?

I have offered the distinguished majority leader that we could work through the remaining amendments and finish this bill before we leave next week. I have offered that consistently through the last several days in the hope we could reach some agreement. I am very disappointed that we have not been able to find some way with which to resolve just the procedural differences. A vote on minimum wage, a vote on the unemployment compensation, a vote on relevant amendments to the welfare bill is not too much to ask and, indeed, that has been the practice of the Senate.

We are willing to work. This is not a question about whether we support welfare reform. We will get an overwhelmingly bipartisan vote on welfare reform, as we should. This is not a question of whether we should have anything less than an opportunity to debate issues that are directly relevant to people's lives as they try to cope with the extraordinary financial pressures they feel trying to get off welfare. We are hopeful we can do that.

We are hopeful we can work with our Republican colleagues and figure out ways to deal with these relevant amendments and these amendments about which our Democratic caucus feel very strongly.

We will oppose cloture today but in no way, shape, or form is it an indication of our lack of willingness to work to finish the legislation itself. Give us a chance to do what we have done twice before on this bill. Give us a chance to vote on amendments that are critical to a good and full debate about the direction we ought to take with regard to this bill, and you will have closure on it at a time in the not too distant future.

I hope my colleagues will work with us to make that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, what the Democratic leader has just suggested is allowing us to vote on welfare reform, but what the Democratic leader has insistently refused to do is to allow that bill to go to conference. Of course, a bill passage means nothing unless there can be a final resolution on that legislation. So what we are being told is they will give us an apparent victory of passing legislation with no end in sight. The idea that somehow or another we are going to have a final resolution—I think the words of the Senator from South Dakota were "final resolution"—is simply not accurate. Passing a bill that has already been passed by the House gets basically put in limbo until we go to conference.

The Democratic leader has been very clear about not moving this bill to conference. So let's be perfectly clear, we are absolutely ready—in fact, I will offer a unanimous consent. We are absolutely ready to give votes on issues of importance to the Democrats and, as I said before, we are willing to pay a ransom. But we want to make sure we get our victims back, and the victims in this case are the welfare reform bill and FSC/ETI.

We want to make sure they have a chance of becoming law, not put in the bin of bills that have yet to go to conference because of some concern about fairness in conferences.

I ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to back-to-back votes, first, in relation to a public minimum wage amendment, to be followed by a vote on or in relation to the Boxer amendment with no second-degrees in order to either amendment; provided further that the bill be limited to germane amendments, and at 9:30 on Friday, April 2, the substitute amendment be agreed to, the bill be read a third time, and the Senate proceed to a vote on passage of the bill with no intervening action. Finally, I ask unanimous consent that following the passage of the bill, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

I will explain what I have requested, and that is that we give a vote up or down, which has not been allowed on a whole host of judges on this side, on the issue the Democrats say is the important issue of the day, in exchange for all the germane amendments the Democrats would like to offer between now and tomorrow morning. And if they would like a little bit more time tomorrow, we would be happy to do that, but passage and conference, that is what this request asks.

Historically in the Senate, when we passed a bill we automatically went to conference. That has changed. So now we have to specifically include to do so in the unanimous consent or we do not get to conference.

I ask unanimous consent according to what I just read.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Is there objection?

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I simply say that on 21 occasions now when we have completed our work on a bill, we have done what is actually the normal process. We have—

Mr. SANTORUM addressed the Chair.

Mr. DASCHLE. I am reserving the right to object, and I assume I have the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor. There is no right to reserve the right to object.

Mr. SANTORUM. Mr. President, I am happy to let the Senator from South Dakota talk on his time since my time is limited. If he would not mind taking his time, he could reserve the right to object.

Mr. DASCHLE. Mr. President, I simply reserve the right to object and ask consent that the bill be sent to the House once it has been completed.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I object to that modification because what the Senator from South Dakota has just said is, no, I will not let the bill go to conference. That is what sending the bill back to the House means, which means, no; no conference.

As we all understand, without conference we do not get closure. Without closure, we do not get a bill and we do not help millions of Americans get out of poverty. What we are playing is politics.

I commend to my colleagues a Brookings Institution Policy Brief of September 2003 "Welfare Reform & Beyond #28."

Mr. President, I ask unanimous consent to have several articles printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Post, Apr. 14, 2003]

WELFARE REFORM WORKS, YET POLS SEEK ROLLBACK IN N.Y.C. AND U.S.

(By June O'Neill)

Politicians and experts from the left and the right acknowledge that welfare reform has succeeded beyond the most optimistic expectations. Yet the reforms are nonetheless under political siege: Reauthorization of the major welfare-reform law is now nearly a year overdue and seems mired in Capitol Hill politics. And last week the City Council gutted the welfare-to-work policies that made New York City one of the brightest examples of reform's success.

One can only hope that Congress will listen to the message of a large body of research that the council totally disregarded—and pass a bill that retains the emphasis on work that has served us so well.

In 1995 and '96, many in the policy community predicted disaster—children crushed by poverty and neglect—if work-oriented reform were approved. Instead, as documented in the recent Manhattan Institute report I wrote with Anne Hill, the poverty rate for single mothers, the major group affected by welfare reform, has fallen by a record amount, from 40 percent to 32 percent between reform's passage in 1996 and 2001.

Underlying this drop in poverty was a dramatic rise in the employment of single mothers and an earnings gain large enough to more than offset the decline in welfare benefits: Single mothers saw their incomes rise by more than 20 percent over the same period.

As to the children, a recent study by Northwestern University's Lindsay Chase-Lansdale and others found that mothers' transitions off welfare and into employment were not associated with negative outcomes for their preschool or young adolescent children.

New York City was perhaps the ultimate testing ground for reform. In 1996, prior to passage of the reform law, 10 percent of the city's population was receiving welfare benefits, compared to only 3 percent in the rest of the state and 5 percent nationwide. Moreover, that number had fluctuated little in decades. But by December 2002, the city welfare rolls had dropped 55 percent, even including those getting state and city rather than federal aid. And the number of recipients continued to fall despite the painful 2001–2002 recession.

What happened to the people who left welfare? A 1997 Columbia University study predicted that 500,000 single mothers would be forced into poverty within five years. That prediction proved totally wrong: The poverty rate among the city's single mothers fell by more than a fifth, from 52 percent to 40 percent. Far from ending up helpless and in deprivation, single mothers moved into the workplace in record numbers.

Some have tried to explain away these positive developments by claiming that they were caused by the 1990s economic boom. That explanation fails under scrutiny. In our Manhattan Institute report, we find that welfare reform can account for more than 40 percent of the rise in single-mother employment between 1996 and 2001; the boom was responsible for less than 10 percent.

Of course, it is always difficult to separate out statistically the net effects of different variables when both are changing. However, our formal statistical analysis is bolstered by historical observations which clearly show that both the welfare and work participation of single mothers in the pre-reform period was only weakly responsive to the ups and downs of the business cycle. This explains why welfare rolls have not risen much during the recent recession and in many places have continued to decline.

In other words, single mothers didn't leave welfare for work because a good economy pulled them in. They left because welfare reform changed the incentives single mothers face, making work a much better option for them in the short and long-terms.

Before reform, welfare was a long-term entitlement to a guaranteed income—cash, food stamps and medical benefits, and often subsidized housing, too. This income was a limited one, but it was given without any work requirement. So a woman on welfare, particularly one with school-age children, also gained something everyone values—lots of time to spend on activities of her choosing.

Welfare reform changed all that. Strict work requirements sharply curtailed discretionary time. The five-year time limit meant that long-term welfare support was no longer an option. Faced with a dramatic shift in incentives, some women who would have gone on welfare did not do so, while many on welfare chose to leave welfare much sooner than they would have.

The commitment to join the workforce has given single mothers the impetus to gain the skills and experience essential to improving their lives. Indeed, my recent research shows that women did better economically the longer they stayed off welfare and in the workforce. Poverty rates dropped 50 percent for women who did these things for four years.

Why? Each year in the workforce brings additional money—their hourly pay rose about 2 percent (after inflation) per year worked, 3 percent if they stayed with one employer for that time—enabling many to raise themselves out of poverty.

Welfare reform succeeded because it made going to work more attractive than going on welfare. Reauthorization of reform is being held up and threatened by the failure of many in Congress to recognize this point.

Some would tie reauthorization to an increase in the ability of single mothers to substitute education and training programs for work experience. Such proposals sound good—and typically were the centerpiece of the failed welfare initiatives of the past—but they fly in the face of what we know about why welfare reform worked, in New York City and throughout the country.

(From the New York Times, Mar. 6, 2004)

THERE'S MORE WELFARE TO REFORM

(By Douglas J. Basharov)

When the landmark 1996 welfare reform law came up for reauthorization in 2002, easy approval was expected. After all, the legislation was popular, it had originally passed with significant bipartisan support and, well, it was working, with the number of people on welfare down an astonishing 60 percent since states started putting reforms in place.

But instead of sailing through Congress, the reauthorization effort became trapped in a political tug of war between Republicans (who wanted tougher work requirements added to the law) and Democrats (who wanted increased federal money for child care). Instead of reauthorizing the law, Congress has simply extended it several times, and now it looks as if there will be yet another extension. That's a shame—because the legislation needs to be updated now.

Despite the law's success in getting people to join the work force, roughly two million families remain on welfare, many headed by single mothers who are unable to get—or keep—a job because of limited education and skills.

The Bush administration's reauthorization proposal focused on these mothers. Because few states had made a concerted effort to move them into programs that build specific job skills, the administration called for states to adopt tougher work and training requirements. Under the proposal, states would have to put 70 percent of their adult recipients in these designated activities for 40 hours a week.

The administration's proposal was not quite as tough as it seemed. It had a number of participation exemptions. What's more, as the bill moved through the legislative process, it was watered down in order to win support from moderates on both sides of the aisle.

But the administration was reluctant to broadcast the legislation's softer side—doing so might undermine its pro-work rhetoric. That silence played into the hands of Democrats. If the Republicans wanted welfare mothers to work more, they argued, there should be a parallel increase in child care financing.

The Democrats had a point. But their demand for as much as $10 billion in additional child care aid went far beyond the needs of welfare families. It would have covered families that had never been on welfare—and were in no danger of needing it. Over time, the Democrats lowered their demands; at this point, they would probably settle for about $6 billion over five years, which is still more than what is needed to carry out the administration's plan.

For the past two years, the administration has rejected such large spending increases and, given the criticism President Bush is receiving for the growing federal deficit, it seems unlikely that he will give the Democrats what they want. The Democrats' position likewise seems to be hardening. They are now talking about waiting for a President John Kerry to reauthorize welfare reform.

The stalemate is doubly painful because there are clear grounds for compromise. Republican modifications have resulted in work requirements that, if clarified, would enjoy wide support. Democrats know that reauthorizing the legislation now will ensure that states get modest but still substantial increases in child care money. Another year's wait would keep the states at 2002 financing levels, something that has so far cost them $400 million.

Further delay would also forestall desperately needed changes to the legislation. States have to be encouraged to address the needs of the hardest-to-employ welfare recipients by toughening participation requirements. Judging by the experience of the states that have had the most success moving these mothers into employment, we should require 50 percent of a state's welfare recipients to spend 24 hours a week in required activities—perhaps 32 hours a week for mothers with no children under the age of 6. States should be given greater flexibility in how they reach this level, so long as at least 10 percent of their welfare recipients are in mandatory community service or on-the-job training programs. (A separate exemption of up to 15 percent would be needed for the disabled.)

To cover additional child care and administrative costs, a formula should be established that ties payments to the states to increases in participation. The question of whether there should be more federal aid for child care should be reviewed on its own merits, not under the guise of welfare reform.

This kind of bipartisan compromise is never easy in an election season. But two million American families are still trapped on welfare. Can we really afford to wait another year?

(From the Washington Post, Aug. 5, 2003)

WORK: THE KEY TO WELFARE

(By Brian Riedl and Robert Rector)

Should Congress make work requirements for welfare recipients stricter? That's what would happen under a bill the House of Representatives has passed. It would require more recipients to work 40 hours a week instead of the current 30 and stop vocational training from counting as "work."

Bad idea, the critics say. They claim that education and training programs lead to successful high-paying careers, while putting welfare recipients to work immediately traps them in low-paying, dead-end jobs.

Wrong.

Welfare recipients assigned to immediate work see their earnings increase more than twice as fast over the following five years as those first placed in education-based programs, according to calculations we made using data from the Manpower Demonstration Research Corp., a New York-based nonprofit group. In fact, most government-run job training programs barely raise hourly wage rates at all, a report commissioned by the U.S. Labor Department reveals.

If the goal of welfare reform is to raise earnings while reducing dependency, then quickly moving welfare recipients into real jobs is the answer. Prolonged classroom training tends to be the dead end.

Before the 1996 welfare reforms, the Aid to Families with Dependent Children (AFDC) safety net was just that—a net not only catching but also trapping nearly all who fell into it. Welfare reform replaced AFDC with a program called Temporary Assistance to Needy Families (TANF). This program was designed not as a net but as a trampoline, springing families back up to self-sufficiency by placing adults in permanent jobs.

The undeniable success of this approach is demonstrated by the more than 5 million people (including 3 million children) who have risen out of poverty since the law was enacted. After remaining static for nearly a quarter-century, the poverty rate of black children has dropped by a third and is now at the lowest point in U.S. history. The poverty rate for single mothers has plummeted in a similar manner since 1996; it, too, is at the lowest point in national history.

But welfare reform wasn't perfect. Today less than half of TANF adult recipients are employed or preparing for employment in any way. Most remain idle and continue to collect welfare checks.

President Bush and his congressional allies want to strengthen welfare reform by increasing the TANF work-participation rate to 70 percent; opponents seem content excluding millions of families from working or even preparing to work. Yet those who would enact legislation that leaves hundreds of thousands of welfare recipients in idle dependence are clearly harming those they wish to help.

And those who believe welfare recipients are better served by education and training programs are ignoring the skills that would help these poor adults the most. A study conducted by the Washington-based Urban Institute shows that employers consider a positive attitude, reliability, work ethic and punctuality the most important traits they look for when hiring for entry-level positions. These traits can't be taught in a classroom, or as part of a training program—they are acquired through firsthand work experience. Not surprisingly, the same employers consider job training the least important qualification.

Unlike those stuck in a classroom or government-run job-training office, individuals placed in immediate work gain real-world experience mastering job duties. As they build work records, more job options and higher earnings become available. In the meantime, even minimum-wage parents can use the earned income tax credit, food stamps, Medicaid, the Child Care Development Fund and the school lunch program to raise their total income to two-thirds above the federal poverty line.

Some critics insist that all employable adults have already left welfare, leaving only individuals with insurmountable personal barriers to work. Not true. Urban Institute data reveal the current welfare recipients are no less work-ready than those who have left welfare. In fact, a substantial number of them aren't classified as having any barriers to work. And most of those with such barriers as a lack of transportation, a slight disability or an inability to speak English can, in fact, land jobs. But their chances of doing so are much better if we insist on immediate work.

The PRESIDING OFFICER. Is there objection to the unanimous request of the Senator from Pennsylvania?

Mr. DASCHLE. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to oppose the pending motion to invoke cloture. We are here today because the majority chooses not to allow a vote on a minimum wage. It is that simple.

That is wrong. It is wrong because the millions of hard-working Americans making the minimum wage deserve a raise. It is wrong because the Senators from California and Massachusetts also deserve to get a vote on their amendment. It is not right that a person who has a full-time job at minimum wage still has to live in poverty, but that is where we are today in America.

For a family of three, let's say a mom and two kids, the gap between the poverty line and the minimum wage is $3,681. That is right, a family would need $3,681 more just to get up to the poverty level, and that is before taking into account the cost of child care, which is a big factor, or the cost of gasoline for the car—we know how much gasoline prices are rising—or the cost of clothes for a job. Often a person has to buy separate clothes for a job.

If we want people to be able to move off welfare and into work—and that is what we want, people off welfare into work—we have to make sure the work they get pays enough so they can get off welfare and lift them out of poverty. That is what we have to do, and that is why increasing the minimum wage is so important.

Most people who are on welfare will say they want to get off welfare; they do not like it; they hate it. That is what they tell me. I have talked to a lot of people on welfare. One of the main reasons they will say it is so difficult to get off welfare is because the job that pays at minimum wage does not pay enough for them to get by. I have heard that countless times. They are working full time but they cannot make ends meet. We need to raise the minimum wage to help people get off welfare.

The vote today is also about another point. The Senators from California and Massachusetts deserve at least to have a vote on their amendment. They are willing to enter into a short time agreement. They are not delaying. They say, sure, let's have a vote on their amendment, with a short time agreement. They are not delaying. It is the other side which is preventing them from having a vote.

We on this side of the aisle do not wish to delay this bill. We are willing to work to get a finite list of amendments. We are willing to enter into a time agreement on amendments. We are not asking for anything out of the ordinary.

I remind my colleagues that during the 13-day period for which the Senate considered the basic bill, the 1995 welfare bill, September 7 to September 19 of 1995, the Senate conducted 43 rollcall votes on amendments. So far this year we have conducted one, and yet there is a cloture motion to try to stop debate. That is not the way to legislate. We are not asking for anything out of the ordinary. We merely ask that Senators be able to offer amendments and get votes on their amendments.

We have time agreements, we have lists, and so forth. That is what this debate is about. I urge my colleagues to uphold the rights of Senators. I urge Senators to vote to increase the minimum wage. I urge Senators to oppose cloture.

How much time does each side have remaining?

The PRESIDING OFFICER. Ten seconds.

Mr. BAUCUS. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I reiterate that we are perfectly willing to give up-or-down votes for a chance to pass this bill. I have asked unanimous consent and the other side has said no.

I have heard so much about everyone having a right to get up-or-down votes. We have had a debate on the floor of the Senate for a year and a half about up-or-down votes on Federal judges. So maybe we can exchange up-or-down votes.

I ask unanimous consent that we have an up-or-down vote on the Boxer-Kennedy amendment, followed by a vote on a McConnell relevant amendment dealing with minimum wage, in exchange for a vote on Calendar No. 169, Carolyn Kuhl, of California, to be a judge on the Ninth Circuit Court of Appeals, and Calendar No. 455, Janice Rogers Brown to be United States Circuit Judge for the District of Columbia.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. SANTORUM. So we understand up-or-down votes only apply to their amendments and the things they want to do, not what Republicans want to do.

We need closure and we are not getting it.

The PRESIDING OFFICER. All time has expired.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR BYRD'S 17,000TH VOTE

Mr. DASCHLE. Mr. President, I would inform my colleagues that with this vote we will witness history. Senator BYRD will have cast his 17,000th vote. No Senator in all of history will have done that. I will have more to say about that after the vote.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant journal clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 305, H.R. 4, an act to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Bill Frist, Charles E. Grassley, John E. Sununu, Conrad Burns, Lamar Alexander, Peter G. Fitzgerald, Larry E. Craig, John Cornyn, Robert F. Bennett, John Ensign, Orrin G. Hatch, Mike Enzi, Mitch McConnell, Ted Stevens, Norm Coleman, James M. Inhofe, Kay Bailey Hutchison.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the pending committee substitute amendment to H.R. 4, an act to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality childcare, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Alaska (Ms. MURKOWSKI) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 47, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Kerry
Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FRIST. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

CONGRATULATING SENATOR ROBERT C. BYRD ON CASTING HIS 17,000TH VOTE

Mr. FRIST. Mr. President, I would like to take a moment to remark on a truly historic moment that just took place about 15 seconds ago, a moment we all witnessed which is special in United States history in a way we will shortly lay out.

Senator ROBERT BYRD is already recognized as an American icon. In 1917, he began life as a virtual orphan. His mom passed away when he was a year old. His aunt and uncle brought him to West Virginia to raise him on their own.

Hard working, enterprising, ROBERT BYRD made the most of every single opportunity along the way and rose to become the third longest serving Member of Congress in U.S. history.

Among his many distinctions, Senator BYRD has held more leadership positions in this body, the U.S. Senate, than any other Senator in American history.

Over the course of eight consecutive terms, Senator BYRD has cast more votes than any other Senator in the history of the Republic. Today, just a couple minutes ago, Senator BYRD cast his 17,000th vote in this Chamber. I applaud Senator BYRD for his commitment to public service. This vote is truly a milestone in his career and the history of the U.S. Senate.

Without question, when history is written, Senator BYRD will hold a prominent place as a Senate legend.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I join the majority leader and all the Members of our body in congratulating Senator BYRD on reaching this historic milestone. I thank him for his half century of service to the U.S. Congress. Seventeen thousand votes is an astonishing number. It is even more astonishing when you consider that Senator BYRD has now cast 652 more votes than the first runner-up, Senator Thurmond. He has served 2 years less than Senator Thurmond.

Here is another remarkable statistic: In the last 45 years in the Senate, ROBERT BYRD has voted on 98.72 percent of the questions put before this body. He has missed only about 1 percent of all votes cast over 45 years—the second highest percentage of all Senators who have cast 10,000 votes or more.

From July 25, 1984, through September 17, 1997—a period of more than 13 years—Senator BYRD did not miss one single vote. He cast 4,705 consecutive votes—the second highest consecutive vote total in Senate history. Of the 11,708 persons who have ever served in the U.S. Congress, only two have served longer than ROBERT C. BYRD. But what makes Senator BYRD's vote totals and voting percentages even more remarkable are some of the other achievements Senator BYRD has recorded over these last 45 years.

He is the first person ever to start and finish a law degree while serving in Congress. It took him 10 years. He graduated from American University Law School in 1963. President Kennedy was his commencement speaker.

In 1994, he fulfilled a lifelong ambition. He finally received his bachelor's degree from Marshall University summa cum laude—the first person in his family ever to go to college.

There are two reasons Senator BYRD has reached this historic 17,000-vote milestone. First, ROBERT C. BYRD believes, in his bones, if you have a job to do, you do it. He is a coal miner's son who has worked hard all of his life. He got his first job when he was 7, selling the Cincinnati Post. He has been a produce boy, a gas station attendant, a head butcher, and the owner of a small grocery store. He is a man who believes in earning his pay, who knows how it feels to fall asleep at night exhausted but proud for having met his responsibilities for 1 more day.

The other reason Senator BYRD has reached this milestone is because of his great love of West Virginia, of this Nation, and of the Senate.

Of course, the greatest love in Senator BYRD's life is his wife Erma. For the last 3 years, Mrs. Byrd's delicate health, and Senator BYRD's desire to be with her as much as possible, to support her, has made it even more difficult for Senator BYRD to answer every rollcall vote. Yet he has continued to do so.

We are privileged to work with him. On this historic occasion, we congratulate him. And we thank ROBERT and Erma BYRD for all they have given this Senate and our Nation.

(Applause, Senators rising.)

Mr. BYRD. Thank you.

The PRESIDING OFFICER. The senior Senator from West Virginia.

Mr. BYRD. Mr. President, 17,000 votes ago, I achieved a dream. I stood on the floor of the U.S. Senate and prepared to cast my first vote as a Senator from the Mountain State of West Virginia. Seventeen thousand votes later, I still feel much the same. It is a great honor, a great privilege to serve the people in the Senate.

Ours is a glorious country. Its people are wise. They are brave. They are hard-working and fairminded.

Once it was possible for a poor young man with no important connections, with no PR firm behind him, with no fundraising apparatus racing at full tilt, to simply go out to the people, carrying his fiddle and having a mind full of poetry, and on the strength of his energy and his convictions, to be elected to the greatest deliberative body the world has ever known.

That time is light-years away from today's reality. Too often now in America it is the size of the pocketbook that elects public officials. I regret that change. It keeps people out of public service instead of welcoming them into public service.

This Senate is the forum which exists to welcome and to protect the airing of all points of view. Both sides of the aisle need to work together to ensure that the Senate will stay true to its constitutional purpose. We swear an oath before God and man to support and defend this Constitution. Many times I have sworn that oath before God and man to support the Constitution of the United States.

I have had a good run in this wonderful institution. And like Majorian, who, when he became Emperor of the Roman Empire in 457 AD said, "I still glory in the name of Senator."

My patient and devoted wife Erma, with whom I will celebrate a 67-year-long partnership 58 days from now, the Lord willing, deserves much of the credit for that good run. I also thank my talented staff for their tireless work and dedication.

No man is an island, and I have had the good fortune to have many steadfast friends and supporters over the years. To the people of West Virginia, I owe my everlasting gratitude. They have expressed their faith in me time and time again. I am proud to be their Senator, and I hope to continue to serve for a long while.

I thank my colleagues. They have been patient. They have known my shortcomings. I have said things from time to time that I regretted. We are all human. But my colleagues have been considerate of me, and I thank them.

Pericles, the brilliant Athenian statesman, gave mankind one of the greatest funeral orations ever made. This address was delivered in 431 BC as a memorial to the first Athenian soldier who fell in the Peloponnesian War. In this address, Pericles said:

> It is greatness of soul alone that never grows old, nor is it wealth that delights in the latter stage of life as some give out, so much as honor.

And so it is honor itself that never grows old. I thank my colleagues for the honor they show today.

Finally, but most of all from Chronicles, 29th chapter, verses 11 and 12:

> Thine, O Lord, is the greatness, and the power, and the glory, and the victory, and the majesty: for all that is in the heavens and in the earth is thine; thine is the kingdom, O Lord, and thou art exalted as head above all.
>
> Both riches and honor come of thee, and thou reignest over all; and in thine hand is power and might; and in thine hand it is to make great, and to give strength unto all.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from West Virginia honors us all with that last statement he made.

Over the years I have been here, it has been my privilege to travel with the Senator from West Virginia to many events. I want to recall one for the Senate that I am sure the Senator will remember.

We were in West Virginia with the British American Parliamentary Conference. One of our guests from Britain made the mistake of saying it was too bad that their American cousins did not know anything about British history.

My colleague was the host that evening. And making a closing statement for that dinner, Senator BYRD decided to show our British cousins his wealth of knowledge about the history of Britain and proceeded to name every monarch, every spouse, every person who had a personal relationship with every monarch, and a complete history of the monarchy of Great Britain.

Needless to say, when he finished, which was quite a few minutes later, the British stood and applauded politely, and we have never heard such a comment again from our British cousins. There have been many other occasions we have had together.

I wanted to say that one of the great joys of serving in the Senate is my being able to get to know my friend from West Virginia. We have had our disagreements, but that is natural because this aisle separates us once in a while. But nothing has separated ROBERT BYRD from each Senator in the Senate. He has been the most agreeable Senator, on a personal basis, that I have known in the Senate. I think every Senator will say the same thing. He always has a smile. He always increases that smile if we remember to ask about Erma.

Mr. President, I join in the applause, but I think the Senate itself has been honored today to witness this historic mark in his career.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I wanted to say that last night I had the pleasure of going to the Smithsonian Institution and meeting members of the Baseball Hall of Fame. There were people there who were, to me—as a young boy, I wanted to be a baseball player and always listened to the game of the day. There were people there, including Gaylord Perry, Dave Winfield, Joe Morgan, Sandy Koufax, Stan Musial.

I have to say to my friend from West Virginia, as great an experience as that was for me visiting with those great athletes of yesteryear, that pales in comparison to the experiences I have had while serving with the "Babe Ruth" of the U.S. Senate.

When I was elected to this leadership job, Senator BYRD supported me. I wrote him a letter—and I am confident he remembers that like he does everything else—and I said I believed he was the Babe Ruth of the U.S. Senate. When I say that, he is a member of the hall of fame, of course, but the Babe Ruth in the Baseball Hall of Fame stands above all the rest. In the Senate, Senator ROBERT BYRD stands above all of us. I have a degree in history and I know something about it. I know we have great Senators here, but I have had the opportunity to serve with the greatest.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I rise for a moment to add my voice to those who praise Senator ROBERT C. BYRD. I think what every public servant deserves, and occasionally gets, is a recognition that his or her service is in fact profoundly appreciated. That is usually not the case. The American people are not as aware of what goes on in these Halls, or even in their own legislative halls, as they ought to be.

But I take special happiness out of this day for Senator BYRD because he has accomplished something that nobody else has with his 17,000th vote. He rose to cast his vote, as he always does. When somebody comes to greet him, argue with him, plead with him, and he is at his seat, he always rises, be that a man or a woman. He has brought, in my judgment, not only a tautness to the debates that we have in this Chamber, not always agreeing with the majority or with the minority, but he knows his mind and he knows his soul, and he knows his God. He does not deviate from that and he cares not who appreciates that or who doesn't.

In other words, Senator BYRD is a man who, over the years, through the crucible of tough experiences and steadfast devotion not only to his God but also to the great figure who is not here today, who is so much part of his life and who brings out even in saying her name a great emotion in me, and that is his absolutely wonderful, wonderful wife Erma, honors us by his service.

I was with him earlier this morning as he was talking to schoolteachers from all over the United States who are trying to get their students to write better. It is called the "writers project," which he has been instrumental in doing. He talked to them of public service and the need for accuracy and being fair. What he was really saying is that doing something in your life which is not only important but which you give yourself to profoundly, completely, an utter devotion to duty, is what separates the great and the near great.

I am very proud to serve with Senator BYRD. We have served together for 20 years now and have known each other for close to 40 years. Our wives are good friends; we are good friends. I sit behind him in the seat that Senator Moynihan used to occupy. I enjoy seeing people coming up to him and making their case, which talks not only of his courtesy, because he is so often on the floor, but also of his power to get things done, which then makes me say that there is no possible way to describe, from the point of view of the Senators in my State of West Virginia, what he has meant, does mean, and will mean for that State.

West Virginia is a State that has always had to struggle. We have always had to keep pushing the rock uphill, not daring to take one hand off for fear that the rock may roll back over the top of us. It takes a tough person and a moral person and a determined person to fight the battles that are needed to be won for our people in West Virginia. That comes to Senator BYRD instinctively.

I am so proud of this day because I cannot help but feel that when Senator BYRD goes to bed tonight, he will have a strong and profound sense of satisfaction—not that he needs to feel that, but that will make me feel better if he does feel that, because he serves our State and our Nation as few people have in the history of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I join with our colleagues and just tell Senator BYRD what a mentor he has been to the newer Members of the Senate. There are moments and experiences here that one never, never will forget. I will never forget the first time, with somewhat trembling knees, I rose to give my first speech. In the course of that speech, I happened to mention it was my maiden speech in the Senate.

Of course, I was speaking to an empty Chamber, except for the Presiding Officer. All of a sudden, the doors swing open and in strides Senator BYRD. As I finished my remarks, Senator BYRD rose to his feet and said:

> Will the Senator yield?

And then proceeded to give a history of the maiden speeches of the Senate. What a mark upon this junior Senator, what a pleasant memory that he is such a great mentor to all of us. We thank him.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is entirely appropriate for the Senate to pause for a few moments to recognize not only the record of 17,000 votes, but also the presence and continued service of a remarkable man who happens to be the senior Senator from West Virginia.

BOB BYRD is our Lou Gehrig the iron man of the Senate. For me, BOB BYRD personifies what our Founding Fathers were thinking about when they were thinking about a United States Senate. He brings the kind of qualities that the Founding Fathers believed were so important for service to the Nation.

When history records his remarkable service to the United State Senate, they will find there has been no one—no one—in this body who has defended the Constitution of the United States more vigorously, tenaciously, and with a greater understanding, awareness, and belief in its words.

There has been no one in history that has better understood the importance of the United States Senate and its role in our great democracy. BOB BYRD understands what our Founding Fathers intended, and because of his constant and persistent efforts, this institution is finer and all of us are finer Senators.

Senator BYRD, we are grateful for your service and this country is appreciative and grateful for your defense of the Constitution and for your service to this country. I am grateful to have you as a friend.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I add my voice as well to my seatmate, if I may. I sit in this chair by choice. Senator BYRD sits in his chair by choice as well, but he makes the choice before I do. I wanted to find out where he was going to sit so I could sit next to him. I did that because I wanted to sit next to the best, to learn everything I possibly could about the ability of this institution to provide the kind of leadership I think the country expects of us.

Several thoughts come to mind. This is a day of obvious significance in the number of votes that have been cast, 17,000, but it is far more important to talk about quality than quantity. Quantity is not an insignificant achievement, but the quality of my colleague and friend's service is what I think about when the name ROBERT C. BYRD comes to my mind.

I carry with me every single day, 7 days a week, a rather threadbare copy of the United States Constitution given to me many years ago—I can't even read it well now; it is so worn out—I may need a new copy—given to me by my seatmate, ROBERT C. BYRD. I revere it. I tell people why I carry it because it reminds me of the incredible gift given to me by the people of Connecticut to serve in this Chamber, to remind me of the importance of an oath we all made, and that is to do everything we can to preserve, protect, and defend the principles upon which this Nation was founded. ROBERT C. BYRD, in my mind, is the embodiment of that goal.

It has often been said that the man and the moment come together. I do not think it is an exaggeration at all to say to my friend from West Virginia that he would have been a great Senator at any moment. Some were right for the time. ROBERT C. BYRD, in my view, would have been right at any time. He would have been right at the founding of this country. He would have been in the leadership crafting this Constitution. He would have been right during the great conflict of civil war in this Nation. He would have been right at the great moments of international threat we faced in the 20th century. I cannot think of a single moment in this Nation's 220-plus year history where he would not have been a valuable asset to this country. Certainly today that is not any less true.

I join my colleagues in thanking the Senator from West Virginia for the privilege of serving with him. He has now had to endure two members of my family as colleagues. Senator BYRD was elected to the Senate in 1958 along with my father. He served with my father in the House. I have now had the privilege of serving with Senator BYRD for 24 years, twice the length of service of my father. That is an awful lot of time to put up with members of the Dodd family. We thank Senator BYRD for his endurance through all of that time.

There is no one I admire more, there is no one to whom I listen more closely and carefully when he speaks on any subject matter. I echo the comments of my colleague from Massachusetts. If I had to pick out any particular point of service for which I admire the Senator most, it is his unyielding defense of the Constitution. All matters come and go. We cast votes on such a variety of issues, but Senator BYRD's determination to defend and protect this document which serves as our rudder as we sail through the most difficult of waters is something that I admire beyond all else.

I join in this moment in saying: Thank you for your service, thank you for your friendship, and I look forward to many more years of sitting next to you on the floor of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I join with my more senior colleagues in paying my respects and tribute to the great Senator from West Virginia, Mr. BYRD. It is a mark of his greatness that he has had such a powerful effect on not only the most senior of his colleagues who have been here the longest, but also the more junior Members of the Senate, such as myself.

When I arrived here in January 2001, just a little over 3 years ago, I was one of 12 freshman Senators from both sides of the aisle. We were given many words of encouragement from our colleagues, but basically left to find our own way or flounder along the way. It was Senator BYRD who took it upon himself to convene tutorials with the 12 of us. We convened promptly at 4 o'clock in his office, and he shared with us his perspective on the Senate.

From the four volumes he has orated and published as the history of the U.S. Senate, as well as the volume he orated from his own direct knowledge and reading about the Roman Senate, there is no one who possesses more wisdom and a broader understanding of the historical role and the responsibility of this body and this great democracy and Republic.

Those of us who had the benefit of those tutorials learned more from those sessions about how to conduct ourselves in the Chamber where he has served with such greatness than from anything else.

When the time came for us to preside, as we took the majority, I had the opportunity, through many hours, to watch and listen to Senator BYRD, particularly in the fall of 2002 when we were debating the resolution to give the President authority to make the final decision on whether to commit this Nation to war in Iraq.

Senator BYRD was heroic in standing forth and taking a stand which I supported because of the compelling wisdom of his words and the power and the eloquence to remind us that we had a constitutional responsibility in this body which we were forsaking by abdicating that responsibility to the President.

I believe Senator BYRD received over 20,000 phone calls from his fellow citizens around the country. Back in my State of Minnesota, I heard time and again from those who were so admiring of his courage and his steadfastness as I was then, too. I learned more about the U.S. Constitution during that time than I had ever learned before in my life, and I learned more about the proper role of the Senate than I possibly could have learned through years of experience, just by having the benefit of serving with and listening to and learning from Senator ROBERT BYRD.

I am very proud to pay tribute to him today. He has been the most influential Member of this body in my development here, and I am grateful beyond words for the privilege of serving with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I, too, rise to bring the attention of the Senate to a historic occasion. Those who are witnessing this debate may not realize that they are seeing a moment in the history of the United States of America that is not likely to be repeated.

Our colleague, the distinguished and senior Senator from West Virginia, ROBERT C. BYRD, has just cast his 17,000th vote in this body. I do not rise today to bring any embarrassment to my colleague. I am honored to call him friend. I rise to congratulate and honor him, and to note the historical span of his service to our country.

On January 8, 1959, Senator BYRD cast his first vote in the Senate. Fittingly, it was a vote on Senate procedure. He has since become a master of the rules of the Senate. When Senator BYRD rises and raises a parliamentary point, a hush falls over this Chamber, respectful of the fact that this man from West Virginia knows more about the procedure and rules of the Senate than any person.

On April 27, 1990, Senator BYRD cast his 12,134th vote earning him the record for the greatest number of rollcall votes in Senate history.

On May 5, 1998, he became the first Senator in history to cast 15,000 votes.

Let us put this in historic context. When Senator BYRD cast his first vote, Senators John Kennedy and Lyndon Johnson were in the Chamber with him and Richard Nixon was the Presiding Officer of the body. When he cast his first vote, Hawaii had not yet become a State and the United States had not yet launched a man into space. When he cast his first vote, a state-of-the-art computer would have taken up half the space of this Chamber and had roughly the same amount of computing power as today's Palm Pilot.

Senator BYRD has served with 11 Presidents—and I underline the word "with" because Senator BYRD makes it clear that he has never served under any President.

He brings to mind often the words of the Constitution which give equality to the branches of Government.

He has been a candidate for election. As he said, he stood before the bar of public opinion 11 different times, 8 times as a candidate for the Senate and 3 times as a candidate for the House. And he has never lost.

Senator BYRD has served in the Senate as majority leader and held more leadership positions in the Senate than any other Senator in the history of the United States. He has chaired the Senate Appropriations Committee, on which I am honored to serve, and currently serves as the panel's ranking member. He has earned his place as the unrivaled expert on Senate rules and he has become perhaps the most popular political figure in his home State of West Virginia. He was named "West Virginian of the Century" by the residents of his home State. What greater honor could they give him.

As of this Friday, Senator BYRD will have served, if my calculation is correct, 18,716 days in Congress, 51 years, 3 months, and 2 days. Of the 11,708 individuals who have served in Congress, only 2 have served longer: Carl Hayden of Arizona for 56 years and Representative Jamie Whitten of Mississippi for 53 years.

Senator BYRD will become the longest serving Member on June 11, 2006. He has cast more rollcall votes than any other Senator in history. Strom Thurmond ranks No. 2 with 16,348 votes.

We are all privileged to have served in this body. Few Senators in the history of this institution have had such a command of both the nature and nuance of Senate debate as ROBERT C. BYRD of West Virginia, and few, if any, spanning the entire history of this body have had such a reservoir of knowledge, from Roman and Greek history to the deliberations of the Founding Fathers to hundreds, maybe even thousands, of poems which Senator BYRD has committed to memory.

Perhaps it is through his love of poetry that I have gained a deeper understanding of my colleague. President Kennedy once said:

> When power leads man toward arrogance, poetry reminds him of his limitations. When power narrows the areas of man's concern, poetry reminds him of the richness and diversity of his existence. When power corrupts, poetry cleanses, for art establishes the basic human truths which must serve as the touchstone of our judgment.

That is a magnificent quote which pays tribute to a man who has integrated poetry into his entire life. But if we were to end there when it comes to procedure and poetry, we would not tell the story of this great man's service.

His is not just poetry when it comes to service in the Senate. It is also powerful prose. It is not just his eloquence but his integrity. Those of us who serve with him know that during the most recent debate on the invasion of Iraq, one voice in the Senate was heard above all others. This man, after many years of service, has not forgotten his responsibility to this Nation and the people he represents. He stood up and took controversial, difficult positions and did them with the kind of force and power which won friends for him far and wide.

I have told this story before but it bears repeating. When I went to a Catholic parish in Chicago with my wife and we had come back from communion and were kneeling down, an elderly fellow walked up to me in the midst of the Iraqi debate and leaned over and said, "Stick with Senator BYRD."

I came back to tell him that. His fans are far and wide, in Chicago, West Virginia, and across the United States of America, because time and again he spoke the truth and did it in a way that touched the hearts of Americans far and wide.

He is an inspiration to all of us who have been honored to serve with him. He brings to this body the kind of decorum, the kind of integrity, and the kind of commitment to which all of us aspire.

For all of his great and varied achievements, Senator BYRD shows his dedication and humiliation not by wielding his power like a club but by performing the most basic requirement of a Senator more times than any other Senator in history. I wish to recognize and honor the senior Senator from West Virginia for the quality as well as for the quantity of his service. It is entirely fitting that this noted lover of history today makes history himself. My commendation and congratulations to ROBERT C. BYRD of West Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to join so many of my colleagues and friends in paying tribute to the great Senator from West Virginia. As my friend from Illinois indicated, we are praising and honoring him today not just for the number of votes he has cast but for the courage of his votes. It is one thing to cast 17,000 votes; it is another to look at the quality and the integrity behind those votes.

So I join with my colleagues in saying thank you to Senator BYRD. I was proud to join with Senator BYRD as he spoke out on the Iraq resolution and what our role in the Senate should be and is.

I went home, as did my colleagues, and over and over again people asked me did I know Senator BYRD; did I work with Senator BYRD; listen to what he is saying because he is speaking for all of us.

I also thank Senator BYRD for helping me as one of the 12 Members who came in 2000. When we were in the majority, we had the opportunity to preside over the Senate, and I am very grateful for all I learned about the Senate, about the process, about the importance of being dutiful in our responsibilities, and also about the important role we play in governing our country. I will forever be grateful to Senator BYRD for the lessons that I have learned and continue to learn.

One of the most wonderful images I have of being in the Senate actually occurred during orientation when I was first elected and coming here in December of 2000. I had the opportunity to invite my son to join me in the Old Senate Chamber where we heard from Senator BYRD, some wonderful, eloquent words and stories from the early days in the Senate. It was captivating. It was inspirational. It was motivating. It was a wonderful opportunity for me to share with my son, the new venture I was undertaking and the responsibilities I was undertaking as a Senator from Michigan.

I thank the great Senator from West Virginia for his friendship, for his courage, for his role in the Senate in helping us to understand our responsibilities and our duties to the country.

Ms. LANDRIEU. Mr. President, I join with many colleagues who came to the Senate Chamber today to express appreciation and recognition of Senator ROBERT BYRD as today he cast his 17,000th vote representing the people of West Virginia.

I can hardly think of what more to say other than he has truly been an exemplary Member of this body and a pillar of this institution, someone we all respect. I only hope our votes can be cast as conscientiously as his have been all these many years. I join my colleagues in congratulating him today.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to say a few words about our distinguished and beloved colleague, Senator BYRD, whose friendship I have treasured for many years—more than 20 years now. I seek and listen to what he says, to be aware of the knowledge he possesses about so many things, and the memories he carries.

When I first arrived here, I met Senator ROBERT C. BYRD and extended my wishes that we would have a chance to serve together—this is 20 years ago; and 20 years is a long time, except when it is compared to more than 40 years—and that he would continue to provide the kind of leadership and inspiration that he has for all of us for all these years.

We wish him well. We want to see him continue to provide the example he has shown all of us, with his dignity and intelligence and knowledge and awareness of the rules that govern this body of ours—as fractious as they have become in recent years. We always want to pay attention when Senator BYRD issues a view of the process that is developing, about where we ought to be, about the courtesies we should extend to one another.

I will never forget Senator BYRD, with his rage at one of the Senators who was addressing the President by his first name, saying: Where is he? Where is Bill? Why isn't Bill here? Senator BYRD stood up, with all his stature in front of him, saying: How dare you. How dare you call our President Bill. In all the years I have served with Republican Presidents, never, never would I dream of calling the President Ronald or George or otherwise.

With that little reminder, he brought us all back to a reasonable state of dignity and comity that we need to be reminded about on many occasions.

Very few have the knowledge stored in our being that Senator ROBERT C. BYRD has.

Again, when I first arrived in the Senate, I had not been in Government before, so it was all very complicated and perplexing. But I wanted to spend some time with Senator BYRD, and he was courteous and he did it. We sat in his office, talking about the background of our society and our country. He talked about the English Kings from the period somewhere maybe about the time of William the Conqueror, the 11th century, and he talked about how long each succeeding monarch served, the year that person took the office, and the year they left the office, what caused them to leave the office, who died, how they died, by assassination or otherwise, from the 11th century on up to contemporary times. You will hear Senator BYRD often quote from the early days of Roman and Greek civilization. It is remarkable.

I come out of the computer business. I think I can safely say that I have never met a computer the equal of ROBERT C. BYRD, to have the depth of knowledge that he has and to be able to call upon it at so many times.

I will bet that in the 17,000 votes ROBERT C. BYRD cast, he knows more about the votes he cast almost than any Senator who has been here just for 100 votes or 200 votes. He understood every one of them. He never cast a vote without thought.

Each of us has had the experience, I am sure, of disagreeing, perhaps, with one another, even with a distinguished leader such as Senator ROBERT C. BYRD, and have him disagree with knowledge and with experience and say: This is why I think you are wrong. You are my friend, FRANK, but I disagree with you on this, and I am going to vote the other way.

It was always with respect and friendship that these exchanges took place.

So we mark a historical moment. No one before has ever cast that many votes. As a matter of fact, very few have cast a number of votes that come anywhere close to the 17,000 mark. This is a record, as I think has been said by others, that will stand probably forever. It took ROBERT C. BYRD some eight terms to acquire the voting record that he has. When you know that person and you see the devotion and loyalty he brings to his family—he and his wife will celebrate their 67th anniversary, I believe. That is quite a tribute in a period like we now see in our country when the institution of marriage is not what it used to be. So we wish Mrs. Byrd, Erma Byrd, a return to better health—we know she has been having some difficult times these last few years—and for them to share many more good years together and for ROBERT C. BYRD to stand here as our example of what can be, as an example for children across this country.

If they read the history of ROBERT C. BYRD, they will see his growth from a poverty stricken, uneducated, simple family, to go on as he did to reach the level of responsibility, of importance that he achieved, and the contributions he made to country in so many ways, reminding us about our responsibility to avoid conflict wherever we can do it, but always sticking up for his State and constituents who sent him here.

I think I hold a voting record also. I think I am the only Senator on the books that ever, as a freshman, cast almost 7,000 votes. That, I think, is fairly remarkable. You have to discount the first 18 years I was here, but a freshman with 7,000 votes, it doesn't compare to Senator BYRD's record, no matter what.

Mr. ALEXANDER. Mr. President, I rise today to salute my senior colleague, Senator ROBERT C. BYRD of West Virginia. Today, the Senator passed a milestone that has never been passed before, and may never be passed again: he cast his 17,000th vote on the Senate floor. It's an amazing achievement. No other sitting Senator has cast more than 15,000 votes. Senator Thurmond, who is no longer with us, cast the next highest total of 16,348 votes.

Mr. President, Senator BYRD has had a long and distinguished career in the United States Senate. He was first elected to this body in 1958. Only Senator Thurmond served longer, but Senator BYRD may soon pass that record, too—he's only got two more years to go. He became the Democratic Leader in 1977, holding that position for six consecutive 2-year terms, three terms as majority leader, and three as minority leader. He also served as President pro tempore—third in line in the order of succession to the Presidency, after the Vice President and the Speaker of the House—from 1989 to 1995 and 2001 to 2003.

The Senator from West Virginia is also a master historian. His four-volume, 3,000 page history of the U.S. Senate has been called "the most ambitious study of the U.S. Senate in all of our history." He is a passionate advocate for understanding our history, not only among Senators, but for the entire country. In 2000, the Senator's efforts led to the creation of the Teaching American History Grant Program—commonly referred to as the Byrd grants—to encourage better teaching of American history in our schools. I was fortunate to follow his lead with a bill I introduced last year, the American History and Civics Education Act, which Senator BYRD co-sponsored. The Senate passed it unanimously last year, 91 to 0. I hope the House will act on it soon. I'm sure one reason the Senate was prepared to support such a bill is that we have all learned the value of our history from one of history's great teachers: Senator ROBERT C. BYRD.

I salute my colleague, the senior Senator from West Virginia, and wish him well as he sets a new record with each succeeding vote.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Ohio.

Mr. DEWINE. Mr. President, I join my colleagues today in congratulating my friend and colleague, my neighbor from West Virginia, for his great accomplishment today but, more importantly, for his great service in the Senate.

When I first came to the Senate, I did what many of my colleagues have done, and that is I paid a visit to my colleague from West Virginia. I went into his historic office. He was kind enough to give me the books he has written about the Senate and was kind enough to autograph his books. Those books will always be a great treasure for me to keep.

But they have not just been something that has been in my bookcase; they are something I can pull down to then read the history of the Senate. What wonderful books they are, what wonderful references, what wonderful stories they tell about the Senate. That is so because my colleague is not only a great Senator, he is a great historian. We are reminded of that many times when he comes to the Senate floor. Not only does he have a great institutional memory from his many years of the Senate, but because of his reading not only about the United States and the U.S. Senate, but because of his great love of history, he can put what we do in the United States in its historical perspective.

As the new Members of the Senate, we take turns presiding over the Senate. One of the great benefits of doing that is to sit in the Presiding Officer's chair, as my colleague is doing now, and we have the opportunity to listen to our colleagues. I have had the opportunity, many times, to listen to Senator BYRD.

I can remember many times listening to his speeches. Sometimes it was his great annual speech on Mother's Day, sometimes a speech on the U.S. Constitution, or a speech on whatever legislation is in front of us, or about the history of the Roman Senate or, as my colleague from Illinois has said, a speech about a pending resolution. It didn't matter what it was, it was always something for us to think about, always something for us to ponder and meditate on.

Senator BYRD, thank you for your service and thank you for causing us to think. Whether we agree with you or not on every matter, you always make us think. That is the job of the Senate. As you referred a moment ago to this great deliberative body, you make sure that we are that, you make sure we continue to be that great deliberative body. I thank you for that.

Mr. BYRD. Mr. President, will the Senator yield quite briefly?

Mr. DEWINE. Certainly, I yield.

Mr. BYRD. Mr. President, I take a moment to thank my colleagues who have spoken. They have been so gracious. I shall never, never forget the beautiful words, the lovely phrases they have uttered here today. They have made this a very beautiful day. I know that my wife Erma has listened from home.

I thank each and all of these wonderful, wonderful friends. That is what they are, they are friends. I shall never forget them. I shall not name them. The RECORD already has done that.

I yield the floor and thank my friend from Ohio for his graciousness in yielding.

THE PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 2270 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DEWINE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERSONAL RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE ACT—Continued

NATIONAL PUBLIC RADIO

Mr. DURBIN. Mr. President, last week I took the floor of the Senate to note the decision which has been made by National Public Radio concerning the host of Morning Edition with Bob Edwards. It was announced in the Washington Post that National Public Radio management had decided after some 24 years to relieve Mr. EDWARDS of his responsibility as host of the morning show. There was not much given by way of explanation, and it was clear from comments by Bob Edwards that it wasn't his decision.

It has been interesting since I took the floor and noted my disappointment over that decision the response which I received from my colleagues in Congress. It turns out Members of Congress on both sides of the aisle feel as I do—that this decision by National Public Radio is the wrong decision; that Bob Edwards, who has been not only a host of this program but the most successful morning voice in America, is being moved away from this assignment in a situation and in a circumstance that is almost impossible to understand.

Many of my colleagues have come to me and asked, What can we do? Can we go after the appropriations of NPR? I don't recommend that at all. I think

National Public Radio is such an important institution more than any single individual that we should do this in a positive and constructive fashion.

What I encourage my colleagues to do is to remember that National Public Radio is, in fact, public radio; that all of us who enjoy it so much, who rely on it so much, and who contribute to it from our own individual finances, have a responsibility if we disagree with this decision by the management. I have encouraged my friends and those who feel as I do to get onto their Internet and e-mail, and to e-mail NPR.org, to do it immediately and let them know that their decision to remove Bob Edwards at the end of this month of April is the wrong decision. I have done it myself.

I have received a reply from Mr. Kernis which, frankly, I find very troubling. When asked why they think this man who has become such an institution in America should be removed, the response is nothing short of gobbledygook. They talk about bringing someone who has depth and experience. But who else would you turn to rather than Bob Edwards?

I would like to make part of the RECORD at the end of my statement a series of columns and editorials from across the United States from those who enjoy Bob Edwards in the morning and can't imagine public radio without him. Some of these, starting with the Chicago Tribune, were published recently as the news reached that city of the decision by National Public Radio.

As they said in this editorial in the Chicago Tribune, people do not understand why this decision was made. Here is what they concluded in the Tribune editorial about Bob Edwards:

> In contrast to their audience, though, NPR executives seem to have forgotten about the public part of their title. In commercial broadcasting, a beloved host who had presided over huge ratings gains would almost never be nudged aside. Public broadcasting is valuable precisely because it is relatively free from such worldly concerns. But it is also, effectively, a public trust, and for the public to continue to trust it, this institution needs to do a better job of explaining its momentous decisions. This is not the only newspaper, by far.

In the St. Louis area, Linda Ellerbee, known to many of us because of her news reporting and posting of programs wrote: “Time and Age: NPR Tossing Out Bob Edwards.” Linda Ellerbee should know. She was moved away from a television network position because they thought for a woman she was too old. She says:

> But we're not aging the way our parents did. We're reinventing the process. Besides, there are a lot of us out here.

The point she made in her article about Bob Edwards is at his advanced age of 56—which I still consider very young—he speaks not only to people of my generation but so many older and younger. If it is the marketing belief of NPR they need to have a new, fresh voice, they are missing the big picture.

For 24 years every morning when my clock radio goes on, I hear Bob Edwards. I know whether times are bad, dangerous, or peaceful. I can count on him. I have done it this morning. I have done it so many mornings. I cannot imagine “Morning Edition” without him.

There is also a comment from the Washington Post, Richard Cohen. He tells about the same experience.

> Now the news from NPR is that Edwards will soon be gone.

He talked about the fact he may just decide to start listening to Mozart on disk, rather than turning on “Morning Edition.” He says:

> NPR Executive Vice President Ken Stern told the Washington Post that the firing of Edwards was part of a “natural evolution,” that had “to do with the changing needs of our listeners.” What “natural evolution”? What does that mean? And what is “changing needs”?

Mr. Cohen goes on to say to the Washington Post:

> Listen, Ken, my needs haven't changed. I still want news in the morning. I still want smart features. I do not want interviews with airheaded celebrities a la Matt and Katie or, worse, interviews with the latest humorousless person Donald Trump has just fired from “The Apprentice.”

He concludes:

> But the firing-cum-transfer of Edwards (he may become a senior correspondent) is nonetheless disquieting. Maybe my fear is misplaced and maybe the end of the Edwards era will turn out not to be a bad thing. Still, it will be jarring to wake up in the morning with a stranger.

He closes by saying:

> Goodbye, Bob. Get some sleep. You've earned it.

Mr. Cohen may have given up, but I haven't. I still believe the people across America should be contacting National Public Radio, npr.org. Send them your e-mail that Bob Edwards, “Morning Edition” is important to you. As a Senator, as a citizen, he is important to me.

The San Diego Union-Tribune in an editorial entitled “NPR Show Is a Big Hit, So It Must Need Fixing?” by Robert Laurence:

> This story makes no sense.
>
> As such, it's the kind of story that can only happen in the topsy-turvy Orwellian world of public broadcasting.
>
> It's this: The host of a hugely successful morning radio show, a show where ratings have done nothing but climb for years, a man whose skill as an interviewer is unexcelled in the world of broadcasting, whose very voice helps millions of Americans get their day grounded, is being evicted from a seat in the studio.

Mr. Laurence goes on to say:

> That's Bob Edwards, since November 1979 the host of National Public Radio's “Morning Edition . . . ”

He goes on to talk about the explanations from NPR management, explanations he and I both find wanting. And Scripps Howard, Bill Maxwell and the St. Petersburg Times, entitled “A Morning Voice That Will Be Missed:”

> All good things must come to an end.
>
> And so it is with the ouster of Bob Edwards . . .
>
> To say that Edwards is the end of an era is an understatement.

He continues:

> Thanks in large part to “Morning Edition,” when I report to the St. Petersburg Times editorial board each morning at 9:30, I know what's going on in the Nation and the rest of the world.

Millions of us would say the same thing.

Columbus Dispatch, Tim Feran: “Shame On NPR For Axing Edwards Before Big Date.”

The big date, of course, is the 25th anniversary on the air. I agree with Mr. Feran.

The Cleveland Plain Dealer: “Not a Good Way To Start The Day,” a title from Connie Schultz, a columnist. She writes:

> The man I've been waking up with is leaving me.

She talks about her disappointment and how hard it is to understand why NPR is making this decision.

Turning to the Seattle Post Intelligencer, Bill Radke, a columnist, writes: “Mornings Without NPR's Colonel Bob.”

He starts:

> Bob Edwards has been canned, and there seem to be two types of people in the world: The ones saying, “You've ruined my life, Bob's life, and the lives of everyone I know,” and the ones saying, “Who is Bob Edwards?” Those who did not listen to Bob Edwards may now never know. Those who do, understand full well.

The Hartford Courant, in Connecticut, by Jim Shea:

> It's not often that you can use the words National Public Radio and stupid in the same sentence but such an occasion has arisen:
>
> National Public Radio's decision to replace “Morning Edition” host Bob Edwards is just plain stupid. What are you bozos who run NPR thinking? You know, we've really got to do something about the fabulous ratings we have.
>
> Bob Edwards is not just the bright, witty, urbane, insightful and immensely likable host of “Morning Edition,” he is for the program's 13 million weekly listeners the voice of the morning.
>
> There is something soothing, something comforting, something reassuring about stumbling from slumber into the gentle embrace of Edwards' mellifluous baritone that makes morning bearable.

He speaks for many people when he writes that.

Finally, on salon.com, Alexandra Marshall makes many of the same points about the importance of Bob Edwards' “Morning Edition.”

Those who are following this debate may be puzzled as to why a Senator would stand up in this Chamber to make an issue over the replacement of a man who is, by all measures, just another voice in the morning. But Bob

Edwards is not another voice in the morning. He is the voice we have counted on and the voice we rely on.

If he is as important to you as he is to so many of us, please, understand National Public Radio exists because of people like us who listen to it and contribute to it out of our own pockets, love it, and want it to continue to be the great institution which it is today. Those who are shareholders of National Public Radio by virtue of our contributions, if we disagree with this decision, have an obligation to tell the management right now.

I encourage those who feel as I do that the replacement of Bob Edwards is wrong, to do two things: First, go to your Internet, e-mail npr.org and let them know what you think; and second, call your local affiliate of the National Public Radio system and let them know this is a sad and sorry decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 327 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

RECENT VIOLENCE IN IRAQ

Mr. LAUTENBERG. Mr. President, I would like to take a minute to express my outrage and the outrage of Americans across this country in seeing the mutilation and the horrible attack on the Americans who were serving, not in the military but serving their country nevertheless, and the gleeful crowd gathered around.

We have to remember that it was a relatively small group of people. But nevertheless, the deed was so horrendous that it is hard for those of us who live in a democratic environment, as we do, who live with the respect that we have for other human beings, to look at this and in any way understand what is happening.

So we send our condolences to those families who lost someone they cared about, and to lose them in some kind of atrocious assault we hope will serve as a reminder to all of us of what responsibility we took on when we entered Iraq and the things we should have tried to contemplate before we got to the point that we are.

One cannot criticize our military. I was in Iraq a couple weeks ago. Most of my colleagues have been there at one time or another to see the courage and the willingness to serve that we have with our wonderful young people there. I talked to them. I especially met with those service people who come from New Jersey, men and women. I was very impressed with the quality of their thinking, their education, their view of life and country.

I served in World War II. We were some 14 million in uniform. I enlisted when I was 18. I remember the associations and friendships I made in the small unit in which I served in Europe during the war. When I saw the young people who are serving us today, I was truly impressed with the quality of those who wore that uniform.

We now see the situation in Iraq is a very grim one. I am not sure that the turnover on July 1 to a ruling council, a governing counsel, can stem the tide of violence or reduce the volume of our responsibility. But I wish all of our people well and make a pledge here that I would like to carry back the message that I got from my conversations with some soldiers there.

I asked them to be frank with me and tell me what, if anything, they thought they needed. And they were reluctant at first. I asked whether the food was all right, the shelter was OK. Oh, yes.

But one young captain finally felt comfortable enough to speak. And he said: Yes, I will tell you what we could use, Senator.

He said: The flack jacket that is the best available out there is being worn by members of the coalition in some places, and we don't have those. They are lighter, they are more efficient, and I don't understand why we don't have them.

Fair enough. He said: You see this rifle?

I think it was an M-16, but they have changed considerably from the time I carried a weapon in World War II.

He said: I see members of the coalition with lighter, better aiming mechanisms than we have on these guns. They are easier to work with at any time. We don't have them, and I don't understand why.

When he talked about armored vehicles, he said they don't have enough of them. I was almost dumbstruck. I didn't know what to say because I know we have allocated lots and lots of funds. We have placed over $160 billion into the effort in Iraq, and we are about ready to place a lot more with a special allocation, a supplemental allotment. I asked our military leadership to tell us what it is that prevents us from delivering the kinds of tools, protections, and instruments that our people need to conduct their duty there.

I saw something in the paper last week that said much of the material we would like to have there is not sent because we don't have the transportation available. I think we ought to get after that problem. I pledge to do whatever I can to search out the reasons and make sure we expedite the process of getting our courageous service people, who serve us so well, the equipment and the support that is needed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from New Jersey for his leadership on this and so many issues. He expresses the feelings I have heard from soldiers returning from Iraq who are in Walter Reed Hospital recuperating, who are still strong in spirit and still dedicated to our country and hoping that we will help them win this battle and let them come home safely. There is a lot more we can and should do. I thank the Senator from New Jersey for his leadership in this area.

DIETARY SUPPLEMENTS

Mr. DURBIN. Mr. President, there has been an issue I have worked on now for almost 2 years relative to dietary supplements in America. We passed a law called the Dietary Supplement and Health Education Act in 1994. In passage of that legislation, we attempted to establish a standard for the legal treatment and regulation of dietary supplements. They are known to many Americans. It is a multibillion-dollar industry.

There are many of us who take vitamins and minerals and believe they are good for our health. I took one this morning. I hope it helps me. I don't think it will hurt me. For a lot of Americans, it is something they rely on.

There is another category that goes beyond ordinary vitamins and minerals, which are products known as dietary supplements. In many respects, what they consist of are herbal extracts, so-called natural products that are put in combination and sold in stores with many claims about whether they can help you from a health viewpoint.

Most Americans who walk into a drugstore, pharmacy, or nutritional supplement store believe the products on the shelf being sold to them are, in fact, safe. They may believe they have been tested. They may believe the proper clinical evaluation has been done. They may believe the Government is monitoring whether there is something wrong with the drug that causes a bad health event. Those beliefs are right and true and accurate, when it comes to prescription drugs. They have to go through extensive testing before they are ever put on the market. The FDA and many agencies look at them carefully to make certain they are both safe and effective—in other words, that they will not harm you and, in fact, will do what they are supposed to do and help you. That happens for prescription drugs, and it is what happens to the key ingredients in over-the-counter drugs.

When you walk into a dietary supplement store, a health store, that is not the case at all. What you see on the shelves there are products which, by and large, have never, ever been tested. Never tested. The law we passed said the makers of those products, unlike the pharmaceutical companies that make prescription drugs and some over-the-counter drugs, have no responsibility to test their products for safety before they are sold to the public. In fact, the burden is shifted 180 degrees. The Food and Drug Administration of the Government has the burden to prove that what is sold on the shelf is unsafe.

Think about that for a moment. Think of the hundreds, thousands, tens of thousands or more dietary supplements for sale in the U.S., and you come to the obvious conclusion that there is no Government agency large enough to test every possible combination that can be included in a dietary supplement. So the simple fact is very few are tested.

This week, Consumer Reports magazine reported on the issue of dietary supplements. I think a lot of this magazine. I have subscribed to it over the years. I think what they present is done in a very dispassionate and objective fashion. In this issue, they identify the problem we face in America with dietary supplements. They note the fact that U.S. consumers, since passage of the law I mentioned earlier, have literally spent billions of dollars on dietary supplements. They say it is interesting that for 10 years, although the FDA had the authority to remove an unsafe dietary supplement from the shelf, they never did. I will quote:

> Yet, until very recently, the U.S. Food and Drug Administration had not managed to remove a single dietary supplement from the market for safety reasons.
>
> After seven years of trying, the agency announced a ban on the weight-loss aid ephedra in December of 2003. And in March 2004 it warned 23 companies to stop marketing the body-building supplement androstenedione (andro).

That is a steroid precursor. Here we have it on the books for 10 years, with thousands of products that fall under its purview, and only two have been removed. Frankly, what it comes down to is described later by Bruce Silverglade, legal director of the Center for Science in the Public Interest, a Washington, DC, consumer advocate group:

> The standards for demonstrating a supplement is hazardous are so high that it can take the FDA years to build a case.

Years—while the product is still being sold. How many people at the FDA are responsible for monitoring dietary supplements, a multibillion-dollar industry, with thousands of products? Their supplement division consists of about 60 people with a budget of only $10 million to police a $19.4 billion-a-year industry.

Consumer Reports goes on to draw this comparison:

> To regulate drugs, annual sales of which are 12 times the amount of supplement sales, the FDA has almost 43 times as much money and almost 48 times as many people.

So it is very clear this agency is not prepared and staffed and, frankly, doesn't have the authority to protect the American consumer. So what happens? People unsuspectingly go into these health food stores, vitamin stores, and see the dietary supplements with all sorts of claims on them; they buy them, they use them, and the consumers of America become the guinea pigs.

We are the ones who are testing these products to see if they are dangerous. You might say, if they are dangerous, if they hurt someone, clearly then the Government will take them off the shelf, right? No, I am sorry, that is not right because understand that the law we passed at the request of the industry does not require dietary supplement manufacturers to report to the Government when people are literally dying from the products they sell.

I am sure many people listening to this debate say that cannot be true. It is true.

Let me give a specific example. Metabolife International, a leading ephedra manufacturer, did not let the Food and Drug Administration know it had received 14,684 complaints of adverse events associated with ephedra products. But Metabolife 356, which you may remember, in the previous 5 years had received notice of 18 heart attacks, 26 strokes, 43 seizures, and 5 deaths. Under the law of the United States of America, Metabolife had no legal responsibility to tell the Government a product it was selling was killing people.

People listen to that and say that cannot be true, but it is. It is a fact.

When a Harris poll surveyed 1,000 Americans about what they thought the law was, they found 59 percent of them said they believe supplements must be approved by a Government agency before they can be sold. They went on to say 68 percent said the Government requires warning labels on a supplement's potential side effects or dangers, and 55 percent said supplement manufacturers cannot make safety claims without solid scientific support.

Sadly, every single response by the overwhelming majority of Americans was plain wrong. There is no Government regulation of the products, there is no requirement for warning labels, and these companies can make safety claims without solid scientific support. That is a fact.

It seems the Institute of Medicine has decided it is time for a change, a change I believe is long overdue. Today the Institute of Medicine released this report. It is a framework for evaluating the safety of dietary supplements. In the fall of 2000, the Food and Drug Administration contracted with the Institute of Medicine to develop a scientific framework for safety evaluation of dietary supplements within the confines of the law. They also asked them to test their framework on six commonly used dietary supplements. The report took more than a year longer to complete than was expected, but it is comprehensive and thorough. It contains many observations we need to scrutinize closely.

First, their framework depends on the collection of data that is not required to be turned over to the FDA by supplement manufacturers, namely adverse event reports.

The IOM report states that the first step in the process for reviewing safety is to look for signals of safety problems, including adverse events. What do I mean by an "adverse event"? Does it mean if you have an upset stomach from a vitamin you have to report it to the Food and Drug Administration? Does it mean if you get dizzy from taking any kind of supplement, from garlic to fish oil, you have to call the Food and Drug Administration? No.

What I believe the standard should be is serious adverse health events. If you pass out, have a stroke, or heart attack, or die—serious things that can occur.

Lest you think this is something that does not happen, let me tell you the story of a young man, 16 years old, who lived a few miles from my home in Springfield, IL. Sean Riggins of Lincoln, IL, a 16-year-old high school student, played on the football team. He had a big game coming up. He went over to the local gas station—gas station, mind you—and saw a product on the shelf called Yellow Jackets. It was an ephedra product. Yellow Jackets were supposed to give him energy. This man thought: I need energy; I am going to play football. He purchased this product over the counter at a gas station in Lincoln, IL, washed it down with a Mountain Dew, which happens to be loaded with caffeine, and started feeling sick. When he got to the football game, he didn't feel good at all. The next day, his mom and dad took him to the hospital, and later that morning he died from a dietary supplement with ephedra. Under the law as it is written, if the parents of Sean Riggins called the company that made Yellow Jackets and said, "Your product just killed my son," that company would not be required under law to even report that to the Government. That is not right.

The Institute of Medicine report we are looking at today recommends that that change. Metabolife misled the Government. Companies that make products such as Yellow Jacket sadly are not much better.

Let me tell you about another company called Rexall Sundown. It marketed an ephedra product called Metab-o-lite described by the Government as having adverse event reports. In other words, people were getting sick who took this product. We heard about it and requested the company provide us with information about the adverse reports, about people getting sick after they took this product.

The response I received was truly astonishing. The company said Rexall Sundown was a new company and had never sold ephedra products. Therefore, it never had any adverse event reports in their possession. They used the oldest trick in the book to shield themselves from liability for the dangerous products they sold. They had dissolved their old company, started a new one with the same name, and tried to escape any liability for the life-threatening products they had been selling. We tried to get more information from them and failed, but we will continue that effort.

Let me also say to people who said, "Thank goodness, ephedra is off the market, so you can stop worrying," that is not the case. The same Consumer Reports magazine that is coming out has a table which I commend to everyone who takes dietary supplements. It is impossible to read this chart, I am sure, on television. I will summarize a few points of it for those who would like to understand what Consumer Reports, an objective magazine, says about 12 supplements. They said you should avoid these supplements.

A supplement that is "definitely hazardous" is aristolochic acid. This is something that is sold under a variety of names. They say, it is a potent human carcinogen. It can cause cancer potentially, kidney failure, sometimes requiring transplant. The Food and Drug Administration warned consumers and the industry in April 2001. It has been banned in seven European countries and Egypt, Japan, and Venezuela. But it is still being sold in the United States. Aristolochic acid is also known as birthwort, snakeroot, snakeweed, sangree root, and so forth.

Then they list another group of "very likely hazardous" products banned in other countries where we have a warning from the FDA: Comfrey, which includes blackwort, bruisewort, and so many other herbal names.

Incidentally, let me say at this moment how difficult it is for consumers to follow this because they change the names on these bottles in the dietary supplement store, and you have no idea what you are buying. The Food and Drug Administration advised the industry take it off the market in July 2001, but it is still being sold. It creates abnormal liver function or damage, often irreversible, causing death.

Androstenedione, I mentioned this earlier. The FDA finally banned it in supplements.

Chaparral is another product which is sold under a variety of names. It causes abnormal liver function or damage, often irreversible. FDA warned consumers in December 1992.

Germander is another product banned in France and Germany.

Kava is an ingredient in a variety of products. FDA warned consumers in March 2002 to avoid it. It is banned in Canada, Germany, Singapore, South Africa, and Switzerland, but it can still be sold legally in the United States because the Food and Drug Administration does not have the power and the authority to police this kind of dangerous product.

Under "likely hazardous" products there is one I would like to speak to, bitter orange, citrus aurantium. You will find this in Metabolife Ultra. When they took ephedra out, they put bitter orange in, and there are a lot of other products, diet products, energy products. It can cause high blood pressure and increased risk of heart arythmia.

We wrote to seven companies that make supplements that contain citrus aurantium and asked them: What kind of tests did you engage in to determine whether citrus aurantium, which is now replacing ephedra, is safe? One of the CEOs wrote back and said: We have a scientific study to prove our product is safe. So we looked at the study. The study did not have anything to do with citrus aurantium or bitter orange. It was about the safety of using orange juice—orange juice—in drug metabolism studies.

We then contacted one of the scientists involved in this study and asked: Do you realize this company that is selling thousands of products worth millions of dollars is claiming your scientific study says citrus aurantium is safe?

This scientist came back to us and said: That is an improper use of that study to justify the sale of that product.

So there is no scientific basis for the safety that CEO asserted. These manufacturers are literally putting together dangerous and sometimes lethal combinations of chemicals and selling them under the banner of dietary supplements to unsuspecting American consumers.

For some consumers, it is a waste of money. For others, it is much more dangerous.

There are other products that are mentioned here. I am probably going to fail to pronounce many of them properly: organ/glandular extracts, Lobelia, Pennyroyal oil, Scullcap and Yohimbe. When one goes through these, they will find many of these have been banned in other countries.

One of the conclusions from the Institute of Medicine, after looking at dietary supplements, is unreasonable risk does not mean the Food and Drug Administration has to prove the supplement is harmful.

The report concludes, given the limited amount of data available, definitive statements judging safety of these products may be difficult to completely substantiate scientifically.

The committee determined that concluding a supplement presents an unreasonable risk does not require complete evidence a dietary supplement causes a serious adverse event. In other words, the unreasonable risk standard that is written in the DSHEA law is a standard which frankly is going to be a very difficult one for the FDA or others to prove.

So what they are suggesting at the Institute of Medicine is we look to a different and more reasonable standard. They also talk about premarket review of some of these products, which I think is something that needs to be done.

I particularly believe stimulants should be subject to premarket review so we have some testing to make sure they are safe so many of these products here, such as bitter orange, citrus aurantium, which cause an increase in blood pressure—and, frankly, I believe what they are suggesting in the Institute of Medicine report kind of parallels legislation which I have introduced—to try to bring some sanity to this industry.

This has been a battle which I have been engaged in for almost 2 years now. I know what happens when one takes on a giant industry in America, a multibillion-dollar dietary supplement industry. If one walks into most vitamin stores around America, they will find my name, not in a praiseworthy fashion. They are passing out leaflets saying: Write to DURBIN and tell him to stop taking away your vitamins and minerals.

It is a scare tactic. It is a scare tactic from an industry that should be running scared. There are good actors in this industry and there are bad actors, but unfortunately the bad actors are being protected by the good ones.

Right now I believe Americans should be able to buy vitamins and minerals which have been tested and proven, make their own choices about their own health, but I also believe this industry has a responsibility when it sells products that can be dangerous to Americans to do two things.

First, if they are selling stimulants they should be tested in advance so we do not have another ephedra which is going to take the life of an innocent young boy in Lincoln, IL, or a major league baseball player like Steve Bechler of the Baltimore Orioles.

Second, I believe all of these dietary supplement manufacturers should have a legal obligation to report to the Food and Drug Administration when people get seriously ill or die as a result of taking their products. I think that is the least we should demand.

I am happy to see the Institute of Medicine creating momentum for Congress to finally make a decision. I am happy to see the administration, after more than a year of urging, finally banning ephedra, but more has to be done. Today as we speak, innocent children and consumers across America are buying products which they presume to be safe and they are not.

We have an obligation to American consumers to set a standard of care so they know when they make a purchase, whether it is in a drugstore or in a vitamin store, they are buying a product that is more likely to help them than hurt them. Sadly, the DSHEA law which currently exists does not meet that standard.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOPHER WOMEN BASKETBALL AND HOCKEY

Mr. COLEMAN. Mr. President, in these challenging times, it is always nice to rise to the floor of the Senate to speak about some good things, about the accomplishments of some of the folks from your State that elicit a great sense of pride.

Minnesota is the home to more than 15,000 lakes. It says on our license plates "10,000 Lakes," but there are more than 10,000 lakes. Judging from the performance of our homegrown college athletes this winter, there might be something very special in the water. I congratulate Coach Laura Halldorson and the University of Minnesota Golden Gophers Women's Ice-Hockey team, which claimed its first NCAA championship this Sunday with a convincing 6-to-2 victory over Harvard University.

Finishing with a record of 30 wins, 4 losses, and 2 ties, a conference championship, and the top seed in the NCAA tournament, the Gophers did what so many No. 1 seeds often fail to do, they finished the job and they brought home the hardware.

I think Americans love an underdog, but we also enjoy marveling at excellence, and the women Gopher hockey team achieved this and they deserve our congratulations, they deserve our plaudits.

I wish to highlight the recent progress of women's hockey for a moment.

Hockey is to Minnesota what basketball is to Indiana or football is to Texas. Minnesota has been the center of the hockey universe for almost 100 years. Until very recently, women's college hockey was dominated by Eastern schools. In fact, Augsburg College was the first Minnesota school to field a women's hockey team in 1995. I can proudly say that since the inception of a NCAA Division I National Championship in 2001, no school outside Minnesota has won the national title.

The first three tournaments were won by the University of Minnesota-Duluth, which I had the pleasure of meeting last year.

The hockey rinks of Minnesota—and almost every town has at least one—have always been full of young ring rats wearing hockey jerseys with the names of Minnesota legends such as Broten, Bonin, Pohl, and Gaborik. Today, however, it is as common to see young ring rats skating around the ice with ponytails coming out of their helmets. I got my 14-year-old daughter her first pair of Betty hockey skates this winter, and she uses them proudly. They have the ponytails coming out their helmets. They are wearing names such as Brodt, Darwitz, Wendell, and Potter on their backs. Minnesota has always been the State of men's hockey. Now, thanks to the pioneers of women's hockey such as the women who just won the national championship, Minnesota can rightly claim to be the State of all ice hockey.

Switching from the hockey rink to the basketball gym, the story that has all of Minnesota abuzz right now is the Minnesota Golden Gophers women's basketball team's appearance in the NCAA Final Four. After earning a seventh seed in the regional tournament, Minnesota defeated the No. 3 seed, the No. 2 seed, and finally top-ranked Duke, 82 to 75, on Tuesday night. Prior to this year, the Gophers had never made it past the Sweet Sixteen in three previous NCAA tournaments. Now the Gophers will be the highest seed to play in a Final Four since No. 9 Arkansas in 1998. I believe they are the first No. 7 seed to play in the Final Four.

I had a chance to watch—not watch, I watched here in Washington—the game against UCLA with my daughter in Minnesota who, in addition to wanting to be a hockey player, wants to be a basketball player. On the phone, play by play, as we were talking about it, I just loved the sense of excitement.

I was unable to watch the game against Duke the other night; I had a speaking engagement at the time of the game. But I was anxious, when I checked my cell phone as soon as that speaking engagement was over, to hear first a message from my daughter, with just a couple of minutes left, that we were ahead and then this excited message that we won. We won. It is great to see young kids, young women look at other young women and look at their sense of accomplishment, athletic accomplishment and say, Boy, I would like to be like that. It is great to have role models, and we have them at the University of Minnesota now, led by second year coach Pam Borton and Most Valuable Player Lindsay Whalen, a young woman who broke her wrist and was out for a while and I believe the first game back in the tournament scored 31 points.

The Gopher women will face the University of Connecticut at 8:30 Minnesota time. I wish the team all the best of luck, and the thanks of millions of Minnesotans who will be glued to the television, cheering you on, including me and my daughter.

The University of Minnesota women's ice hockey and basketball teams have made all Minnesotans proud. A source of intense pride for all Minnesotans is that these championship teams are overwhelmingly comprised of Minnesota-grown young women. Eleven of the 14 players on the Gopher basketball team, and 12 out of 20 on the hockey team, are from Minnesota. These young women represent cities from corners of Minnesota, such as Fosston, Marshall, Stewartville, Moorhead, Hibbing, and the Twin Cities.

Congratulations to the University of Minnesota Golden Gophers women's ice hockey and women's basketball teams for their athletic success, and for, really, making all of Minnesota proud, doing such a fabulous job of representing Minnesota on the national stage.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, in the last couple of hours since we had our vote today, I have been asked by a couple of press people who are lingering in the hallways about the issue of obstructionism. Apparently, there are some who suggest there is obstruction going on in the Senate.

It is interesting to me that there are charges of obstructionism to the Senate's business. We are not voting today, really. We voted once on a cloture vote. We did not vote yesterday. Apparently, we are not voting now until next Wednesday.

Why is that the case? Because there was an amendment offered to increase the minimum wage, and the majority party did not want to vote on the amendment.

It seems to me if there is obstruction around here, it is obstructing the ability to have a vote on an amendment to increase the minimum wage. The people at the bottom of the economic ladder in this country have not had an increase in the minimum wage for years. It is perfectly appropriate for us to consider that in the context of welfare reform.

So an amendment is offered; but because the majority does not want it to be voted on, business essentially is stopped dead on the floor, and there are no votes, and we are at parade rest for 4 or 5 days. If anybody is obstructing, I would say it is those who brought the welfare reform bill to the floor and then decided they did not want to vote on anything, and we go, day after day, with no votes. And those who create that situation now accuse others of obstructing.

I think it is a curious thing to do, but maybe there is a language here I have not yet learned and do not yet understand. But there is certainly no obstruction on the part of those of us who want to have a vote on the amendments we offered.

OUTSOURCING OF AMERICAN JOBS

Mr. President, we are going to be turning, we think, in the next week or two back to a piece of legislation that was on the floor of the Senate that was also pulled from consideration because they did not want a vote on an amendment that was pending. When that bill comes back that deals with the issue of tax incentives for foreign sales—when that bill comes back to the floor, I intend to offer an amendment dealing with an issue that has been discussed recently, and that is the movement of jobs from this country to overseas.

We talk a lot about the concern of the outsourcing of jobs. This country, as you know, has lost over 3 million jobs in recent years, the last 3 years or so, 3½ years, and we are now down a net roughly 2.5 million jobs. We gained a few jobs back, but we are about 2.5 million jobs less than we were 3½ years ago.

So the question is, will this economy create new jobs? We need them desperately. The other question is, why are we having policies in place that remain in place that actually incentivize the movement of jobs overseas?

Let me describe one of them I intend to fix with an amendment as soon as I have the ability to offer the amendment on the floor of the Senate.

Assume, for a moment, there are two businesses. Both produce garage door openers. They are both located in the United States. They both manufacture garage door openers, and they sell them in the United States. One of them decides they will move to China, so they move their plant to China. They fire their American workers. They hire workers in China. They make the same garage door opener in China and ship it back to our country.

There is one substantial difference now between those two firms, and that is the taxes they will pay on the profits they earn. The company that has moved to China to produce the product to ship back into this country will pay a lower U.S. income tax. In fact, they will largely pay no U.S. income tax.

We have a tax incentive in our law books that says: If you move your plant overseas and produce there for the purpose of shipping back into our country, we will give you a tax cut.

You talk about perversity, this is it. Our country says: We will reward you if you shut down your American company, your American business, move it to China, move it to another country, and ship the product back into our country.

Well, at a time when we are losing jobs and desperately need jobs in our country, the very least we should do—at least the baby step we ought to take—is to shut down the perverse incentive in our Tax Code that says: Ship your jobs overseas and we will give you a big break.

We will have an opportunity to vote on that. The Senate voted on that, actually, in an amendment I offered some years ago, and my amendment came up short. Perhaps having lost now 2.5 million net jobs in the last 3½ years, the Senate will come to a different conclusion. I hope that is the case because this issue of jobs is critically important.

TRADE AGREEMENTS

Mr. President, I have spoken often on the floor of the Senate about the subject of international trade. I will do so again briefly, just to say we have recently negotiated two free trade agreements, negotiated by the trade ambassador. I do not expect either, frankly, to come to the floor of the Senate this year. Why? Because I do not expect the administration, which negotiated these trade agreements, will want to have a debate on them: the Central American Free Trade Agreement and the Australian Free Trade Agreement. Why don't they want to have a debate on them? Because, like most recent trade agreements, they are not mutually beneficial; that is, beneficial to us and those with whom we negotiated the treaty. In most cases, they will end up costing this country lost jobs and large trade deficits.

I will not go into great discussion about the so-called CAFTA, Central American Free Trade Agreement, or to go back and talk about NAFTA, the North American Free Trade Agreement, both of which are terrible agreements, or the recent bilateral agreement we did with China, which is an awful agreement, or the agreement with Australia that really shortchanges us in terms of what we should have required to have happen with state trading enterprises. I will not do that. But suffice it to say, I do not expect there to be brought to this floor a debate on this trade agreement by the administration because that is the last thing they want between now and this election, because it will be a significant debate about jobs and whether these trade agreements cost us jobs or gain jobs. The record is quite clear, we are losing jobs as a result of these many trade agreements.

We have the highest trade deficit in the history of this country, by far: a $470 billion trade deficit. Every single day—every single day—almost $1.5 billion in trade deficit; that is, goods we are importing in excess of goods we are exporting. Someday, someone has to pay the cost of that trade deficit.

Now let me describe my concern about this trade. I am not concerned about expanding trade. I happen to believe it is largely beneficial to expand trade. I think countries that engage in activities because of natural resources, and other things, where they have a natural advantage, that it makes sense for us to trade with them, and for those countries to trade with us in circumstances that are the reverse.

But that is not the case with most trade agreements today. In fact, the case is we have not a doctrine of comparative advantage, as Ricardo used to talk about nearly 200 years ago. The doctrine of comparative advantage is irrelevant. It is a natural advantage that becomes a political advantage by countries that create circumstances of production that are fundamentally unfair with respect to free trade.

An example: A country says: We will not allow workers to organize. If they try to organize, we will fire them. And, oh, by the way, we will not require the payment of any kind of a minimum wage. You can hire workers for 16 cents an hour, if you wish. And, by the way, there is no age issue with respect to child labor, so if you want to pay 16 cents an hour, and hire a 12-year-old kid to do it, that is fine as well. And, also, we will not require the workplace be safe. If you want to hire 12-year-olds, pay them 12 cents an hour, and put them in an unsafe workplace, that is all right, too. By the way, when you do it, and you have a 12-year-old working in an unsafe plant, working 12 hours a day, 7 days a week, you can dump the chemicals into the air and the water from that plant, and that is just fine as well.

Now if countries decide that is the condition of production in their country, and plants move to those countries to hire those workers so they can produce a product to ship back into our country, is that what we should aspire to have American workers compete with? The answer is, no, of course not. Yet that is exactly what is happening today. You think I am wrong? Check the facts. I am not saying in every factory they are hiring 12-year-olds, but I am saying it is happening in many parts of the world. I will give you one example I have used on the floor of the Senate previously to describe in more specific terms the way this works.

This is a picture of a Huffy bicycle. Most people know about Huffy bicycles—20 percent of the American marketplace. You can buy them at K-Mart, you can buy them at Wal-Mart, and you can buy them at Sears. Huffy bicycles used to be made in Ohio. They were made by workers who made $11 an hour. They would get up and go to their jobs. I am sure they were proud of their jobs. They worked $11-an-hour jobs in Ohio to make Huffy bicycles. Right between the handlebars and the front fender they had a little insignia, a little metal insignia of the American flag.

Well, Huffy bicycles are no longer made in America. They are now made in China. The workers who made Huffy bicycles in Ohio were fired because $11 an hour was too much to pay someone to make a bicycle. Huffy bicycles are now made in China by workers who work 7 days a week, 12 to 14 hours a day, and are paid 33 cents an hour. In fact, Huffy bicycles no longer have the decal of the American flag between the handlebar and the front fender. They have a decal of the globe, descriptive, it seems to me, of what is happening to the elements of production and the manufacturing base in this country.

The question is this: Is it fair competition to ask workers in Ohio, making $11 an hour, to compete with workers in China who work 7 days a week, and make 33 cents an hour? Does that represent fair competition? Is that what we aspire to do? Or is this driving to the bottom the wages of American workers? And is it exporting the manufacturing expertise and base of the U.S. economy?

Globalization has happened quickly. The rules of globalization have not kept pace. We know that we don't want the product of Chinese prison labor to come in and hang on a store shelf in an American store and represent that as fair competition. Most all in the Chamber would probably agree the product of Chinese prison labor ought not be sold in this country because it is not fair competition. But then what about someone in Indonesia who works for 16 cents an hour? Is that fair competition for an American worker? Should we aspire to have an American worker compete in a circumstance where someone works 12 hours a day, sleeps in a bunker, 12 to a room, works 7 days a week in a plant that is unsafe?

The question of outsourcing of American jobs and the question of what is fair trade are questions that this Congress ultimately will have to answer because, if not, we will see a continued exodus from this country of jobs.

The economists, the so-called big thinkers who wear small glasses, tell us we are only talking about the outsourcing of low-tech, low-skill, low-wage jobs. That is absolutely untrue, flat out false. If those economists are still giving opinions and still making money, they should not be. I won't name the economists, but the economists who told us what would happen with the United States-Mexico trade agreement who were dead, flat out wrong. They said with that agreement we will import from Mexico the product of low-skilled, low-wage labor, and we will, therefore, benefit from that. It won't cost us high-skill, high-wage labor in the United States.

That is not true. The three largest exports from Mexico are automobiles, automobile parts, and electronics—the product of high-skilled labor. It has cost dearly American jobs.

There are so many elements to this that almost defy description. Part of it is the start of this process, when we negotiate the trade agreement. Let me give you one of the most idiotic provisions in an agreement I have ever seen. It was done a couple years ago. I have no idea which unnamed and unseen negotiator negotiated this, but we negotiated a bilateral trade agreement with China. And we have with China a very large trade deficit, now nearly $130 billion a year. So this is what our side agreed to: we will put a 2.5-percent tariff on Chinese automobiles shipped to the United States, and the Chinese will impose a tariff 10 times higher on any U.S. cars that we aspire to sell in China.

How would one come to that agreement with a country with whom we have such a large trade deficit? I have no idea. It is fundamentally incompetent to negotiate treaties that so undermine the basic manufacturing interests of our country.

Another example of automobiles—I don't come from a State that produces automobiles—is the country of Korea. I have a chart that shows what is happening with Korea. We import a substantial number of cars from Korea. Most people know the names of those cars. They buy those cars. We have ships coming across the ocean loaded with Korean cars. In fact, in a recent year, we had 618,000 Korean cars shipped in the U.S. marketplace for sale. Do you know how many cars we sold in Korea? Two thousand eight hundred. So there were 618,000 cars coming from Korea to the United States and 2,800 cars from the United States to Korea.

Why is that the case? Is it because Korean consumers don't want to buy American cars? No. It is because the Korean government has put up barrier after barrier to try to stop such sales. That is why you have a ratio of 217 to 1 Korean cars sold in the United States to U.S. cars sold in Korea. Why do we put up with it? It is because this country lacks the backbone and the spine and the will to demand fair trade and stand up for our products. If our producers can't compete, shame on us. Then we lose. But requiring our producers to compete when the game is rigged, saying our producers ought to compete, when foreign markets are closed to us, is fundamentally wrong. Yet that is what is happening. Japan, Europe, Korea, China—you can go right down the list.

I have mentioned a number of times that we have a trade regime in this country and people who work in that area seem to lack the stiff backbone that is necessary to stand up for our own economic interests. There is no evidence that we ever get tough with anybody, no matter the circumstances, because most of our trade policy is mushy-headed, foreign policy rather than sound, sensible economic policy.

We had a dispute with Europe on about beef trade, because Europe will not allow U.S. beef into its market. The WTO, for a change, ruled that the United States was right, and that we could retaliate on Europe for blocking our exports. And what do we do? We put tariffs on Roquefort cheese, goose liver, and truffles. That is going to scare the devil out of somebody, scare them with tariffs on Roquefort cheese, goose liver, and truffles, won't it?

Our country's trade officials don't have the foggiest idea how to deal with trade problems, whether it is standing up for beef interests in this country or standing up for manufacturers or the interests of workers. Our trade officials simply have been AWOL.

There is much to talk about with respect to international trade and jobs. The discussion about all of this relates to whether we have a job base to allow those who aspire to go to work to find a job. We have seen 2.5 million fewer jobs now than 3½ years ago, and at least a part of that is because we are outsourcing and seeing jobs move from this country to other countries.

At least two of the reasons for that are, one, we have a perverse Tax Code that actually rewards companies that move their jobs out of this country, and we ought to do something about that. And, second, we have basically incompetent trade agreements that fail to stand up for this country's economic interests.

My hope is that we could have a debate on trade in the Senate this year. It appears to me we are going to have a debate on virtually nothing. The minute someone offers an amendment, the others pack up their duffel bags and leave town. I don't understand it. Day after day we have no votes. Why? Because someone dared come to the floor to say, after 6 or 8 years, maybe we should have an increase in the minimum wage.

What does that do? It fills up airplanes leaving Washington, DC, because nobody wants to vote. And while they are out of town, they tell the press that those who offered the amendment are obstructionists, forgetting, of course, that the obstruction is really the refusal to give a vote to those who offered a very sensible amendment to the bill.

Most of us came here because we want to do serious things about serious issues. It would be good if, in the interest of this country, we could, in a spirit of some cooperation, decide here is the legislation we want on the floor, offer your amendments, have reasonable time agreements, have votes, and move on. Whatever the will of the Senate is, that is what we ought to do.

But instead, especially recently, we have seen a regrettable situation of the Senate deciding, if there is a controversial amendment that is offered, the majority doesn't like it, we will just stop working.

There is a lot to do. This country has an economy that regrettably at this point, while producing some growth, is not producing jobs. I just finished reading an article by an economist from the Reagan administration, Paul Craig Roberts, who was one of the architects of the economic strategy back in the 1980s. Paul Craig Roberts has it about right. He said this may well be an economic recovery without new jobs—a jobless recovery. And if that is the case, we are in trouble.

We need to search for ways to begin to create these jobs. If we have a recovery and no new jobs being created, we face some pretty difficult times. The American people want to go to work. These kids coming out of college want jobs. They want opportunity and hope. They want a good future. You do that by having an economy that produces jobs. There is no social program we discuss in the Congress that is as important or as productive as a good job that pays well.

That is what allows people to have a good life, provide for their family, and do the things they want to do. So the question for us is, what happened here? Why the disconnect? Why is an economy that is growing not producing jobs?

One answer is that we are seeing jobs moving to Sri Lanka, Bangladesh, China, Mexico—you name it. They are leaving. As they leave, a part of that departure is to be rewarded with a reverse tax cut, a tax incentive that says we will reward you while you leave.

We ought to close that now. We ought to go back and look at some of these trade agreements and decide whether it is in this country's interests not to be protectionist but to demand that the rules of trade be fair. If we are unwilling to do that, we are not going to see the creation of the kind of jobs that are necessary to restore the 2½ millions jobs that were lost and provide the additional jobs an increase in population requires year by year.

Mr. President, there are no votes today, tomorrow, Monday, or Tuesday. I guess the Senate comes back with perhaps a vote on Wednesday. I hope that perhaps we can start over and decide to treat seriously those things that are serious. There is such a tendency here to treat lightly those things that are serious and treat seriously those things that should be treated lightly. We never get to where we should be with respect to the interests of this country.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

The Senator from Louisiana.

GET OUTDOORS ACT

Ms. LANDRIEU. Madam President, I rise with my colleague from Tennessee, to recognize the introduction of legislation in the House of Representatives today by Congressmen DON YOUNG of Alaska and GEORGE MILLER of California. The Get Outdoors Act is similar to an effort that many of us in the House and Senate were involved in during the 106th Congress.

I am particularly pleased to be joined by Senator ALEXANDER to announce our intention to introduce similar legislation in the Senate in the coming weeks.

The principles and concepts within this legislation from the 106th Congress were then and continue today to be one of the most significant conservation efforts ever considered by Congress. Our goal is to provide a steady, reliable stream of revenue to fund some of the most urgent conservation needs in the country.

The Get Outdoors Act, or GO Act, as the House bill will be referred to, is almost identical to the legislation considered by the House and Senate in the 106th Congress. That legislation had overwhelming bipartisan support. It was a landmark, multi-year commitment to conservation programs benefitting all 50 States.

The legislation we will be introducing uses a conservation royalty earned from the production of oil and gas off the Outer Continental Shelf for the protection and enhancement of our natural and cultural heritage, threatened coastal areas and wildlife habitat. It also reinvests in our local communities and provides for our children and grandchildren through enhanced outdoor recreational activities.

By enacting this legislation, we can ensure that we are making the most significant commitment of resources to conservation ever and ensure a positive legacy of protecting and enhancing cultural, natural, and recreational resources for Americans today and in the future.

As many of our colleagues will remember, during the 106th Congress the House of Representatives passed almost identical legislation by a vote of 315 to 102 and the Senate Committee on Energy and Natural Resources reported a similar version that had the support of both the Chairman and Ranking Member.

In addition, in September of 2000, a bipartisan group of 63 Senators sent a letter to the majority and minority leaders indicating their support to bring the bill to the floor. The effort was supported by Governors, Mayors and a coalition of over 5,000 organizations from throughout the country.

Unfortunately, despite that tremendous and unprecedented network of people who came together in support of the legislation, our efforts were cut short before a Bill could be signed into law. Instead a commitment was made by those who opposed the legislation to guarantee funding for these programs each year through the appropriation process.

However, as we have painfully witnessed since then, that commitment has not been honored. What has happened is exactly what those of us who initiated the effort always anticipated. Each of these significant programs has been shortchanged and a number of them have left out altogether or forced to compete with each other for scarce resources. So, today, the House has taken a great step to introduce similar legislation. The principle of the bill Senator ALEXANDER and I will soon introduce provides a reliable, significant and steady stream of revenue for the urgent conservation and outdoor recreation needs of our rapidly growing cities.

If we were to look at a map of the country and put lights where most of the population is, we would see a bright ring around the country because two-thirds of our population reside within 50 miles of our coasts. As a Senator from a coastal State, I understand the pressures that confront many of our coastal communities.

Today, with the price of oil near a 13-year high we should channel some of those revenues and re-invest them in our natural resources.

Some of the programs in the legislation we plan to introduce will include: impact assistance, coastal conservation and fishery enhancement for all coastal States and eligible local governments and to mitigate the various impacts of producing States that serve as the "platform" for the crucial development of Federal offshore energy resources from the Outer Continental Shelf. It does not reward drilling, but it does acknowledge the impacts to and the contributions of States that are providing the energy to run the country; flexible and stable funding for the State and Federal sides of the Land and Water Conservation Fund while protecting the rights of private property owners and with a particular emphasis on alleviating the maintenance backlog confronting our national parks; wildlife conservation, education and restoration through the successful program of Pittman-Robertson; urban parks and recreation recovery to rehabilitate and develop recreation programs, sites and facilities enabling cities and towns to focus on enhancing the quality of life for populations within our more densely inhabited areas by providing more green-spaces, more playgrounds and ball fields for our youth and the parents and community leaders that support them; historic preservation programs, including full funding of grants to the States, maintaining the National Register of Historic Places and administering the numerous historic preservation programs that are crucial to remember our proud past and fully funding the Payment In Lieu of Taxes program, or PILT, in order to compensate local governments, predominantly out west, for losses to their tax bases because the Federal Government owns so much land in a number of those States.

While we confront the challenges of a war, budget deficits and a struggling economy, I believe it would be wise and we would show good stewardship to take this opportunity to set aside a small portion of the oil and gas royalties to our States and localities for initiatives such as outdoor spaces or recreation facilities where our children can play. The essence of this legislation, the American Outdoors Act, is to take the proceeds from a non-renewable resource for the purpose of reinvesting a portion of these revenues in the conservation and enhancement of our renewable resources.

We wanted to come to the floor today to share these ideas with our colleagues, to encourage their input and ask them to be a part of this unique conservation effort.

I would also like to add how much I appreciate the leadership of Senator ALEXANDER. I think we will make a great team and thank him for his cosponsorship as we attempt to move this legislation through the process.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, the Presiding Officer and I are new Members of the Senate, but we learn our lessons pretty quickly. One of the things you learn here is if you want to have an impact in the Senate, you have to put a focus on something you care about and then keep after it.

The Senator from Louisiana has done that. In her first term here she focused on the great American outdoors. Working with others, she came pretty close to passing an important piece of legislation 3 years ago.

There were some problems in it for Members of the Senate. It is my goal, working with her this year, and we hope with many others of our colleagues on the Energy and Natural Resources Committee and others of our colleagues on both sides of the aisle, to solve those problems and come up with legislation that represents the conservation majority, the huge conservation majority that exists in the United States of America.

The conservation majority of this country does not have a line down the middle with chairs on each side. It exists on both sides of every aisle and has broad support. We are good legislators, and if we are as good as we hope we are, we will be able to work and represent what our constituents would like us to do. So it is a privilege for me to work with Senator LANDRIEU. We both serve on the Energy and Natural Resources Committee. We are fortunate under Chairman PETE DOMENICI and ranking member JEFF BINGAMAN that we, most of the time, are able to work in a bipartisan way. So we are off to a good start in terms of fashioning a piece of legislation that will gain the support of our colleagues.

We are deliberately today not offering legislation. We want to discuss it first with members of our committee. We want to discuss it next with others, such as the Presiding Officer of the Senate, who has a long interest in conservation matters. We want her ideas and those of others. Then, perhaps in 3 weeks, after the recess, we will be able to come forward with a piece of legislation that has broad bipartisan support.

As the Senator from Louisiana said, this morning Congressman YOUNG of Alaska and GEORGE MILLER of California introduced the GO Act, the Get Outdoors Act of 2004. I believe they used it to emphasize we might do some work on this obesity problem that is really worrying us, in terms of health, if more of us spend a little more time walking outdoors, playing outdoors, and taking advantage of our country.

As the Senator from Louisiana said, the bill therefore will provide, I believe, about $3 billion in guaranteed annual funding for outdoor recreation purposes. It would be paid for, as she described, by what I think of as a conservation royalty. This is the way I think of it. It is a royalty on the revenues from oil and gas drilling on offshore Federal lands. After the royalties are paid to the landowner and after the royalties are paid to the State, this conservation royalty would be paid to a trust fund which would then spend the money for the benefit of conservation. Then, after that, the rest of the Federal revenues would go into the regular Federal appropriations process.

That is the way I like to think about it and I hope that is the way a majority of the Members of the Senate will want to think about it as well.

As the Senator said, we will be discussing these concepts that she so well outlined with our colleagues. And we hope they will join us as cosponsors. As she said, our bill will be similar to that which was introduced this morning in the House of Representatives, but it will not be the same.

In addition, it will be similar to the so-called CARA legislation that Senator LANDRIEU and many others worked hard on 3 years ago, but it will not be the same. There are some lessons that we need to learn from what happened 3 years ago.

For example, the cost of the Senate legislation may not be as much as the cost of the legislation offered in the House. That is yet to be determined.

In addition, as the Senator said, we intend to discuss with our colleagues whether States should have the option, for example, of spending the Federal share of the Land and Water Conservation Fund for maintenance of Federal lands rather than for acquisition.

I have learned over the years that there is a big difference of opinion between Senators from the West and Senators from the East about the acquisition of Federal lands. In North Carolina and Tennessee, we don't have much Federal land. So a lot of us—even many of us conservative Republicans—would be glad to have a little more. Out West there are a lot of people who think the Federal Government not only has enough but it has too much, and they don't want to see legislation that would acquire more.

We need to take that into account as we develop a piece of legislation that will represent the conservation majority but do it with respect for those States that are already largely owned by the Federal Government.

Our legislation, like that proposed in the House, will ensure that State and Federal parts of the Land and Water Conservation Fund will fulfill the intention that Congress originally envisioned. It will provide for wildlife conservation. That will benefit hunters and fishermen. There are more hunters and fish people with hunting and fishing licenses in Tennessee than there are people who vote. I am not sure that is a statistic to admire, but it is a fact, and it is one to which I pay attention. Bird watchers and all Americans who enjoy outdoor recreation will benefit from this legislation. It will provide funds to establish city parks so the children in and around our metropolitan areas can have decent, clean places to play; so families can have decent places to go; and so senior Americans can have decent, safe places to walk.

Someone once said Italy has its art, England has its history, and the United States has the Great American Outdoors. Walt Whitman wrote, "If you would understand me, go to the heights or watershores."

Our magnificent land, as much as our love for liberty, is at the core of the American character. It has inspired our pioneer spirit, our resourcefulness, and our generosity. Its greatness has fueled our individualism and optimism and has made us believe that anything is possible. It has influenced our music, literature, science, and language. It has served as the training ground of athletes and philosophers, of poets and defenders of American ideals.

That is why there is a conservation majority—a large conservation majority—in the United States of America.

That is why so many of us, as the Senator from Louisiana said, feel a responsibility in our generation to ensure to the next generation the inspiration of the dignity of the outdoors, its power, its elemental freedom; the opportunity to participate in the challenges of its discovery and personal involvement; and the fulfillment that is to be found in the endless opportunities for physical release and spiritual release.

Some of the words I just used came from the preamble of President Ronald Reagan's Commission on American Outdoors, which I chaired in 1985 and 1986.

In 1985, President Reagan asked a group of us—I was then the Governor of Tennessee—to look ahead for a generation and see what needed to be done for Americans to have appropriate places to go and what they wanted to do outdoors.

Our report, issued in 1987—very nearly a generation ago—recommended that we light a prairie fire of action to protect what was important to us in the American outdoors and to build for the future. We focused on the importance of a higher outdoors ethic, suggested an "outdoor corps" to improve recreational facilities. We examined the role of voluntarism. We pointed out that the park most people like is the park closest to where they live and how important it is, therefore, to have urban parks as well as great national parks. We warned of how the liability crisis and runaway lawsuits threatened our outdoor activities and called for a new institution or set of institutions to train leadership for outdoor recreation.

We formed State commissions, such as Tennesseans Outdoors, which went to work with the same objectives in our own State that we had in our national Commission.

We envisioned a network of greenways, scenic byways, and shorelines. Most of the action we suggested was not from Washington, DC, but was community by community by community.

But we also acknowledged the important role the Federal Government has to play in providing outdoor recreation opportunities. Of course, we must have clean air and clean water, and we must protect and enhance recreation opportunities on Federal lands and waters.

Almost all of us on the Commission called for the creation of a $1 billion fund to fully fund the Land and Water Conservation Fund—both the State share and the Federal share. This is a way of balancing our need for more oil and gas with our need for recreational opportunities in the outdoors.

As I mentioned earlier, I think of these annual payments from the revenues derived from offshore drilling for oil and gas on Federal land as a royalty payment. Pay the owner a royalty, pay the State its royalty, then pay a conservation royalty for the use of that resource. Then the rest of those revenues go into the Federal Treasury to be appropriated. Pay a $3 billion annual conservation royalty—that is the number that the House bill uses—before it ever gets to the Federal appropriations process. Then appropriate the rest.

I believe this legislation will have broad bipartisan support in the Senate.

I look forward to working with Senator LANDRIEU, Chairman DOMENICI, with our colleagues on the Energy and Natural Resources Committee, and with all of our colleagues on both sides of the aisle to fashion legislation that is good legislation, that represents the overwhelming conservation majority in the United States of America, and which can pass the Senate and the House of Representatives this year.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I commend my colleague, the Senator from Tennessee, for his leadership—as I said, for not just this year and the years he has been in the Senate but for his years of service in Tennessee, and as Chairman of this important Commission that outlined some of the principles we are talking about and searching for solutions to today; and for his eloquence in reminding us that even more than good stewardship is required.

One particularly fresh idea that he has brought to this effort is the conservation royalty.

I think we can begin to see that the companies are not only paying a royalty to the Government, but they are paying a royalty to future generations through conservation. I think it is royalty they would gladly pay. We are not asking them to pay more than they are today. But a portion of what they pay today.

I thank the Senator for his leadership, and I look forward to getting, as we said, ideas from our colleagues, taking it to the Energy Committee and developing broad bipartisan support. Even in these days of tight budgets, we can think about setting aside a portion of these revenues which are not insignificant. As you know, last year we generated $6 billion off the coast primarily of Louisiana, Texas, Mississippi, and Alabama, while still honoring the moratorium that is in place along the western coasts the eastern coasts and Florida. Even honoring the moratorium in place, we still were able to generate billions of dollars. Hopefully through this legislation we can dedicate that conservation royalty, a portion, to the worthy causes.

I thank the Senator.

Mr. ALEXANDER. Madam President, I thank the Senator from Louisiana.

Her comments make me think of this report. Let me hold this up. So staff will not worry, I will not ask to put this in the CONGRESSIONAL RECORD. There is a summary I will bring to the Senate when we introduce the bill. This is the report of President Reagan's Commission on Americans Outdoors, published in 1987. It is a very good resource and backup for many of the ideas we envision being part of this legislation.

I learned very quickly as Chairman of this Commission that most of the decisions we have to deal with in environmental and conservation matters involve balance. Senator LANDRIEU and I know, because of our service on the Energy and Natural Resources Committee, as we work hard to try to develop a national energy policy, that we are having a difficult time as a country compromising, creating balance between our need to produce and our need to conserve.

I certainly do not want to draw into this discussion all of those arguments. I will say very little more about it except it would be nice to find in this contentious Presidential year, in this time when we have so much disagreement about energy production and conservation, one area where we could show we are skilled enough as legislators to properly represent the huge conservation majority in the United States.

Most Americans, as President Reagan's Commission thought and almost all Members thought, of course, we have to drill for oil and gas; otherwise our natural gas prices are going through the roof; our jobs will be in Mexico; our lights will be out. Of course we have to do that.

Is that an insult to the environment? Yes, it is. What do we do about it? Shut down the wells? No, one thing we can do is take some of that money—actually a lot of this money—and pay a conservation royalty, compensate for that by creating a conservation benefit on the other side. This idea of the land and water conservation fund has been endorsed by politicians of both parties for a long time. What we are trying to do today is assure a steady stream of revenue to the State and Federal side of the conservation fund, plus a number of other conservation areas, in a way that respects each of our States. We can do it. There is enough of a majority; we can do that.

President Reagan's Commission on Americans Outdoors from 1985, 1986, and 1987, and the work that Senator LANDRIEU and the majority in both Houses did, form a wonderful beginning. We will see in the next few weeks if we are wise enough to take that to a successful conclusion.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FALLUJAH DEATHS

Mrs. DOLE. Mr. President, I watched with horror yesterday as the media displayed the images of crowded streets, in Fallujah—and burning bodies in the center of that horrific celebration. In the middle of that city that is part of the volatile Sunni Triangle, four Americans were attacked, executed, and then burned as a mob of Iraqis danced around the corpses.

I found it hard to believe I was watching a news program, given that the scene playing out before my eyes looked far more like a gruesome movie than tragic reality.

Sadly, it was a reality—and that reality continues today. Families have been notified that their loved ones were among the four casualties and are mourning the loss of these brave souls.

My home state of North Carolina grieves today as well. The four men who were brutally assassinated yesterday were employees from Blackwater Security Consulting, based in a city in northeastern North Carolina. Preliminary reports tell us that three had been Navy SEALs and one had been an Army Ranger.

The four contractors were stationed in Fallujah to provide a convoy of security—the very purpose of their presence was to protect the lives of Iraqi men and women and they in turn were subjected to such barbaric and despicable acts.

Yesterday's attack on these innocent men only further illustrates the evil influence Saddam Hussein still has over so many Iraqis. We are told that the 150,000 residents of Fallujah are being held captive by a brutal regime that wants nothing more than to return to the past days of tyrannical rule and streets of violence. The perpetrators of these ghastly acts hate freedom, loathe democracy and wish to turn back the clock—it is important to say now more than ever that we will not let this happen.

Mr. President, the horrific slaughters yesterday will not weaken the American resolve to bring order, democracy, and peace to this war torn nation. The criminal who orchestrated these murders are few—and the Iraqis who stand firm against such violence are the men and women we are seeking to serve as the Coalitional Provisional Authority acts to establish stability in the middle of chaos.

As peace and order are brought to all regions of Iraq, may justice arrive alongside them. It is my sincere hope that those responsible for these attacks will not escape punishment. Let our response be swift and just.

While I wish there were more I could offer to the families who grieve the horrific loss of their loved ones, my condolences and my prayers are all I have. My heart aches for the tears of so many—and my earnest prayer is that we see the end of these tragedies as brave Americans continue their work in Iraq. I deeply believe in their mission and in the cause of democracy, freedom, and peace.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. I ask unanimous consent to speak for not more than 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRICES

Mr. CRAIG. Madam President, I have spoken in the last 3 days about the current price crisis this country is experiencing with the critical resource energy. The American consumer is going to the pump in their local community today to refuel their car and paying record high prices; in fact, the highest ever recorded on average in our history. I would hope they are beginning to ask the question why, why is this happening and why am I having to pay another $5 or $6 per tank of gas, an average of maybe $15 or $20 or $30 a month more.

In fact, I and the chairman of the Energy Committee, PETE DOMENICI, and others, held a press conference to speak to the issue of energy and why the Senate was not yet debating a comprehensive energy bill that is ready for us to debate once again and vote on.

At that time I mentioned the average consumer today will pay, as an individual, $300 or $400 more a year for the price of energy, and collectively, as a family, they may well pay more than that. When you consider their electrical bills and space heater bills, the average family is going to pay considerably more this year. That is money that won't come as a result of having a pay raise and, therefore, having the money to offset those costs. Those are dollars and cents that are going to come directly out of the family budget this year. It will have a substantial impact on that family's ability to do what they did a year ago, whether it was providing food for the table, clothes for their children, or maybe the family vacation, or the recreational value they place on a certain activity that would cost them a certain amount of energy.

I mentioned some days ago that I think probably families are already, if they own a motor home, recalculating whether they will actually be able to take that home and go someplace in the country this summer because of the potential cost, additional cost that 15 or 20 cents on a gallon of gas will mean this year. Those are all very real issues and some that clearly this Senate ought to address.

I have said for that average consumer who is asking the question why, I have an answer. The answer is that the Senate of the United States has refused to bring out and pass and set on our President's desk a comprehensive energy bill that addresses those and other issues that in the long term will get us back into the business of producing energy for our country and becoming less dependent on foreign supplies and, therefore, certainly dependent upon ourselves more than others. It is an important issue that we have before us today.

We have even seen it now break into Presidential politics, as Senator KERRY speaks of ways he can propose to bring down those prices. I have noticed he has not talked about production. He has not talked about increasing production. So there are going to be a lot of schemes. I use the word "scheme" because some are scheming at this moment as to how they might turn this to their political advantage, tragically enough; that is, the price of energy at this moment.

Why don't they just stop and ask the Senate why they can't pass a comprehensive national energy policy for our country? We have been 14 years without any new directions or new ideas as it relates to energy production, and it is clearly time we speak to that. There is a proposal that has just been brought forth. It is called the Gasoline Free Market Competition Act of 2003. Each time we see something like this as an idea, it is important that we put it in the right context. Each time a government agency investigates gasoline prices—and there have been 29 such investigations by Federal and State agencies over the past several decades—the findings literally have been all the same. The market controls the price of energy, not some unscrupulous producer. It is the market forces that ultimately produce the price at the pump.

The purpose for antitrust law is to protect the interests of the consuming public, not to increase the profit of any level or type of distributions, which is what happens in the legislation I have mentioned, which is S. 1731. That particular legislation would try to dictate refiners' distribution practices. I don't think our Government ought to ever get into the micromanagement of a marketplace. Our goal—and it always should be our goal—is to create transparency in the markets so all of the parties involve can understand them.

As noted in a recent economic study on "The Economics of Gasoline Retailing," a Dr. Andrew Kleit, professor of energy and environmental economics at Penn State University, puts it this way:

> There is a difference between protecting competition and protecting competitors. Protecting competition means moving to provide consumers with the lowest sustainable prices, not protecting the profits of any level of production or any individual firm.

Professor Kleit's analysis shows that eliminating the ability of refiners to restrict where their brands can be distributed, as proposed in S. 1737, would likely reduce refiners' investment in distribution outlets and ultimately harm consumers.

From a competitive point of view, Professor Kleit says, "these calls [for this type of distribution concepts in legislation] are [clearly] misguided."

The strategy at issue is the result of competition between various forms of distribution in gasoline marketing. This competition promotes efficiencies which benefit consumers by bringing products to market for less cost. My fear is S. 1737 would not protect competition, only some of the competitors.

That is clearly where we ought not be going. But what I think S. 1737 really does is it tries to speak to a market today that is a product of Government interference in the past. By that I mean standards and new standards that do not allow the normal marketplace to flow and that, ultimately, confuse the process and create dislocations, whereas a more free market approach certainly would allow that to happen.

As we have seen in recent years, the Federal Trade Commission has carefully studied many of the proposals about mergers within the industry. In many instances, the FTC has required companies to sell assets to new competitors as these mergers occur. Let me give some examples.

For example, the Exxon Mobil merger in 1999 resulted in the largest retail divestiture in FTC history—the sale or assignment of approximately 2,431 Exxon Mobil gas stations in the Northeast and mid-Atlantic, some 1,740; California stations, some 360; Texas stations, 319; and in Guam, 12; and the sale of Exxon refineries in California, terminals, a pipeline and other assets.

So my point is, while we may try to micromanage and use that as an excuse or an attempt to help the marketplace, what the FTC has done relating to these mergers has in part done that. In other words, we have given them the authority to do so.

Similarly, when British Petroleum merged with Amoco in 1998, they agreed to make certain divestitures to free up more than 1,600 gas stations in 30 markets in order to satisfy FTC concerns that their merger would substantially lessen competition in certain wholesale gasoline markets.

Let's stop passing the buck on energy prices.

Let's stop attempting to tinker with the energy bill and apply untested concepts and theories in the hope that we can create the perfect bill while our citizens are being crushed by high energy prices.

Let's pass the energy bill and implement the energy policies included in that bipartisan piece of legislation.

Let's stop the partisan rancor and do what our constituents sent us here to do—protect their jobs, protect their quality of life, and protect their security by passing this energy bill.

While many Senators may come to the floor well meaning in the next several months to find some political safe haven in which to address the issue of high energy prices, there really are not any. Nobody is scheming today. Nobody is glutting the marketplace. The reality is a problem of supply and demand. While I am quite sure you will have some State attorneys general out there calling for investigations, the problem is supply and demand. It clearly is that, and there is no other argument that can really fit or begin to explain why we have record high gas prices.

This Senate needs to pass a comprehensive energy bill, and we have one. It is ready to come to the floor. We are being denied that opportunity to bring it to the floor. All I am saying is use due caution as it relates to all kinds of new ways to argue the problem in the marketplace. But when you don't have enough supply of product or crude to go around, when you have world demands and us now depending on a world market for our supply of crude, we have a problem. This Senate refuses to address that problem.

I hope in the coming days as gas prices continue to spike, consumers will ask the question why, and turn to the Senate and say very simply: Do something. Pass a national energy policy. Put it on the President's desk and allow this country to get back into the business of production and meeting the supply to the market, instead of trying to find a scheme or another excuse that will only be a short, limited political ground on which to stand.

I believe there is no place to hide today and no Senator can have that opportunity. The vote has been on the record. Let's change the record and improve the record by the passage of a national energy policy that will once again put our country in the business of energy production.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

(The remarks of Ms. LANDRIEU pertaining to the introduction of S. 2274 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOBS CRISIS AND INDIFFERENCE TO WORKING FAMILIES

Mr. DASCHLE. Mr. President, in the last 3 years, America has lost nearly 3 million private-sector jobs, including nearly 2.9 million good manufacturing jobs.

The Bureau of Labor Statistics says there are 8.2 million Americans out of work today.

But that doesn't include the millions of "discouraged workers" who have stopped looking for jobs. And it doesn't include millions more who are underemployed.

All together, nearly 15 million American workers today are unemployed, under-employed, or have given up looking for work.

A month ago, the President's Council of Economic Advisors released its annual report on the economy. It predicted that the economy would create 3.8 million new jobs this year.

The President's own Labor and Commerce secretaries refused to endorse that prediction. Then the President himself backed away from those numbers.

After 3 years of promising jobs that never materialized, the Bush administration won't even predict anymore how many jobs their policies will create.

Last month, the economy added only 21,000 new jobs—every one of them in government. 21,000 new jobs. That is one job for every 389 Americans who need jobs.

All over America, people who have lost jobs are draining their savings accounts, tapping their 401(k)s, and running up expensive credit card debt to try to make ends meet.

The average length of unemployment is at a 20-year high.

When people finally find work, it often involves a substantial cut in pay. Jobs in growing industries pay, on average, 21 percent less than the jobs in industries that are shrinking.

We have a jobs crisis in this country. And it is not just unemployed workers who are feeling the pain.

With wages stagnant or falling, and health care and child care costs rising, many parents are working longer and harder than ever—and it's still not enough.

Consumer debt is at an all-time high. Home mortgage foreclosures, car repossessions, and credit card debt are all at record levels.

Millions and millions of American families are just one health crisis, one pink slip, or one bad break away from financial disaster.

You would never know any of this to look at the agenda of the Bush administration and Congressional Republicans.

The President and Congressional Republicans tell us, "don't worry, the economy is getting stronger."

Getting stronger for whom?

Not the millions of Americans who are unemployed and underemployed. Not the workers whose jobs are being shipped overseas with help—help—from this administration.

Not the 43 million Americans who can't afford health insurance and are living with the daily dread that one serious illness or accident could put them in a financial hole they will never dig their way out of.

America's families need jobs. And workers who have lost their jobs need help until they get back on their feet.

They need unemployment insurance, job training, and health care until they can find their next job.

Yet, this week, instead of just ignoring the economic stress so many American families are under, the Bush administration is knowingly, deliberately, increasing that stress.

Yesterday, the Federal unemployment insurance program expired.

Despite repeated Democratic efforts to extend the program, the Bush administration and Congressional Republicans have refused.

As a result, over one million workers have seen their unemployment benefits expire over the past 3 months, and nearly one million more will see their benefits expire in the next 3 months.

Last week, the President's Commerce Secretary said President Bush would sign an extension of the Federal unemployment program if Congress passed it.

So I urge President Bush to use his powers of persuasion to convince the Members of his own party to extend unemployment benefits.

It is wrong to punish workers who can't find jobs in a jobless recovery.

There is something else the President should do.

President Bush should make it clear that he will not strip overtime pay protections from one American worker. Not one.

Any day now, the Labor Department is expected to issue new regulations that could deny 8 million American workers their right to overtime pay. Those regulations were expected to be released yesterday, but they have now been delayed for some reason.

Bipartisan majorities in the House and the Senate voted last year to overturn the Bush regulations stripping workers of their overtime protections.

But the White House worked behind closed doors with Republican leaders in Congress to push the regulations through anyway.

If they have their way, up to 8 million workers—including firefighters, nurses, store supervisors and others—will lose their overtime pay.

Overtime pay isn't for luxuries; it is essential family income that's needed to pay mortgages, tuition, grocery bills, utility bills, health insurance premiums, and prescription drug costs.

For eligible workers, overtime pay makes up, on average, 25 percent of their income.

Last week, Republican leaders in the Senate actually pulled the JOBS bill to avoid voting on a Democratic amendment that would have preserved the overtime rights of American workers.

The Bush administration would rather force American companies to pay tariffs on the goods they sell in Europe than protect the overtime pay of American workers.

That shows how deeply out of touch this administration and its allies in Congress are with the real needs of average working Americans.

There are other signs as well. Two days ago, the Senate voted overwhelmingly to increase child-care funding in the welfare bill so that mothers who are moving from welfare to work won't have to leave their children home alone or with strangers.

Even though States are slashing funding for child care, the Bush administration insisted that no more money for child care is needed. If their view prevails, 450,000 children would be forced out of child care. That is how out of touch they are with this economy.

This administration has also refused, repeatedly, to raise the minimum wage.

It has fought to deny the earned income tax credit for low-income parents—at the same time it insists on more and bigger tax cuts for the wealthiest one percent.

The President's economic advisors even suggested re-classifying Burger King jobs as manufacturing jobs to try to disguise how many manufacturing jobs America is losing.

I have some advice for them: Forget about creating better-sounding statistics and figure out how to create better-paying jobs here in America.

Millions of Americans are hurting and need help.

I urge the President and the members of his administration, and Republican leaders in Congress, to listen to them and extend the federal unemployment insurance payments, stop this effort to deny working people overtime pay, work with us in a bipartisan way to create and keep good jobs here in America and make affordable health care and child care available for working families.

VIOLENCE IN FALLUJAH

Mr. President, today, I offer my condolences to the families of the nine Americans who lost their lives in Iraq yesterday.

Five Marines were killed in the most deadly car bombing our forces in Iraq have yet seen in the 11 months since the fall of the Saddam Hussein regime.

In addition, yesterday four private security contractors were attacked and brutally killed by a mob in Fallujah.

The barbarity of these acts is shocking, and it reminds us of the courage of the men and women—both civilian and military—serving in Iraq, working to bring freedom to the Iraqi people.

Every day, our soldiers and the private contractors engaged in the work of serving our military and rebuilding Iraq face the fear of violence.

Yet every day, they go about their work with skill and resolve because they understand that their efforts are building a safer Iraq, and a more secure Middle East.

The cost to our Nation has been profound.

Six hundred American service men and women have lost their lives since the beginning of hostilities.

Over 3,000 soldiers have been wounded.

Just over the weekend, in fact, a young man from my hometown of Aberdeen, SD, Sergeant Sean Lessin, sustained a severe head injury in the course of his duties in Iraq.

Sgt. Lessin is a member of the 147th Field Artillery Unit and is now receiving treatment at the U.S. Military Combat Support Hospital in Baghdad.

Our thoughts and prayers go out to Sgt. Lessin and his wife Jessica in Aberdeen.

Someone once wrote that "True heroism is remarkably sober, very undramatic. It is not the urge to surpass all others at whatever cost, but the urge to serve others at whatever cost."

The Americans who lost their lives yesterday—indeed, all those serving their Nation in Iraq—are true heroes.

At times such as these, when our Nation faces great challenges, the loss of such heroes is particularly painful, because they are so rare, and so important.

To the families of those killed, we offer our deepest condolences and our unbounded thanks for the sacrifice your loved ones have made.

To the men and women still serving in Iraq, you have the thanks and admiration of your Nation.

We recognize the escalating violence you face, and we will spare no effort to ensure that you have every tool, every resource, every possible advantage we can offer to help you complete your work and return home safely to your loved ones.

America will not be intimidated by barbaric acts whose only goal is to spread fear and chaos throughout Iraq.

Yesterday's events will only serve to strengthen America's resolve and seal America's unity.

The brave people who lost their lives did not die in vain.

Americans stand together today and always to finish the work we started and bring peace and democracy to the citizens of Iraq.

I yield the floor.

Mr. ALLEN. Mr. President, I rise today in support of the Senator WYDEN's amendment to the PRIDE Act that provides States the option to extend current TANF waivers and create additional waiver authority.

Virginia has been a leader in many important national reform movements throughout the history of our country. In February of 1995, during my tenure as Governor of the Commonwealth, Virginia enacted one of the most principled, tough, comprehensive welfare reform measures in the United States. It was a tough fight to get this measure passed by a Democrat led General Assembly.

Many other States enacted successful reforms and our approach and that of Wisconsin and Massachusetts served as a model for the entire Nation and encouraged self-sufficiency, the dignity of work and the pride of independence rather than dependence.

The "Virginia Independence Program" transformed an outdated welfare system that was failing taxpayers, sapping initiative from welfare recipients, and breaking up families. I have had many former welfare recipients thank me for ending the downward cycle of dependency and despair.

Unlike the Federal work requirement outlined in the 1996 law, able-bodied recipients in Virginia were required work within 90 days, the State had a 2-year limit on benefits, with transition assistance in the third year and promoted individual responsibility by allowing no increase in State benefits for recipients who have more children while receiving welfare.

Vital reforms were made for children. Virginia ended the marriage penalty, increased enforcement of child support by suspending professional and driver's licenses for "deadbeat" parents, required mothers to identify the father to receive benefits, or receive no benefits—this led to 99 percent identification and more child support.

Finally, the law required that minor-age mothers having children while on welfare must live with a parent or guardian and stay in school, more commonly referred to as "Learnfare".

These reforms resulted in a 60 percent decrease in welfare rolls, and saved more than $357 million in taxpayer funds in Virginia which were used for other priorities in education and law enforcement. Ultimately, I measure our success not by how many people are receiving welfare checks, but rather by how many people are leading independent, self-reliant lives.

Virginia's trailblazing welfare reform has been extremely successful in setting the stage for Federal welfare overhaul, significant declines in welfare roles nationwide, and increasing the number of former welfare recipients getting back to work. Virginia's waiver from Federal law has enabled much of the success in requiring able-bodied men and women to work for their benefits.

With the passage of the Federal welfare reform in the fall of 1996, Congress intended to give the States flexibility with the law. Flexibility through these waivers has allowed States the ability to develop innovative programs that best serve their citizens. Fifteen other States opted for waivers. Indeed, Virginia has far exceeded the goal of the Federal welfare legislation offering Virginians the best tools to provide for themselves and their families.

As of June 2003, Virginia's welfare waiver expired. It is imperative that the PRIDE Act, a continuation of welfare reform started in 1996, include waivers for States that have taken the initiative to make comprehensive welfare reforms. We need to ensure that States can continue to encourage independence through work, promote families and marriage and guarantee child-support enforcement.

I urge my colleagues to support this amendment so that States can maintain these positive results and successful welfare reforms.

UNEMPLOYMENT COMPENSATION

Mr. BINGAMAN. Mr. President, I rise today in support of the extension of the temporary extended unemployment compensation program, which expires today. I support this effort because, in my view, we still face an extremely serious problem of unemployment in the United States, specifically as it relates to the number of workers who have exhausted their unemployment insurance benefits and are still unable to find work.

The Democrats have tried to extend this program through unanimous consent at least a dozen times this winter and the effort has been rejected by Republican leadership every time. We tried in February of this year. We tried in January of this year. And we tried a number of times in November 2003. Each time the other side of the aisle said the program was no longer needed. Even worse, they said that extension of the program would only give incentives to workers to stay home instead of look for work. This is a very different view of American workers than I have.

According to the latest data from the Department of Labor, between December and February there will be at least 781,000 workers that will have exhausted their regular State benefits and will go without additional Federal unemployment assistance. Based on extrapolations from that analysis, the Center for Budget and Policy Priorities argues that with each week that goes by, another 80,000 workers will be added to this list. In no other comparable data on record has there been this many "exhaustees."

In my State of New Mexico, it is estimated that 4,300 workers have exhausted their benefits from December 2003 through March 2004. Through September 2004, it is estimated that 7,200 workers will have exhausted their benefits. In a State where the most recent unemployment rate is 5.7 percent and jobs are very difficult to come by, this is hardly an encouraging figure.

The Bush administration has argued that extension of the TEUC program is not necessary because the unemployment rate is low and the economy is growing. They suggested again and again that we are on the verge of an economic recovery and jobs are being created. I respectfully disagree.

In 2001, the Bush administration claimed that their tax cuts would create at least 800,000 jobs by 2002. That did not happen. In 2002, the Bush administration claimed that 3 million jobs would be created in 2003. That did not happen. In February, the Bush administration claimed in their economic report that 2.6 million jobs will be created in 2004, but everyone in the administration quickly backed away from that number. No one truly believes that this will happen.

Given the lack of coherent or comprehensive policy proposals by the administration, I say it is time we in Congress act to address job creation and help the victims of their failed policies. Extending the temporary emergency unemployment compensation program is, in my view, the least we can do for Americans that have been attempting to find work but cannot do so. As a practical matter, this means workers can continue to get unemployment insurance benefits while they continue to search for work.

So I want to add my voice to the others today and say that we must pass this legislation before it expires. American workers deserve to be dealt with in a fair and equitable manner, especially in this time of need. They need a lifeline, and it is up to us to provide it.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 4, 2000, an 18-year-old Brooklyn man was charged with allegedly slashing three men and threatening the life of another because he believed the men to be gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DECRYING THE ETHNIC VIOLENCE IN KOSOVO

Mr. BIDEN. Mr. President, I rise today to condemn in the strongest possible terms the violence 2 weeks ago in Kosovo, which claimed the lives of 20 persons, injured more than 600 others, displaced more than 4,000 individuals, destroyed more than 500 homes, and destroyed or damaged more than 30 churches and monasteries.

In a reversal of the brutal murders and ethnic cleansing carried out in 1998 and 1999 against Kosovar Albanians by the forces of former Serbian strongman Slobodan Milosevic, the perpetrators of this violence were the former victims—the ethnic Albanians. Their principal targets were Kosovo Serbs, although Ashkali and other minorities in the province also suffered.

There is no way to gloss over or disguise these events: They are a disaster of the first magnitude. Five years ago last week, I submitted the resolution that was adopted by this body, authorizing military action against the Milosevic government in order to rescue the persecuted Kosovar Albanians. Over the subsequent eleven weeks the United States and its allies successfully waged an air war, which resulted in the withdrawal of Serbian forces from Kosovo. A United Nations Security Council Resolution created a protectorate administered by the United Nations Interim Administration in Kosovo—known popularly by its acronym UNMIK—under the military protection of NATO's Kosovo Force or KFOR.

Since the summer of 1999 the international community, working through these civilian and military structures, has attempted to pacify and stabilize the situation, rebuild the shattered infrastructure, and help guide the embittered and traumatized population toward eventual democratic self-rule. Resolution of Kosovo's final status was understandably deferred until significant progress was achieved.

From thousands of miles away it is difficult to appreciate the scope of the effort that the international community has devoted to Kosovo. I might offer a very personal example. My older son, Beau, served for nearly a year in UNMIK as a lawyer, helping the Kosovars to build a legal system that would impartially dispense justice to all inhabitants of the province. Tens of thousands of other Americans, together with citizens of dozens of other countries, have similarly worked in civilian and military capacities for the last five years.

Although there has, in fact, been considerable progress in several areas, the recent violence graphically demonstrates that, on the whole, the effort is in danger of failing. The economy is in sad shape with more than half the population unemployed. Kosovar Albanians complain that the lack of action on final status has choked off any significant direct foreign investment, which is the sine qua non for economic development. But it would be irresponsible to move to final status before stability and democracy have been achieved—as clearly they have not yet been.

So where do we go from here? Kosovo is a complex problem, for which there are no simple answers. In fact, every policy in the short run carries significant downside potential. Nonetheless, we must immediately take several steps.

First of all, through KFOR and UNMIK, we must make it unmistakably clear to all the citizens of Kosovo that the violence must cease completely.

Second, all citizens of Kosovo must cooperate with KFOR, UNMIK, and the Kosovo police in identifying for prosecution the perpetrators of violence and the destruction of property.

Third, all displaced persons and refugees must be returned to their former towns and villages, guaranteed their personal safety, and granted assistance to rebuild their homes as speedily as possible. In this regard, I am encouraged by the commitment made by the Kosovo Assembly to establish a fund for the reconstruction of homes, churches, and other property destroyed during the March attacks.

Fourth, the United Nations should undertake a review of the structure and organization of UNMIK.

Fifth, the authorities in Pristina and Belgrade should reinvigorate and intensify their dialogue.

A resolution submitted by my good friend from Ohio, Senator VOINOVICH, and of which I am an original co-sponsor, makes many of these points.

I would add a few more important policy recommendations.

The so-called "benchmarks" established by UNMIK must be reviewed. I have supported the policy of "standards before status" whereby Kosovo must fulfill rigorous goals before the province's final status is considered. I still believe that, in general, this is the correct course. The precipitous calls by some people for abandonment of the benchmarks and rapid independence for Kosovo would, I believe, be a cure worse than the disease. The international community simply cannot reward murder and violence. "Riots before status" is not the answer.

Nonetheless, I believe that the UNMIK benchmarks have been too elaborately constructed. Few countries could completely fulfill their requirements. In the wake of the violence, the benchmarks should be streamlined and prioritized, with emphasis given to personal security, minority rights, and some kind of decentralization of government, although not the apartheid-like "cantonization" being demanded by politicians in Serbia.

If by the middle of 2005 the benchmarks on personal security and minority rights can be completely fulfilled, and significant progress made on the other benchmarks, then discussion of final status for Kosovo can begin.

We should do our best to strengthen the moderates in Kosovo and Serbia, but there are, unfortunately, very few such "good guys" on the political scene in Pristina and Belgrade. Short-term political expediency seems to trump principle, despite the occasional lofty sounding speeches. Most Kosovar Albanian leaders hesitated before publicly condemning the ethnic violence, Prime Minister Rexhepi being a very positive and conspicuous exception. General Ceku's call for restraint on the part of members of the Kosovo Protection Corps was also helpful. In the future, all Kosovar leaders must get the message that rewards will flow to those who genuinely try to build a peaceful, democratic, multi-ethnic society.

It would be easier to be sympathetic to the cries from Belgrade to defend and give special rights to the Kosovo Serbs if Serbian politicians had not been so demagogically nationalistic in the weeks and months prior to the violence. The new Serbian Government led by Prime Minister Kostunica seems hell-bent on insulting the very international community that it needs for support in the Kosovo question, and in other matters.

Above all, the Kostunica administration has repeatedly thumbed its nose at the International Criminal Tribunal for the Former Yugoslavia. In a speech in late February, Kostunica himself candidly explained: "This country is not a simple deliverer of human goods to The Hague tribunal." No political campaign can justify this kind of know-nothing jingoism.

Then just last Tuesday the Serbian Parliament outdid even Kostunica's blustering when it voted by a wide margin to pay all Serbian war crimes indictees at ICTY "compensation for lost salaries, plus help for spouses, siblings, parents, and children for flight and hotel costs, telephone and mail bills, visa fees, and legal charges." The measure was supported by deputies from the parties of ultra-nationalist Vojislav Seselj and of Milosevic. Both these gentlemen, of course, are currently residing in prison in The Hague. The party of Prime Minister Kostunica joined in voting for this measure, which, were it not so grotesque, might almost be labeled comic opera.

As long as up to 16 indictees, including three former Serbian generals, are openly living in Serbia, and the "butcher of Bosnia," former General Ratko Mladic, is also probably there, the Serbian Government cannot expect much international support. The U.S. Government has just announced that it is suspending all economic assistance not used for democratizing purposes because of Belgrade's unsatisfactory level of compliance with ICTY, and until it cooperates fully, Serbia will not be allowed to join NATO's Partnership for Peace.

We can take some solace in the opposition to the Serbian Parliament's resolution by a few smaller parties, including that of Defense Minister Boris Tadic, a genuine democrat and man of principle. During the Kosovo violence, Tadic, who has carried out a vigorous reform of the Serbian military and security services, proved that he has instituted civilian control by keeping the lid on hotheads calling for intervention, reportedly in cooperation with U.S. Admiral Gregory Johnson, NATO's AFSOUTH Commander. There is a chance that later this year Mr. Tadic may run for President of Serbia against a candidate of Seselj's party.

In order to get Kosovo back onto the right path, the U.S. Government must alter its policy. And make no mistake about it: Kosovo matters. It matters to the people of Kosovo. It matters to the people of Serbia. It matters to the stability of the entire area of the former Yugoslavia. It matters to the Balkans, since Serbia is the key to regional stability, and because the fate of Kosovo directly impacts ethnic Albanians in neighboring Albania, in the Former Yugoslav Republic of Macedonia, in southern Serbia, and in Montenegro. In that context, Kosovo matters to the security of all of Europe and, hence, to the security of the United States of America.

One thing is crystal clear: the Bush administration can no longer afford to relegate Kosovo, Serbia and Montenegro, and Macedonia to the back burner of its international concerns. The administration has been living in an ideologically driven dreamworld in which victory in the Balkans was prematurely declared in order to get on with perceived higher priorities like national missile defense.

Lest anyone think I am criticizing the focus on the war on terrorism in Central Asia and the Middle East, I am not. As early as the fall 2000 election campaign—nearly one year before the terrorist attacks of September 11, 2001—Presidential candidate George W. Bush announced that he would unilaterally withdraw U.S. ground forces from the NATO-led peacekeeping operations in Bosnia and Kosovo. His future National Security Advisor Dr. Rice echoed this misguided notion in a newspaper interview. The following spring, Defense Secretary Rumsfeld, flying in the face of all objective evidence, declared that the problem of Bosnia had been settled three or four years earlier. Even in this body resolutions for withdrawal of U.S. forces were periodically submitted, but, I am happy to say, rejected.

Now we are waging war, attempting to quell resistance movements in Afghanistan and Iraq. We all know that our armed forces are stretched perilously thin, and obviously some troop adjustments have had to be made. U.S. forces in Bosnia have been reduced to little more than one thousand, or about 5 percent of their initial strength. Later this year NATO will turn over command of SFOR to the European Union, although some American troops will remain at our base in Tuzla, at the request of the Government of Bosnia and Herzegovina.

Let me repeat that for my colleagues: the Government of Bosnia and Herzegovina, with the representatives of all three major groups—the Bosnian Muslims, Serbs, and Croats—concurring, requested that American troops stay on in Bosnia after the EU takes command of the peacekeeping force. The fact is that the United States has stature unequaled in that part of the world perhaps even higher in Kosovo than in Bosnia.

As in SFOR, we have drastically reduced our troop strength in KFOR. Given the events of the past few weeks, we dare not reduce it further. KFOR troops played a key role in quelling the Kosovo violence. I am told that of the various national contingents, American KFOR troops especially distinguished themselves.

Further proof of the Bush administration's downgrading the importance of the region was its abolishing the position of Special Coordinator for the Balkans. This position should be reinstated and filled by a senior career diplomat with extensive experience in Balkan affairs.

This new Special Coordinator should immediately engage the political leadership in Pristina and Belgrade in serious dialogue. I do not want to prejudge what the final international legal status of Kosovo will be, although I cannot imagine that Kosovo will ever revert to direct control from Belgrade. Whatever the end result, direct negotiations between Pristina and Belgrade must be an integral part of the process. No other path would stand the test of time.

The United States was Serbia's ally in two world wars in the first half of the twentieth century. The United States is revered by Kosovar Albanians as their savior from the recent tyranny of Slobodan Milosevic. We have earned a credibility that no other country, or group of countries, possesses.

This administration should utilize this unique position, in coordination with other members of the contact group, to jumpstart the process of creating a safe, prosperous, democratic, multi-ethnic Kosovo.

GREY BERETS RISKED ALL IN IRAQ WAR

Mr. CHAMBLISS. Mr. President, we have all heard the expression that "knowledge is power." At no time is this more true than when we are at war. Our military uses satellites, reconnaissance aircraft, remote sensing devices, and long-range patrols to learn where the enemy is, what he is doing, and how we can kill him.

But there is another type of knowledge which is just as essential if we are to be successful in combat. The side which knows and understands the weather the best has a large advantage.

Now, I know some may reply that we do not need to be concerned about the weather. We have smart bombs, stealth fighters and guided missiles. We have sensing devices which let us see in the darkness. But despite this high technology, we still have to give Mother Nature her due. Rain, clouds and low visibility can still ground aircraft or hamper operations. High temperatures affect men and equipment. Dust storms can rapidly render sophisticated machines and electronics unusable.

Our troops faced many weather extremes as we prepared for the start of Operation Iraqi Freedom a year ago. Extreme heat, thunderstorms, and dust storms all threatened operations. To learn more about Iraq's weather and to gather the data necessary to predict, if possible, weather patterns in that country, a group of brave meteorologists dropped behind enemy lines. They fed their information to the Air Force's 28th Operational Weather Squadron, known as "The Hub."

As detailed in a special being carried by the Weather Channel, the United States Air Force dropped its Special Operations Forces Weathermen, known as the "Grey Berets," behind enemy lines weeks before the beginning of armed conflict. The Grey Berets took exceptional risks to gather the data necessary for our Army, Navy and Air Force to conduct operations. For example, 5 days before the land invasion started, Grey Beret Sgt Charles Rushing waded ashore to gather information on fog, surf, and currents to enable a helicopter assault team to successfully seize key Iraqi refineries on the Al-Faw peninsula before Iraqi troops blew them up.

After the war began, the Hub reported on the biggest dust storm to hit the region in 30 years. The storm, covering over 300 miles, shredded tents and clogged engines and lungs. To the north, the storm created other problems, by dumping snow and sleet on Bashur Airport, the target of the most ambitious combat paratroop assault since World War II. The 173d Airborne brigade was flying toward a mountainous drop zone while Cpt John Roberts, chief Grey Beret weather forecaster, had to make a call on whether the weather would lift long enough for 1,000 paratroopers to safely make their jump.

The actions and decisions of these two men are just two examples where our Grey Berets helped ensure the success of our troops. There are many, many more.

Mr. President, I commend the Grey Berets for their heroism and professionalism and their contributions to our armed services. I also thank the Weather Channel for bringing their achievements to wider public notice.

QUESTIONS ABOUT IRAQ AID REQUEST

Mr. LEAHY. Mr. President, I want to discuss an issue concerning U.S. efforts to rebuild Iraq. Before I begin, however, I want to again recognize the bravery and sacrifices that are being made every day by Americans and Iraqis, and especially those who have been killed or wounded. There have been, almost daily, horrific, cowardly acts of terrorism, increasingly aimed at citizens. The appalling attacks this week, where the bodies of Americans were dragged through the streets, disgust and deeply sadden us all. My deepest condolences go out to the families and friends of those who have died.

Yesterday, the Inspector General of the Coalition Provisional Authority, CPA-IG, issued his first report on the reconstruction efforts in Iraq. I want to remind people that it was Senator FEINGOLD, and later in the process, Senator STEVENS, not the Bush administration, who worked hard to establish the CPA-IG office during the debate on the Iraq supplemental. I had the privilege of working with Senator FEINGOLD to help draft some of the provisions of his amendment, and he, along with Senators STEVENS, are to be commended for their leadership on this issue.

Page 33 of the CPA-IG's report contains a table, and I ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, so ordered.

(See exhibit 1).

Mr. LEAHY. The information it contains concerns me, as it should every Senator. It shows that, as of February 29, 2004, nearly 4 months after President Bush signed the Iraq supplemental into law, only $900 million of the $18.4 billion appropriated for reconstruction programs has been obligated, less than 5 percent.

At a time when security is the most critical issue in Iraq, sadly demonstrated by this week's tragic attacks in which nine Americans were killed, the administration has obligated only $292 million of the $3.24 billion for "security and law enforcement," less than 10 percent of the total appropriated. This is money that is supposed to go for training a new Iraqi army and police force to reduce the risks to American soldiers and civilians working in Iraq. On top of this, only $25 million for "justice, public safety, and civil society" has been obligated. This is less than 3 percent of the $1 billion appropriated.

Not one dime of the $1.85 billion appropriated in the supplemental has been obligated for "health care," "private sector development," "roads, bridges and construction," and "transportation and telecommunications."

It would be one thing if the administration had warned us they were going to have trouble spending the $18 billion, but they said the opposite. They told us these funds were urgent. It was "an emergency." The money had to be appropriated immediately, and not one dime less than the amount requested. There was no time for Congress to carefully consider this legislation. It had to be rammed through as fast as possible.

The administration resisted accountability for how it would spend these billions and billions of dollars, and that fact was, and is, a major concern that many in the Senate have had about that supplemental appropriations bill.

In a letter to Congress on September 17, 2003, the President stated: "This request reflects urgent and essential requirements. I ask the Congress to appropriate the funds as requested, and promptly return the bill to me for signature."

Ambassador Bremer testified before the Senate Foreign Relations Committee on September 24, 2003: "No one part of this $87 billion supplemental is dispensable, and no part is more important than the others . . . This is a carefully considered, integrated request. This request is urgent. The urgency of military operations is self-evident. The funds for nonmilitary action in Iraq are equally urgent. Unless this supplemental passes quickly, Iraqis face an indefinite period with blackouts eight hours a day. The link to the safety of our troops is indirect but no less real."

I would point out to Ambassador Bremer, who I respect a great deal, that less than 8 percent of the funds for "electricity" have been obligated. That is $428 million out of $5.6 billion.

I could go on, but by now the point is clear: If every dime of the $18 billion was so necessary, as a lump sum, to pay for the reconstruction of Iraq this year, why then has so little been obligated nearly 4 months after the President signed the bill?

I did not vote for the $18 billion and at the time I discussed my reasons in detail. But one of the reasons was that it was obvious that the White House was asking for far more than they could effectively use this year because they did not want to revisit this issue in an election year. They did not want to have to defend this controversial program again in the court of public opinion. They did not want the accountability that should accompany the spending of such large sums.

This is one Senator who does not believe we should spend billions of dollars of the taxpayers' money without proper accountability. We all knew we would have to spend billions to help rebuild Iraq. But the issue was how many billions, over what period of time, and how to pay for it in a time of rising deficits. Back when we were asked to vote on the supplemental, I urged, as did others, that because the situation in Iraq was, and is, so unpredictable, that we appropriate only as much as could be effectively used. I said that we should then revisit the issue this year, see how the funds were being used, make any necessary adjustments to the reconstruction program, count what other nations were contributing, and then decide how much additional U.S. funding this year would be needed to fill gaps in resources.

But the White House would have none of that. The President insisted on getting every dime up front, paid for by increasing the deficit rather than reducing the President's tax cut for the wealthiest Americans, even though, as the CPA-IG and OMB reports clearly show, they cannot possibly spend it all this year. They probably will not be able to spend half of it. All that talk about how this had to be done in the blink of an eye and without adequate checks and balances was baloney.

Congress received some of the first indications that the administration was going to have trouble handling all of this money when the Office of Management and Budget published a plan, on January 5, 2004, that projected CPA spending at a modest $1.4 billion by the end of the first quarter. The CPA-IG report confirms that the administration is having difficulty handling all of this money, as many of us predicted.

We all want this money spent wisely, and no one wants any administration to spend money for the sake of spending money. Also, this is not to take anything away from the brave men and women who are working so hard, under extremely difficult conditions, to rebuild Iraq.

But the issue exposed by this report is not the administration's spending rate in Iraq. The issue it exposes is the administration's credibility. It seems self-evident that a large portion of the money was not as urgently needed as administration officials insisted at the time, or the CPA, as press reports have suggested, is tied up in bureaucratic knots and is not able to move fast enough to rebuild Iraq. I submit that the answer is both of the above, but I will let the numbers speak for themselves.

Perhaps we will see a large ramping up of spending in the second quarter, as the administration suggests it will do according to OMB's spending plan. Perhaps the administration can provide a good explanation for why these projects have proceeded so slowly. But regardless, it is clear that Congress could, and I believe should, have appropriated only a portion of the money last year. There is plenty of opportunity to act on another supplemental this year, instead of frittering away the Senate's time on hot-button political issues designed to score points in an election year.

I believe the Congress can encourage the administration to do better in Iraq, shaping a more effective strategy in the process. This Vermonter believes that more debate, more transparency, and even a dose of frugality, especially when it comes to spending $18 billion of the taxpayers' money would be a good thing.

I yield the floor.

EXHIBIT 1

The CPA has allocated $7.9 billion of the $18.4 billion. Additionally, the CPA has established a $4 billion reserve. Table 8 below contains more detail on program status.

TABLE 8.—PROGRAM STATUS[1] (IN MILLIONS) AS OF FEBRUARY 29, 2004

Sector	2207 report[2] spending plan	Apportioned	Committed	Obligated
Security and law enforcement	$3,243.0	$2,232.7	$850.4	$292.0
Electricity	5,560.0	1,683.1	1,301.4	428.2
Oil infrastructure	1,701.0	1600.0	772.2	4.0
Justice, public safety, and civil society	1,018.0	560.9	130.3	25.0
Democracy	458.0	458.0	106.0	106.0
Education, refugees, human rights, governance	280.0	138.5	32.6	27.1
Roads, bridges and construction	370.0	119.3	0.0	0.0
Health care	793.0	330.0	0.0	0.0
Transportation and telecommunications	500.0	164.0	61.9	0.0
Water resources and sanitation	4,332.0	496.2	18.0	18.0
Private sector development	184.0	64.5	2.0	0.0
Total by sector	18,439.0	7,947.2	3,273.0	900.3
Construction	12,611.0	3,950.0	1,783.2	595.8
Nonconstruction	5,370.0	3,539.2	1,383.8	198.5
Democracy	458.0	458.0	106.0	106.0
Total by program	18,439.0	7,947.2	3,273.0	900.3

[1] Have not been formally reviewed or audited by the CPA–IG.

[2] Public Law 108–106 Section 2207 is the CPA quarterly progress report. As of the date of this report, CPA was revising the IRRF allocations.

INTERNATIONAL ATOMIC ENERGY AGENCY SAFEGUARDS AGREEMENT

Mrs. FEINSTEIN. Mr. President, I rise today to congratulate the Senate for ratifying the International Atomic Energy Agency—IAEA—Safeguards Agreement by unanimous consent last night.

The Additional Protocol will augment the IAEA's safeguards monitoring system and provide early warning about illicit nuclear weapons-related activities under the Nuclear Nonproliferation Treaty.

By acting swiftly to ratify the treaty, the United States Senate has sent a clear signal to the international community that the United States is committed to not only maintaining a leadership role in the effort to prevent the proliferation of nuclear weapons but also to work closely with other nations in that endeavor.

We know that we cannot go it alone and we will need the help of our friends and allies.

In addition, the Additional Protocol will strengthen the IAEA in its work in dealing with nuclear programs in Iran, Libya and elsewhere and encourage other countries to ratify their own additional protocols.

Clearly, there is much work to be done and the international community will face additional challenges in the near future. Nevertheless, I am pleased that the United States Senate has taken this important step to protect our citizens and our national security interests.

STOCK OPTION ACCOUNTING REFORM ACT

Mr. WARNER. Mr. President, I rise in support of S. 1890, the Stock Option Accounting Reform Act. I am pleased to cosponsor this important legislation, and I applaud the distinguished Senator from Wyoming, Senator ENZI, and the distinguished Democratic whip for their leadership.

I urge all my colleagues to pay close attention to this legislation, and to join those of us who believe that the mandatory expensing of stock options would harm American companies, and more importantly, harm American workers who benefit from the issuance of stock options from their employers.

The Financial Accounting Standards Board—FASB—may soon take action that would require public companies to record employee stock options as an expense. This will unequivocally impede economic growth and stifle the economic recovery of our high-tech sector as well as other industries.

As a result of FASB's proposal, companies will take a massive earnings charge based on stock option "costs". Just as we hope to turn the corner, the tech industry will be disproportionately hit with phantom costs that will undermine general investor confidence in the tech recovery.

Expensing will destroy our partnership culture of distributing stock options to our entire workforce. We know from empirical research that broad-based employee ownership delivers higher returns to shareholders, greater productivity, and increased returns on equity.

In addition, small companies and start-ups, which depend on employee stock options to attract the smartest and brightest, will be dealt a detrimental blow. The costs associated with the implementation of this new rule will inhibit small business growth. In a time when the United States is struggling to keep more jobs in America, this proposal undermines U.S. competitiveness.

Talented and skilled U.S. workers will be forced to look to our competitors, countries such as Taiwan and Singapore, for high paying technology based employment.

It is imperative that the United States retains its status as a global technology leader. Innovation and hard work are two basic fundamentals that founded our country. Broad based employee stock options provide incentives for workers to work harder, promote savings and serve as an incentive for creating new ideas, which ultimately promotes economic growth.

I commend my colleagues for introducing this important piece of legislation, and it is my hope that you will join me in voting in favor of S. 1980.

Mr. ENSIGN. Mr. President, our worse fears about FASB's seemingly predetermined crusade against stock options have unfortunately proven true. As expected, FASB has released a proposed expensing rule for stock options that is a lose-lose for individual investors and the American economy.

Trial lawyers are gearing up for the biggest windfall of the 21st Century. They will be the only winners in this misguided action. FASB's proposed rule would allow companies to either use Black Scholes or a Binomial method to expense options. Both are flawed models and will yield very different and certainly inaccurate results.

There is no question that market capital will be destroyed when these flawed numbers hit financial statements. Because companies have to choose the method they use to expense, and the inputs that feed into that flawed model, they will most certainly be barraged by class action lawsuits from greedy trial lawyers who will exploit the difficult decisions that FASB is going to force companies to make.

Ironically, despite FASB's stated goal of improving information for investors, individual investors will now have absolutely no ability to make meaningful comparisons between companies. Different companies using different flawed valuation models will confuse and mislead the very people FASB purports to help.

Our technology sector is on the cusp of recovery. We cannot afford to let bad accounting destroy jobs and cripple our global competitiveness. There are bigger picture issues here that FASB is neither tasked with examining, nor equipped to look at. That is the responsibility of the Congress and Administration.

This move represents a tremendous threat to our global competitiveness. Communist China has, as a part of their 5 year plan, the use of stock options. They are setting out to duplicate the success of our very own Silicon Valley and stock options are at the very heart of the Chinese government plan.

This is not about executive compensation. That is a separate and distinct issue. WorldCom and Enron had nothing to do with stock options. In fact, the Enzi-Baker bill says go ahead and expense for the top 5 executives. This is about small businesses and rank and file workers and preserving their ability to use this powerful tool for innovation and growth. This is about preserving broad-based employee stock ownership plans.

Make no mistake about it. If FASB's rule goes into effect, rank and file workers are the ones that will suffer. We need to support policies that create jobs and wealth for Americans, not destroy them.

Mr. ALLEN. Mr. President, yesterday the Financial Accounting Standards Board, FASB, released an exposure draft of a rule that will require companies to treat employee stock options as an accounting expense. I find this proposal fundamentally flawed for a number of reasons and urge my colleagues to support legislation to prevent this from becoming a reality.

During my time as Governor of Virginia, I witnessed unparalleled growth in the technology sector of my State's economy. Many new and exciting businesses brought their products, services, and, most importantly, jobs to Virginia.

Many of these technology companies that located to Virginia were small "start-ups" with little more than a good idea and the willingness to take a risk for the hope of reward later. These technology companies contributed greatly to the tremendous economic expansion witnessed during the 1990s.

However, technology companies were able to attract and retain top talent and key directors without having to raise large amounts of capital by granting employee stock options. In the end, shareholders and employees won. Employee stock options granted by many technology companies were awarded broadly to employees not only to give them an ownership interest in the company, but also to better align the interests of employees and shareholders.

I think employee ownership and incentives are great. It is desirable to have motivated employees caring abut the success of their company. Broad-based employee stock options give employees—from the newly graduated worker to the experienced CEO—ownership in the company. Indeed, a well-respected technology CEO has said that employees with stock options are like homeowners, whereas those without stock options are like renters—there is a difference in the attitude, commitment and level of entrepreneurial spirit. The proposed FASB action will destroy our partnership culture of distributing stock options to the entire workforce of a company. Broad-based employee ownership delivers higher returns to shareholders, greater productivity, increased return on equity, and higher returns on assets.

Unfortunately, the unelected officials of the Financial Accounting Standards Board want to bring this era to an end. In their effort to treat employee stock options as an accounting expense, they are disregarding three fundamental issues. First, employee options are not freely tradable. How do you value something that has no market? How do you put a price on something if it is not for sale? The answer is that you cannot. There is no accurate way to value these options without an open market.

Second, employee stock options are subject to lengthy vesting periods—typically between 4 or 5 years. If the employee changes jobs before the options vest, they are forfeited.

Finally, employee stock options will be exercised only if the stock price rises above the strike price. How does one predict future stock prices with any degree of certainty? There are entire industries dedicated to such a practice, yet I am unaware of anyone who is able to predict with absolute certainty what a stock price will be over a given length of time.

This news is sure to be greeted with joy by our competitors in the Pacific Rim. Entrepreneurs in Taiwan, Singapore and China will not just continue to focus on software development or gene sequencing there. They will create global competitors there which will be listed on those stock markets. They will be free to offer stock options without the burden of expensing and our most talented people will flock there, just as they flocked to the Silicon Valley and Virginia when our technology industries were built.

I find it distressing that a communist country, the People's Republic of China, has companies attracting entrepreneurial people and customers with stock options. Meanwhile, here in America an unelected, prejudicial board wishes to stop such employee ownership, motivation and success to Americans. This proposal will harm the ability of innovative American companies to successfully compete.

Despite the issues I have discussed, FASB is determined to make fundamentally flawed assumptions about future stock price and employment trends. What is more, according to a Bear Stearns report, there will be a 44-percent decline in NASDAQ 100 companies' profits if they would have been required to expense employee stock options in 2003.

I hope my colleagues are aware of the issues and risks posed by moving forward with this flawed proposal. At this time, we need to embrace efforts to keep people working and our economy growing. If FASB is allowed to proceed, the economic effects will be disastrous.

TRIBUTE TO THE HONORABLE JOHN R. LEWIS

Mr. SARBANES. Mr. President, 5 years ago Salisbury University, which is located in the town of Salisbury on Maryland's Eastern Shore, established PACE, the Institute for Public Affairs and Civic Engagement. PACE has a dual mission: to serve the communities of the Eastern Shore, using campus resources, faculty-student research teams and off-campus opportunities like internships and a voter registration drive to promote responsible citizenship and good government; and to promote the active engagement of students in civic affairs. For Salisbury Professors Harry Basehart, of the political science department, and Francis Kane, of the philosophy department, who together founded PACE and serve as its co-directors, this is a personal mission as well.

Among PACE's many programs is an annual lecture series that brings to the campus distinguished guests to speak on issues of public life, especially issues that most concern Salisbury's students. The speaker this year, on March 29, was Congressman JOHN R. LEWIS, who represents Georgia's 5th Congressional District and is serving his ninth term.

It is fair to say that in all his life from his childhood in rural Troy, AL, through his years as a student leader in the civil rights movement, to his dedicated service in the Congress Congressman LEWIS has never known a day of lassitude, apathy or indifference. He spoke to Salisbury's students from the perspective of his own student years, and I have rarely seen an audience listen with such focused intensity.

As it happens, I was born and raised in Salisbury. I was deeply honored to have the opportunity to introduce Congressman LEWIS to the Salisbury community, and I ask unanimous consent to print my introductory remarks in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION FOR CONGRESSMAN JOHN R. LEWIS, PACE LECTURE, SALISBURY UNIVERSITY

(By Senator Paul S. Sarbanes)

It is pleasure to return to the campus of Salisbury University. As many of you know, coming to Salisbury is as always coming home. My parents had come to this country as immigrants from Greece and they settled in Salisbury. I grew up here and went to Wicomico County's public schools. Lifelong convictions and aspirations first took shape in Salisbury.

Today it is a special pleasure to be here, because I have the signal honor and privilege of introducing my congressional friend and colleague, John R. Lewis, as the third speaker in the annual lecture series sponsored by PACE, this University's Institute for Public Affairs and Civic Engagement.

The purpose of the lecture series is to bring distinguished public figures to the campus to speak on issues of public life. That certainly describes Congressman Lewis, who is serving his ninth term in the House of Representatives as the representative of Georgia's 5th congressional district, which includes the city of Atlanta. Congressman Lewis sits on the Ways and Means and Budget Committees, both with critically important jurisdictions. He is universally respected as a legislator. Most recently he guided to enactment legislation to establish a new National Museum of African American History and Culture. The Museum will take its rightful place among our nation's great Smithsonian Institutions on the Mall.

But as many of you surely know—as I hope all of you know—Congressman Lewis's distinguished record in the House of Representatives is but one part of what makes him so special as this year's PACE lecturer.

When PACE was established 5 years ago, its founders Professors Harry Baseheart and Fran Kane said their objective was "to save the next generation from the enervating winds of political apathy and cynicism and to play a part in a revival of civil engagement among our students." Through its many programs, including this lectureship, that is precisely what PACE does.

I think it is fair to say that there has not been a single day in John Lewis's remarkable life which has been marked by cynicism, apathy or disengagement. For the full story, I commend to you his absolutely gripping memoir, Walking with the Wind. But I want to say a few words about it.

In his memoir, Congressman Lewis tells us that his engagement began as he watched the bus boycott in Montgomery, AL, 50 miles from his home in rural Troy. Martin Luther King put words into action, he says, "in a way that set the course of my life from that point on. . . . With all that I have experienced in the past half century, I can still say without question that the Montgomery bus boycott changed my life more than any other event before or since."

John Lewis was then 15 years old. He was setting out on a long and dangerous road with twists and turns, on a journey demanding inexhaustible supplies of moral and also physical courage.

Today we call that road the Civil Rights Movement. It is central to understanding the history of our country in the past 50 years.

Seen from another perspective, the Movement is the story of John Lewis's life, as he has lived it day by day.

In 1957, John Lewis managed to get to college in Nashville on a full scholarship. There he became a leader in the student sit-in movement, which challenged the laws that allowed African Americans to spend their money shopping in Nashville's stores but forbade them to sit at the lunch counters. David Halberstam has observed that the students had much in the way of ideals and convictions, but they had no protection—"no police force, no judges, no cops, no money."

John Lewis went to jail for sitting down—the first of some 40 times he was to go to jail. Three months later, the lunch counters "served food to black customers for the first time in the city's history."

John Lewis went on the Freedom Rides, which tested the Supreme Court ruling that all vestiges of segregation in interstate travel had to end. As he observes in his memoir, "Issuing the decision was one thing, of course. Carrying it out, as I would soon learn firsthand, was another."

He rode the first bus, which traveled from Washington, DC, to Mississippi. He can recount for you better than I how many times he was beaten and jailed in the course of that ride. The violence that the Freedom Riders encountered was for most Americans unimaginable.

In the summer of 1961, when the ride ended, John Lewis was 21 years old.

There is not enough time today to do justice to that ride, or John Lewis's years as chairman of SNCC, the Student Non-Violent Coordinating Committee, or his speech on the Mall in Washington in 1963. But in this election year I want to comment on the events that took place in Selma, AL, on March 7, 1965. They have gone down in our history as "Bloody Sunday."

On that day several hundred Americans set out to march from Selma to Montgomery, Alabama's capital. Their purpose was to press for the right to vote, a right denied to African Americans. The unarmed marchers were brutally attacked by a "human wave" of "troopers and possemen." John Lewis was among many beaten unconscious.

Bloody Sunday shocked the Nation. Five months later the historic Voting Rights Act of 1965 was signed into law—a direct consequence of the horrific attack at Selma. In the words of Taylor Branch, "The powerful new law broke decades of impediment and heartache."

On Bloody Sunday, every marcher's life was on the line—for the right to vote.

I ask you to reflect on the events at Selma and their meaning for our Nation, and on November 2—Election Day 2004—to exercise your priceless citizen's right vote.

From the beginning our Nation has lived by certain abiding principles. These were set out more than 60 years ago by the distinguished Swedish sociologist Gunnar Myrdal, in his landmark study of race and America democracy, An American Dilemma. He called this "The American Creed." Here are his words: "It is the current in the structure of this great and disparate nation . . . encompassing our 'ideals of the essential dignity of the individual human being, of the fundamental equality of all men (and women), and of certain inalienable rights to freedom, justice, and a fair opportunity.' These ideals are "written into the Declaration of Independence, the Preamble of the Constitution, the Bill of Rights and into the constitutions of the several states."

For much of its history our Nation failed to live up to the principles it espoused. It has been John Lewis's lifelong mission to end the terrible contradiction that once assured these rights to some of our people while cruely denying them to others. He has led and inspired generations of Americans to make our Nation a better place for all our people. He has an incredible story to tell. It is a privilege to have Congressman Lewis on the Salisbury campus today, and I am honored to introduce him.

CAPT JOHN LAWRENCE FROM, JR.

Mr. LEAHY. Mr. President, recently I heard about CAPT John Lawrence From, Jr. in McLean, VA, a retired Navy nuclear submarine captain, who lived next door to Jim Rosser and his wife, Nicki Watts. They told me that he had died of pneumonia at Arlington Hospital at the age of 82. Retired Air Force Colonel Watts sent me material about him, and I would like to include it in the RECORD. Sometimes obituaries are so cold and give so little about somebody's life that I wanted the Senate to pause and think of Captain From.

Captain From not only served in the Pacific during World War II, but also commanded the first Polaris missile nuclear submarine. The Pacific Theater tours were dangerous, extraordinarily uncomfortable, and extremely necessary to our efforts to win World War II.

People get mentioned on this floor for many things, but I agree with Colonel Watts that Captain From should receive recognition here.

I ask unanimous consent to have printed in the RECORD some material I have about him.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

John Lawrence From, Jr. (Larry), 82, a retired Navy nuclear submarine captain, died March 19, 2004, of pneumonia at Arlington Hospital. He had lived in McLean, VA, since 1972.

Captain From, a native of Norfolk, VA, was a 1943 graduate (class of 1944) of the U.S. Naval Academy in Annapolis, MD.

He served in the Pacific Theater during WWII, making six submarine war patrols. After the war, he commanded a diesel-electric submarine, and in the 1960s commanded the first Polaris missile nuclear submarine, the USS George Washington III (SSBN 598), and later the Ulysses S. Grant. (Larry was pictured on the cover of LIFE magazine's March 22, 1963 issue as the first Polaris captain.) He retired in late 1972 at the conclusion of his last assignment as Commanding Officer, Naval Submarine Base, Pearl Harbor.

Captain From was a graduate of the Naval War College in Newport, RI, and the National War College in Washington, DC. He received a master's degree in international affairs from George Washington University.

His service awards included the Legion of Merit with Gold Star (second award), the Joint Service Commendation Medal, and the Navy Commendation Medal with Combat "V". Submarines, while he served in them, were awarded the Presidential Unit Citation and Navy Unit Commendation.

In the late 1960s, he was instrumental in establishing, developing, and maintaining a Boy Scout Troop in the Chesterbrook Woods community of McLean.

After retiring from the Navy, Larry worked for nearly 12 years at Science Applications International Corporation as Vice

President of research and development, and provided the Navy with state-of-the-art underwater tracking systems based on advanced signal processing techniques.

Larry was a parishioner of St. John's Catholic Church in McLean, and his faith was like the submarines he served: silent but deep. He was committed to serving the Lord and his lovely wife, Mary Jane, whom he loved so devoutly and cared for for so many years. Through it all, he remained a tower of strength, always to be commended and remembered.

Survivors include his wife of 58 years, Mary Jane; three children, Deborah J. Fletcher of Mill Valley, CA, Tina L. Egge of Fredericksburg, VA, and Michael E. From of Seattle, WA; and three grandsons, Kyle Egge, and Christopher and Patrick From. He is also survived by his brother, William From, and sister, Mary Elizabeth Troxell.

Larry was interred at Arlington Cemetery on March 30th.

TRIBUTE TO COLONEL DEBORAH A. GUSTKE

Mr. INOUYE. Mr. President, I would like to recognize a great American and a true military hero who has honorably served our country for 32 years in the Army and Army Nurse Corps: Colonel Deborah A. Gustke. Colonel Gustke has a true passion for nursing and served in a variety of clinical nursing and leadership positions at various Army medical facilities including Fort Benning, GA, Tripler Army Medical Center, Hawaii, and Fort Hood, TX. Her tremendous leadership skills led to her selection as a nurse recruiter and subsequent selection for long-term civilian schooling to obtain an advanced degree as an oncology clinical nurse specialist. Colonel Gustke served with distinction in a series of senior leadership positions as chief nurse at Fort Knox, KY, Fort Rucker, AL, and at Fort Bliss, TX, and as the Army Nurse Corps personnel proponent staff officer. In every circumstance, Colonel Gustke was recognized for her clinical excellence and stellar leadership.

In 2000, Colonel Gustke was appointed the Assistant Chief of the Army Nurse Corps. As assistant chief, Colonel Gustke developed and implemented policies and procedures that affected nearly 35,000 nursing personnel throughout the Army. Collaborating with senior Army and Department of Defense organizations, she worked to successfully obtain direct hire authority, thereby dramatically reducing the hiring time for civilian nurses. She spearheaded several recruitment and retention initiatives, including the $18 million Health Professional Loan Repayment Program, the critical skills retention bonus, and increased capacity for the Army Enlisted Commissioning Program. Her efforts decreased the impact of the national nursing shortage on the Army. In addition, she implemented the recognition of the advanced practice nurse role for the Army Medical Department. As chair of the Federal Nursing Service Council, she sponsored the development of a Federal nursing research model that focused on improving soldier readiness and patient-care outcomes.

Colonel Gustke's accomplishments are eloquent testimony to her talent, dedication, loyalty, and determination in ensuring that the best possible nursing care is always available to our soldiers, their family members and our deserving retirees. Colonel Gustke has established a legacy of superior performance to be emulated by all, which reflects greatly on herself, the United States Army, the Department of Defense, and the United States of America. I extend my deepest appreciation on behalf of a grateful Nation for her dedicated service. Congratulations to Colonel Gustke. I wish her Godspeed.

ADDITIONAL STATEMENTS

AMERICAN LEGACY FOUNDATION

• Mr. HARKIN. Mr. President, I wanted to take a moment today to speak about the American Legacy Foundation. This foundation celebrated its 5th anniversary this past month, and I wanted to express my continued support for the foundation in the future.

This foundation, formed under the master settlement agreement reached with big tobacco, has worked tirelessly over the last 5 years on its mission to build a world where young people reject tobacco and anyone can quit.

We know that tobacco is still the leading cause of preventable death in this country. Forty-seven million Americans smoke, and 400,000 people a year die because of it. Smokers have a one in three chance of dying from smoking-related conditions.

Even more alarming, every day, 3,000 children under age 18 start smoking, of which 1,000 will ultimately die of smoking related diseases. Almost 90 percent of adult smokers started using tobacco at or before age 18; the average youth smoker begins at age 13 and becomes a daily smoker by age 14½.

The American Legacy Foundation, through its highly effective public awareness campaign truth® alone, has helped reduce youth smoking rates to a 28-year historic low. I have heard from young people in my home state of Iowa who say that seeing the truth® television and magazine advertisements have affected their decisions about tobacco. The foundation also has a number of successful cessation programs in operation across the country.

The American Legacy Foundation clearly still has work to do. Educating American young people about the harmful effects of smoking is not merely a 5-year long task. Yet this year, the foundation received its last payment from the master settlement agreement. Without increased resources, the important work of the American Legacy Foundation cannot continue.

I ask that my colleagues to join with me in recognizing the achievements of the American Legacy Foundation and in pledging our support for the important work they do educating our nation about the dangers of tobacco use.•

DANA CORPORATION'S 100TH ANNIVERSARY

• Mr. DEWINE. Mr. President, I rise today to recognize the Dana Corporation, a fine Ohio company celebrating a very important milestone—100 years of quality service as one of the world's chief automotive suppliers. The Dana Corporation, headquartered in Toledo, OH, develops automotive parts and systems that have truly revolutionized the automotive industry.

I would like to take just a few moments to tell my colleagues in the Senate about this Ohio company and how much of an impact it has made in my home State. Back in early 1904, a young engineering student named Clarence Spicer received a patent for developing the first feasible universal joint to power an automobile. With this one invention, Clarence Spicer forever changed the way automobiles operated by changing the drive mechanism from chain to joint operated. It was from these early insights and humble circumstances that the Dana Corporation was born.

The company gained standing and financial prosperity under the leadership of businessman, attorney, politician, and financier, Charles Dana. Under his leadership, the company began to grow in technology, production, and geographic reach. Today, the Dana Corporation employs at least 28,000 Americans. In Ohio, alone, the company employs 3,151 people in 22 different facilities. They are world renowned for their research and production of drive shafts and axles; engine cradles, full-body frames, brake and chassis products, including suspensions and steering products; heat exchangers, valves, and coolers; and bearings and sealing products. Their dedication and insight have helped move some of history's greatest vehicles—from the Model T and World War II-era Jeep to London taxicabs, 18-wheel rigs, giant earth-moving machines, and every car on the NASCAR racing circuit.

I commend the Dana Corporation for its century of success and wish the company and all of its employees continued success in producing and manufacturing high-quality automotive supplies.•

IN MEMORY OF REVEREND JIMMY WATERS

• Mr. CHAMBLISS. Mr. President, for most of his 83 years, the Reverend Jimmy Waters made a significant impact on the lives of many Georgians.

The former pastor of Macon's Mabel White Memorial Baptist Church and Tattnall Square Baptist Church has spent, as he said, a great deal of time battling fires. For more than 55 years, he was chaplain of the Macon-Bibb County Fire Department assisting the men who fought physical fires. For nearly 60 years, he was also an ordained minister, fighting, as he said, the hell fire that threatens men's souls.

In addition to presiding over the growth of Mabel White from 800 members to over 3,900, he served as chaplain to the Macon Police Department, the Bibb County Sheriff's Office, the Georgia State Patrol, and the Georgia bureau of Investigation. He was also named lifetime chaplain of the Georgia Peace Officers Association, which awarded the first Jimmy Waters Scholarship in his honor to a University of Georgia criminal justice student.

Reverend Waters was a graduate of Mercer University, where he entered the ministry while he was still a freshman and earned both his bachelor's and doctorate degrees. As a loving father and husband, he raised three daughters with his wife, the former Annette Burton of Crawfordville. His family often sang with him as he conducted religious services in churches located as far away as Israel and Italy.

Reverend Waters was not the type of Christian who kept his lamp under a bushel. He and his siblings sang gospel music on Atlanta's WSB radio station in the 1930s. In addition to his duties as pastor, he initiated televised services from Mabel White, and later began broadcasts of "The Victory Hour." After he retired from Mabel White in 1977, he devoted his efforts to Jimmy Waters Ministries, which spread the Gospel through radio, television, and evangelism. As religious director for WMAZ radio and television in Macon, he recorded over 25,000 broadcasts at home and abroad until he stopped in 2003. He also served as co-host for many fundraising telethons for Macon's WMAZ–TV in support of the Muscular Dystrophy Association, the Children's Miracle Network and Cerebral Palsy.

Dr. Waters was often recognized for his work, serving as President of the Georgia Baptist Convention from 1974–1976 and as Chairman of the Southern Baptist Convention's Radio and Television Commission from 1977–1978. In all of the many positions he accepted, he brought energy and integrity to the job.

That inner fire that he brought to his work is the reason why so many of us will miss Reverend Jimmy Waters. He was a great American and my good friend.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE—
March 31, 2004

At 12.16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 386. Concurrent resolution congratulating the United States Air Force Academy on its 50th Anniversary and recognizing its contributions to the Nation.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, April 1, 2004, by the President pro tempore (Mr. STEVENS.)

H.R. 2584. An act to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

S. 2057. An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

MEASURES REFERRED

The following concurrent resolution was read the first and second times by unanimous consent, and referred as indicated:

H. Con. Res. 386. Concurrent resolution congratulating the United States Air Force Academy on its 50th Anniversary and recognizing its contributions to the Nation; to the Committee on Armed Services.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on March 31, 2004, she had presented to the President of the United States the following enrolled bills:

S. 2231. An act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes.

S. 2241. An act to reauthorize certain shcool lunch and child nutrition programs thfough June 30, 2004.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6963. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Delaware and Maryland: Adequacy of State Solid Waste Landfill Permit Programs Under RCRA Subtitle D" (FRL#7642–8) received on March 31, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6964. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; North Dakota; State Implementation Plan Corrections" (FRL#7641–8) received on March 31, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6965. A communication from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation relative to appropriations to the Administration; to the Committee on Commerce, Science, and Transportation.

EC–6966. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled the "National Heritage Partnership Act"; to the Committee on Energy and Natural Resources.

EC–6967. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend Part D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on Energy and Natural Resources.

EC–6968. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "6-Benzyladenine; Exemption from the Requirement of a Tolerance" (FRL#7347–6) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6969. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bacillus Thuringiensis Cry2AB2; Amended Exemption from Requirement of a Tolerance" (FRL#7345–4) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6970. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bacillus Thuringiensis CryIF Protein in Cotton: Extension of Temporary Exemption from the Requirement of a Tolerance" (FRL#7242–3) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6971. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flumioxazin; Pesticide Tolerance" (FRL#7351–2) received on March 31, 2004; to the Committee on Environment and Public Works.

EC–6972. A communication from the Federal Register Certifying Officer, Fiscal Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Endorsement and Payment of Checks

Drawn on the United States Treasury" (RIN1510–AA45) received on March 31, 2004; to the Committee on Finance.

EC–6973. A communication from the Regulations Coordinator, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Tribal Child Support Enforcement Programs; Final Rule" (RIN0970–AB73) received on March 31, 2004; to the Committee on Finance.

EC–6974. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Frivolous Agreement to Avoid Concerning Statutory and Nonstatutory Stock Options" (Notice 2004–28) received on March 31, 2004; to the Committee on Finance.

EC–6975. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Loss Deductions for Diminution in Value of Stock Attributable to Corporate Misconduct" (Notice 2004–27) received on March 31, 2004; to the Committee on Finance.

EC–6976. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Announcement and Report Concerning Advance Pricing Agreements" (Ann. 2004–26) received on March 31, 2004; to the Committee on Finance.

EC–6977. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Emergency Wartime Supplemental Appropriations Act, the report of the export of defense articles or defense services to Iraq; to the Committee on Foreign Relations.

EC–6978. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Russia, Ukraine, and Norway; to the Committee on Foreign Relations.

EC–6979. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Japan and Russia; to the Committee on Foreign Relations.

EC–6980. A communication from the Assistant Secretary, Legislative Affairs, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Russia and Kazahkstan to the Committee on Foreign Relations.

EC–6981. A communication from the Deputy Assistant Secretary for Labor-Management Programs, Employment Standards Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees" (RIN1215–AB33) received on March 31, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6982. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Grants to States for Operation of Qualified High Risk Pools" (RIN0938–AM42) received on March 31, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6983. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, a report relative to the Department of Defense voting assistance program; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit.

Peter W. Hall, of Vermont, to be United States Circuit Judge for the Second Circuit.

Roger T. Benitez, of California, to be United States District Judge for the Southern District of California.

Marcia G. Cooke, of Florida, to be United States District Judge for the Southern District of Florida.

Paul S. Diamond, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Jane J. Boyle, of Texas, to be United States District Judge for the Northern District of Texas.

Walter D. Kelley, Jr., of Virginia, to be United States District Judge for the Eastern District of Virginia.

Matthew G. Whitaker, of Iowa, to be United States Attorney for the Southern District of Iowa for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BUNNING (for himself, Mrs. Boxer, and Mr. Burns):

S. 2268. A bill to provide for recruiting, training, and deputizing persons for the Federal flight deck officer program; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND (for himself and Ms. Mikulski):

S. 2269. A bill to improve environmental enforcement and security; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. Kohl, Mr. Grassley, Mr. Schumer, Mr. Specter, Mr. Feingold, Mr. Leahy, and Mr. Coleman):

S. 2270. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. Lautenberg, Mr. Corzine, Mrs. Feinstein, Mr. Kennedy, and Mrs. Boxer):

S. 2271. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mr. Smith):

S. 2272. A bill to amend title XIX of the Social Security Act to expand the pediatric vaccine distribution program to include coverage for children administered a vaccine at a public health clinic or Indian clinic, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. Hollings, Ms. Snowe, Mr. Kennedy, Mrs. Clinton, Mr. Rockefeller, Mr. Biden, Mr. Carper, and Mr. Lautenberg):

S. 2273. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 2274. A bill to expand and improve retired pay, burial, education, and other mobilization benefits for members of the National Guard and Reserves who are called or ordered to active duty, and for other purposes; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. Specter, Mrs. Murray, Mrs. Clinton, Ms. Landrieu, Mr. Schumer, Mr. Lieberman, Mr. Daschle, and Mr. Dayton):

S. 2275. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 2276. A bill to allow the Secretary of Homeland Security to make grants to Amtrak, other rail carriers, and providers of mass transportation for improvements to the security of our Nation's rail and mass transportation system; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN:

S. 2277. A bill to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to the Committee on Indian Affairs.

By Mr. ENSIGN (for himself and Mr. Craig):

S. 2278. A bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 3 circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. McCain, and Mr. Breaux):

S. 2279. A bill to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 327. A resolution providing for a protocol for nonpartisan confirmation of judicial nominees; to the Committee on Rules and Administration.

By Mr. NELSON of Florida (for himself and Mr. Allen):

S. Res. 328. A resolution expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 726

At the request of Ms. STABENOW, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 726, a bill to treat the Tuesday next after the first Monday in November as a legal public holiday for purposes of Federal employment, and for other purposes.

S. 847

At the request of Mr. SMITH, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 973

At the request of Mr. NICKLES, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 1123

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1123, a bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children.

S. 1223

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1223, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1381

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1381, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1447

At the request of Mr. BINGAMAN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1447, a bill to establish grant programs to improve the health of border area residents and for bioterrorism preparedness in the border area, and for other purposes.

S. 1808

At the request of Mr. SESSIONS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1808, a bill to provide for the preservation and restoration of historic buildings at historically women's public colleges or universities.

S. 1980

At the request of Mr. GRAHAM of Florida, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1980, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2039

At the request of Mr. WYDEN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2039, a bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber of Terrebonne, Oregon, for acts of valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto.

S. 2059

At the request of Mr. FITZGERALD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2059, a bill to improve the governance and regulation of mutual funds under the securities laws, and for other purposes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2175

At the request of Mr. DODD, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S. 2227

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2227, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2242

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. NELSON) was withdrawn as a cosponsor of S. 2242, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2258

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2258, a bill to revise certain requirements for H-2B employers for fiscal year 2004, and for other purposes.

S. 2261

At the request of Mr. DEWINE, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. 2266

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 2266, a bill to amend the Small Business Act to provide adequate funding for Women's Business Centers.

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 2266, supra.

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 2266, supra.

S. 2267

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 2267, supra.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2267, supra.

S.J. RES. 19

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. SNOWE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S.J. RES. 28

At the request of Mr. CAMPBELL, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S.J. Res. 28, supra.

S. CON. RES. 81

At the request of Mr. DASCHLE, his name was added as a cosponsor of S.

Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 317

At the request of Mr. HAGEL, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

S. RES. 326

At the request of Mr. VOINOVICH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself and Ms. MIKULSKI):

S. 2269. A bill to improve environmental enforcement and security; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, I am delighted to join with my friend and colleague Senator MIKULSKI to introduce today the Environmental Enforcement and Security Act (EESA) of 2004. This bill will increase substantially enforcement of our Nation's environmental laws, increase environmentally related homeland security, and further protect our Nation's water supply from terrorist attack.

Our families and environment deserve communities free from intentional violators of environmental laws and terrorists who would attack our drinking water supplies.

With this dramatic new commitment to environmental enforcement and drinking water security, we will tell those who would intentionally harm us that we are coming after them.

The environment and health of our communities need vigorous prosecution of intentional violations of our Nation's environmental laws. The U.S. Environmental Protection Agency (EPA) Criminal Enforcement program investigates the most significant and egregious violators of environmental laws that pose a significant threat to human health and the environment. However, the number of EPA Criminal Enforcement Special Agents has remained constant for the last several years.

In addition, in our post-9/11 world, EPA Special Agents are needed for homeland security duties to detect, investigate and respond to terrorist threats involving chemical or biological hazards.

EPA Special Agents support the Department of Homeland Security, Federal Bureau of Investigation and the Department of Justice. EPA Special Agents are members of FBI Counter-Terrorism Response Teams and Evidence Response Teams.

However, with this new post-9/11 need to respond to the threat of terrorism, some are concerned that environmental violations may not be receiving the attention they deserve. A recent report by the EPA Inspector General, an internal review by the EPA Enforcement and Compliance Assurance program, and various media accounts tell how EPA needs more resources to meet both its environmental and homeland security duties.

Our bill responds to these calls with a dramatic new commitment to EPA's enforcement program. My bill will put 50 new EPA Criminal Enforcement Special Agents on the environmental beat. EESA will also provide for 80 Special Agents to support homeland security duties.

With our bill, we will no longer need to make a choice between protecting our homeland and protecting our environment.

With out bill, those who would intentionally hurt our families and communities through environmental harm will know that we are sending the manpower and resources needed to come after them.

We are also sending local communities new funding to protect our drinking water supplies. Every family and every business needs clean and safe drinking water. Every mother needs to know that when she turns on the tap in her kitchen sink, clean and safe water will come out.

That is why our bill devotes $100 million for additional drinking water security protections. EESA will send grant funds directly to water systems to protect against terrorist attack with fencing, intruder detection, access control and water monitoring. The need is great, but the federal government will attempt to do its share.

Our bill will also enhance EPA's ability to protect the environment and human health in several other ways. EESA will double the number of enforcement trainers and triple EPA's enforcement training budget. EESA funds will train Federal, State and local inspectors, law enforcement agents and prosecutors with the training they need to pursue environmental violations.

Our bill will also improve the environment by doubling compliance assistance funds to fill gaps in enforcement coverage, reach regulated facilities not visited by inspectors, and help the regulated community, especially small businesses, to understand EPA's complex and extensive regulatory requirements.

Our bill will also make EPA's enforcement actions more efficient and targeted by fully funding a strategic enforcement targeting program. EESA will enhance EPA's ability to target its enforcement actions to where the environment needs them most. Strategic targeting will also improve EPA's ability to identify and respond to increased noncompliance with environmental laws.

Our Nation's environmental laws exist to protect our families, our communities and our natural resources. Those who would intentionally violate our environmental laws deserve the full force of the government to stop them.

Our families and communities also deserve our most vigorous efforts to protect them from the specter of terror. Chemical and biological threats represent one of the most sinister means for men to terrorize each other.

We will send our homeland security agencies the environmental expertise and personnel they need to confront these threats.

We will also send our local communities new help for additional drinking water security protections.

Our environment deserves no less, our families deserve no less. I urge my colleagues to support passage and funding of the Environmental Enforcement and Security Act of 2004.

By Mr. DEWINE (for himself, Mr. KOHL, Mr. GRASSLEY, Mr. SCHUMER, Mr. SPECTER, Mr. FEINGOLD, Mr. LEAHY, and Mr. COLEMAN):

S. 2270. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I wish to talk this afternoon about a bill that my colleagues, Senator KOHL, Senator GRASSLEY, Senator FEINGOLD, Senator SPECTER, Senator SCHUMER, Senator LEAHY, Senator COLEMAN, and I are introducing, which is called the No Oil Producing and Exporting Cartels Act of 2004. We are introducing this bill to address the longstanding problem of foreign governments acting in the commercial arena to fix, allocate, and establish production and price levels of petroleum products.

Every consumer in America knows that gasoline prices have reached record highs over the last couple of weeks. The national average has reached a new record high for self-serve unleaded gas. That is approximately $1.80 per gallon. But over the last week in my home State of Ohio gas prices have been even higher. In Marietta, gas was $1.84; in Cleveland, $1.86; in Columbus, it topped out at $1.88 in some stations. Many analysts predict that prices could get as high as $2 per gallon, or higher, by the summer.

This is of particular interest to me because Ohio and the Midwestern States always seem to be hit especially hard by gas prices spikes. These spikes are acutely painful to persons who commute long distances and to those who live on fixed incomes such as the elderly.

What is the cause? Certainly there are many causes, but as we might expect, there are a number of factors at play. But there is surprising agreement among industry experts about the primary cause of high gas prices and that is the increase in imported crude oil prices.

We also know the biggest factor in setting crude oil prices is OPEC. The unacceptably high price of imported crude oil is a direct result of collusive agreements among OPEC nations to maintain the price of oil.

Despite the fact that gasoline prices are going through the roof, OPEC members met yesterday in Austria and decided to cut the output of oil even further. We have been through this process more than enough to know what that means for the American consumer. When demand is high and supplies are cut, that obviously means higher prices. That is exactly what OPEC did to us yesterday. It ripped off American consumers by raising gas prices even more.

this is an outrage. In fact, OPEC is probably the most notorious example of an illegal cartel in the world today, even at a time when it is widely understood that such conduct is counterproductive and ill-suited for our global economy. Supreme Court Justice Scalia in a recent case described collusion among competitors as "the supreme evil of antitrust." Nation after nation has adopted antitrust enforcement principles that recognize the illegality of price fixing and output restrictions among competitors. In 1998, the Organization for Economic Cooperation and Development, then composed of twenty-nine member nations, issued a formal recommendation denouncing price fixing. OPEC's continued actions, in ongoing defiance of American and international antitrust principles, should not be tolerated.

Until now, however, OPEC has effectively received special treatment under U.S. antitrust laws—despite the fact that oil is a commodity that touches the lives of nearly every American consumer. It is time that we take steps to assure that oil is subject to the principles of the free market. The bill that we are introducing today would do just that and help in the fight to lower gas prices.

Senator KOHL and I have introduced this bill twice before—in 2000 and 2001. It is an idea whose time has come. The purpose of our NOPEC bill is simple—it would treat OPEC like any other cartel. If OPEC were a group of private companies colluding on prices, the executives could be prosecuted and sent to jail, and the firms would pay millions of dollars in fines or maybe even billions in fines. Unfortunately, however, for years enforcement has been constrained by two related court opinions.

In 1979, a Federal District Court found that OPEC's price-setting decisions were "governmental" acts and accordingly that they were given sovereignty status and protected by the Foreign Sovereign Immunities Act. Subsequently, in 1981, a Federal Court of Appeals declined to consider the appeal of that antitrust case based on the so-called "act of state" doctrine.

NOPEC would effectively reverse these decisions by making it clear that OPEC's activities are not protected by sovereign immunity and that the Federal courts should not decline to hear such a case based on the "act of state" doctrine. As a result, under NOPEC, the Department of Justice and the Federal Trade Commission could bring a legal antitrust enforcement action against foreign states engaging in the restraint of trade regarding oil and other petroleum products. Simply put, NOPEC assures that our U.S. antitrust agencies have jurisdiction and authority to bring such cases.

We don't intend to give up the fight for lower gasoline prices. Today, I want the members of OPEC to hear a message loud and clear—we won't quit fighting for American consumers. When OPEC wants to do business with America, it must abide by our antitrust laws.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "No Oil Producing and Exporting Cartels Act of 2004 " or "NOPEC".

SEC. 2. SHERMAN ACT.

The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

"SEC. 7A. OIL PRODUCING CARTELS.

"(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

"(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

"(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

"(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

"(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

"(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

"(d) ENFORCEMENT.—The Attorney General of the United States and the Federal Trade Commission may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.".

SEC. 3. SOVEREIGN IMMUNITY.

Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking "or" after the semicolon;

(2) in paragraph (7), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(8) in which the action is brought under section 7A of the Sherman Act.".

Mr. KOHL. Mr. President, in recent weeks, consumers all across the Nation have watched gas prices rise, seemingly without any end in sight. On March 24, U.S. gasoline prices reached a record high average of $ 1.74 a gallon. And, if consumers weren't paying enough already, just yesterday the OPEC nations decided to cut production by a million barrels a day, an action sure to drive prices even higher. Such blatantly anti-competitive action by the oil cartel violates the most basic principles of fair competition and free markets and should not be tolerated. It is for this reason that I rise today, with my colleagues Senators DEWINE, SPECTER, LEAHY, FEINGOLD, SCHUMER, COLEMAN and GRASSLEY, to reintroduce the "No Oil Producing and Exporting Cartels Act" ("NOPEC"). This legislation is identical to our NOPEC bill introduced in the last two Congresses, a bill which passed the Judiciary Committee unanimously in 2000.

Real people suffer real consequences every day in our nation because of OPEC's actions. Rising gas prices are a silent tax that takes hard-earned money away from Americans every time they visit the gas pump. Higher oil prices drive up the cost of transportation, harming thousands of companies throughout the economy from trucking to aviation. And those costs are passed on to consumers in the form of higher prices for manufactured goods. Higher oil prices mean higher heating oil and electricity costs. Anyone who has gone through a Midwest winter or a deep South summer can tell you about the tremendous personal costs associated with higher home heating or cooling bills.

We have all heard many explanations offered for rising energy prices. Some say that the oil companies are gouging consumers. Some blame disruptions in supply. Others point to the EPA requirement mandating use of a new and more expensive type of "reformulated" gas in the Midwest or other "boutique" fuels around the country. Some even claim that refiners and distributors have illegally fixed prices. On this issue, Senator DEWINE and I have asked the Federal Trade Commission to investigate these allegations. As a result of our inquiries, the FTC has put a task force in place to find out if those allegations were true. While we continue to urge the FTC to be vigilant, the FTC has to date found no evidence of illegal domestic price fixing as a cause of higher gas prices.

But one cause of these escalating prices is indisputable: the price fixing conspiracy of the OPEC nations. For years, this conspiracy has unfairly driven up the cost of imported crude oil to satisfy the greed of the oil exporters. We have long decried OPEC, but, sadly, no one in government has yet tried to take any action. NOPEC will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. It will authorize the Attorney General or FTC to file suit under the antitrust laws for redress. Our bill will also make plain that the nations of OPEC cannot hide behind the doctrines of "Sovereign Immunity" or "Act of State" to escape the reach of American justice.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Some critics of this legislation have argued that suing OPEC will not work or that threatening suit will hurt more than help. I disagree. Our NOPEC legislation will, for the first time, enable our authorities to take legal action to combat the illegitimate price-fixing conspiracy of the oil cartel. It will, at a minimum, have a real deterrent effect on nations that seek to join forces to fix oil prices to the detriment of consumers. This legislation will be the first real weapon the U.S. government has ever had to deter OPEC from its seemingly endless cycle of price increases.

There is nothing remarkable about applying U.S. antitrust law overseas. Our government has not hesitated to do so when faced with clear evidence of anti-competitive conduct that harms American consumers. A few years ago, for example, the Justice Department secured record fines totaling $725 million against German and Swiss companies engaged in a price fixing conspiracy to raise and fix the price of vitamins sold in the United States and elsewhere. Their behavior harmed consumers by raising the prices consumers paid for vitamins every day and plainly needed to be addressed. As this and other cases show, the mere fact that the conspirators are foreign nations is no basis to shield them from violating these most basic standards of fair economic behavior.

Even under current law, there is no doubt that the actions of the international oil cartel would be in gross violation of antitrust law if engaged in by private companies. If OPEC were a group of international private companies rather than foreign governments, their actions would be nothing more than an illegal price fixing scheme. But OPEC members have used the shield of "sovereign immunity" to escape accountability for their price-fixing. The Foreign Sovereign Immunities Act, though, already recognizes that the "commercial" activity of nations is not protected by sovereign immunity. And it is hard to imagine an activity that is more obviously commercial than selling oil for profit, as the OPEC nations do. Our legislation will correct one erroneous twenty-year-old lower federal court decision and establish that sovereign immunity doctrine will not divest a U.S. court from jurisdiction to hear a lawsuit alleging that members of the oil cartel are violating antitrust law.

In the last few weeks, I have grown more certain than ever that this legislation is necessary. Between OPEC's decision yesterday to cut oil production and the FTC's conclusion for the last several years that there is no illegal conduct by domestic companies responsible for rising gas prices, I am convinced that we need to take action, and take action now, before the damage spreads too far.

For these reasons, I urge that my colleagues support this bill so that our nation will finally have an effective means to combat this selfish conspiracy of oil-rich nations.

By Mr. DURBIN (for himself, Mr. LAUTENBERG, Mr. CORZINE, Mrs. FEINSTEIN, Mr. KENNEDY, and Mrs. BOXER):

S. 2271. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, today I am introducing the Clean Cruise Ship Act of 2004. I am proud to be joined by Senators LAUTENBERG, CORZINE, FEINSTEIN, KENNEDY and BOXER in offering this legislation. I also am honored to be working with Congressman FARR, who is leading companion legislation in the House and is a co-chair of the House Oceans Caucus.

America's oceans span nearly 4.5 million square miles, an area 23 percent larger than the nation's land area. They are a resource for travel, commerce, recreation and the global ecosystem. They comprise 70 percent of our planet.

We cannot continue to take this vast resource for granted. The Pew Commission found in June 2003 that our oceans are in crisis. The report cites five priorities: implementing a sustainable national ocean policy; coordinating the governance of ocean resources; reorienting our fisheries policy to emphasize sustainability; protecting ocean habitat and managing coastal development; and controlling the sources of pollution threatening our marine ecosystems. Today I want to concentrate on the fifth priority: controlling pollution.

With growing amounts of pollution caused by human activity, we are significantly degrading the marine environment. According to the EPA, pollution has rendered 44 percent of tested estuaries and 12 percent of ocean shoreline miles unfit for swimming, fishing or supporting aquatic life. The Coast Guard estimates that marine debris is responsible for the deaths of more than 1 million birds and 100,000 marine mammals each year. About 90 percent of Florida's coral reefs are believed to be dead or dying.

We have taken some actions to protect our oceans, but we still have a long way to go. We need to improve enforcement of our existing environmental protection laws, but we also need to update them to accommodate for the changing times.

Specifically, we need to address pollution from passenger cruise ships. The cruise line industry has grown significantly over the past 34 years. In 1970, cruise ships carried 500,000 passengers in the United States. In 2002, the cruise line industry carried 6.5 million passengers in about 150 ships in the United States, and that number has continued to grow.

In addition to a tremendous increase in the number of passengers, cruise ships themselves have grown. Today the average cruise vessel accommodates 3,100 passengers and crew. Carnival recently built the largest passenger ship in the world, the Queen Mary 2: it's 1,132 feet long, which is more than twice as long as the Washington Monument is tall; it is 236 feet high, about the height of a 23-story building; and it weights about 151,400 long tons, the rough equivalent of 390 fully loaded 747 jets.

According to the EPA, a typical 3,000 passenger cruise ship each week generates 210,000 gallons of sewage; 1 million gallons of gray water, including runoff from baths, laundry machines and dishwashers; and 37,000 gallons of oily bilge water. Ships of the size of cruise vessels today, which generate the amount of waste of today, did not exist when the Clean Water Act and other environmental laws were written in the 1970s. Therefore, our laws regarding cruise ships are grossly inadequate.

My colleagues may be shocked to learn that it is legal to dump raw sewage 3 miles from shore; and it is legal to dump sewage within 3 miles so long as it is run through a machine, which complies with a standard that is over 20 years old and which is never rigorously tested once installed. Also it is legal to dump gray water—which can contain harmful toxins and nutrients—anywhere in the ocean. Only Alaskan waters are protected by strong federal legislation enacted in 2000 that regulates sewage and graywater.

The legislation I am introducing today,the Clean Cruise Ship Act of 2004, would draw from key provisions of the federal law in place in Alaska and the Clean Water Act. This bill would: first, create a no discharge zone that would prevent dumping of sewage, graywater and oily bilge water within 12 miles of shore—to protect our coasts and estuaries; second, apply the current Alaskan standards to sewage and graywater discharges outside of 12 miles from shore; third, allow the Coast Guard and EPA to jointly issue discharge requirements based on the best available technology, with the goal of zero pollutants by 2015; and finally, strengthen enforcement.

Studies show that the Alaskan standards, which our bills applies to the rest of the country, can be achieved. Indeed, ships that have been upgraded to treat sewage and graywater with modern technology are easily meeting or exceeding standards for such constituents as fecal coliform and chlorine.

Not only is this bill technologically feasible: it is affordable. The cost to upgrade each ship will be more than $3 million. To put this into context, Carnival Cruise Lines just spent $800 million to build the new Queen Mary 2, and earned $6.7 billion in revenues last year.

The Clean Cruise Ship Act of 2004 is a reasonable approach to an urgent problem. I urge my colleagues to support this important legislation.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 2272. A bill to amend title XIX of the Social Security Act to expand the pediatric vaccine distribution program to include coverage for children administered a vaccine at a public health clinic or Indian clinic, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, in conjunction with Senator SMITH, I am introducing the "Children's Vaccine Access Act of 2004." This legislation makes three changes to the Vaccines for Children program with the intent of expanding access and the delivery of vaccines to our Nation's children. This legislation is supported by the Administration and included in the Administration's budget as recommended by the Centers for Disease Control and Prevention, or CDC.

First, the legislation expands access to the Vaccines for Children, or VFC, program for children whose private health insurance does not cover immunizations by allowing children to receive their VFC vaccines at State and local public health clinics. Currently, underinsured children must go to specially designated Federal Qualified Health Centers or rural health centers to receive VFC vaccines. Consequently, our bill expands the number of access points at which children can get the vaccines they need.

According to the CDC, there are approximately 3,000 Federally Qualified Health Centers enrolled in VFC, compared with approximately 7,000 health department clinics. As the CDC notes, "Increasing access points for VFC eligible underinsured children will allow those who may have been previously denied immunizations at public health clinics to be vaccinated with the full series of routinely administered vaccines."

Second, the bill seeks to restore the tetanus and diphtheria vaccines to the VFC program by lifting the 1993 price caps that were in use prior to enactment of the VFC program. The price caps are so low that, for example, the tetanus booster vaccine was unfortunately dropped from VFC coverage when no vaccine manufacturer would bid on the contract at the 1993-imposed price cap levels.

CDC estimates that over 200,000 additional children would be served through VFC with these two changes.

And finally, the bill includes new authorizing language to allow the CDC to sell the VFC purchased stockpile vaccines to its grantees or back to manufacturers for use in the private sector in the event that the stockpiled vaccines are needed by non VFC-eligible children.

Immunizations are critical to both children's health and the public health care system. The VFC program began on October 1, 1994, to improve vaccine availability to children nationwide by providing vaccines free-of-charge to Medicaid-eligible, uninsured, underinsured, American Indian, or Alaska Native children through both public and private providers. The VFC program automatically covers vaccines recommended by the Advisory Committee on Immunization Practices, or ACIP, and approved by the CDC.

VFC has had an enormous impact on improving the immunization rates among our Nation's children. According to the Children's Defense Fund, "Between 1993 and 1999, there was nearly a 20 percent increase in the number of fully immunized two year-olds."

However, the goal of achieving a 90 percent immunization coverage rate, with the complete series of recommended vaccines, has still not been achieved. According to the National Immunization Survey (NIS), the nationwide vaccination coverage levels among children 19–35 months of age for the 4:3:1:3:3 series of childhood immunizations was 74.8 percent in 2002. Unfortunately, the immunization rate in New Mexico was just 64.6 percent in 2002 and second worst in the Nation to only Colorado. To address that problem, in December 2001, I requested the CDC to work with the State of New Mexico on improving its immunization rate and a number of positive developments have taken place, including the creation of an Immunization Task Force at the state level and the passage of legislation to create an immunization registry by the New Mexico Legislature this past month.

It is my belief that the strides the Nation and New Mexico continue to make to further improve the childhood immunization rate is assisted by this legislation. I would like to thank the CDC for their fine work on the VFC program and their assistance with this legislation and in its assistance directly to the State of New Mexico. I would also like to thank Senator SMITH for his dedication and support for this initiative to improve the health of our Nation's children.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Vaccine Access Act of 2004".

SEC. 2. EXPANSION OF DEFINITION OF FEDERALLY VACCINE-ELIGIBLE CHILD.

(a) IN GENERAL.—Section 1928(b)(2)(A)(iii)(I) of the Social Security Act (42 U.S.C. 1396s(b)(2)(A)(iii)(I)) is amended by striking "or a rural health clinic (as defined in section 1905(l)(1))" and inserting ", a rural health clinic (as defined in section 1905(l)(1)), or a State or local public health clinic".

(b) CONFORMING AMENDMENT.—Section 1928(h)(3) of the Social Security Act (42 U.S.C. 1396s(h)(3)) is amended by striking "and 'tribal organization' " and inserting ", 'tribal organization', and 'urban Indian organization' ".

SEC. 3. REPEAL OF PRICE CAP FOR PRE-1993 VACCINES.

(a) IN GENERAL.—Section 1928(d)(3)(B) of the Social Security Act (42 U.S.C. 1396s(d)(3)(B)) is repealed.

(b) CONFORMING AMENDMENT.—Section 1928(d)(3) of such Act (42 U.S.C. 1396s(d)(3)) is amended by striking subparagraph (C) and inserting the following:

"(B) NEGOTIATION OF DISCOUNTED PRICE.—With respect to contracts entered into for a pediatric vaccine described in this section, the price for the purchase of such vaccine shall be a discounted price negotiated by the Secretary.".

SEC. 4. SIMPLIFIED ADMINISTRATION OF VACCINE SUPPLY.

Section 1928(d)(6) of the Social Security Act (42 U.S.C. 1396s(d)(6)) is amended by inserting after the second sentence the following: "The Secretary may sell such quantities of vaccines from such supply to public health departments or back to the vaccine manufacturer as the Secretary determines appropriate. Proceeds received from such sales shall be available to the Secretary only for the purpose of procuring pediatric vaccines stockpiles under this section and shall remain available until expended.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2004.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. BIDEN, Mr. CARPER, and Mr. LAUTENBERG):

S. 2273. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am joined by Senator HOLLINGS and other members of the Senate Commerce Committee in introducing the Rail Security Act of 2004.

The recent attacks on Madrid's commuter rail system demonstrated all too vividly that our own transit system, Amtrak, and the freight railroads could be vulnerable to terrorist attack. Only modest resources have been dedicated to rail security since the September 11, 2001 terrorist attacks on the United States, and efforts to address rail security remain fragmented. The Department of Homeland Security (DHS) has not completed a vulnerability assessment for the rail system, nor is there an integrated security plan that reflects the unique characteristics of passenger and freight rail operations.

The legislation we are introducing today would authorize resources to ensure rail transportation security receives a high priority in our efforts to secure our country from terrorism. The legislation directs DHS to complete a vulnerability assessment for the rail system and make recommendations for addressing security weaknesses within 180 days of enactment. It also authorizes funding to address long-standing fire and life safety needs for several tunnels along the Northeast Corridor, and authorizes appropriations to meet immediate security needs for intercity and freight rail transportation. Further, as recommended by the General Accounting Office, the proposal requires DHS to sign a memorandum of agreement with the Department of Transportation to make clear each department's roles and responsibilities with respect to rail security.

The freight railroads, individual commuter authorities, and Amtrak have, on their own initiative, completed risk assessments and taken steps to safeguard passengers, facilities, and cargo. These efforts, accomplished at a very small cost to the federal government, have helped make our rail system safer. The legislation introduced today will augment these efforts and bring these individual initiatives together in a coordinated rail security program.

More than 2 years ago, in the aftermath of the September 11th attacks, the Commerce Committee reported rail security legislation but unfortunately that proposal was not adopted by the full Senate. The Commerce Committee will meet in the coming weeks to consider this legislation and it is my hope that the proposal will be acted upon quickly by the full Senate.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rail Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Rail transportation security risk assessment.
Sec. 3. Rail security.
Sec. 4. Study of foreign rail transport security programs.
Sec. 5. Passenger, baggage, and cargo screening.
Sec. 6. Certain personnel limitations not to apply.
Sec. 7. Fire and life safety improvements.
Sec. 8. Transportation security.
Sec. 9. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 10. System-wide Amtrak security upgrades.
Sec. 11. Freight and passenger rail security upgrades.
Sec. 12. Department of Transportation oversight.
Sec. 13. Rail security research and development.
Sec. 14. Welded rail and tank car safety improvements.
Sec. 15. Northern Border rail passenger report.

SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing rail carriers, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying weapon detection equipment;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term economic impact of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security) and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 3. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and mail on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 7. FIRE AND LIFE SAFETY IMPROVEMENTS.

(a) LIFE SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to tunnels on the Northeast Corridor in New York, N.Y., Baltimore, Md., and Washington, D.C.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;
(B) $100,000,000 for fiscal year 2006;
(C) $100,000,000 for fiscal year 2007;
(D) $100,000,000 for fiscal year 2008; and
(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;
(B) $10,000,000 for fiscal year 2006;
(C) $10,000,000 for fiscal year 2007;
(D) $10,000,000 for fiscal year 2008; and
(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, D.C. Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;
(B) $8,000,000 for fiscal year 2006;
(C) $8,000,000 for fiscal year 2007;
(D) $8,000,000 for fiscal year 2008; and
(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLAN REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matter the Secretary deems appropriate;

(f) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) seek financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels.

SEC. 8. TRANSPORTATION SECURITY.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Under Secretary of Homeland Security for Border and Transportation Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking "safety" the first place it appears, and inserting "safety, including security,".

SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

"(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National

Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

"(b) Contents of Plans.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

"(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

"(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

"(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

"(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

"(c) Use of Information.—The National Transportation Safety Board and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

"(d) Limitation on Liability.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

"(e) Limitation on Statutory Construction.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.".

(b) Conforming Amendment.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"Sec.
"24316. Plan to assist families of passengers involved in rail passenger accidents".

SEC. 10. SYSTEM-WIDE AMTRAK SECURITY UPGRADES.

(a) In General—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, D.C.;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and meet the requirements of section 7(e)(2).

(c) Equitable Geographic Allocation.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) Availability of Funds.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $62,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) Security Improvement Grants.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of pressurized tank cars to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations; and

(8) other improvements recommended by the report required by section 2, including infrastructure, facilities, and equipment upgrades.

(b) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 10(b) of this Act.

(d) Tank Car Replacement Incentive.—A grant under subsection (a)(5) may be for up to 15 percent of the cost of the modification or replacement of a pressurized tank car.

(e) Allocation between Railroads and Others.—Unless as a result of the assessment required by section 2 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (4) of subsection (a).

(f) Procedures for Grant Award.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

(g) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $250,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 12. DEPARTMENT OF TRANSPORTATION OVERSIGHT.

(a) Secretarial Oversight.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) Use of Funds.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) Establishment of Research and Development Program.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the

Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security, including research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry toxic-inhalation chemicals; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety.

(b) Coordination With Other Research Initiatives.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation.

(c) Accountability.—The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability the would be useful in carrying out the project.

(d) Authorization of Appropriations.—There are authorized to appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) Track Standards.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each railroad using continuous welded rail track to include procedures (in its program filed with the Administration) that improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) Tank Car Standards.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the maximum dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) Older Tank Car Impact Resistance Analysis and Report.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration, in coordination with the National Transportation Safety Board, shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in "The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America", dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the "Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States", dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

By Ms. LANDRIEU:

S. 2274. A bill to expand and improve retired pay, burial, education, and other mobilization benefits for members of the National Guard and Reserves who are called or ordered to active duty, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise to introduce and send to the desk the 21st Century Citizen Soldier Benefits Act which I introduce on behalf of myself.

I thought I would take a moment this afternoon to outline the framework and the context of this bill because it has to do with our Armed Forces. It has to do with a very important component of our Armed Forces, which is our Guard and Reserve units, part of our total force, a very important part of that total force as I hope to outline.

This is an attempt to put before the Senate and the Congress a comprehensive bill—one that I find and I know people in Louisiana across party lines and in very energetic and enthusiastic ways support because the need is so great—to support our men and women in uniform, particularly our Guard and Reserve components.

If the war on terror is teaching us anything—and we are learning some tough lessons each and every day as we move forward through this war—we all know we cannot defend this Nation adequately without the strength provided by our National Guard and Reserves.

Since 9/11 when this country was attacked, the first time in this large measure since the attack on Pearl Harbor many years ago, over 355,000 guardsmen and reservists have been mobilized.

To give a grasp of that number, our Navy today, arguably the most powerful in the world, has 375,000 sailors. So in 2½ years, we have called up almost enough guardsmen and reservists to man every ship in the United States Navy. That is a lot of manpower and a lot of womanpower, and they deserve our very best effort. They are not just backfilling for Active Forces. They are serving on the front lines, as we have seen today how brutal those front lines can be. They are being wounded and killed just like our Active Forces. In fact, 97 of the 600 deaths in Iraq have been Guard and Reserve deaths.

Today 176,000 citizen soldiers wear the uniform full time, and that number, as I will show, is growing exponentially. By May 1, 40 percent of the troops in Iraq will be members of the National Guard and Reserve. These are men and women who have full-time jobs, who are coaches, small business owners, policemen, firemen, State workers, and waiters and waitresses in our restaurants. They hold many jobs, but they are then called up. They take off their daily dress clothes and put on the uniform and go to the front lines to protect us.

In Louisiana, and I know this is true in Texas, thousands of men and women have been called up.

We have 3,051 reservists on active duty right now. Over 6,000 Louisiana reservists have been activated since 9/11. For many, their activation periods have unfortunately lasted, because of the demand on our troops, sometimes in excess of 18 months to 24 months. The 528th Engineering Battalion from Monroe, LA, recently deployed to Afghanistan, 500 Louisianans on their way serving already. Marine Reserve Company B of Bossier City, 150 Marines have just been put on alert for mobilization. Company B has already been mobilized before.

Last month, the Department of Defense put another 18,000 National Guardsmen on alert status, including 3,800 members from Louisiana's 256th Separate Infantry Brigade. I will be visiting their leaders on Monday, in Lafayette, LA, and be visiting with their families to talk about the separation that is going to occur and how we are doing as a nation, as a State, and as a community, to help them through this difficult time as they help, protect, and give us their very best in this war effort.

The National Guard and Reserve, as I said, make up now 45 percent of our forces. We simply cannot fight without them. Yet as I am going to explain, the benefits, their pensions, their compensation, their GI benefits, their retirement benefits, and even their burial benefits do not match with their level of service and do not match with the contribution they are, in fact, making.

I understand why because when the framework for the Guard and Reserves was initially put together, they were thought of as sort of a backup, as a filler.

They do other things as well other than, of course, fighting wars. They help our States mobilize at times of national and natural disasters. So I am clear, as are many of us, about why initially, as the Guard and Reserve was created and the framework developed, those rules and regulations were put into place back in the 1940s, in the 1960s, and in the 1970s.

In 2004, the times are different. The demands are great and they are meeting this challenge. As a Congress we need to meet them more than halfway.

Nearly 35,000 have been mobilized more than once. Imagine returning from Afghanistan, reuniting with your family, getting your business restarted, getting back into the desk you left before you went to serve, only to be told to get ready because you are leaving in another few months, get ready to ship out again.

We have a retention and recruiting crisis looming on the horizon. I would like to show the number of troops, reservists, who have been called up from 1953 through 1989, through the Berlin crisis of 1961, through the Cuban missile crisis, and the Vietnam war, we called up a total of 199,877, about 200,000, through all of this, three times in 40 years. Since 1990, in the last 14 years, we have called up 634,984—the Persian Gulf war, the intervention in Haiti, Bosnian peacekeeping, Operation Southern Watch, the Kosovo conflict, now our ongoing war on terrorism, which has many fronts, primarily in Afghanistan and in Iraq. That is unprecedented in terms of our recent history.

The question to us should be: Are we doing what we should as we are increasing our military budget substantially? I, for one, have supported each and every increase and almost argued in many instances for more money going to our military. What portion of that increase is going to the Guard and Reserve to make sure their pensions are intact, that when they retire their compensation is fair, that their families are cared for at least at a decent and adequate level while they serve us so magnificently and so beautifully? So we can see we are calling more and more on our Guard and Reserve.

I ask unanimous consent to have printed in the RECORD an excellent article that appeared in the Washington Post in January of this year by Mr. Vernon Loeb, a very excellent staff writer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 21, 2004]

ARMY RESERVE CHIEF FEARS RETENTION CRISIS

(By Vernon Loeb)

The head of the Army Reserve said yesterday that the 205,000-soldier force must guard against a potential crisis in its ability to retain troops, saying serious problems are being "masked" temporarily because reservists are barred from leaving the military while their units are mobilized in Iraq.

Lt. Gen. James R. Helmly said his staff is working on an overhaul of the reserve aimed in part at treating soldiers better and being more honest with them about how long they're likely to be deployed. Helmly said the reserve force bureaucracy bungled the mobilization of soldiers for the war in Iraq, and gave them a "pipe dream" instead of honest information about how long they might have to remain there.

"This is the first extended-duration war our Nation has fought with an all-volunteer force," said Helmly. "We must be sensitive to that. And we must apply proactive, preventive measures to prevent a recruiting-retention crisis."

Helmly said his staff is engaged in an overhaul of the reserve aimed at turning the Army's part-time soldiers into a top-flight fighting force that can handle the strains of the global war on terrorism. In a Pentagon briefing for defense reporters, Helmly outlined an array of planned changes and bluntly described the force he took over in May 2002 as being dominated by bureaucrats who often ignored soldiers' needs.

In a recent memo, Helmly said, he told his subordinates that he was "really tired of going to see our reserve soldiers [and finding] they're short such simple things as goggles. It's about damn time you listen to your lawyers less and your conscience more. That will probably get me in trouble. But I told them, I want this stuff fixed."

Reservists in Iraq have long complained about having to spend a year there with inadequate equipment, including a lack of body armor.

Most reservists went to Iraq last year on year-long mobilizations, with a belief that they would be required to spend only 6 months in the country. But they were abruptly informed in September that they would have to spend 12 months in Iraq, pushing the total length of many reservists' mobilizations to 16 months or longer.

Analysts inside and outside the military say these long overseas mobilizations could have the effect of driving reservists out of the military in droves once they begin returning from Iraq over the next several months. After that, the service will lift the "stop-loss" provisions that prohibit soldiers from quitting the reserve when their hitches are up.

Helmly said he has not been surprised by such criticism. "The [Iraq] mobilization was so fraught with friction that it really put a bad taste in a lot of people's mouths," he said. "We had about 10,000 who had less than 5 days' notice that they were going to be mobilized. Then we had about 8,000 who were mobilized, got trained up, and never deployed."

"No sooner do the statues of Saddam Hussein start tumbling down, then the guidance was, start planning to demobilize everybody," Helmly said, only to find in July that a growing insurgency required remobilizing 4,000 to 5,000 of the 8,000 that were initially mobilized but never deployed.

"One lesson I have certainly learned . . . it is imperative that we communicate with our soldiers and their families in advance, and that we not set false expectations," Helmly said.

To that end, Helmly said, a "major order culture change" is taking place in the reserve so that reservists know, upon joining, that they will be called up to active duty for between 9 and 12 months every 4 to 5 years.

As part of that change, he said, the current total of 2,091 reserve units will be reduced significantly so that every unit—typically a support company of about 150 soldiers—is manned, equipped and ready to go to war, if necessary.

Currently, 226,000 soldiers would be necessary to man all those units. But the Army Reserve is only authorized by Congress to have 205,000 soldiers, Helmly said, and at any given time, only between 160,000 and 175,000 of them are available for mobilization.

"We will in fact inactivate units beginning next year specifically to harvest the strength so we can man fully our remaining units," Helmly said, adding that maintenance and "water support" units will be reduced in favor of more military police, civil affairs and heavy truck transport detachments.

"I'm often asked by families, how do you know you'll be able to recruit for this force?" Helmly said. "There are no knowns; we're treading new virgin territory here. But most of our people will respond well to the initiatives we're putting forward. They don't wish to be part of a second-class team."

Ms. LANDRIEU. According to this reporter:

The head of the Army Reserve said yesterday that the 205,000-soldier force must guard against a potential crisis in its ability to retain troops, saying serious problems are being "masked" temporarily because reservists are barred from leaving the military while their units are mobilized in Iraq.

He goes on to say:

> Lieutenant General Helmly told his subordinates that he was "really tired of going to see our reserve soldiers [and finding] they're short such simple things as goggles. It's about damn time you listen to your lawyers less and your conscience more. They will probably get me in trouble. But I told them, I want this stuff fixed."

Not only are these men and women being called up in unprecedented numbers, not only are they being prevented from leaving, which is masking a potential readiness crisis, but they are also not being provided with some of the basic tools, equipment, and body armor that they need to protect themselves; therefore, contributing to a state of unease.

Not that these guardsmen and reservists are not patriotic, not that they would not walk across hot coals, and in many instances they do every day to protect us, but we should at least be able to take these modest steps to make sure we are strengthening them and honoring their service to us.

The operations in Iraq, Afghanistan, and Kosovo are ongoing, with no end in sight. We do not know if emergent threats around the world will become real and embroil us in yet other military operations, partially because our Active Forces are stretched so thin we need to call up our Guard and Reserve, and yet because of this we could face a retention crisis.

As I said, the deployments are lengthy, the benefits and legal protections are not sufficient in many instances, and the equipment is lacking. So let us hope we can take steps through this legislation and others to fix this situation.

I hope the bill I offer today and sponsor today—and I look forward to many cosponsors joining on this bill—will improve the Guard and Reserve benefits, and legal protections. As I said, we are calling it the 21st Century Citizen Soldier Benefit Act.

We have had two major changes or improvements to the Guard and Reserve framework, one in 1940 and one in 1994. It is time, 10 years later, this year, 2004, with the unprecedented nature of their service, to step up this framework of support for our Guard and Reserve. It is time for Congress, in my opinion, to take a comprehensive look at the benefits and protections afforded to the members of the Guard and Reserve.

We have not done so since 1994. It is time that we do this. My bill does it in several ways.

First, we call for equal benefits for equal service in the area of burial benefits, for activated Guard and Reserve should be the same as Active Duty. Guardsmen and Reservists cannot be buried in national cemeteries unless they are killed in action. Think about that. A man or a woman serves not just for 6 months, but maybe 2 years, comes home, is called back to go again, dodges the bullets, gets past the landmines, perhaps is seriously injured but escapes unscathed and comes home after serving valiantly, and then is denied burial benefits because they were not "killed in action." I think because of what they have done, it is time for us to give them the right opportunities for burial in our national cemeteries if they are serving the time that our Active Duty serve, with all the dignity that they would deserve in such a situation.

The bill does not authorize every member of the Guard and Reserve to these burial rights, but it is inconceivable why someone who fought overseas for our Nation cannot be buried with his or her comrades simply because one soldier was in the Reserve and one soldier was active—fighting side by side, same foxhole, same patrol, same landmine but yet not the same burial ground.

No. 2, we hope in this bill that guardsmen and reservists activated for 2 years should have active duty GI bill benefits—the GI bill, which is probably one of the best pieces of legislation this Congress has ever passed, it is referred to hundreds of time in speeches on and off the floor, and is one of the bills Americans generally know about, quote, and can say what it does. It has enabled millions of American troops to enroll in college when they returned from World War II. The GI bill created a bedrock of middle-class Americans. It was one of the cornerstones that helped us build the middle class, and it ushered in 50 years of unprecedented economic growth. Why? Because when people get good training and good education, their earning potential goes up and the contribution they can make to their community rises in a significant way.

Today, members of the Active-Duty Forces receive more in GI benefits than the Guard and Reserve personnel, and if the Guard and Reserve personnel weren't contributing in equal ways to our active duty, I would not be here arguing for them, but they are contributing in equal ways, putting their lives in danger. Our bill will allow them to participate more equally in the GI benefits.

The third part of this bill would seek to create parity between Reserve components and Active Duty in terms of their retirement age. Right now, Active Duty can leave the military once they serve 20 years. We think that is a great benefit. It is one of the attractions to the military service. Many of our military men and women serve honorably for 20 years and then retire to go off and have yet a second and third career, as lifespans continue to increase. We are proud of that. We believe and know they contribute in many ways even past their service.

But Guard and Reserve today cannot collect retirement until 60 years of age. This bill would reduce it to 55 years and end what is an unjust situation and help them. Hopefully it will address part of this retention issue by making these benefits more generous.

The fourth and I think one of the most important issues this bill seeks to address is ending the pay gap faced by guardsmen and reservists. Mr. President, I don't know if in Texas you have had a lot of people complain to you about this, but I sure have had people in Louisiana come up and say to me, Senator, I can't possibly understand how we would ask someone to put on their uniform, go to Iraq, and take a 40-percent, 30-percent, or 20-percent cut in pay, to put their life on the line while we enjoy all the benefits staying home here in a safe place here on the homefront. It is not that we have not had challenges right here on the homefront, but not to the same degree and intensity as we are finding on the front lines of the battlefield.

Yet the fact is, because there is no tax credit in our law right now and because it is not mandatory for employers—or the Federal Government, I might add, which is something Senator DURBIN and I have worked very hard on together—to maintain their salaries at the level before they leave, some of these guardsmen and reservists are actually taking a 30-percent or 40-percent cut in pay to serve us and to keep us safe. That means while they are making the sacrifice on the battlefield, which many of these men and women are willing to make, we are asking their spouses and their children to give up the car, sell the house, give up their college fund, and it is simply not fair in a country that has the resources we have. In this Congress we want to give tax credits to everybody in the world for everything under the sun. I don't know how we can't find the few hundreds of millions of dollars that it would take to give this tax credit to allow people to serve in the Guard and Reserve and just maintain their salary level while they serve so it doesn't put their families in jeopardy.

I am going to go visit our troops in Lafayette on Monday. I know the community comes together. I know the women, many of them, join together for bake sales and help out and pay each other's car payments. Sometimes the community pulls together to pay the mortgage on the house. I think that is wonderful and it is the good old American spirit. But I don't know if it is necessary, not when we are giving out tax credits to companies that are taking jobs overseas, not when we are giving out tax credits to people who make millions and are not putting on the uniform. The least we can do is help our businesses to write off what they would have as a voluntary compensation package to maintain this salary level for the men and women serving overseas to minimize the sacrifice made by their families here at home. It would also require the Federal Government to step up to the plate and, as one of the largest employers in the Nation, to make sure those salaries are compensated.

Let me share stories, one or two, from these families. There was an April 22, 2003 article from USA Today that I will ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From USA Today, Apr. 22, 2003]

RESERVISTS UNDER ECONOMIC FIRE

WASHINGTON.—Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country.

But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

Four in 10 members of the National Guard or reserves lose money when they leave their civilian jobs for active duty, according to a Pentagon survey taken in 2000. Of 1.2 million members, 223,000 are on active duty around the world.

Concern is growing in Congress, and several lawmakers in both parties have introduced legislation to ease the families' burden.

Janet Wright says she "sat down and cried" when she realized how little money she and her children, Adelia, 5, and Carolyn, 2, would have to live on when her husband was sent to the Middle East. In his civilian job with an environmental cleanup company, Russell Wright makes $60,000 a year—twice what he'll be paid as a sergeant in the Marine Forces Reserve. Back in Hammond, La., his wife, who doesn't have a paying job, is pouring the kids more water and less milk. She is trying to accelerate Carolyn's potty training schedule to save on diapers.

She doesn't know how long she'll have to pinch pennies. Like his fellow reservists, Russell Wright has been called up for one year. He could be sent home sooner, or the military could exercise its option to extend his tour of duty for a second year. Even so, Janet Wright considers her family lucky: She can still pay the mortgage, and the children's pediatrician accepts Tricare, the military health plan.

Ray Korizon, a 23-year veteran with the Air Force Reserve and an employee of the Federal Aviation Administration, says his income will also be cut in half if his unit ships out. Korizon, who lives in Schaumburg, Ill., knows the financial costs of doing his patriotic duty from bitter experience. Before the Persian Gulf War in 1991, he owned a Chicago construction company with 26 employees. He was sent overseas for six months and lost the business.

Still, he never considered leaving the reserve. Korizon says he enjoys the work and the camaraderie. But he worries about whether his two kids can continue to see the same doctor when he shifts to military health coverage. "It's hard to go out and do the job you want to do when you're worried about things back home," he says.

Once regarded as "weekend warriors," they have become an integral part of U.S. battle plans. Call-ups have been longer and more frequent.

"The last time you'd see this type of mobilization activity was during World War II," says Maj. Charles Kohler of the Maryland National Guard. Of the Maryland Guard's 8,000 members, 3,500 are on active duty. Kohler knows several who are in serious financial trouble. One had to file for bankruptcy after a yearlong deployment, during which his take-home pay fell by two-thirds.

Stories like that are the result of a shift in military policy. Since the end of the Cold War, the ranks of the full-time military have been reduced by one-third. The Pentagon has increasingly relied on the nation's part-time soldiers. More than 525,000 members of the Guards and reserves have been mobilized in the 12 years since the Persian Gulf War. For the previous 36 years, the figure was 199,877.

The end of fighting in Iraq isn't likely to lessen the pressure on the Guard and reserves. They'll stay on with the regular military in a peacekeeping role. Nobody knows how long, but in Bosnia, Guard members and reservists are on duty seven years after the mission began.

Korizon, who maintains avionics systems on C–130 cargo planes, has been told his Milwaukee-based reserve unit may be called up for humanitarian missions.

Some of the specialists who are in the greatest demand—physicians and experts in biological and chemical agents—command six-figure salaries in civilian life. The average pay for a midlevel officer is $50,000 to $55,000.

"They were prepared to be called up. They were prepared to serve their country," Sen. Barbara Mikulski, D-Md., says. "They were not prepared to be part of a regular force and be away from home 200 to 300 days a year."

Concerns are growing on Capitol Hill. As the nation's reliance on the Guard and reserves has increased, "funding for training and benefits simply have not kept up," says Republican Sen. Saxby Chambliss of Georgia, a member of the Armed Services Committee.

The General Accounting Office, Congress' auditing arm, is studying pay and benefits for Guard members and reservists. A report is due in September. Meanwhile, members of Congress are pushing several bills to ease the burden:

Closing the pay gap. Some employers make up the difference in salary for reservists on active duty. But many, including the federal government, do not. A bill sponsored by Democratic Sens. Mikulski, Dick Durbin of Illinois and Mary Landrieu of Louisiana would require the federal government to make up lost pay. Landrieu is doing that for one legislative aide who has been called up for active duty.

She has also introduced a bill to give private employers a 50% tax credit if they subsidize reservists' salaries.

Closing the health gap. Once on active duty, reservists, Guard members and their families are covered by Tricare.

But for the 75% of reserve and Guard families living more than 50 miles from military treatment facilities, finding physicians who participate in Tricare can be difficult.

A measure sponsored by Sen. Mike DeWine, a Republican from Ohio, would give reservists and Guard members the option of making Tricare their regular insurer or having the federal government pay premiums for their civilian health insurance while they are on active duty. Several senior Democrats, including Senate Minority Leader Tom Daschle of South Dakota and Sen. Edward Kennedy of Massachusetts, support the idea.

Keeping creditors at bay. The Soldiers and Sailors Relief Act caps interest rates on mortgages, car payments and other debts owed by military personnel at 6% while they are on active duty. But Sen. Lindsey Graham, a South Carolina Republican who is the Senate's only reservist, says the act doesn't apply to debts that are held in the name of a spouse who is not a member of the military. He plans to introduce legislation to cover spouses.

Despite a groundswell of support for troops, none of the bills is assured of passage. There's concern among some administration officials about the cost of some of the proposals. In addition, some at the Pentagon think morale would be hurt if some reservists end up with higher incomes than their counterparts in the regular ranks.

Ms. LANDRIEU. It starts:

> Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country. But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

And that is a shame. I think the two enemies mentioned before the bill collector are people we need to actually be focusing our attention on, bringing them to justice in one case and finding them in the other. I don't think our troops need to be worried about bill collectors back home, but that is the position we have them in because we have not acted, will not act, refuse to act in the face of giving everybody else tax credits, but we can't seem to find room in the budget for these 634,000 of our bravest.

I want to say for the record, in Louisiana, Janet Wright's husband Russell is in the Marine Reserves. He made $60,000 a year. Russell was activated. He will only make $30,000. Mrs. Wright says she started putting water in her children's cereal and hopes her daughter can be quickly potty trained to save on diapers. Mrs. Wright has to count every penny.

This family is from Hammond, LA. I just don't think this is right. I think we can do something about it, and this bill attempts to do that. A 50-percent tax credit to those employers to continue to pay their salaries to fill this pay gap is part of this bill.

One other point of the bill, and then a short conclusion. We put a cap on interest rates. Many of us have loans out for a variety of different purposes—automobiles, perhaps some business loans that have been made for our businesses, obviously mortgages. We put in an interest rate cap so when you are deployed, you don't have to pay more than a 6-percent rate. When rates were 20 percent and 25 percent, that made a lot of sense and it was a great benefit. But as rates are relatively low today, this bill would make a modest change to either have it at 6 percent or prime plus 1. Again, it is not a huge amount of money, but it could potentially save a family a few hundred dollars a year.

It is the least we can do as part of trying to help them make ends meet while their primary breadwinner in most cases is the one deployed.

As Congress works to best give our military the tools they need to succeed in the 21st century, we must reinforce and increase the benefits and protections for our Reserves. We have asked so much of them, and they have met every challenge with excellence. As we saw unfolding on our television screens yesterday and today, we couldn't ask them to do more. The least we can do is to look at the package of benefits, upgrade it where we can, make sacrifices in other areas of our budget, and fund them first. They are the ones who are protecting us at this time. When we can provide greater legal protections to ease the stress on the homefront, we must, when and where we can. Failure to act will just exacerbate retention challenges. It will undermine our efforts to succeed in our war on terror.

I introduce this bill today. I hope we can have a speedy hearing.

I ask my colleagues to join me in sponsoring this bill so we can have a great bipartisan effort. There are many other things we can so the Guard and Reserve really know we appreciate them, because we just do not take pictures with them but we actually put them in our budget.

I yield the floor.

By Ms. MIKULSKI (for herself, Mr. SPECTER, Mrs. MURRAY, Mrs. CLINTON, Ms. LANDRIEU, Mr. SCHUMER, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. DAYTON):

S. 2275. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes; to the Committee on Governmental Affairs.

Ms. MIKULSKI. Mr. President, today I rise on behalf of myself and Senators SPECTER, MURRAY, CLINTON, LANDRIEU, DAYTON, SCHUMER, DASCHLE and LIEBERMAN, to introduce the High-Risk Non-Profit Security and Safety Enhancement Act of 2004. This bill provides homeland security assistance for high-risk non-profits to protect them against foreign terrorist attacks. This legislation is critical to help protect the "soft targets" of terrorism all over the United States.

We are all aware of recent terrorist attacks in the United States, Spain, Germany, Iraq, Tunisia, Kenya, Morocco and Turkey. These attacks by Al Qaeda on an international Red Cross building, synagogues, train stations, hotels, airports, restaurants, night clubs, and cultural centers, show its willingness to attack "soft targets" of all types in order to conduct its campaign of terror.

I want to make sure that our communities are protected and the buildings where citizens live, learn and work are as secure as possible to safeguard American lives from a potential terrorist attack. Local communities are on the front lines in our war against terrorism. This Congress must do its share to make sure that they do not have to bear the full cost of this war. This bill helps us do that by providing funds for security enhancements in buildings that Americans visit everyday and by providing local law enforcement with added support for the costs they incur in helping to guard these local buildings and community centers.

Specifically, this legislation will provide up to $100 million in assistance to 501(c)(3) organizations demonstrating a high risk of terrorist attack based upon very specific standards. Organizations wishing to receive security enhancements under this Act must demonstrate that they have experienced specific threats by international terrorist organizations, there were prior attacks against similarly situated organizations, there is vulnerability of the specific site, the symbolic value of the site as a highly recognized American Institution, or that they have a specific role in responding to terrorist attacks.

This bill allows the Department of Homeland Security to contract for security enhancements to help these high-risk non-profit organizations. These funds can only be used for security enhancements, such as concrete barriers, and "hardening" of windows and doors, as well as technical assistance to assess needs, develop plans, and train personnel. Funding under this Act can never be used for enhancements that would only be reasonably necessary to protect from neighborhood crime.

This bill also helps our vital first responders, those who are on the frontline everyday helping to protect these "soft targets." These men and women have the responsibility for protecting institutions against the possibility of terrorist attack, while they are also responding to the public safety needs of the entire community. By authorizing $50 million in grant funds for local police departments, this bill provides real relief to local law enforcement who bear the growing costs associated with providing heightened security to high-risk non-profits.

As a Nation our priority in fighting the war on terror is to be able to better detect, prevent and respond to acts of terrorism. This bill gets us one step closer to meeting those goals by helping vulnerable targets better detect and prevent terrorist attacks and by making sure that if terror strikes one of these facilities, security and safety measures are in place to protect the lives of those inside and around these buildings.

Nothing the Senate does is more important than providing America security and Americans safety. I urge my colleagues to support this legislation because it does exactly that. It makes sure that there is added security for these "soft targets" that Americans visit everyday and it adds funding to support the local police, fire and rescue workers who are the first responders when there is a threat to one of these organizations. In the battle to protect our Nation from terrorist attacks, we must be sure to provide assistance to these high-risk non-profit organizations that provide vital health, social, cultural, and educational services to the American people.

I know others share my concerns about protecting these "soft targets" in our war against terrorism and that is why the United Jewish Communities, the American Red Cross, United Way, the American Hospital Association, the American Association of Museums, the National Association of Independent Colleges and Universities (NAICU), American Jewish Congress, the Theatre Communications Group, and the YMCA of the USA are all united in supporting this legislation.

This bill not only supports homeland security, it supports hometown security, making our communities stronger and safer, and I encourage my colleagues to join me in supporting this legislation and ask unanimous consent to print in the RECORD a letter from organizations supporting this effort and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COALITION FOR THE HIGH-RISK NON-PROFIT SECURITY ENHANCEMENT ACT OF 2004, MARCH 29, 2004.

DEAR MEMBER OF CONGRESS: Before the recess—We are requesting that you sign-on as a co-sponsor of the High-Risk Non-Profit Security Enhancement Act of 2004, legislation to provide for homeland security assistance for high-risk non-profits to protect them against foreign terrorist attacks. The legislative language is attached to this e-mail.

As leaders of our nation's non-profit sector, we firmly believe there is a compelling public interest in protecting high-risk non-profit institutions from terrorist attacks that would disrupt the vital health, social, educational and spiritual services they provide to the American people, and threaten the lives and well-being of American citizens who operate, utilize, and live or work in proximity to such institutions.

The risk to such institutions since 9/11 is clear. Al Qaeda's willingness to attack targets of all types has been made readily apparent with attacks in the United States, Spain, Germany, Iraq, Tunisia, Kenya, Morocco, and Turkey, including an international Red Cross building, synagogues, train stations, hotels, airports, restaurants, night clubs, and cultural centers.

This legislation would authorize the Secretary of Homeland Security to make available in FY 2005 up to $100 million in assistance to 501(c)(3) organizations demonstrating a high risk of terrorist attack based upon: specific threats of international terrorist organizations, prior attacks against similarly situated organizations; the vulnerability of the specific site; the symbolic value of the site as a highly recognized American institution; or the role of the institution in responding to terrorist attacks. Federal loan guarantees would also be available to make loans accessible on favorable terms. Funds would be allocated by a new office in the Department of Homeland Security dedicated to working with high-risk non-profits nationwide.

The authorized amount of grants—$100 million—is a fraction of the assessed needs of high-risk non-profits, which is well in excess of $1 billion. However, in view of current budgetary constraints, supporters of this legislation have proposed a modest level of Federal assistance.

Applicant organizations would submit requests to state homeland security authorities that would identify and prioritize high-risk institutions. Qualifying requests would be forwarded to the Secretary of Homeland Security who would allocate resources based on risk—maximizing the number of institutions receiving security enhancements and technical assistance. Payments would be made directly to contractors.

Security enhancements would include items directly related to the international terrorist threat, such as concrete barriers, and "hardening" of windows and doors, as well as technical assistance to assess needs, develop plans, and train personnel. Funds could not be used for security equipment that would reasonably be necessary for protection from neighborhood crime.

The bill also authorizes $50 million for local police departments to provide additional security in areas where there is a high concentration of high-risk non-profits.

Sincerely,

American Association of Museums.
American Association of Homes and Services for the aging.
American Hospital Association.
American Jewish Congress.
American Red Cross.
American Society of Association Executives.
American Symphony Orchestra League.
Association of Art Museum Directors.
Jewish United Fund/Jewish Federation of Metropolitan Chicago.
National Assembly of Health and Human Services Organizations.
National Association of Independent Colleges and Universities.
Theatre Communications Group.
UJA Federation of New York.
Union of Orthodox Jewish Congregations.
United Synagogue of Conservative Judaism.
United Way of America.
YMCA of the USA.

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Risk Nonprofit Security Enhancement Act of 2004".

SEC. 2. FINDING.

Congress finds that there is a public interest in protecting high-risk nonprofit organizations from international terrorist attacks that would disrupt the vital services such organizations provide to the people of the United States and threaten the lives and well-being of United States citizens who operate, utilize, and live or work in proximity to such organizations.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish within the Department of Homeland Security a program to protect United States citizens at or near high-risk nonprofit organizations from international terrorist attacks through loan guarantees and Federal contracts for security enhancements and technical assistance;

(2) establish a program within the Department of Homeland Security to provide grants to local governments to assist with incremental costs associated with law enforcement in areas in which there are a high concentration of high-risk nonprofit organizations vulnerable to international terrorist attacks; and

(3) establish an Office of Community Relations and Civic Affairs within the Department of Homeland Security to focus on security needs of high-risk nonprofit organizations with respect to international terrorist threats.

SEC. 4. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

"TITLE XVIII—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT ORGANIZATIONS

"SEC. 1801. DEFINITIONS.

"In this title:

"(1) CONTRACT.—The term 'contract' means a contract between the Federal Government and a contractor selected from the list of certified contractors to perform security enhancements or provide technical assistance approved by the Secretary under this title.

"(2) FAVORABLE REPAYMENT TERMS.—The term 'favorable repayment terms' means the repayment terms of loans offered to nonprofit organizations under this title that—

"(A) are determined by the Secretary, in consultation with the Secretary of the Treasury, to be favorable under current market conditions;

"(B) have interest rates at least 1 full percentage point below the market rate; and

"(C) provide for repayment over a term not less than 25 years.

"(3) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means an organization that—

"(A) is described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

"(B) is designated by the Secretary under section 1803(a).

"(4) SECURITY ENHANCEMENTS.—The term 'security enhancements'—

"(A) means the purchase and installation of security equipment in real property (including buildings and improvements), owned or leased by a nonprofit organization, specifically in response to the risk of attack at a nonprofit organization by an international terrorist organization;

"(B) includes software security measures; and

"(C) does not include enhancements that would otherwise have been reasonably necessary due to nonterrorist threats.

"(5) TECHNICAL ASSISTANCE.—The term 'technical assistance'—

"(A) means guidance, assessment, recommendations, and any other provision of information or expertise which assists nonprofit organizations in—

"(i) identifying security needs;

"(ii) purchasing and installing security enhancements;

"(iii) training employees to use and maintain security enhancements; or

"(iv) training employees to recognize and respond to international terrorist threats; and

"(B) does not include technical assistance that would otherwise have been reasonably necessary due to nonterrorist threats.

"SEC. 1802. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

"(a) IN GENERAL.—The Secretary may—

"(1) enter into contracts with certified contractors for security enhancements and technical assistance for nonprofit organizations; and

"(2) issue Federal loan guarantees to financial institutions in connection with loans made by such institutions to nonprofit organizations for security enhancements and technical assistance.

"(b) LOANS.—The Secretary may guarantee loans under this title—

"(1) only to the extent provided for in advance by appropriations Acts; and

"(2) only to the extent such loans have favorable repayment terms.

"SEC. 1803. ELIGIBILITY CRITERIA.

"(a) IN GENERAL.—The Secretary shall designate nonprofit organizations as high-risk nonprofit organizations eligible for contracts or loans under this title based on the vulnerability of the specific site of the nonprofit organization to international terrorist attacks.

"(b) VULNERABILITY DETERMINATION.—In determining vulnerability to international terrorist attacks and eligibility for security enhancements or technical assistance under this title, the Secretary shall consider—

"(1) threats of international terrorist organizations (as designated by the State Department) against any group of United States citizens who operate or are the principal beneficiaries or users of the nonprofit organization;

"(2) prior attacks, within or outside the United States, by international terrorist organizations against the nonprofit organization or entities associated with or similarly situated as the nonprofit organization;

"(3) the symbolic value of the site as a highly recognized United States cultural or historical institution that renders the site a possible target of international terrorism;

"(4) the role of the nonprofit organization in responding to international terrorist attacks; and

"(5) any recommendations of the applicable State Homeland Security Authority established under section 1806 or Federal, State, and local law enforcement authorities.

"(c) DOCUMENTATION.—In order to be eligible for security enhancements, technical assistance or loan guarantees under this title, the nonprofit organization shall provide the Secretary with documentation that—

"(1) the nonprofit organization hosted a gathering of at least 100 or more persons at least once each month at the nonprofit organization site during the preceding 12 months; or

"(2) the nonprofit organization provides services to at least 500 persons each year at the nonprofit organization site.

"(d) TECHNICAL ASSISTANCE ORGANIZATIONS.—If 2 or more nonprofit organizations establish another nonprofit organization to provide technical assistance, that established organization shall be eligible to receive security enhancements and technical assistance under this title based upon the collective risk of the nonprofit organizations it serves.

“SEC. 1804. USE OF LOAN GUARANTEES.

“Funds borrowed from lending institutions, which are guaranteed by the Federal Government under this title, may be used for technical assistance and security enhancements.

“SEC. 1805. NONPROFIT ORGANIZATION APPLICATIONS.

“(a) In General.—A nonprofit organization desiring assistance under this title shall submit a separate application for each specific site needing security enhancements or technical assistance.

“(b) Content.—Each application shall include—

“(1) a detailed request for security enhancements and technical assistance, from a list of approved enhancements and assistance issued by the Secretary under this title;

“(2) a description of the intended uses of funds to be borrowed under Federal loan guarantees; and

“(3) such other information as the Secretary shall require.

“(c) Joint Application.—Two or more nonprofit organizations located on contiguous sites may submit a joint application.

“SEC. 1806. REVIEW BY STATE HOMELAND SECURITY AUTHORITIES.

“(a) Establishment of State Homeland Security Authorities.—In accordance with regulations prescribed by the Secretary, each State may establish a State Homeland Security Authority to carry out this title.

“(b) Applications.—

“(1) Submission.—Applications shall be submitted to the applicable State Homeland Security Authority.

“(2) Evaluation.—After consultation with Federal, State, and local law enforcement authorities, the State Homeland Security Authority shall evaluate all applications using the criteria under section 1803 and transmit all qualifying applications to the Secretary ranked by severity of risk of international terrorist attack.

“(3) Appeal.—An applicant may appeal the finding that an application is not a qualifying application to the Secretary under procedures that the Secretary shall issue by regulation not later than 90 days after the date of enactment of this title.

“SEC. 1807. SECURITY ENHANCEMENT AND TECHNICAL ASSISTANCE CONTRACTS AND LOAN GUARANTEES.

“(a) In General.—Upon receipt of the applications, the Secretary shall select applications for execution of security enhancement and technical assistance contracts, or issuance of loan guarantees, giving preference to the nonprofit organizations determined to be at greatest risk of international terrorist attack based on criteria under section 1803.

“(b) Security Enhancements and Technical Assistance; Followed by Loan Guarantees.—The Secretary shall execute security enhancement and technical assistance contracts for the highest priority applicants until available funds are expended, after which loan guarantees shall be made available for additional applicants determined to be at high risk, up to the authorized amount of loan guarantees. The Secretary may provide with respect to a single application a combination of such contracts and loan guarantees.

“(c) Joint Applications.—Special preference shall be given to joint applications submitted on behalf of multiple nonprofit organizations located in contiguous settings.

“(d) Maximizing Available Funds.—Subject to subsection (b), the Secretary shall execute security enhancement and technical assistance contracts in such amounts as to maximize the number of high-risk applicants nationwide receiving assistance under this title.

“(e) Applicant Notification.—Upon selecting a nonprofit organization for assistance under this title, the Secretary shall notify the nonprofit organization that the Federal Government is prepared to enter into a contract with certified contractors to install specified security enhancements or provide specified technical assistance at the site of the nonprofit organization.

“(f) Certified Contractors.—

“(1) In general.—Upon receiving a notification under subsection (e), the nonprofit organization shall select a certified contractor to perform the specified security enhancements, from a list of certified contractors issued and maintained by the Secretary under subsection (j).

“(2) List.—The list referred to in paragraph (1) shall be comprised of contractors selected on the basis of—

“(A) technical expertise;

“(B) performance record including quality and timeliness of work performed;

“(C) adequacy of employee criminal background checks; and

“(D) price competitiveness.

“(3) Other certified contractors.—The Secretary shall include on the list of certified contractors additional contractors selected by senior officials at State Homeland Security Authorities and the chief executives of county and other local jurisdictions. Such additional certified contractors shall be selected on the basis of the criteria under paragraph (2).

“(g) Ensuring the Availability of Contractors.—If the list of certified contractors under this section does not include any contractors who can begin work on the security enhancements or technical assistance within 60 days after applicant notification, the nonprofit organization may submit a contractor not currently on the list to the Secretary for the Secretary's review. If the Secretary does not include the submitted contractor on the list of certified contractors within 60 days after the submission and does not place an alternative contractor on the list within the same time period (who would be available to begin the specified work within that 60-day period), the Secretary shall immediately place the submitted contractor on the list of certified contractors and such contractor shall remain on such list until—

“(1) the specified work is completed; or

“(2) the Secretary can show cause why such contractor may not retain certification, with such determinations subject to review by the Comptroller General of the United States.

“(h) Contracts.—Upon selecting a certified contractor to provide security enhancements and technical assistance approved by the Secretary under this title, the nonprofit organization shall notify the Secretary of such selection. The Secretary shall deliver a contract to such contractor within 10 business days after such notification.

“(i) Contracts for Additional Work or Upgrades.—A nonprofit organization, using its own funds, may enter into an additional contract with the certified contractor, for additional or upgraded security enhancements or technical assistance. Such additional contracts shall be separate contracts between the nonprofit organization and the contractor.

“(j) Expediting Assistance.—In order to expedite assistance to nonprofit organizations, the Secretary shall—

“(1) compile a list of approved technical assistance and security enhancement activities within 45 days after the date of enactment of this title;

“(2) publish in the Federal Register within 60 days after such date of enactment a request for contractors to submit applications to be placed on the list of certified contractors under this section;

“(3) after consultation with the Secretary of the Treasury, publish in the Federal Register within 60 days after such date of enactment, prescribe regulations setting forth the conditions under which loan guarantees shall be issued under this title, including application procedures, expeditious review of applications, underwriting criteria, assignment of loan guarantees, modifications, commercial validity, defaults, and fees; and

“(4) publish in the Federal Register within 120 days after such date of enactment (and every 30 days thereafter) a list of certified contractors, including those selected by State Homeland Security Authorities, county, and local officials, with coverage of all 50 States, the District of Columbia, and the territories.

“SEC. 1808. LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.

“(a) In General.—The Secretary may provide grants to units of local government to offset incremental costs associated with law enforcement in areas where there is a high concentration of nonprofit organizations.

“(b) Use.—Grant funds received under this section may be used only for personnel costs or for equipment needs specifically related to such incremental costs.

“(c) Maximization of Impact.—The Secretary shall award grants in such amounts as to maximize the impact of available funds in protecting nonprofit organizations nationwide from international terrorist attacks.

“SEC. 1809. OFFICE OF COMMUNITY RELATIONS AND CIVIC AFFAIRS.

“(a) In General.—There is established within the Department, the Office of Community Relations and Civic Affairs to administer grant programs for nonprofit organizations and local law enforcement assistance.

“(b) Additional Responsibilities.—The Office of Community Relations and Civic Affairs shall—

“(1) coordinate community relations efforts of the Department;

“(2) serve as the official liaison of the Secretary to the nonprofit, human and social services, and faith-based communities; and

“(3) assist in coordinating the needs of those communities with the Citizen Corps program.

“SEC. 1810. AUTHORIZATION OF APPROPRIATIONS AND LOAN GUARANTEES.

“(a) Nonprofit Organizations Program.—There are authorized to be appropriated to the Department to carry out the nonprofit organization program under this title, $100,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

“(b) Local Law Enforcement Assistance Grants.—There are authorized to be appropriated to the Department for local law enforcement assistance grants under section 1808, $50,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

“(c) Office of Community Relations and Civic Affairs.—There are authorized to be appropriated to the Department for the Office of Community Relations and Civic Affairs under section 1809, $5,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

"(d) LOAN GUARANTEES.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of fiscal years 2005, 2006, and 2007, such amounts as may be required under the Federal Credit Act with respect to Federal loan guarantees authorized by this title, which shall remain available until expended.

"(2) LIMITATION.—The aggregate value of all loans for which loan guarantees are issued under this title by the Secretary may not exceed $250,000,000 in each of fiscal years 2005, 2006, and 2007.".

SEC. 5. TECHNICAL AND CONFORMING AMENDMENT.

The table of contents under section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by adding at the end the following:

"TITLE XVIII—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT ORGANIZATIONS

"Sec. 1801. Definitions.
"Sec. 1802. Authority to enter into contracts and issue Federal loan guarantees.
"Sec. 1803. Eligibility criteria.
"Sec. 1804. Use of loan guarantees.
"Sec. 1805. Nonprofit organization applications.
"Sec. 1806. Review by State Homeland Security Authorities.
"Sec. 1807. Security enhancement and technical assistance contracts and loan guarantees.
"Sec. 1808. Local law enforcement assistance grants.
"Sec. 1809. Office of Community Relations and Civic Affairs.
"Sec. 1810. Authorization of appropriations and loan guarantees.".

Mr. SPECTER. Mr. President, I seek recognition today to introduce the High-Risk Non-Profit Security Enhancement Act of 2004 together with my colleague Senator MIKULSKI. Since 9/11, al-Qaida has attacked a series of so-called "soft targets" around the globe including hotels, synagogues, social centers and facilities of the Red Cross. This grim reality is forcing such soft targets here in the United States to confront the need for very expensive security enhancements to their facilities. This legislation will help nonprofit organizations—those soft targets least able to afford these security enhancements—to do the work that they need to do such as the building of concrete barriers and the "hardening" of windows and doors.

On February 11, 2003, CIA Director George Tenet provided the following testimony to the Senate Select Committee on Intelligence:

> Until al-Qaida finds an opportunity for the big attack, it will try to maintain its operational tempo by striking "softer" targets. And what I mean by "softer," Mr. Chairman, are simply targets al-Qaida planners may view as less well protected. . . . Al-Qaida has also sharpened its focus on our Allies in Europe and on operations against Israeli and Jewish targets.

Also on February 11, 2003, FBI Director Robert S. Mueller testified as follows before the Senate Select Committee on Intelligence:

> Multiple small-scale attacks against soft targets—such as banks, shopping malls, supermarkets, apartment buildings, schools and universities, houses of worship and places of recreation and entertainment—would be easier to execute and would minimize the need to communicate with the central leadership, lowering the risks of detection.

The record has sadly confirmed the words of Directors Tenet and Mueller. Al-Qaida has been responsible for a series of attacks against soft targets including numerous synagogues, A Red Cross building, train stations, hotels airports, restaurants and night clubs. These targets have been in countries throughout the world including Spain, Germany, Iraq, Tunisia, Kenya, Morocco and Turkey.

In the face of this very real terrorist threat, these soft targets have an obligation to take the necessary steps to better protect themselves and all who visit their facilities. These additional security measures place an especially heavy burden upon non-profit corporations with limited resources. Effective security measures do not come cheap.

This legislation would authorize the Secretary of Homeland Security to make available in FY 2005 up to $100 million in assistance to non profits which demonstrate a high risk of terrorist attack. In choosing which projects to fund, the secretary will give preference to those non profit organizations he determines to be at the greatest risk of international terrorist attack based upon the following criteria: (1) Specific threats of international terrorist organizations; (2) Prior attacks against similarly situated organizations; (3) The vulnerability of the specific site; (4) The symbolic value of the site as a highly recognized American institution; or (5) The role of the institution in responding to terrorist attacks.

Applicant organizations would submit request to state homeland security authorities that would identify and prioritize high-risk institutions. Qualifying requests would be forwarded to the Secretary of Homeland Security who would allocate resources based on his assessment of the risk. Payments would be made from the Department of Homeland security directly to the contractors who will do the work.

For those programs that do not get their security projects funded, Federal loan guarantees would also be available so that they can take out loans on favorable terms. The bill also authorizes $50 million for local police departments to provide additional security in areas where there is a high concentration of high-risk non-profits.

Mr. President, the threat of terrorism is placing an enormous burden on non-profit organizations that face a higher risk of terror attack due to their affiliation of function. This bill is an important step towards helping these non-profits meet these new and expensive security needs. It is my hope that my colleagues will join me in addressing this overlooked front in the war on terror.

By Mrs. BOXER:

S. 2276. A bill to allow the Secretary of Homeland Security to make grants to Amtrak, other rail carriers, and providers of mass transportation for improvements to the security of our Nation's rail and mass transportation system; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, two and a half years ago, the United States was caught unprepared when it came to aviation security. The results were devastating.

Since then, we have greatly improved our aviation security, and we have begun to improve our port security. We have a long way to go in both of these areas.

But, we have a longer way to go to secure our rail system—both passenger, freight, and local transit.

In October 2001, the Commerce Committee passed a rail security bill to authorize $1.77 billion over two years for Amtrak. We knew that the United States must not be caught off-guard when it comes to our passenger and freight rail systems.

Unfortunately, the bill never became law.

And, now, we have received another warning. In March, terrorists blew up commuter trains in Madrid killing nearly 200 people and injuring 1,400. We must heed this warning and address the vulnerability of America's rail systems. We must act now.

Today, I am introducing legislation that will authorize funding for more police, canine dogs, and surveillance equipment on Amtrak and local transit systems. The bill will authorize $500 million per year for five years. One-third of the funding will be spent on Amtrak based on passenger ridership and the remainder of the funding will be spent on securing rail and transit.

This is important for the entire nation, but it is especially important for California. California has the second highest Amtrak ridership in the country. Almost 9 million passenger trips began or ended in California during fiscal year 2003. Amtrak operates an average of 68 intercity and 300 commuter trains per day in California.

The freight rail system is also important for goods movement. California's ports receive over 40 percent of all of the goods that are shipped into the United States. Many of the imports are shipped by rail through California and to the rest of the nation. If there were a terrorist attack, the impact on our economy would be devastating.

Finally, local communities throughout California have mass transit systems. For example, Muni, in San Francisco, is the 7th largest transit system in the nation. There is light rail in Los Angeles, Sacramento, and San Diego.

Livermore Amador Valley Transit Authority has buses that go directly to Lawrence Livermore National Laboratory, which has weapons research.

It is vitally important to ensure that our nation's entire transportation system is secure. It is time we stopped ignoring our rail systems.

By Mr. McCAIN:

S. 2277. A bill to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to the Committee on Indian Affairs.

Mr. McCAIN. Mr. President, today I am introducing legislation to provide a technical correction that would once again allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Community (SRPMIC). A companion bill is being introduced today by Congressman HAYWORTH.

The SRPMIC located in Scottsdale, AZ, one of the most diversified economic development portfolios in Indian country. Blessed with a prime location in metropolitan Phoenix, the Tribe has nearly a dozen business enterprises including a sand and gravel operation, a cement company, two golf courses, and a shopping center. The tribe wants to continue diversifying their economy in the hopes of becoming economically self-sufficient. This legislation is intended to help them achieve this goal.

This bill would make technical corrections to title 215, U.S. Code, Section 416a(c) relating to "binding arbitration of disputes." Recently, in an effort to consolidate and streamline various rules, regulations, and laws, some sections of Title 25, U.S. Code, Section 81 were repealed that affected the Bureau of Indian Affairs. An unintended consequence of this consolidation was that the definition for leases, which included sublease, substitute lease, and master lease, was altered. Simply put, this legislation would reinstate the prior definition for leases on the reservation to include subleases, substitute leases, and master leases. Without this clarification, the tribe fears that potential tenants may be leery to invest on tribal land.

This legislation may seem minor, but it would go a long way toward helping the SRPMIC achieve the economic self-sufficiency it is working toward. Therefore, I urge my colleagues to support this legislation and work for its speedy passage.

By Mr. HOLLINGS (for himself, Mr. McCAIN, and Mr. BREAUX):

S. 2279. A bill to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, less than 1 year ago, we wrapped up work on the port security bill that was signed into law as the Maritime Security Act of 2002, MTSA. That act mandated and outlined changes that are needed to shore up security in our ports, and established for the first time a system to coordinate, plan and implement port security at U.S. seaports. While this was landmark legislation, much still needs to be done with respect to the implementation of the requirements mandated by this law.

I am very dissatisfied with the current Administration's disinterest in paying for port security, and would point out that we are approaching a crisis, as Federal mandates are being rolled out for security without Federal support. I have tried over and over to focus the attention of the Administration on this crucial need and pushed to no avail in the Senate to get the resources necessary to address this problem. But to date, I have gotten little support. In addition to appropriating much needed funds for port security, it has become apparent that keeping up with security needs at our ports is an ever evolving task, and that we may have to refocus our efforts and push harder to ensure that we coordinate our policies and maximize the limited resources that we have in this area.

Today, in order to keep up with these needs, I am introducing the "Maritime Transportation Security Act of 2004", along with Senator McCAIN, and Senator BREAUX. I am pleased to have worked on this with Senator McCAIN, the Chairman of our Committee, as I often remark, while he has no coastline, he has worked with those of us who do have ports to work on these crucial port security issues. I am also pleased to introduce this legislation with Senator BREAUX, for he has truly been one of the leading advocates of the importance of maritime shipping and the merchant marine in the U.S. Senate. He has done invaluable work for us on the Commerce Committee, and is a true expert in the field. He will be sorely missed for his expertise on all maritime issues, although I am sure, that in the future, he will still be the Captain of some small boat, yacht, or maybe even a ship.

Even though the Coast Guard, Customs and other agencies charged with the implementation of these measures have aggressively taken initial steps necessary to set up our future structure for seaport security there is still much to do, and effective action needs to occur to help coordinate and crystallize security policies and objectives. The Maritime Transportation Security Act of 2004 would attempt to mandate a coordinated Federal approach to several areas of concern in port security. It would also attempt to set performance standards for certain areas in port security and add a few enhancements to last year's legislation. Most importantly the bill would require a user fee to be established to help pay for the port security mandates.

Specifically, this bill would impose in rem liability to secure payment of penalties and fines under the Act and to help ensure compliance with the security requirements imposed by the MTSA. The bill would also include provisions to increase security in waterside cargo areas, and ensure that cargo contents of imported marine cargo containers would be required to be cleared within 5 days of entering a U.S. port, or alternatively removed after 5 days without being cleared, to a regulated warehouse where it would be opened and reviewed to verify its contents. This would in no way change any claim to possession of the goods. Importantly, the bill would require DHS to evaluate the policies and practices of sealing empty containers. According to the Federal Maritime Commission, over 4 million containers were imported into the United States empty. At a recent hearing, a representative from the ILWU longshoremen's union pointed out that treatment of empties and the sealing practices of these containers varied from locale to locale. This bill would require an analysis of current practices at U.S. ports in order to determine what steps need to occur in order to make sure that the transport of empty containers does not present a threat of terrorism, and whether a Federal policy is justified in this area.

The bill would require the Administration to produce a coordinated plan for collecting, analyzing, and disseminating maritime intelligence information collected by Federal agencies on ships, cargo, crew members and passengers. This intelligence is used to determine which ships, cargo, or crew warrant further inspection. This section of the bill requires further development of a maritime intelligence system to collect and analyze information concerning the crew, passengers and cargoes carried on vessels operating in waters under the jurisdiction of the United States. This mandate essentially restates existing law since it appears that the agencies have actually grown further apart since the passage of the Maritime Transportation Security Act. The provision in this bill would require a plan on how the Administration will coordinate collection and analysis of maritime information, and how agency personnel might be co-located to maximize resources and coordinate analysis. This plan must also indicate when long range vessel tracking will be integrated into this intelligence information. Additionally, the plan would require the government to analyze private sector resources to evaluate how they could be used to help monitor and differentiate legitimate moves of trade from those actions and players that are more suppositious. The Federal Government does not have a lot of experience monitoring commercial maritime activity, and I believe they will have to employ private sector expertise to assist in this endeavor.

The report shall also consider the abilities of the Department of Navy to collect and analyze commercial maritime information. The U.S. Navy probably has the most resources dedicated to the evaluation of commercial shipping activities, but are precluded from sharing this information. In light of our need for better information on commercial shipping, this policy has to be reevaluated. A maritime intelligence system needs to be set up to work together so that Federal agencies, State, local and the private sector can coordinate their law enforcement activities. Maritime intelligence on commercial ocean shipping is currently gathered by the Coast Guard, Customs, INS, and other agencies such as the Federal Maritime Commission under separate systems. Only the Coast Guard and the Navy currently work together. We lag far behind in this area, and each agency is operating independent of others. We are not getting the full picture of what is happening out there. It is crucial that we have the best information available so that we can target our relatively limited resources with maximum efficiency. Further, the information has to be disseminated in a fashion to maximize its utility, while still protecting that information which needs to be kept confidential. Collection and analysis of commercial maritime information is a key element of our port security that needs more focus and has to be addressed if we are to adequately protect our Nation.

Importantly, the bill will require the Administration to come up with cargo security plans to evaluate targeting systems to determine whether they are effective in deterring and protecting against potential acts of terrorism from cargo. In the event that targeting is inadequate protection, DHS would be required to increase the amount of cargo being non-intrusively inspected or x-rayed by two over the next year. The bill would also require the consolidation of intermodal cargo security programs that have the same security goals while establishing criteria and performance goals for these security programs, which are currently operating completely independent of each other, and require certain other cargo security program enhancements. Voluntary cargo security programs are not the answer to the important problem of securing our Nation from terrorist attacks. Firm standards and goals must be in place to ensure that items that we know we don't want in marine containers are not actually in marine containers. The legislation will also require a report on the amount of actual inspections that are being done at foreign seaports.

While the Container Security Initiative was rolled out with great fanfare to work with foreign ports to inspect cargo before they get to U.S. ports, the question remains whether we are actually getting much bang for the buck. The fundamental question that needs to be addressed is whether foreign nations have been willing to use their security screening equipment for our benefit, and to what degree have they been willing to screen cargo for the benefit of our Nation. The legislation will require a report to determine whether this program needs adjustment, or is a cost-effective measure to ensure safe cargo movements into the U.S., and to update us on the progress in the installation of a system of radiation detection at U.S. ports.

Additionally, this legislation will redirect our efforts to help ensure that we can verify that security is in place to prevent an act of terrorism, and not place us in a position of having to rely on documentation and the attestations or documentation of third parties in order to determine whether we need to take actions to protect the public. The Administration has not even started to implement the certification program required to certify "secure systems of transportation," 46 U.S.C. 70116, and they must get going on this vital initiative. Otherwise, it would only take one good liar to breach our system of defense. Although I understand we cannot inspect every piece of cargo, we have a credible system in place to actively increase cargo inspections, and implement a system that would ultimately allow us to reopen U.S. ports to commerce, in the event of an attack.

Additionally, the bill also would require a report from the Coast Guard on the benefits of utilizing joint operational centers at United States seaports to implement area security plans. This report should incorporate lessons learned from the three centers that have already been established, such as "Operation SeaHawk" in Charleston, SC, and consider which security programs could be effectively fused into these joint operational centers. The Commandant of the Coast Guard would be required by this bill to report on the effectiveness of these centers for port security and determine if it would be beneficial and cost effective to establish centers in additional areas that pose a significant security risk, and to utilize them to implement area security plans.

The bill will also make sure that port security grants are reviewed and approved, as was mandated under the terms of the MTSA, and all grants are subject to the review of the Coast Guard Captain of the Port, the regional Maritime Administration representative, and other Transportation Security Administration security officials as well as other DHS security experts, before the grants are approved. This grant program is not open-ended, it is intended to help the private sector and State and municipal governments achieve compliance with Federally approved facility plans and area maritime security plans, and the changes to the statute will ensure that the grant program operates the way we intended it to operate.

The bill also requires the Maritime Administration and the State Department to evaluate existing foreign assistance programs to determine whether the existing aid programs can be utilized to help foreign nations achieve compliance with the international standard set for port security. The MTSA requires the Coast Guard to set up a mechanism to review the practices of foreign ports to ensure that they have implemented adequate security measures, and ultimately, they can take steps that would result in the closure of commerce from ports in noncompliance with international security standards. It is in the best interests of everyone potentially impacted by such a policy implication, if we review our foreign aid programs to determine whether aid can be used to implement the necessary security measures.

The bill also requires the Maritime Administration to work with the Federal Law Enforcement Training Center, FLETC, and other DHS port security agencies such as TSA, Coast Guard and Customs to determine how to supplement their training programs to include a greater familiarization with commercial maritime practices. Port security law enforcement is much different in the aftermath of September 11, and officials involved in regulation and policing shipping will now have to approach it from a different perspective, and to be able to identify anomalies and irregularities, in order to best focus our limited police resources over an immense volume of trade. It is my understanding that the Maritime Administration has been utilizing resources at the U.S. Merchant Marine Academy and working with FLETC to formalize port security training. I think that this change will help our Federal agencies bolster their existing training programs, and achieve a greater understanding of potential security issues that could arise, and will be a healthy addition to work already done by the Maritime Administration and FLETC.

The bill rewrites the DHS mandate to conduct research and development, and would require the Science Directorate within DHS to be more accountable to Congress for those actions they are taking to develop the types of technology necessary to address security at our seaports. Importantly, the bill also requires the Coast Guard to evaluate the security risks and policies very carefully of nuclear facilities on or adjacent to navigable waterways to ensure that we have security policies in place to prevent acts of terrorism from occurring from on or under navigable waterways. Most nuclear facilities are on or adjacent to navigable waterways, and I want the Coast Guard to exercise the highest degree of security in their treatment of these facilities and the threat posed as a result of maritime commerce or the proximity to navigable waterways.

Most importantly, this bill attempts to address the fundamental issue that will face the nation as we implement the MTSA—will sufficient funding be in place to assure that our ports and agencies will robustly pursue security, or we will have to rely on sham security programs, or efforts severely restricted by funding that result in de minimus or desultory security efforts. When the Senate and House conferenced on the port security bill in the fall of 2002, the Senate conferees insisted on establishing direct funding for port security programs through a user fee, identical to the airline security fee, which would help defray the significant costs for the new port security mandates. The Administration declined to dedicate any resources for port security, and they declined to support the Senate's user fee. Unable to reach agreement with the House conferees and the Administration, I agreed to authorize just the necessary funds, but the President was required by law to report to Congress within 6 months on a funding proposal to assist States and their ports in complying with security mandates for Federal security plans. That report has never been prepared and is 9 months overdue.

When the President's budget for FY 2004 came out, after the U.S. Coast Guard had estimated that it would take $7.4 billion of funding in order to comply with the port security requirements, there was no funding for port authority compliance in that year's budget resolution. I offered an amendment to the FY 2004 Budget Resolution which was unanimously accepted to add $1 billion to help defray the first year costs of port security—ultimately it was dropped from Conference. Two weeks later, the President was presented with a direct opportunity to fund port security programs: Congressional consideration of his emergency supplemental appropriations bill to pay for the war in Iraq and bolster homeland security. Again, the Administration funding request included no funding for port authorities to help them comply with the Federal mandate, so I offered an amendment to add $1 billion to the supplemental specifically to help ports meet the new security mandates. Despite unanimous approval in the Senate 3 weeks earlier, the amendment was opposed by the Administration and defeated on the Senate floor on a straight party line vote.

Last year, I made another effort to address the port security funding inadequacies during consideration of the FY 2004 Homeland Security Appropriations bill. Again, the Administration proposed no funding for port security grants in their 2004 request, so I offered an amendment to the bill to direct $300 million specifically to port security grants without increasing the overall cost of the bill. The Administration opposed the funding increase, and the amendment was defeated largely along party lines with only three Republicans supporting the amendment.

Until this year's budget the President has not requested one dime specifically for port security. He has opposed efforts to mandate the funds be raised from the users of the system, and this year's budget request is for only $46 million. Despite opposition from the White House, Congress has directed appropriations that have resulted in grants of $450 million to ports to help ensure compliance with the Federal security mandates, and so I know that this issue is an area of major concern. Ultimately, the funding issues must be addressed, and this bill proposes a user fee to pay for the costs of compliance of port security. I had considered the possibility of authorizing the Administration to either generate funds for port security via a user fee, or alternatively mandate that funds be directly transferred from funds collected by Customs duties, but because of jurisdictional issues determined not to do so. The maritime industry supports this approach, and I am not opposed to this approach, but want only to ensure, that one way or another, we have the necessary funding in place to set up the system of port security that this nation deserves. Simply put, there is just too much at stake to hope that security emerges.

This bill seeks to continue the work to correct the security and terrorism prevention needs at our maritime borders. There is much to be done and there is a continued need for government and industry cooperation. This bill works on some of that need, yet the major need is funding for port security, which I hope that we will be able to address in the Senate very soon.

I ask unanimous consent the text of the bill to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Maritime Transportation Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents
Sec. 2. In rem liability; enforcement; pier and wharf security costs.
Sec. 3. Maritime information.
Sec. 4. Intermodal cargo security plan.
Sec. 5. Joint operations center for port security.
Sec. 6. Maritime transportation security plan grants.
Sec. 7. Assistance for foreign ports.
Sec. 8. Federal and State commercial maritime transportation training.
Sec. 9. Port security research and development.
Sec. 10. Nuclear facilities in maritime areas.
Sec. 11. Transportation worker background investigation programs.
Sec. 12. Security service fee.
Sec. 13. Port security capital fund.

SEC. 2. IN REM LIABILITY; ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating section 70117 as 70120; and

(2) by inserting after section 70116 the following:

"§ 70117. In rem liability for civil penalties and certain costs

"(a) IN GENERAL.—Any vessel subject to the provisions of this chapter, which is used in violation of this chapter or any regulations issued hereunder shall be liable in rem for any civil penalty assessed pursuant to section 70120 and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(b) REIMBURSABLE COSTS.—

"(1) IN GENERAL.—Any vessel subject to the provisions of this chapter shall be liable in rem for the reimbursable costs incurred by any valid claimant related to implementation and enforcement of this chapter with respect to the vessel, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, and other persons to whom the management of the vessel at the port of supply is entrusted, and any fine or penalty relating to reporting requirements of the vessel or its cargo, crew, or passengers, and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(2) REIMBURSABLE COSTS DEFINED.—In this subsection the term 'reimbursable costs' means costs incurred by any service provider, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, or other person to whom the management of the vessel at the port of supply is entrusted, for—

"(A) vessel crew on board, or in transit to or from, the vessel under lawful order, including accommodation, detention, transportation, and medical expenses; and

"(B) required handling under lawful order of cargo or other items on board the vessel.

"§ 70118. Enforcement by injunction or withholding of clearance

"(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

"(b) WITHHOLDING OF CLEARANCE.—

"(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70120, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

"§ 70119. Security of piers and wharfs

"(a) In General.—Notwithstanding any provision of law, the Secretary shall require any uncleared, imported merchandise remaining on the wharf or pier onto which it was unladen for more than 5 calendar days to be removed from the wharf or pier and deposited in the public stores or a general order warehouse, where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

"(b) Penalty.—The Secretary may impose an administrative penalty of $5,000 for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a).".

(b) Conforming Amendment for In Rem Liability Provision in Chapter 701.—Section 2 of the Act of June 15, 1917 (50 U.S.C. 192) is amended—

(1) by striking "Act," each place it appears and inserting "title,"; and

(2) by adding at the end the following:

"(d) In rem liability.—Any vessel subject to the provisions of this title, which is used in violation of this title, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(e) Injunction.—The United States district courts shall have jurisdiction to restrain violations of this title or of regulations issued hereunder, for cause shown.

"(f) Withholding of clearance.—

"(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under subsection (c), the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary of the Department in which the Coast Guard is operating.".

(c) Empty Containers.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall review United States ports and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the practices and policies in place to secure shipment of empty containers. The Secretary shall include in the report recommendations with respect to whether additional regulations or legislation is necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers.

(d) Clerical amendment.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

"70117. In rem liability for civil penalties and certain costs
"70118. Enforcement by injunction or withholding of clearance
"70119. Security of piers and wharfs
"70120. Civil penalty".

SEC. 3. MARITIME INFORMATION.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

(1) provide the identification of Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers;

(2) establish a timeline for coordinating the efforts of those Federal agencies in the collection of maritime information;

(3) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code;

(4) include recommendations on co-locating agency personnel in order to maximize expertise, minimize cost, and avoid redundancy;

(5) include recommendations on how to leverage information on commercial maritime information collected by the Department of the Navy, and identify any legal impediments that would prevent or reduce the utilization of such information outside the Department of the Navy;

(6) include recommendations on educating Federal officials on commercial maritime operations in order to facilitate the identification of security risks posed through commercial maritime transportation operations;

(7) include recommendations on how private sector resources could be utilized to collect or analyze information, along with a preliminary assessment of the availability and expertise of private sector resources;

(8) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinator while considering the need for nondisclosure of sensitive security information and the maximizing of security through the utilization of State, local, and private security personnel; and

(9) include recommendations on how the Department could help support a maritime information sharing and analysis center for the purpose of collecting information from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

SEC. 4. INTERMODAL CARGO SECURITY PLAN.

(a) In General.—In addition to the plan submitted under section 3, within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the following:

(1) Secure systems of transportation (46 U.S.C. 70116).—A plan, along with timelines, for the implementation of section 70116 of title 46, United States Code. The plan shall—

(A) provide an update on current efforts by the Department of Homeland Security could be incorporated into the certification process outlined in section 70116 to ensure the physical screening or inspection of imported cargo;

(B) provide a preliminary assessment of resources necessary to evaluate and certify "Secure Systems of Transportation", and the resources necessary to validate that "Secure Systems of Transportation" are operating in compliance with the certification requirements; and

(C) contain an analysis of the feasibility of establishing a user fee in order to be able to evaluate, certify, and validate "Secure Systems of Transportation".

(2) Radiation detectors.—A report on progress in the installation of a system of radiation detection at all major United States seaports, along with a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(3) Non-intrusive inspection at foreign ports.—A report—

(A) on whether and to what extent foreign seaports have been willing to utilize screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

(B) indicating which foreign ports may be willing to utilize their screening equipment for cargo exported for import into the United States, and a recommendation as to whether, and to what extent, United States cargo screening equipment will be required to be purchased and stationed at foreign seaports for inspection; and

(C) indicating to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports.

(4) Compliance with security standard Programs.—A plan to establish, validate, and ensure compliance with security standards that would require ports, terminals, vessel operators, and shippers to adhere to security standards established by or consistent with the National Transportation System Security Plan. The plan shall indicate what resources will be utilized, and how they would be utilized, to ensure that companies operate in compliance with security standards.

(b) Evaluation of Cargo Inspection Targeting System for International Intermodal Cargo Containers.—

(1) In general.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Inspector General of the Department of Homeland Security shall evaluate the system used by the Department to target international intermodal containers for inspection and report the results of the evaluation to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. In conducting the evaluation, the Inspector General shall assess—

(A) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

(B) the sources of information used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

(C) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

(D) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

(E) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

(2) INCREASE IN INSPECTIONS.—If the Inspector General determines in any of the reports required by paragraph (1) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then within 12 months after that report, the Secretary of Homeland Security shall double the number of containers subjected to intrusive or non-intrusive inspection at United States ports or to be shipped to the United States at foreign seaports.

(c) REPORT AND PLAN FORMATS.—The Secretary and the Inspector General may submit any plan or report required by this section in both classified and redacted formats if the Secretary determines that it is appropriate or necessary.

SEC. 5. JOINT OPERATIONS CENTER FOR PORT SECURITY.

The Commandant of the United States Coast Guard shall report to Congress, within 180 days after the date of enactment of this Act, on the potential benefits of establishing joint operational centers for port security at certain United States seaports. The report shall consider the 3 Joint Operational Centers that have been established at Norfolk, Charleston, San Diego, and elsewhere and compare and contrast their composition and operational characteristics. The report shall consider—

(1) whether it would be beneficial to establish linkages to Federal maritime information systems established pursuant to section 70113 of title 46, United States Code;

(2) whether the operational centers could be beneficially utilized to track vessel movements under sections 70114 and 70115 of title 46, United States Code;

(3) whether the operational centers could be beneficial in the facilitation of intermodal cargo security programs such as the "Secure Systems of Transportation Program";

(4) the extent to which such operational centers could be beneficial in the operation of maritime area security plans and maritime area contingency response plans and in coordinating the port security activities of Federal, State, and local officials; and

(5) include recommendations for the number of centers and their possible location, as well as preliminary cost estimates for the operation of the centers.

SEC. 6. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

"(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of the need to address vulnerabilities in security subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.".

SEC. 7. ASSISTANCE FOR FOREIGN PORTS.

Section 70109 of title 46, United States Code, is amended—

(1) by striking "The Secretary" in subsection (b) and inserting "The Administrator of the Maritime Administration"; and

(2) by adding at the end the following:

"(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.".

SEC. 8. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

"(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.

SEC. 9. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—As part of the research and development program within the Science and Technology directorate, the Secretary of Homeland Security shall conduct investigations, fund pilot programs, award grants, and otherwise conduct research and development across the various portfolios focused on making United States ports safer and more secure. Research conducted under this subsection may include—

"(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

"(B) equipment to detect accurately explosives, chemical, or biological agents that could be used to commit terrorist acts against the United States;

"(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

"(D) improved tags and seal designed for use on shipping containers to track the transportation of the merchandise in such containers, including 'smart sensors' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

"(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential terrorist threats that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

"(F) tools to mitigate the consequences of a terrorist act on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a terrorist action; and

"(G) applications to apply existing technologies from other areas or industries to increase overall port security.

"(2) IMPLEMENTATION OF TECHNOLOGY.—

"(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Director of the Science and Technology Directorate, in consultation with other Department of Homeland Security agencies with responsibility for port security, may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

"(i) testing of new detection and screening technologies;

"(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

"(iii) tools for responding to a terrorist threat or incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security $35,000,000 for each of fiscal years 2005 through 2009 to carry out pilot projects under subparagraph (A).

"(3) ADMINISTRATIVE PROVISIONS.—

"(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary of Homeland Security shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

"(B) ACCOUNTING.—The Secretary of Homeland Security shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

"(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Homeland Security and the Secretary of Homeland Security for audit and examination.".

(b) ANNUAL REPORT.—Within 30 days after the beginning of each fiscal year from fiscal year 2005 through fiscal year 2009, the Director of the Science and Technology Directorate shall submit a report describing its research that can be applied to port security to the Senate Committee on Commerce, Science, and Transportation, the House of

Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The report shall—

(1) describe any port security-related research, including grants and pilot projects, that were conducted in the preceding fiscal year;

(2) describe the amount of Department of Homeland Security resources dedicated to research that can be applied to port security;

(3) describe the steps taken to coordinate with other agencies within the Department to ensure that research efforts are coordinated with port security efforts;

(4) describe how the results of the Department's research, as well as port security related research of the Department of Defense, will be implemented in the field, including predicted timetables;

(5) lay out the plans for research in the current fiscal year; and

(6) include a description of the funding levels for the research in the preceding, current, and next fiscal years.

SEC. 10. NUCLEAR FACILITIES IN MARITIME AREAS.

(a) WATERWAYS.—Section 70103(b) is amended by adding at the end thereof the following:

"(5) WATERWAYS LOCATED NEAR NUCLEAR FACILITIES.—

"(A) IDENTIFICATION AND SECURITY EVALUATION.—The Secretary shall—

"(i) identify all nuclear facilities on, adjacent to, or in close proximity to navigable waterways that might be damaged by a transportation security incident;

"(ii) in coordination with the Secretary of Energy, evaluate the security plans of each such nuclear facility for its adequacy to protect the facility from damage or disruption from a transportation security incident originating in the navigable waterway, including threats posed by navigation, underwater access, and the introduction of harmful substances into water coolant systems.

"(B) RECTIFICATION OF DEFICIENCIES.—The Secretary, in coordination with the Secretary of Energy, shall take such steps as may be necessary or appropriate to correct any deficiencies in security identified in the evaluations conducted under subparagraph (A).

"(C) REPORT.—As soon as practicable after completion of the evaluation under subparagraph (A), the Secretary shall transmit a report, in both classified and redacted format, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Select Committee on Homeland Security—

"(i) describing the results of the identification and evaluation required by subparagraph (A);

"(ii) describing the actions taken under subparagraph (B); and

"(iii) evaluating the technology utilized in the protection of nuclear facilities (including any such technology under development).".

(b) VESSELS.—Section 70103(c)(3) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon in subparagraph (F);

(2) by striking "facility." in subparagraph (G) and inserting "facility; and"; and

(3) by adding at the end the following:

"(H) establish a requirement, coordinated with the Department of Energy, for criminal background checks of all United States and foreign seamen employed on vessels transporting nuclear materials in the navigable waters of the United States.".

SEC. 11. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities; and

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination.

SEC. 12. SECURITY SERVICE FEE.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 2, is further amended by adding at the end the following:

"§ 70121. Security service fee

"(a) IN GENERAL.—

"(1) SECURITY FEE.—Within 90 days after the date of enactment of the Maritime Transportation Security Act of 2004, the Secretary of Homeland Security shall assess and collect an international port security service fee on commercial maritime transportation entities that benefit from a secure system of international maritime transportation to pay for the costs of providing port security services. The amount of the fees assessed and collected under this paragraph and paragraph (2) shall, in the aggregate, be sufficient to provide the services and levels of funding described in section 70122(c).

"(2) INTERNATIONAL TRANSSHIPMENT SECURITY FEE.—The Secretary shall also assess and collect an international maritime transshipment security user fee for providing security services for shipments of cargo and transportation of passengers entering the United States as part of an international transportation movement by water through Canadian or Mexican ports at the same rates as the fee imposed under paragraph (1). The fee authorized by this paragraph shall not be assessed or collected on transshipments from—

(A) Canada after the date on which the Secretary determines that an agreement between the United States and Canada, or

(B) Mexico after the date on which the Secretary determines that an agreement between the United States and Mexico,

has entered into force that will provide equivalent security regimes and international maritime security user fees of the United States and that country for transshipments between the countries.

"(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Secretary shall ensure that the fees are reasonably related to the costs of providing services rendered and the value of the benefit derived from the continuation of secure international maritime transportation.

"(c) IMPOSITION OF FEE.—

"(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Secretary shall impose the fees under subsection (a) through the publication of notice in the Federal Register and begin collection of the fee within 60 days of the date of enactment of the Maritime Transportation Security Act of 2004, or as soon as possible thereafter. No fee shall be assessed more than once, and no fee shall be assessed for international ferry voyages.

"(2) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

"(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee under subsection (a), the Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both. The Secretary shall evaluate the fee annually to determine whether it is necessary and appropriate to pay the cost of activities and services, and shall adjust the amount of the fee accordingly.

"(4) LIMITATION ON COLLECTION.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

"(d) ADMINISTRATION OF FEES.—

"(1) FEES PAYABLE TO SECRETARY.—All fees imposed and amounts collected under this section are payable to the Secretary.

"(2) INFORMATION.—The Secretary may require the provision of such information as the Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

"(e) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

"(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

"(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(3) shall remain available until expended.

"(f) REFUNDS.—The Secretary may refund any fee paid by mistake or any amount paid in excess of that required.

"(g) SUNSET.—The fees authorized by subsection (a) may not be assessed after September 31, 2009.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 2, is amended by adding at the end the following:

"70121. Security service fee".

SEC. 13. PORT SECURITY CAPITAL FUND.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 11, is further amended by adding at the end the following:

"§ 70122. Port security capital fund.

"(a) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Port Security Capital Fund. There are appropriated to the Fund such sums as may be derived from the fees authorized by section 70121(a).

"(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security—

"(1) to provide financial assistance to port authorities, facility operators, and State and local agencies required to provide security services to defray capital investment in transportation security at port facilities in accordance with the provisions of this chapter;

"(2) to provide financial assistance to those entities required to provide security services to help ensure compliance with Federal area maritime security plans; and

"(3) to help defray the costs of Federal port security programs.

"(c) ALLOCATION OF FUNDS.—

"(1) FUNDS DERIVED FROM SECURITY FEES.—From amounts in the Fund attributable to fees collected under section 70121(a)(1) and (2)—

"(A) no less than $400,000,000 (or such amount as may be appropriate to reflect any modification of the fees under section 70121(c)(3)) shall be made available each fiscal year for grants under section 70107 to help ensure compliance with facility security plans or to help implement Area Maritime Transportation Security Plans;

"(B) funds shall be made available to the Coast Guard for the costs of implementing sections 70114 and 70115 fully by the end of fiscal year 2006;

"(C) funds shall be made available to the Coast Guard for the costs of establishing command and control centers at United States ports to help coordinate port security law enforcement activities and implementing Area Maritime Security Plans, and may be transferred, as appropriate, to port authorities, facility operators, and State and local government agencies to help them defray costs associated with port security services;

"(D) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of implementing cargo security programs, including the costs of certifying secure systems of transportation under section 70116;

"(E) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of acquiring and operating nonintrusive screening equipment at United States ports; and

"(F) funds shall be made available to the Transportation Security Administration for the costs of implementing of section 70113 and the collection of commercial maritime intelligence (including the collection of commercial maritime transportation information from the private sector), of which a portion shall be made available to the Coast Guard and the Customs Service only for the purpose of coordinating the system of collecting and analyzing information on vessels, crew, passengers, cargo, and intermodal shipments.

"(2) TRANSSHIPMENT FEES.—Amounts in the Fund attributable to fees collected under section 70121(a)(3), shall be made available to the Secretary to defray the costs of providing international maritime transshipment security at the United States borders with Canada and Mexico.

"(d) UTILIZATION REPORTS.—The Commandant of the Coast Guard and the Secretary of Homeland Security shall report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on utilization of amounts received from the Fund.

"(e) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to port sponsors from the Fund.".

(f) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 11, is amended by adding at the end the following:

"70122. Port security capital fund".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 327—PROVIDING FOR A PROTOCOL FOR NONPARTISAN CONFIRMATION OF JUDICIAL NOMINEES

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 327

Whereas, judicial nominations have long been the subject of controversy and delay in the United States Senate;

Whereas, in the past the controversy over judicial nominees has occurred when different political parties control the White House and the Senate;

Whereas, in the current Congress, even though the White House and the Senate are controlled by the same party, the controversy over judicial nominees continues and has reached a crisis point;

Whereas, during the current Administration there have for the first time been Senate filibusters of nominees to the U.S. Circuit Courts of Appeal;

Whereas, the White House has made recess appointments of two of these filibustered nominees;

Whereas, the minority party has taken the position that further Senate confirmations of the President's judicial nominees would be blocked unless the White House gives assurances that it will no longer make such recess appointments.

Resolved,

SECTION 1. PROTOCOL FOR NONPARTISAN CONFIRMATION OF JUDICIAL NOMINEES.

(a) TIMETABLES.—

(1) COMMITTEE TIMETABLES.—The Chairman of the Committee on the Judiciary, in collaboration with the Ranking Member, shall—

(A) establish a timetable for hearings for nominees to the United States district courts, courts of appeal, and Supreme Court, to occur within 30 days after the names of such nominees have been submitted to the Senate by the President; and

(B) establish a timetable for action by the full Committee to occur within 30 days after the hearings, and for reporting out nominees to the full Senate.

(2) SENATE TIMETABLES.—The Majority Leader shall establish a timetable for action by the full Senate to occur within 30 days after the Committee on the Judiciary has reported out the nominations.

(b) EXTENSION OF TIMETABLES.—

(1) COMMITTEE EXTENSIONS.—The Chairman of the Committee on the Judiciary, with notice to the Ranking Member, may extend by a period not to exceed 30 days, the time for action by the Committee for cause, such as the need for more investigation or additional hearings.

(2) SENATE EXTENSIONS.—

(A) IN GENERAL.—The Majority Leader, with notice to the Minority Leader, may extend by a period not to exceed 30 days, the time for floor action for cause, such as the need for more investigation or additional hearings.

(B) RECESS PERIOD.—Any day of a recess period of the Senate shall not be included in the extension period described under subparagraph (A).

Mr. SPECTER. Mr. President, I have sought recognition to submit a resolution providing for a protocol for the nonpartisan confirmation of judicial nominees. We have come to a crisis situation in the Senate on the confirmation of Federal judges. This has been a highly controversial subject since the beginning of the Republic. There have been controversies from time to time, pitched debates in the Senate Chamber, nominees confirmed and some nominees rejected.

The current controversies focused significantly in the last 2 years of President Reagan's Presidency when the Democrats won control of the Senate in the 1986 elections. For the last 2 years of President Reagan's tenure, the Presidential appointments were slowed down. The same thing happened during the 4 years of President George Herbert Walker Bush. When President Clinton was elected, and we had a Democrat in the White House, when we Republicans gained control of the Senate in the 1994 elections, President Clinton's nominations were slowed down. Pretty much a tit-for-tat situation.

Now that we have had both the Presidency and the Senate under Republican stewardship, the controversy has reached a new level where for the first time in the history of the Republic, court of appeals nominees have been filibustered. The responsibility of the President has been to use his constitutional authority for interim appointments. Those two interim appointments have been roundly criticized by the Democrats.

And the position has been stated on the other side of the aisle that there will be no more confirmations of Federal judges until there is a commitment, an indication, or some statement, or some understanding that the interim appointments will no longer be made.

My State of Pennsylvania is very severely impacted by this controversy. We have a nomination pending before the Senate of a distinguished Federal judge, Judge Van Antwerpen, who is ready for confirmation. The Court of Appeals for the Third Circuit is badly understaffed. We have some five nominees for the United States District Court for the Eastern District of Pennsylvania awaiting confirmation. There again, the courts are in need of the services of these prospective Federal judges.

The resolution, which I am submitting today, is a protocol which would call for a hearing in the Judiciary Committee 30 days after a President submits a nomination; 30 days later, a vote by the committee; 30 days after that, floor action in the Senate; 30 days after that, a decision on the outcome.

It is true there would not be the opportunity for filibuster, but the Republic has survived for more than 200 years before the filibuster was used. There was one illustration where there was a filibuster for a Supreme Court nominee, but that is really irrelevant to the kinds of controversies we have now, or the situation we are in at the present time.

Beyond my State of Pennsylvania, there are other States, other circuits, having judicial crises, and we ought to take the Federal judicial nominating confirmation process out of the politicization course, and we ought to try to work this through.

It may be that, in August, when there is some uncertainty as to who will occupy the White House and which party will control the Senate, that some accommodation can be reached. But right now litigants are being denied the prompt disposition of their cases. It is a well-known maxim that justice delayed is justice denied. It is my hope that we could find an accommodation somewhere here to do the people's business.

It is well known that partisanship is at a very high level in the Congress today—in the House of Representatives, where there is a narrow margin for the Republicans; and the partisanship here in the Senate, where there is a 51–49 majority for the Republicans.

But we ought to establish a protocol. We ought to establish a procedure. The protocol I am proposing is not in concrete. I am prepared to discuss it to find ways of working it out.

I had thought of putting in a provision that if it was a party line vote in the Judiciary Committee, even though there was not a majority in favor of sending a nominee to the floor, but a party line vote, that it come to the floor. I have decided to omit that.

I had thought about putting a provision in that if the Supreme Court nominee did not have a majority, the nominee would come to the floor in any event. And I have omitted that.

Twice in the past 14 years, nominees have come to the floor of the Senate for the Supreme Court of the United States without having a majority vote in the Judiciary Committee. But both times—one a 5-to-8 vote, the nominee came to the floor; another time, on a 7–7 tie, there was a 13–1 vote to send the nominee to the floor. And I have decided, in the interest of avoiding a controversy, to omit that.

But I ask my colleagues to review this resolution for a protocol and to see if we cannot find some way to confirm Federal judges without figuring out whose ox is being gored.

SENATE RESOLUTION 328—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CONTINUED HUMAN RIGHTS VIOLATIONS COMMITTED BY FIDEL CASTRO AND THE GOVERNMENT OF CUBA

Mr. NELSON of Florida (for himself and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 328

Whereas, one year ago, in March 2003, Fidel Castro and the Government of Cuba led a nationwide campaign to arrest and jail dozens of prominent democracy activists and critics of the repressive regime in Cuba;

Whereas credible nongovernmental observers report that the imprisoned democracy activists include—

(1) Osvaldo Alfonso Valdes, sentenced for 18 years;
(2) Librado Linares Garcia, sentenced for 20 years;
(3) Raul Rivero Castaneda, sentenced for 20 years;
(4) Martha Beatriz Roque Cabello, sentenced for 20 years;
(5) Victor Rolando Arroyo Carmona, sentenced for 26 years;
(6) Mijail Barzaga Lugo, sentenced for 15 years;
(7) Oscar Elias Biscet, sentenced for 25 years;
(8) Margarito Broche Espinosa, sentenced for 25 years;
(9) Dr. Marcelo Cana Rodriguez, sentenced for 18 years;
(10) Roberto de Miranda Hernandez, sentenced for 20 years;
(11) Carmelo Diaz Fernandez, sentenced for 18 years;
(12) Eduardo Diaz Fleitas, sentenced for 21 years;
(13) Antonio Diaz Sanchez, sentenced for 20 years;
(14) Alfredo Dominguez Batista, sentenced for 14 years;
(15) Oscar Espinosa Chepe, sentenced for 20 years;
(16) Alfredo Felipe Fuentes, sentenced for 26 years;
(17) Efren Fernandez Fernandez, sentenced for 12 years;
(18) Adolfo Fernandez Sainz, sentenced for 15 years;
(19) Jose Daniel Ferrer Garcia, sentenced for 25 years;
(20) Luis Enrique Ferrer Garcia, sentenced for 28 years;
(21) Orlando Fundora Alvarez, sentenced for 20 years;
(22) Prospero Gainza Aguero, sentenced for 25 years;
(23) Miguel Galban Gutierrez, sentenced for 26 years;
(24) Julio Cesar Galvez Rodriguez, sentenced for 15 years;
(25) Jose Luis Garcia Paneque, sentenced for 24 years;
(26) Edel Jose Garcia Diaz, sentenced for 16 years;
(27) Ricardo Gonzalez Alfonso, sentenced for 20 years;
(28) Diosdado Gonzalez Marrero, sentenced for 20 years;
(29) Lester Gonzalez Penton, sentenced for 20 years;
(30) Alejandro Gonzalez Raga, sentenced for 14 years;
(31) Jorge Luis Gonzalez Tanquero, sentenced for 20 years;
(32) Leonel Grave de Peralta Almenares, sentenced for 20 years;
(33) Ivan Hernandez Carrillo, sentenced for 25 years;
(34) Normando Hernandez Gonzalez, sentenced for 25 years;
(35) Juan Carlos Herrera Acosta, sentenced for 20 years;
(36) Regis Iglesias Ramirez, sentenced for 18 years;
(37) Jose Ubaldo Izquierdo Hernandez, sentenced for 16 years;
(38) Reinaldo Labrada Pena, sentenced for 6 years;
(39) Nelson Alberto Aguiar Ramirez, sentenced for 13 years;
(40) Marcelo Lopez Banobre, sentenced for 15 years;
(41) Jose Miguel Martinez Hernandez, sentenced for 13 years;
(42) Hector Maseda Gutierrez, sentenced for 20 years;
(43) Mario Enrique Mayo Hernandez, sentenced for 20 years;
(44) Dr. Luis Milan Fernandez, sentenced for 13 years;
(45) Nelson Moline Espino, sentenced for 20 years;
(46) Angel Juan Moya Acosta, sentenced for 20 years;
(47) Jesus Mustafa Felipe, sentenced for 25 years;
(48) Felix Navarro Rodriguez, sentenced for 25 years;
(49) Jorge Olivera Castillo, sentenced for 18 years;
(50) Pablo Pacheco Avila, sentenced for 20 years;
(51) Hector Palacios Ruiz, sentenced for 25 years;
(52) Arturo Perez de Alejo Rodriguez, sentenced for 20 years;
(53) Omar Pernet Hernandez, sentenced for 25 years;
(54) Horacio Julio Pina Borrego, sentenced for 20 years;
(55) Fabio Prieto Llorente, sentenced for 20 years;
(56) Alfredo Pulido Lopez, sentenced for 14 years;
(57) Jose Gabriel Ramon Castillo, sentenced for 20 years;
(58) Arnaldo Ramos Lauzerique, sentenced for 18 years;
(59) Blas Giraldo Reyes Rodriguez, sentenced for 25 years;
(60) Pedro Pablo Alvarez Ramos, sentenced for 25 years;
(61) Alexis Rodriguez Fernandez, sentenced for 15 years;
(62) Omar Rodriguez Saludes, sentenced for 27 years;
(63) Pedro Arguelles Moran, sentenced for 20 years;
(64) Omar Ruiz Hernandez, sentenced for 18 years;
(65) Claro Sanchez Albtarriba, sentenced for 15 years;
(66) Ariel Sigler Amaya, sentenced for 20 years;
(67) Guido Sigler Amaya, sentenced for 20 years;
(68) Ricardo Enrique Silva Gual, sentenced for 10 years;
(69) Fidel Suarez Cruz, sentenced for 20 years;
(70) Manuel Ubals Gonzalez, sentenced for 20 years;
(71) Julio Antonio Valdes Guevara, sentenced for 20 years;
(72) Miguel Valdes Tamayo, sentenced for 15 years;
(73) Hector Raul Valle Hernandez, sentenced for 12 years;
(74) Manuel Vazquez Portal, sentenced for 18 years; and
(75) Antonio Augusto Villarreal Acosta, sentenced for 15 years;

Whereas the imprisoned political opponents of Castro include librarians, journalists, poets, and others who have supported the Varela Project, which seeks to bring free speech, open elections, and democracy to Cuba;

Whereas Fidel Castro seized the opportunity to expand his brutal oppression of the people of Cuba while the attention of the United States and other nations around the world was focused on the war in Iraq;

Whereas the failure to condemn the Government of Cuba's continued political repression of democracy activists will further undermine the opportunity for freedom on the island; and

Whereas the international community missed an opportunity to speak against such brutal repression in a meaningful manner during the 59th Session of the United Nations Commission on Human Rights held in Geneva, Switzerland, from March 17, 2003, through April 23, 2003: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms—

(A) Senate Resolution 272, 107th Congress, unanimously agreed to June 10, 2002, calling for, among other things, amnesty for all political prisoners in Cuba;

(B) Senate Resolution 97, 108th Congress, unanimously agreed to April 7, 2003, condemning the crackdown on democracy activists in Cuba; and

(C) Senate Resolution 62, 108th Congress, unanimously agreed to June 27, 2003, calling upon the Organization of American States Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba;

(2) calls on the Government of Cuba to immediately release individuals imprisoned for political purposes;

(3) praises the bravery of those Cubans who, because they practiced free speech and signed the Varela Project petition, have been targeted in this most recent government crackdown;

(4) calls on foreign governments to—

(A) increase the pressure on the Government of Cuba to improve its record on human rights in Cuba; and

(B) invite civil society leaders and democracy activists in Cuba to official events;

(5) calls upon the 60th Session of the United Nations Commission on Human Rights in Geneva from March 15, 2004, to April 23, 2004, to—

(A) condemn Cuba for its human rights abuses; and

(B) demand that inspectors from the International Commission of the Red Cross be allowed to visit and inspect the conditions of prisons to assess for the international community the extent of human rights abuses and the current situation in Cuba; and

(6) urges the President to direct United States Representatives at the 60th Session of the Commission on Human Rights to make the strong condemnation of the human rights situation in Cuba a top priority.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3007. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2961 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table.

SA 3008. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2960 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3009. Mr. ROCKEFELLER (for himself and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed to amendment SA 2947 submitted by Ms. MURKOWSKI and intended to be proposed to the bill H.R. 4, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3007. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2961 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike lines 4 through 7, and insert the following:

"(i) 15 percent for fiscal year 2004;

"(ii) 25 percent for fiscal year 2005;

"(iii) 35 percent for fiscal year 2006;

"(iv) 45 percent for fiscal year 2007;".

SA 3008. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2960 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike lines 17 through 24, and insert the following: "least 20, but less than 24, hours per week in a month, as 0.675 of a family.

"(ii) In the case of a family in which the total number of hours in which any adult recipient or minor child head of household in the family is participating in such work activities for an average of at least 24, but less than 33, hours per week in a month, as 0.75 of a family.".

SA 3009. Mr. ROCKEFELLER (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 2947 submitted by Ms. MURKOWSKI and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE —TEMPORARY STATE FISCAL RELIEF

Subtitle A—Extension of Temporary Increase of the Medicaid FMAP

SEC. 01. EXTENSION OF TEMPORARY INCREASE OF THE MEDICAID FMAP.

(a) IN GENERAL.—Section 401(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (42 U.S.C. 1396d note) is amended—

(1) in the subsection heading, by striking "$10,000,000,000 FOR A";

(2) in paragraph (2)—

(A) in the paragraph heading, by striking "FIRST 3 QUARTERS OF"; and

(B) by striking "the first, second, and third calendar quarters" and inserting "each calendar quarter";

(3) by redesignating paragraphs (3) through (9) as paragraphs (4) through (10), respectively;

(4) by inserting after paragraph (2), the following:

"(3) PERMITTING MAINTENANCE OF FISCAL YEAR 2004 FMAP FOR FIRST 3 QUARTERS OF FISCAL YEAR 2005.—Subject to paragraph (6), if the FMAP determined without regard to this subsection for a State for fiscal year 2005 is less than the FMAP as so determined for fiscal year 2004, the FMAP for the State for fiscal year 2004 shall be substituted for the State's FMAP for the first, second, and third calendar quarters of fiscal year 2005, before the application of this subsection.";

(5) in paragraph (4) (as so redesignated)—

(A) in the paragraph heading, by striking "AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2004" and inserting ", EACH CALENDAR QUARTER OF FISCAL YEAR 2004, AND FIRST 3 CALENDAR QUARTERS OF FISCAL YEAR 2005"; and

(B) by striking "and for the first, second, and third calendar quarters of fiscal year 2004, the FMAP (taking into account the application of paragraphs (1) and (2))" and inserting ", each calendar quarter of fiscal year 2004, and the first, second, and third calendar quarters of fiscal year 2005, the FMAP (taking into account the application of paragraphs (1), (2), and (3))";

(6) in paragraph (5) (as so redesignated), by striking " and the first, second, and third calendar quarters of fiscal year 2004" and inserting "each calendar quarter of fiscal year 2004, and the first, second, and third calendar quarters of fiscal year 2005";

(7) in paragraph (7) (as so redesignated), by adding at the end the following:

"(D) SPECIAL RULE.—During the period that begins on July 1, 2004, and ends on June 30, 2005, subparagraphs (A) and (B) shall be applied by substituting 'January 1, 2004' for 'September 2, 2003' each place it appears.";

(8) in paragraph (8) (as so redesignated), by striking " and the first, second and third calendar quarters of fiscal year 2004" and inserting "each calendar quarter of fiscal year 2004, and the first, second, and third calendar quarters of fiscal year 2005"; and

(9) in paragraph (10) (as so redesignated), by striking "2004" and inserting "2005".

(b) CONFORMING AMENDMENTS.—Section 401(a) of such Act (42 U.S.C. 1396d note) is amended—

(1) in paragraph (1), by striking "paragraph (5)" and inserting "paragraph (6)";

(2) in paragraph (2), by striking "paragraph (5)" and inserting "paragraph (6)";

(3) in paragraph (4) (as so redesignated), by striking "paragraphs (5), (6), and (7)" and inserting "paragraphs (6), (7), and (8)";

(4) in paragraph (5) (as so redesignated), by striking "paragraphs (6) and (7)" and inserting "paragraphs (7) and (8)"; and

(5) in paragraph (7) (as so redesignated)—

(A) by striking "paragraph (4)" each place it appears and inserting "paragraph (5)"; and

(B) by striking "paragraph (3)" each place it appears and inserting "paragraph (4)".

(c) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 401 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (42 U.S.C. 1396d note).

Subtitle B—Clarification of Economic Substance Doctrine and Related Penalty Provisions

SEC. ___10. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. ___11. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. ___12. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

“(A) the facts and circumstances of the transaction,

“(B) the reasons for the rescission, and

“(C) the amount of the penalty rescinded.

“(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

“(B) a description of each penalty rescinded under this subsection and the reasons therefor.

“(e) Penalty Reported to SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which—

“(A) is required to pay a penalty under this section with respect to a listed transaction,

“(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

“(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

“(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.”.

(b) Disclosure by Secretary.—

(1) In general.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

“(q) Disclosure Relating to Payments of Certain Penalties.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.”.

(2) Records.—Section 6103(p)(3)(A) is amended by striking “or (n)” and inserting “(n), or (q)”.

(c) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

“Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.”.

(d) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 13. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

“(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

“(b) Reportable Transaction Understatement.—For purposes of this section—

“(1) In general.—The term ‘reportable transaction understatement’ means the sum of—

“(A) the product of—

“(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

“(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

“(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

“(2) Items to which section applies.—This section shall apply to any item which is attributable to—

“(A) any listed transaction, and

“(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

“(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

“(1) In general.—Subsection (a) shall be applied by substituting ‘30 percent’ for ‘20 percent’ with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

“(2) Rules applicable to assertion and compromise of penalty.—

“(A) In general.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(B) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

“(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).

“(e) Special Rules.—

“(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

“(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

“(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

“(2) Coordination with other penalties.—

“(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

“(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

“(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

“(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term ‘noneconomic substance transaction understatement’ has the meaning given such term by section 6662B(c).

“(5) Cross reference.—

“For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).”.

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

“The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.”.

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

“(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

“(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

“(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

“(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

“(B) there is or was substantial authority for such treatment, and

“(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained,

"(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

"(V) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts,

"(IV) is not signed by all individuals who are principal authors of the opinion, or

"(V) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 14. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter. 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, April 21st, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Frank Gladics at 202-224-2878.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the

Senate on April 1, 2004, at 9:30 a.m., in open and closed session to receive testimony for Unified and Regional Commanders on their military strategy and operational requirements, in review of the Defense Authorization Request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 1, 2004, at 2 p.m. to mark up an original bill entitled "The Federal Housing Enterprise Regulatory Reform Act of 2004."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 1, 2004, off the Senate floor on pending Committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 1, 2004, at 9:30 a.m. to hold a hearing on Economic Treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 1, 2004, at 9:30 a.m. in Dirksen Senate Building room 226.

Agenda:

I. Nominations: Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; Peter W. Hall to be U.S. Circuit Judge for the Second Circuit; William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit; Roger T. Benitez to be U.S. District Judge for the Southern District of California; Jane J. Boyle to be U.S. District Judge for the Northern District of Texas; Marcia G. Cooke to be U.S. District Judge for the Southern District of Florida; Paul S. Diamond to be U.S. District Judge for the Eastern District of Pennsylvania; Walter D. Kelley, Jr. to be U.S. District Judge for the Eastern District of Virginia; and Matthew G. Whitaker to be U.S. Attorney for the Southern District of Iowa.

II. Bills: S. 1735—Gang Prevention and Effective Deterrence Act of 2003 [Hatch, Chambliss, Cornyn, Feinstein, Graham, Grassley, Schumer].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 1, 2004, for a hearing to consider the nominations of Robert N. Davis, to be Judge, U.S. Court of Appeals for Veterans' Claims, and Pamela M. Iovino, to be Assistant Secretary of Veterans Affairs for Congressional Affairs.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE AND NUCLEAR SAFETY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, April 1 at 9:30 a.m. to conduct an oversight hearing on the implementation of the National Ambient Air Quality Standards for Particulate Matter and Ozone.

The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet to conduct a hearing On "Securing Our Borders Under a Temporary Guest Worker Proposal" on Thursday, April 1, 2004, at 2:30 p.m. in SD226.

Panel 1: The Honorable Robert Bonner, Commissioner, U.S. Customs and Border Protection, Department of Homeland Security, Washington, DC; The Honorable Stewart Verdery, Assistant Secretary for Policy, Border and Transportation Security Directorate, Department of Homeland Security, Washington, DC; and Director Donna Bucella, Terrorist Screening Center, Federal Bureau of Investigations, Department of Justice, Washington, DC.

Panel II: Daniel Griswald, Associate Director for Trade Policy Studies, Cato Institute, Washington, DC and Margaret D. Stock, Associate Professor, U.S. Military Academy, West Point, NY.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management support of the Committee on Armed Services be authorized to meet during the session of the Senate on April 1, 2004, at 2:30 p.m., in open session to receive testimony on military installation programs in review of the Defense authorization request for fiscal year 2005.

THE PRESIDING OFFICER. Without objection, it so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

MR. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Thursday, April 1, 2004, at 2:30 p.m., on NASA FY05 Budget, in SR–253.

THE PRESIDING OFFICER. Without objection, it so ordered.

PRIVILEGES OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that Leigh Ann Simmons-Wescott, a legislative fellow in Senator KENNEDY's office, be granted floor privileges during the remainder of the day and cloture vote on the TANF reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that privilege of the floor be granted to Sharon Segner of my staff for the next hour during consideration of the Get Outdoors Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

60TH ANNIVERSARY OF THE ALLIED LANDING AT NORMANDY

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S.J. Res. 28 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

A joint resolution (S.J. Res. 28) recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the joint resolution be read a third time and passed, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 28) was read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 28

Whereas June 6, 2004, marks the 60th anniversary of D-Day, the first day of the Allied landing at Normandy during World War II by American, British, and Canadian troops;

Whereas the D-Day landing, known as Operation Overlord, was the most extensive amphibious operation ever to occur, involving on the first day of the operation 5,000 naval vessels, more than 11,000 sorties by Allied aircraft, and 153,000 members of the Allied Expeditionary Force;

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained,

"(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

"(V) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts,

"(IV) is not signed by all individuals who are principal authors of the opinion, or

"(V) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 14. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, April 21st, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the

Senate on April 1, 2004, at 9:30 a.m., in open and closed session to receive testimony for Unified and Regional Commanders on their military strategy and operational requirements, in review of the Defense Authorization Request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 1, 2004, at 2 p.m. to mark up an original bill entitled "The Federal Housing Enterprise Regulatory Reform Act of 2004."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 1, 2004, off the Senate floor on pending Committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 1, 2004, at 9:30 a.m. to hold a hearing on Economic Treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 1, 2004, at 9:30 a.m. in Dirksen Senate Building room 226.

Agenda:

I. Nominations: Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; Peter W. Hall to be U.S. Circuit Judge for the Second Circuit; William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit; Roger T. Benitez to be U.S. District Judge for the Southern District of California; Jane J. Boyle to be U.S. District Judge for the Northern District of Texas; Marcia G. Cooke to be U.S. District Judge for the Southern District of Florida; Paul S. Diamond to be U.S. District Judge for the Eastern District of Pennsylvania; Walter D. Kelley, Jr. to be U.S. District Judge for the Eastern District of Virginia; and Matthew G. Whitaker to be U.S. Attorney for the Southern District of Iowa.

II. Bills: S. 1735—Gang Prevention and Effective Deterrence Act of 2003 [Hatch, Chambliss, Cornyn, Feinstein, Graham, Grassley, Schumer].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 1, 2004, for a hearing to consider the nominations of Robert N. Davis, to be Judge, U.S. Court of Appeals for Veterans' Claims, and Pamela M. Iovino, to be Assistant Secretary of Veterans Affairs for Congressional Affairs.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE AND NUCLEAR SAFETY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, April 1 at 9:30 a.m. to conduct an oversight hearing on the implementation of the National Ambient Air Quality Standards for Particulate Matter and Ozone.

The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet to conduct a hearing On "Securing Our Borders Under a Temporary Guest Worker Proposal" on Thursday, April 1, 2004, at 2:30 p.m. in SD226.

Panel 1: The Honorable Robert Bonner, Commissioner, U.S. Customs and Border Protection, Department of Homeland Security, Washington, DC; The Honorable Stewart Verdery, Assistant Secretary for Policy, Border and Transportation Security Directorate, Department of Homeland Security, Washington, DC; and Director Donna Bucella, Terrorist Screening Center, Federal Bureau of Investigations, Department of Justice, Washington, DC.

Panel II: Daniel Griswald, Associate Director for Trade Policy Studies, Cato Institute, Washington, DC and Margaret D. Stock, Associate Professor, U.S. Military Academy, West Point, NY.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management support of the Committee on Armed Services be authorized to meet during the session of the Senate on April 1, 2004, at 2:30 p.m., in open session to receive testimony on military installation programs in review of the Defense authorization request for fiscal year 2005.

THE PRESIDING OFFICER. Without objection, it so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

MR. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Thursday, April 1, 2004, at 2:30 p.m., on NASA FY05 Budget, in SR–253.

THE PRESIDING OFFICER. Without objection, it so ordered.

PRIVILEGES OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that Leigh Ann Simmons-Wescott, a legislative fellow in Senator KENNEDY's office, be granted floor privileges during the remainder of the day and cloture vote on the TANF reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that privilege of the floor be granted to Sharon Segner of my staff for the next hour during consideration of the Get Outdoors Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

60TH ANNIVERSARY OF THE ALLIED LANDING AT NORMANDY

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S.J. Res. 28 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

A joint resolution (S.J. Res. 28) recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the joint resolution be read a third time and passed, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 28) was read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 28

Whereas June 6, 2004, marks the 60th anniversary of D-Day, the first day of the Allied landing at Normandy during World War II by American, British, and Canadian troops;

Whereas the D-Day landing, known as Operation Overlord, was the most extensive amphibious operation ever to occur, involving on the first day of the operation 5,000 naval vessels, more than 11,000 sorties by Allied aircraft, and 153,000 members of the Allied Expeditionary Force;

Whereas the bravery and sacrifices of the Allied troops at 5 separate Normandy beaches and numerous paratrooper and glider landing zones began what Allied Supreme Commander Dwight D. Eisenhower called a "Crusade in Europe" to end Nazi tyranny and restore freedom and human dignity to millions of people;

Whereas that great assault by sea and air marked the beginning of the end of Hitler's ambition for world domination;

Whereas American troops suffered over 6,500 casualties on D-Day; and

Whereas the people of the United States should honor the valor and sacrifices of their fellow countrymen, both living and dead, who fought that day for liberty and the cause of freedom in Europe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) recognizes the 60th anniversary of the Allied landing at Normandy during World War II; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the anniversary with appropriate ceremonies and programs to honor the sacrifices of their fellow countrymen to liberate Europe.

TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4062, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

A bill (H.R. 4062) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SNOWE. Mr. President, I rise to support passage of H.R. 4062, a bill that provides needed improvements to the Small Business Administration's largest business loan program, the "Section 7(a)" program, at no additional cost to the Government.

The SBA's 7(a) loan program has proven that a small amount of government backing can greatly enhance private-sector financing for small businesses, and that the economic benefits reverberate throughout the economy at large. Small businesses create almost 75 percent of the net new jobs in the economy. The 7(a) program harnesses this power and has helped small businesses to create or retain nearly 2 million more jobs in the last five years.

The program is so popular among small businesses that demand for program funds in the first few months of fiscal year 2004 suggests that requests for the entire year would far out-pace its available budget. As a result, in January 2004, the SBA shut the program down, and then re-opened it with a loan cap of $750,000—only 37.5 percent of the $2 million maximum previously available. Faced with these restrictions, small businesses have urged Congress and the administration to improve funding opportunities for the rest of 2004.

Together with my fellow Senators, colleagues in the House, and a large coalition of small businesses and lenders, we have worked for several months to construct a way to improve the program by allowing lenders to help alleviate the funding shortfall. This plan would benefit small businesses and lenders by allowing loans larger than $750,000, and by allowing "piggyback" loans, or by allowing financing packages with several portions. And again, we could do this without increasing Government expenditures.

The bill would achieve these goals in three ways. First, lenders would return to the SBA a 0.25 percent, or one-quarter of one percent, fee on new loans under $150,000. Lenders are currently permitted to retain this amount from a borrower fee, of 1 percent, that lenders already collect and pass on to the SBA. For loans larger than $150,000, lenders already must pass the entire borrower fee on to the SBA; this change would make the treatment the same for all loan sizes. This proposal was first made by the SBA, as part of a larger plan the SBA submitted to Congress this year.

Second, a lender fee on new loans would be increased from 0.25 percent, one-quarter of one percent, to 0.36 percent. This fee cannot be passed on to small businesses.

Third, lenders would be permitted to provide small businesses with "piggyback" financing packages that include a 7(a) loan portion and a non-7(a), strictly commercial portion, if the lenders paid the normal fees on the 7(a) loan portion and a 0.70 percent fee on the non-7(a) portion. Prior to January 2004, the SBA permitted this type of financing, but without receiving any fee income for the non-7(a) portion, and without an upper limit on the total financing. H.R. 4062 prohibits the non-7(a) portion of the financing from being larger than the 7(a) loan.

The bill also extends to June 4, 2004, the authorization for several SBA programs that would otherwise expire on April 2, 2004, including the Preferred Surety Bond Program, the Small Disadvantaged Business Program, and the SBA's co-sponsorship authority. Finally, the bill extends to September 30, 2004, the authorization for the SBA's Certified Development Company program, also known as the 504 Loan Program.

H.R. 4062 is very similar to legislation which I introduced in the Senate on March 10, S. 2193, the "Small Business Loan Revitalization Act of 2004," which I was joined in sponsoring by 18 fellow Senators. That legislation was the result of months of hard work and negotiations with fellow Senators, colleagues in the House, small businesses, lenders, and the administration. I regret that S. 2193's provisions, such as its lower fees for lenders, and the increased debenture sizes for the 504 Loan Program which I recently added by amendment, are not being enacted today, but I am pleased that, according to the Small Business Administration's projections, H.R. 4062 at least achieves the goal of allowing the 7(a) program to operate without restriction through the remainder of this fiscal year.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I want to make a statement about a small business bill that the Senate passed last week. I am referring to H.R. 4062, which, among other things, provides a temporary solution to the administration's self-created funding crisis for the SBA's largest small-business lending program, commonly referred to as the 7(a) Loan program. In many ways, the bill is similar to legislation I introduced four weeks ago, S. 2186. For example, it adopts my provision to keep the 504 program operating through the rest of this fiscal year instead of subjecting the 504 borrowers and lenders to another series of disruptive temporary extensions. Similar to my bill, it also lifts the $750,000 cap on loans, lifts the restriction on combination or piggyback loans, gets loans to those small businesses denied 7(a) loans since the program shutdown in January, and extends the operation of the SBA overall, including the Small Disadvantaged Business Program and the Surety Bond program.

In general, H.R. 4062 is a step in the right direction and I commend Congressman MANZULLO and Congresswoman VELÁZQUEZ for their work. I do, however, have some concerns about the bill, concerns shared by many in the small business community, and I regret that the Senate Republicans blocked a bi-partisan Snowe-Kerry amendment to address those concerns.

For example, H.R. 4062 did not address the pressing need to correct the outdated funding formula for the SBA's Women's Business Centers program. The law needed to be changed before the Agency awards this year's grants because more than 50 Centers around the country are at risk of losing their matching federal money. I had been advocating for this change since I introduced S. 2186 on March 9, and the Snowe-Kerry amendment included my provision. Unfortunately, one or two Senate Republicans objected to the provision and blocked its passage.

As for the 7(a) Loan Program, I am concerned about the extent of the fee increases, the lack of data justifying the increases, the rapid expansion of the SBAExpress pilot program, and the precedent that these changes will have on developing a workable approach to next year's 7(a) funding problem created by the President's request for zero funding for fiscal year 2005. The Snowe-Kerry amendment took a much more measured approach to the fee increases, adopting the levels supported in S. 2186 and S. 2193, with flexibility for the SBA to increase the fees up to the levels in the House bill should the need arise to keep the program running for the remainder of the year without restrictions. For example, instead of temporarily charging a lender fee on the commercial portion of a combination or piggyback loan of .5 percent, H.R. 4062 charges 40 percent more, imposing a fee of .7 percent. Senator SNOWE devised the discretionary stair-step compromise in our amendment and it was preferred by the lending community. It is unfortunate that the lenders may be required to pay higher fees than necessary to reach the goal: Congress seeks to keep access to 7(a) loans available to small businesses for the rest of this year, fiscal year 2004.

The Snowe-Kerry amendment also took a more measured approach in expanding the SBAExpress program. H.R. 4062 includes a controversial provision proposed by the administration that would expand the current SBAExpress reduced guarantee pilot program from loans of $150,000 to $2 million. An increase of 700 percent.

The administration contends that the pilot expansion would only be voluntary and therefore harmless if not used. While SBAExpress has worked well for relatively small loans, those averaging around $150,000, lenders have testified before our Committee that SBA Express is not workable for all sizes of loans and that the volume of SBAExpress loans is not likely to increase. In fact, the smallest SBA lenders, community banks, have testified that to mandate SBAExpress would drive virtually all community banks from the program. Yet the administration argues this voluntary authority is necessary because, when combined with other program changes, it would reduce the subsidy rate, thereby stretching the 7(a) loan funding, getting the program closer to their latest program volume projections.

This can only be true, however, if the volume of SBAExpress loans increase. To date, the administration has not produced any documentation supporting that contention, and the small business lenders fear that the administration will circumvent the requirement that this be strictly voluntary by showing preferential treatment to lenders who use the SBAExpress program. They believe this will occur in order to steer loans away from the regular program, which has a higher guarantee of 75 percent to 85 percent. Congresswoman VELÁZQUEZ held strong to including very good provisions aimed at protecting the loan program from such tinkering, and she is to be commended for her effective advocacy. Unfortunately, even with these safeguards, I believe it was premature to enact the administration's SBAExpress proposal until better data could be obtained and analyzed. Further, since H.R. 4062 is a temporary extension of SBA's authority until June 4th, 2004, there would have been time for this and other proposals to be properly vetted and, if appropriate, adopted.

Extreme changes like expanding the SBAExpress program 700 percent were driven by the administration. The groups agreed to live with them only because it was better than the alternatives—further reducing the loan cap from $750,000 to $500,000, another shutdown, or the administration's proposal to mandate all loans be made through the 50 percent guarantee SBAExpress program. Let me read to you a few quotes by the small business community that reflect the feelings of many expressed to this Committee:

The Independent Community Bankers of America: "The ICBA did not oppose a short-term fix bill that would open up much needed lending to small businesses, but only because the alternative pushed by the SBA was far worse and would have choked off lenders' ability to continue making SBA loans. We didn't want to punish small business because of the unwillingness of the SBA to ask for the funds they knew were needed to keep the 7(a) program viable. This bill is only a short term Band-Aid. The ICBA continues to oppose the SBA's efforts to squeeze the 7(a) program out of existence and hopes a genuine good faith resolution can be part of the FY 2005 budget."

The American Bankers Association as quoted in the "American Banker" on April 1, 2004: "The need to avoid an even lower loan-size cap is why the ABA supported the compromise, despite having serious reservations about the expansion of the SBAExpress and the additional fees on lenders. 'We are not totally pleased with it, but we're not going to write a letter opposing it', said Mr. [James] Ballentine [Director of Community Development]. 'We believe the lenders bent over backwards to restart this program, and we've seen very little movement on the part of the Agency.'"

Mr. President, we are all glad that the program is back in business for the rest of the year, particularly for the small businesses that have been hung out to dry since the January shutdown of the program. The delays imposed on the FY2004 fix for the 7(a) loan program were unnecessary. There were several opportunities—bills or amendments—since March 10th to mitigate the funding shortfall or all together fix it, but they've been blocked or stalled.

Mr. President, waiting has a price. Not only to the qualified small businesses waiting for needed loans and for those who had been promised loans in January only to have the administration abruptly impose a crippling loan cap, but also to the taxpayer. If either of the changes Senator SNOWE and I had proposed in our bills, S. 2186 and S. 2193, had been enacted as part of H.R. 3195 in mid-March, we could have saved more than $100,000 a day, leveraging at least another $150 million in small business loans in this fiscal year. These delays are fiscally irresponsible.

The Republican obstructionists will justify their delay tactics by arguing that the earlier bills did not solve the entire funding problem for the rest of the year. However, there are numerous problems with such a claim. One, time was of the essence for the small businesses that had been shutout since January. Two, no one knows if the administration's estimates are accurate and the confidence in the econometric model that predicts future program costs has gone down as a result of the SBA's latest estimates. For example, how could imposing a fee on piggyback loans of .5 percent, a fee that will generate new income for the program, not offset the costs at all? And, if that is true, how could additional savings from increasing that fee by 40 percent, to .7 percent be only one one-hundredth of one percent? I don't know of one lender who believes that claim. Three, it would have been better to take a step in the right direction and immediately reduce the cost of the program to the extent possible in order to stretch the lending dollars. This option would have allowed for future refinements while saving precious appropriated dollars in the process. Four, there would have been (and still are) several other opportunities to make adjustments later in the fiscal year.

With respect to the other important provisions of H.R. 4062, I am glad that the bill includes my measure from S. 2186 that allows the 504 Loan Guarantee Program to operate through the rest of the fiscal year; however, I am very disappointed that, despite bipartisan support, the Republican leadership refused to include a Snowe-Kerry amendment to promote women in business and safeguard one of their only dedicated resources of support: the nationwide network of women's business centers. The Republicans that blocked our amendment—in support of the administration's policy to eliminate experienced, efficient and effective women's business centers in favor of new and untested centers—are potentially depriving thousands of women in business access to much-needed assistance. The Snowe-Kerry amendment, like S. 2267, would have made a small adjustment to the Women's Business Center program that corrects an outdated funding formula, without added cost to the Treasury. The adjustment would have changed the portion of funding allowed for women's business centers in the sustainability part of the program to keep up with the increasing number of centers that will need funding this fiscal year. Without it, all grants to sustainability centers in 39 States could be cut in half—or worse, 23 experienced centers could lose funding completely. Our amendment was a bipartisan compromise intended to maintain an effective women's business center network; a compromise that was agreed to by Chair SNOWE, myself, and the bipartisan leadership of the House Small Business Committee. It was supported by women's groups across the country, and it is my sincere hope that my colleagues in Congress will support this change in the very near future.

I thank the broad coalition of small business trade associations that have worked on the various bills and supported the provisions in my bill, S. 2186: The trade association of Women Impacting Public Policy (WIPP) and the National Association of Women's Business Owners (NAWBO), the National Association of Government Guaranteed Lenders (NAGGL), the American Bankers Association, the Independent Community Bankers Association and the U.S. Chamber of Commerce for endorsing the provisions relating to the 7(a) Loan Guarantee Program; WIPP, NAWBO, and the Association of Women's Business Centers for fully supporting the provisions relating to the Women's Business Centers program, as well as the cosponsors of S. 2186. I think anyone who knows of these groups, their members and their leadership, knows that they work very well with both sides of the aisle and with the leadership of our Committee and also the House Committee on Small Business. Working cooperatively in a bipartisan fashion makes good sense and has long been their practice. We all appreciate their work to fix these problems, and for the contribution they make to cultivating small startup and growing small businesses in our communities.

Mr. President, I ask that several letters addressing the issue at hand be printed in the RECORD. I thank my colleagues for their support of small businesses and for considering immediate passage of this bill.

The letters follow.

MARCH 10, 2004.

DEAR REPRESENTATIVE: Today, as the House prepares to vote on H.R. 3915, we are writing to express our concerns with this legislation. We are very disappointed that it does not include a SBA 7(a) program solution. Without a solution the 7(a) program will not be allowed to create much needed jobs to help our economy.

The SBA's flagship 7(a) loan program, the single largest provider of long-term start-up and expansion loans to America's small businesses, has been crippled since the beginning of this fiscal year, when the SBA temporarily shut it down due to a funding shortfall. When the Agency reopened the program a week later, it implemented an artificial loan cap of $70,000—a reduction of more than 50% of the program's statutory loan limit of $2 million—and a prohibition on piggyback loans, which would have allowed lenders to make loans in excess of a loan cap.

Businesses who had already submitted applications for loans in excess of the new cap were then told their deals would not qualify for the program. These applicants had gone through months of financial planning and had been promised their loans would be approved. Many had already begun purchasing equipment and hiring employees. If their deals do not get done, many will lose earnest money they had taken from personal savings and retirement plans to inject into these loans.

Other potential applicants who would ordinarily qualify for the 7(a) program have since been told there is no alternative to finance their start-up or expansion. The net result to these small businesses is a loss of faith in the U.S. government. The net result to the economy is a loss of jobs.

A solution to this lingering problem does exist and it has been communicated to the House Small Business Committee. This proposal has bipartisan support on the Small Business Committee, as well as the support of banking and small business trade groups. The proposed solution would increase fees for lenders to ensure that there is no budget impact. It would maintain the 7(a) program. However, H.R. 3915 ignores this solution.

Without a 7(a) solution, approximately $3 billion in loans will remain unavailable to small businesses for the remainder of FY 2004—a net loss of approximately 90,000 jobs. We also fear that if a swift and equitable solution is not enacted, many 7(a) lenders will flee the program, leaving a void in availability of the long-term financing that is so crucial to small businesses' success.

We request that Congress bolster economic recovery and the small businesses that drive it by enacting a 7(a) program solution that has the full support of Congress and the industry.

Sincerely,

American Bankers Association.

America's Community Bankers.

Independent Community Bankers of America.

National Association of Government Guaranteed Lenders.

The Financial Services Roundtable.

NATIONAL ASSOCIATION OF
GOVERNMENT GUARANTEED LENDERS,
Stillwater, OK, March 10, 2004.

Re SBA 7(a) funding crisis and S. 2186.

Hon. JOHN F. KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: As Congress considers how to solve the ongoing SBA 7(a) program funding crisis, we are writing to express our support for S. 2186, which includes provisions that both Small Business Committees and the 7(a) industry have already agreed are equitable.

While NAGGL is generally opposed to programmatic fee increases, the 2004 budget for the 7(a) program has made his concession necessary. NAGGL testified in 2003 that 2004 program demand would be nearly $12 billion, but the Administration adamantly disagreed with our estimate, providing program level of only $9.5 billion. The Administration has also failed to reprogram any additional money to the 7(a) program or offer a supplemental appropriations request.

As a result, the SBA's flagship 7(a) loan program, the single largest provider of long-term start-up and expansion loans to America's small businesses, has been crippled since the beginning of this fiscal year, when the SBA temporarily shut it down due to a funding shortfall. When the Agency reopened the program a week later, it implemented an artificial loan cap of $750,000—a reduction of more than 50% of the program's statutory loan limit of $2 million—and a prohibition on piggyback loans, which would have allowed lenders to make loans in excess of a loan cap.

Businesses who had already submitted applications for loans in excess of the new cap were then told their deals would not qualify for the program. These applicants had gone through months of financial planning and had been promised their loans would be approved. Many had already begun purchasing equipment and hiring employees. And if their deals don't get done, many will lose earnest money they had taken from personal savings and retirement plans to inject into these loans.

Other potential applicants who would ordinarily qualify for the 7(a) program have since been told there is no alternative to finance their start-up or expansion. The net result to these small businesses is a loss of faith in the U.S. government. The net result to the economy is a loss of jobs.

The provisions of S. 2186 fix this problem, and the bill has NAGGL's full support. As the trade association representing lenders who make over 80% of loans in the 7(a) program every year, we can attest to the fact that the minimal fee increases in S. 2186 are ones that lenders will pay and will not be passed along to borrowers. We also continue to oppose the SBA's legislative proposal to reduce the guarantee on all 7(a) loans to 50% and allow the legislation that provided for lender and borrower fee decreases through the end of this fiscal year to simply sunset.

Without the provisions of S. 2186, $3 billion in loans will remain unavailable to small businesses for the remainder of FY 2004—a net loss of approximately 90,000 jobs. We also fear that if a swift and equitable solution is not enacted, many 7(a) lenders will flee the program, leaving a void in availability of the long-term financing that is so crucial to small businesses' success. This will be occurring at a time when our economy is in desperate need of a shot in the arm.

We request that you press for swift passage of S. 2186 to bolster economic recovery and the small businesses that can drive it. Thank you in advance for your consideration.

Sincerely,

TONY WILKINSON,
President and CEO.

CRYSTAL COLLECTION,
Suwanee, GA, April 5, 2004.

Hon. JOHN KERRY,
Ranking Member, Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: Please support the 7a loan so more small business can succeed. The following suggestions from the National Association of Women Business Owners (NAWBO):

Allow piggyback loans, but charge 0.50 percent lender fee for each;

Raise Lender Fees by 0.10 percent; and

For loans that are under $150,000, have lenders pass the SBA the 0.25 percent fee that lenders currently keep for themselves. This only applies to these small loans.

Thank you for your support.

Sincerely,

SHELLY BLOOM,
President.

LINDEN INTERNATIONAL,
Wayne, PA.

Hon. JOHN KERRY,
Ranking Member, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: I would greatly appreciate your support for the 7a program "rescue". I favor the following to help me and many other small businesses rebound and re-grow:

1. Allow piggyback loans, and charge a 0.50 percent lender fee;
2. Raise lender fees by 0.10 percent; and
3. For loans under $150,000, have lenders pay the SBA the 0.25 percent fee that the lender now keeps for themselves.

We are all keening for help to re-establish ourselves and assure a firm foundation for the future of small businesses in the US.

Sincere thanks.

Very truly yours,

MARY KAY HAMM,
President and CEO.

PROACTIVE SOLUTIONS INC.,
Plantation, FL, March 24, 2004.

Hon. JOHN KERRY,
Ranking Member, Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: My name is Sheila Tobier and I am the president elect of NAWBO (National Association of Women Business Owners). We ask the following from the committee.

Absent the SBA asking Congress for additional funding, NAWBO supports increasing fees on lenders as an approach to adequately funding the SBA 7(a) program and lifting restrictions.

Specifically, NAWBO would like the program to:

Allow piggyback loans, but charge a 0.50 percent lender fee for each;

Raise lender fees by 0.10 percent; and

For loans that are under $150,000, have lenders pay the SBA the 0.25 percent fee that lenders currently keep for themselves. This only applies to these small loans.

Thank you for assisting us in this endeavor.

Sincerely,

SHEILA TOBIER,
President.

BUSINESS LOAN EXPRESS,
Wichita, KS, March 5, 2004.

Hon. JOHN F. KERRY,
Ranking Minority Member, Committee on Small Business, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. KERRY: Please be advised that Business Loan Center, LLC, aka Business Loan Express, LLC, the nation's third largest SBA 7(a) lender, is a strong supporter of the Senate and House bill that is also supported by the "Access to Capital Coalition Organization," which will permit the reopening of a viable 7(a) loan program in America. This means once law, SBA would be required to drop the prohibition against "piggyback loans" and eliminate the current loan cap. As most every 7(a) lending organization has indicated since early January 2004, it is absolutely critical that these 7(a) program impediments be dropped at the earliest possible date. As you are aware, no knowledgeable trade organization or 7(a) lending entity supports a mandatory 50% maximum loan guaranty, as it would represent a slow death of the 7(a) loan program. Most every community in America utilizes the 7(a) loan program as a major part of their economic development/job creating/job retention program. If one removed from our economy all businesses and the jobs they create directly and indirectly, who at one time or another received 7(a) loan assistance, this would be a totally different country. To assist the recovery of our economy and the retention and creation of jobs, it is absolutely essential that the 7(a) loan program be returned to its prior dynamic status. Thank you for your leadership in this matter. Please encourage the Administration and your colleagues to support the House and the Senate bill that would solve this current dilemma!

Respectfully submitted,

DERYL K. SCHUSTER,
Executive Vice President,
Director, Governmental Affairs.

ASSOCIATION OF SMALL BUSINESS
DEVELOPMENT CENTERS,
Burke, VA, January 9, 2004.

Hon. JOHN KERRY,
U.S. Senate.

DEAR SENATOR KERRY: I am writing about the recent decision by the U.S. Small Business Administration (SBA) to suspend making loan guarantees for small businesses under the 7(a) loan program.

As you know, the SBA announced on December 23rd that it would begin imposing a $750,000 cap on 7(a) loan guarantees effective January 8th, even though Congress has authorized loan guarantees up to $2 million. The SBA's announcement led small businesses with loan applications for more than $750,000 to submit their applications before the announcement deadline. As a result, the SBA experienced a significant increase in 7(a) loan applications and suspended the program until further announcement, on the grounds that the increase in loan applications had led to a shortfall in funding.

Small businesses throughout the country have seen their loans put in jeopardy as a consequence of this decision, and applicants for loans above $750,000 may be unable to obtain loan guarantees—or be forced to reapply—even if the 7(a) loan program is reopened. The ASBDC is hearing from Small Business Development Center (SBDC) counselors in the field that the decision to suspend the 7(a) loan program could pose a severe hardship for many SBDC clients.

In the past three years, the 7(a) loan guarantee program has helped make financing available to more than 40,000 start-up small businesses and 99,000 existing small businesses—leading to the creation of more than one million new jobs. Suspending this vital small business lending program at this critical stage of the economy's recovery from the recession will prevent the start-up and the expansion of small businesses throughout the country, and stymie the economy's creation of new jobs.

I appreciate all that you do to support small business. I urge you to continue to work with the SBA and the Office of Management and Budget to reopen the 7(a) loan guarantee program and remove the $750,000 loan cap as soon as possible.

Sincerely,

DONALD WILSON,
President.

COMPASS BANK,
Houston, TX, January 12, 2004.

Senator JOHN KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: I am writing to alert you to an economic crisis that should have been avoided but can still be remedied.

The U.S. Small Business Administration (SBA) claims it has run out of money for its flagship 7(a) loan program. This is because the Administration did not request adequate funds for the program for fiscal year 2004.

The Administration only requested a program level of $9.3 billion, even though the program did $11.3 billion last year, even with a $500,000 loan cap in place for nearly half of the fiscal year. NAGGL estimated that demand would be $12.5 billion beginning with our budget testimonies in February 2003.

Loan volume for the first three months of fiscal year 2004 was $3.137 billion, a level of demand that clearly supports NAGGL's estimates of demand.

Because the Administration did not seek sufficient program level, the SBA has now shut down the 7(a) program until further notice, depriving small businesses of the capital they need in order to expand their businesses, hire new people, and aid the American economic recovery. The shutdown occurred just a few weeks after SBA Administrator Barreto told the NAGGL Annual Conferees that the "program would not be shutdown, and that the $9.3 billion program request would be sufficient."

In unprecedented fashion, the SBA is now rejecting and returning all loan applications. During previous funding shortages, the SBA continued to accept and process loan applications. The loans would then be funded when loan funds became available. The SBA's action, to make small businesses pay for its own mismanagement, is unconscionable.

Because small businesses are the chief engine of economic recovery, America can ill afford a halt in funding to small businesses in this time when the economy is just regaining steam.

Though the SBA has been implored by members of both major political parties to immediately seek an equitable solution, the Administration has thus far not come forward with any positive solutions. The Administration has thus far responded only with loan caps, program shutdowns, and excuses why this is Congress' fault.

One conclusion could be that the Administration desires to either dismantle or significantly change the SBA and the 7(a) program. I'm asking you not to let this happen.

The Administration should either request a reprogramming of funds or submit a supplemental appropriation request sufficient to fund the 7(a) program to $12.5 billion this year. The SBA should be required to lift both the current program freeze and the artificial $750,000 cap it has put in place to restrict small business access to capital. The SBA should be required to stop the budget gimmicks and put forward a credible budget request that ensures this program is funded properly in fiscal year 2005 and beyond without fee increases to borrowers and lenders. Don't let this Administration dismantle a program that has served small businesses so well for so long.

Sincerely,

HARRIET BOSHAW,
SBA Lending Department.●

Mr. FRIST. I ask unanimous consent the bill be read three times, passed, and the motion to reconsider be laid on the table, without any intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4062) was read the third time and passed.

ORDERS FOR FRIDAY, APRIL 2, 2004

Mr. FRIST. I ask unanimous consent when the Senate completes its business today, it adjourn until 9 a.m. on Friday, April 2nd. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow the Senate will be in session for the transaction of routine morning business. There will be no rollcall votes during Friday's session. The next rollcall vote will occur on Wednesday of next week. I will have more to say on that in the morning.

Next week, there are a number of issues that may be addressed. There is an important medical liability bill being introduced by Senator GREGG and others, Pregnancy and Trauma Care Access Protection Act of 2004. That bill deserves to be debated and voted on. We will try to schedule that bill for next week. I will continue to hold out hope that we will be able to finish the JOBS bill, which is the FSC/ETI bill.

Senators have come to the floor over the course of the last several weeks discussing the importance of this bill. Yet we have been unable to vote on the legislation as the WTO sanctions continue each day. In fact, today, since this is 1 month after the sanctions began, the sanctions were increased by $40 million. We must move expeditiously on that bill. It is a priority for the Senate. We will have an opportunity next week to speak on this bill.

The pension reform conference report is another piece of legislation that should be moved expeditiously. The House may act on that conference report later this evening or on Friday. I will be talking to my colleagues about scheduling that conference report for Senate action.

Finally, the conferees on the budget resolution continue to meet and it is important to address the budget conference report as soon as that does become available. Having said that, we have a lot of work to do and not a lot of time to do it. We will be working each day next week with an effort to schedule the above-mentioned items throughout.

In addition, next week we have accommodated Members' schedules for the observance of Passover. I will have more to say on the specific schedule for rollcall votes on Wednesday, April 7. However, we will have no vote prior to 2:15 on that day on Wednesday.

ORDER FOR ADJOURNMENT

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the completion of the remarks of Senator DAYTON and following the remarks of Senator SARBANES, each for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTING TO HELP THE AMERICAN PEOPLE

Mr. DAYTON. Mr. President, I am troubled by some of the comments made earlier as we debated whether to continue with this bill before us. In particular, one of the leaders on the other side of the aisle is quoted in today's paper as saying—this a direct quote—"Why put our Members through the whole litany of Democratic political votes for no discernible gain?"

I am amazed at the implication these amendments we in the Democratic caucus are trying in vain to have voted upon by the Senate are political votes. I am even more astonished it could be said they are for no discernible gain.

For whose gain are we talking? Not, perhaps, for Republican Members of the Senate. But that is not the purpose of our amendments. These are amendments to benefit the American people.

We are talking about extending unemployment benefits for the over 1.1 million Americans who have exhausted those benefits since December of last year. The Children's Defense Fund, originators of the No Child Left Behind concept, are committed to seeing it carried out and have estimated 622,000 American children live in families whose parents have exhausted their unemployment benefits. They estimate each of those families loses an average of $1,100 a month in income when their unemployment benefits run out. It drives over a third of them below the poverty level. Over two-thirds of those families lose their health care coverage.

No discernible gain from a vote on extending unemployment benefits? Perhaps not to the Republican caucus. But it would surely make a huge difference to 1.1 million American adults and their 622,000 children.

No discernible gain to a vote on protecting overtime pay for some 8 million Americans who stand to lose those benefits through the unilateral action of the Secretary of Labor? These are not idle political gestures. These are real decisions affecting the lives of millions of Americans.

It may be inconvenient for some Members to vote on them, but that is our responsibility in this body.

EDUCATION FUNDING

As another illustration of how these votes and these decisions really do affect people's lives, about a month ago we were holding rollcall votes regarding the budget resolution for the next fiscal year, and just about that same time the Secretary of Education was in my State of Minnesota, where he met with educators and with State officials, and with, evidently, some of the Members of the Minnesota congressional delegation on the other side of the aisle—I was not invited to either of those meetings, which seemed a shame since they were being billed as nonpolitical meetings, but, nevertheless, they did occur—and at that meeting—again, I was not invited, so I was not there—according to the reports of those who attended, the Secretary assured these Minnesota educators that No Child Left Behind is adequately funded.

Well, there had been rumors that there were going to be cutbacks affecting Minnesota in the title I program, which is the major source of funds under the so-called No Child Left Behind. So the Minnesota educators were temporarily relieved by that, until just a few weeks later—scarcely a month later, in fact—when the actual title I allocations for the next fiscal year, 2005, became known.

Lo and behold, Minnesota will experience a reduction of over $2.5 million. Only two States in the Nation are going to experience cuts in title I funding from the year 2004 to the next year, 2005: Massachusetts and Minnesota.

Now, I am not running for President or anything else, for that matter, this year, so I am shocked that Minnesota would be paired with Massachusetts as being the only two States to be cut back in title I dollars at the same time we are experiencing an increase in the children who are eligible for title I funding. As that reduction gets spread across our school districts, some of the consequences are very severe. Quite a number of districts will be taken off of title I funding whatsoever. They will not be able to serve any of the children in those school districts who are eligible, individually, for title I.

One of the school districts, Anoka-Hennepin, is going to experience a 40-percent reduction in funding for title I programs at the same time the number of children eligible for title I is going up.

Now, how can we say that there is no child going to be left behind under this program, and that it is adequately funded, when a school district such as that is going to experience a 40-percent reduction in funding? How is it that two States in the Nation—Massachusetts and Minnesota—are going to see a reduction in funding while the overall program nationwide is going to receive a $1 billion increase?

Why are we being punished? Why are we being penalized? Why are we being singled out for those reductions? Why does the Secretary of Education come to our State one month earlier and assure our educators that there is plenty of money, that these reductions are not going to take place, when either he did not know—in which case he was unbelievably ill-informed—or he knew and did not speak honestly to our educators? And either one of those I find enormously reprehensible.

Mr. President, $2,727,000 is a huge loss in money for the disadvantaged children of the State of Minnesota, meaning that less than half—less than half—of all the children in my State who are eligible for title I funding are actually going to get services provided to them. And that is no child left behind? That is a fraud. That is adequate funding for No Child Left Behind? That is a lie. That is a lie.

In this room I have heard it said several times: There is plenty of money for title I. There is plenty of money for No Child Left Behind. Not for Minnesota. We were underfunded before, and it is being cut back now. We are one of two States being cut. I ask the Secretary of Education: I want to know why. Come back to Minnesota, Mr. Secretary, now that you have the facts, evidently. Come back to Minnesota and meet with those educators and tell them why, why our money is being cut back.

The chairman of the Health, Education, Labor, and Pensions Committee has stood on this floor—and I have had this debate with him; he is not here presently, but I look forward to that opportunity again in the future—saying there is additional money available to the States under No Child Left Behind. In fact, there is so much additional money that some States don't know what to do with it all.

Well, I can see why that distinguished Senator made that statement, because in his home State, over the last 5 years, they have experienced a 44-percent increase in funding under title I. In this next year, they are going to receive an increase of almost the same $2.5 million which Minnesota is going to lose. They will receive an 8.1-percent increase in title I funding, whereas we will experience a reduction of over $2,727,000.

So I guess for some States this is a good deal because they are getting more money. I am glad they are, if they have that additional need. But the State of Minnesota has the additional need, also. More children are coming in from all over the world; children who need English second-language skills; children who are without any education from countries that have been war ravaged for years; children coming from other States with educational achievement levels grades behind the students in Minnesota.

We cannot offer the services they are entitled to under Federal law that existed before No Child Left Behind? We cannot offer the services that were promised to them and to us as a condition for voting in favor of No Child Left Behind? I voted against that, I will confess, as did my colleague at the time in the Senate. Maybe that is why Minnesota is being singled out and punished. I do not know. I do not understand why, except that I know the two Senators from Massachusetts—one is the ranking member of the Health, Education, Labor, and Pensions Committee, and he certainly made a commitment to this program at the time because he was assured there was going to be full funding; the other Senator, of course, is now the Democratic candidate for President of the United States. I find it really not coincidental that is one of the two States that is singled out to be cut back in funds.

But I do not understand why Minnesota—why Minnesota—is suffering accordingly. It is wrong. It is wrong to be cutting back funds when you are saying to the American people that no child is going to be left behind and then you turn around and make that a lie. It is wrong. It is unfair to the State of Minnesota.

Mr. Secretary of Education, you owe it to our State to come back and explain to our educators why it is that they are going to have to do more with less next year. Why is it that we are one of two States being cut back?

I am deeply offended. On behalf of the people of Minnesota, I am enraged that we are being treated in this unfair way—and on behalf, most of all, of the children in the State of Minnesota who are not going to be receiving the special services to which they are entitled. We are going to force cutbacks in educational services affecting all of our schoolchildren. They are being left behind, Mr. Secretary. Mr. President, they are being left behind. What are you going to do about it?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized for up to 10 minutes.

CONGRATULATING SENATOR ROBERT C. BYRD

Mr. SARBANES. Mr. President, earlier in the day, a number of my colleagues took the floor to pay tribute and respect to my dear friend and colleague, Senator BYRD. I was unable to be here because I was involved in a markup of legislation. I want to take a few moments now, as we bring the day's business to a close, to pay tribute to my very good friend on the occasion of his 17,000th vote in the Senate, an all-time record.

The distinguished Senator from West Virginia has given this Nation and his beloved State of West Virginia the very best in public service. The civility, the intelligence, the commitment, and dedication that Senator BYRD brings to this body commands the respect and admiration of every Member of the Senate. That has been expressed from time to time by many of us in this Chamber.

The vote today is but one of many milestones for Senator BYRD, but it does offer all of us the opportunity to reflect upon his very special place in the Senate.

Senator BYRD often refers to the Senate as a "pillar of the Constitution." I think it is fair to refer to Senator BYRD as a "pillar of the Senate." The Senator's dedication to this body and its history—he has written, after all, the definitive history of the U.S. Senate—its customs and its procedures are unequaled by any other Member I have known. And his dedication to the Senate ranks with his dedication to the country, to the State of West Virginia, and to the Constitution.

As this body's indisputable expert on parliamentary procedure, it is only fitting that Senator BYRD's first vote, the first of the 17,000 votes that we celebrate today, was cast on January 8, 1959, and was procedural in nature. That vote began, of course, a legacy of extraordinary leadership and service in this body.

The able Senator from West Virginia has not only employed his mastery of how the Senate functions effectively in floor debates, but he has used it to pass on and protect and perfect the spirit of this body which he has called "the cornerstone of our constitutional system."

Given this incredible record of service and experience, Senator BYRD now, I think fairly, stands as both the intellect and the conscience of this Chamber. He constantly reminds us of the fundamentals of our democracy and the role the Framers of our Constitution envisioned for the legislative branch.

No Member of the U.S. Congress has a deeper understanding of the Constitution and of the Legislature's vital function as a guardian of our fundamental national document.

It is because of this institutional knowledge, his devotion to the Senate's distinguishing characteristics, and his devotion to the civility that has customarily underpinned the interaction of the Members of this body that in times of severe national crisis, and on occasion constitutional crisis when the Senate is faced with the most difficult of choices, Members from both sides of the aisle have sought the leadership of Senator ROBERT C. BYRD of West Virginia.

I consider it a singular honor to serve with him in the Senate. I congratulate him on casting his 17,000th vote, and I look forward to seeing him cast many more.

I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9 a.m., Friday, April 2, 2004.

Thereupon, the Senate, at 6:12 p.m., adjourned until Friday, April 2, 2004, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 1, 2004:

DEPARTMENT OF DEFENSE

OTIS WEBB BRAWLEY, JR., OF GEORGIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009. (REAPPOINTMENT)

VINICIO E. MADRIGAL, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009. (REAPPOINTMENT)

DEPARTMENT OF STATE

MICHAEL W. MARINE, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LEO L. BENNETT, 0706

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY CHAPLAINS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

JAMES D. JONES, 7999

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

JORGE L. ROMEU, 6546

HOUSE OF REPRESENTATIVES—*Thursday, April 1, 2004*

The House met at 10 a.m.

Monsignor James C. Kidder, Pastor, Holy Trinity Catholic Church, El Dorado, California, offered the following prayer:

O God, our loving Creator, our experience of Your fidelity in our lives can often be overshadowed by our fears of the future. We know the uncertainty of our plans and the difficulties we face in our aspirations. We need hope. Not false hopes that are unstable, but the hope of faith that can support and give courage. Your fidelity, Lord, is unchanging. You do not retreat. You do not know deception. Your fidelity is our hope.

Help us to be mirrors of Your fidelity, for the first, the last, and the greatest gift we have to offer others is our life. Help us to exist for those who entrust their well-being to us. A complete gift as great as this does require Your fidelity to us.

On this first day of April which could be filled with pranks, illusion, and humor, we thank You for the ability to laugh, which is a gift from You to release the tensions pent-up within and to open our eyes to envision Your truth all the more. We thank You, too, for the gift of a smile, a wonder that we can freely share to brighten the days of others. May we go forth today to share that gift generously. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. ISRAEL) come forward and lead the House in the Pledge of Allegiance.

Mr. ISRAEL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 275. An act to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be ten 1-minutes on each side.

THE OIL FOR FOOD SCANDAL

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, the United Nations has a terrible track record on appeasing dictators. The growing scandal surrounding the Iraqi Oil for Food program is a good example.

While the Iraqi people suffered from shortages of food and medicines, Saddam Hussein looted billions of dollars in U.N. aid to fund his military and buy friends around the world.

Manufacturers and trade brokers in Europe, Russia, China, and the Arab world benefited from billions Saddam Hussein funneled to them, all courtesy of the U.N. Oil for Food program. Those who profited from Saddam's generosity have become propaganda mouthpieces for his corrupt regime.

As Saddam's friends criticized how sanctions made the Iraqi people suffer, they pocketed billions of aid intended for the people they claimed to care about. No wonder they were against liberating the Iraqi people. They were profiting off of their suffering.

These coconspirators with Saddam Hussein should be exposed. Their selfishness and deceit have cost Iraqi lives.

WHITE HOUSE THREATENS VETO OF TRANSPORTATION BILL

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, 2.8 million jobs lost, 1.1 million long-term unemployed with expired benefits, 24 months into a jobless recovery spurred by record deficits and trickle-down tax cuts. But finally, today, hope is on the horizon.

Mr. Speaker, a $275 billion highway bill, it should be more, is pending. It would create real jobs to meet real needs, put Americans to work; and, yet, the White House is threatening a veto. April fool, or is it fools at the White House?

COURT OF APPEALS CONSIDERS PARTIAL-BIRTH ABORTION

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, currently, the Court of Appeals is working on the partial-birth abortion ban which we passed in this House twice during the past year and the President signed into law in December.

Mr. Speaker, it has been over 25 years since I first learned of the procedure of newborn circumcision, not something we normally think of in this House, but, Mr. Speaker, it would be unthinkable today to perform that procedure without some type of anesthesia, because we all know that a newborn feels pain.

But we are asked to discount the possibility of fetal pain perception when dealing with the language of partial-birth abortion. We are asked to suspend our knowledge of pain pathways and assume that a scalpel laceration, skull fracture, dural tear, and brain laceration will pass unnoticed by the child, as long as his or her head is still in the birth canal.

By any measure, intact dilatation and extraction performed in the last trimester of pregnancy is never the only option for concluding a pregnancy when the mother's health is compromised. Induction of labor or Cesarean section may both be used to complete a pregnancy when the mother's health is threatened.

The only theoretic advantage of a partial-birth abortion is this: It guarantees that the baby will be dead upon delivery.

BEWARE OF BUSH ADMINISTRATION OFFICIALS BEARING MEDICARE BENEFITS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, when the House voted on the Medicare bill, we and the American people were told its cost was $400 billion. Later, we found out that the Bush administration and congressional leaders knew all along it would cost actually $550 billion. What is a mere $150 billion among friends?

Not a single benefit has gone to a senior citizen, and the taxpayers are stuck with an additional $150 billion on top of the misappropriated $400 billion. Beware of Bush administration officials bearing Medicare benefits.

Prescription drug costs have skyrocketed over the last several years, six times the rate of inflation. It is like a sale at Nieman Marcus: Prices are jacked up by 50 percent before the discount of 25 percent.

In 2001, drug costs increased by 16 percent; in 2002, 18 percent; in 2003, 19.5 percent. The prescription drug benefit will do nothing to protect senior citizens from skyrocketing cost increases.

Instead of depending on a flawed Medicare law that punishes taxpayers and does little to help our senior citizens, we need to lower drug prices here in the United States by allowing competition and choice to exist in the market and allow people to buy their drugs in Canada and Europe where they are 50 percent cheaper than here in the United States.

RECOGNITION OF UPCOMING ELECTIONS IN BELARUS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today to bring attention to the upcoming elections in Belarus.

While most of the former Eastern Bloc countries have demonstrated varying degrees of democratic progress since the Soviet collapse, Belarus has slipped back into a Soviet Union-style dictatorship. Belarus's current President, Alyaksandr Lukashenka, was elected in July, 1994. The country's political and economic repression intensified in 1996 when President Lukashenka orchestrated passage of a constitutional referendum that provided him control over all of the branches of government and society as a whole. The President then disbanded the parliament, and only those members loyal to him chose to serve in the new legislature. He extended his term of office to 2001, and the 2001 election lacked transparency and democratic administration.

In response to the repressive political environment, we need to focus our efforts on helping to promote an institutional survival of the country's democratic political organizations and helping their leaders and activists prepare for political and public policy roles in a future democratic Belarus.

The important thing for the current regime in Belarus to understand is that Washington and the world are watching.

MOURNING THE DEATHS IN FALLUJAH

(Mr. ISRAEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISRAEL. Mr. Speaker, if we wanted to understand the line that divides good versus evil, it was drawn in Fallujah yesterday.

Four people were providing security to deliver food to the people of Fallujah, and some of the people that they were seeking to feed killed them, mutilated them, massacred them.

Mr. Speaker, today's Wall Street Journal said this of the situation in Iraq: "It is not a good sign that Iraqis feel free to mutilate the bodies of dead Americans in front of the world's TV cameras." Then it goes on to say, "A year without justice has also been a year without enough deterrence, and Fallujans now have more reasons to fear the consequences of working with the Americans than the consequences of killing them."

Today we mourn the deaths of four people who believed in a better world.

In the White House, the Pentagon, and the State Department, we must redouble efforts to ensure that the perpetrators of these crimes are punished. Justice will lead to security, security will lead to stability, stability will lead to democracy, and democracy will bring again justice and liberty for all.

HONORING THE AMERICAN ASSOCIATION OF PHYSICIANS OF INDIAN ORIGIN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to highlight the important work of the American Association of Physicians of Indian Origin, or AAPI, which includes 35,000 physicians and 10,000 medical students and residents throughout America.

Indian-American physicians have been pioneers in medicine and health care for centuries, and by working together through AAPI, they have made important contributions to the American medical profession. In South Carolina, Indian-American doctors such as Dr. Kaushal Sinha are especially meaningful, giving service in rural communities.

Also, an Indian-American, Dr. Seshadri Raju, performed a life-saving double-lung transplant on my predecessor and mentor, the late Congressman Floyd Spence. Congressman Spence incredibly lived an additional 13 years thanks to Dr. Raju and then was able to serve his country as chairman of the House Committee on Armed Services.

I ask my colleagues to join me in thanking AAPI for their visionary leadership in health care, particularly President Dr. Sharad Lakhanpal, as well as Dr. Rakesh Shreedhar, Dr. Sampat Shivangi, and Dr. Raghavendra Vijayanagar.

In conclusion, may God bless our troops, and we will never forget September 11.

□ 1015

PRESIDENT BUSH SHOULD TAKE HIS OWN ADVICE TO HEART

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, the Bush administration refuses to jawbone or pressure OPEC to increase oil production while the American consumer at the gas pump is being tipped upside down and money is being shaken out of their pockets every single day. This is wrong. The President should jawbone OPEC to increase oil production, not to lower the production of oil.

Here is what the President said to Bill Clinton 4 years ago. He said, "What I think President Clinton ought to do is to get on the phone with OPEC and to say we expect you to open your spigots. One reason why the price is so high is because the price of crude oil has been driven up. OPEC has gotten its supply act together and is driving up the price like it did in the past. And the President of the United States must jawbone OPEC members to lower the price." That is the advice George Bush as candidate gave to Bill Clinton.

Now that he is President, he says he cannot jawbone OPEC, that it would be wrong; but the price is being paid by the consumer at the gas pump every single day.

HONORING THE ACHIEVEMENTS OF THE MORTON SALT PLANT

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I rise today to honor the achievements of the Morton Salt plant, a company from Wayne County in Rittman, Ohio. I am confident that you will recognize this company by the Morton umbrella girl, a familiar sight on the Morton products, and by the slogan "When It Rains It Pours." What you may not know is the long history of safety that the Rittman plant has experienced.

Today, I rise to recognize the dedicated employees of the Morton plant in Rittman, Ohio, for the recent achievement of 5 million work hours without a lost-time incident. This is a record within the Morton Salt Company as well as the entire North American salt industry.

Since 1848, the Morton Salt Company has been North America's leading producer and marketer of salt for home, water conditioning, industrial, agriculture, and highway use. Morton's Rittman's facility employees process thousands of tons of household salt each day.

As you know, Mr. Speaker, mining and manufacturing can be high-risk professions. This plant employs approximately 285 employees. And since

June of 1995, injury accidents have not forced any worker to take time off from work. This milestone shows the dedication to health and safety of these people. I congratulate all of them for their outstanding achievement.

RECOGNIZING JACK DANIEL'S DISTILLERY ON THE 100TH ANNIVERSARY OF WINNING THE GOLD MEDAL AT THE 1904 ST. LOUIS WORLD'S FAIR

(Mr. DAVIS of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Tennessee. Mr. Speaker and Members of the House, as the current Member of Congress representing Jack Daniel's and its employees, it is my honor to pay tribute to this Tennessee treasure.

Since 1863, in the spirit of George Washington, the father of the American distillery industry, the Jack Daniel's distillery, has produced the most popular Tennessee whiskey. Jack Daniel's has produced and responsibly brought a part of Tennessee heritage to millions of adult consumers in 135 countries around the world. Jack Daniel's Tennessee whiskey is the United States' number one exported distilled spirit.

Jack Daniel's, located in Moore County in the 4th Congressional District of Tennessee, has a long tradition of bringing friends and neighbors together. Furthermore, it has been a major source for employment and tourism revenue in Moore County and Lynchburg, Tennessee.

I would like to express the U.S. House of Representatives' heartfelt congratulations on the 100th anniversary of Jack Daniel's 1904 World's Fair Gold Medal.

MEDICARE PRESCRIPTION DRUG DISCOUNT CARDS

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, 2 months from today, American senior citizens will begin to realize discounts on their pharmaceutical medications. June 1 is when Medicare-approved prescription drug discount cards hit the streets, and savings between 10 and 25 percent on their life-saving drugs take effect.

This is a much-needed first step for seniors seeking relief on their monthly bills. These Medicare-approved discount cards are part of the new Medicare law that Congress passed and the President signed. It includes coverage of pharmaceutical costs, some new preventative care benefits, like free physical exams and better care for seniors with chronic illnesses.

To learn more, I am urging my constituents in northern Illinois to call 1-800-MEDICARE, that is, 1-800-MEDICARE, or log on to WWW.MEDICARE.gov. These two informative sources run by the Department of Health and Human Services will provide unfiltered, unfettered news seniors can use about their new drug benefits.

MEDICARE PROVIDES EMPLOYERS INCENTIVE TO KEEP PRESCRIPTION DRUG COVERAGE FOR RETIREES

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to set the record straight on the Medicare prescription drug plan. Since the mid-1980s, the number of employers offering prescription drug coverage to their retirees has been declining steadily. In 1988, 66 percent of employers provided these benefits to retirees. In the year 2000, it was only 34 percent.

To address this alarming trend, the Medicare prescription drug bill provides employers an incentive to keep their coverage. They are going to get 28 cents for every dollar that they spend on prescription drug benefits for their retirees. This applies to all employer-sponsored prescription drug coverage and those of corporations, unions, and government entities.

Because of these incentives, AARP and the American Medical Association endorse the bill that we passed last year. It is unfortunate that Democrats continue to twist the truth and distort the facts by scaring seniors into believing that this bill would cause them to lose benefits. That is the furthest thing from the truth. What the Democrats do not tell seniors is that for the first time Congress has acted to slow this trend.

THE NEW HIGHWAY BILL

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, since the days of the Roman Empire, nations have understood the connection between roads and prosperity and national security. And today Congress will deliberate on a new highway bill, which I will support only if it can be fiscally responsible and fair to so-called donor States like Indiana.

But I rise at the outset of this debate to congratulate the gentleman from Alaska (Mr. YOUNG) and the membership of the Committee on Transportation and Infrastructure for resisting the temptation to raise gasoline taxes. With the news this morning that OPEC will be cutting production and raising the cost of crude, that gasoline is at $3 a gallon on the West Coast, I am personally grateful to the chairman of the transportation committee and all of its membership for saying with regard to this highway bill, no new taxes.

LET US SOLVE THE INEQUITIES IN THE TRANSPORTATION EQUITY ACT

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, as we debate the transportation reauthorization bill today, I think we need to abide by one simple principle: solutions for transportation safety, congestion, and pollution and transit should not be determined by which Members face difficult campaigns or which Members sit on influential committees. These kinds of determinations are being made in H.R. 3550 unless we make some changes to it.

This approach to funding is inconsistent, especially with the stated objectives of the bill, and it results in inequitable distribution of funding between the States.

As we debate the reauthorization, we need to consider solutions that give States discretion and flexibility in the use of funding, financed by their own citizens and highway users.

I have an amendment before the House today that would neither strike nor prevent Members from securing earmarks for their district. What it would do, however, is prevent those States that benefit disproportionately from earmarks from drawing funding away from States that, in spite of a few earmarks, end up faring much worse.

I urge support for this amendment.

HIGH-RISK NON-PROFIT SECURITY ENHANCEMENT ACT

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, this morning I will be joining with my colleagues, the gentleman from New York (Mr. NADLER), the gentleman from Connecticut (Mr. SHAYS), and the gentleman from Indiana (Mr. PENCE), to introduce the High-risk Non-profit Security Enhancement Act.

Our legislation has three key components. It directs the Department of Homeland Security to provide $100 million in grants and loan guarantees for security enhancements at non-profit organizations that are at high risk of international terrorism. It assists local law enforcement agencies that provide security for regions with high concentrations of non-profits with $50 million in grants. And the bill establishes an Office of Community Relations and

Civic Affairs at the Department of Homeland Security to facilitate this program.

Since September 11, the Federal Government has dedicated significant resources to improving the security of government facilities. We have successfully deterred attacks for more than 2 years, but we must remain vigilant and continue to devote resources to potential targets.

As government facilities have fortified against the threat of terrorism, terrorists may turn their attention to less fortified, but equally symbolic, targets. Leading non-profit organizations may become targets as an unintended consequence of our efforts. They represent the heart and soul of our communities, and the forces that want to destroy America understand their value. They believe they understand the importance of these organizations in our culture and our society.

This legislation will protect non-profit organizations throughout America, and I urge my colleagues to support this very important legislation.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3550.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from Alaska?

There was no objection.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, March 30, 2004, and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3550.

☐ 1027

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. SHAW in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, March 30, 2004, the bill is considered as read the first time.

General debate shall not exceed 2 hours and 40 minutes with 2 hours and 10 minutes equally divided and controlled by the chairman and ranking member of the Committee on Transportation and Infrastructure including a final period of 10 minutes following consideration of the bill for amendment and 30 minutes equally divided and controlled by the chairman and ranking member of the Committee on Ways and Means.

The Chair now recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I feel somewhat like the sinner appearing before the bishop when Your Honorable is in the Chair; but with all due respect, I do relish this moment. We are here today to support H.R. 3550, the Transportation Equity Act: A Legacy for Users, known as TEA LU.

This bill is a result of a great deal of hard work and cooperation by the Members of the Committee on Transportation and Infrastructure on a bipartisan basis.

I want to first thank the ranking minority member of our committee, my good friend, the gentleman from Minnesota (Mr. OBERSTAR). He has been a real champion of transportation, working with me to craft this legislation.

I also want to thank the chairman of the Subcommittee of Highways, Transit and Pipelines, the gentleman from Wisconsin (Mr. PETRI). His leadership and dedication contributed greatly to bringing this bill to the floor today.

☐ 1030

He has traveled many, many miles to try to bring the information and gather the information from the citizens of this great Nation.

In addition, I appreciate the support and cooperation of the gentleman from Illinois (Mr. LIPINSKI), ranking minority member of the subcommittee. This effort demonstrates that, through bipartisanship, working together in cooperation, we can achieve I believe great things and legislate great things in this body.

I particularly want to thank our Speaker, the gentleman from Illinois (Mr. HASTERT), for his leadership in moving this important legislation along. He has ensured that this body will be able to work its will and proceed as an independent branch of our government under our Constitution, and I do deeply appreciate his support.

In addition, we could not have brought this bill to the floor today without the support and assistance of the gentleman from California (Mr. THOMAS) from the Committee on Ways and Means. Chairman THOMAS is proposing some changes to existing law that will provide additional revenues into the Highway Trust Fund. His proposal makes it possible to achieve a better bill, and I appreciate his advice and counsel.

Lastly, I want to thank the gentleman from Iowa (Chairman NUSSLE) of the Committee on the Budget. He and his staff have been invaluable in ensuring that we continue the principles contained in TEA 21 that guarantee that highway trust funds will be spent on transportation, as promised to the American people. We have worked closely together to reach an agreement that meets both our needs at this point in time.

We have worked with other committee chairmen on provisions contained in the bill; and, without their help, we would not have been able to bring this bill to the floor today. We will continue to work with other committees in a cooperative fashion as we proceed to conference.

Mr. Chairman, traffic congestion, poor roads and hazardous highways are not Republican or Democrat problems. These are problems shared by all Americans, from all walks of life or economic conditions and all political parties.

Today, congestion on our highways is greatly reducing the quality of life for American families. Congestion, congestion, congestion causes over $67 billion in lost productivity and wasted fuels, $67 billion lost that produces nothing. It costs the average driver $1,160 a year and more than a week and a half spent stuck in traffic. I want to stress that again. Average driver, $1,160 a year and more than a week and a half spent stuck in traffic.

H.R. 3550 provides a new emphasis and a new program to relieve congestion, maximize roadway capacity and remove bottlenecks. In addition, more than 42,000 Americans are killed and 3.3 million are seriously injured each year on our highways. Nearly a third of the fatal crashes are caused by poor roads and roadside hazards. These fatalities are totally preventable.

H.R. 3550 creates a new core program for highway safety infrastructure improvements, a new high-risk rural road safety program and supports a number of safety programs aimed at human factors that contribute to accidents.

Mr. Chairman, we live in a global economy. Moving freight quickly and on time is absolutely essential to remain competitive and to retaining our economic well-being. Other countries, such as China, are investing first in their transportation infrastructure because they know that without roads they cannot grow their economies. The United States must be willing to make transportation a top priority if we are to retain our economic leadership.

H.R. 3550 funds five programs designed to improve movement of freight, including funding for border infrastructure, intermodal connectors, projects of regional and national significance and a new corridor infrastructure program.

The bill also provides funding for construction of dedicated truck lanes. This will mean not only faster moving of freight but a vast improvement in safety on increasingly crowded interstates.

Public mass transportation is a key component in our cities. Seniors, the disabled and low-income families rely heavily on public transportation. In addition, without transit our highways would be so congested that we would not be able to move at all.

Therefore, H.R. 3550 continues our commitment to provide for public transportation both to our cities and to many rural areas where the need is great.

America's transportation needs are obvious to anyone who spends time on our roads and highways. We are a Nation stuck in traffic. We based the funding level of H.R. 3550 on the administration's conditions and performance report which set forth the needs of our transportation system.

In addition, we received far more requests from Members for funding of projects than we could possibly accommodate. That proves to me that the needs are real and that they are growing.

Mr. Chairman, this has been never been a want bill. This is a needs bill for this great Nation. So I am disappointed we have had to reduce the funding for many of the very good programs that we proposed in H.R. 3550 as introduced.

Failure to address our transportation needs will leave our country behind in protecting our economy. Mr. Chairman, that is not acceptable to this chairman. It will reduce the quality of life of our citizens if we do not pass this bill.

H.R. 3550 is a bill which embodies our vision for a better transportation legacy for America's future. I urge everyone during this debate and discussion of the bill to be able to listen to the merits of the legislation and support what is right for America.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I am very deeply touched by the words of the gentleman from Alaska (Mr. YOUNG), our committee chairman. We have worked closely together on shaping this legislation.

In a time when the image of the U.S. Congress to the rest of America is one of divisiveness and partisanship, this committee may well have set a model for how a legislative body ought to work, an interplay of ideas coming at the same issue, toward the same objective, with different viewpoints, openly debated, intensively discussed, thoroughly explored and a resolution that is in the public interest. It has been inclusive. It has been partnership rather than partisanship on this committee.

That is a great tribute to the gentleman from Alaska (Chairman YOUNG), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Illinois (Mr. LIPINSKI), who have put their best efforts forth, and to our respective professional staff who have carried the burden of the day time and again on what to others might be an arcane aspect of very complex issues but which are vitally important.

So, as the Chairman said, we come to the floor with a bill that serves the best, broadest interests of transportation in America. It is a bipartisan product. It is one that should be $100 billion more, as the Chairman alluded to, without using that number, but we all know where we need to be, and to the gentleman from Alaska's (Chairman YOUNG) great credit, Mr. Chairman, he has advocated openly, vigorously in every venue, in this body, with the executive branch and in the public, as I have, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI) have done for a more robust funding which we need, which we all know is necessary to address the transportation needs of America, keep our economy mobile, growing, productive and competitive in the world marketplace.

We do in the political arena what we can do, and what we can do here today under the circumstances is bring a bill at $275 billion that is good policy, sound policy for America, will move America forward.

Congestion is clogging the arteries of transportation in our urban areas, in our close-in suburban areas and is affecting rural America as well. Congestion is slowing the movement of people and goods, extending our daily commute, driving the cost of goods up in the marketplace, driving up the frustration of American drivers, making our roadways less safe, costing America more in the long run.

UPS, for example, estimates that for every 5-minute delay they lose $40 million nationwide. There are numerous other examples of costs of delay. The Texas Transportation Institute annually does a study of congestion in America. Their report in January of this year of 75 major metropolitan areas put the cost of congestion at $69.5 billion in just those 75 major metropolitan areas. That means that people are spending a week longer in their cars than they would if they could drive at posted highway speeds, buying four tanks of gasoline more than they would if they could drive at posted highway speeds, and using the name of the Lord more frequently in traffic on weekdays than they do in church on Sundays, I suspect.

We propose to address that problem by attacking bottlenecks in our transportation system, addressing with a megaprojects program huge conflagrations of people, goods, all modes of transportation, passenger rail, freight rail, trucks, passenger cars, maritime, aviation, and loosen the bonds of congestion in those areas with an initiative we call megaprojects, whose result will be net national benefits, net regional multistate benefits and net benefits to our national economy.

We are not just a continental economy. We are a global economy. China is investing, Japan is investing in its infrastructure, Europe is investing in its infrastructure to move goods and people faster, more efficiently, but America is not moving fast enough.

The study that in TEA 21 we commissioned the Department of Transportation to do, an assessment of pavement conditions, bridge conditions, congestion and safety, produced a report that recommended an investment of $375 billion on the grounds that we ought to be investing at all levels of government $125 billion a year in infrastructure improvement and we were only investing $75 billion. We are $50 billion a year short.

So, to keep our place in the competitiveness in the world marketplace, we need to do this. This is an investment that stays here in America. It stays home. The jobs created are American jobs. They are not created in Taiwan or Korea or Japan. They are created here in America, with American goods, American materials; and we ought to make that investment to make our economy move more efficiently, to put 1.7 million more construction workers back to work, generate an additional $80 billion a year in economic activity and keep America moving.

This bill will get us on the right track toward that objective.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. PETRI), the chairman of the Subcommittee on Highways, Transit and Pipelines.

Mr. PETRI. Mr. Chairman, I would first like to salute the chairman of our committee for bringing us to this day and to the gentleman from Minnesota (Mr. OBERSTAR) and my colleague, the gentleman from Illinois (Mr. LIPINSKI), the staff on both the majority and minority of the committee. It has been a lot of work and a long road, and we still have far to go, but this is an important milestone in the passage of our Nation's transportation policy for the next 6 years.

This legislation will have an impact on each of our constituents literally every day as they go about their daily lives, whether it is driving kids to school, hopping on a train as part of a daily commute or picking up a gallon of milk that has been brought over the road on a truck.

We on the committee had hoped to be discussing a somewhat different bill today. TEA LU, as introduced at $375 billion, is the right thing to do. It was fashioned to start to address the needs as identified by our own United States Department of Transportation. Anything less will not maintain and improve our transportation system. Nonetheless, this bill at $275 billion is a step toward meeting the needs we as a Nation have with a reduced amount of resources and is the best that we can achieve at the current time, given the situation that we find ourselves in.

This bill provides increases each year in funding for the core highway formula programs for the States so that every State will see an increase in its funding. It includes important programs for safety, infrastructure safety on the road, work safety, motor carrier safety and behavioral safety programs to address drunk driving, occupational protection programs and other hazards.

There are many provisions that facilitate the movement of freight, an important element to interstate commerce and a primary Federal interest in transportation. It will allow us to meet the needs of emerging trade corridors in this post-interstate construction era and other projects that have regional or national benefits that overwhelm the capabilities of any one State.

We retain funding for transit at the 80/20 split and include programs that will help States meet the mobility needs of both urban and rural communities and improve opportunities for the elderly and for the disabled.

It is forward looking in providing for a robust research program and innovative payments in bridges, recycled materials, freight movements and environmental programs. We prepare for the future in beginning to tackle the problem of identifying new financing mechanisms to replace the gas tax as a source of revenue for the Highway Trust Fund in the future and consider the future of the interstate system.

□ 1045

Are there concerns about funding formulas or other policy issues? Of course. In a bill of this size it is inevitable. We face the same questions literally every time that the House considers a reauthorization bill.

In order to make progress in providing what some are calling for in terms of equity and donor State issues, you need more funds. Unfortunately, we do not have that today. But as we move through conference and in the future, we want to try to address those needs, if given the resources to do so.

It is important to note, too, that the spending in this bill is paid for by the revenues coming into the Highway Trust Fund. We retain the guarantees that we fought so hard for in TEA 21 and maintain the trust with the traveling public that the gas taxes they pay will actually be spent on transportation improvements.

So, Mr. Chairman, I would ask support for the bill so we can provide jobs, protect our citizens' safety and maintain and improve our economic standing in a fast-changing world.

Mr. OBERSTAR. Mr. Chairman, I yield myself 25 seconds to express my deep gratitude to the gentleman from Illinois (Mr. LIPINSKI), ranking member of the Subcommittee on Highways, Transit and Pipelines. He has been a true partner in this enterprise with the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), the chairman of his subcommittee, the gentleman from Wisconsin (Mr. PETRI), and myself, contributing his time, days and nights and weekends, calling from home, calling from his district office, lending his consummate grasp of transportation issues from the transportation hub of America, Chicago, where all of America's complexities are joined.

Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. LIPINSKI), who is a great friend and a great contributor to this product.

Mr. LIPINSKI. Mr. Chairman, I want to thank the gentleman from Minnesota (Mr. OBERSTAR), my partner in this endeavor, very much for those extremely kind words and for yielding me this time. It is always a pleasure working with him on any transportation issue, because no one, not only in this country but no one on this Earth, knows as much about transportation as the gentleman from Minnesota does.

I want to begin today by thanking all of my colleagues on the Committee on Transportation and Infrastructure from both sides of the aisle for all of their efforts and dedication. Many of my colleagues in this body have spent many, many hours meeting with countless numbers of individuals and organizations to hear their views.

In particular, I give special mention to three individuals, the chairman of our committee, the gentleman from Alaska (Mr. YOUNG), who has been tireless in trying to develop a bill that will aid and assist us in this country in improving our transportation and infrastructure; the gentleman from Minnesota (Mr. OBERSTAR), who I mentioned earlier, and who, as I said, knows more about transportation than anyone that you will ever encounter, for the great help that he has been in formulating this bill; and the gentleman from Wisconsin, (Mr. PETRI), who has gone around the country and seen firsthand so many, many of the needs we have here. He has really been the individual who has brought so much information back to us, telling us where the needs really existed in this country.

These three Members have provided tremendous leadership in getting this bill to where we are today. However, it should not be viewed that this bill was crafted only by members of our committee. Since our committee began to work on this bill, we have asked for and received input and comments from almost every single Member in this body. We have held dozens of hearings, with the active participation of many of my colleagues in this Chamber. And, most importantly, we have listened to what they had to say.

Because of this and the bipartisan history of this committee, I believe we have a very good piece of legislation that reflects many different priorities promoted by Members who represent diverse constituencies and interests. It truly is democracy at work.

As I have said, I believe we have a very solid piece of legislation. While I will be the first one to say that it is not entirely perfect, there is no doubt in my mind that at this particular time this bill is as perfect as we can make it. We have made some significant strides in improving this country's infrastructure, and these accomplishments will benefit Americans now and into the future.

In this bill we have increased funding from $218 billion to $275 billion. While this is not the original funding level proposed by the committee, this still represents a decent increase.

It is important to bear in mind that this legislation is not just about money. It is not just about funding. It is also about innovation and moving transportation policy in new directions. There are many, many things we can point to in this bill. This bill contains new initiatives that will improve our quality of life. We have strengthened current programs to meet our existing conditions, and we have expanded and created new programs to address the needs of today and prepare for the needs of the future.

This bill creates a number of such programs, such as a new and improved National Corridor Infrastructure Improvement program, Highway Safety Improvement program, Small Starts Transit program, and Safe Routes to Schools. This is certainly not the entire list of new programs, but these are examples of new programs that will represent the collected efforts of many individuals and many organizations that have contributed to this bill on the floor today.

Other important programs included are an improved clean fuels formula grant for nonattainment areas like northeastern Illinois, Southern California, New York City, and Washington, D.C. These funds will help transit agencies purchase clean fuel buses and help improve our air quality. Improving air quality is just one of the many important public policy needs that the TEA LU bill addresses.

In this bill, it is recognized that transit is not just for big cities; it is also a growing need in rural communities. To help meet the needs of rural America, we have increased funding to the section 5311 program.

Time after time, survey after survey, Americans point to traffic congestion as a growing and serious problem in this country. In 2001 alone, congestion costs this country $69.5 billion. And, on average, Americans lose 27 hours a year due to delays. As congestion levels continue to rise in the United States, we must focus on modernizing our vital transportation infrastructure and improving the quality of life for all Americans. By targeting Federal resources for specific purposes, this bill would also help improve congestion in major urban areas across this country by creating a safer, more efficient infrastructure for the millions of Americans who use our roads, highways, railways, and bridges each day.

As we continue to move forward with TEA LU, it is easier to think about what may have been. Yes, it would have been nice to have a $375 billion bill; but because of this administration's opposition to raising the highway user fee, this is the hand that we have been dealt. Right here and right now, this is the most practical way to maintain highways, roadways, buses and subways, and protect the safety of the American public.

This bill is a significant step in the right direction. It is a step towards improving our communities, a step towards helping folks spends less time commuting and more time with their families and loved ones; it is a step towards safer travel; and it is a step towards cleaner air. I hope you will take this step with me and lend us your support.

I urge my colleagues to support H.R. 3550, the Transportation Equity Act: A Legacy for Users.

Mr. PETRI. Mr. Chairman, I yield 3½ minutes to the gentleman from east Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in strong support of this very important legislation, which will improve our transportation infrastructure and create millions of jobs, and I want to thank the gentleman from Wisconsin, (Mr. PETRI) for yielding me this time.

I especially want to commend the chairman, the gentleman from Alaska (Mr. YOUNG); chairman of the subcommittee, the gentleman from Wisconsin (Mr. PETRI); and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), all very close friends of mine, who are to be commended for their great leadership on this bill.

Mr. Chairman, this is the biggest jobs bill that we will vote on in this Congress. I am sick and tired of seeing millions of American jobs go to other countries. All over this Nation there is tremendous concern about this. We are spending hundreds of billions in other countries. This bill is one that puts our own people first once again.

But it is more than just a jobs bill, Mr. Chairman. This is a safety bill. I chaired the Subcommittee on Aviation for 6 years. Unfortunately, there are more people killed on our Nation's highways in just a little over 4 months than in all U.S. aviation accidents combined since the Wright Brothers flight of 1903. This bill is one that will make our Nation's highways much safer and will save many thousands of lives.

We need to take terrorism very seriously, Mr. Chairman; but we are spending hundreds of billions on terrorism, when we count up all the military and Federal, State and local spending, and what all the private companies are doing on security. Yet, as the very respected National Journal magazine pointed out a few months ago, people are thousands of times more likely to be killed in a car wreck than by a terrorist. Surely we can spend $45 billion a year on our Nation's highways and our National Transportation System.

This is an efficiency bill. One leading national magazine said recently, "Congestion costs the Nation about $67 billion a year. Americans waste 3.6 billion hours and 5.7 billion gallons of gas sitting in traffic, all at an average cost of $1,160 per commuter per year."

This bill will save huge amounts of tax dollars by speeding up the time in which projects can be completed. Everything in our economy, Mr. Chairman, everything in our personal lives depends on, or is affected by, a good transportation system.

I am especially pleased that in this bill there is language promoting technology to decrease or cut down or eliminate the time that trucks have to idle at truck stops. I also want to work on the language, though, that is in the bill concerning parking areas for trucks along our Nation's interstate highway system so that those parking areas do not compete against companies in the private sector.

No one on our committee, Mr. Chairman, wants to pave over the entire country, but vehicle miles traveled keeps going up at three to five times the rate of our population growth. This means we have to improve and widen our highways.

Paul Craig Roberts, the nationally syndicated conservative columnist wrote recently: "Before we can reconstruct the rest of the world, we need to stop deconstructing our own country." I have nothing against any other Nation, but this is one bill that is pro-American. It is not only pro-American, it is pro-jobs, pro-environment, pro-safety; and I urge its passage because this is one of the best things we will be able to do this year in this Congress.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr.Holden), a distinguished member of our committee.

Mr. HOLDEN. Mr. Chairman, I want to take this opportunity to commend the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), and the chairman of the subcommittee, the gentleman from Wisconsin (Mr. PETRI), and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), for all their hard work in bringing this legislation to the floor.

This legislation is very important to my home State of Pennsylvania where we have more road miles to maintain than our friends in New Jersey, New York and New England combined. But, Mr. Chairman, this is not only important to Pennsylvania; it is important to every one of our congressional districts where we have congestion problems, safety hazard problems, and economic development needs and concerns.

I want to thank my leader and my friend, the gentleman from Minnesota (Mr. OBERSTAR), for personally not once but twice coming to my congressional district and looking at the problems we face, where we are, in Harrisburg, Pennsylvania, looking at that unbelievable amount of truck traffic that comes through every day; and in Lebanon, Pennsylvania, where we have the Norfolk Southern coming through 50 times a day, not only disrupting traffic but also the safety concerns of having ambulance crews and fire companies being able to address concerns in the city; and in Schuylkill Haven, Pennsylvania, where there is a bike path that has been on the books for 2 decades.

This legislation will allow us to move forward on projects like that. So I want to commend the big four for all their hard efforts in bringing this legislation to the floor. And as was mentioned by the gentleman from Minnesota (Mr. OBERSTAR) and by the gentleman from Tennessee (Mr. DUNCAN), not only is this good for our highway and transit systems, this legislation is good for our economy.

This legislation truly is a jobs bill, and I commend the big four for all their hard efforts.

Mr. PETRI. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. LATOURETTE).

□ 1100

Mr. LATOURETTE. Mr. Chairman, I want to give a piece of praise this morning to the gentleman from Alaska (Mr. YOUNG), the gentleman from Wisconsin (Mr. PETRI), the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) for the mighty work and just the first names of some people on the staff: Levon and Liz and Lloyd and Fraser and Graham and some other people that I will forget because they literally had to write this bill three, four, five different times from where it started at $375 billion.

So when the gentleman from Minnesota was talking rightly about the contributions that the gentleman from Illinois has made, the staff of both the majority and minority have done yeomen's work to produce this piece of legislation, a piece of legislation that is desperately needed in the United States.

But I do feel constrained this morning to say despite the need, despite the need that everybody on the committee recognizes, this bill has been bungled, not bungled by the able leadership of the committee but it has been bungled. By not getting a signal to reauthorize this legislation when TEA 21 expired last September, AASHTO tells us that we have cost the economy over $2 billion, and 90,000 jobs that could have been created have not been created.

The failure to make this bill $375 billion, and the gentleman from Minnesota was right on the money. This is not a number that the committee made up. Those numbers came from the Department of Transportation as the need that exists in this country.

When I go home to Ohio, a lot of people say to me, I see that you're spending $18.4 billion this year alone to rebuild the infrastructure of Iraq. That is again something that a lot of people in this House think that we need to do after what we have done in Iraq. We are begging, trying to squeeze out $18 billion over 6 years to build roads in the United States. My constituents do not understand that and they have difficulty and, quite frankly, so do I.

There was a lot of talk yesterday in our Republican Conference and criticism of Chairman Young that this bill does not embrace Republican principles. I have said it on the floor before: Abraham Lincoln in 1865, I just saw the special on the History Channel, got the guy that ran the Ames Shovel Company in Massachusetts to build the transcontinental railroad. That is a Republican principle. Dwight David Eisenhower was the spearhead behind the national highway system that we enjoy and use today for national defense. Richard Nixon, Ronald Reagan, George H.W. Bush all recognized, and it is not to say anything about Democratic values, that Republican values in this country are based upon a strong defense and a strong infrastructure in this country.

We are told that 32 percent of our major roads are in poor condition and that 26 percent of our bridge infrastructure is totally deficient. Last year, 1,400 Ohioans died on the roads in Ohio. One-third of those deaths, Mr. Chairman, are directly attributable to poor roads and roadside hazards. So why some bean counters have determined that we can do this bill on the cheap when the infrastructure needs of this country are crying out for repair is beyond me.

But, having said that, again the gentleman from Alaska, the gentleman from Minnesota and the chair and ranking member of the subcommittee have done their level best. This is a good bill, it will help us, but we need about $100 billion more to get the job done.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. Millender-McDonald).

Ms. MILLENDER-McDONALD. Mr. Chairman, let me rise to thank the chairman and the ranking member for their leadership and also the subcommittee chair and ranking member. I am talking about the gentleman from Alaska (Mr. Young), the gentleman from Minnesota (Mr. Oberstar), the gentleman from Wisconsin (Mr. Petri) and the gentleman from Illinois (Mr. Lipinski). These are the leaders that put this bill on the floor today. They are the ones who have heard from the mayors and the county supervisors about the congestion that is on our roads. They are the ones who have brought forth this very principled and balanced bill.

This bill speaks to, and the initial bill that we had for $375 billion, Mr. Chairman, did speak to recommendations and needs, assessments, provided by the Department of Transportation. That first bill was based on the administration's own numbers. But this bill speaks to the traffic congestion that costs American motorists some $67.5 billion a year in wasted time and fuel cost. Americans spend an additional 4.5 billion hours a year stuck in traffic.

This bill addresses the immediate needs of our communities. Our communities have spoken loud and clear: They want congestion relief. This bill also speaks to projects of national and regional significance.

I want to thank the leadership again, the chairman and the ranking member, the gentleman from Wisconsin and the gentleman from Illinois, of the subcommittees, for their leadership in bringing this particular language to the bill. This bill and that language, Mr. Chairman, speaks to a new program that will go a long way in relieving our Nation's congestion on the roads and those choke points that will help to reduce that congestion in our cities and in our communities.

This program and funding addresses the increasing importance of moving goods safely, securely and efficiently among our freeways and highways. It also speaks to the mobilization of people. This bill is good for not only communities, mayors and county supervisors but also for businesses. This is why the U.S. Chamber of Commerce, the Conference of Mayors and all are supporting this bill as it is. They recognize that when we go to conference, there will be some adjustments made, but they want this bill to go out as it is because it represents all that is necessary for a balanced approach in the national scope of providing relief from congestion.

This bill also speaks to I–710, which is a high-priority corridor in California. Fifteen percent of our Nation's total commerce of inbound and outbound containerized goods are moved along I–710. This is truly a high-priority corridor.

This is also a jobs bill, Mr. Chairman, because we recognize that over 3 million jobs have been lost. This bill creates the type of opportunities for jobs. What else can we say? This is a win-win bill, and this bill should pass off the floor.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. Quinn).

Mr. QUINN. Mr. Chairman, I want to join the others associating myself with the remarks of the gentleman from Ohio (Mr. LaTourette) in thanking the gentleman from Alaska (Mr. Young), the gentleman from Wisconsin (Mr. Petri), the gentleman from Minnesota (Mr. Oberstar) and the gentleman from Illinois (Mr. Lipinski) for actually trying to hit a moving target these last months. That is not an easy thing to do here in Washington.

But this bill, as important as it is, and those remarks and numbers that the gentleman from Ohio just offered could not be truer in Buffalo and western New York.

Mr. Chairman, when I came here I followed a great public works Member, Henry Nowak, who understood the importance not only in western New York but all across the country of public works projects. He taught me that a public works project and the things that we do or are trying to do in this bill is a double win. It is almost like chopping your own firewood. You chop the firewood, and you are warmed. You are also, when you use the firewood, warmed.

These public works kinds of projects are a double win. We as country, as a nation, get the projects; and we also get jobs that go with those projects. At a time when our country talks about losing jobs more and more, this is the jobs bill of this session of Congress. It is not the number that we wanted. It is not high enough. A little give and take in compromise here I believe will get us to where we want to be for this part of the Congress, and I am hopeful that we renew ourselves next year to get to this kind of planning that is necessary all across the country.

When we talk to our local and State representatives, they know they need 5 and 6 years to plan some of these important projects. It gets the money out.

I do want to say a word, if I might, Mr. Chairman, about the railroad situation. As the chairman of the Subcommittee on Railroads and my partner, the gentlewoman from Florida (Ms. Corrine Brown), we know that we are not going to have a discussion about the rail issues in this bill today.

We had some plans in the manager's amendment to talk about the R-RIF program, a renewed loan program to get loan money out to railroads to better put themselves in a position for the railroad business of the country. We also talked about the short lines and some infrastructure money for them. No word is going to be mentioned here today in the bill on the floor about Amtrak. These are all important projects for all of us in the House and across the country.

I am hopeful, as the gentlewoman from Florida and I continue our work on the Subcommittee on Railroads this year, to work with both sides of the aisle and our counterparts in the Senate to get a bill where we can talk about rail infrastructure and railroad needs.

Certainly we have spoken at all of our hearings about a backup to our airline industry. We have talked about the need for rail to take congestion off the roads and away from the airports. Whether it is passenger or freight, the railroad system in this country desperately needs some help. We, although silent on it here today and tomorrow in this discussion, fully expect to be engaged in every bit of the process.

Mr. Chairman, I want to thank both sides of the aisle for their help. We look forward to our continued work as probably the most bipartisan committee in the House of Representatives to get the job done.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER), our resident urban planner and thoughtful member of this committee.

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak in support of what is the most important jobs and environmental bill of this session. Because of the structure that has been maintained under ISTEA, this legislation also is the most important tool for the preservation and revitalization of our communities.

This is an opportunity to give a balanced approach. In some cases, it is a need for repairing crumbling bridges. In some cases, it is new roads. In others, it is bike paths, transit, street cars, historic preservation. This legislation has a wide range of options that is available to America's communities, and it gives them the flexibility to use those tools.

Sadly, what it does not give them is enough resources really to meet the needs that have been identified by this administration and which have so ably been championed by the leadership of our committee.

There has been a lot of talk about the costs that are involved. We have documented time and time again that the American public is paying the price right now with increased pollution, with delays as a result of congestion, with load limits on bridges, with the lost opportunity for the economy, as our friend from Ohio mentioned, of several billion dollars lost just in the delay that we have reached to this point.

We all know that this investment in our communities is going to spur additional private sector and public investment. This bill will pay for itself many times over if we are only able to move it forward.

What we have seen, Mr. Chairman, has been the hard choices. In the last 24 hours there has been a great deal of controversy by some. In some cases, they are saying their States do not get back enough. In others, they are concerned that there are specific things that are not met. That is a product of not having a bill that is right-sized.

Our committee leadership brought forward and worked very hard to balance the safety, the equity, the environment and Members' requests. The gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Alaska (Mr. YOUNG), the gentleman from Illinois (Mr. LIPINSKI) and the gentleman from Wisconsin (Mr. PETRI) worked very hard to weave it together. But the fact is, at $275 billion, it is a very tenuous prospect and it may well crumble if we are not careful.

It was wrong for the President of the United States to draw a line here that he is going to veto his very first bill. I, frankly, do not think he will. It would be a tragedy for our communities, and I know that many of my Republican friends do not think that that is appropriate. I note that the Senate bill at $318 billion passed with over 70 votes. I do not think that this is the place to try to make the claim for fiscal responsibility. I have stood in this well and I have watched this House move forward legislation that frankly were not America's priorities. It is the wrong time to do that now.

I would suggest that this is a vote for America's future. We should keep faith with the broadest coalition of interests we have seen, from the Sierra Club to the Chamber of Commerce, from the bicyclists to the truckers, pass this bill and work to right-size it in the future, not bring it down.

Mr. PETRI. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I rise today in strong support of H.R. 3550, the Transportation Equity Act: A Legacy For Users, or affectionately known as TEA LU.

I want to begin by extending my appreciation to the chairman of the full committee as well as the ranking member for their work in this extremely important bipartisan piece of legislation. They have fought the good fight, and here we are today. We need to pass this important legislation to improve our transportation system.

I would like to remind my Republican colleagues who may have some questions about this bill, whether we should pass it or not, that the Founding Fathers charged the Federal Government, the United States Congress, to oversee interstate commerce, to encourage interstate commerce. That is what this bill is all about, interstate commerce, improving the efficiency of our economy.

In addition, as the gentleman from Ohio reminded us, this is a core principle, a core legacy of the Republican Party in this country, from Abraham Lincoln and the transcontinental railroad, to Teddy Roosevelt and the Panama Canal, Eisenhower and the interstate highway system. This is extremely important for us as Republicans. We can be proud to pass this and improve our country and improve this economy.

The modern highway and transit system maps this Nation's economic strength as it weaves through our cities and small towns. However, heavy traffic and increased congestion have taken a heavy toll on our highways, bridges and transit systems. As stewards of our highways, we cannot wait any longer to fix transportation systems that are listed as substandard or poor or bridges that are considered structurally deficient.

As a Pennsylvanian who represents a broad geographic region, I know the issue of transportation is critical to our constituents. I hear it each day and every day from small business owners, from large employers and from even average family members who sit on the front porch and watch the traffic back up over the horizon. Our roads, highways and transit systems link our cities, businesses and lives to one another. To let them deteriorate is unjust to any one person who uses them.

□ 1115

The need, Mr. Chairman, is clear. While I am disappointed that we were unable to pass a larger bill, I believe that the legislation before us today will go a long way in alleviating the troubles that plague our highway and transit systems. Over the 6-year life of TEA LU, it will provide $232 billion in funding for highways and highway safety, $52 billion for our transit system. These funding levels take critical steps to ensuring our Nation's infrastructure remains strong.

A key component of this bill is the fulfillment of a longstanding need to improve safety, and it takes steps to combat the 42,000 lives that are lost each year on our Nation's highways.

As a Member who represents a rural area of Pennsylvania, I am very pleased that we are including a new program to upgrade and make improvements to roads and rural areas where over 60 percent of auto fatalities take place. This legislation includes important measures to relieve congestion on our Nation's highways. The investment of our transit system not only strengthens transit, but also encourages the use of mass transit to relieve congestion. It also creates a program to help fund smaller transit programs, offering States more options in improving their transit systems.

To further relieve bottle necks on our roads, TEA LU contains innovative real-time and intelligent transportation initiatives that allow States to monitor and improve traffic flow and enhance safety. Building on these innovative programs, I also encourage support of an amendment that will be offered by the gentleman from Minnesota (Mr. KENNEDY) to create voluntary toll lanes, or fast lanes, which pay for new lanes and highways to increase capacity. Drivers who choose these fast lanes will be charged electronically, eliminating the toll booths that add to the backups and congestion.

And finally, I was very pleased that TEA LU funds Maglev. Maglev is an exciting new transportation technology that is a vital next step in the future of our Nation's transportation system. Additionally, funding for Maglev is an essential step in addressing some of the most pressing needs facing our domestic steel industry by creating the demand for steel. For instance, a typical Maglev project would require 4,000 tons of plate steel per mile for the tracks.

Mr. Chairman, this is a good bill and a solid step in the right direction, providing State DOTs with the long-term stability they need to plan for projects. I want to again thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Wisconsin (Chairman Petri), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Illinois (Mr. LIPINSKI) for their tireless efforts and leadership on behalf of American motorists, passengers, and transit systems. We need to pass this bill to increase the efficiency of our economy, to create jobs, and improve safety. I urge passage.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Chairman, I rise in support of this legislation. I concur with many of the previous comments about the need for greater investment than what this legislation calls for, but this is such an important step. I also rise to praise the gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Illinois (Mr. LIPINSKI), the leadership of this committee. They have operated in the great tradition of the Committee on Transportation and Infrastructure, working together to pursue a bipartisan outcome. I am proud to be associated with this committee because of that type of leadership. I think everyone in Congress could take a good cue from taking a look at the behavior exhibited by leadership of this committee.

This is a program that represents an investment. People talk about whether this is increased spending or whatnot. The reality is when we spend money on infrastructure, we are investing. We are investing in good jobs, and we are investing in our economy. And in an increasingly globalized world where we feel the pressures of globalization and competition from around the world, the notion of investing in our own transportation infrastructure and making our economy more efficient in the way we move people and the way we move products seems to be all the more compelling in our current circumstances. That is what this legislation helps to do.

There are significant and important needs in this country to invest in this type of infrastructure to allow our economy to realize those efficiencies, to put the United States in a better position to compete with the rest of the world.

We hear so much these days about job loss. We hear so much about outsourcing. We hear so much about globalization. Vote for this bill today because it puts us on a path to take on those issues. I wish we were at the higher number, a majority of the Committee on Transportation and Infrastructure, I suspect, wishes we were at that number as well. But this is an important first step and the legislation will give us opportunities in the future to address adjusting that level of investment in the future. But today is the day, with this bill in front of us. I encourage all of our colleagues to support this legislation.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding me this time. And I too want to extend kudos to the gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Illinois (Mr. LIPINSKI), and for that matter members and staff on both sides of the aisle who sit on the Committee on Transportation and Infrastructure. This has been a team effort personified.

I am an avid supporter, Mr. Chairman, of H.R. 3550, the Transportation Equity Act: A Legacy for Users; and I am pleased it is now being considered on the floor today.

I realize that Members have worked tirelessly at the end of a long day, but at a time when we have much work to do to address our Nation's critical infrastructure, while this country is indeed in dire need of upgrade and repair, this legislation is also a jobs bill; and I think some people casually overlook that fact. And the fact that it is a jobs bill will offer new opportunities to many of our Nation's recently unemployed workers. I want to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Wisconsin (Mr. PETRI), with whom I have talked concerning an ancillary problem which involves the donor States of which North Carolina is one, among several others. First of all, I thank them for recognizing the problem, and I hope that we will be able to resolve this problem which continues to plague donor States such as my home State.

This bill, Mr. Chairman, as I have said before the full Committee on Transportation and Infrastructure, has jobs written all over it. It is an important step to address the problems that are a direct result of unsafe bridges and highways that continue to deteriorate. Mr. Chairman, unsafe bridges and unsafe highways abound in this great country from border to border, from ocean to ocean; and improvements must be forthcoming.

This bill, it is my belief, will have the assurance that vehicular traffic will be allowed to flow more freely, resulting in the delivery of people and goods at their respective destinations in a safe and timely manner. I again thank the gentleman from Wisconsin, the chairman of the subcommittee, for yielding me this time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, before I begin my remarks, I would like to also add my voice to thanks for the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), ranking member. Sometimes I think they represent my community as well as I do, and I appreciate the help; also the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI) for their leadership in getting this bill to the floor today.

This bill is one of the most important pieces of legislation that we will vote on in this Congress. While the amount is significantly less than what I would like and what I believe the country needs, I rise in strong support. This bill will alleviate congestion, address air quality needs, and improve the quality of life in all of our communities. My district, the Las Vegas Valley, is the fastest growing community in the country, and we are struggling with the needs for new roads and highways and more transit options. Without this investment in our transportation programs, Las Vegas will be unable to complete the projects needed to keep traffic moving and to keep our commuters safe.

Sitting in traffic takes precious time from families spending time together, and it forces businesses to pass along higher costs for goods and services, and it adds to air pollution problems as drivers sit stuck in traffic wasting gas and money. Without this bill we will also increase the risk to drivers as too many cars crowd our roads causing accidents to rise. Increased funding for pedestrian overpasses, new traffic safety devices, and information systems to alert drivers to dangers ahead are all investments in saving lives.

And finally, Mr. Chairman, this is a jobs bill. In the past 3 years we have seen the highest job loss in this Nation since the Depression. Today we have a chance to do something about it. For every billion dollars invested in highway and transit programs, we stand to create 47,000 jobs, real good-paying jobs. This is 12,500 jobs in my home State of Nevada.

I cannot emphasize the importance of this particular highway bill. I urge all of my colleagues to join me, join with the people of the State of Nevada, and let us vote for this legislation with great enthusiasm.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, once again I want to voice the strong opinions of the fair coalition in my home State of New York that we preserve the highway equity established in TEA 21. Transportation is one of the only programs where my State gets back from the Federal Government more than it contributes in taxes. Every year New York sends $20 billion more to Washington than it receives back in various Federal assistance programs. That is a fact. In this bill we have to strive to be fair. What is fair is that we preserve a needs-based highway and transit program and create a stronger integrated national transportation system.

New York's highways and transit infrastructure serve the entire Nation through its roads and its ports and its rail facilities and its airports. However, our infrastructure is aging, and much of it needs to be repaired or replaced. With 33 percent of the Nation's transit riders, New York receives only 14 percent of the total transit funding. We simply cannot afford any changes to a formula that would give us even less. We have Federal support capped at 10 percent for our bridges; yet we have 20 percent of the identified national need.

As a result, the most critical feature of the bill is that we make no immediate changes to the current minimum guarantee of 90.5 percent. If the overall level of funding does not remain at its current level, it would be unfair to New York and many other States.

Next I want to thank the T&I staff for working so hard with my staff to include language in the manager's amendment to support efforts to reduce wildlife vehicle collisions. In America last year, accidents involving wildlife took over 200 lives. It cost more than $2 billion in property damage and killed over a million game animals. In many parts of the country, cars are killing more game than hunters. So I look forward to continuing to work on conservation and wildlife measures with my colleagues.

Finally, I want to voice my support of the House language governing charter service. The language helps clarify charter service rules. Without this, all across America providers of transportation services including school bus contractors will be irrevocably harmed.

Last but not least, while this is a massive infrastructure bill to take care of identified needs across this Nation, it is also a bill that concentrates on my favorite four-letter word, and do not get nervous. People can use it in polite company. This is a jobs bill. This will get more Americans back to work, good pay, good benefits, doing things that all America needs.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON), our committee resident legal scholar.

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time. And I thank the so-called big four, the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Illinois (Mr. LIPINSKI), who stood tall and strong for this bill. We do have a stripped-down bill fiscally. Although they took the number, the $375 million number, from the Department of Transportation which regarded it as the minimum number for our infrastructure this year. One would think that everybody would rush forward to embrace that number 2 years into a jobless recovery. Nevertheless, I strongly support this bill. It must, in fact, be passed. It is full of good provisions. I particularly commend the minority business section and the training to take advantage of minority businesses. There are many new sections as well.

I want to concentrate on one issue, the issue that drove African Americans and people of color to the polls in 2000, and that was racial profiling on the roads of the United States bought and paid for by the U.S. Congress. It is the last remaining widespread, overt and intentional discrimination in our country.

□ 1130

Racial profiling is a violation already of title VI of the 1964 Civil Rights Act, because it means that the government is subsidizing discrimination. That is why there have been so many successful lawsuits in the States. It is an unconstitutional violation of the 14th amendment, because it is carried out by police officers.

The President understood this. This is why he instructed his own Justice Department to issue guidance on racial profiling for Federal officers. It is excellent, tough guidance. I asked for the same in this bill.

I regret we were not willing to do for the States what the President has done for the Federal service. I wrote a provision that would have been parallel to what we have done with speeding and drunk driving. Nevertheless, we have a grant provision that encourages the States to create racial profiling laws and allows the States that do so to get funded to develop and maintain data and do law enforcement training. This is a tough provision. States must show that they have tough racial profiling laws.

It also is time that we had racial profiling as part and parcel of our civil rights laws. That is why I am a cosponsor of the bill introduced by the gentleman from Michigan (Mr. CONYERS) that would do just that. (H.R. 3847)

Meanwhile, this is the first racial profiling provision in Federal law. Every Member of this House should be proud we were willing to put it in this bill. It is an important start.

Mr. PETRI. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I rise in strong support of this legislation coming up this afternoon, the highway transportation bill. I implore that my other colleagues in the House also support this measure.

One of the sticking points here is the highway formula about donor States and donee States. I would like to remind my colleagues, Maryland is a donor State through the formula.

I would like to remind my colleagues that everybody that goes through your State, from near or very far away, pays those gasoline taxes, pays those tolls, et cetera, et cetera. So we as Americans contribute in a collective way all across this country to ensure that the interstate highway system provides sufficient opportunity and avenues to continuously stimulate our dynamic economy.

There are some questions about the formula here, but those questions I think should not hold up this important piece of legislation.

Our truckers, the people that ride trains, the cargo that go across this country on trucks and trains, our commuters, our salesmen, our vacationers, our explorers, they travel across the Nation's highways, which is the foundation for the infrastructure of this Nation. I hope my colleagues will vote for this piece of legislation.

There is one provision that is in the Senate version of the highway bill that is not in the House version of the highway bill, and that is a 2 percent set-aside to understand how you can engineer, in other words, do it right the first time, a highway, so you do not contribute to the pollution of the Nation's waterways, which is also important for the infrastructure, the environmental infrastructure, of this Nation.

So I would like to work with the House and the Senate and will work with the chairman of the Committee on Transportation to ensure that that Senate version provision, the 2 percent set-aside to engineer our highways, to reduce or eliminate storm water runoff into the Nation's water system, remains intact.

This is a bill that deals with human infrastructure, and we have an opportunity to take the first big step to ensure that human infrastructure is compatible with nature's infrastructure.

Mr. PETRI. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Chairman, I thank the gentleman for yielding me time. It is a pleasure to be on the floor this morning to talk about some of the advantages that are in the 6-year reauthorization of our transportation funding.

One of the innovations that the committee came up with that I think is remarkably farsighted is setting aside some of the Highway Trust Fund money, in particular funds that will be available for grants to States to participate in building highways of national significance. These are highways that could be very important for trade in our hemisphere, they could be very important for easing congestion, they could be very important for moving commerce from one region of the country to other. But in each case they will be highways that truly have national significance.

What is just as important is these highways, in the main interstate highways, probably would not be built were it not for the availability of funds in these particular categories that are set up by this bill. Because if the funding were not available through these categorical grants or these categorical funds, the States individually would not be able to build these highways out of their regular annual allocations.

So I think that is a very innovative, far-sighted approach to solving the problem of continuing to improve our highway infrastructure, particularly in terms of those highways which will add significant economic benefits to not just one particular region of the country but to the whole country.

So as we move forward in this age of increased global trade, of increased need to create jobs and grow our economy, these highways of national significance are going to be extremely important in moving us forward.

So I commend the committee for their far-sightedness in making it possible for these highways of national significance to be built in the next 6 years; and then, of course, I would expect this to be continued until we have quite a more extensive network of highways across our Nation, which will enable us to grow jobs and grow our economy.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding me time.

Our transportation system continues to face tremendous challenges. Tens of thousands of lives are lost each year on our highways. More drivers are driving more miles, causing severe congestion. An aging infrastructure is putting a strain on State and local transportation budgets. The public rightly demands safer, less congested roads and more transportation choices.

Fundamental improvements to the entire transportation system depend on solid research. Solid research will translate to saved lives, saved money and saved time by providing the tools and information needed to produce solutions. How many of us have used an EZ Pass to breeze past congestion at a toll booth? Or been gently reminded to stay on the road by a rumble strip?

Examples abound of these sorts of benefits gained by transportation research, such as research on pavements focuses on manipulating substances at the molecular level to create materials that are more durable and last significantly longer. This saves money, because more durable pavements need less maintenance and are replaced less frequently. It also saves time, reducing construction zones that are a major cause of congestion.

Furthermore, research on transit focuses on how to make transit systems more cost-effective and efficient. Better transit systems give people more choices and save time by reducing the number of cars on the road.

Research in the social sciences focuses on understanding how future changes in where people live and work will affect future transportation usage, so that planners can make early, smart investments to ensure that we meet future transportation needs.

As chairman of the Subcommittee on Environment, Technology, and Standards of the Committee on Science, I introduced H.R. 3551, the Surface Transportation Research and Development Act. This legislation, which was approved by the full Committee on Science on February 4, increases stakeholder input, expands competition and peer review of research proposals, and ensures greater accountability so that this research actually supports the goals of our transportation system.

I am pleased that the gentleman from Alaska (Chairman YOUNG) and his staff have worked very closely with me and my staff to incorporate much of the Surface Transportation Research and Development Act and its intent into TEA LU. While I wish we could have provided more funding for research, I must especially thank the gentleman from Alaska (Mr. YOUNG) for ensuring that, as funding for TEA LU was reduced from $375 billion to $275 billion, research was treated fairly. That was not the case 6 years ago during consideration of TEA 21.

I especially wanted to thank the gentleman from Alaska (Mr. YOUNG) for his pledge to work with me to continue to improve the research title and its funding as we discuss this issue with the Senate.

Mr. Chairman, when most of us think about the highway bill, we ten to focus on funding levels for our States and projects. Few of us think about transportation research. But transportation research is fundamental to all aspects of our transportation system. How many of us have used an EZ Pass to breeze past congestion at a toll both? Or have been gently, or not so gently reminded to stay on he road by a rumble strip? How many of us have benefited from pavements that are quieter and last longer than they did 30 years ago? Every driver and passenger is better off today because of past investments in transportation research and technology development.

Our transportation system continues to face tremendous challenges. Tens of thousands of lives are lost each year on our highways. More drivers are driving more miles, causing severe congestion. An aging infrastructure is putting a strain on State and local transpiration budgets. Changing patterns of where people live and work demand innovative planning for our future needs. The public rightly demands safer, less congested roads, and more transportation choices realizing that we can't simply build more roads to address all of these challenges, especially in urban areas, we must look for new ways to improve the overall system.

Fundamental improvements to the entire transportation system depend on solid research, Solid research will translate to saved lives, saved money and saved time by providing the tools and information needed to produce solutions. For example:

Research on pavements focuses on manipulating substances at the molecular level to create materials that are more durable and last significantly longer. This saves money, because more durable pavements need less maintenance and are replaced less frequently. It also saves time, reducing construction zones that are a major cause of congestion;

Reseach on operations focuses on improving the design of dangerous merges and intersections. This research saves lives by providing planners the information to design safer roads. It also saves time by reducing accidents, which cause congestion;

Research on transit focuses on how to make transit systems more cost-effective and efficient. Better transit systems give people more choices, and save time by reducing the number of cars on the road; and

Research in the social sciences focuses on understanding how future changes in where people live and work will affect future transportation usage, so that planners can make early, smart investments to ensure that we meet future transportation needs at lower costs.

As chairman of the Environment, Technology and Standards Subcommittee of the Committee on Science, I introduced H.R. 3551, the Surface Transportation Research and Development Act. This legislation, which was approved by the full Science Committee on February 4:

Provides necessary but prudent increases to transportation research funding;

Increases stakeholder input to ensure that the people who must implement and use the research agree that it is worthwhile and applicable;

Creates the highest quality research through increased competition and peer review; and

Ensures greater accountability so that this research actually supports the goals of our transportation system.

I am pleased that Chairman YOUNG and his staff have worked very closely with me, and my staff, to incorporate much of my legislation and its intent into TEA–LU. While I think we all agree that we wish we could have provided more funding for research, I must especially thank Mr. YOUNG for ensuring that as funding for TEA–LU was reduced from $375 billion to $275 billion, research was treated fairly. That wasn't the case 6 years ago during consideration of TEA–21. And I want to thank Mr. YOUNG for his pledge to work with me to continue to improve the research title and its funding in conference as we discuss these issues with the Senate.

Mr. PETRI. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. On behalf of the Committee on Ways and Means, the gentleman from Louisiana (Mr. MCCRERY) and the gentleman from North Dakota (Mr. POMEROY) are recognized for 15 minutes each.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today this transportation bill contains a number of tax-related provisions, and I am going to summarize those very quickly. But the thrust of what we are doing here with these tax provisions, and I think the most important thing to point out, is that with these changes we have added $18 billion over 6 years to pay for highway funding here in the United States, and that was a very important part of getting the number high enough so that we could do at least the basic necessities through the transportation bill that is on the floor today.

So I want to commend my chairman, the gentleman from California (Mr. THOMAS), for working with the chairman of the full Committee on Transportation, the gentleman from Alaska (Mr. YOUNG), in arriving at these approaches to increasing the revenues going into the Highway Trust Fund. I will just briefly summarize what those are.

The tax provisions of this bill extend the authority to spend money out of the Highway Trust Fund and updates the purposes for which that money can be spent.

It extends the gas tax through 2011 at current rates and maintains the current law deficit protection rule that requires a 2-year cushion of reserves in the Highway Trust Fund.

It increases Highway Trust Fund receipts by $18 billion over 6 years to pay for the highway spending authorized in this bill. Receipts are raised by, number one, reducing the fuel tax evasion that goes on around the country; number two, crediting the Highway Trust Fund with the full gas tax; and, number three, by restructuring the ethanol subsidy so that the trust fund is made whole, so the trust fund does not lose money to the general fund as a result of the ethanol subsidy.

The bill also extends the ethanol subsidy through 2010.

It simplifies and reforms the rules relating to certain highway excise taxes.

It provides alternative minimum tax relief, particularly for small businesses and farmers.

□ 1145

Finally, it extends the enhanced section 179 expensing for small businesses, allowing them for 2 more years to expense up to $100.000 of purchases for use in their small business.

So, Mr. Chairman, those are the essential provisions of the tax portion of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. POMEROY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, included in this bill is a provision drawn from H.R. 3119, the "Renewable Fuels and Transportation Infrastructure Enhancement Act of 2003." This is a proposal which I introduced along with my friend and colleague on the Committee on Ways and Means, the gentleman from Missouri (Mr. HULSHOF). I am very pleased that this provision has, through this action, been included in this legislation.

The bill restructures the ethanol tax incentive from an excise tax exemption to an excise tax credit, and it eliminates hundreds of millions of dollars of waste, fraud, and abuse by those blending gasoline with ethanol.

The provisions attributed to the ethanol tax incentive will add up to $14.2 billion in revenues to the Highway Trust Fund over the 6-year life of the transportation bill. As we wrestle with the size of the highway package, let us keep in mind this provision alone relating to ethanol is generating $14.2 billion in revenues.

Mr. Chairman, the provision is important for a number of reasons, but I want to especially mention the jobs that will flow from this highway bill. According to the U.S. Department of Transportation, each billion dollars spent on transportation and highway projects creates 47,500 jobs. Therefore, the ethanol proposal will create an additional 674,500 jobs, much-needed jobs, in this economy.

Separately, the ethanol industry itself is a significant generator of additional jobs for our economy. The industry has built 74 ethanol plants, created nearly 150,000 new jobs, 12,000 jobs in America's beleaguered manufacturing sector. In 2004 alone, the industry will add 22,000 new jobs and more than $1.3 billion to the gross output of the American economy.

The industry is going to continue to grow with this legislation. There are thirteen plants already under construction and dozens more in the final planning stage.

Further, as newly-drafted, this ethanol tax incentive will have no negative impact on the Highway Trust Fund. According to the U.S. Department of Agriculture, it will save the Federal Government more than $3.2 billion in lower farm program payments this year.

The ethanol tax incentive makes a particular difference with the creation of jobs in rural America. The one new 40 million gallon ethanol plant can expand the economic base of the local economy by $110 million, creating as many as 694 permanent new jobs throughout the entire economy and generating $1.2 million in new tax revenues for State and local governments. Beyond all of that, it increases the local average basis of corn by an estimated 5 cents to 10 cents per bushel..

Mr. Chairman, our Nation is suffering from a growing energy crisis, a stagnant economy where job development is scarce, particularly across rural America. That is why Congress's commitment to the increased production and use of ethanol is so important.

This brings me to my next point, the one issue where the gentleman from Missouri (Mr. HULSHOF) and I will continue to work, because this provision was left out of the bill. Other domestically-produced renewable fuels can and should have a role in our total fuel strategies as a Nation. To this end, I specifically encourage the inclusion of a new tax incentive for biodiesel, consistent with the agreement reached during the energy bill conference last year.

Together, ethanol and biodiesel can enhance the country's energy independence, increase domestic fuel supplies, reduce crude oil imports, reduce the U.S. trade deficit, and improve air quality. Together, the transportation and ethanol sectors are creating jobs across America. This bill establishes that good transportation policy and good energy policy can go hand in hand.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCRERY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. SHAW), a distinguished member of the Committee on Ways and Means.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

There are many good things in this highway bill. One that I would like to highlight at this particular point came out of the Committee on Ways and Means which I had the privilege to offer, and that was the provision that repeals the 4.8 cents-per-gallon of fuel receipts from the use in motor boats and small engine equipment be retained in the general fund. As a result, the full fuel tax will be credited to the Highway Trust Fund and subsequently transferred to the Aquatic Resources Trust Fund where it belongs. It increases the Aquatic Resources Trust Fund receipts by .7 billion dollars over 6 years.

Anyone who is concerned about the waterways, as I know the gentleman in the chair is certainly concerned about the Chesapeake Bay, these are very important dollars that are desperately needed in these areas; and I congratulate my colleagues on the Committee on Ways and Means for including that.

Unfortunately, when this comes up to a final vote sometime tomorrow on the highway bill, unless there is a dramatic correction in the way the funds are distributed, I will be forced to vote against it. In my 24 years in Congress, I have never voted against a roads bill. I have supported it; and, as a matter of fact, I very much enjoyed the time that I spent on the Committee on Transportation and Infrastructure.

The committee has been frustrated by the reduction in the funding that they had anticipated and, as a result, they have treated the donor States very, very unfairly. Right now, the donor States are guaranteed approximately 90 percent of the monies that they pay into the Federal fund. This is dramatically reduced. States such as Ohio, Tennessee, North Carolina, South Carolina, Georgia, Florida, Texas, California, Arizona, and that is not a complete list, are going to find themselves losing up to 25 percent of their gas revenue that will no longer come back into their State.

I would ask my colleagues from New York and Massachusetts to look carefully at what is going on here. Even though the New England States and many of those States will be gaining, it is still wrong. It is wrong. Those of us in these States that are donor States are all fast-growing areas. We have a desperate need for highways and improvements.

I would like to support this bill, and I will, if the gentleman from Georgia's amendment is passed by the House. I would be proud to stand by my colleagues and vote for this bill, even though we would only receive back approximately 90 percent of what we paid in, but at this time we just have to wait and see.

Mr. Chairman, I would ask at the appropriate time that all Members not only just consider their own district but also consider the fairness of their vote. This matter must be corrected, and I would hope that the committee would look very, very hard at the amendment that is offered by the gentleman from Georgia (Mr. ISAKSON) at the time that it is voted on, whether it be this evening or tomorrow morning.

Mr. POMEROY. Mr. Chairman, I have learned that my cosponsor on the portion of ethanol tax that is included in this bill, the gentleman from Missouri (Mr. HULSHOF), is not participating in debate this morning because he is attending, tragically, the funeral of his mother. We will all remember the gentleman from Missouri in our thoughts and prayers as he deals with this issue, even while the work of the Congress continues.

Mr. Chairman, I yield 4½ minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I want to thank my colleague, the gentleman from North Dakota (Mr. POMEROY), for yielding me this time.

I want to add my condolences also to our colleague, the gentleman from Missouri (Mr. HULSHOF). I had an opportunity to speak with him yesterday, and as well as he can be he is doing okay, and for the RECORD, we did win the basketball game for the gentleman from Missouri (Mr. HULSHOF) last night against the Georgetown faculty. He is a member of my team.

Mr. Chairman, I rise in support of H.R. 3550 as it currently stands but ask that we take into account the need to do some work in conference. Transportation is a crucial aspect of our economy. This bill is not only a transportation bill, but it is also a jobs bill. We must work together to put forth a comprehensive highway bill.

I want to give my colleagues some general economic facts. Maybe I will skip over a few.

According to the American Road and Transportation Builders Association, the transportation construction industry employs 2.5 million Americans and generates more than $200 billion in U.S. economic activity. A $100 million investment in highway and bridge improvements yields 4,750 jobs across the economy, with less than 25 percent of those in the actual construction field. This same level of investment also generates $200 million in family income, $54 million in Federal income tax and Social Security and more than $6 million in State and local tax revenues.

Assuming a similar effect in the great State of Ohio, the Ohio Department of Transportation's 2004 major new construction program totals $400 million, and that will support the employment of 19,000 people. The top 12 percent of Ohio's most congested freeway sections experience 45 percent of all freeway accidents in the State. The Ohio Department of Transportation's major new construction program is expected to total $400 million during the next several years, and it will help to improve many of these high-crash and congested locations and reduce accidents by between 30 and 50 percent.

There is one place right in my congressional district that is called Dead Man's Curve, and the reason it is called Dead Man's Curve is because the curve is so distinct that it has caused the death of so many truckers and regular passengers or drivers through my area.

The National Highway Traffic Safety Administration estimates that each critically injured survivor of an auto accident costs an average of $1.1 million in medical costs and lost productivity. Each fatality of a crash represents a loss of $977,000 in lifetime economic costs to society.

Ohio is only 35th in geographic size but has a disproportionately large transportation system. Ohio has the Nation's tenth largest highway network, the fifth highest volume of traffic, both car and truck traffic, the Nation's fourth largest interstate network, and the second largest inventory of bridges. Ohio has such a large transportation system because it is a populous State with a manufacturing economy, and it lies in the middle of America's population and economic centers.

Within a day's drive, Ohio is accessible to 50 percent of North America's population and 70 percent of North America's manufacturing capacity. Ohio's transportation supports the vast Ohio economy. If Ohio were a nation, it would be the world's 20th largest economy.

Ohio faces unprecedented transportation challenges. It must expand its 1960's transportation system to meet the 21st century demands. Ohio's vast interstate system was built from 1950 to 1960 to meet the demands of the 1980s. It is now 2004, and nearly all of our urban interstate routes are over capacity.

Mr. Chairman, I just want to close with this: This bill is so very important to the State of Ohio. We are a donor State. We want to see that this gets done. We need the jobs in Ohio, and I encourage all of my colleagues to work in support of this legislation.

Let us get to conference. Let us take care of the issues and get it done. Jobs are needed in Ohio.

Mr. MCCRERY. Mr. Chairman, I have no further speakers at this time, and I reserve the balance of my time.

Mr. POMEROY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, this bill is long overdue, and I want to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR). They have been working hard for a long time on the bill. The committee has put together the best bill they could, working within the constraints imposed upon them.

The obstacle here comes from an administration that is fundamentally opposed to government investment in the infrastructure. I fear that the President's opposition will further slow our economic recovery and put a brake on economic growth for years to come.

My hometown of Los Angeles has a well-earned reputation as the most congested region of the country, a status that it has held for many years. Each Angeleno wastes an average of 52 extra hours stuck in traffic each year, time that could be spent working or with their families. The overall economic costs of this congestion is estimated at $12.8 billion per year, just in the Los Angeles area.

□ 1200

That is close to $13 billion that could be better invested in business and job growth. Instead, it is being burned up in traffic.

Frustrating as it is for the people who live there, Los Angeles' congestion causes problems for the rest of America too. The seaports of Los Angeles and Long Beach are the first and second busiest container ports in the United States. More than 20 cents of every dollar of goods exported from the United States each year, and that is $42 billion of goods, passes through California ports every year. Getting these goods from American factories to foreign consumers is critical to our economic recovery. And the goods cannot get to the foreign consumers if they cannot get across the highways to those ports.

We need this bill. I am disappointed that the constraints imposed on us have prevented Congress from doing all it must do to improve our transportation infrastructure.

I urge full support of this bill.

Mr. McCRERY. Mr. Chairman, I have no further speakers. I yield back the balance of my time.

Mr. POMEROY. Mr. Chairman, I have no further speakers. I urge passage of this bill and yield back the balance of my time.

Mr. PETRI. Mr. Chairman, I reserve my time.

Mr. LIPINSKI. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon (Mr. DEFAZIO), the ranking member of the Subcommittee on Aviation.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman from Illinois (Mr. LIPINSKI) for his hard work on this bill. This bill will fund thousands of critical highway bridge and transportation projects across the United States, putting millions to work, maintaining and improving our critical transportation infrastructure. Unfortunately, it is not enough to both catch up with the maintenance backlog and make the needed capacity improvements.

It is not for lack of trying by the gentleman from Illinois (Mr. LIPINSKI) or the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), or the chairman or the gentleman from Wisconsin (Mr. PETRI), but at the insistence of the White House they insisted that the bill be reduced by $100 billion. That means thousands more weight-limited bridges across this country and detours; it means more congestion because the White House says we cannot afford to invest in America. That means 800,000 jobs a year that will not be created, 4.8 million over the life of the bill.

The White House also objects to the fact that this bill does not gut the environmental laws, so they have threatened to veto. If I were sitting in the White House and I presided over the lives of 2.8 million jobs, as has President Bush in a so-called jobless recovery, I would be a little bit more anxious to get out and cut ribbons for critical projects to put real Americans to work on real needs and create real jobs. But not this White House. They say they will veto the bill. Is it an April fool or are they just fools at the White House?

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Chairman, I would like to begin by commending the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR), as well as the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI), for their hard work, superb leadership, and commitment to bipartisan and sound transportation policy.

There is a great deal in this legislation for which to be proud. The bill protects the core transportation programs while creating new programs to fund projects of regional and national significance and to improve national corridors.

The bill also bolsters its requirements, recognizing that it is not feasible simply to build more highways. However, there is one area in which this bill is grossly deficient and that is funding. Let there be no mistake, the $275 billion bill before us today is not the committee's first choice. Rather, the committee first marked up a $375 billion bill, a level commensurate with the U.S. Department of Transportation's own estimation for the maintenance and improvement of our Nation's highways, bridges, and transit systems.

Unfortunately, that $375 billion bill has been shelved in response to the President's threat to veto any properly funded surface transportation bill.

Remembering how he so artfully pushed through sweeping tax cuts for the wealthy, I am appalled that he now practices a misguided form of fiscal discipline that undermines State and local efforts to enhance transportation infrastructure and that also thwarts job creation.

The Department of Transportation has determined for every $1 billion invested in Federal highway and transit spending, 47,500 jobs are created or sustained. It is daunting, then, to consider the impact that the $100 billion cut in TEA LU will have on job creation in the U.S. For all its promises, this legislation represents a lost opportunity to reignite the slow job growth that plagues our Nation.

I hope that this legislation moves forward, that we can achieve the Senate passed level of $318 billion, a level that would create 1.8 million more jobs and $235 billion more economic activity than the level imposed upon us by the Bush administration today.

I would like to thank the chairman and ranking members of the Committee on Transportation and Infrastructure for their unwavering dedication to sound transportation policy.

Mr. LIPINSKI. Mr. Chairman, I yield 3¼ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Wisconsin (Mr. PETRI), the gentleman from Minnesota (Ranking Member OBERSTAR), and the gentleman from Illinois (Mr. LIPINSKI). I think they should be commended for the great job they have done given the absurdly arbitrary constraints they were forced to work under. They have done a terrific job. I mean that sincerely.

After decades of investments to meet an expanding Nation and a growing population, the gentleman from New Jersey, who 12 years ago, 13 years ago started the whole process of TEA 21, Congressman Bob Roe from the eighth district, is very happy with the work, I am sure, that we have done over the last several months.

I supported TEA LU because it was the right thing to do. This administration has threatened a veto. We shall see what we shall see.

In terms of family-wage job creation, in terms of reducing congestion, in terms of remaining competitive with other nations, I believe we are missing a great opportunity to make a difference in our economic future. As the process moves forward, we must band together and fight for a better bill. I believe we will.

I would like to bring to my colleagues' attention, the chairman's attention, one of what I consider the very important provisions that will be included in the manager's amendment: the Department of Transportation should give priority to those public transit projects which add to our system of national defense. Historically, we built our highway system for national defense. We made many needed changes to our aviation system to improve its ability to withstand threats to national security. 9/11 highlighted for those of us living with families in the tri-state area, for instance, how dependent we are on our Nation's transportation system, particularly in a time of crisis.

According to the report of the National Academies on "Making the Nation Safer, the Role of Science and Technology in Countering Terrorism," the ability to quickly recover and reconstitute transportation systems and services is crucial for limiting the cascading effects of terrorist attacks.

We cannot overstate the importance of mass transportation and mass transit to moving people safely at critical times and places.

I want to thank the manager for addressing the essence of the national security amendment I offered in committee. We are authorizing a study in this bill to look at the value of public transportation systems, the value placed on national security in project planning. It will also examine the ability of such systems to accommodate the evacuation from critical locations and in times of emergency. The information we learn should assist metropolitan areas in the development of the regional emergency response plans that coordinate highway and public transportation systems.

I am hopeful the results will ensure that transit agencies and the TSA are looking at response plans in terms of a comprehensive vulnerability assessment.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. PITTS) for the purpose of a colloquy with the chairman.

Mr. PITTS. Mr. Chairman, I first want to thank the gentleman from Alaska for his assistance over the past several years regarding an issue that is negatively impacting two transit systems in my congressional district: Red Rose Transit in Lancaster and BARTA, Berks Area Reading Transit Authority.

They join over 50 other transit agencies across the country facing the same problem. And I have a list of these systems that I will submit for the RECORD.

As the chairman knows, under current law transit systems that serve communities in urbanized areas exceeding 200,000 in population according to the most recent census lose their local flexibility in the use of section 5307 Federal transit funds.

The chairman has been very helpful in protecting these systems from losing their flexibility over the past couple of years to provide a bridge to the reauthorization of the transportation spending that we are considering today.

While I appreciate the language that is currently in the bill extending the flexibility protection through fiscal year 2005, it does not go far enough to mitigate the financial crisis facing small transit systems in the fastest growing communities throughout the country. Instead of encouraging the growth of transits in these emerging communities, current law penalizes them. Red Rose Transit and BARTA stand to lose access of upwards of $1 million in Federal transit funds. They are being treated more like transit systems in big cities than the more suburban and rural communities that they actually serve.

Mr. Chairman, we need a long-term or permanent solution to this problem. The current language in this bill does not go far enough. It is not a matter that these systems need more time to get their books in order; it is that they cannot financially make ends meet under current law.

They are already looking beyond 2005 to see what routes to cut, which workers to lay off, and which buses to park in the garage because they cannot afford to run them. Passengers will lose their transportation to their jobs, the elderly will lose their transportation to the doctor, and low-income families will lose their ride to the grocery store.

I close by asking that, as you go to conference on this transportation bill, you keep in mind the difficult future these transit systems face and that you would work with us to find a solution that would help these transit systems sustain their operations and meet the growing needs of their communities.

□ 1215

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman from Pennsylvania very frankly for his hard work on this issue. It is a pleasure to work with him.

I understand the needs these small transit systems face. I certainly support the growth, as I told the gentleman personally, of transit throughout the United States, especially in the thriving smaller communities such as in the gentleman's congressional district.

I want to assure my colleague that, as we go forward with this bill, I welcome his continued assistance on this matter and the gentleman's knowledge. I look forward to working with my colleague on this issue as we go through the conference to finding a reasonable and responsible solution to this problem, and I can assure my colleague that probably will happen.

Mr. PITTS. I thank the gentleman.

Mr. LIPINSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, let me thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI) for the efforts which they have put forth in working on this bill.

I would like to talk to the gentleman from Illinois (Mr. LIPINSKI) for just a moment about the continuing challenges before us in getting our State transportation departments to fully obligate funds under the Congestion Mitigation and Air Quality Improvement Program known as CMAQ.

In my State of Texas, more than $230 million in unobligated CMAQ balances have piled up, even though areas like my own district in the Dallas-Fort Worth area are challenged in their efforts to address the harmful health effects of mobile sources and other emissions upon my constituents. Other regions in my State and many other parts of the country are challenged as well.

This bill, like the two before it in 1991 and 1998, provides targeted resources to the States to help fund the mandate of clean air in many metropolitan and local areas across the country, areas that account for about one of every two people in this Nation.

We allocate clean air funds, CMAQ spending authority, to States based on local air quality needs. Yet, there is no requirement that States spend a fair share of the funds we provide air quality improvement projects.

All of us have heard the pleas from our State officials, governors and legislators alike, about unfunded mandates and how they challenge our States. Yet, in this case, States do not want us to include any assurances to local areas that they can count on a steady and predictable flow of CMAQ dollars to help them meet mandates under the Clean Air Act.

Today, this Congress is again providing the resources for this purpose but not requiring States to pass these funds to the local areas.

In this Chamber, our States and many other interests have also told us that the certainty of a 6-year bill is crucial to the States as they plan for transportation investments.

My simple request is that we provide more certainty to local areas over the next 6 years as well. After all, the CMAQ funds we are providing under this legislation are for local areas to assist their compliance efforts in meeting federally-established, health-based standards for clean air.

Finally, there is added urgency to this matter. As early as next month, the U.S. Environmental Protection Agency will be making its final designations under the new 8-hour ozone standards. A predictable and timely flow of CMAQ dollars will be crucial to their success in achieving compliance with these standards.

It is my hope that my colleague and other House leaders in the conference committee will strive to deliver more certainty to local areas about CMAQ funding over the life of this renewal legislation.

I would like some assurances that we will continue to work to provide local areas with more certainty about their

CMAQ funding over the next 6 years in this legislation.

Mr. LIPINSKI. Mr. Chairman, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I would also ask that the committee give this issue more review and consideration as we consider future legislation, be it a technical correction amendments or the reopener legislation that the bill before us envisions.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I thank the gentleman for his consideration of these issues, and I pledge my strong support to his efforts and any other member of the committee's efforts to make progress in this area.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I would rather be standing here today supporting a $375 billion transportation bill. $375 billion is what the U.S. Department of Transportation has said is necessary to meet our most basic infrastructure needs over the next 6 years. Unfortunately, the President insists that we not fund our transportation system adequately and that we not fund the hundreds of thousands of jobs that such a bill would create, but we must do what we can, and despite the funding constraints, there are many things to be proud of in the bill before us.

The committee has done a remarkable job of preserving many of the important new initiatives in TEA LU, such as safe routes to school, freight intermodal connectors and, in particular, projects of national and regional significance. At the same time, we have maintained our core highway and transit programs and increased funding for critical initiatives such as senior transportation services and the ferry boat discretionary program.

This legislation maintains the minimum guarantee funding formula established in TEA 21, but it contains a provision that essentially cuts off highway funding in fiscal year 2006 unless a law is passed in the interim raising the minimum guarantee to 95 percent, while guaranteeing States that they would receive no less than subsequent years, plus the cost of inflation.

I understand the frustration expressed on this floor by the so-called "donor" States. New York, as a whole, is a donor State. We send about $18 to $20 billion more to the Federal Government every year than we receive in total Federal spending. Transportation is one of the few areas in which this is not the case.

New York has invested huge amounts of money in mass transit. Therefore, we are more energy efficient than the country as a whole. We buy less gasoline, and we pay fewer gas taxes into the Highway Trust Fund, and apparently, because we are more efficient, because we are saving the country on sending money to the Middle East, we must be punished by getting less highway funds. That is the idea of the 95 percent guarantee.

Yet, New York has a lot of transportation needs with older, aging infrastructure, and one out of every three transit riders in the country, which is capped at 15 percent. It is just not right to punish States for being energy efficient, and, therefore, I am generally opposed to this provision, but it does not do it right away. It puts off a final decision for 2 years.

Because of the many good features in the bill, I urge its enactment.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Chairman, first, I would like to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Wisconsin (Chairman PETRI), as well as the gentleman from Minnesota (Ranking Member OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI). Their dedication and leadership on this legislation is commendable. I would also like to commend the committee staff for all their hard work on this bill. It has truly been a pleasure to work with them.

Mr. Chairman, H.R. 3550, the Transportation Equity Act: A Legacy For Users, is legislation our country needs to not only maintain but also to grow our Nation's infrastructure.

When I came to Congress, I followed a visionary member of the House Committee on Transportation and Infrastructure, Mr. John Paul Hammerschmidt. Congressman Hammerschmidt served on the Committee on Transportation and Infrastructure for decades, and he was instrumental in advancing our Nation's transportation infrastructure into the 21st century.

Like Mr. Hammerschmidt, I understand the importance of passing a robust transportation bill that provides for infrastructure development across the country.

During the last year, I traveled with the Committee on Transportation and Infrastructure to examine our transportation needs. From Fort Smith, Arkansas, to Chicago, Illinois, we heard the same thing: Our Nation must invest in transportation infrastructure. Each city and town, even the rural areas in our States, are in dire need of infrastructure dollars.

Our Nation is growing and prospering. However, our cities and towns are suffering from congestion and poor roads. We must continue growth by passing this legislation, which will allow for continued development. This will not only lessen congestion on our roads, but it will also provide for economic development across the country. This bill provides for growth, it provides for jobs, and it provides for increased safety to our traveling public.

Mr. Chairman, I thank the committee for their dedication to passing this critical legislation, and I encourage my colleagues to support H.R. 3550.

Mr. COSTELLO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Chairman, I thank the gentleman very much, my prestigious leader of the region, and certainly to the chairman and chairpersons of the Committee on Transportation and Infrastructure.

I rise today in support of H.R. 3550, the Transportation Equity Act: A Legacy For Users, TEA LU. This 6-year reauthorization is needed to continue our commitment to our Nation's infrastructure.

Transportation is central to our Nation's economy, creating more jobs, and helping Americans get to work every day. Investment in our highways and public transportation systems results in a net gain for our taxpayers.

The bill responds to many of the critical transportation problems facing our country.

$67 billion is lost in worker productivity and wasted fuel every year because of traffic congestion. Americans sitting in traffic lose 5.7 billion gallons of fuel and 3.6 billion hours annually.

Investment in highways is part of the answer, but we must also be sure to invest in our public transit systems as well. Public transit decreases congestion, decreases pollution, and decreases costs for millions of workers.

Unfortunately, many States are discouraged from investing in transit. Thirty-four States, including my home State of Indiana, has statutory or constitutional prohibitions on using money from the Highway Trust Fund for public transit. I offered an amendment to the Committee on Rules establishing a flexibility incentive grant program to address this problem and trust that as we move into the future that we will be able to get this concept put into law to enable the moving around of money for our transportation system.

TEA LU provides $1.4 billion in funding for improving intermodal connections. So in order to fully utilize the potential of these intermodal centers, we must be sure to invest in our railroads, our ports.

In the Committee on Transportation and Infrastructure, I asked the railroad people if they did not think that was a unique idea to put people to work and that is to rebuild and modernize the railroads.

I thank the chairman and ranking member, my leader, for this opportunity.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. MORAN), my good friend.

Mr. MORAN of Kansas. Mr. Chairman, I am delighted to rise in support of a piece of legislation that I think is very important not only to the folks back home in Kansas but to the folks of this country, and I am here to in part commend the gentleman from Alaska (Chairman YOUNG) and his colleagues on the House Committee on Transportation and Infrastructure but also especially the gentleman from Illinois (Mr. HASTERT) for his continued efforts in trying to fashion a piece of legislation that can succeed here in the halls of Congress.

This legislation matters a lot to us as a Nation, matters a lot to Kansans that I represent. In many ways, this is about the creation of jobs at home. I think we often think about jobs being something that we see construction workers on highway projects, but I can tell my colleagues, from a Kansas perspective, our ability to get our manufactured goods to market, our ability to get our agriculture commodities sold in the world, very much depends on our ability to do that in a cost-effective, efficient way.

This country must invest in its infrastructure. We talk today about the outsourcing of jobs. One of the components that can help to address this issue, one of the things that can make a difference, is to make sure that the ability to get goods to market, manufactured goods, agriculture commodities can be taken to market in a way that allows us to continue to be competitive in world markets.

There are concerns here about the deficit. This is a bill that is funded by the Highway Trust Fund. What we are asking to have occur here is dollars that are paid for by users, by taxpayers, set aside for this purpose, be utilized for that purpose.

There are many things we do in this Congress that add to the deficit, but spending money in a trust fund for purposes of infrastructure is not one of those things. I, as a conservative Member of Congress, if I am going to put resources dollars, hard-earned, taxpayer funding into the spending here in our Nation's capital, I will tell my colleagues my constituents are better served by the utilization of those dollars in building infrastructure as compared to additional bureaucracy in our Nation's capital.

Put the money into projects, construction, infrastructure across our Nation.

□ 1230

And, finally, I know that there are concerns about the donor and donee issue, that States may contribute more than they receive. My State of Kansas is kind of neutral on this issue. We get about as many dollars back as we pay. And I would urge my colleagues to give the chairman and others the opportunity to work on this.

It reminds me of my days in State legislature. I was a State legislator for 8 years. School finance is always an issue, and as we tried to change the formula to improve the quality of education and to fund our schools across the State, you could not do it without additional dollars so that at least a majority of the school districts in our State and, therefore, their State legislators felt like they were better off.

So it is important as we work on this donor-donee issue that we take a look at the number of dollars available for spending on the highway bill so that we can address the inequities that may occur if you are a State that is paying more money into the trust fund than you are receiving.

Mr. COSTELLO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to thank the gentleman from Alaska (Mr. YOUNG), the subcommittee chairman; the gentleman from Wisconsin (Mr. PETRI); and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI); for their hard work in pushing for the highest amount possible for our Nation's transportation systems. It will not be easy, but I believe we can pass a bill that can improve our transportation system, even without the help of this administration.

Why the Bush administration would be opposed to a bill that has the potential to create millions of jobs is beyond me. I can assure the President that reauthorizing TEA LU at an appropriate level will do a heck of a lot more for the economy than outsourcing our jobs to other countries.

Transportation funding is a win-win for everyone involved. States will get an improved transportation infrastructure that creates economic development, puts people back to work, enhances safety, and improves local communities. America's transportation infrastructure is in need of significant additional funding, particularly as we struggle to finance the security upgrades needed to protect our transportation system from terrorist attacks.

Unfortunately, we were unable to add a rail title to this bill, but that does not mean our rail infrastructure is taken care of. We have dangerously underfunded rail security, and we are now scrambling to protect our transit passengers. We have also ignored an underfunded high-speed rail, which is one of the best ways to improve citizens and improve congestion on our highways.

This certainly is not the bill that most of us hoped for; but it is a first step, and we have nowhere to go but up. We have compromised on a $275 billion bill. We need to have many opportunities to make this bill our own and do the right thing for the traveling public.

We need to do the right thing for this Nation's citizens. Let us pass this bill and let us override the President's foolish veto threat.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I thank the gentleman from Alaska, the chairman of the largest standing committee in the free world, for yielding me this time.

Mr. Chairman, the United States has benefited greatly from having a strong transportation network, but we are in fact approaching a crossroads. I am hopeful that our work on H.R. 3550 brings us one step closer to finding solutions to this growing problem.

I believe H.R. 3550 is bringing us closer to our goals in my State of Texas to achieve our State's goal of an efficient and seamless transportation corridor. I commend the chairman for including the section addressing the streamlining of the design-build process. I was also pleased to see inclusions of sections that focused on interstate system toll pilot programs.

Mr. Chairman, I want to assure you I will continue to work with you and your staff to streamline the Federal design-build process to allow for a rolling environmental review of a multi-modal transportation project. I believe the inclusion of these sections are good steps in the right direction to address these concerns.

I was also pleased to learn the committee leadership included sections for a National Corridor Infrastructure Improvement program and a Coordinated Border Infrastructure program, projects of national and regional significance. I believe that the current programs do not fully address the problems created by the explosion of the NAFTA trade traffic, and funding has often been misdirected to nonborder States and corridors lacking international significance. I believe the provisions included in this bill will greatly improve my State's transportation infrastructure being truly impacted by our country's increased trade traffic.

In Texas, our identified transportation needs outstrip available funding three to one. I support legislative language that will guarantee States at least a 95 percent rate of return on their contributions to the Federal Highway Trust Fund. I look forward to continuing to work with the chairman and the committee to produce a bipartisan transportation reauthorization bill that will truly improve transportation infrastructure nationwide.

We continue to work to produce a bill that adequately provides for our economic security, creates and sustains jobs, enhances safety, and continues to improve mobility for our Nation's citizens, especially my constituents back in Texas. We need to do no less than ensure that our families can spend as much time at the dinner table as they do in traffic now.

Mr. COSTELLO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. LARSEN), a member of the committee.

Mr. LARSEN of Washington. Mr. Chairman, I want to rise in support of H.R. 3550, but I do want to note that this bill barely scratches the surface of America's transportation needs. At $275 billion, this bill is certainly a lot, but it is only slightly more than an inflationary increase over TEA 21. Furthermore, at this amount, the United States loses out on almost 4.8 million new jobs in Washington State. Specifically, my State could lose out on thousands and thousands of jobs as a result of the funding level in this bill.

In a year when millions of Americans are looking for work, this does not come close to helping the thousands of Americans get back to work. I hope as this bill moves through this House and to conference, we can pursue a funding level that will meet the needs of our transportation systems and help provide job opportunities for more Americans.

Having said all that, I surely want to thank the chairman of the committee, the gentleman from Alaska (Mr. YOUNG); the chairman of the subcommittee, the gentleman from Wisconsin (Mr. PETRI); and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), for their work on this bill, which has helped out the Pacific Northwest.

Specifically, TEA LU doubles the funding for the Ferry Boat Discretionary program. The Puget Sound is home to the largest ferry system in the country, and these funds are vital to the Washington State ferries' efforts to service and replace aging vessels. I look forward to working with all of you in conference to increasing these funds in order to keep America's ferry systems afloat for years to come.

In addition, the bill includes funding for projects of national and regional significance. The Alaskan Way Viaduct in Seattle, damaged by an earthquake in February 2001, is threatening to collapse and shut off the transport of goods from ports in Washington State to locations all across the country. So I hope we can further improve this new and exciting program.

In conclusion, I want to say that I hope the final version of this legislation will make very clear that the existing high-priority corridors continue to be eligible for funding. I also hope that the House conferees in this legislation will make every effort to strike the restrictions in the trade corridor provision approved by the other body limiting freight corridor only to multi-State corridors.

Mr. Chairman, again I want to thank the committee leadership and the committee staff for their hard work on this bill, and I look forward to working with all of you on these issues as the bill moves forward.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Chairman, I want to thank the chairman for his incredibly hard work. As I look back over the process and the number of things that he has had to balance, the needs and the desires, most of which are somewhat in sync with each other, in that everyone wants to have the best possible transportation system, the gentleman from Alaska has worked very, very hard to do that.

This is a bill that improves infrastructure for America. It is a bill that creates jobs. It is a bill that creates economic development. In my district in North Carolina, we have a distinct shortage of interstate highways. And it is a known fact that 80 percent of all businesses like to be and need to be within 10 miles of an interstate highway. So for that reason alone, I would ask support of all our colleagues on this bill that provides the economic development and attracts capital to areas all over our country and gives us the ability to distribute goods and services, which stimulates that economy, which brings and attracts capital, and which creates jobs.

The issue of highway safety, the issue of congestion is addressed very well in this bill. All of us, especially the chairman, wish that this were a larger bill. However, we are suffering through some very tough economic times, fighting and winning the war on terrorism. The chairman has addressed this issue. He has made it very plain, as the gentleman from Minnesota (Mr. OBERSTAR) has as well, that we will quickly revisit this whole subject of the size of the bill and continue to improve our infrastructure for Americans and job creation.

So, Mr. Chairman, in conclusion, I would again like to thank both our chairman, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for balancing the many critical needs, the desires, and the wants of all Americans to move this country forward, to create opportunities, to create jobs, to grow this economy, and to keep us free, financially viable, and in a position to support the military that is doing so great a job, along with our coalition partners, in winning the war on terrorism.

Mr. COSTELLO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON), a member of the committee.

Mr. LAMPSON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of H.R. 3550, the bill that provides $275 billion over the next 6 years for highways and public transit throughout the country.

Originally, the Committee on Transportation and Infrastructure introduced a bill that ensured that at a $375 billion level we would be able to sustain both our Nation's infrastructure and encourage sustained commercial growth over the next decade. Well, this debate is about difficult choices. It is easy to stand in front of this House and demand more tax cuts, but it is a greater challenge to own up to our responsibilities as elected officials and to ensure that our Nation has the capability to expand our avenues of commerce.

Our Nation's highway system is an irreplaceable cog in the movement of goods and services and our Nation's role in international trades. I represent a district with six seaports, and my constituents recognize the need for a seamless intermodal system that incorporates ports, rail, and highways. And I would be lying today if I said that I was not disappointed that the Republican leadership has limited the size and scope of commercial growth in this bill; yet I feel this legislation and its passage today is vital to our Nation because it represents an investment and a commitment to our infrastructure..

One of the critical elements of this legislation is the creation of jobs. Every $1 billion invested in our Federal highway and transit system creates 47,500 jobs. And given the net job loss over the last 3 years in this country, this bill will provide needed relief to workers.

This legislation is also environmentally responsible and will help communities achieve greater environmental benchmarks. This legislation ensures the protection of the CMAQ program, which is crucial to addressing concerns arising from highway congestion and insufficient air quality.

With the Houston, Galveston and Beaumont, Port Arthur areas that I represent classified as nonattainment areas, it is important to the region that I represent to ensure the viability of the CMAQ program. So let us do the right thing for working Americans. Let us pass this bill for the good of our economy and to create more jobs.

And I want to take a few seconds to thank Chairman YOUNG and Ranking Member OBERSTAR, Chairman PETRI, and Ranking Member LIPINSKI for their hard work and leadership on this bill. These Members and the committee staff have worked tirelessly on the legislation, and their efforts should not go unnoticed.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, may I have a compilation of the time remaining?

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from Minnesota (Mr. OBERSTAR) has 12¾ minutes remaining, and the gentleman from Alaska (Mr. YOUNG) has 10 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I thank the gentleman for yielding me this time.

We have heard the expression, "It's the economy, stupid." Well, it's the infrastructure, stupid. It's jobs, stupid.

I know that the chairman, the gentleman from Alaska (Mr. YOUNG), thinks about jobs all the time, as does our ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI). It is jobs, jobs, jobs. And that is what the infrastructure of this country provides.

We have a bill here that is $100 billion less than it should be. To my simple math that works out to a loss of 4.5 million jobs. We are losing $600 billion worth of economic activities over the next 5 or 6 years. I do not understand an administration that is a "donor" administration in terms of its jobs that it has not created. By supporting a bigger bill, it could be a "donee" administration and actually create jobs, and that is what we need in this country today.

There is a controversy, I understand, about donor-donee. There does not have to be. The gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), both want a 95 percent guarantee for every State, and they had it in the bill that we should have passed. And I say to the people who want to have that 95 percent guarantee, do not change this bill; vote for a bigger bill. We can afford it. We can be fiscally responsible. It is an investment in this Nation to have the bigger bill.

□ 1245

But we will do part of the job by passing this one today.

I happen to represent the whole California-Mexico border in this country. I have in my district 250,000 people crossing the border every day and thousands and thousands of trucks. I want to thank our committee for providing a "border infrastructure fund" to help address the needs that this international traffic places on our local communities. These local communities do not have the funds and should not be responsible. The border infrastructure fund gives us the ability for the Federal Government to meet its responsibility.

So I say, Let's have the jobs. Let's get rid of the donor-donee controversy. I know the gentleman from Alaska wants to do that and the gentleman from Minnesota wants to do it. Hopefully, down the line we will do it.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Chairman, it is incomprehensible that we are considering this legislation today under the threat of a Presidential veto. This is, first and foremost, a jobs bill. If the administration follows through with the threat to veto this bill, they will be denying tens of thousands of workers in New York and nationwide good jobs.

I am confused by those who wrap themselves in a cloak of fiscal responsibility when it comes to government spending and yet blindly support tax cuts which have not produced new jobs. Jobs, not tax cuts that benefit the wealthiest Americans, stimulate the economy and put food on the table of working families.

Most disturbing about the President's veto threat is that even the bill we are considering today provides inadequate funding to meet our Nation's overwhelming transportation needs. The bill we are being asked to consider falls $100 billion short of the $375 billion bipartisan bill initially passed by our committee based on the Department of Transportation's own assessment of our Nation's needs.

Transportation spending is a win-win proposition. It creates jobs and improves safety and efficiency on our roads. This veto threat is just the latest example of continued misplaced priorities from this administration.

We need a real economic stimulus. We know that each $1 billion of Federal funds invested in infrastructure creates approximately 47,000 jobs and generates $6.2 billion in economic activity. That is the kind of boost that our economy needs.

I would like to thank the gentleman from Alaska, the gentleman from Wisconsin, the gentleman from Minnesota and the gentleman from Illinois for bringing this bill to the floor. I will support this bill because we must move this process forward. However, this bill is a far cry from the real investment needed to improve our infrastructure.

Finally, I would like to stress the importance of ensuring that the minimum guarantee formula stays at 90.5 percent. Our transportation policy now directs funding to the areas of the country where it is needed the most. It would be unwise to punish States with aging infrastructure and efficient mass transit systems by cutting off their funding. There is simply no way to reach a 95 percent minimum guarantee in a $275 billion bill.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I want to thank the gentleman for yielding me this time. I rise in strong support of this legislation.

First of all, I want to commend the gentleman from Alaska (Mr. YOUNG), the gentleman from Wisconsin (Mr. PETRI), the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI).

This bill will obviously provide opportunities for the creation of jobs in all of the districts across the country and especially in mine. However, the bill comes up a bit short because I do not think that we paid enough attention to rail transportation. Amtrak runs 50 trains out of my district in Chicago each and every day. Yet there is no money for Amtrak, and there is no money for rail safety.

I do want to highlight the fact, though, that this bill does in fact increase funding for the Access to Jobs program, a program that will take individuals from the inner cities and rural communities to where 75 percent of the new jobs are being created in what we call suburban outlying districts.

Overall, it is a good bill. I wish there were more money. I wish we could have looked at Amtrak in a different way and rail safety. I strongly support it.

Mr. Chairman, I rise today in support of the reauthorization of the Transportation Equity Act for the 21st Century. I commend Chairman YOUNG, Chairman PETRI, Ranking Member OBERSTAR, and especially the senior Democrat from Illinois Republican LIPINSKI for all of your hard work on this bill.

Our transportation system is vital to democracy. It is through our transportation network that we are able to move commerce and people with reliability and consistency. Every day millions of people travel our highways, and transit systems. This bill helps to ensure that we modernize our ailing transportation system and protect workers.

The bill contains a number of projects that will directly improve the roads and infrastructure in my Congressional District. This bill comes at a time when our economy is in need of a significant boost. We have lost over 3 million jobs in the last 3 years. My Congressional District has lost over 140,000 jobs in the last 30 years. While this bill is a modest investment in our Nation's highways and transit systems, I am disappointed that we did not report out the original bill, which contained a $375 billion funding level. That kind of funding level would have given us an historic opportunity to put Americans back to work.

Also, I am disappointed that more was not done to stabilize Amtrak. In fact, the House Bill contains no funding for Amtrak. Amtrak is a vital part of the economy in Chicago, and the Nation. Amtrak operates more than 50 trains into and out of the City of Chicago each day. These include an extensive network of long-distance trains that provide service to the East and West coasts, the Gulf of Mexico and Canada. Last year, Amtrak transported more than 2 million passengers. The failure to include funding for Amtrak sends a negative signal. In addition, this bill provides no funding for rail security to adequately address concerns regarding terrorism. We must learn from the tragedy in Spain and other attacks on rail systems throughout the country.

I am pleased with the increase in funding for the Job Access and Reverse Commute Program. This program assists low-income individuals and welfare recipients get to where the jobs are being created. In other words, data suggests that three-fourths of new jobs are being created in the suburbs. Therefore, we must find ways to get people from the inner cities and rural areas to where the jobs are. The Job Access and Reverse Commute program will provide over $1 billion in funding over the next six years.

Therefore, I am pleased that this important bill is finally moving forward. While I wish that the Committee had done more in funding important priorities—failure to act could lead to terrible consequences as it relates to our transportation infrastructure. Thus, I am pleased to support this bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GARY G. MILLER).

Mr. GARY G. MILLER of California. Mr. Chairman, the gentleman from Alaska has dedicated years to this bill. I applaud him for that. I know it is less dollars than he would like to see because he does understand the problems we face in this Nation. The gentleman from Wisconsin has done an excellent job on the subcommittee. The gentleman from Minnesota has done a wonderful job working his side of the aisle trying to bring together a good bill for this country.

I represent California. I have parts of Orange County, L.A. and San Bernardino Counties. We are right on what is called the Alameda Corridor. All the trucks and trains coming from the harbor at Long Beach and Los Angeles come through our districts. Unless you live there, it is almost unbelievable to realize the impact that we face and our commuters face trying to go to and from work not only with the truck traffic from the harbors and the airports on our freeways but with the trains when you are trying to cross railroad tracks and at-grade crossings. Nothing that I can think of is more important that what we are doing this year and we have done in recent years in this bill.

The Founding Fathers had an idea of what the Federal Government should do, and one is to protect and defend our borders which we are trying and I believe we are doing an excellent job through the budget on, and the other is to ensure interstate commerce. In this generation, ensuring interstate commerce is making sure that goods can flow on our freeway systems and our rails to provide the goods and services that we need in this Nation. Our roads are coming close to being in a gridlock level in the Los Angeles area and Orange County. We need to resolve the problems we face there today.

TEA LU does pay special attention to the infrastructure deficiencies facing our Nation's truck traffic and the freight and it is tremendous some of the issues we have to deal with.

In Orange County alone, in my district on the Alameda Corridor through our cities currently we have 50 trains a day. In the near future, those trains will go up to 135 trains per day. The people who have to cross those crossings realize that that is a tremendous burden placed upon them and a tremendous burden placed upon businesses who have to ship their goods and people have to get to and from work. It is just unbelievable.

In one city that I represent, Placentia, in a 5-mile-long stretch, there are 11 at-grade crossings plus the associated communities around them. When a train starts going through that town, the whistle blows from the beginning they reach that city limit till the end because of the requirements placed upon them. The people are being overly burdened based on how long they are having to sit and wait to get across those tracks. That is one project that I believe we need to effectively deal with.

The chairman has been very gracious on, I believe, all our states, but I will speak to California, on allowing projects that need to be put in this budget up front to help resolve some of the immediate impact that has been placed upon our State. He has made countless trips to California, I met with him on several different functions, explaining his vision for the future. That is why he calls it a legacy for our future, because of his vision of what should happen in the future of this Nation and how people should benefit, from the minute they get up in the morning and get in their car till their car comes home at night.

We have a wonderful bill before us. There are going to be some amendments, some I am going to oppose, but I honor the gentleman from Alaska for this great bill.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I rise in support of the Transportation Equity Act. I thank the gentleman from Alaska (Mr. YOUNG), the gentleman from Wisconsin (Mr. PETRI), the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) for their hard work on the legislation.

Mr. Chairman, this legislation is critical to meeting our country's transportation needs, but it also addresses a very serious problem that many of my colleagues who represent rural areas face. That problem is the virtually total absence of broadband services in rural areas.

The rural interstate corridor communications study included in this legislation will examine how fiber optic cable and wireless technology can be deployed to establish high-speed broadband service in rural and underserved areas, to improve intelligent transportation systems and homeland security applications, and to spur economic development in those rural areas. This important feasibility study is the first step toward increasing the access to affordable high-speed Internet services in rural areas. The benefits of this study will be of tremendous assistance to attracting technology-based companies and information age jobs to those rural communities.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I rise in support of TEA LU because it is the most effective economic stimulus package this House has considered since our economy began to slump. No, I am not talking about another tax cut. I am talking about a transportation bill. Infrastructure investments are the smartest, most profitable long-term job creation initiatives available to us at the Federal level at this time.

By investing our resources in transportation projects, we accomplish what annual tax cuts have thus far failed to do. We create good jobs, jobs that actually pay a living wage. Workers in these jobs support their families by performing tasks that also improve their communities. Efficient transportation systems will also allow people to spend less time commuting and more time with their families. Traffic adds hours to a parent's workday, making it even more difficult to balance the competing demands of work and family.

Vote for TEA LU.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member and the chairman for the hard, collaborative work that was done.

I, too, rise in support of TEA LU and with a particular inquiry and that is to the President of the United States. Mr. President, work with us. Jobs are needed, but, more importantly, security is needed and improved infrastructure is needed.

Let me applaud this committee for acknowledging the needs in the 18th Congressional District that include a number of very vital projects. One, for example, project is Row House, a community development corporation to construct bicycle and pedestrian trails to enhance an already depressed neighborhood that is coming back. Let me be grateful for the project dealing with the Old Spanish Trail and Alameda Corridors that will assist in our technology center.

But, more importantly, I need to cite for this body the importance of language that was agreed to that dealt with racial profiling. We all know the story of I–95, but how many of us know the story of 59 North? I appreciate very much the idea that racial profiling language was put in the bill to inhibit racial profiling in transportation facilities across the motion. I ask my colleagues to support the legislation and to support my amendment regarding flexibility in funding for bicycle paths and other transportation needs.

Mr. Chairman, I rise in support of this bill, H.R. 3550, the Transportation Equity Act, A Legacy for Users. Before this bill went to the full committee markup, I submitted the following project requests:

For the City of Houston, I made the following requests: $1,000,000 to extend Munn Street from Demaree Lane to Gellhorn Drive; $1,000,000 to construct and rehabilitate pedestrian walkways along the Main Street corridor to improve transit-related accessibility; $1,000,000 to converge a hike and bike trail into Gellhorn Drive, providing an improved multi-modal transportation facility; $1,250,000 to pave East of Enwood Forest and west of I–45 and from Little York to West Gulf Bank.

For the Greater Houston Development, Inc. CDC, we requested $4,000,000 for the installation of infrastructure including concrete streets, curbs, and gutters along the three major thoroughfares of E. Tidwell, Ley Road, and East Little York Road.

For the Row House CDC, we requested $750,000 to construct bicycle and pedestrian trails in Houston's historic Third Ward.

For the Old Spanish Trail and Almeda Corridors Redevelopment Authority, we requested $2,000,000 to construct landscaping and other pedestrian amenities in segments of the Old Spanish Trail and Griggs Road rights-of-way.

For the Texas Department of Transportation, we requested $2,000,000 to widen Hempstead Highway from 12th Street to Washington Avenue from four (4) lanes to six (6) lanes and for the improvement of the urban facility.

All of these projects, if funded as they appear in the bill as drafted, would serve to make Houston's transportation network more efficient and comprehensive, and I thank the Committee on Transportation and Infrastructure as well as the Subcommittee on Highways, Transit, and Pipelines for all of their hard work in getting these projects included.

AIRPORT POLLUTION

While I applaud the Committees' inclusion of projects that will help transportation systems, I must counter this discussion with a request that, in finalizing this bill, provisions be made to mitigate the problem of airport pollution.

A large number of my constituents in Houston have, for some time, complained about planes flying dangerously low and about the unbearable noise levels at Bush Intercontinental Airport. A gentleman who lives near the airport reported that "[he] cannot enjoy a day in [his] backyard, a barbecue, with all the noise, all the pollution going on." Attempts have been made to mitigate this impact such as temporarily diverting flights, reversing the FAA regulations that called for lowering flight altitudes, and constructing alternate runways. However, these efforts are "band-aids" for a larger problem. I ask that the Chairman and Ranking Member of the Transportation and Infrastructure Committee work to achieve a solution to this problem.

RACIAL PROFILING

As we work to craft legislation that will facilitate the modes and roads for transportation, we cannot forget about the issue of racial profiling that runs part and parcel with interstate and intrastate transportation. As a Member of the House Judiciary Committee, I have been able to hear testimony and to read accounts of the horrible and disparate effects of racial profiling—largely in response to this country's growing task of securing the homeland. In addition, I have had the opportunity to contribute to the crafting of legislation to combat this problem.

I support and have co-sponsored the End Racial Profiling Act of 2003 (ERPA). Racial profiling occurs when law enforcement relies on race, ethnicity, national origin, or religion in selecting which individuals to subject to routine or spontaneous investigatory activities, except when relying on a specific suspect description. This practice violates our Nation's basic constitutional commitment to equality before the law. Racial profiling is also contrary to effective law enforcement—whether used as a tool in the war against drugs or the war against terrorism, profiling fuels the perception in minority communities that the criminal justice system is unfair and undermines the trust between the police and the communities they serve.

To comply with the Aviation and Transportation Security Act, the Transportation Security Agency under the Department of Homeland Security developed and implemented a passenger screening system called the "Computer Assisted Passenger Pre-Screening System II" (CAPPS II). The objective of this system is to ensure passenger and aviation security. Under this system, all travelers passing through a U.S. airport will be scored with a number and a color that ranks their perceived threat to the aircraft.

Using easily falsified information such as a name, home address, home phone number and date of birth, this system would screen the airline passenger's name through credit databases and then run his information through secret government databases to make a judgment about his security risk. These secret databases would be compiled using intelligence and law enforcement records that could include personal information gleaned from commercial data such as purchase history and banking records.

Individuals singled out by this program would have no way of knowing why they have been targeted. They would not know if they are the victims of the widespread inaccuracies that riddle government and private databases. Nor would they know if they have been falsely accused of wrongdoing, or have been discriminated against because of their religion, race, ethnic origin, or political beliefs.

Therefore, it is of paramount concern that, in passing legislation that aims to facilitate transportation and travel, we also end racial profiling and maintain respect for individual liberty. Language that begins to address this problem has been included in H.R. 3550.

Similarly, I co-sponsored the Hate Crimes Prevention Act of 2004. The FBI has reported a dramatic increase in hate-motivated violence since the September 11th terrorist attacks. While the overall crime rate has grown by approximately two percent, the number of reported hate crimes has increased dramatically from 8,063 in 2000 to 9,730 in 2001 (a 20.7 percent increase). Racial bias again represented the largest percentage of bias-motivated incidents (44.9 percent), followed by Ethnic/National Origin Bias (21.6 percent), Religious Bias (18.8 percent), Sexual Orientation Bias (14.3 percent), and Disability Bias (0.4 percent).

RAIL SECURITY

As a Member of the House Select Committee on Homeland Security, however, the issue of rail security must be addressed when it comes to transportation funding. Within the context of this legislation funding, I feel that priority should have been given to the improvement of our critical infrastructure, to enhance our emergency preparedness, and to aid our first responders who are responsible for the operation and maintenance of our local, State, and interstate railways. Especially in light of the recent subway explosions that took the lives of over 200, it is urgent that we take measures to increase our rail security whenever there is an opportunity—this bill and the upcoming Transportation Appropriations bill are such an opportunity.

On March 11, 2004, an al Qaeda bombing of commuter trains in Madrid, Spain killed nearly 200 people and wounded more than 1,500 others. A minor fire incident in Washington, D.C.'s subway system recently gave us a glimpse of the potential for disruption to our public transit systems. Failure to invest in the security of passenger rail and public transit could leave these critical systems vulnerable to terrorist attack. Millions of Americans rely on mass transit systems on a daily basis. Making these systems as safe as they can be from terrorist attacks must be a high priority for the Department of Homeland Security.

I have signed onto a letter from my Texas colleague and the Ranking Member JIM TURNER to Secretary Tom Ridge expressing the need to increase our rail security.

Between 1997 and 2000, more than 195 terrorist attacks occurred on surface transportation systems worldwide. There are over 140,000 miles of train routes in the U.S., 500 Amtrak stations, and 500 major urban transit operators. Nearly nine billion passenger trips are taken on U.S. mass transit systems every year. Since the attacks of September 11, the U.S. Department of Transportation and the Federal Bureau of Investigation have warned transit and other railroad systems of possible terrorist strikes.

In sum, Mr. Chairman, I support the inclusion of the projects which I cited that have been included in the bill that will improve Houston's transit system; however, in the course of finalizing its language in House and Senate conferences, I hope that my colleagues will look to make provisions for more rail security, given the urgent need.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I rise in strong support of this bill because this bill means jobs for many Americans currently unable to find employment.

This bill is about bolstering our Nation's transportation infrastructure which has a direct impact on our economy. I believe that this is a good bill. I wish it was even more money because we can use the transportation infrastructure money.

I am very sorry that the administration is threatening to veto this bill because it goes above the $256 billion limit they set. I do not know why they do not seem to get it. They do not get the fact that America's workforce and floundering economy would benefit tremendously from this legislation. It is unbelievable that at a time of high unemployment this administration is threatening to veto legislation that would actually create real jobs.

I do not want to hear phony cries about budget restraint. The tax cuts for the rich rob us of our ability to have good programs. This is a great program. The administration says that anything above $256 billion is too expensive. This is ludicrous because the transportation bill is self-funding. The former chair, Mr. SHUSTER, did a wonderful job in ensuring that revenues generated for the trust fund would only be used for transportation projects.

I commend the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI). I think this is a marvelous bill, and I wholly support it.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of TEA LU. However, I am disappointed that it does not include language to close a dangerous loophole in a 30-year-old law that allows school districts to use 15-passenger vans to transport students to and from athletic trips and other school activities.

I have introduced legislation, H.R. 1641, to remedy the problem. It would prohibit the purchase, rental or lease of 15-passenger vans for use to transport students. I understand that the ranking member is amenable to working with me and others in conference to ensure we put an end to this practice that puts schoolchildren's lives on the line every day.

Is this the understanding of the gentleman from Minnesota?

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. UDALL of Colorado. I yield to the gentleman from Minnesota.

□ 1300

Mr. OBERSTAR. Mr. Chairman, the gentleman from Colorado has identified an issue that has been highlighted by the National Transportation Safety Board. I am in full sympathy with the gentleman, and we will work to accomplish that objective.

Mr. UDALL of Colorado. Mr. Chairman, I thank the gentleman from Minnesota for his remarks and look forward to working with him.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank my colleague for yielding me this time.

I rise in support of H.R. 3550, a bill that is bipartisanly crafted by both the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), ranking member; and they have made the best out of what is a bad situation. The fact that the administration is threatening to veto this legislation at the level of $270 billion shows the irrational negotiating posture of the opponents of infrastructure improvement and investment.

I support the $375 billion transportation infrastructure bill. And where does that number come from? It comes from the level that the U.S. Department of Transportation says is necessary to improve the mobility in our country. Mr. Chairman, if we do not improve the mobility of our country, just in Houston we lose $2.1 billion every year in productivity in fuel and congestion, and it is getting worse. And these are not my figures. These are figures from the Texas Transportation Institute's 2003 Urban Mobility study. This highway bill is not pork barrel politics. It makes investment in mobility that the public desperately wants and needs. Our gasoline user fees are for our public highways by tapping revenue from those who benefit from them, motorists and truckers.

Mr. Chairman, I rise in support of H.R. 3550, a bill where our bipartisan Transportation Committee leadership, Chairman YOUNG and Ranking Member OBERSTAR have made the best out of a bad situation.

The fact that the administration is threatening to veto this legislation, at the level of $275 billion, shows the irrational negotiating posture of the opponents of infrastructure investment.

I support a $375 billion transportation infrastructure bill. Where does that number come from? That is the level that the U.S. Department of Transportation says is necessary to improve mobility in the country.

Frankly, I support indexing the gasoline user fee to inflation, a method that is far simpler than having to stop every few miles and dig around for change in the car seat to pay a toll. Under this bill, tolls will too often be the only option available to make infrastructure improvements.

The funding level the administration supports barely allows us to tread water, while China, India, Japan, Europe, and other competitors are investing heavily in infrastructure to strengthen their economies.

It is frustrating to be confined by inadequate transportation funding during tough economic times because infrastructure investment brings major employment and development benefits.

Each billion spent on infrastructure creates 47,500 American jobs. At least 3.5 million jobs would be generated and sustained through 2009 under the $375 billion level in the original H.R. 3550, including over 200,000 jobs in Texas.

Under this bill, we will get significantly less employment and economic activity than that.

The administration and self-proclaimed fiscal conservatives in Congress do not seem to understand that residents in my community are idling away an average of 37 hours and 60 gallons of gas this year in congested traffic.

Just in Houston, we lose $2.1 billion, every year, in productivity and fuel, and congestion has been getting worse. These figures are according to the Texas Transportation Institute's 2003 Urban Mobility Report.

This highway bill is not pork barrel politics; it makes investments in mobility that public desperately want and need. Our gasoline user fee funds our public highways by tapping revenue from those who benefit from them—motorists and truckers.

This bill has important projects for our area in Houston and across Texas, particularly U.S. 90, Clinton Drive, and a Harris County Freight Railroad Corridors and Urban Mobility Program.

This railroad project in particular needs more study and involvement by all stakeholders before we get to implementation, but the problem of grade crossings and mobility does need to be addressed urgently.

Some important policy provisions regarding transportation conformity are also included in this legislation, such as making the conformity process a four year cycle, voluntary limiting of conformity planning to 10 years, and allowing a 12-month grace period in the event of a conformity lapse.

I do not believe that these provisions solve all our problems, and I would hope that the cosponsors of our legislation in the conference will include further necessary improvements to the conformity process.

Our area of Houston is struggling to meet Clean Air Act requirements by statutory deadlines, and I think we will have success.

But to have our mobility crippled by losing transportation funding due to a confusing and contradictory process would be the worst public policy disaster in decades for our area.

Looking ahead to a conference with the other body, I want to congratulate the bipartisan Transportation Committee for its best work in a bad situation.

The closer we get our funding to the U.S. Department of Transportation recommended level of $375 billion, the better off our economy will be.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

We have heard a wide range of thoughtful views, some of them expressed in very hurried fashion due to the time limitations. But if we had 24 hours of debate, there would not have been enough time to hear all the views of all Members because transportation really undergirds our entire economy.

I leave one statistic with my colleagues. In 1987 the cost of logistics, moving people and goods, consumed 16 percent of our gross domestic product of this country. Last year logistics consumed just under 10 percent of our gross domestic product. That is a gain of $600 billion in our $10 trillion economy. That investment gain is due to the investments that we have made through this committee in cooperation with States and localities improving our infrastructure. That is the core of why we are on the floor today, to advance the Nation's economy, productivity, and competitiveness at home and abroad.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

In closing, I would like to thank all the Members who have spoken in favor of this bill. There is no one who spoke against the bill. There will be approximately 11 more amendments offered. I believe this bill is properly structured.

And I have to say this. I again want to stress one thing. I came to this House 31 years ago. I came to this House to work to achieve legislation, and I believe we can only do that by working together. It is something I believe very strongly in. And I know there are those who do not agree with me, who do not want to achieve, but to bicker; and I do not think this is what this House is all about.

So I again congratulate the other side, the minority, at this time for their willingness to work with me and I to work with them to achieve a goal. And I think we have partially reached it in this legislation.

Because of certain media reports about the 375, I have to remind those that might be listening to this or are watching that the 375 that I chose 2½ years ago with the gentleman from Minnesota (Mr. OBERSTAR) was not an artificial number. It was not a "wanna" number. This is a number that came from this administration just to maintain and improve a little bit. There was only one way we could have gotten there, and that was by, in fact, increasing user fees. And of course that has run into tremendous opposition from different people, everybody knows who. But I hope they understand what we are really trying to do in this legislation; and what we should have been doing with the 375 is the future of this Nation because at this period of time before elections, we hear a lot of people talking about Social Security, Medicare, education, border patrol, homeland security, prescription drugs; and they are all good and they are all needed. But there is only one way we can have the financial revenue to get those achievements done, and that is to have a good infrastructure system in place for the future. Without a good infrastructure system, we do not have the economic capability of doing those things everybody wants us to do.

This is not a new idea. Eisenhower saw it and built the interstate system 50 years ago and made this the greatest Nation not just for security purposes, but to be able to move goods and products and people to and from and establish industries because of that infrastructure system put in place 50 years ago.

Now we have competition internationally. We have nations that recognize this. We did not win the Cold War because of our military might. In fact, we did not even win the Second World War because of our military might. We won it because we could deliver troops, products, food, and people across this Nation to the manufacturing points. China, as said in my opening statement, now recognizes that. And we hear a lot of China, about outsourcing. We hear a lot about China and their economic growth; but they recognize why we were great, and I stress that word "were," because they are going to build in 15 years the same amount of highways that it took us 60 years to build in the United States to tie their provinces together, like we tied our States together, so there would be no more warlords. They will have a united China with 4.5 billion people to be able to produce and compete with anyone in this world and probably beat them on all forms of products, especially when Russia is right next door with all the natural resources that they use to do that production.

And the foresight, I believe, the gentleman from Minnesota (Mr. OBERSTAR) and I have had to see that challenge and try to rise to that occasion to make sure this Nation has the ability to compete internationally, that is what this bill is about and what it should be as more.

And that is why in this bill I have a reopener, and I have people objecting to that, because I believe our economy is coming back, but our needs to move people is also increasing at a dramatic rate, and I want to have my grandkids and my great grandkids and my great, great grandkids to have the advantages and ability to compete globally because of the infrastructure system that we will put in place.

I have told my adversaries that are against my 375 that I will be back. I will continue this fight because I believe in it so strongly for this Nation. I believe this House has a responsibility to leave a proper legacy behind for the future generations of this great Nation. I hope everybody that listens to the debate as far as the amendments go understands that we are going to listen to them. We will vote some down; we will accept them, but when it is all said and done that we step forth with this bill tomorrow I hope in the near hours to start the process to leave a legacy behind for this great Nation.

Mr. PASCRELL. Mr. Chairman, I rise in strong support of the amendment offered by my friend Mr. LOBIONDO.

What Mr. LOBIONDO has put forward is a common sense measure that is long overdue. Our home state of New Jersey has recently enacted John's Law, which allows police agencies to impound the vehicles of drunken drivers.

John's Law is named after Navy Ensign John Elliott. John was driving from Annapolis to his home in Atlantic County, New Jersey for his mother's birthday. En route, his car was struck by a drunken driver. Both Elliott and the other driver were killed.

Three hours earlier, the other driver had been arrested and charged with driving under the influence of alcohol. He was released into the custody of a friend, who drove him back to his car and allowed him to get behind the wheel. This tragedy brought attention to a loophole in State law which has since been corrected.

The LoBiondo amendment would not mandate any action by the states. Rather, we hope it will encourage them to impound vehicles of DWI drivers as another important tool in the arsenal of alcohol-impaired countermeasures.

If someone is arrested for drunk driving, it is logical that they not be allowed to get right back behind the wheel of their car, endangering other drivers. Police and public safety groups in New Jersey have praised this policy and I hope that other states will do the right thing by enacting similar laws that will save lives.

On a personal level, I want to recognize the efforts of Bill Elliott, John's father, who has not rested in his work to ensure that such a tragedy would never be repeated.

Passage of the LoBiondo amendment will help Bill in his quest for better public policy. We can all hope for a day when what happened to the Elliott family will never happen to other families.

I urge a "yes" vote on this amendment and I thank my friend for bringing this laudable policy before the House.

Mr. ORTIZ. Mr. Chairman, I rise today in support of H.R. 3550, Transportation Equity Act: A Legacy for Users . . . and I commend Chairman DON YOUNG and Ranking Member OBERSTAR for their leadership on a difficult bill before the House. I also thank Chairman PETRI and Ranking Member LIPINSKI of the Subcommittee on Highways, Transit, and Pipelines for their hard work on this legislation the last couple of years.

Despite the funding level limitations placed on the committee the committee has done an outstanding job in bringing a good bill to the floor that provides $275 billion for highways and transit. I was hopeful we would be moving the bill preferred by the Senate, with a higher investment in national transportation system. By improving our infrastructure in the United States, we grow our economy. This is the best sort of job-creation bill.

With the Southwest international border shouldering a greater and greater load of NAFTA commercial traffic, there is a greater and more urgent need for an interstate highway corridor down to Southern border. The border corridor infrastructure will help our local communities through which so much of the commercial trade passes.

Investing in these inter-modal improvements means investing in the future of efficient movement of people and goods in the 21st

Century to remain competitive, reduce congestion, reduce pollution, and provide for the safety of everyone traveling along our roads and highways.

Investments to improve the security of America's critical infrastructures, including passenger rail and public transit, will benefit not only our national security but also our economy and the safety and reliability of systems that Americans rely on every day.

This bill provides important funding to the state of Texas and my district. While there are still issues to be resolved, in particular the donor-donee issue, I am confident that this will be addressed as we move this bill further along through the process and on to the conference.

Transportation is literally the lifeblood of trade and commerce that winds its way through South Texas, creating and supporting a number of jobs. The funding the Committee included in the bill for our neck of the woods will help with a number of safety issues, as well as generally contributing to creating new commercial opportunities for our area.

The Committee included several public transportation projects for our area. Utilizing public transportation helps move people around more economically, it reduces pollution, and it reduces traffic in the area . . . all of which will go a long way to provide congestion relief for area commuters and a new level of safety for South Texans.

Mr. YOUNG of Alaska. Mr. Chairman, I submit the following two letters for the RECORD.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, March 26, 2004.

Hon. DON YOUNG, Chairman,
Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN YOUNG: I am writing with regard to H.R. 3550, the Transportation Equity Act: A Legacy for Users, which was ordered reported by the Committee on Transportation and Infrastructure on March 24, 2004. As you know, the Energy and Commerce Committee has jurisdiction over matters involving air quality planning and the air quality impact of transportation projects, the Congestion Mitigation Air Quality Program, provisions involving energy production, supply and storage and other matters contained within H.R. 3550 as reported.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 3550. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 3550 or similar legislation.

I request that you include this letter as part of the Committee's Report on H.R. 3550 and in the Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,

JOE BARTON,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, March 26, 2004.

Hon. JOE BARTON, Chairman,
Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of March 26, 2004 regarding H.R. 3550, the Transportation Equity Act: A Legacy for Users. Your assistance in expediting consideration of the bill is very much appreciated.

I agree that there are certain provisions in the bill that are of jurisdictional interest to the Committee on Energy and Commerce and I agree that by foregoing a sequential referral, the Committee on Commerce is not waving its jurisdiction. Be assured that I will support your request to be represented in the conference on those provisions in the jurisdiction of the Energy and Commerce Committee.

As you have requested, I will include this exchange of letters in the Committee report on the bill and in the Record when the bill is on the Floor. Thank you for your cooperation and your continued leadership and support in surface transportation matters.

Sincerely,

DON YOUNG,
Chairman.

Mr. PORTMAN. Mr. Chairman, I rise to express my support for my Drug Impaired Driving legislation, which is included in the H.R. 3550, the Transportation Equity Act: A Legacy for Users.

I know it would probably surprise most of my colleagues to learn that up to 20 percent of drivers involved in motor vehicle accidents were under the influence of illegal drugs, or that in 2002 almost 11 million people drove a car or truck while under the influence of drugs.

Over the past decade, our Nation's aggressive response to the problem of drunk driving has greatly reduced the number of drunk drivers on the road. But the Nation's 16 million current users of illegal drugs have faced no similar effort as they continue to drive under the influence of drugs such as marijuana, cocaine and heroin.

I believe a more effective public policy for detection and prosecution will not only improve traffic safety and create a deterrent, but would get those drivers who violate the law into treatment.

The Drug Impaired Driving Research and Prevention Act, which I introduced with my colleagues SANDER LEVIN, JON PORTER, MARK SOUDER, JERRY COSTELLO, STEVEN LATOURETTE, JIM RAMSTAD and DAVID HOBSON, will provide assistance and guidance to States as they begin to address drug impaired driving. The language calls on the U.S. Secretary of Transportation to craft a model State drug impaired driving law and helps ensure that drivers in need of drug treatment are identified and provided with the appropriate assistance. The legislation enhances the training of police officers and prosecutors to detect, enforce, and prosecute drug impaired driving laws and also funds research to develop field tests to be able to identify drug impaired drivers.

This legislation will greatly improve traffic safety and reduce traffic fatalities as has been the case with drunk driving laws. It is time to deal with these undetected dangers on our roads and highways before more damage occurs and more lives are lost. I thank Chairman YOUNG for including this important legislation in the Highway bill.

Ms. DEGETTE. Mr. Chairman, I rise today in strong support of the Transportation Equity Act: A Legacy for Users. The reauthorization of TEA–21 offers the opportunity to celebrate some of that landmark legislation's visionary projects.

The Southeast Corridor—or T–REX as it is affectionately known in my home district of Denver, Colorado—is one of TEA–21's best projects. It is currently on time, on budget and already providing essential transportation services. Upon completion in 2006, T–REX will connect the region's two largest employment centers through an improved interstate highway system and additional light rail transit. These roadway and transit improvements will significantly enhance inter-regional and intra-regional transportation of people and goods.

T–REX is quite literally driving Colorado's economic engine.

I would be remiss, however, if I did not express my disappointment with the funding levels of the bill before us. I concur with the State Departments of Transportation's assessment of our nation's infrastructure needs. That is why I am a proud cosponsor of this legislation as originally introduced by the estimable Chairman DON YOUNG and Ranking Member JIM OBERSTAR.

It is unfortunate and dismaying that the President has chosen to wield the club of a veto threat on what is essentially the only jobs creation legislation before this Congress. I deeply regret the missed opportunity that the $275 billion price tag represents. We will be unable to address the donor state issue, which affects the transportation dollars Colorado receives, among other important changes we should be examining.

Having said that, I applaud the Committee on its excellent work. I appreciate their recognition of the gains embodied in TEA–21 and of the growing infrastructure needs our nation faces.

Mr. OXLEY. Mr. Chairman, I stand in support of H.R. 3550, the Transportation Equity Act: A Legacy for Users (TEA–LU).

In my congressional district, the rural highways that served our Nation for decades can no longer sustain the increasing numbers of cars, semis, and other vehicles that use them every day. Many of these roads cannot meet the expanding needs of the communities and growing economies that they serve. U.S. Route 30, the prime east-west truck route in my district, continues to exemplify this problem.

As the chief alternative to the Ohio Turnpike and Interstate 70, Route 30 has seen drastic increases in truck traffic over the years—more than 63 percent in the last decade alone. This has led to a tragic number of fatal accidents on the narrow two-lane segments of this road. Obviously, the need for a four-lane upgrade has never been more crucial.

Six years ago, as part of TEA–21, I was able to secure more than $11 million for the purchase of right-of-ways for the Route 30 modernization throughout my congressional district. Since then, I have been honored to join my constituents at a groundbreaking ceremony in Crestline and a ribbon-cutting ceremony near Beaverdam to mark further progress on this lifesaving project, for which they have been waiting for more than four decades. Construction work continues between Upper Sandusky and Mansfield, with completion of the various upgraded segments slated for later this year. I'm grateful that TEA–LU will provide an additional $10 million in direct funding for continued Route 30 construction from State Route 235 in Hancock County to the west end of the Upper Sandusky bypass in Wyandot County, bringing much-needed relief to those who drive and live near this major highway.

I'm also pleased that the bill provides $2.3 million to continue U.S. Route 68 bypass construction efforts in Urbana. In 1958, the State of Ohio launched this project to connect Interstate 70 to U.S. Route 33 west of Columbus, purchasing significant parcels of land for the new road. Little progress has been made to date, though, hampering the ability of local officials to promote and develop the area west of the city. This bill will advance the second phase of the overall project by providing needed design and right-of-way funds.

In accord with TEA–LU's expansion of rail/highway crossing safety programs, I am grateful to the Committee for including important rail grade separation projects in the reauthorization. In the city of Lima, the construction of new grade separations will alleviate the potential dangers that arise when stopped trains cut off an entire sector of the populace from emergency services. A similar project in Urbana will allow for the rehabilitation of the rail bridge over U.S. Route 36.

Mr. Chairman, I applaud the stalwart leadership and commitment of Chairmen DON YOUNG and TOM PETRI in setting a course toward meeting our nation's growing transportation needs. I also salute the continuing hard work of STEVE LATOURETTE and BOB NEY in securing the best possible rate of return for Ohio and other donor states to the Highway Trust Fund. As we move to conference, their efforts in support of highway funding equity and fixing the ethanol tax penalty will help our state to complete Route 30, Route 68, and many vital infrastructure projects that have been on the shelf for years due to lack of funding. I look forward to working with them and with our outstanding senators, MIKE DEWINE and GEORGE VOINOVICH, to ensure that our state and nation have the best and most modern transportation systems in the world.

Mr. SENSENBRENNER. Mr. Chairman, I reluctantly oppose this bill. I do so for two reasons. I believe that the bill spends too much money, and it contains too much pork. Many highway projects are good uses of the public's money, but many are not. I think this bill has too many of the latter. We are never going to balance the budget if we do not rein in wasteful spending, and today is a good place to start.

Second, I do not believe that the jurisdictional concerns of the Committee on the Judiciary have been fully addressed. Numerous provisions of the bill fall within our jurisdiction. We requested a sequential referral of the bill, which we received, but it did not provide sufficient time for a markup. I appreciate the many conflicting pressures that leadership faces, and I do not criticize them for that decision.

We have also worked with the Transportation Committee to try to resolve our concerns, but we have not yet been successful in fully doing so. For example, only yesterday I have learned of a provision tucked away in the bill that I understand would extinguish a particular pending federal False Claims Act lawsuit brought by the Department of Justice. I am very concerned about the ramifications of this kind of legislation. I will certainly be seeking conferees as to that provision and seeking its removal from the bill.

Among my other concerns is that the bill as currently drafted would give the Secretary of Transportation some independent litigating authority with respect to certain hazardous materials actions. It is the longstanding position of the both the Department of Justice and the Committee on the Judiciary that litigation authority for the federal government should remain unified in the Department of Justice. We cannot yield on that point. Chairman YOUNG has partially resolved that problem in the manager's amendment, and I look forward to continuing to work with him to fully resolve that issue.

I also appreciate his willingness to include language I requested to clarify that Congress has the right to alter, amend, or repeal certain interstate compacts that are authorized in the bill.

I remain concerned about a new grant program included in the bill that deals with racial profiling. I am hopeful that we will be able to work together in conference to improve that provision.

There is also new material in the manager's amendment that falls within our jurisdiction which we have not yet had time to thoroughly study, so we will be looking at those sections.

Finally, I will request that Members of the Judiciary Committee be appointed as conferees on all sections of the bill that fall within our jurisdiction, and I will continue to work cooperatively as we go forward to work out these concerns.

But, for the reasons I have stated, I must reluctantly oppose the bill at this point.

Mr. COSTELLO. Mr. Chairman, first let me say thank you for a job well done to Chairman YOUNG, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI for their leadership on bringing this bill to the floor today.

Without their leadership and persistence we would not have a bill to even consider today.

Despite a threat of a veto and suggestions that we should have a scaled down bill that would not even provide enough funding to the states to do general operations and maintenance of their transportation systems and other suggestions that we should have a 2-year bill, we are here today to consider a good, six-year bill.

While I would have preferred the original bipartisan bill that the committee supported at the $375 billion funding level over 6 years, I support the bill before us today in hopes that we can make the bill even better in conference.

The bill before us provides $275 billion over 6 years and maintains roughly an 80/20 split in hwy and transit funding.

Also, I am pleased that we have a section in the bill for mega projects—projects that are very important to our nation's transportation system that otherwise could not be funded out of the normal state funding formula.

Finally, it is important that we pass this bill out of the House and conference quickly. When we invest a billion dollars in our infrastructure we create 47,500 new jobs and $6.2 billion in economic activity. This bill will help our economy at a time when our economy needs it most—we must act now so that we can put people to work during this construction season.

Mr. Chairman, I again salute and thank Chairman YOUNG, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI for their leadership and hard work.

Mr. DUNCAN. Mr. Chairman, vicarious liability laws in 3 states (NY, ME, CT and DC) impose unlimited liability on car and truck renting and leasing companies for injury and property damage solely because they own the vehicles. Eight other states have some limited form of vicarious liability. Vicarious liability is "liability without fault" in that these companies have no involvement in or ability to prevent the accident. They cost consumers an average of $100 million annually. Companies nationwide are affected, not just in the few vicarious states, because the laws apply based on where the accident occurs, not where the car or truck is owned or registered. As a result, a car registered and rented in a non-vicarious state that gets into an accident in a vicarious state is subject to that state's vicarious laws. Companies have no way to protect themselves against these laws.

. I propose adding to H.R. 3550 (TEA LU) a provision to eliminate vicarious liability nationwide. Under this provision, only a company that is at fault or negligent in an accident could be held liable for damages. T&I Chairman YOUNG, Highways Subcommittee Chairman PETRI, and Highways Subcommittee Ranking Member LIPINSKI all support this provision; Ranking Member OBERSTAR is noncommittal at this point.

The amendment eliminates liability under state law for an owner of a motor vehicle who is engaged in the business of renting and leasing motor vehicles provided there is no negligence or criminal wrongdoing on the part of the motor vehicle owner; the owner must maintain the required state limits of financial responsibility for each vehicle in accordance to the state where the vehicle is registered; elimination of vicarious liability commences on the date of enactment; and defines "motor vehicle" and "owner."

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support of H.R. 3550, the Transportation Equity Act: A Legacy for Users.

This Member would like to begin by thanking the distinguished gentleman from Alaska (Mr. YOUNG), the Chairman of the Transportation and Infrastructure Committee, and the distinguished gentleman from Minnesota (Mr. OBERSTAR) for their extraordinary efforts in bringing this bill to the Floor. This Member would also like to express sincere appreciation to the distinguished gentleman from Wisconsin (Mr. PETRI) and the distinguished gentleman from Illinois (Mr. LIPINSKI) for their hard work on this important legislation, which is designed to enhance our nation's highways, bridges, and transit, while improving safety and creating jobs.

Clearly, a higher level than the nation currently spends on our highways and bridges is justified. Due to the dramatic deterioration of our nation's transportation infrastructure and the substantial growth of our population with attendant travel, our country must make a significant investment in our roads, bridges, and transit systems.

This Member believes that is important to recognize that transportation funding must be based on needs. It is clearly necessary to address the very real and pressing transportation requirements of this nation. Substandard roads contribute to increased congestion and greater danger for motorists. Better roads improve safety and efficiency.

It is important for the new surface transportation bill to not only maintain our current infrastructure of highways and bridges, but to improve it. Last year, the Federal Highway Administration released its 2002 version of the Conditions and Performance Report on the Status of the Nation's Highways, Bridges, and Transit. According to this document, the previous Highway Bill—TEA 21—has had a positive effect on improving road conditions generally. The report also noted that states and local governments have also increased their investment in transportation projects. Despite these improvements, the performance report stated, "There is significant room for increases in highway capital investment that would result in positive net benefits to the American people, in terms of reductions in travel time, vehicle operating costs, crashes, emissions, and highway agency costs."

Improving our transportation system is good for the economy and it benefits each American. In fact, accelerating the funding for transportation infrastructure is in itself one of the best economic stimulus actions.

This Member would like to take this opportunity to mention several issues of importance to Nebraska and the First Congressional District.

First, this Member is very pleased that TEA–LU authorizes funding to address the problem of railroad-highway crossings and the elimination of road hazards. This issue—which was the focus of the field hearing in Lincoln, Nebraska, last year—affects many states, but the problem is especially acute in Nebraska, which has 4,000 public and 2,700 private rail grade crossings.

Nebraska has the highest number of rail/highway grade crossings per mile in the U.S. and has the most heavily used rail corridor in the nation. Nebraska is taking action to ensure that the safety issues surrounding the rail crossings are addressed. However, the state clearly lacks the financial resources to finance the hugely expensive program to reduce the safety risk associated with the more important of these crossings.

Nebraska is served by both the Union Pacific and the Burlington Northern Santa Fe railroads. Combined, these railroads account for 70 to 140 trains per day using their two main lines across the whole west-east distance of Nebraska. The railroads continue to play an important economic role in the state, but additional, dramatically increased efforts must be made to improve the rail crossing issue.

According to Nebraska Governor Mike Johanns, a state rail study found that public crossings are blocked by moving trains over 2,300 hours a day and that even in a low population state like Nebraska, its drivers spend an estimated 6,350 hours a day waiting for trains to pass. This problem will not go away on its own. In fact, the average coal train length has also grown from 110 cars to 135 cars, while the number of trains has doubled in the past 20 years.

Governor Johanns has further noted that the State of Nebraska currently receives about $4.7 million of Federal and $3.3 million of state rail safety funds per year. However, the needs are much greater. The state's total rail/highway safety funding needs are more than $420 million which would cover just 85 possible rail/highway grade separations from a much larger total.

This Member would also like to emphasize support for including in the final surface transportation bill the provisions from two bills he has introduced in the 108th Congress.

This Member believes that it is important that the final version of the surface transportation legislation ensures that agricultural transporters would continue to be exempt from hours of service requirements when operating within a 100 mile radius of their point of origin during planting and harvesting season. This is a matter of great importance to the transporters of agricultural commodities and supplies as well as to consumers. Although the 1995 National Highway System Designation Act included my proposal which led to a rule creating the exemption, this relief has been threatened by proposed hours or services rule changes. This provision, based on a bill this Member introduced last year—H.R. 871—is needed to safeguard this necessary exemption and provide a clearer definition of "agriculture commodities." The bill has been endorsed by the Agricultural Retailers Association and the Agricultural Transporters Conference of the American Trucking Associations.

This Member also supports inclusion in the final version of the legislation a provision based on the "Safer Roads Everywhere Act" introduced by this Member last year. This proposal—H.R. 1226—is designed to enhance global traffic safety and would benefit Americans who are traveling or living abroad. The legislation also is designed to provide the National Highway Traffic Safety Administration (NHTSA) with the authority it needs to conduct activities to improve worldwide traffic safety. Furthermore, it would provide the Department of Transportation with opportunities to gain knowledge about international traffic safety practices and programs which could be incorporated in the U.S. The bill is supported by the Association for Safe International Road Travel, the Advocates for Highway and Auto Safety, and the Institute of Transportation Engineers. My staff has worked with NHTSA and the World Health Organization in developing the legislation.

This Member is also supportive of a provision which is designed to improve public safety through improved enhanced emergency response and increased security of intermodal containers. This provision would also authorize a pilot project to demonstrate emergency communications systems that provide wideband, two-way information transfer capabilities.

This Member is pleased that H.R. 3550 includes provisions approved by the Ways and Means Committee designed to address the ethanol issue as it affects the Highway Trust Fund. Importantly, the Ways and Means Committee increased the funding available for transportation while protecting ethanol by shifting the cost of the Federal ethanol subsidy from the Highway Trust Fund to the general fund. The Committee did this by creating an equivalent tax credit in place of the ethanol tax exclusion of 5.2 cents per gallon. In addition, the Committee transfers an existing 2.5 cents per gallon ethanol tax from the general fund to the Highway Trust Fund. These actions are important not only for transportation, but also for Nebraska's agricultural community.

This Member is also very pleased that H.R. 3550 includes funding for several projects which would provide significant benefits to the 1st Congressional District, Nebraska, the region, and the nation.

NEBRASKA HIGHWAY 35—$13,000,000

The intent of the Nebraska Highway 35 project is to develop the most efficient route from Norfolk to South Sioux City. Currently, this route is comprised of several short segments of highway winding its way to the northeast. This project has significant regional and national importance. The 68-mile project will provide a more direct regional connection and greatly facilitate travel, for example, between the Twin Cities of Minnesota and Denver as well as regional north-south traffic. It is also a project of great importance to the area's local communities.

The new corridor will provide significant safety, congestion mitigation, and economic development benefits and reduce travel time. The Nebraska Department of Roads classified the Highway 35 project as a "planned expressway" in 2001.

LINCOLN SOUTH BELTWAY—$14,566,300

The South Beltway is a vital component of Lincoln, Nebraska's long-range transportation plans and will be an important solution to the highway traffic congestion in a wide swath of central Lincoln with the substantial truck traffic resulting from the newly completed State Highway 2 Expressway connection to Interstate I–29 in western Iowa.

The South Beltway is a vital component of the City's long-range transportation plans and will be an important solution to the traffic congestion that is beginning to affect this growing community. This Member has been personally interested in advancing this project, which will be beneficial to the entire region. Funding is needed to build upon past congressional support for the South Beltway.

ANTELOPE VALLEY (LINCOLN)—$4,000,000

The Antelope Valley project is a comprehensive plan to protect and enhance highways and flood control in downtown Lincoln that has emerged from a partnership between the City of Lincoln, the State of Nebraska, the University of Nebraska-Lincoln (UN–L), the Lower Platte South Natural Resources District and the Army Corps of Engineers. The project involves transportation, flood control, and community revitalization, many portions of which must be developed concurrently for maximum efficiency. For Phase I of the transportation component of the Antelope Valley Project, funding is needed for a new north-south roadway and a new east-west roadway within the redevelopment corridor. Between $7–8 million in Federal highway funding has already been devoted to this large-scale project.

FREMONT RAILROAD GRADE SEPARATION—$1,807,300

Funding is needed to create a grade separation structure across a railroad corridor in the western part of the City of Fremont. This location is at the top of the Nebraska Department of Roads' list of grade separation needs across the state. The project will create significant safety and economic benefits.

LOUISVILLE BYPASS—$1,626,400

This project, which has the support of the Louisville mayor and city council as well as the Cass County Commissioners, to implement a Nebraska Department of Roads study, would relieve severe truck/traffic problems on Nebraska Highway 66 in the community and thus provide significant safety and economic development benefits for the area. This state highway is becoming more frequently used as a short-cut between I–29 and I–80 and that trend will accelerate when the two new Missouri River bridges in Sarpy and Cass counties are put in place.

U.S. 34 IOWA/NEBRASKA MISSOURI RIVER BRIDGES—$12,000,000

The distinguished gentleman from Nebraska (Mr. TERRY) and the distinguished gentleman from Iowa (Mr. KING), whose districts are also part of the site for the two-bridge, bi-state project across the Missouri River in Cass and Sarpy counties for access to I–29 support its construction as does this Member. The total funding represents the separate but complementary requests of the distinguished gentleman from Nebraska (Mr. TERRY), the distinguished gentleman from Iowa (Mr. KING), and this Member. This important project is urgently needed to replace two obsolete and deteriorating bridges crossing the Missouri River. The construction of these replacement bridges will result in increased safety and improved economic development in the area.

The agreement leading to this request for funding was the result of intensive discussions and thus it continues to represent the consensus of city, county and state officials as well as the affected Members of Congress. We believe it is the best approach for Nebraska, Iowa and the entire region.

PFLUG ROAD & I–80 INTERCHANGE—$3,000,000

A future interchange at Pflug Road would provide a major catalyst for the development of southern Sarpy County. The existing Pflug Road bridge over I–80 will be removed as a part of the I–80 widening project between Omaha and Lincoln. In order to accommodate the interchange, the new Pflug Road bridge will be constructed approximately ¼ mile to the south of the existing location. Currently, the nearest interchange south of Pflug Road is Nebraska Highway 66, which is about five miles southwest, while the closest interchange north of Pflug Road is Nebraska Highway 31, about two miles northeast. This Member is pleased to join the distinguished gentleman from Nebraska (Mr. TERRY) in supporting this project. The total funding represents the separate but complementary requests of the distinguished gentleman from Nebraska (Mr. TERRY) and this Member.

CORDOVA ROAD—$1,500,000

This project would involve paving 5.5 miles of road north of Cordova to I–80. Paving this road would provide an important long-missing transportation link in Seward County, Nebraska, (and for areas south of the county) which currently lacks the funds to complete the project. It would also provide economic development benefits in the area.

NEBRASKA STATEWIDE RURAL TRANSIT NEEDS ASSESSMENT—$300,000

This project is needed to assess capital and operating financial needs of rural transportation in Nebraska.

This Member would also like to express strong support for designating the University of Nebraska—Lincoln as a participant in the University Transportation Center (UTC) program. The UTC provisions in H.R. 3550 currently provide for a competitive selection process among the universities. However, if this process is revised and universities are designated in the final version of the legislation, this Member strongly urges that the University of Nebraska—Lincoln be included.

UN–L is uniquely qualified to be included in the UTC program. UN–L has already developed a strong area of expertise in the area of transportation safety research; therefore, this Member believes that it would be an excellent addition to the UTC program.

In recent weeks it has come to this Member's attention that an important project—Antelope Valley in Lincoln—may require clarifying language to help ensure that work may continue in a timely manner. This Member urges the final version of the legislation to include the following provision or something similar:

> (A) ANTELOPE VALLEY PROJECT.—The Secretary shall enter into an agreement with the Corps of Engineers to allow for the Federal flood control funds to be matched with Federal surface transportation funds as the non-Federal match. The Antelope Valley Project in Lincoln, NE, has successfully demonstrated the cost savings that can be derived from a coordinated effort between federal, state, and local agencies to study, plan, and construct a major infrastructure project that will mitigate flooding and transportation congestion while revitalizing the heart of downtown.

This Member strongly supports H.R. 3550 and urges his colleagues to vote for it.

Ms. DELAURO. Mr. Chairman, I rise in support of this legislation. Few responsibilities of the Federal government touch the lives of American families like funding for our Nation's highways. Whether you are a business owner moving product or a parent getting the kids to school before going to work in the morning, we all recognize the importance of well-designed and maintained roadways.

And with almost 9 million Americans out of work and 47,500 jobs created for every billion dollars put toward federal highway and transit spending, we recognize that investing in our highways is an investment in our Nation's future, in our families and in our quality of life.

While all of our States have transportation needs, by no means are they equal. At the same time I–95 truck traffic is expected to double in 10 to 15 years, the Northeast has one of the oldest highway and transit infrastructure systems, as well as some of the oldest and most heavily used bridges in the United States. Last week's fuel tanker crash on 1–95 in Bridgeport only highlighted these shortcomings, pointing to Connecticut's dire need for a viable alternative to our congested highways.

I believe most members of the Transportation and Infrastructure Committee would agree we should provide at least as much funding nationally as the other body has.

I remain concerned about ongoing attempts to raise the minimum guarantee rate in this bill to 95 percent. Raising the minimum guarantee not only destroys the concept of needs-based aid, it does so at a time when assistance is most urgently needed.

Mr. Chairman, as this legislation moves to conference, it is critical that we remain committed to providing funding to the States that require improvements the most. That is how this body can serve the Nation best, and that is what this bill should aspire to.

Mr. RAHALL. Mr. Chairman, I rise today to quote the words of President Dwight Eisenhower, the father of our Highway Trust Fund, who rightly said "A network of modern roads is as necessary to defense as it is to our national economy and personal safety." President Eisenhower's words ring as true now as they did then.

Traditionally, the Transportation bill has been free from partisan differences. We have an old saying on the Transportation Committee, "There are no Republican bridges, no Democratic bridges, just America's bridges."

Unfortunately, Mr. Chairman, this year, the bill has fallen victim to political differences—within the divided Republican Party. Even though we've had enough support to pass the bill since last year, the divided Republican Party has held up passage of this bill for months. The President opposes Congressional Republicans from both the House and the Senate. House Republicans are divided against each other. The President has even gone against his own Department of Transportation.

House Republicans go along with the President on tax cuts, a Medicare bill with an uncertain price tag, and funding infrastructure in Iraq. And, then he publicly belittles their transportation spending efforts by calling the highway bill an "entitlement."

The division within the Republican Party also extends to their traditional allies in the business community. The President opposes the bill because he claims it spends too much. The U.S. Chamber of Commerce says it might oppose the bill because it doesn't spend enough.

I hope that when we get to conference with the Senate, we increase the level of funding—as the majority of Members from both parties want. When we get to conference we also need to maintain several key protections that are in this bill.

To ensure that adequate funding is available across our National network, this bill guarantees each State a minimum rate of return equaling 90.5 percent of each dollar invested in the Highway Trust Fund. Each State is also guaranteed a minimum apportionment in funds.

But now, some States want to turn back the clock to some sort of Articles of Confederation, and keep the gas tax money for themselves. Doing so would rip apart the very fabric that binds our Nation together: our surface transportation system.

Many of those same States also want to alter the proposed scope of the minimum guarantee program, which will penalize States whose needs are regional, or even national, in scope. An error in the Fiscal Year 2004 Appropriations is already costing my State $20 million in badly needed highway funds. Altering the proposed scope of the Minimum Guarantee program, now, would only worsen this situation.

I supported H.R. 3550 months ago, with its equitable minimum guarantee program. I don't support making dramatic changes in the bill, now, after supporting the underlying bill for months.

It is important to bear in mind what President Eisenhower understood: that our transportation system is an integrated, coordinated, national network. It seamlessly crosses State borders regardless of the differences within those States, as the business community clearly understands. To be truly national, it must address measurable needs nationwide—taking into account the greater difficulty some States have at roadbuilding, or the greater needs some States have for transit.

Mr. Chairman, I come from West Virginia—one of the most difficult States for constructing highways. Transportation in—and through—my State is critical not just to West Virginians, but also to trucks, tourists, and commuters from other States.

And, if you cut equitable funding for highways this time, what will prevent cuts next time to the mass transit funding that States such as Illinois, New Jersey and California depend upon?

Just like other national programs where West Virginians' tax dollars go to help other States—such as the location of defense bases, or the Farm program—some contribute more than they get back.

That is appropriate. You can't drive across Mickey Mouse roads when you're traveling crosscountry to see Mickey, himself.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in support of H.R. 3550, the Transportation Act—A Legacy for Users (TEA–LU). I am pleased that my good friends Chairman DON YOUNG and Ranking Member JIM OBERSTAR of the House Transportation Committee have agreed to increase transportation funding for the Territories.

Congresswoman MADELEINE BORDALLO, Congresswoman DONNA CHRISTENSEN and I have worked on this issue for the past year and Congressman NICK RAHALL, ranking member of the House Resources Committee, has supported our efforts.

As a result of our work, the Territorial Highway Program (which includes American Samoa, Guam, the U.S. Virgin Islands and CNMI) will be increased from $33 million to $40 million for FY04, FY05 and FY06. For FY07, FY08 and FY09, funding will increase to $50 million. Despite the Transportation Act (now known as TEA–LU) being $100 billion less than what was originally proposed, the Territorial set aside will increase by 23.6 percent.

Moreover, I have worked closely with Chairman YOUNG and Ranking Member OBERSTAR to include $14 million for high priority projects in American Samoa. This funding is in addition to American Samoa's annual Federal highway funds and will be used for village road improvements, drainage mitigation, shoreline protection and upgrades and repairs of the Ta'u ferry terminal facility.

In consultation with the Honorable Togiola Tulafono, Governor of American Samoa, I have asked the Committee to set aside $9.4 million for village road improvements in the Eastern, Western, Central and Manu'a districts of American Samoa.

In further consultation with Senator Tuaolo Fruean and High Paramount Chief Mauga and members of the Pago Pago council of chiefs, we have also set aside $1 million for drainage mitigation for Pago Pago village roads.

In consultation with Senator Tago Suilefaiga, Representative Fagasoaia Lealaitafea and Representative Mary Taufete'e and members of the Nuuli council of chiefs, we have set aside $1 million for shoreline protection and drainage mitigation for Nuuli village roads.

In consultation with Senator Faamausili Pola and members of the Ta'u village council of chiefs, we have set aside $1.6 million to upgrade and repair the Ta'u harbor facility.

Finally, in consultation with Senator Faiivae Galea'i, Senator Lualemaga Faoa and members of the Leone and Malaeloa councils of chiefs, we have set aside $1 million for drainage mitigation for Malaeloa-Leone village roads.

Again, I thank my colleagues, both Democrat and Republican, and I also thank the local leaders of American Samoa, including Governor Togiola, for working closely with me to make sure that American Samoa's needs are addressed in this historic and important initiative.

I urge passage of this bill and I again commend Chairman YOUNG and Ranking Member OBERSTAR for their leadership and support.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). Pursuant to the order of the House of Tuesday, March 30, 2004, all time for initial general debate has expired, and under that order, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETRI) having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, had come to no resolution thereon.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 593 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 593

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved in the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes. No further general debate (except for the final period contemplated in the order of the House of March 30, 2004) shall be in order. The amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, modified by the amendments printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment shall be in order except those printed in part B of the report of the Committee on Rules. Each further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment or demand for division of the question. All points of order against such further amendments are waived. At the conclusion of consideration of the bill, as amended, the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendment considered as adopted under the first section of this resolution shall be considered an amendment offered under section 411 of House Concurrent Resolution 95.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I rise today in strong support of both the rule we are considering now as well as the underlying legislation. Before I get into the legislation itself, I would like to briefly speak about the rule. Mr. Speaker, this is a very fair and balanced rule. The Committee on Rules received a total of 59 amendments for our consideration, and this rule makes in order 23 of those 59 amendments that were submitted to us. It includes 14 amendments offered by Republicans, eight amendments offered by Democrats, and one bipartisan amendment. The rule also makes in order a very bipartisan manager's amendment, which addresses a significant number of concerns that have been raised by many Members.

The rule also includes an important provision from the Committee on Ways and Means to ensure fiscal solvency of the Highway Trust Fund, as well as a provision relating to the mass transit guarantee.

Mr. Speaker, this provision is necessary to ensure that current flexibilities and authorities of Congress to set appropriate annual spending levels for basic salaries and administrative expenses for the Federal Transit Administration are maintained.

Under current law, the Committee on Appropriations can adjust spending in this account so long as those savings are rolled into other mass transit programs and the full transit guarantees are preserved. The underlying bill, as reported by the Committee on Transportation and Infrastructure, restricted the ability of the Committee on Appropriations to adjust spending on an account-by-account basis. The amendment to the bill included in this rule simply provides guidance in interpreting existing rules of the House to ensure that the status quo is maintained. This is not intended to provide any new authority whatsoever.

Mr. Speaker, I want to note that I will continue to work with the committees to perfect language to ensure that the provisions achieve the intended purpose. Legislating House rules in this manner is not my preferred way to proceed.

Regrettably, however, when TEA 21 was enacted, changes to the House rules were legislated within the authorizing statute and were not implemented through the regular order of the House.

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Instead, they were and are continuing to be legislated by a committee that does not have any jurisdiction over this matter.

I want to make it very clear, Mr. Speaker, that the Committee on Rules has and will retain its jurisdiction over the rules of the House. As part of our review of budget enforcement procedures, this and other budgetary enforcement mechanisms will be further scrutinized. It is my hope that the affected committees will continue to work with the Committee on Rules to ensure that all changes to the rules of the House are thoughtful and reasoned. But, Mr. Speaker, despite my reservations over some portions of the legislation, I want to reiterate my strong support for the underlying legislation.

Mr. Speaker, the Transportation Equity Act: A Legacy For Users, reauthorizes our Nation's surface transportation programs for the next 6 years. The very core of this bill is safety and congestion relief.

Investing in transportation infrastructure has fundamental impacts on our quality of life, our Nation's economic growth and, as was just said by the distinguished chairman of the Committee on Transportation and Infrastructure, our competitiveness in the world. Our highways, transit systems, pipelines, airports, harbors and waterways serve as the backbone of our economy by moving people and goods, employing millions of workers, and generating a significant share of total economic output.

Transportation-related goods and services generate 10 percent of our total gross domestic product. In making our infrastructure backbone stronger, TEA LU provides safety improvements that will save lives. Many of the more than 42,000 highway fatalities each year can be prevented by building better roads and improving the safety features of existing roads. Commercial motor vehicles are involved in 12 percent of all crashes resulting in a fatality. Carriers transporting extremely hazardous materials must ensure that sufficient safety and security measures are in place to accomplish that transportation without loss of life, injury or property damage.

Improvements in safety include the movement of freight from ship to shore, which must be conducted in a safe, efficient, secure manner in order to improve air quality and decrease congestion.

Congestion relief is imperative. American families do not need books of statistics to know that traffic congestion has increased. We all know that rush hour starts earlier in the day and ends later at night, creating more travel time than ever before. Congestion also negatively impacts our environment by increasing emissions and wasting fuel. Vehicles in stop-and-go traffic not only emit more pollutants than they do when operating without frequent breaking and acceleration, but obviously they decrease fuel efficiency as well.

In my home State of California, improving safety while reducing congestion has never been more critical. As California is considered the Gateway to the Pacific Rim, 40 percent of the Nation's goods are imported through the ports of Los Angeles and Long Beach. The infrastructure supporting the movement of goods from ship to shore through Los Angeles and Long Beach will distribute an estimated $314 billion worth of trade by the year 2020.

Facilitating growth in trade is directly connected to the overall economic vitality of the entire Nation. Ninety-five percent of U.S. international cargo by volume is transported by ocean. According to the United States Trade Representative's Office, nearly 20 percent of all U.S. jobs are directly associated with international trade.

In the Southern California region alone, improvements to our infrastructure will reduce a projected 300 percent increase by 2020 in auto-truck traffic delays in points where freight moving on railroads impedes vehicle and pedestrian traffic. This is just one example of how TEA LU strengthens our transportation infrastructure into the next decade.

During this debate, you will hear the challenges we must still address in improving our surface transportation programs. Nobody can deny that the need is great and our resources are limited.

In addition, I look forward toward working that States receive their fair share. However, our critical task here is to ensure the safety of American families and to move people and goods throughout this country faster and more efficiently. This bill accomplishes that goal.

I would like to congratulate the gentleman from Alaska (Chairman YOUNG), the gentleman from Wisconsin (Chairman PETRI), the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Pennsylvania (Mr. LIPINSKI) on their leadership in crafting this important legislation.

To that end, Mr. Speaker, I urge my colleagues to support this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, throughout my 25 years of service in this House, I have always worked hard to ensure a bright economic future and a good quality of life for the people I represent. That is why I have consistently made transportation priorities of North Texas my own priorities here in Congress. I have always supported the Federal highway and transit bills that have come before the House, because I knew they would directly benefit the people of my area.

In 1998, for example, I voted in favor of TEA 21, the last transportation reauthorization bill passed by Congress. That bill widened a major thoroughfare in North Texas, Interstate 30, from six to eight and ten lanes, easing congestion in Dallas-Fort Worth and the surrounding areas.

TEA 21 also included important funding to expand DART, the Dallas Area Rapid Transit System. As one of DART's original supporters, I knew that by reducing motor vehicle traffic on our already-overcrowded roads, the system would significantly reduce air pollution and ease the commute of thousands of Dallas residents. An important byproduct of both these projects were the many, many good jobs created for our community.

So for me it has always been an easy decision to vote for the transportation bills in this House, and that is why today I am proud to rise in strong support of this year's transportation authorization bill, TEA LU.

TEA LU will be one of the most important bills we pass in Congress this year, and the reason is simple: Transportation projects stimulate economic activity in our home communities. Quite simply, this bill is good for our Nation's economy. In fact, the Federal Highway Administration reports that for every $1 billion in Federal funds invested in highway infrastructure, it creates 47,500 new jobs and $6.2 billion in economic activity.

So whenever Congress passes its transportation reauthorization bill, we do not simply reduce congestion and air pollution, we create jobs, good jobs that cannot be shipped overseas, and we create huge opportunities for our constituents by bringing the government, the private sector and the general public together to help grow the economy so that those good jobs stay here at home in our own communities.

There is no doubt that for far too many Americans, the U.S. economy is in bad shape. Over 8 million people are currently unemployed, the average length of unemployment has risen to 20.3 weeks, the longest duration since 1984, and no new private sector jobs were created last month. So, as you can see, Mr. Speaker, it is especially critical that we pass the transportation bill today.

The bill before us today continues to provide benefits for North Texas. It is my understanding that the bill contains $35 million in funding that I requested from the committee to replace Interstate 30 and Interstate 35 Trinity River bridges in Dallas and for the improvements to I–635 in Dallas. The bill also authorizes four new rail lines to expand DART in Dallas, including construction of a Northwest/Southeast extension that will add 60,000 daily riders to the rail system.

So, by passing TEA LU, we will not only be reducing air pollution and easing congestion throughout the metropolitan area, we will be creating new jobs and a brighter economic future for North Texas.

Mr. Speaker, highway and transportation funding must never be subject to partisan politics. There is too much at stake for the American people, and there is too much at stake for the economy. I know that my colleagues all want the same thing for their constituents as I want for mine: clean air, better roads and good jobs. The bill before us today can set us on that path. I hope that today Members will set aside politics as usual and vote to pass TEA LU for the good of our communities and our entire Nation.

Mr. Speaker, I urge a yea vote on the rule and on the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I am very happy to yield 3 minutes to the gentleman from Atlanta, Georgia (Mr. LINDER), the distinguished chairman of the Committee on Rules' Subcommittee on Technology.

Mr. LINDER. Mr. Speaker, I thank my friend from California, the chairman of the Committee on Rules, for yielding me time.

Mr. Speaker, I rise in support of House Resolution 593 and urge the House to approve this rule so we can move on to consideration of the underlying legislation, H.R. 3550, the highway funding bill.

As the gentleman from California (Chairman DREIER) described, this is a fair, structured rule that makes in order a total of 23 amendments, 14 Republican and 8 Democrat, and one very important bipartisan amendment. Thus, the Committee on Rules has crafted a rule that will allow the House to have a lively debate and work its will on a number of key issues that these amendments raise. H. Res. 593 should receive bipartisan support for doing so.

With respect to H.R. 3550, this legislation reauthorizes our Nation's highway and transit programs for the next 6 years and covers a variety of important transportation needs. While I am pleased that the House is moving forward with its consideration of the highway bill, there is one outstanding issue that concerns me, the issue of minimum guaranteed funding.

Georgia has, unfortunately, been a highway funding donor State for far too long. The two previous highway bills in 1991 and 1998 made good progress toward improving donor States' rates of return, but more still needs to be done in order to treat Georgia and other donor States more fairly.

In the 1998 Transportation Equity Act For the 21st Century, TEA 21, I worked hard, along with other key members of the Georgia delegation, to achieve the present rate of return of 90.5 percent. With these efforts, Georgia was able to raise its average rate of return from 76 percent to approximately 86 percent of their share of contributions over the 6-year life of the bill.

Unfortunately, H.R. 3550 in its current form is not a step forward toward the current goal of 95 percent. It does not even maintain the current level of minimum guaranteed funding provided under TEA 21. Although H.R. 3550 maintains the TEA 21 rate of return of 90.5 percent, the bill would mandate that only 84 percent is available for minimum guaranteed funding, unlike TEA 21, which sets aside approximately 93 percent of the Highway Trust Fund for minimum guaranteed needs.

As such, the issue of minimum guaranteed funding under H.R. 3550 must be addressed more satisfactorily. In this respect, I am very pleased that the rule we crafted in the Committee on Rules will provide Members the opportunity to consider amendments offered by the gentleman from Georgia (Mr. ISAKSON) and the gentleman from Georgia (Mr. BURNS) and others which is designed to address this very concern.

Mr. Speaker, this is a good rule. It provides all Members the opportunity to debate a wide variety of transportation related issues facing our Nation. I urge my colleagues to support the rule, so we may proceed to debate the underlying legislation.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, while the Committee on Rules this morning reported out of committee an unnecessarily restrictive rule, and, as a result I will not support the rule, I do want to commend the chairman of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), as well as the subcommittee chair, the gentleman from Wisconsin (Mr. PETRI), and the ranking member, the gentleman from Pennsylvania (Mr. LIPINSKI), for all their hard, bipartisan work on this highway reauthorization bill. They recognized the importance of adequately meeting our Nation's transportation needs and of creating good-paying jobs for the American people at a time when we desperately need new jobs.

I only wish that the leadership of this House and the White House would follow their lead and the lead of the entire membership of the Committee on Transportation and Infrastructure. There are lots of good things in this bill, but I continue to believe that the overall funding level is not enough to meet our needs.

In States all across this country, including Massachusetts, roads and bridges are crumbling under the burden of age and heavy use. Adequate infrastructure is essential for economic development. We can do better, and I am hopeful that in the very near future we will have the opportunity to return to transportation policy to finish the work that this bill begins. I was glad to hear the distinguished Committee on Transportation and Infrastructure Chair say that he would be back fighting for more money, and I will certainly stand with him in that effort.

Mr. Speaker, I am also concerned about efforts by some Members to decrease highway safety and quality by increasing truck size and truck weight. This rule makes in order two amendments that are particularly troublesome.

The first, offered by my colleague, the gentleman from New Hampshire (Mr. BRADLEY), would create an exemption from existing Federal truck size and weight limits for certain roads in his home State. The exemption for New Hampshire would damage the highway infrastructure, especially bridges, and cost taxpayers a great deal of money.

The U.S. Department of Transportation calculated that if the exemptions the Bradley amendment would create were applied nationwide, it would result in additional bridge costs to taxpayers of $329 billion.

Further, heavier trucks are more dangerous. As truck weights increase, fatal accident rates will go up, according to the University of Michigan Transportation Research Institute. In fact, the Institute says, "Gross combination weight is the only vehicle characteristic showing a clear association with the overall fatal accident rate."

I also urge my colleagues to oppose the amendment offered by the gentleman from Indiana (Mr. CHOCOLA). This amendment would allow truck operators who use "idle reduction technology" to operate at 400 pounds above the Federal legal weight limits.

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Although this seems to be only a minor increase in weight, it would actually cost Americans hundreds of millions of tax dollars each year because of the increased pavement damage this additional weight would cause.

According to the EPA, there is an inexpensive alternative to the idle reduction technology proposed in this amendment that would still reduce emissions and save fuel without adding additional weight. The alternative is stand-alone truck stop electrification systems, which are permanent structures located at various truck stops that have HVAC systems attached. The driver purchases a one-time $10 adapter and pays an hourly rate to use the system.

The Chocola amendment also runs counter to the recent agreement between the American Trucking Association, and the Association of American Railroads that calls for no national truck weight increases in the transportation reauthorization bill. While a 400-pound weight increase may seem innocuous, it is not as simple as it seems, and it is best left out of this highway reauthorization bill.

Proposals to increase truck sizes and weights have been opposed by a broad range of national organizations because of their negative impact on the highway infrastructure and their danger to other motorists. Organizations opposing bigger trucks include the American Automobile Association, the International Brotherhood of Police Officers, the National Association of Emergency Medical Technicians, the National Association of Police Organizations, and the National Troopers Coalition.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman's time has expired.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Massachusetts (Mr. McGOVERN); and when he has completed his statement, if he would yield to me for 1 comment, I would appreciate it

Mr. McGOVERN. Mr. Speaker, I appreciate the gentleman's courtesy.

The National Troopers Coalition, the Society of Trauma Nurses, these groups know firsthand the danger caused by bigger and heavier trucks on our roadways.

So I urge my colleagues to oppose both the Bradley and the Chocola amendments.

Again, Mr. Speaker, I commend the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR) and all of the members of the Committee on Transportation and Infrastructure for their hard work.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I did not want to interrupt my colleague when he was going through his prepared statement, but I did want to clarify one issue that the gentleman raised.

He said in his opening that this was an unusually restrictive rule, and I would just like to state for the Record that when the ISTEA legislation was considered, there were a total of 12 amendments made in order. That was in the 102nd Congress when the Democrats were in charge. When TEA 21 was considered, there were a total of six amendments made in order, Mr. Speaker; and then in this legislation we have provided for consideration of a total of 23 amendments.

So that is why I asked the gentleman to yield.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, I think what I said was this was an unnecessarily restrictive rule, and what I meant to say is that, as usual, this is a restrictive rule that we have come to expect of the Committee on Rules.

There were a number of good amendments that were not made in order, and I think that, as a result, I will oppose the rule.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, all I was saying is that if you go and look at the pattern of consideration of transportation measures, when the gentleman's party was in control, half the number of amendments were made in order.

Mr. McGOVERN. Mr. Speaker, reclaiming my time, I would simply say that there were a lot of good amendments dealing with truck sizes and truck weights but also dealing with issues like outsourcing that the Committee on Rules chose not to make in order, which I think is unfortunate.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DAVIS).

Mr. DAVIS of Tennessee. Mr. Speaker, I appreciate the opportunity to make a few presentations about TEA LU. Living in a rural area, it is obvious to me that as we see infrastructure and dollars that are being spent on roads, it is the fertilizer that drives economic development for many of the areas, especially rural areas throughout this country. I applaud this House in their effort to pass legislation that will provide funding for infrastructure that will eventually provide economic development for this Nation.

There are many who look at this bill and say, look at the jobs that will be created as we start building infrastructure. Well, it is more than just the jobs that will be provided as we build the infrastructure. It will be the jobs 50 years from now that my grandchildren or my unborn great grandchildren will have an opportunity for a job as well. Because, as I have observed, the interstate systems in Tennessee and throughout this Nation, as we build a system that provides transportation from coast to coast and border to border, we have seen economic development unsurpassed by any other country as a result of those dollars spent.

Now, as we look at this particular bill, certainly $275 billion sounds like a lot of money for 6 years. Unfortunately, I believe, and I think most of the folks that I represent believe, that that is too short, that it does not go fair enough. As a result of that, I, along with three other Members of the House, introduced an amendment that would enhance the dollars to at least the amount that the Senate approved, being $318 billion.

Some folks say, well, we can spend the money some other place. But there are no sections of our economy that produces the jobs at the same rate for the same dollars spent as infrastructure and development on our road systems and infrastructure of this country. As a result of that, I think that enhancing the dollars, increasing the amount, is a wise thing for those of us in Congress to do.

Because, Mr. Speaker, as we build infrastructure we provide the tools that will drive the economic engines of the future generations for now or decades from now. What we are doing, unfortunately, what we are doing today is not passing on an engine or the fertilizer for economic development; and, unfortunately, what my grandchildren will be receiving is huge debts, a $500 billion deficit in trade and a $500 billion deficit in our budget. At least this way, this Congress can do something for generations down the road, instead of taking away from them.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in yielding me this time and permitting me to speak on this bill.

There are two things I wanted to say, that we have seen our committee leadership that has been appropriately exhalted for the hard work that they have done, and we have some terrific men and women who have been laboring in the field. The majority party has recognized some of theirs, and I would like to acknowledge Ward McCarragher, David Heymsfield, Ken House, Clyde Woodle, Jonathan Upchurch, Art Chan, Sheila Lockwood, who stayed with the committee for another 4 months before retiring, and Jason Tai. On the Majority side we have had extraordinary cooperation from Joyce Rose. These people have worked with the committee leadership, the staff to put together a really artfully crafted piece of legislation.

The problem is that we are today not able to deal with what I think is the most important issue and that is how to rightsize it. The gentleman from California (Mr. DREIER), my good friend, talked about the number of amendments that have been offered up and balanced with what happened with the original TEA 21 or ISTEA. I do not know about the number, but the significance of the amendment is what should be debated, not the number.

We have had a meltdown with some of our friends on the Republican side of the equation because they are not being able to correlate their needs. They are concerned about adequate money dealing with a donor or donee.

Well, our amendment which was not made in order would have just simply rightsized it to the Senate number and would have provided $3 billion more for California, $2.5 billion for Texas, $1.6 billion for New York, $1.5 billion for Florida. It would have given the committee leadership an opportunity to deal with the balance that is so important.

I hope that we will, in a moment, support an effort by the gentleman from Texas (Mr. FROST) to be able to make in order an amendment to deal with at least voting on whether we are going to have the same level of funding as the Senate. I think it is important for the House to establish that marker. It would make it a lot easier for everybody. It is fully funded. It does not require a tax increase, and I sincerely hope that we will, in our wisdom, be able to consider it.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I want to also commend the leadership of the committee in producing a bill within the constraints that they had and in keeping so many items that are of great, important policy intact.

But I oppose the rule because the committee does not allow the House to work its will on a higher funding level that the committee, on a bipartisan basis, recognize is needed for the Nation's infrastructure. Also, because of a critical issue on this bill that is also about jobs, the committee did also not accept my amendment which was a sense of the Congress that none of these jobs in transportation should be outsourced.

Now, it is very difficult to see billions of dollars going to Iraq for infrastructure funding and to leave America short of where we need to be. I believe, as does I think a majority, if they were given the opportunity, that the Senate bill of $318 billion is a fiscally responsible bill. I also believe that it is responsible national economic development policy, and I also believe it is responsible national security policy.

That is why I was pleased to have joined my colleagues in offering an amendment in the Committee on Rules that would have increased the funding of this bill to that Senate level of $318 billion and let the House work its will. We did not get that chance in this rule.

Now, transportation is about a lot more than simply moving goods and people from one place to another. It is about economic development in both the short and the long term. It is about good-paying jobs at a time that we desperately need those jobs. Having lost several million jobs during this administration, it would be great if we could have the resources to meet the infrastructure needs and create more good-paying jobs here in America.

It is about improving the environment by creating a transportation system that pollutes less and helps us achieve Clean Air Act requirements. It is about spending less time in traffic and more time with our family or on our work, being productive, and it is about security.

On September 11, my district, right across from mid-town, if it was not for the multiplicity of transportation modes, the people who were trapped in downtown Manhattan would have not gotten out but for a ferry system. When all the tunnels, all the bridges, all the trains were closed, security on that day came in the vehicle of a ferry system.

That is why this bill in this modern age is so important. That is why we should be having a higher funding, and that is why we should have the ability for the House to work its will on economic development, on jobs, on making sure those jobs are not outsourced and on the Nation's security in the context of transportation. That is why I oppose the rule; and, hopefully, we will be given the opportunity to have a vote on these issues and, in doing so, strengthen America financially, economically, jobs and security.

FEDERAL HIGHWAY FORMULA PROGRAMS

[6-year comparison of funding levels, H.R. 3550 vs. Davis amendment, March 30, 2004]

State	H.R. 3550	Davis amendment	Increase
Alabama	3,677,518,555	4,319,449,206	641,930,651
Alaska	2,161,805,396	2,539,160,160	377,354,764
Arizona	3,132,889,645	3,679,752,390	546,862,745
Arkansas	2,397,490,265	2,815,985,091	418,494,826
California	17,090,057,720	20,073,219,252	2,983,161,532
Colorado	2,599,044,285	3,052,721,449	453,677,165
Connecticut	2,755,281,305	3,236,230,482	480,949,177
Delaware	802,671,177	942,781,750	140,110,573
Dist. of Col.	717,759,307	843,048,057	125,288,749
Florida	8,572,806,425	10,069,235,914	1,496,429,489
Georgia	6,369,115,958	7,480,879,419	1,111,763,461
Hawaii	939,292,198	1,103,250,705	163,958,507
Idaho	1,400,320,105	1,644,753,514	244,433,409
Illinois	7,126,178,352	8,370,091,127	1,243,912,775
Indiana	4,648,807,879	5,460,282,309	811,474,429
Iowa	2,239,473,448	2,630,385,588	390,912,140
Kansas	2,125,881,144	2,496,965,136	371,083,992
Kentucky	3,150,629,518	3,700,588,853	549,959,335
Louisiana	2,884,826,337	3,388,388,296	503,561,959
Maine	954,895,661	1,121,577,837	166,682,176
Maryland	2,915,353,992	3,424,244,718	508,890,726
Massachusetts	3,381,597,061	3,971,873,023	590,275,962
Michigan	5,923,386,287	6,957,345,236	1,033,958,948
Minnesota	3,594,936,603	4,222,452,130	627,515,527
Mississippi	2,210,974,449	2,596,911,936	385,937,487
Missouri	4,284,602,135	5,032,502,492	747,900,357
Montana	1,801,474,258	2,115,931,283	314,457,025
Nebraska	1,409,391,886	1,655,408,823	246,016,937
Nevada	1,315,045,364	1,544,593,608	229,548,244
New Hampshire	936,752,099	1,100,267,219	163,515,119
New Jersey	4,778,585,240	5,612,713,006	834,127,766
New Mexico	1,793,309,655	2,106,341,504	313,031,850
New York	9,367,158,121	11,002,245,973	1,635,087,852
North Carolina	5,211,624,631	6,121,341,752	909,717,121
North Dakota	1,188,947,609	1,396,484,812	207,537,203
Ohio	7,168,776,245	8,420,124,712	1,251,348,467
Oklahoma	2,797,555,804	3,285,884,223	488,328,418
Oregon	2,210,430,142	2,596,272,617	385,842,475
Pennsylvania	9,051,278,709	10,631,228,110	1,579,949,401
Rhode Island	1,080,993,416	1,269,686,633	188,693,217
South Carolina	2,951,639,076	3,466,863,559	515,224,483
South Dakota	1,297,083,238	1,523,496,096	226,412,858
Tennessee	4,108,791,020	4,826,002,601	717,211,581
Texas	14,365,474,761	16,873,045,677	2,507,570,916
Utah	1,420,822,330	1,668,834,513	248,012,183
Vermont	829,705,084	974,534,571	144,829,487
Virginia	4,684,441,786	5,502,136,305	817,694,519
Washington	3,261,461,121	3,830,766,708	569,305,588
West Virginia	2,053,669,768	2,412,148,876	358,479,108
Wisconsin	3,613,471,781	4,244,222,724	630,750,942
Wyoming	1,261,158,985	1,481,301,072	220,142,087
All states	188,016,637,337	220,835,953,046	32,819,315,709

Total funding levels calculated by Federal Highway Administration, U.S. Department of Transportation.

FEDERAL TRANSIT FORMULA PROGRAMS

[6-year comparison of funding levels H.R. 3550 vs. Davis Amendment, March 30, 2004]

State	H.R. 3550	Davis Amendment	Increase
Alabama	198,869,641	231,156,144	32,266,503
Alaska	133,060,259	140,513,693	7,453,434
Arizona	403,911,758	470,227,686	66,315,929
Arkansas	116,150,368	135,270,375	19,120,008
California	5,552,597,250	6,343,415,048	790,817,798
Colorado	403,479,756	471,766,156	68,286,399
Connecticut	647,204,763	709,330,655	62,125,892
Delaware	54,248,356	63,622,106	9,373,749
District of Columbia	877,852,428	967,767,310	89,914,881
Florida	1,483,096,526	1,717,128,836	234,032,310
Georgia	815,018,982	918,781,238	103,762,256
Hawaii	202,434,156	238,805,983	36,371,827
Idaho	73,260,393	86,047,086	12,426,693
Illinois	2,556,048,373	2,856,722,554	300,674,181
Indiana	417,530,452	476,695,916	59,165,463
Iowa	149,594,568	174,954,344	25,359,777
Kansas	118,069,423	138,190,463	20,121,040
Kentucky	217,385,766	253,776,373	36,390,607
Louisiana	308,212,487	356,370,390	48,157,903
Maine	56,815,827	65,391,665	8,575,838
Maryland	730,485,598	826,480,076	95,994,478
Massachusetts	1,423,677,171	1,591,967,255	168,290,084
Michigan	627,110,529	732,156,410	105,045,881
Minnesota	420,631,347	487,032,862	66,401,515
Mississippi	105,336,903	122,276,702	16,939,799
Missouri	386,141,847	447,919,643	61,777,797
Montana	55,239,907	63,899,172	8,659,265
Nebraska	93,382,341	109,844,579	16,462,238
Nevada	193,001,724	227,399,351	34,397,627
New Hampshire	56,243,067	65,593,404	9,350,337
New Jersey	2,098,273,741	2,383,583,819	285,310,078

FEDERAL TRANSIT FORMULA PROGRAMS—Continued

[6-year comparison of funding levels H.R. 3550 vs. Davis Amendment, March 30, 2004]

State	H.R. 3550	Davis Amendment	Increase
New Mexico	112,681,925	131,579,394	18,897,469
New York	6,444,879,743	7,175,638,872	730,759,129
North Carolina	420,756,227	490,377,297	69,621,070
North Dakota	46,410,005	53,750,291	7,340,286
Ohio	900,583,684	1,034,764,387	134,180,702
Oklahoma	166,621,542	195,099,134	28,477,592
Oregon	338,235,316	392,830,946	54,595,630
Pennsylvania	1,987,703,003	2,205,014,254	217,311,252
Rhode Island	76,644,720	89,477,672	12,832,952
South Carolina	181,253,492	210,208,976	28,955,485
South Dakota	46,483,209	53,967,891	7,484,682
Tennessee	313,483,924	364,150,802	50,666,878
Texas	1,765,377,276	2,052,505,365	287,128,089
Utah	233,854,931	275,023,227	41,168,296
Vermont	27,540,665	31,245,242	3,704,577
Virginia	603,913,755	685,812,664	81,898,909
Washington	918,384,406	1,049,682,654	131,298,248
West Virginia	85,312,226	98,084,121	12,771,895
Wisconsin	384,588,461	447,857,272	63,268,811
Wyoming	29,710,803	34,376,684	4,665,881
Total apportioned	36,059,145,018	40,945,534,437	4,886,389,419
Oversight	265,991,427	301,490,789	35,499,362
Grand total	36,325,136,445	41,247,025,226	4,921,888,781

Total funding levels calculated by Federal Highway Administration, U.S. Department of Transportation

State allocation includes 5307, 5307 TI, 5309 FGM, 5310, 5311 (but not RTAP), JARC, NFI, 5303, 5313, and Clean Fuel under both funding levels

TOTAL HIGHWAY/TRANSIT INVESTMENT INCREASES AND NEW JOBS CREATED UNDER DAVIS AMENDMENT

[6-year comparison of funding levels, H.R. 3550 vs. Davis Amendment, March 30, 2004]

State	Highway	Transit	Total increase	New jobs created
Alabama	641,930,651	32,286,503	674,217,154	32,025
Alaska	377,354,764	7,453,434	384,808,198	18,278
Arizona	546,862,745	66,315,929	613,178,674	29,126
Arkansas	418,494,826	19,120,008	437,614,834	20,787
California	2,983,161,532	791,817,798	3,774,979,330	179,312
Colorado	453,677,165	68,286,399	521,963,564	24,793
Connecticut	480,949,177	62,125,892	543,075,069	25,796
Delaware	140,110,573	9,373,749	149,484,322	7,101
Dist. of Col.	125,288,749	89,914,881	215,203,630	10,222
Florida	1,496,429,489	234,032,310	1,730,461,799	82,197
Georgia	1,111,763,461	103,762,256	1,215,525,717	57,737
Hawaii	163,958,507	36,371,827	200,330,334	9,516
Idaho	244,433,409	12,426,693	256,860,102	12,201
Illinois	1,243,912,775	300,674,181	1,544,586,956	73,368
Indiana	811,474,429	59,165,463	870,639,892	41,355
Iowa	390,912,140	25,359,777	416,271,917	19,773
Kansas	371,083,992	20,121,040	391,205,032	18,582
Kentucky	549,959,335	36,390,607	586,349,942	27,852
Louisiana	503,561,959	48,157,903	551,719,862	26,207
Maine	166,682,176	8,575,838	175,258,014	8,325
Maryland	508,890,726	95,994,478	604,885,204	28,732
Massachusetts	590,275,962	168,290,084	758,566,046	36,032
Michigan	1,033,958,948	105,045,881	1,139,004,829	54,103
Minnesota	627,515,527	66,401,515	693,917,042	32,961
Mississippi	385,937,487	16,939,799	402,877,286	19,137
Missouri	747,900,357	61,777,797	809,678,154	38,460
Montana	314,457,025	8,659,265	323,116,290	15,348
Nebraska	246,016,937	16,462,238	262,479,175	12,468
Nevada	229,548,244	34,397,627	263,945,871	12,537
New Hampshire	163,515,119	9,350,337	172,865,456	8,211
New Jersey	834,127,766	285,310,078	1,119,437,844	53,173
New Mexico	313,031,850	18,897,469	331,929,319	15,767
New York	1,635,087,852	730,759,129	2,365,846,981	112,378
North Carolina	909,717,121	69,621,070	979,338,191	46,519
North Dakota	207,537,203	7,340,286	214,877,489	10,207
Ohio	1,251,348,467	134,180,702	1,385,529,169	65,813
Oklahoma	488,328,418	28,477,592	516,806,010	24,548
Oregon	385,842,475	54,595,630	440,438,105	20,921
Pennsylvania	1,579,949,401	217,311,252	1,797,260,653	85,370
Rhode Island	188,693,217	12,832,952	201,526,169	9,572
South Carolina	515,224,483	28,955,485	544,179,968	25,849
South Dakota	226,412,858	7,484,682	277,079,736	13,161
Tennessee	717,211,581	50,666,878	1,004,339,670	47,706
Texas	2,507,570,916	287,128,089	2,548,739,212	121,065
Utah	248,012,183	41,168,296	251,716,760	11,957
Vermont	144,829,487	3,704,577	226,728,396	10,770
Virginia	817,694,519	81,898,909	948,992,767	45,077
Washington	569,305,588	131,298,248	582,077,483	27,649
West Virginia	358,479,108	12,771,895	421,747,919	20,033
Wisconsin	630,750,942	63,268,811	635,416,823	30,182
Wyoming	220,142,087	4,665,881	224,807,968	10,678
All states	32,177,385,058	4,855,102,917	37,032,487,975	1,759,043

Total funding levels calculated by the Federal Highway Administration and the Federal Transit Administration, U.S. Department of Transportation.

Mr. DREIER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Speaker, I am greatly disturbed that we are debating a $275 billion transportation measure without taking strong action in this bill to increase security in our rail and transit systems.

Three weeks ago, a terrorist group related to al Qaeda conducted several coordinated bombings on commuter trains in Madrid. Two hundred civilians were killed and more than 1,500 injured. The tragedy was enough to shock the nations of Europe into immediate action to get serious about transit security, but we have not responded here at home with sufficient urgency to protect the lives of the many Americans who travel every day by rail and transit.

Earlier this week, British police arrested eight and seized half a ton of ammonia nitrate. Philippine authorities arrested four members of a terrorist group linked to al Qaeda and seized 30 pounds of TNT. Each of these cases may have prevented another Madrid-style attack.

Closer to home, Amtrak's trains were stopped this last Tuesday and searched in Florida, North Carolina, and Pennsylvania after bomb threats were reported. We are enormously vulnerable to rail and transit attack and have an estimated need for $2 billion in investments in security for mass transit.

□ 1345

Yet since the attacks of September 11 of 2001, the Department of Homeland Security has made available only $115 million for this purpose.

Today, we have a $275 billion bill that barely addresses security. It does not specifically dedicate one dollar to rail or transit security.

I offered three amendments in the Committee on Rules, two of them designed to make a down payment of $250 million in grants to local transit agencies to improve security through surveillance and communications systems, detectors for weapons of mass destruction, training, education and other uses.

In light of terrorist threats that we face, Mr. Speaker, it is difficult to understand why we are not allowed to take up these amendments on the floor of the House today.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, tomorrow, on Friday, the President of the United States will be in my congressional district talking about jobs and the economy. Unfortunately, although I was invited, and I appreciate that, I will not be with the President because I will be here in the Halls of Congress working on a bill that very vitally affects jobs and the economy, this transportation and infrastructure legislation.

I commend the gentleman from Minnesota (Ranking Member OBERSTAR) and the gentleman from Alaska (Chairman YOUNG) and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI), the ranking subcommittee member, for the hard work that they have put in on this legislation.

Jobs and the economy. That is what this is about. This legislation is the quickest way to put American working men and women back to work. For every $1 billion invested in our Nation's infrastructure, we are talking about 46,500 good paying jobs, not hamburger-flipping jobs; we are talking about good-paying jobs for our economy.

The $318 billion passed in the Senate bill, the $275 billion pending in this legislation is not sufficient to do the job. The President's own Department of Transportation has said that $375 billion is what is necessary just to, quote, "maintain current economic growth."

So if I were in my congressional district tomorrow with the President of the United States, I would say, Mr. President, would you please just allow us in the House of Representatives to maintain current economic growth and allow us to go to the $375 billion spending level for this bill. That makes economic sense. It makes just and fair legislation.

And I think that is what the American people want. If this were money that we are talking about, a difference here of several billion, unfortunately if it were money going to rebuild Iraq, perhaps it would sail through this body without any Presidential veto threats. But this is money that we are talking about to go here in America, putting Americans back to work, spending money on infrastructure in America, which is not any pork spending, it is not an entitlement; but it is an investment in America's future.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is clear that the bill before us today will ease congestion, reduce pollution, and create good jobs across America. Most Members of this House, myself included, will vote to pass TEA LU. But I think we are missing out on a unique opportunity to further strengthen our economy.

Last night the Committee on Rules and this morning considered the Davis-Menendez-Blumenauer-Baird amendment to strengthen investment in our Nation's highway and transit infrastructure by increasing funding in the bill to the Senate-passed level of $318 billion. However, in a move that denies the House the opportunity to fully debate the transportation needs of this country, as is usually the case when Democrats offer thoughtful alternatives in the Committee on Rules, the Republican majority defeated the amendment on a straight party-line vote.

So today I hope to offer Members another chance to vote on this important proposal. If the previous question is defeated, I will offer an amendment to the rule that will give the House the opportunity to debate and vote on the Davis substitute.

Mr. Speaker, although I hope to see more legislation to help the economy come before this House, the transportation bill before us today will be our best chance to spur job creation this year. And the Davis substitute will create nearly 1.8 million additional jobs over the bill we have on the floor today, with 120,000 new jobs in my home State of Texas alone, and create $235 billion worth of economic activity.

Mr. Speaker, when you consider the 8.2 million people in this country that are currently unemployed, I do not see how you can vote against a measure that will create 1.8 million new jobs.

So I urge my colleagues today to vote in favor of a job creation and economic development package by voting "no" on the previous question. We only reauthorize the transportation bill once every 6 years. Let us not squander this unique opportunity to create jobs and strengthen the economy by giving in to politics as usual.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials at this point in the RECORD.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

PREVIOUS QUESTION FOR RULE FOR H. RES. 593—H.R. 3500—TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (TEA-LU)

At the end of the resolution, add the following:

"Sec. 2. Notwithstanding any other provision of this resolution the amendment specified in section 3 shall be in order without intervention of any point of order as though printed as the first amendment in part B of the report of the Committee on Rules if offered by Representative Davis of Tennessee or a designee. That amendment shall be debatable for 60 minutes equally divided and controlled by the proponent and an opponent.

Sec. 3. the amendment referred to in section 2 is as follows:

AMENDMENT TO H.R. 3550, AS REPORTED OFFERED BY MR. DAVIS OF TENNESSEE

In section 1101(a)(1) of the bill, strike "$4,323,076,000" and all that follows through "$4,891,164,000" and insert "$5,076,187,293 for fiscal year 2004, $4,953,445,477 for fiscal year 2005, $5,171,212,959 for fiscal year 2006, $5,263,571,478 for fiscal year 2007, $5,556,536,840 for fiscal year 2008, and $6,654,739,293".

In section 1101(a)(2) of the bill, strike "$5,187,691,000" and all that follows through "$5,869,396,000" and insert "$6,091,424,517 for fiscal year 2004, $5,944,133,902 for fiscal year 2005, $6,205,455,095 for fiscal year 2006, $6,316,285,773 for fiscal year 2007, $6,667,843,743 for fiscal year 2008, and $7,985,686,064".

In section 1101(a)(3) of the bill, strike "$3,709,440,000" and all that follows through "$4,196,891,000" and insert "$4,355,651,438 for fiscal year 2004, $4,250,332,027 for fiscal year 2005, $4,437,189,163 for fiscal year 2006, $4,516,437,339 for fiscal year 2007, $4,767,818,482 for fiscal year 2008, and $5,710,136,779".

In section 1101(a)(5) of the bill, strike "$6,052,306,000" and all that follows through "$6,847,629,000" and insert "$7,106,661,741 for fiscal year 2004, $6,934,823,445 for fiscal year 2005, $7,239,697,231 for fiscal year 2006, $7,369,000,069 for fiscal year 2007, $7,779,151,809 for fiscal year 2008, and $9,316,634,194".

In section 1101(a)(6) of the bill, strike "$1,469,846,000" and all that follows through "$1,662,996,000" and insert "$1,725,903,868 for fiscal year 2004, $1,684,171,440 for fiscal year 2005, $1,758,212,543 for fiscal year 2006, $1,789,614,076 for fiscal year 2007, $1,889,222,762 for fiscal year 2008, and $2,262,611,686".

In section 1102(a) of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $37,900,000,000 for fiscal year 2005;
(3) $39,100,000,000 for fiscal year 2006;
(4) $39,100,000,000 for fiscal year 2007;
(5) $39,400,000,000 for fiscal year 2008; and
(6) $44,400,000,000 for fiscal year 2009.

In the matter proposed to be inserted as section 5338(a)(2)(A) of title 49, United States Code, by section 3034 of the bill, strike clauses (i) through (vi) and insert the following:

"(i) $5,081,125,000 for fiscal year 2005;
"(ii) $5,283,418,000 for fiscal year 2006;
"(iii) $5,550,420,000 for fiscal year 2007;
"(iv) $6,176,172,500 for fiscal year 2008; and
"(v) $6,834,667,500 for fiscal year 2009.

In section 3043 of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $8,650,000,000 for fiscal year 2005;
(3) $9,085,123,000 for fiscal year 2006;
(4) $9,600,000,000 for fiscal year 2007;
(5) $10,490,000,000 for fiscal year 2008; and
(6) $11,430,000,000 for fiscal year 2009.

Add at the end the following new title:

TITLE IX—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 9000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway reauthorization and excise tax simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 9001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) Highway Trust Fund Expenditure Authority.—

(1) Highway account.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking “May 1, 2004” and inserting “October 1, 2009”,

(B) by striking “or” at the end of subparagraph (F),

(C) by striking the period at the end of subparagraph (G) and inserting “, or”,

(D) by inserting after subparagraph (G), the following new subparagraph:

“(H) authorized to be paid out of the Highway Trust Fund under the Highway reauthorization and excise tax simplification Act of 2004.”, and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking “Surface Transportation Extension Act of 2004” and inserting “Highway reauthorization and excise tax simplification Act of 2004”.

(2) Mass transit account.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking “May 1, 2004” and inserting “October 1, 2009”,

(B) by striking “or” at the end of subparagraph (D),

(C) by striking the period at the end of subparagraph (E) and inserting “, or”,

(D) by inserting after subparagraph (E), the following new subparagraph:

“(F) the Highway reauthorization and excise tax simplification Act of 2004,”, and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking “Surface Transportation Extension Act of 2004” and inserting “Highway reauthorization and excise tax simplification Act of 2004”.

(3) Exception to limitation on transfers.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking “May 1, 2004” and inserting “October 1, 2009”.

(b) Aquatic Resources Trust Fund Expenditure Authority.—

(1) Sport fish restoration account.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking “Surface Transportation Extension Act of 2004” each place it appears and inserting “Highway reauthorization and excise tax simplification Act of 2004”.

(2) Boat safety account.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking “May 1, 2004” and inserting “October 1, 2009”, and

(B) by striking “Surface Transportation Extension Act of 2004” and inserting “Highway reauthorization and excise tax simplification Act of 2004”.

(3) Exception to limitation on transfers.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking “May 1, 2004” and inserting “October 1, 2009”.

(4) Technical correction.—The last sentence of paragraph (2) of section 9504(b) is amended by striking “subparagraph (B)”, and inserting “subparagraph (C)”.

(c) Extension of Taxes.—

(1) In general.—The following provisions are each amended by striking “2005” each place it appears and inserting “2009”:

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) Floor stocks refunds.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking “2005” each place it appears and inserting “2009”, and

(B) by striking “2006” each place it appears and inserting “2010”.

(d) Extension of Certain Exemptions.—The following provisions are each amended by striking “2005” and inserting “2009”:

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) Extension of Deposits Into, and Certain Transfers From, Trust Fund.—

(1) In general.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking “2005” each place it appears and inserting “2009”, and

(B) by striking “2006” each place it appears and inserting “2010”.

(2) Conforming amendments to land and water conservation fund.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(A) by striking “2003” and inserting “2007”, and

(B) by striking “2004” each place it appears and inserting “2008”.

(f) Extension of Tax Benefits for Qualified Methanol and Ethanol Fuel Produced From Coal.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking “2007” in subparagraph (C)(ii) and inserting “2010”, and

(2) by striking “October 1, 2007” in subparagraph (D) and inserting “January 1, 2011”.

(g) Prohibition on Use of Highway Account for Rail Projects.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

“(6) Prohibition on use of highway account for certain rail projects.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.”.

(h) Highway Trust Fund Expenditures for Highway Use Tax Evasion Projects.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

“(7) Highway use tax evasion projects.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

“(A) for each fiscal year after 2003 to the Internal Revenue Service—

“(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

“(ii) $10,000,000 for Xstars, and

“(iii) $10,000,000 for xfirs, and

“(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.”.

(i) Effective Date.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 9002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) In General.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 9001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) Interest on Unexpended Balances Credited to Trust Fund.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) Conforming Amendments.—

(1) Section 9503(b)(4)(D) is amended by striking “paragraph (4)(D) or (5)(B)” and inserting “paragraph (3)(D) or (4)(B)”.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: “The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.”.

(3) Section 9504(a)(2) is amended by striking “section 9503(c)(4), section 9503(c)(5)” and inserting “section 9503(c)(3), section 9503(c)(4)”.

(4) Paragraph (2) of section 9504(b), as amended by section 9001 of this Act, is amended by striking “section 9503(c)(5)” and inserting “section 9503(c)(4)”.

(5) Section 9504(e) is amended by striking “section 9503(c)(4)” and inserting “section 9503(c)(3)”.

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) Interest credited.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) In General.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking “24-month” in paragraph (1)(B) and inserting “48-month”, and

(2) by striking “2 years’ ” in the heading for paragraph (3) and inserting “4 years’ ”.

(b) Measurement of Net Highway Receipts.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) Measurement of net highway receipts.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 9101. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 9102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) In General.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) Allowance of Credits.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) Alcohol Fuel Mixture Credit.—

"(1) In general.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) Applicable amount.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) Mixtures not containing ethanol.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) Alcohol fuel mixture.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) Other definitions.—For purposes of this subsection—

"(A) Alcohol.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) Taxable fuel.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) Termination.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) Biodiesel Mixture Credit.—

"(1) In general.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) Applicable amount.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) Amount for agri-biodiesel.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) Biodiesel mixture.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) Other definitions.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) Termination.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) Mixture not Used as a Fuel, Etc.—

"(1) Imposition of tax.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) Coordination With Exemption From Excise Tax.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) Registration Requirement.—Section 4101(a)(1) (relating to registration), as amended by sections 9211 and 9242 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) Additional Amendments.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) Volume of alcohol.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) Gasoline.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) Alcohol or Biodiesel Used to Produce Alcohol Fuel and Biodiesel Mixtures or Used as Fuels.—Except as provided in subsection (k)—

"(1) Used to produce a mixture.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) Used as fuel.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence: "In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "alcohol mixture" in the heading and inserting "alcohol fuel and biodiesel mixture".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4), as amended by section 9101 of this Act, is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 9103. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

“(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).”.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking “fuel credit” and inserting “and biodiesel fuels credits”.

(3) Section 196(c) is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting “, and”, and by adding at the end the following new paragraph:

“(11) the biodiesel fuels credit determined under section 40A(a).”.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

“Sec. 40A. Biodiesel used as fuel.”.

(d) Effective Date.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 9200. SHORT TITLE.

This subtitle may be cited as the “Fuel Fraud Prevention Act of 2004”.

PART I—AVIATION JET FUEL

SEC. 9211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) Rate of Tax.—

(1) In general.—Subparagraph (A) of section 4081(a)(2) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.”.

(2) Commercial aviation.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

“(C) Taxes imposed on fuel used in commercial aviation.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.”.

(3) Nontaxable uses.—

(A) In general.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

“(e) Aviation-Grade Kerosene.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.”.

(B) Conforming amendments.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: “The term ‘nontaxable use’ does not include the use of aviation-grade kerosene in an aircraft.”.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) Nonaircraft use of aviation-grade kerosene.—

(A) In general.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: “This subparagraph shall not apply to aviation-grade kerosene.”.

(B) Conforming amendment.—The heading for paragraph (1) of section 4041(a) is amended by inserting “and kerosene” after “diesel fuel”.

(b) Commercial Aviation.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

“(b) Commercial Aviation.—For purposes of this subpart, the term ‘commercial aviation’ means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).”.

(c) Refunds.—

(1) In general.—Paragraph (4) of section 6427(l) is amended to read as follows:

“(4) Refunds for aviation-grade kerosene.—

“(A) No refund of certain taxes on fuel used in commercial aviation.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

“(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

“(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

“(B) Payment to ultimate, registered vendor.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(i) is registered under section 4101, and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(2) Time for filing claims.—Paragraph (4) of section 6427(i) is amended by striking “subsection (l)(5)” and inserting “paragraph (4)(B) or (5) of subsection (l)”.

(3) Conforming amendment.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

“(B) in the case of aviation-grade kerosene—

“(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

“(ii) any use in commercial aviation (within the meaning of section 4083(b)).”.

(d) Repeal of Prior Taxation of Aviation Fuel.—

(1) In general.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) Conforming amendments.—

(A) Section 4041(c) is amended to read as follows:

“(c) Aviation-Grade Kerosene.—

“(1) In general.—There is hereby imposed a tax upon aviation-grade kerosene—

“(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

“(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

“(2) Exemption for previously taxed fuel.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

“(3) Rate of tax.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.”.

(B) Section 4041(d)(2) is amended by striking “section 4091” and inserting “section 4081”.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

“(1) In general.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

“(A) after September 30, 1997, and before September 30, 2009—

“(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

“(ii) in any other case, 11.3 cents per gallon, and

“(B) after September 30, 2009—

“(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

“(ii) in any other case, 4.3 cents per gallon.”.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking “, 4081, or 4091” and inserting “or 4081”.

(G) Section 6416(b)(2) is amended by striking “4091 or”.

(H) Section 6416(b)(3) is amended by striking “or 4091” each place it appears.

(I) Section 6416(d) is amended by striking “or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)”.

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking “, 4081, and 4091” and inserting “and 4081”.

(L)(i) Section 6427(l)(1) is amended to read as follows:

“(1) In general.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).”.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking “Paragraph (1)(A) shall not apply to kerosene” and inserting “Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)”.

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding “and” at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

“(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and”.

(P) The last sentence of section 9502(b) is amended to read as follows: “There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''SUBPART A. MOTOR AND AVIATION FUELS

''SUBPART B. SPECIAL PROVISIONS APPLICABLE TO FUELS TAX''.

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) Effective Date.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) Floor Stocks Tax.—

(1) In general.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) Liability for tax and method of payment.—

(A) Liability for tax.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) Method and time for payment.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) Transfer of floor stock tax revenues to trust funds.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) Held by a person.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) Other laws applicable.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 9212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) In General.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) Transfers from the trust fund to the highway trust fund.—

''(A) In general.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

''(B) Amounts transferred to mass transit account.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) Conforming Amendments.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 9221. DYE INJECTION EQUIPMENT.

(a) In General.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) Dye Injector Security.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) Penalty for Tampering With or Failing to Maintain Security Requirements for Mechanical Dye Injection Systems.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) Imposition of Penalty.—

''(1) Tampering.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) Failure to maintain security requirements.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) Joint and Several Liability.—

''(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) Effective Date.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 9222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) In General.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) No Administrative Appeal for Third and Subsequent Violations.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) Effective Date.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 9223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) In General.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) Conforming Amendment.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) Refunds for use of diesel fuel in certain intercity buses.—

"(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by section 9211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 9231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 9211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) In General.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) Conforming Amendments.—

(1) Section 4083(d)(3), as amended by section 9211 of this Act, is amended—

(A) by striking "entry.—The penalty" and inserting: "entry.—

"(A) Forfeiture.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) Assessable penalty.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 9221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 9241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) In General.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) Civil Penalty for Carrying Taxable Fuels by Nonregistered Pipelines or Vessels.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) Imposition of Penalty.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) Multiple violations.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) Publication of Registered Persons.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 9242. DISPLAY OF REGISTRATION.

(a) In General.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) In general.—Every", and

(2) by adding at the end the following new paragraph:

"(2) Display of registration.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) Civil Penalty for Failure to Display Registration.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) Failure to Display Registration.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) Multiple Violations.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) In General.—Section 4101(a), as amended by section 9242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) Registration of persons within foreign trade zones, etc.—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 9245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 9273 of this Act, is amended by adding at the end the following new sentence: "Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

PART V—IMPORTS

SEC. 9251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 9245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 9245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 9261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 9103 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

"(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "farmers and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 9263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 9252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 9265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) ELECTRONIC FILING.—Section 4481, as amended by section 9001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 9266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "and Penalties" after "Taxes".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "In general" and inserting "Certain taxes".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 9267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is

amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) Effective Date.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 9271. TOTAL ACCOUNTABILITY.

(a) Taxation of Reportable Liquids.—

(1) In general.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) Rate of tax.—Subparagraph (A) of section 4081(a)(2), as amended by section 9211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) Exemption.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) Exemption for registered transfers of reportable liquids.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) Reportable liquids.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) Reportable Liquid.—For purposes of this subpart—

"(1) In general.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) Taxation.—

"(A) Gasoline blend stocks and additives.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) Other reportable liquids.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) Conforming amendments.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) Gasoline Blend Stocks or Additives and Reportable Liquids.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 9252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) Dyed Diesel.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) Effective Date.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 9272. EXCISE TAX REPORTING.

(a) In General.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"Subpart E—Excise Tax Reporting

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) In General.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) Information Included With Return.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) Conforming Amendment.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise tax reporting".

(c) Effective Date.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 9273. INFORMATION REPORTING.

(a) In General.—Section 4101(d) is amended by adding at the end the following new flush sentence: "The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) Effective Date.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 9301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) Exemption From Tax on Heavy Trucks and Trailers Sold at Retail.—

(1) In general.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) Mobile machinery.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) Effective date.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) Exemption From Tax on Use of Certain Vehicles.—

(1) In general.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Exemption for Mobile Machinery.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) Effective date.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) Exemption From Fuel Taxes.—

(1) In general.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) Uses in mobile machinery.—

"(i) In general.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) OFF-HIGHWAY VEHICLES.—

"(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Miscellaneous Provisions

SEC. 9401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9402. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 9403. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and

a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 9404. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 9405. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 9406. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle F—Provisions Designed to Curtail Tax Shelters

SEC. 9501. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) SUBSTANTIAL NONTAX PURPOSE.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(D) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(E) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9502. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec: 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 9503. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special Rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) Coordination with other penalties.—

"(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) Cross reference.—For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e)."

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence: "The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B."

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe."

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax."

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS."

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions."

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 9504. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable to Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e)."

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc."

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9505. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000."

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9506. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not to Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C))."

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 9507. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions."

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction."

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees."

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS."

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions."

(c) Effective Date.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 9508. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction, such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Rescission Authority.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 9509. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause."

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 9510. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority to Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708."

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS. "

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions."

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 9511. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 9512. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 9513. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law."

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions."

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 9514. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence: "The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure."

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, Etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion."

SEC. 9515. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed."

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 9516. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

"(C) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011."

(b) Effective Date.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 9517. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable to Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c))."

(b) Effective Date.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle G—Other Provisions

SEC. 9601. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) Limitations on Built-In Losses.—

"(1) Limitation on importation of built-in losses.—

"(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) Property described.—For purposes of subparagraph (A), property is described in this paragraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph

(B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction."

"(2) Limitation on transfer of built-in losses in section 351 transactions.—

"(A) In general.—If—

"(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer."

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation."

(c) Effective Date.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 9602. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) Treatment of Contributed Property With Built-In Loss.—Paragraph (1) of section 704(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following:

"(C) if any property so contributed has a built-in loss—

"(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

"(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution."

(b) Adjustment to Basis of Partnership Property on Transfer of Partnership Interest If There Is Substantial Built-In Loss.—

(1) Adjustment required.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period "or unless the partnership has a substantial built-in loss immediately after such transfer".

(2) Adjustment.—Subsection (b) of section 743 is amended by inserting "or with respect to which there is a substantial built-in loss immediately after such transfer" after "section 754 is in effect".

(3) Substantial built-in loss.—Section 743 is amended by adding at the end the following new subsection:

"(d) Substantial Built-In Loss.—

"(1) In general.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

"(2) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes."

(4) Clerical amendments.—

(A) The section heading for section 743 is amended to read as follows:

"SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS."

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

"Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss."

(c) Adjustment to Basis of Undistributed Partnership Property If There Is Substantial Basis Reduction.—

(1) Adjustment required.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period "or unless there is a substantial basis reduction".

(2) Adjustment.—Subsection (b) of section 734 is amended by inserting "or unless there is a substantial basis reduction" after "section 754 is in effect".

(3) Substantial basis reduction.—Section 734 is amended by adding at the end the following new subsection:

"(d) Substantial Basis Reduction.—

"(1) In general.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

"(2) Regulations.—For regulations to carry out this subsection, see section 743(d)(2)."

(4) Clerical amendments.—

(A) The section heading for section 734 is amended to read as follows:

"SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION."

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

"Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction."

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) Subsection (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 9603. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 is amended by adding at the end the following new subsection:

"(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2)."

(b) Effective Date.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 9604. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end

of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding "and" at the end of clause (ix), by striking ", and" at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 9605. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 9606. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1)(A) any person acquires stock in a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 9607. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence: "Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period."

(b) DETERMINATION OF PRO RATA SHARE OF SUBPART F INCOME.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR DETERMINING PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share under paragraph (2) shall be determined by disregarding—

"(A) any rights lacking substantial economic effect, and

"(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 9608. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) IN GENERAL.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 9609. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns."

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation § 1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 9610. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 1, 2005" and inserting "March 31, 2010".

Subtitle H—Prevention of Corporate Expatriation to Avoid United States Income Tax

SEC. 9701. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

"(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) SPECIAL RULES.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

"(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

"(III) Related foreign partnership.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename."

(b) Effective Dates.—

(1) In general.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) Special rule.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

Mr. FROST. Mr. Speaker, I urge my Members to vote "no" on the previous question, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I rise in strong support of this rule. We have looked into the history of rules that allow for consideration of transportation legislation. And going back to the 102nd Congress we found that 12 amendments were made in order. That was consideration of the ISTEA legislation. The TEA 21 legislation had six amendments made in order. And this measure will allow for 23 amendments. And I believe it will give an opportunity for full consideration. Actually, it is probably 23 more amendments than the distinguished chairman of the committee, the gentleman from Alaska (Mr. Young), would have preferred because he is so proud of his work product; but we are going to allow Members the opportunity to have the chance to work their will on this very important measure.

If I had my way, the Federal Government would not be involved in these kinds of transportation decisions. In fact, I think that the notion of being able to completely turn back to the States the revenues that come into the trust fund and allowing States to make these decisions would be in many ways the wisest thing. But I have to face reality. And reality is that the Federal Government is involved in the issue of transportation. I believe for that reason we need to do it in the most responsible way.

This measure authorizes in excess of a quarter of a trillion dollars. A quarter of a trillion dollars. And I believe that as we look at the very important pressing needs out there, this is a level of funding that can allow us to make sure that we do improve our infrastructure.

We know that our infrastructure includes more than highways; it includes a wide range of other areas which have to do with transportation. And when we think about the ability of the United States of America to compete in this global economy, it is important for goods and services to be able to move around this country. It is important for U.S. manufacturers, for workers in this country to be able to get their goods to our Nation's ports so that they can, in fact, move into these new markets which this administration, and many of the rest of us, is working to pry open through new bilateral as well as multilateral trade agreements so that we can get into those markets.

And that is why I believe this is a very, very important measure for all of us. For our security, which is an important aspect of this measure, it is important that we improve our infrastructure here.

Let me say that when I think about that issue, I do have, as a Californian, a particular concern. My State is, in fact, the gateway to the Pacific Rim, Asia, Latin America. And a tremendous percentage of the goods that come to and from this country come through the ports of Long Beach and Los Angeles, as I said in my opening remarks.

And we have a very important issue that needs to be addressed in Southern California, the extension of the Alameda Corridor East, which is an issue that the gentleman from Minnesota (Mr. Oberstar) chose to address when he was testifying before the Committee on Rules as an important one.

With these two ports, Los Angeles and Long Beach, it is important now that we have the Alameda Corridor project that takes goods to downtown Los Angeles and brings goods into that Los Angeles area to get to the ports for export. We have to realize that there are areas to the east of Los Angeles that are impacted tremendously because of this new trade.

We have to realize that this also deals very closely with the issue of safety and making sure that in the area that I represent in the Inland Empire, east of downtown Los Angeles, that our emergency vehicles, ambulances, fire, police, that they are able to move as easily as possible throughout the area.

The Alameda Corridor East project is something that will be very, very greatly benefited by this legislation. And I think it is important that we proceed with that.

There are a wide range of other very important projects which will, as has been pointed out by many Members, create jobs to see this already strong and growing economy grow even stronger.

So I hope that my colleagues will join in a bipartisan way to agreeing to the previous question, making sure that we move ahead with this legislation and pass this measure with a strong bipartisan vote.

Mr. Speaker, I yield back the balance of my time, and move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adopting the resolution.

The vote was taken by electronic device, and there were—yeas 229, nays 194, not voting 10, as follows:

[Roll No. 105]

YEAS—229

Aderholt
Akin
Andrews
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoeffel
Hoekstra
Holden
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nadler
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg

Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Cramer
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gallegly
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Holt
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Bradley (NH)
Brown-Waite, Ginny
Gephardt
Gibbons
Honda
Hulshof
Moran (VA)
Quinn
Sessions
Tauzin

☐ 1417

Messrs. HILL, KILDEE, HASTINGS of Florida, CASTLE, Mrs. NAPOLITANO, Ms. KILPATRICK, Mr. JONES of North Carolina and Mr. WEINER changed their vote from "yea" to "nay."

Messrs. CROWLEY, CAPUANO, HOEFFEL, WALSH and PASCRELL changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. HONDA. Mr. Speaker, on rollcall No. 105, had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON FRIDAY, APRIL 2, 2004

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 9 a.m. tomorrow Friday, April 2, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore. Pursuant to House Resolution 593 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3550.

☐ 1418

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, all time for initial general debate pursuant to the order of the House of March 30, 2004, had expired.

Pursuant to House Resolution 593, no further general debate, except for the final period contemplated in the previous order of the House, is in order.

The committee amendment in the nature of a substitute printed in the bill, modified by the amendments printed in part A of House Report 108-456, is adopted. The bill, as amended, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 3550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Transportation Equity Act: A Legacy for Users".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title, table of contents.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization of programs

Sec. 1101. Authorizations of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Minimum guarantee.
Sec. 1105. Project approval and oversight.
Sec. 1106. Temporary traffic control devices.
Sec. 1107. Revenue aligned budget authority.
Sec. 1108. Emergency relief.
Sec. 1109. Surface transportation program.
Sec. 1110. Highway use tax evasion projects.
Sec. 1111. Appalachian development highway system.
Sec. 1112. Construction of ferry boats and ferry terminal facilities.
Sec. 1113. Interstate maintenance discretionary.
Sec. 1114. Highway bridge.
Sec. 1115. Transportation and community and system preservation program.
Sec. 1116. Deployment of magnetic levitation transportation projects.
Sec. 1117. Recreational trails.
Sec. 1118. Federal lands Highways.
Sec. 1119. Reserved.
Sec. 1120. Pedestrian and cyclist equity.
Sec. 1121. National commissions.
Sec. 1122. Adjustments for the Surface Transportation Extension Act of 2003.
Sec. 1123. Roadway safety.
Sec. 1124. Equity requirement.

Subtitle B—Congestion relief

Sec. 1201. Motor vehicle congestion relief.
Sec. 1202. Transportation systems management and operations.
Sec. 1203. Real-time system management information program.
Sec. 1204. Expedited national intelligent transportation systems deployment program.
Sec. 1205. Intelligent transportation systems deployment.
Sec. 1206. Environmental review of activities that support deployment of intelligent transportation systems.
Sec. 1207. Assumption of responsibility for certain programs and projects.
Sec. 1208. HOV facilities.
Sec. 1209. Congestion pricing pilot program.

Subtitle C—Mobility and efficiency

Sec. 1301. National corridor infrastructure improvement program.
Sec. 1302. Coordinated border infrastructure program.
Sec. 1303. Freight intermodal connectors.
Sec. 1304. Projects of national and regional significance.
Sec. 1305. Dedicated truck lanes.
Sec. 1306. Truck parking facilities.

Subtitle D—Highway safety

Sec. 1401. Highway safety improvement program.

Sec. 1402. Worker injury prevention and free flow of vehicular traffic.
Sec. 1403. High risk rural road safety improvement program.
Sec. 1404. Transfers of apportionments to safety programs.
Sec. 1405. Safety incentive grants for use of seat belts.
Sec. 1406. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
Sec. 1407. Repeat offenders for driving while intoxicated.

Subtitle E—Construction and contract efficiencies

Sec. 1501. Design–build.
Sec. 1502. Warranty Highway Construction Project Pilot Program.
Sec. 1503. Private investment study.
Sec. 1504. Highways for LIFE pilot program.

Subtitle F—Finance

Sec. 1601. Transportation Infrastructure Finance and Innovation Act.
Sec. 1602. State infrastructure banks.
Sec. 1603. Interstate System reconstruction and rehabilitation toll pilot program.
Sec. 1604. Interstate System construction toll pilot program.
Sec. 1605. Use of excess funds.

Subtitle G—High priority projects

Sec. 1701. High priority projects program.
Sec. 1702. Project authorizations.

Subtitle H—Miscellaneous provisions

Sec. 1801. Budget justification.
Sec. 1802. Motorist Information.
Sec. 1803. Motorist information concerning full service restaurants.
Sec. 1804. High priority corridors on the National Highway System.
Sec. 1805. Additions to Appalachian region.
Sec. 1806. Transportation assets and needs of Delta region.
Sec. 1807. Toll facilities workplace safety study.
Sec. 1808. Pavement Marking Systems Demonstration Projects.
Sec. 1809. Work zone safety grants.
Sec. 1810. Grant program to prohibit racial profiling.
Sec. 1811. America's Byways Resource Center.
Sec. 1812. Technical adjustment.
Sec. 1813. Road User Charge Evaluation Pilot Project.
Sec. 1814. Sense of Congress.
Sec. 1815. Conforming amendment for transportation planning sections.
Sec. 1816. Distribution of metropolitan planning funds within States.
Sec. 1817. Treatment of off ramp.
Sec. 1818. Loan forgiveness.

TITLE II—HIGHWAY SAFETY

Sec. 2001. Authorization of appropriations.
Sec. 2002. Occupant protection incentive grants.
Sec. 2003. Alcohol-impaired driving countermeasures.
Sec. 2004. State traffic safety information system improvements.
Sec. 2005. High visibility enforcement program.
Sec. 2006. Motorcycle crash causation study.
Sec. 2007. Child safety and child booster seat incentive grants.
Sec. 2008. Safety data.
Sec. 2009. Motorcyclist safety.
Sec. 2010. Driver fatigue.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

Sec. 3001. Short title; amendments to title 49, United States Code.
Sec. 3002. Policies, findings, and purposes.
Sec. 3003. Definitions.
Sec. 3004. Metropolitan planning.
Sec. 3005. Statewide planning.
Sec. 3006. Planning programs.
Sec. 3007. Private enterprise participation.
Sec. 3008. Urbanized area formula grants.
Sec. 3009. Clean fuels formula grant program.
Sec. 3010. Capital investment grants.
Sec. 3011. Formula grants for special needs of elderly individuals and individuals with disabilities.
Sec. 3012. Formula grants for other than urbanized areas.
Sec. 3013. Research, development, demonstration, and deployment projects.
Sec. 3014. Cooperative research program.
Sec. 3015. National research and technology programs.
Sec. 3016. National Transit Institute.
Sec. 3017. Job access and reverse commute formula grants.
Sec. 3018. New Freedom program.
Sec. 3019. Bus testing facility.
Sec. 3020. Bicycle facilities.
Sec. 3021. Transit in the parks pilot program.
Sec. 3022. Human resource programs.
Sec. 3023. General provisions on assistance.
Sec. 3024. Special provisions for capital projects.
Sec. 3025. Contract requirements.
Sec. 3026. Project management oversight and review.
Sec. 3027. Investigations of safety and hazards.
Sec. 3028. State safety oversight.
Sec. 3029. Controlled substances and alcohol misuse testing.
Sec. 3030. Employee protective arrangements.
Sec. 3031. Administrative procedures.
Sec. 3032. National transit database.
Sec. 3033. Apportionments based on fixed guideway factors.
Sec. 3034. Authorizations.
Sec. 3035. Over-the-road bus accessibility program.
Sec. 3036. Updated terminology.
Sec. 3037. Project authorizations for new fixed guideway capital projects.
Sec. 3038. Projects for bus and bus-related facilities.
Sec. 3039. National fuel cell bus technology development program.
Sec. 3040. Extension of public transit vehicle exemption from axle weight restrictions.
Sec. 3041. High-intensity small-urbanized area formula grant program.
Sec. 3042. Allocations for national research and technology programs.
Sec. 3043. Obligation ceiling.
Sec. 3044. Adjustments for the Surface Transportation Extension Act of 2004.

TITLE IV—MOTOR CARRIER TRANSPORTATION AND SAFETY

Subtitle A—Commercial motor vehicle safety

Sec. 4101. Authorization of appropriations.
Sec. 4102. Motor carrier safety grants.
Sec. 4103. Border enforcement grants.
Sec. 4104. Commercial driver's license improvements.
Sec. 4105. Hobbs Act.
Sec. 4106. Penalty for denial of access to records.
Sec. 4107. Medical Review Board.
Sec. 4108. Increased penalties for out-of-service violations and false records.
Sec. 4109. Commercial vehicle information systems and networks deployment.
Sec. 4110. Safety fitness.
Sec. 4111. Pattern of safety violations by motor carrier or broker management.
Sec. 4112. Motor carrier research and technology program.
Sec. 4113. International cooperation.
Sec. 4114. Performance and registration information system management.
Sec. 4115. Data quality improvement.
Sec. 4116. Driveaway saddlemount vehicles.
Sec. 4117. Completion of uniform carrier registration.
Sec. 4118. Registration of motor carriers and freight forwarders.
Sec. 4119. Deposit of certain civil penalties into Highway Trust Fund.
Sec. 4120. Outreach and education.
Sec. 4121. Insulin treated diabetes mellitus.
Sec. 4122. Grant program for commercial motor vehicle operators.
Sec. 4123. Commercial motor vehicle safety advisory Committee.
Sec. 4124. Safety data improvement program.
Sec. 4125. Commercial driver's license information system modernization.
Sec. 4126. Maximum hours of service for operators of ground water well drilling rigs.
Sec. 4127. Safety performance history screening.
Sec. 4128. Intermodal chassis roadability rulemaking.
Sec. 4129. Substance abuse professionals.
Sec. 4130. Interstate van operations.
Sec. 4131. Hours of service for operators of utility service vehicles.
Sec. 4132. Technical corrections.

Subtitle B—Household goods transportation

Sec. 4201. Federal-State relations relating to transportation of household goods.
Sec. 4202. Arbitration requirements.
Sec. 4203. Civil penalties relating to household goods brokers and unauthorized transportation.
Sec. 4204. Penalties for holding household goods hostage.
Sec. 4205. Working group for development of practices and procedures to enhance Federal-State relations.
Sec. 4206. Consumer handbook on dot Web site.
Sec. 4207. Release of household goods broker information.
Sec. 4208. Consumer complaint information.
Sec. 4209. Insurance regulations.
Sec. 4210. Estimating requirements.
Sec. 4211. Application of State consumer protection laws to certain household goods carriers.

TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

Subtitle A—Funding

Sec. 5101. Authorization of appropriations.
Sec. 5102. Obligation ceiling.

Subtitle B—Research, technology, and education

Sec. 5201. Research, technology, and education.
Sec. 5202. Long-term bridge performance program; innovative bridge research and deployment program.
Sec. 5203. Surface transportation environment and planning cooperative research program.
Sec. 5204. Technology deployment.
Sec. 5205. Training and education.
Sec. 5206. Freight planning capacity building.
Sec. 5207. Advanced travel forecasting procedures program.
Sec. 5208. National cooperative freight transportation research program.
Sec. 5209. Future strategic highway research program.
Sec. 5210. Transportation safety information management system project.
Sec. 5211. Surface transportation congestion relief solutions research initiative.
Sec. 5212. Motor carrier efficiency study.

Subtitle C—University transportation research; scholarship opportunities

Sec. 5301. National university transportation centers.
Sec. 5302. University transportation research.
Sec. 5303. Transportation scholarship opportunities program.

Subtitle D—Advanced technologies
Sec. 5401. Advanced heavy-duty vehicle technologies research program.
Sec. 5402. Commercial remote sensing products and spatial information technologies.
Subtitle E—Transportation data and analysis
Sec. 5501. Bureau of Transportation Statistics.
Subtitle F—Intelligent transportation systems research
Sec. 5601. Short title.
Sec. 5602. Goals and purposes.
Sec. 5603. General authorities and requirements.
Sec. 5604. National architecture and standards.
Sec. 5605. Research and development.
Sec. 5606. Infrastructure development.
Sec. 5607. Definitions.
Sec. 5608. Rural interstate corridor communications study.
Sec. 5609. Repeal.
TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY
Sec. 6001. Transportation planning.
Sec. 6002. Efficient environmental reviews for project decisionmaking.
Sec. 6003. Policy on historic sites.
Sec. 6004. Exemption of interstate system.
TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION
Sec. 7001. Amendment of title 49, United States Code.
Sec. 7002. Findings and purpose.
Sec. 7003. Definitions.
Sec. 7004. General regulatory authority.
Sec. 7005. Chemical or biological materials.
Sec. 7006. Representation and tampering.
Sec. 7007. Technical amendments.
Sec. 7008. Training of certain employees.
Sec. 7009. Registration.
Sec. 7010. Providing shipping papers.
Sec. 7011. Rail tank cars.
Sec. 7012. Unsatisfactory safety rating.
Sec. 7013. Training curriculum for the public sector.
Sec. 7014. Planning and training grants, monitoring, and review.
Sec. 7015. Special permits and exclusions.
Sec. 7016. Uniform forms and procedures.
Sec. 7017. International uniformity of standards and requirements.
Sec. 7018. Administrative.
Sec. 7019. Enforcement.
Sec. 7020. Civil penalty.
Sec. 7021. Criminal penalty.
Sec. 7022. Preemption.
Sec. 7023. Relationship to other laws.
Sec. 7024. Judicial review.
Sec. 7025. Authorization of appropriations.
Sec. 7026. Determining amount of undeclared shipments of hazardous materials entering the United States.
Sec. 7027. Conforming amendments.
TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE
Sec. 8001. Policy.
Sec. 8002.
TITLE IX—TAX PROVISIONS
Sec. 9000. Short title, etc.
Subtitle A—Highway Trust Fund Extension
Sec. 9101. Extension of highway-related taxes and trust fund.
Subtitle B—Restructuring of Incentives for Alcohol Fuels, etc.
Sec. 9201. Reduced rates of taxes on gasohol replaced with excise tax credit; repeal of other alcohol-based fuel incentives; etc.
Sec. 9202. Alcohol fuel subsidies borne by general fund.
Subtitle C—Reduction of Fuel Tax Evasion
Sec. 9301. Exemption from certain excise taxes for mobile machinery.
Sec. 9302. Taxation of aviation-grade kerosene.
Subpart A—Motor and Aviation Fuels.
Subpart B—Special Provisions Applicable to Fuels Tax
Sec. 9303. Dye injection equipment.
Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.
Sec. 9304. Authority to inspect on-site records.
Sec. 9305. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
Sec. 9306. Display of registration.
Sec. 6717. Failure to display tax registration on vessels.
Sec. 9307. Penalties for failure to register and failure to report.
Sec. 6718. Failure to register.
Sec. 6725. Failure to report information under section 4101.
Sec. 9308. Collection from customs bond where importer not registered.
Sec. 4104. Collection from customs bond where importer not registered.
Sec. 9309. Modifications of tax on use of certain vehicles.
Sec. 9310. Modification of ultimate vendor refund claims with respect to farming.
Sec. 9311. Dedication of revenues from certain penalties to the highway trust fund.
Subtitle D—Other Excise Tax Provisions
Sec. 9401. Taxable fuel refunds for certain ultimate vendors.
Sec. 9402. Two-party exchanges.
Sec. 4105. Two-party exchanges.
Sec. 9403. Simplification of tax on tires.
Sec. 4073. Exemptions.
Subtitle E—Small Business Expensing
Sec. 9501. 2-year extension of increased expensing for small business.
Subtitle F—Alternative Minimum Tax Relief
Sec. 9601. Net operating losses and foreign tax credit under alternative minimum tax.
Sec. 9602. Expansion of exemption from alternative minimum tax for small corporations.
Sec. 9603. Income averaging for farmers not to increase alternative minimum tax.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization of Programs

SEC. 1101. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,323,076,000 for fiscal year 2004, $4,431,153,000 for fiscal year 2005, $4,541,932,000 for fiscal year, 2006, $4,655,480,000 for fiscal year 2007, $4,771,867,000 for fiscal year 2008, and $4,891,164,000 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title, $5,187,691,000 for fiscal year 2004, $5,317,383,000 for fiscal year 2005, $5,450,318,000 for fiscal year 2006, $5,586,576,000 for fiscal year 2007, $5,726,240,000 for fiscal year 2008, and $5,869,396,000 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title, $3,709,440,000 for fiscal year 2004, $3,802,176,000 for fiscal year 2005, $3,897,231,000 for fiscal year 2006, $3,994,661,000 for fiscal year 2007, $4,094,528,000 for fiscal year 2008, and $4,196,891,000 for fiscal year 2009.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under sections 130 and 152 of that title, $0 for fiscal year 2004, $630,000,000 for fiscal year 2005, $645,000,000 for fiscal year 2006, $660,000,000 for fiscal year 2007, $680,000,000 for fiscal year 2008, and $695,000,000 for fiscal year 2009. Of such funds 1/3 per fiscal year shall be available to carry out section 130 and 2/3 shall be available to carry out section 152.

(5) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $6,052,306,000 for fiscal year 2004, $6,203,614,000 for fiscal year 2005, $6,358,704,000 for fiscal year 2006, $6,517,672,000 for fiscal year 2007, $6,680,614,000 for fiscal year 2008, and $6,847,629,000 for fiscal year 2009.

(6) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title, $1,469,846,000 for fiscal year 2004, $1,506,592,000 for fiscal year 2005, $1,544,257,000 for fiscal year 2006, $1,582,863,000 for fiscal year 2007, $1,622,435,000 for fiscal year 2008, and $1,662,996,000 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 14501 of title 40, United States Code, $460,000,000 for fiscal year 2004 and $470,000,000 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, $53,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $90,000,000 for fiscal year 2007, $100,000,000 for fiscal year 2008, and $110,000,000 for fiscal year 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of title 23, United States Code, $325,000,000 for fiscal year 2004, $365,000,000 for fiscal year 2005, $390,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $420,000,000 for fiscal year 2008, and $420,000,000 for fiscal year 2009.

(B) PARK ROADS AND PARKWAYS.—For park roads and parkways roads under section 204 of that title, $170,000,000 for fiscal year 2004, $185,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $215,000,000 for fiscal year 2007, $225,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.

(C) PUBLIC LANDS HIGHWAY.—For public lands highway under section 204 of that title, $250,000,000 for fiscal year 2004, $260,000,000 for fiscal year 2005, $280,000,000 for fiscal year 2006, $280,000,000 for fiscal year 2007, $290,000,000 for fiscal year 2008, and $300,000,000 for fiscal year 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $20,000,000 for each of fiscal years 2004 through 2009.

(10) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—For the national corridor infrastructure improvement program under section 1301 of this title, $333,333,000 for fiscal year 2004, $600,000,000 for fiscal year 2005, $600,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, $600,000,000 for fiscal year 2008, and $600,000,000 for fiscal year 2009.

(11) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—For the coordinated border infrastructure program under section 1302 of this title, $105,000,000 for fiscal year 2004, $200,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007, $200,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.

(12) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE PROGRAM.—For the projects of national and regional significance program under section 1304 of this title, $600,000,000 for fiscal year 2004, $1,100,000,000 for fiscal year 2005, $1,100,000,000 for fiscal year 2006, $1,200,000,000 for fiscal year 2007, $1,300,000,000 for fiscal year 2008, and $1,300,000,000 for fiscal year 2009.

(13) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 165 of title 23, United States Code, $60,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $75,000,000 for fiscal year 2006, $75,000,000 for fiscal year 2007, $75,000,000 for fiscal year 2008, and $75,000,000 for fiscal year 2009.

(14) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $30,000,000 for fiscal year 2004, $40,000,000 for fiscal year 2005, $45,000,000 for fiscal year 2006, $55,000,000 for fiscal year 2007, $55,000,000 for fiscal year 2008, and $60,000,000 for fiscal year 2009.

(15) CONGESTION PRICING PILOT PROGRAM.—For the congestion pricing pilot program under section 1209 of this title, $15,000,000 for fiscal year 2004, $15,000,000 for fiscal year 2005, $15,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $15,000,000 for fiscal year 2008, and $15,000,000 for fiscal year 2009.

(16) DEPLOYMENT OF 511 TRAVELER INFORMATION PROGRAM.—For the 511 traveler information program under section 1204(c)(7) of this title, $6,000,000 for each of fiscal years 2004 through 2009.

(17) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, $2,176,042,000 for fiscal year 2004, $2,061,242,000 for fiscal year 2005, $1,809,342,000 for fiscal year 2006, $1,708,042,000 for fiscal year 2007, $1,757,242,000 for fiscal year 2008, and $1,615,242,000 for fiscal year 2009.

(18) FREIGHT INTERMODAL CONNECTOR PROGRAM.—For the freight intermodal connector program under section 1303 of this title, $115,000,000 for fiscal year 2004, $250,000,000 for fiscal year 2005, $250,000,000 for fiscal year 2006, $250,000,000 for fiscal year 2007, $250,000,000 for fiscal year 2008, and $250,000,000 for fiscal year 2009.

(19) HIGH RISK RURAL ROAD SAFETY IMPROVEMENT PROGRAM.—For the high risk rural road safety improvement program under section 1403 of this title, $85,000,000 for fiscal year 2004, $105,000,000 for fiscal year 2005, $110,000,000 for fiscal year 2006, $120,000,000 for fiscal year 2007, $125,000,000 for fiscal year 2008, and $130,000,000 for fiscal year 2009.

(20) HIGHWAY USE TAX EVASION PROGRAM.—For highway use tax evasion projects under section 143 of title 23, United States Code, $12,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $30,000,000 for fiscal year 2006, $20,000,000 for fiscal year 2007, $10,000,000 for fiscal year 2008, and $7,000,000 for fiscal year 2009.

(21) PEDESTRIAN AND CYCLIST EQUITY.—

(A) SAFE ROUTES TO SCHOOL PROGRAM.—For the safe routes to school program under section 1120(a) of this title, $125,000,000 for fiscal year 2004, $150,000,000 for fiscal year 2005, $175,000,000 for fiscal year 2006, $175,000,000 for fiscal year 2007, $175,000,000 for fiscal year 2008, and $200,000,000 for fiscal year 2009.

(B) NONMOTORIZED PILOT PROGRAM.—For the nonmotorized pilot program under section 1120(b) of this title, $20,000,000 for fiscal year 2004 and $25,000,000 for each of fiscal years 2005 through 2009.

(22) DEDICATED TRUCK LANES.—For dedicated truck lanes under section 1305 of this title, $80,000,000 for fiscal year 2004 ,$165,000,000 for each of fiscal years 2005 through 2008, and $170,000,000 for fiscal year 2009.

(23) HIGHWAYS FOR LIFE PROGRAM.—For the highways for life program under section 1504 of this title, $40,000,000 for fiscal year 2004, $55,000,000 for fiscal year 2005, and $60,000,000 for each of fiscal years 2006 through 2009.

(24) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209), $115,000,000 for fiscal year 2004, $125,000,000 for fiscal year 2005, $130,000,000 for fiscal year 2006, $130,000,000 for fiscal year 2007, $140,000,000 for fiscal year 2008, and $140,000,000 for fiscal year 2009.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act and section 403 of title 23, United States Code, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.

SEC. 1102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law but subject to subsections (g) and (h), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $33,644,000,000 for fiscal year 2004;

(2) $34,641,000,000 for fiscal year 2005;

(3) $35,668,000,000 for fiscal year 2006;

(4) $36,725,000,000 for fiscal year 2007;

(5) $37,813,000,000 for fiscal year 2008; and

(6) $38,934,000,000 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;

(2) under section 147 of the Surface Transportation Assistance Act of 1978;

(3) under section 9 of the Federal-Aid Highway Act of 1981;

(4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

(5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;

(7) under section 157 of title 23, United States Code, as in effect on June 8, 1998;

(8) under section 105 of title 23, United States Code (but, for each of fiscal years 1998 through 2013), only in an amount equal to $639,000,000 per fiscal year; and

(9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that such obligation authority has not lapsed or been used.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary shall—

(1) not distribute obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation authority provided by subsection (a) for such fiscal year less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 14501 of title 40, United States Code (relating to Appalachian development highway system), and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined

under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(d) Redistribution of Unused Obligation Authority.—Notwithstanding subsection (c), the Secretary shall after August 1 of each of fiscal years 2004 through 2009 revise a distribution of the obligation authority made available under subsection (c) if an amount made available under this section will not be obligated during the fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year. In making the redistribution, the Secretary shall give priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) Applicability of Obligation Limitations to Transportation Research Programs.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and under title V of this Act; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years.

(f) Redistribution of Certain Authorized Funds.—Not later than 30 days after the date of the distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highway programs, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (c)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(g) Special Rule.—Obligation authority distributed for a fiscal year under subsection (c)(4) for a section set forth in subsection (c)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) Increase in Obligation Limit.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be increased by an amount equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc)) for such fiscal year. Any such increase shall be distributed in accordance with this section.

(i) Limitations on Obligations for Administrative Expenses.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $390,000,000 for fiscal year 2004;

(2) $395,000,000 for fiscal year 2005;

(3) $395,000,000 for fiscal year 2006;

(4) $395,000,000 for fiscal year 2007;

(5) $395,000,000 for fiscal year 2008; and

(6) $400,000,000 for fiscal year 2009.

SEC. 1103. APPORTIONMENTS.

(a) Administrative Expenses.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) In general.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for purposes described in paragraph (2) $390,000,000 for fiscal year 2004, $395,000,000 for fiscal year 2005, $395,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $395,000,000 for fiscal year 2008, and $400,000,000 for fiscal year 2009.

"(2) Use of funds.—The amounts authorized to be appropriated by paragraph (1) are authorized for the following purposes:

"(A) To administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(B) To make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.";

(2) in paragraph (3) by striking "sum deducted under" and inserting "amounts authorized to be appropriated by"; and

(3) in paragraph (4)—

(A) by striking "sums deducted under" and inserting "amounts authorized to be appropriated by"; and

(B) by striking "and the Federal Motor Carrier Safety Administration".

(b) National Highway System.—Section 104(b) of such title is amended—

(1) by striking "the deduction authorized by subsection (a) and"; and

(2) in paragraph (1)(A)—

(A) by striking "$36,400,000 for each fiscal year" and inserting "$40,000,000 for fiscal year 2004, $40,000,000 for fiscal year 2005, $40,000,000 for fiscal year 2006, $50,000,000 for fiscal year 2007, $50,000,000 for fiscal year 2008, and $50,000,000 for fiscal year 2009"; and

(B) by striking "$18,800,000 for each of fiscal years 1998 through 2002" and inserting "$20,000,000 for fiscal year 2004 and $30,000,000 for each of fiscal years 2005 through 2009".

(c) Conforming Amendments.—Section 104 of such title is amended—

(1) in subsection (f)(1)—

(A) by striking ", after making the deduction authorized by subsection (a) of this section,"; and

(B) by striking "remaining"; and

(2) in subsection (i) by striking "deducted" and inserting "authorized to be appropriated".

(d) Puerto Rico Highway Program.—Section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209; 117 Stat. 1114) is amended—

(1) in paragraph (1) by striking "(15) for each of fiscal years 1998 through 2004" and inserting "(24) for each of fiscal years 2004 through 2009 of the Transportation Equity Act: A Legacy for Users"; and

(2) in paragraph (2) by striking "(15) of this Act" and inserting "(24) of the Transportation Equity Act: A Legacy for Users".

SEC. 1104. MINIMUM GUARANTEE.

(a) General Rule.—Section 105(a) of title 23, United States Code, is amended—

(1) by striking "1998 through 2003" and inserting "2004 through 2009";

(2) by striking ", high priority projects"; and

(3) by striking "and recreational trails" and inserting "recreational trails, coordinated border infrastructure, freight intermodal connectors, safe routes to school, highway safety improvement, and high risk rural road safety improvement".

(b) Treatment of Funds.—Section 105(c)(1) of such title is amended—

(1) by striking "$2,800,000,000" and inserting "$2,870,000,000 in fiscal year 2004, $2,941,750,000 in fiscal year 2005, $3,015,293,750 in fiscal year 2006, $3,090,676,094 in fiscal year 2007, $3,167,942,996 in fiscal year 2008, and $3,247,141,571 in fiscal year 2009";

(2) by striking ", high priority projects"; and

(3) by striking "and recreational trails" each place it appears and inserting "recreational trails, coordinated border infrastructure, freight intermodal connectors, safe routes to school, highway safety improvement, and high risk rural road safety improvement".

(c) Authorization.—Section 105(d) of such title is amended by striking "1998 through 2003" and inserting "2004 through 2009".

(d) Special Rule.—Section 105 of such title is further amended—

(1) by striking subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(e) Guaranteed Specified Return.—Section 105(e) of such title (as redesignated by subsection (d)) is amended—

(1) in the subsection heading by striking "OF 90.5" and inserting "SPECIFIED"; and

(2) in paragraph (1) by striking "1999 through 2003" and inserting "2004 through 2009".

(f) Conforming Amendments.—

(1) Section 131.—Section 131(m) of title 23, United States Code, is amended by striking "in accordance with the program of projects approval process of section 105".

(2) Section 140.—Section 140 of such title is amended—

(A) in subsection (a) by striking "programs for projects as provided for in subsection (a) of section 105 of this title" and inserting "project under this chapter"; and

(B) in subsection (c) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)".

SEC. 1105. PROJECT APPROVAL AND OVERSIGHT.

Section 106(h) of title 23, United States Code, is amended by striking "$1,000,000,000" and inserting "$500,000,000".

SEC. 1106. TEMPORARY TRAFFIC CONTROL DEVICES.

(a) Standards.—Section 109(e) of title 23, United States Code, is amended

(1) by striking "(e) No funds" and inserting the following:

"(e) Installation of Safety Devices.—

"(1) Highway and railroad grade crossings and drawbridges.—No funds"; and

(2) by adding at the end the following:

"(2) Temporary traffic control devices.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper temporary traffic control devices to improve safety *in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.".*

(b) LETTING OF CONTRACTS.—Section 112 of such title is amended—

(1) by striking subsection (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) by adding at the end the following:

"(g) TEMPORARY TRAFFIC CONTROL DEVICES.—

"(1) ISSUANCE OF REGULATIONS.—The Secretary, after consultation with appropriate Federal and State officials, shall issue regulations establishing the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.

"(2) EFFECTS OF REGULATIONS.—Based on regulations issued under paragraph (1), a State shall—

"(A) develop separate pay items for the use of uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations; and

"(B) incorporate such pay items into contract provisions to be included in each contract entered into by the State with respect to a highway project to ensure compliance with section 109(e)(2).

"(3) LIMITATION.—Nothing in the regulations shall be construed to prohibit a State from implementing standards that are more stringent than those required under the regulations.

"(4) POSITIVE PROTECTIVE MEASURES DEFINED.—In this subsection, the term 'positive protective measures' means temporary traffic barriers, crash cushions, and other strategies to avoid traffic accidents in work zones, including full road closures.".

SEC. 1107. REVENUE ALIGNED BUDGET AUTHORITY.

(a) IN GENERAL.—Section 110 of title 23, United States Code, relating to revenue aligned budget authority, will be continued in such a way as to create greater stability in program funding level adjustments and maintain a direct relationship to the receipts in the Highway Account of the Highway Trust Fund.

(b) TECHNICAL AMENDMENT.—Section 110(b)(1)(A) of title 23, United States Code, is amended by striking "for" the second place it appears.

SEC. 1108. EMERGENCY RELIEF.

(a) IN GENERAL.—Effective October 1, 2004, section 125(c)(1) of title 23, United States Code, is amended by striking "$100,000,000" and inserting "$120,000,000".

(b) AUTHORIZATIONS OF APPROPRIATIONS FROM GENERAL FUND.—There is authorized to be appropriated for a fiscal year such sums as may be necessary for allocations by the Secretary described in subsections (a) and (b) of sections 125 of title 23, United States Code, if the total of those allocations in such fiscal year are in excess of $120,000,000.

SEC. 1109. SURFACE TRANSPORTATION PROGRAM.

Section 133(f)(1) of title 23, United States Code, is amended—

(1) by striking "1998 through 2000" and inserting "2004 through 2006"; and

(2) by striking "2001 through 2003" and inserting "2007 through 2009".

SEC. 1110. HIGHWAY USE TAX EVASION PROJECTS.

(a) ELIGIBLE ACTIVITIES.—

(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Section 143(b)(2) of title 23, United States Code, is amended by inserting before the period the following: "; except that of funds so made available for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training".

(2) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Section 143(b)(3) of such title is amended by striking "The" and inserting "Except as otherwise provided in this section, the".

(3) LIMITATION ON USE OF FUNDS.—Section 143(b)(4) of such title is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(C) by adding at the end the following:

"(H) to support efforts between States and Indian tribes to address issues related to State motor fuel taxes; and

"(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.".

(4) REPORTS.—Section 143(b) of such title is amended by adding at the end the following:

"(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the annual yield estimated for each project funded under this section.".

(b) EXCISE FUEL REPORTING SYSTEM.—

(1) IN GENERAL.—Section 143(c)(1) of such title is amended—

(A) by striking "August 1, 1998," and inserting "90 days after the date of enactment of the Transportation Equity Act: A Legacy for Users,";

(B) by striking "development" and inserting "completion, operation,"; and

(C) by striking "an excise fuel reporting system (in this subsection referred to as 'the system')" and inserting "an excise summary terminal activity reporting system".

(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—Section 143(c)(2) of such title is amended—

(A) by striking "the system" the first place it appears and inserting "the excise summary terminal activity reporting system";

(B) in subparagraph (A) by striking "develop" and inserting "complete";

(C) by striking "and" at the end of subparagraph (B);

(D) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(E) by adding at the end the following:

"(D) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for the completion, operation, and maintenance of the system."; and

(3) FUNDING PRIORITY.—Section 143(c)(3) of such title is amended to read as follows:

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the excise summary terminal activity reporting system in accordance with this subsection.".

(c) REGISTRATION SYSTEM AND ELECTRONIC DATABASE.—Section 143 of such title is further amended by adding at the end the following:

"(d) PIPELINE, VESSEL, AND BARGE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel.

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the registration system through contracts;

"(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for development, operation, and maintenance of the registration system;

"(C) the registration system shall be under the control of the Internal Revenue Service; and

"(D) the registration system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel in accordance with this subsection.

"(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the establishment, operation, and maintenance of an electronic database of heavy vehicle highway use tax payments.

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall establish and maintain the electronic database through contracts;

"(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for establishment, operation, and maintenance of the electronic database;

"(C) the electronic database shall be under the control of the Internal Revenue Service; and

"(D) the electronic database shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to establish, operate, and maintain an electronic database of heavy vehicle highway use tax payments in accordance with this subsection.

"(f) REPORTS.—Not later than March 30 and September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this section related to the excise summary terminal activity reporting system, the pipeline, vessel, and barge registration system, and the heavy vehicle use tax electronic database.".

SEC. 1111. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2004 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 14501 title 40, United States Code.

(b) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 14501 of title 40, United States Code, and such funds shall be available to construct highways and access roads under such section and shall remain available until expended.

(c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting "and the Appalachian development highway system program under section 14501 of title 40" after "section 125".

SEC. 1112. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§165. Construction of ferry boats and ferry terminal facilities

"(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.

"(c) AVAILABILITY OF AMOUNTS.—Amounts made available to carry out this section shall remain available until expended.

"(d) SET-ASIDE FOR PROJECTS ON NHS.—

"(1) IN GENERAL.—$20,000,000 of the amount made available to carry out this section for each of fiscal years 2004 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

"(2) ALASKA.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

"(3) NEW JERSEY.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

"(4) WASHINGTON.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.

"(e) APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

"165. Construction of ferry boats and ferry terminal facilities.".

(c) NATIONAL FERRY DATABASE.—

(1) ESTABLISHMENT.—The Secretary, acting through the Bureau of Transportation Statistics, shall establish and maintain a national ferry database.

(2) CONTENTS.—The database shall contain current information regarding ferry systems, including information regarding routes, vessels, passengers and vehicles carried, funding sources and such other information as the Secretary considers useful.

(3) UPDATE REPORT.— Using information collected through the database, the Secretary shall periodically modify as appropriate the report submitted under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185–186).

(4) REQUIREMENTS.—The Secretary shall—

(A) compile the database not later than 1 year after the date of enactment of this Act and update the database every 2 years thereafter;

(B) ensure that the database is easily accessible to the public;

(C) make available, from the ferry boat and ferry terminal program authorized under section 165 of title 23, United States Code, not more than $500,000 for each of fiscal years 2004 through 2009 to establish the database.

SEC. 1113. INTERSTATE MAINTENANCE DISCRETIONARY.

(a) IN GENERAL.—Section 118 of title 23, United States Code, is amended—

(1) by striking subsection (c);

(2) in subsection (e) by inserting "SPECIAL RULES.—" before "Funds made"; and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) CONFORMING AMENDMENT.—Section 103(d)(1) of such title is amended by striking "or 118(c)".

(c) TECHNICAL AMENDMENTS.—

(1) SECTION 114.—Section 114(a) of such title is amended by striking "Except as provided in section 117 of this title, such" and inserting "Such".

(2) SECTION 116.—Section 116(b) of such title is amended by striking "highway department" and inserting "transportation department".

(3) SECTION 120.—Section 120(e) of such title is amended in the first sentence by striking "such system" and inserting "such highway".

(4) SECTION 126.—Section 126(a) of such title is amended by inserting "under" before "section 104(b)(3)".

(5) SECTION 127.—Section 127 of such title is amended by striking "118(b)(1)" and inserting "118(b)(2)".

(6) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—Section 1212(i) of the Transportation Equity Act for the 21st Century (112 Stat. 196–197) is amended by redesignating subparagraphs (D) and (E) as paragraphs (2) and (3), respectively, and moving such paragraphs 2 ems to the left.

(d) LIMITATION.—The amendments made by this section shall not apply to, or have any affect with respect to, funds made available under section 118 of title 23, United States Code, before the date of enactment of this section.

SEC. 1114. HIGHWAY BRIDGE.

(a) SCOUR COUNTERMEASURES.—Section 144(d) of title 23, United States Code, is amended to read as follows:

"(d) APPLICATIONS FOR AND APPROVAL OF ASSISTANCE.—

"(1) BRIDGE REPLACEMENT OR REHABILITATION.—Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsections (b) and (c) shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge.

"(2) PREVENTIVE MAINTENANCE, SCOUR MEASURES, AND APPLICATIONS OF CERTAIN COMPOSITIONS.—Whenever any State makes application to the Secretary for assistance in painting, seismic retrofit, or preventive maintenance of, or installing scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventive maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, such structure.

"(3) ELIGIBILITY.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State; except that a State may carry out a project for preventive maintenance on a bridge, seismic retrofit of a bridge, or installing scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.".

(b) BRIDGE DISCRETIONARY SET-ASIDE.—Section 144(g)(1) of such title is amended by adding at the end the following:

"(D) FISCAL YEARS 2004 THROUGH 2009.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2004 through 2009, all but $100,000,000 shall be apportioned as provided in subsection (e). Such $100,000,000 shall be available at the discretion of the Secretary.".

(c) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of such title is amended—

(1) by striking "15 percent" and inserting "20 percent";

(2) by striking "1987" and inserting "2004";

(3) by striking "2003" and inserting "2009";

(4) by inserting ", perform systematic preventive maintenance," after "paint"; and

(5) by inserting a comma before "to highway bridges".

(d) TECHNICAL AMENDMENT.—Section 144(i) of such title is amended by striking "at the same time" and all that follows through "Congress".

SEC. 1115. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.

(a) EXTENSION.—Section 1221(e)(1) of Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 223) is amended—

(1) by striking "1999 and" and inserting "1999,"; and

(2) by inserting before the period at the end the following: ", and $25,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $35,000,000 for fiscal year 2006, $35,000,000,000 for fiscal year 2007, and $35,000,000 for each of fiscal years 2008 and 2009".

(b) FEDERAL SHARE.—Section 1221(e)(2) of such Act is amended by inserting before the period at the end "; except that such funds shall not be transferable and the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code".

SEC. 1116. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs"—

(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) FULL PROJECT COSTS.—The term "full project costs" means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) MAGLEV.—The term "MAGLEV" means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

(4) STATE.—The term "State" has the meaning such term has under section 101(a) of title 23, United States Code.

(b) IN GENERAL.—

(1) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.

(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects authorized by this section.

(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor;

(2) result in an operating transportation facility that provides a revenue producing service; and

(3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 2005 and $20,000,000 for each of fiscal years 2006 through 2009.

(e) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the full project costs of an eligible project shall be 80 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1117. RECREATIONAL TRAILS.

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended by striking "research and technical" and all that follows through "Committee" and inserting "research, technical assistance, and training under the recreational trails program".

(b) PERMISSIBLE USES.—Section 206(d)(2) of such title is amended to read as follows:

"(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of existing recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.) and that is in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1); and

"(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) operation of educational programs to promote safety and environmental protection as those objectives relate to the use of recreational trails, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(H) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section.".

(c) USE OF APPORTIONMENTS.—Section 206(d)(3) of such title is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) in subparagraph (C) (as so redesignated) by striking "(2)(F)" and inserting "(2)(H)".

(d) FEDERAL SHARE.—Section 206(f) of such title is amended—

(1) in paragraph (1)—

(A) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(B) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120(b)";

(2) in paragraph (2)(A) by striking "80 percent of" and inserting "the amount determined in accordance with section 120(b) for";

(3) in paragraph (2)(B) by inserting "sponsoring the project" after "Federal agency";

(4) by striking paragraph (5);

(5) by redesignating paragraph (4) as paragraph (5);

(6) in paragraph (5) (as so redesignated) by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120(b)"; and

(7) by inserting after paragraph (3) the following:

"(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section.".

(e) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—Section 206(h)(1) of such title is amended by adding at the end the following:

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—The Secretary may allow pre-approval planning and environmental compliance costs to be credited toward the non-Federal share of the cost of a project described under subsection (d)(2) (other than subparagraph (I)) in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.".

(f) ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under section 206 of title 23, United States Code.

SEC. 1118. FEDERAL LANDS HIGHWAYS.

(a) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—Section 202(d)(3) of title 23, United States Code, is amended to read as follows:

"(3) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this title for a highway, road, bridge, parkway, or transit facility project that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, engineering, and construction relating to such project.

"(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds for a project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the Federal lands highway programs, the programs, functions, services, or activities involved.

"(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a project to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

"(D) FUNDING.—The amount an Indian tribal government receives for a project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the project in accordance with the funding formula established under this subsection and such additional amount as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the project.

"(E) ELIGIBILITY.—An Indian tribal government may receive funding under subparagraph (A) for a project in a fiscal year if the Indian tribal government demonstrates to the satisfaction of the Secretary financial stability and financial management capability as demonstrated in the annual auditing required under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and, during the preceding fiscal year, had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency.

"(F) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to projects under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

"(G) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a project shall have all powers that the Secretary *of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such project under this section if such funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).*

"(H) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary of Transportation or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.".

(b) ALASKA NATIVE VILLAGE INVENTORY.—Section 202(d)(2) of such title is amended by adding at the end the following:

"(E) ALASKA NATIVE ROAD INVENTORY.—

"(i) IN GENERAL.—For fiscal year 2004 and each fiscal year thereafter, any allocation of sums authorized to be appropriated for Indian reservation roads in Alaska shall be based on an inventory of roads within the exterior boundaries of village corporation land selected pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that includes all routes previously included in such an inventory. The Secretary of Transportation and the Secretary of the Interior may include, in the inventory of roads, those proposed for inclusion by tribal village governments from among community streets within the village and those proposed primary access routes for inclusion by tribal village governments, including roads and trails between villages (including links over water), roads and trails to landfills, roads and trails to drinking water sources, roads and trails to natural resources identified for economic development, and roads and trails that provide access to intermodal termini, such as airports, harbors, or boat landings.

"(ii) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this subparagraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.".

(c) GRANTS FOR FINANCING TRANSPORTATION DEBT.—Section 202(a) is amended by inserting before the period at the end the following: "; except that the Secretary may use up to 3 percent of such funds for making grants to Indian tribes for the purpose of financing transportation debt for individual Indian reservation roads subject to all requirements governing Federal assistance for Indian roads under this section and section 204".

(d) DEPUTY ASSISTANT SECRETARY OF TRANSPORTATION FOR TRIBAL GOVERNMENT AFFAIRS.—Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS.—The Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking related to, or has impact on, projects, programs, or funding associated with the tribal transportation program.".

SEC. 1119. RESERVED.

SEC. 1120. PEDESTRIAN AND CYCLIST EQUITY.

(a) SAFE ROUTES TO SCHOOL PROGRAM.—

(1) ESTABLISHMENT.—Subject to the requirements of this subsection, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and middle schools.

(2) PURPOSES.—The purposes of the program shall be—

(A) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

(B) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and

(C) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

(3) APPORTIONMENT OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), amounts made available to carry out this subsection for a fiscal year shall be apportioned among the States in the ratio that—

(i) the total student enrollment in primary and middle schools in each State; bears to

(ii) the total student enrollment in primary and middle schools in all the States.

(B) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this subsection for a fiscal year of less than $2,000,000.

(C) SET-ASIDE.—Before apportioning amounts made available to carry out this subsection under this paragraph for a fiscal year, the Secretary shall set aside not more than 2 percent of such amounts for the administrative expenses of the Secretary in carrying out this subsection.

(D) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this paragraph concerning student enrollments shall be made by the Secretary.

(4) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this subsection shall be administered by the State's department of transportation.

(5) ELIGIBLE RECIPIENTS.—Amounts apportioned to a State under this subsection shall be used by the State to provide financial assistance to State, local, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this subsection.

(6) ELIGIBLE PROJECTS AND ACTIVITIES.—

(A) INFRASTRUCTURE-RELATED PROJECTS.—

(i) IN GENERAL.—Amounts apportioned to a State under this subsection may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bike to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

(ii) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

(B) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

(i) IN GENERAL.—In addition to projects described in subparagraph (A), amounts apportioned to a State under this subsection may be used for noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

(ii) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this subsection for a fiscal year shall be used for noninfrastructure-related activities under this subparagraph.

(C) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under this subsection for a fiscal year shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State's safe routes to school program.

(7) CLEARINGHOUSE.—

(A) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools to—

(i) operate a national safe routes to school clearinghouse;

(ii) develop information and educational programs on safe routes to school; and

(iii) provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.

(B) FUNDING.—The Secretary shall carry out this paragraph using amounts set aside for administrative expenses under paragraph (3)(C).

(8) TASK FORCE.—

(A) IN GENERAL.—The Secretary shall establish a national safe routes to school task force composed of leaders in health, transportation, and education, including representatives of appropriate Federal agencies, to study and develop a strategy for advancing safe routes to school programs nationwide.

(B) REPORT.—Not later than March 30, 2005, the Secretary shall transmit to Congress a report containing the results of the study conducted, and a description of the strategy developed, under subparagraph (A) and information regarding the use of funds for infrastructure-related and noninfrastructure-related activities under subparagraphs (A) and (B) of paragraph (6).

(C) FUNDING.—The Secretary shall carry out this paragraph using amounts set aside for administrative expenses under paragraph (3)(C).

(9) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project or activity under this section shall be 100 percent. Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under such chapter.

(10) DEFINITIONS.—In this subsection, the following definitions apply:

(A) IN THE VICINITY OF SCHOOLS.—The term "in the vicinity of schools" means, with respect to a school, the area within bicycling and walking distance of the school (approximately 2 miles).

(B) PRIMARY AND MIDDLE SCHOOLS.—The term "primary and middle schools" means schools providing education from kindergarten through eighth grade.

(C) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.

(b) NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish and carry out a nonmotorized transportation pilot program to construct, in 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences,

businesses, recreation areas, and other community activity centers.

(2) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

(3) GRANTS.—In carrying out the program, the Secretary may make grants to State, local, and regional agencies, that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this subsection. An agency that receives a grant under this subsection may suballocate grant funds to a nonprofit organization to carry out the program under this subsection.

(4) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project carried out under this subsection shall be 80 percent, and such funds shall not be transferable and shall remain available until expended.

(5) STATISTICAL INFORMATION.—In carrying out the program, the Secretary shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of biking and walking, and promote better health and a cleaner environment.

(6) REPORTS.—The Secretary shall transmit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

SEC. 1121. NATIONAL COMMISSIONS.

(a) NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND.—

(1) ESTABLISHMENT.—There is established a National Commission on Future Revenue Sources to Support the Highway Trust Fund to conduct—

(A) a study evaluating alternative short-term sources of Highway Trust Fund revenue to support the requirements of section 1124; and

(B) a study evaluating alternative long-term sources of revenue to support the Highway Trust Fund, considering the findings, conclusions, and recommendations of a recent study by the Transportation Research Board of the National Academy of Sciences on alternatives to the fuel tax to support highway program financing and other relevant prior research.

(2) FUNCTIONS.—The Commission shall—

(A) develop recommendations to generate Highway Trust Fund revenue necessary to accomplish the requirements of section 1124;

(B) oversee a comprehensive investigation of alternatives to replace the fuel tax as the principal revenue source to support the Highway Trust Fund over at least the next 30 years;

(C) consult with the Secretary of Transportation and the Secretary of the Treasury to assure that their views concerning essential attributes of Highway Trust Fund revenue alternatives are understood;

(D) assure that State transportation agency views on alternative revenue sources to support State transportation improvement programs are appropriately considered and that any recommended Federal financing strategy take into account State financial requirements; and

(E) make specific recommendations regarding actions that need to be taken to develop alternative revenue sources to support the Highway Trust Fund and when those actions must be taken.

(3) SPECIFIC MATTERS TO BE ADDRESSED.—The study under paragraph (1)(B)shall address specifically—

(A) advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) the time frame within which actions must be taken to transition from the fuel tax to alternative revenue sources to support the Highway Trust Fund;

(C) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(D) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various aspects of the transition strategy;

(E) recommendations for additional research that may be needed to implement recommended alternatives; and

(F) the extent to which revenues should reflect the relative use of the highway system.

(4) MATTERS TO CONSIDER AND EVALUATE.—To the maximum extent feasible, the Commission, in conducting the study under paragraph (1)(B), shall consider and evaluate other related work that has been done by the Department of Transportation, the Department of Energy, the Transportation Research Board, and others. In developing recommendations under paragraph (2), the Commission shall consider—

(A) the ability to generate sufficient revenues to meet anticipated long term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs, including enforcement, to implement each option;

(D) potential taxpayer privacy concerns;

(E) likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with States tax mechanisms under each alternative.

(5) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of nine members of whom—

(i) three members shall be appointed by the Secretary;

(ii) two members shall be appointed by the Speaker of the House of Representatives;

(iii) one member shall be appointed by the minority leader of the House of Representatives;

(iv) two members shall be appointed by the majority leader of the Senate; and

(v) one member shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Members appointed under subparagraph (A) shall have experience in public finance, surface transportation program administration, managing organizations that use surface transportation facilities, academic research into related issues, or other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(C) TERMS.—Members shall be appointed for the life of the Commission.

(D) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(E) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(6) STAFF.—

(A) IN GENERAL.—The Commission may engage the services of an appropriate organization, agency, or firm to conduct the studies under this subsection, but the Commission shall provide strategic guidance for the studies.

(B) DETAIL STAFF.—Upon request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of Transportation to the Commission to assist the Commission in carrying out its duties under this subsection.

(C) COOPERATION.—The Secretary shall cooperate with the Commission in conducting the studies under this subsection, including providing the Commission with such nonconfidential data and information as necessary for conducting and completing the study.

(7) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Secretary shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out its responsibilities under this subsection.

(8) REPORTS AND RECOMMENDATIONS.——

(A) REVENUE ACTIONS.—Not later than September 30, 2005, the Commission shall transmit to Congress a report on revenue actions that would support the requirements of section 1124.

(B) ALTERNATIVE LONG-TERM SOURCES OF REVENUE.—Not later than September 30, 2006, the Commission shall transmit to Congress a report on the results of the study conducted under paragraph (1)(B), relating to alternative long-term sources of revenue to support the Highway Trust Fund, including recommendations to address the needs identified in the study.

(9) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under paragraph (8)(B). By such 180th day, the Commission shall deliver all records and papers of the Commission to the Archivist of the United States for deposit in the National Archives.

(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $1,500,000 for each of fiscal years 2004 and 2005 to carry out this subsection.

(11) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities carried out under this subsection shall be 100 percent, and such funds shall remain available until expended.

(b) DECLARATION OF POLICY REGARDING FUTURE OF THE INTERSTATE HIGHWAY SYSTEM STUDY.—Section 101(b) of title 23, United States Code, is amended by striking the last paragraph and inserting the following: "It is further declared that it is in the national interest to preserve and enhance the Dwight D. Eisenhower National System of Interstate and Defense Highways to meet the Nation's needs for the 21st century. The current urban and long distance personal travel and freight movement demands have surpassed the vision of the original Interstate System and travel demand patterns are expected to change. Continued planning for and investment in the Interstate System is critical to assure it adequately meets the changing travel demands of the future. Among the foremost needs that the Interstate System must provide are safe, efficient, and reliable (1) national and interregional personal mobility, (2) flow of interstate commerce, and (3) travel movements essential for national security. To the maximum extent, actions under this title should address congestion, safety, and freight transportation to provide for a strong and vigorous national economy. The Interstate System is hereby declared to

be the Nation's premiere highway system, essential for the Nation's economic vitality, national security, and general welfare. The Secretary of Transportation is directed to take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st century in accordance with this title.".

(c) NATIONAL COMMISSION ON FUTURE OF INTERSTATE HIGHWAY SYSTEM.—

(1) ESTABLISHMENT.—There is established a National Commission on the Future of the Dwight D. Eisenhower National System of Interstate and Defense Highways (in this subsection referred to as the "Interstate System").

(2) FUNCTION.—The Commission shall—

(A) conduct a study of the current condition and future of the Interstate System and develop a conceptual plan with alternative approaches for the future of the Interstate System to assure that the Interstate System will continue to serve the needs of the Nation;

(B) assure that State transportation agency views are considered; and

(C) make specific recommendations regarding those design standards, Federal policies, and legislative changes that must be made to assure the national interests are served in meeting future Interstate System needs.

(3) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall assure that the study under this subsection specifically addresses the following:

(A) CURRENT CONDITION.—The current condition and performance of the Interstate System, including physical condition of bridges and pavements and operational characteristics and performance, shall be examined, relying primarily on existing data sources.

(B) FUTURE ASSESSMENT.—The future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year horizons.

(4) SPECIFIC ISSUES AND DETAILS TO ADDRESS.—The following specific issues and details shall be addressed as a part of the study under this subsection:

(A) DEMOGRAPHICS.—Expected demographics and business uses that impact transportation.

(B) USAGE.—Expected system use and effects of changing vehicle types, fleet size and weights, and traffic volumes.

(C) NATURAL DISASTER.—Seismic and other vulnerabilities and their potential impacts.

(D) DESIGN STANDARDS.—Desirable design policies and standards for future improvements, including safety improvement and additional access points.

(E) SYSTEM WIDE NEEDS.—Identification of both urban and rural needs.

(F) POTENTIAL SYSTEM EXPANSION, UPGRADES, OR OTHER CHANGES.—Deployment of advanced materials and intelligent technologies; critical multi-state rural corridors needing capacity, safety, and operational enhancements; urban and multi-state corridor additions; bypasses of major cities that ensure efficient long-haul travel; improvements to inter-modal linkages; strategies to enhance asset preservation; and implementation strategies.

(G) COMMUNITY VALUES.—Consideration of alternative approaches to maintaining or enhancing community values in those neighborhoods adjacent to the Interstate System.

(H) ENVIRONMENTAL ISSUES.—Consideration of alternative approaches to addressing environmental concerns relative to recommended alternatives.

(I) SYSTEM PERFORMANCE.—Evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, system operations and management.

(5) ALTERNATIVES.—A range of policy recommendations shall be developed as a part of the plan under this subsection to address identified future needs of the Interstate System. The alternatives shall include funding needs and potential approaches to provide those funds.

(6) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of nine members of whom—

(i) three members shall be appointed by the Secretary;

(ii) two members shall be appointed by the Speaker of the House of Representatives;

(iii) one member shall be appointed by the minority leader of the House of Representatives;

(iv) two members shall be appointed by the majority leader of the Senate; and

(v) one member shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Members appointed under subparagraph (A) shall be appointed from among individuals that have a concern for maintaining a strong role for the Interstate System in the future of the Nation and may include representatives from Federal, State, and local governments, other transportation authorities or agencies, and organizations representing surface transportation owners and operators.

(C) TERMS.—Members shall be appointed for the life of the Commission.

(D) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(E) TRAVEL EXPENSES.—Member shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(7) STAFF.—

(A) IN GENERAL.—The Commission may engage the services of an appropriate organization, agency, or firm to conduct the study under this subsection, but the Commission shall provide strategic guidance for the study.

(B) DETAIL STAFF.—Upon request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of Transportation to the Commission to assist the Commission in carrying out its duties under this subsection.

(C) COOPERATION.—The Secretary shall cooperate with the Commission in the study, including providing the Commission with such nonconfidential data and information as necessary for conducting and completing the study.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Secretary shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out its responsibilities under this subsection.

(9) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2006, the Commission shall transmit to Congress a final report on the results of the study conducted under this subsection, including recommendations to address the needs identified in the study.

(10) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under paragraph (9). By such 180th day, the Commission shall deliver all records and papers of the Commission to the Archivist of the United States for deposit in the National Archives.

(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Funds (other than the Mass Transit Account) to carry out this subsection $1,000,000 for each of fiscal years 2005 and 2006.

(12) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities carried out under this subsection shall be 100 percent and such funds shall remain available until expended.

SEC. 1122. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

[Reserved]

SEC. 1123. ROADWAY SAFETY.

(a) ROAD SAFETY.—

(1) IN GENERAL.—The Secretary shall enter into an agreement to assist in the activities of a national nonprofit organization that is dedicated solely to improving public road safety—

(A) by improving the quality of data pertaining to public road hazards and design features that affect or increase the severity of motor vehicle crashes;

(B) by developing and carrying out a public awareness campaign to educate State and local transportation officials, public safety officials, and motorists regarding the extent to which public road hazards and design features are a factor in motor vehicle crashes; and

(C) by promoting public road safety research and technology transfer activities.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2004 through 2009 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

(A) to operate a national bicycle and pedestrian clearinghouse;

(B) to develop information and educational programs; and

(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2004 through 2009 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

SEC. 1124. EQUITY REQUIREMENT.

(a) IN GENERAL.—The Secretary may not apportion before August 1, 2006, any funds for any of the programs referred to in subsection (b) for fiscal year 2006 unless, after the date of enactment of this Act, a law has been enacted that—

(1) increases the guaranteed rate of return pursuant to section 105 of title 23, United States Code, to 92 percent in fiscal year 2006, 93 percent in fiscal year 2007, 94 percent in fiscal year 2008, and 95 percent in fiscal year 2009; and

(2) requires that each State receive apportionments for such programs for each of such fiscal years that in the aggregate are at least equal to the greater of—

(A) the State's minimum guaranteed rate of return required under paragraph (1); and

(B) the State's prior fiscal year's apportioned highway funds for programs referred in subsection (b) plus an amount equal to the State's prior year apportioned funds for such programs multiplied by the percentage increase in the consumer price index during the 12-month period ending June 30 of the calendar year in which the fiscal year begins.

(b) APPLICABILITY.—The withholding of apportioned funds under subsection (a) shall apply to the following programs:

(1) The National Highway System program under section 103(b) of title 23, United States Code.

(2) The high priority projects program under section 117 of such title.

(3) The Interstate maintenance program under section 119 of such title.

(4) The surface transportation program under section 133 of such title.

(5) Metropolitan planning under chapter 52 of title 49, United States Code.

(6) The highway bridge replacement and rehabilitation program under section 144 of title 23, United States Code.

(7) The congestion mitigation and air quality improvement program under section 149 of such title.

(8) The recreational trails program under section 206 of such title.

(9) The Appalachian development highway system under subtitle IV of title 40, United States Code.

(10) The freight intermodal connectors program under section 1303 of this Act.

(11) The coordinated border infrastructure program under section 1302 of this Act.

(12) The high risk rural road safety improvement program under section 1403 of this Act.

(13) The safe routes to schools program under section 1120 of this Act.

(14) The minimum guarantee program under section 105 of title 23, United States Code.

(c) CONSIDERATION OF COMMISSION FINDINGS.—In considering a law that increases the guaranteed rate of return referred to in subsection (a), Congress should consider the findings of the report on alternative short-term sources of Highway Trust Fund revenue to be published by the National Commission on Future Revenue Sources to Support the Highway Trust Fund pursuant to section 1121 of this Act.

Subtitle B—Congestion Relief

SEC. 1201. MOTOR VEHICLE CONGESTION RELIEF.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 138 the following:

"§ 139. Motor vehicle congestion relief

"(a) IN GENERAL.—Each State that has an urbanized area with an urbanized area population of over 200,000 individuals shall obligate in each of fiscal years 2004 through 2009 a portion of the State's apportionments under section 104(b) in such fiscal year, as calculated under subsection (b), for congestion relief activities in such urbanized areas in accordance with this section.

"(b) CALCULATION OF AMOUNT.—The portion of a State's apportionments for a fiscal year to be obligated for congestion relief activities under subsection (a) shall be determined by multiplying—

"(1) the total of amounts apportioned to the State under each of paragraphs (1), (2), (3), and (4) of section 104(b) in such fiscal year; by

"(2) 10 percent; by

"(3) the percentage of the State's population residing in urbanized areas of the State with an urbanized area population of over 200,000 individuals.

"(c) ALLOCATION BETWEEN UNDER ONE AND UNDER THREE CONGESTION RELIEF ACTIVITIES.—Of the total amount of a State's apportionments to be obligated for congestion relief activities for a fiscal year as calculated under subsection (b)—

"(1) 40 percent shall be obligated for under one congestion relief activities;

"(2) 35 percent shall be obligated for under three congestion relief activities; and

"(3) 25 percent shall be obligated at the discretion of the State department of transportation for 1 or more of the following:

"(A) Under one congestion relief activities.

"(B) Under three congestion relief activities.

"(C) Capital costs for transit projects that are eligible for assistance under chapter 53 of title 49.

"(D) Demand relief projects and activities that shift demand to non-peak hours or to other modes of transportation or that reduce the overall level of demand for roads through such means as telecommuting, ridesharing, alternative work hour programs, and value pricing.

"(d) OBLIGATION OF AMOUNTS.—

"(1) IN GENERAL.—In complying with the requirements of this section, the amounts obligated by a State for congestion relief activities under subsection (a) shall be allocated among the individual programs for which funds are apportioned under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4).

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to obligate proportional or equal amounts under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for any congestion relief activity under this section.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of this chapter (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project) to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for congestion relief activities under subsection (a).

"(f) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with this section.

"(g) TRANSFERS.—

"(1) IN GENERAL.—A State may transfer a portion of the amount that the State must obligate for under one congestion relief activities in a fiscal year under this section to the amount the State must obligate for under three congestion relief activities under this section if the State certifies to the Secretary that there are no under one congestion relief activities for which such portion can be obligated in such fiscal year and the Secretary does not disapprove such transfer within 30 days after the date of such certification.

"(2) LIMITATION.—The amount that a State may transfer in a fiscal year under this subsection may not reduce the amount the State must obligate for under one congestion relief activities to less than 10 percent of the total amount of the State's apportionments to be obligated for congestion relief activities for such fiscal year as calculated under subsection (b).

"(3) TREATMENT.—Amounts transferred by a State under this subsection for a fiscal year shall be included in the amount of the State's apportionments allocated for under three congestion relief activities for such fiscal year under subsection (c)(2).

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) CONGESTION RELIEF ACTIVITIES.—

"(A) IN GENERAL.—The term 'congestion relief activity' means any activity, project, or program that has as its primary purpose, as determined by the State transportation department, the relief of motor vehicle congestion.

"(B) INCLUSIONS.—Such term includes the following:

"(i) Relief of motor vehicle congestion through additional capacity, construction of additional lanes, improvements to interchanges, improved access to major terminals, construction of parallel roads, construction of truck only lanes, and major arterial improvements.

"(ii) Transportation systemwide operational improvements targeted at increasing motor vehicle travel reliability through such means as incident management programs, traffic monitoring and surveillance, and traveler information initiatives.

"(iii) Maximizing efficient use of existing motor vehicle travel capacity through such means as reversible lanes, coordinated traffic signalization, and managed lanes or other lane management strategies.

"(C) EXCLUSIONS.—Such term does not include demand relief projects and activities that shift demand to non-peak hours or to other modes of transportation or that reduce the overall level of demand for roads through such means as telecommuting, ridesharing, alternative work hour programs, and value pricing.

"(2) UNDER ONE CONGESTION RELIEF ACTIVITIES.—The term 'under one congestion relief activity' means a congestion relief activity that—

"(A) will be completed within one year after the date of commencement of onsite improvements;

"(B) has a total projected cost of less than $1,000,000; and

"(C) will improve conditions in the applicable urbanized area or is an element of the congestion management system of the applicable metropolitan planning organization.

"(3) UNDER THREE CONGESTION RELIEF ACTIVITIES.—The term 'under three congestion relief activities' means congestion relief activities that—

"(A) will be completed within 3 years after the date of commencement of onsite improvements; and

"(B) will improve conditions in the applicable urbanized area or is an element of the congestion management system of the applicable metropolitan planning organization.".

(b) CONFORMING AMENDMENT.—The analysis for chapter I of such title is amended by inserting after the item relating to section 138 the following:

"139. Motor vehicle congestion relief.".

(c) MOTOR VEHICLE DEFINED.—Title 23, United States Code, is amended—

(1) in section 154(a)(2), relating to the definition of motor vehicle, by inserting "streets, roads, and" before "highways";

(2) by redesignating paragraph (2) of section 154(a) as paragraph (38);

(3) by moving such redesignated paragraph from section 154(a) to the end of section 101(a);

(4) by redesignating paragraphs (3) and (4) of section 154(a) as paragraphs (2) and (3), respectively;

(5) in section 153(i)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(6) in section 164(a)(4) by striking "means" and all that follows through "rail line or" and inserting "does not include"; and

(7) in section 405(f)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5).

SEC. 1202. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) DEFINITIONS.—

(1) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—Section 101(a)(17) of title 23, United States Code, is amended by inserting "transportation systems management and operations and" after "associated with".

(2) OPERATIONAL IMPROVEMENT.—Section 101(a)(18)(A)(i) of such title is amended—

(A) by inserting "transportation systems management and operations, including" after "for"; and

(B) by inserting "equipment and programs for transportation response to natural disasters," after "incident management programs,".

(3) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Section 101(a) of such title is further amended by adding at the end the following:

"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve the security, safety, and reliability of Federal-aid highways.

"(B) INCLUDED ACTIVITIES AND IMPROVEMENTS.—The term includes regional operations collaboration and coordination activities between transportation and public safety agencies and improvements such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic operations measures to improve capacity, traffic signal coordination, optimization of traffic signal timing, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.".

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of such title is amended by inserting "improve transportation systems management and operations," after "intersections,"

(c) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of such title is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively; and

(2) by adding at the end the following:

"(14) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, including activities for traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.".

(d) NATIONAL HIGHWAY SYSTEM ELIGIBILITY.—Section 103(b)(6) of such title is amended by adding at the end the following:

"(Q) Capital, operating, and systems maintenance costs for transportation systems management and operations.".

(e) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Subchapter I of chapter 1 of such title is further amended by adding at the end the following:

"§166. Transportation systems management and operations

"(a) AUTHORITY.—The Secretary may—

"(1) encourage transportation system managers, operators, public safety officials, and transportation planners within an urbanized area, who are actively engaged in and responsible for conducting activities relating to day-to-day management, operations, public safety, and planning of transportation facilities and services, to collaborate and coordinate on a regional level in a continuous and sustained manner for improved transportation systems management and operations, including, at a minimum—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants for how the region's systems should be managed, operated, and measured;

"(B) sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding, in a regionally-coordinated manner, the implementation of regional transportation system management and operations initiatives, including emergency evacuation and response, traffic incident management, technology deployment, and traveler information systems delivery, in a manner consistent with and integrated into the ongoing metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, if required; and

"(2) encourage States to establish a system of basic real-time monitoring capability for the surface transportation system and provide the capability and means to share that data among agencies (including highway, transit, and public safety agencies), jurisdictions (including States, cities, counties, and areas represented by metropolitan planning organizations), private-sector entities, and the traveling public.

"(b) EXECUTION.—To support the successful execution of transportation systems management and operations activities, the Secretary may undertake the following activities:

"(1) Assist and cooperate with other Federal departments and agencies, State and local governments, metropolitan planning organizations, private industry representatives, and other interested parties to improve regional collaboration and real-time information sharing between transportation system managers and operators, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

"(2) Issue, if necessary, new guidance or regulations for the procurement of transportation system management and operations facilities, equipment, and services, including equipment procured in preparation for natural disasters and emergencies, system hardware, software, and software integration services.".

(f) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

"166. Transportation systems management and operations.".

(g) INTELLIGENT TRANSPORTATION SYSTEM PROCUREMENT POLICY.—

(1) STUDY.—The Secretary shall—

(A) conduct a study of the current policies and practices for the procurement of intelligent transportation system facilities, equipment, and services; and

(B) develop a conceptual plan with alternative approaches for expediting and streamlining such procurements at the State level.

(2) RECOMMENDATIONS.—Based on the results of the study, the Secretary shall make recommendations in the report under paragraph (4) regarding procurement standards, including recommendations regarding any changes in Federal and State statutes, regulations, and policies necessary to ensure that national interests are served in meeting future intelligent transportation system needs.

(3) SPECIFIC MATTERS TO BE ADDRESSED.—The study under this subsection shall specifically address the following:

(A) CURRENT CONDITION.—The current practices and policies relating to procurement of intelligent transportation system facilities, equipment, and services, including equipment procured in preparation for natural disasters and emergencies, system hardware, software, and software integration services.

(B) ASSESSMENT OF NEED FOR POLICY REFORM.—The ability of current practices and policies to achieve the successful implementation of intelligent transportation system goals and the need for national policy reform to expedite and streamline procurements necessary to meet such goals.

(C) ALTERNATIVES.—The range of legislative, regulatory, and policy alternatives to address identified needs and goals, including funding needs.

(D) RECOMMENDATIONS.—Recommendations regarding procurement standards, including recommendations regarding any changes in Federal and State statutes, regulations, and policies necessary for expedited and streamlined procurements.

(4) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2005, the Secretary shall transmit to the appropriate committees of Congress a final report regarding the results of the study conducted under this subsection and recommendations to address the needs identified in such study.

(5) INITIATION OF RULEMAKING PROCEEDING.—To the extent any recommendation made by the Secretary under this subsection may be implemented by regulation, the Secretary shall initiate a rulemaking proceeding to address such recommendation not later than the 90th day following the date of submission of the report under paragraph (4).

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 in fiscal year 2004 to carry out this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the study under this subsection shall be 100 percent and such funds shall remain available until expended.

SEC. 1203. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the Nation's major highways and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information.

(2) PURPOSES.—The purposes of the real-time system management information program are to—

(A) establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;

(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting such needs; and

(C) provide the capability and means to share that data with State and local governments and the traveling public.

(b) NATIONAL STEERING COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish a national steering committee to assist in the development of data exchange formats under subsection (c).

(2) REPRESENTATIVES.—The national steering committee shall consist of representatives of State transportation departments, metropolitan planning organizations, local governments, nonprofit entities, the private sector, and academia.

(3) PURPOSE.—The purpose of the national steering committee shall be to provide guidance regarding the content and uniformity of data exchange formats.

(c) DATA EXCHANGE FORMATS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish data exchange formats based on recommendations of the steering committee established under subsection (b) to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems, can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.

(d) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.—

(1) ADDRESSING INFORMATION NEEDS.—As State and local governments develop or update regional intelligent transportation system architectures, described in section 940.9 of title 23, Code of Federal Regulations, such governments shall explicitly address real-time highway and transit information needs and the systems needed to meet such needs, including addressing coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing highway and transit information.

(2) DATA EXCHANGE.—States shall incorporate the data exchange formats established by the Secretary under subsection (c) to ensure that the data provided by highway and transit monitoring systems may readily be exchanged with State and local governments and may be made available to the traveling public.

(e) ELIGIBILITY.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), and 104(b)(3) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements that advance the goals and purposes described in subsection (a).

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for activities and projects under this section.

(g) STATEWIDE INCIDENT REPORTING SYSTEM DEFINED.—In this section, the term "statewide incident reporting system" means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.

SEC. 1204. EXPEDITED NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to accelerate the integration, interoperability, and deployment of intelligent transportation systems in order to improve the performance of the surface transportation system in metropolitan and rural areas.

(b) SELECTION OF MODEL PROJECTS.—Under the program, the Secretary may make grants, through competitive solicitation, for projects that will serve as models to improve transportation efficiency, promote surface transportation safety (including safe freight movement), increase traffic flow (including the flow of intermodal travel at ports of entry), reduce emissions of air pollutants, improve traveler information, enhance alternative transportation modes, build on existing intelligent transportation system projects, and promote tourism.

(c) OTHER PROJECTS, PROGRAMS, AND ACTIVITIES.—Under the program, the Secretary may make grants for projects, programs, and activities in metropolitan and rural areas that—

(1) contribute to national deployment goals and objectives outlined in the national intelligent transportation system program plan;

(2) promote cooperation among agencies, jurisdictions, and the private sector, as evidenced by signed memoranda of understanding that clearly define the responsibilities and relations of all parties to a partnership arrangement, including institutional relationships and financial agreements needed to support deployment of intelligent transportation systems;

(3) encourage private sector involvement and financial commitment to such deployment to the maximum extent practicable through innovative financial arrangements, especially public-private partnerships, including arrangements that generate revenue to offset public investment costs;

(4) enhance fully integrated intelligent transportation system deployment;

(5) create technical capacity for effective operations and maintenance of such systems;

(6) improve safety, mobility, geographic and regional diversity, and economic development in deployment of such systems;

(7) advance deployment of the 511 traveler information program; and

(8) advance deployment of other national systems, including a statewide incident reporting system, wireless e-911 system, and road weather information system.

(d) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(16) of this Act shall be available for obligation to carry out subsection (c)(7) in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of projects carried out under subsection (c)(7) shall be 80 percent and such funds shall remain available until expended.

SEC. 1205. INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT.

(a) PURPOSE.—The purpose of this section is to ensure that a minimum of $3,000,000,000 of the amounts authorized to be appropriated for the National Highway System, Interstate maintenance, surface transportation, and congestion mitigation and air quality improvement programs for fiscal years 2004 through 2009 is utilized to expand deployment of intelligent transportation systems.

(b) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 149 the following:

"§150. Deployment of intelligent transportation systems

"(a) IN GENERAL.—In each of fiscal years 2004 through 2009, each State shall obligate a portion of the funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for such fiscal year, calculated under subsection (b), for projects described in subsection (c) that support deployment of intelligent transportation systems in the State.

"(b) CALCULATION OF AMOUNT.—The portion of a State's apportionments to be obligated under subsection (a) for projects described in subsection (c) in a fiscal year shall be determined by multiplying $500,000,000 by the ratio that—

"(1) the aggregate of amounts apportioned to the State for such fiscal year under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4); bears to

"(2) the aggregate of amounts apportioned to all States for such fiscal year under such sections.

"(c) INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT PROJECTS.—Projects for which funds must be obligated under this section include the following:

"(1) PERFORMANCE.—Establishment and implementation of operations systems and services that improve performance in the areas of traffic operations, emergency response to surface transportation incidents, surface transportation incident management, weather event response management by State and local authorities, surface transportation network and facility management, construction and work zone management, and traffic flow information.

"(2) NETWORKS.—Conducting activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information.

"(3) SAFETY.—Implementation of intelligent transportation system technologies that improve highway safety through linkages connecting the vehicle, the infrastructure, and information to the driver.

"(4) OPERATION AND MANAGEMENT.—Provision of services necessary to ensure the efficient operation and management of intelligent transportation systems infrastructure, including costs associated with communications, utilities, rent, hardware, software, labor, administrative costs, training, and technical services.

"(5) INTERAGENCY SUPPORT.—Provision of support for institutional relationships between transportation agencies, police, emergency medical services, private emergency operators, freight operators, and shippers.

"(6) PLANNING.—Conducting cross-jurisdictional planning and deployment of regional transportation systems operations and management approaches.

"(d) OBLIGATION OF AMOUNTS.—

"(1) IN GENERAL.—In complying with the requirements of this section, the amounts obligated by a State for projects under subsection (c) that support deployment of intelligent transportation systems in such State under subsection (a) shall be allocated among the individual programs for which funds are apportioned under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4).

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to obligate proportional or equal amounts under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for any congestion relief activity under this section.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of this chapter (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project) to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects under this section.

"(f) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with this section.".

(c) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 149 the following:

"150. Deployment of intelligent transportation systems.".

SEC. 1206. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS.

(a) CATEGORICAL EXCLUSIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall initiate a rulemaking process to establish, to the extent appropriate, categorical exclusions for activities that support the deployment of intelligent transportation infrastructure and systems from the requirement that an environmental assessment or an environmental impact statement be prepared under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (42 U.S.C. 4332) in compliance with the standards for categorical exclusions established by that Act.

(b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

(1) DEVELOPMENT.—The Secretary shall develop a nationwide programmatic agreement governing the review of activities that support

the deployment of intelligent transportation infrastructure and systems in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the regulations of the Advisory Council on Historic Preservation.

(2) CONSULTATION.—The Secretary shall develop the agreement under paragraph (1) in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (26 U.S.C. 470i et seq.) and after soliciting the views of other interested parties

(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term "intelligent transportation infrastructure and systems" means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in section 5607.

SEC. 1207. ASSUMPTION OF RESPONSIBILITY FOR CERTAIN PROGRAMS AND PROJECTS.

[Reserved.]

SEC. 1208. HOV FACILITIES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§167. HOV facilities

"(a) IN GENERAL.—

"(1) AUTHORITY OF STATE AGENCIES.—A State agency that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

"(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than 2 occupants per vehicle may be required for use of a HOV facility.

"(b) EXCEPTIONS.—Notwithstanding the occupancy requirements of subsection (a)(2), the following exceptions shall apply with respect to a State agency operating a HOV facility:

"(1) MOTORCYCLES AND BICYCLES.——

"(A) IN GENERAL.—Subject to subparagraph (B), the State agency shall allow motorcycles and bicycles to use the HOV facility.

"(B) SAFETY EXCEPTION.—A State agency may restrict use of the HOV facility by motorcycles or bicycles (or both) if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification. The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

"(2) PUBLIC TRANSPORTATION VEHICLES.—The State agency may allow public transportation vehicles to use the HOV facility if the agency—

"(A) establishes requirements for clearly identifying the vehicles; and

"(B) establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

"(3) HIGH OCCUPANCY TOLL VEHICLES.—The State agency may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of such vehicles pay a toll charged by the agency for use of the facility and the agency—

"(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

"(B) develops, manages, and maintains a system that will automatically collect the toll; and

"(C) establishes policies and procedures to—

"(i) manage the demand to use the facility by varying the toll amount that is charged;

"(ii) enforce violations of use of the facility; and

"(iii) permit low-income individuals to pay reduced tolls.

"(4) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

"(A) INHERENTLY LOW-EMISSION VEHICLE.—Before September 30, 2009, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311–93 of title 40, Code of Federal Regulations, and are labeled in accordance with section 88.312–93 of such title, to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

"(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of such vehicles pay a toll charged by the agency for use of the facility and the agency—

"(i) establishes a program that addresses the selection of vehicles under this paragraph; and

"(ii) establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

"(C) AMOUNT OF TOLLS.—Tolls charged under subparagraph (B) may be less than tolls charged under paragraph (3).

"(c) REQUIREMENTS APPLICABLE TO TOLLS.——

"(1) IN GENERAL.—Tolls may be charged under subsections (b)(3) and (b)(4) notwithstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129.

"(2) HOV FACILITIES ON THE INTERSTATE SYSTEM.—Notwithstanding section 129, tolls may be charged under subsections (b)(3) and (b)(4) on a HOV facility on the Interstate System.

"(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under the last sentence of section 129(a)(3) with respect to toll revenues collected under under subsections (b)(3) and (b)(4), the State, in the use of tolls revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.

"(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

"(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under subsection (b)(3) or (b)(4) in a fiscal year shall certify to the Secretary that the agency will carry out the following responsibilities with respect to the facility in the fiscal year:

"(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that such vehicles may have on the operation of the facility and adjacent highways.

"(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

"(C) Limiting or discontinuing the use of the facility by such vehicles if the presence of such vehicles has degraded the operation of the facility.

"(2) DEGRADED FACILITY.——

"(A) IN GENERAL.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 6-month period during morning or evening weekday peak hour periods (or both).

"(B) MINIMUM AVERAGE OPERATING SPEED DEFINED.—In subparagraph (A), the term 'minimum average operating speed' means—

"(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

"(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

"(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 6 months after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of such vehicles.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) ALTERNATIVE FUEL VEHICLE.—The term 'alternative fuel vehicle' means a vehicle that operates on—

"(A) methanol, denatured ethanol, or other alcohols;

"(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

"(C) natural gas;

"(D) liquefied petroleum gas;

"(E) hydrogen;

"(F) coal derived liquid fuels;

"(G) fuels (except alcohol) derived from biological materials;

"(H) electricity (including electricity from solar energy); or

"(I) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

"(2) HOV FACILITY.—The term 'HOV facility' means a high occupancy vehicle facility.

"(3) LOW EMISSION AND ENERGY EFFICIENT VEHICLE.—The term 'low emission and energy-efficient vehicle' means a vehicle that—

"(A) has been certified by the Administrator of the Environmental Protection Agency as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

"(B)(i) has been certified by the Administrator to have a 45-mile-per-gallon or greater fuel economy highway rating; or

"(ii) is an alternative fuel vehicle.

"(4) PUBLIC TRANSPORTATION VEHICLE.—The term 'public transportation vehicle' means a vehicle that provides public transportation (as defined in section 5302(a) of title 49).

"(5) STATE AGENCY.—The term 'State agency', as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility and includes a State transportation department.".

(b) CONFORMING AMENDMENTS.—

(1) PROGRAM EFFICIENCIES.—Section 102 of title 23, United States Code, is amended by striking subsection (a) and redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(2) CHAPTER ANALYSIS.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

"167. HOV facilities.".

(c) TECHNICAL AMENDMENT.—Section 102(c) of title 23, United States Code, is amended by striking "10 years" and all that follows through "after" and inserting "10 years (or such longer period as the State requests and the Secretary determines to be reasonable) after".

SEC. 1209. CONGESTION PRICING PILOT PROGRAM.

(a) ESTABLISHMENT.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended to read as follows:

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary may enter into cooperative agreements with State and local

governments to carry out not more than 25 congestion pricing pilot projects.

"(B) PREVIOUSLY APPROVED PROJECTS.—Projects carried out under paragraph (1) shall include each project approved under this subsection before the date of enactment of the Transportation Equity Act: A Legacy for Users and under which highway tolls are being collected as of such date of enactment.".

(b) LOW-INCOME DRIVERS.—Section 1012(b)(7) of such Act (23 U.S.C. 149 note) is amended to read as follows:

"(7) REDUCED TOLLS FOR LOW-INCOME DRIVERS.—Any congestion pricing pilot project carried out under this subsection that involves the collection of highway tolls shall include a program to permit low-income drivers to pay a reduced toll amount.".

(c) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—At the end of section 1012(b)(8) of such Act (23 U.S.C. 149 note), add the following:

"(D) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, $3,000,000 per fiscal year shall be available only for congestion pricing pilot projects that do not involve highway tolls.".

(d) CONFORMING AMENDMENTS.—Section 1012(b) of such Act (23 U.S.C. 149 note) is amended—

(1) in the subsection heading by striking "VALUE PRICING" and inserting "CONGESTION PRICING";

(2) in paragraph (2)—

(A) by striking "(2) Notwithstanding" and inserting the following:

"(2) FEDERAL SHARE; ELIGIBLE COSTS.—Notwithstanding";

(B) in the first sentence by striking "programs" and inserting "projects"; and

(C) in the second sentence by striking "program" and inserting "project";

(3) in paragraph (3) by striking "(3) Revenues" and inserting the following:

"(3) USE OF REVENUES.—Revenues";

(4) in paragraph (4)—

(A) by striking "(4) Notwithstanding" and inserting the following:

"(4) USE OF TOLLS ON INTERSTATE SYSTEM.—Notwithstanding";

(B) by striking "value pricing pilot program" and inserting "congestion pricing pilot project";

(5) in paragraph (5)—

(A) by striking "(5) The Secretary" and inserting the following:

"(5) MONITORING.—The Secretary"; and

(B) by striking "programs" the first and second place it appears and inserting "projects"; and

(6) in paragraph (6) by striking "value pricing pilot program" and inserting "congestion pricing pilot project".

(e) PORT HURON, MICHIGAN.——

(1) TRAFFIC STUDY.—There is authorized to be appropriated to the Secretary $100,000 for a traffic study to be conducted in Port Huron, Michigan, in connection with economic development that may result from the implementation of the agreement of the State of Michigan resolving a title dispute concerning certain property, executed on August 23, 2002, and filed with the Michigan department of State on September 20, 2002.

(2) RATIFICATION OF AGREEMENT.—The agreement is hereby ratified.

(3) TREATMENT OF CERTAIN LANDS.—The alternative lands described in the agreement shall be treated as meeting the requirements of section 20(b)(1)(B)(i) of Public Law 100–497 (25 U.S.C. 2719(b)(1)(B)(i)).

(4) TRUST.—The Secretary of the Interior shall take the alternative lands into trust for the benefit of the non-State party within 60 days of the non-State party's acquisition of the land described in section 4 of the agreement.

(5) EXTINGUISHMENT OF CLAIM.—Upon implementation, the claim to the lands of the non-State party described in section 1 of the agreement is hereby extinguished.

(f) ROMULUS, MICHIGAN.—

(1) TRAFFIC STUDY.—There is authorized to be appropriated to the Secretary $100,000 for a traffic study to be conducted in Romulus, Michigan, in connection with economic development that may result from the implementation of the agreement of the State of Michigan resolving a title dispute concerning certain property, executed on December 30, 2002, and filed with the Michigan department of state on December 30, 2002.

(2) RATIFICATION OF AGREEMENT.—The agreement is hereby ratified.

(3) TREATMENT OF CERTAIN LANDS.—The alternative lands described in the agreement are deemed to meet the requirements of section 20(b)(1)(B)(i) of Public Law 100–497 (25 U.S.C. 2719(b)(1)(B)(i)).

(4) TRUST.—The Secretary of the Interior shall take the alternative lands into trust for the benefit of the non-State party within 60 days of the non-State party's acquisition of the land described in section 4(B)(ii) of the agreement, the non-State party having exercised its options under the agreement to so limit its alternative lands.

(5) EXTINGUISHMENT OF CLAIM.—Upon implementation, the claim to the lands of the non-State party described in section 1 of the agreement is hereby extinguished.

Subtitle C—Mobility and Efficiency

SEC. 1301. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section. A State must submit an application to the Secretary in order to receive an allocation under this section.

(b) SELECTION PROCESS.—

(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.

(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:

(A) The extent to which the corridor provides a link between 2 existing segments of the Interstate System.

(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

(C) The extent to which commercial vehicle traffic in the corridor—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and

(ii) is projected to increase in the future.

(D) The extent to which international truckborne commodities move through the corridor.

(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.

(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.

(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.

(H) The extent of leveraging of Federal funds provided to carry out this section, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding.

(c) PERIOD OF AVAILABILITY.—Funds allocated for a project to a State under this section shall remain available for obligation in that State until 6 months from the day on which they are allocated. Sums not obligated within 6 months of the day on which they are allocated shall be available to the Secretary to be allocated for other projects eligible under this section.

(d) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120(b) of title 23, United States Code.

(e) APPLICABILITY OF TITLE 23.—Except as provided in subsections (c) and (d), funds made available by section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(f) STATE DEFINED.—In this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1302. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

(a) GENERAL AUTHORITY.—The Secretary shall implement a coordinated border infrastructure program under which the Secretary shall distribute funds to border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.

(b) ELIGIBLE USES.—A State may use funds apportioned under this section only for—

(1) improvements in a border region to existing transportation and supporting infrastructure that facilitate cross-border motor vehicle and cargo movements;

(2) construction of highways and related safety and safety enforcement facilities in a border region that facilitate motor vehicle and cargo movements related to international trade;

(3) operational improvements in a border region, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border motor vehicle and cargo movement;

(4) modifications to regulatory procedures to expedite safe and efficient cross border motor vehicle and cargo movements; and

(5) international coordination of transportation planning, programming, and border operation with Canada and Mexico relating to expediting cross border motor vehicle and cargo movements.

(c) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion among border States sums authorized to be appropriated to carry out this section for such fiscal year as follows:

(1) 20 percent in the ratio that—

(A) the total number of incoming commercial trucks that pass through the land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of incoming commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

(2) 30 percent in the ratio that—

(A) the total number of incoming personal motor vehicles and incoming buses that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of incoming personal motor vehicles and incoming buses that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

(3) 25 percent in the ratio that—

(A) the total weight of incoming cargo by commercial trucks that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total weight of incoming cargo by commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

(4) 25 percent of the ratio that—

(A) the total number of land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of land border ports of entry within the boundaries of all the border States, as determined by the Secretary.

(d) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) BORDER REGION.—The term "border region" means any portion of a border State within 20 miles of an international land border with Canada or Mexico.

(2) BORDER STATE.—The term "border State" means any State that has an international land border with Canada or Mexico.

(3) COMMERCIAL TRUCK.—The term "commercial truck" means a commercial motor vehicle as defined in section 31301(4) (other than subparagraph (B)) of title 49, United States Code.

(4) MOTOR VEHICLE.—The term "motor vehicle" has the meaning such term has under section 101(a) of title 23, United States Code.

(5) STATE.—The term "State" has the meaning such term has in section 101(a) of such title 23.

SEC. 1303. FREIGHT INTERMODAL CONNECTORS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish a freight intermodal connector program to improve productivity and improve the efficiency of the transportation of freight, while mitigating congestion in the area of freight intermodal connectors.

(2) PURPOSES.—The purposes of the program shall be—

(A) to facilitate and support intermodal freight transportation initiatives at the State and local levels in order to improve freight intermodal connectors and mitigate the impact of congestion in the area of such connectors; and

(B) to provide capital funding to address infrastructure and freight operational needs at freight intermodal connectors.

(b) STATE RESPONSIBILITIES.—Under the program, each State shall ensure that intermodal freight transportation and trade facilitation and are adequately addressed integrated into the project development process, including transportation planning, through final design and construction of freight related transportation projects.

(c) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Projects eligible for funding under this section may include the construction of and improvements to publicly owned freight intermodal connectors, the provision of access to such connectors, and operational improvements for such connectors (including capital investment for intelligent transportation systems); except that a project located within the boundaries of an intermodal freight facility shall only include highway infrastructure modifications necessary to facilitate direct intermodal access between the connector and the facility.

(2) SPECIAL RULE.—If a State that does not have any freight intermodal connectors within its boundaries or has only freight intermodal connectors within its boundaries that are in good condition and provide an adequate level of service, projects within the boundaries of the State that are eligible for assistance under section 103(b)(6) of title 23, United States Code, relating to the National Highway System, shall be eligible for funding under this section.

(d) PRIORITY.—Under the program, a State shall give priority to projects on freight intermodal connectors to the National Highway System as identified according to the criteria set forth in the report of the Department of Transportation to Congress entitled "Pulling Together: The NHS and its Connections to Major Intermodal Terminals".

(e) APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion among the States sums made available to carry out this section for such fiscal year as follows:

(1) 33.3 percent in the ratio that—

(A) the number of freight intermodal connectors identified in the most recent Intermodal Freight Connectors study of the Federal Highway Administration within the boundaries of a State; bears to

(B) the total number of such connectors within the boundaries of all the States.

(2) 33.3 percent in the ratio that—

(A) the total of each State's annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial motor vehicles; bears to

(B) the total of such annual contributions by all States.

(3) 33.4 percent in the same ratios as funds are apportioned for the National Highway System under clauses (i), (ii), (iii), and (iv) of section 104(b)(1)(A) of title 23, United States Code.

(f) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent.

(g) UPDATE REPORT.—Not later than August 1, 2005, the Secretary shall publish an update to the report entitled "Pulling Together: the National Highway System and its Connections to Major Intermodal Terminals".

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) FREIGHT INTERMODAL CONNECTORS.—The term "freight intermodal connector" means the roadway that connects to an intermodal freight facility that carries or will carry intermodal traffic.

(2) INTERMODAL FREIGHT FACILITY.—The term "intermodal freight facility" means a port, airport, truck-rail terminal, and pipeline-truck terminal.

(3) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.

SEC. 1304. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.

(a) FINDINGS.—Congress finds the following:

(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.

(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century, current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.

(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not easily addressed or funded within existing surface transportation program categories.

(4) Projects of national and regional significance have national and regional benefits, including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.

(5) The benefits of such projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.

(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide grants to qualified entities for projects of national and regional significance.

(c) DEFINITIONS.—

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

(2) ELIGIBLE PROJECT.—The term "eligible project" means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.

(3) QUALIFIED ENTITY.—The term "qualified entity" means a State as defined in section 101(a) of title 23, United States Code.

(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(1) $500,000,000; or

(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

(e) APPLICATIONS.—Each qualified entity seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall—

(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);

(B) conduct a national solicitation for applications; and

(C) award grants on a competitive basis.

(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

(A) is based on the results of preliminary engineering;

(B) is justified based on the project's ability—

(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

(ii) to reduce congestion, including impacts in the State, region, and Nation;

(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;

(iv) to otherwise enhance the national transportation system; and

(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and

(C) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, the Secretary shall consider the extent to which the project—

(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

(B) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(C) helps maintain or protect the environment.

(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.

(5) NON-FEDERAL FINANCIAL COMMITMENT.—

(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

(ii) each proposed non-Federal source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—

(i) existing financial commitments;

(ii) the degree to which financing sources are dedicated to the purposes proposed;

(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.

(6) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.

(7) PROJECT EVALUATION AND RATING.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as "highly recommended", "recommended", or "not recommended" based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).

(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—

(1) LETTER OF INTENT.—

(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.

(2) FULL FUNDING GRANT AGREEMENT.—

(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).

(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—

(i) establish the terms of participation by the United States Government in a project under this section;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the laws of the United States.

(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(3) AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the amount authorized to carry out this section or an amount equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.

(h) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code, and chapter 52 of title 49, United States Code.

(2) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiving assistance under this section. A grant for the project is for 80 percent of the project cost, unless the grant recipient requests a lower grant percentage. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(j) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (i) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

(k) REPORTS.—

(1) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants under this section.

(2) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (f). The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

(l) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.

SEC. 1305. DEDICATED TRUCK LANES.

(a) IN GENERAL.—The Secretary shall establish and implement a pilot program to make allocations to States for the construction of projects that separate commercial truck traffic from other motor vehicle traffic. A State must submit an application to the Secretary in order to receive an allocation under this section.

(b) SELECTION PROCESS.—

(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects that provide additional capacity.

(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:

(A) The extent to which the project will improve the safe and efficient movement of freight.

(B) The extent to which the project provides positive separation of commercial trucks from other motor vehicle traffic.

(C) The extent to which the project connects an intermodal freight facility or an international port of entry to the Dwight D. Eisenhower National System of Interstate and Defense Highways by providing limited access lanes that allow commercial truck traffic to enter the Interstate System at the posted speed limit.

(D) The extent to which the project will remove truck traffic from surface streets.

(E) The extent to which travel time is expected to be reduced as a result of the proposed project.

(F) The extent of leveraging of Federal funds provided to carry out this section, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding.

(c) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120(b) of title 23, United States Code.

(d) APPLICABILITY OF TITLE 23.—Except as provided in subsection (d), funds made available by section 1101(a)(22) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(e) DEFINITIONS.—In this section the following definitions apply:

(1) COMMERCIAL TRUCK.—The term "commercial truck" means a self-propelled or towed vehicle used on highways in commerce principally to transport cargo if the vehicle has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater.

(2) STATE.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1306. TRUCK PARKING FACILITIES.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section among States, metropolitan planning organizations, and local governments.

(2) APPLICATIONS.—To be eligible for an allocation under this section, a State, metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

(3) ELIGIBLE PROJECTS.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:

(A) Constructing safety rest areas, as defined in section 120(c) of title 23, United States Code, that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(4) PRIORITY.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—

(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;

(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and

(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.

(c) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the pilot program.

(e) FEDERAL SHARE.—The Federal share of the cost of a project carried out using amounts made available under this section shall be determined in accordance with sections 120(b) and 120(c) of title 23, United States Code.

(f) APPLICABILITY OF TITLE 23.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

Subtitle D—Highway Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT PROJECT DEFINED.—Section 101(a)(30) of title 23, United States Code, is amended by inserting "installs fluorescent, yellow-green signs at pedestrian or bicycle crossings or school zones," after "call boxes,".

(b) OPERATION LIFESAVER.—Section 104(d)(1) of such title is amended—

(1) by striking "subsection (b)(3) of this section" and inserting "section 130(f)"; and

(2) by striking "$500,000" and inserting "$600,000".

(c) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

(1) IN GENERAL.—Section 104(d)(2) of such title is amended—

(A) in subparagraph (A) by striking "$5,250,000" and inserting "$7,500,000 for each of fiscal years 2004 and 2005, $10,000,000 for each of fiscal years 2006 and 2007, and $15,000,000 for each of fiscal years 2008 and 2009"; and

(B) in subparagraph (E)—

(i) by striking "Not less than $250,000 of such set-aside" and inserting "Of such set-aside, not less than $875,000 for each of fiscal years 2004 and 2005, $1,500,000 for each of fiscal years 2006 and 2007, and $2,750,000 for each of fiscal years 2008 and 2009"; and

(ii) by striking "per fiscal year".

(2) DESIGNATION OF CORRIDORS.—Of the rail corridors selected by the Secretary in accordance with section 104(d)(2) of title 23, United States Code—

(A) the Northern New England High Speed Rail Corridor is expanded to include the train routes from Boston, Massachusetts, to Albany, New York, and from Springfield, Massachusetts, to New Haven, Connecticut; and

(B) the South Central Corridor is expanded to include the train route from Killeen, Texas, to Houston, Texas, via Bryan-College Station.

(d) RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR PROTECTIVE DEVICES.—Section 130(e) of such title is amended—

(A) by striking "At" and inserting the following:

"(1) IN GENERAL.—At"; and

(B) by adding at the end the following:

"(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this subsection for other purposes by this section.".

(2) APPORTIONMENT.—Section 130(f) of such title is amended to read as follows:

"(f) APPORTIONMENT.—

"(1) FORMULA.—Fifty percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A), and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

"(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under paragraph (1).

"(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.".

(3) BIENNIAL REPORT TO CONGRESS.—The third sentence of section 130(g) of such title is amended by striking "not later than April 1 of each year," and inserting ", not later than April 1, 2005, and every 2 years thereafter,".

(4) EXPENDITURE OF FUNDS.—Section 130 of such title is further amended by adding at the end the following:

"(k) EXPENDITURE OF FUNDS.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).".

(e) SURFACE TRANSPORTATION PROGRAM.—

(1) IN GENERAL.—Section 133(d) of such title is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(C) in paragraph (2) (as so redesignated)—

(i) in subparagraph (A) by striking "80 percent" and inserting "90 percent";

(ii) in subparagraph (B) by striking "tobe" and inserting "to be"; and

(iii) in subparagraph (D) by adding a period at the end.

(2) CONFORMING AMENDMENTS.—

(A) SECTION 133.—Section 133(e) is amended by striking "(d)(2)" and inserting "(d)(1)" in each of paragraphs (3)(B)(i), (5)(A), and (5)(B).

(B) SECTION 126.—Section 126(b) of such title is amended—

(i) by striking "to the last sentence of section 133(d)(1) or";

(ii) by striking "section 133(d)(3)" and inserting "section 133(d)(2)"; and

(iii) by striking "or 133(d)(2)".

(f) HAZARD ELIMINATION PROGRAM.—

(1) PURPOSES.—Section 152(a)(1) of such title is amended—

(A) by striking "and" after "bicyclists,"; and

(B) by inserting after "pedestrians," the following: "and the disabled, identify roadway safety improvement needs for such locations, sections, and elements,".

(2) HAZARDS.—Section 152(a)(2)(A) of such title is amended by inserting "the disabled," after "pedestrians,".

(3) APPROVAL OF PROJECTS.—Section 152(b) of such title is amended by inserting before the period at the end the following: "that reduces the likelihood of crashes involving road departures, intersections, pedestrians, the disabled, bicyclists, older drivers, or construction work zones".

(4) EXPENDITURE OF FUNDS.—Section 152(c) of such title is amended—

(A) in paragraph (2) by striking "or" at the end;

(B) in paragraph (3) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(4) police assistance for traffic and speed management in construction work zones;

"(5) installation of barriers between construction work zones and traffic lanes for the safety of motorists and workers; and

"(6) compilation and analysis of data under subsections (f) and (g) if the funds used for this purpose by a State do not exceed 2 percent of the amount apportioned to such State to carry out this section.".

(5) APPORTIONMENT.—Section 152(d) of such title is amended to read as follows:

"(d) APPORTIONMENT.—

"(1) FORMULA.—Funds authorized to be appropriated to carry out this section shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A).

"(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under paragraph (1).

"(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.".

(6) BIENNIAL REPORT TO CONGRESS.—

(A) IN GENERAL.—Section 152 of such title is amended by adding at the end the following:

"(i) BIENNIAL REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this subsection, and every 2 years thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the program under this section. The report shall include, at a minimum, the following:

"(1) A summary of State projects completed under this section categorized by the types of hazards and a statement of the cost of such projects.

"(2) An analysis of the effectiveness of such categories of projects in reducing the number and severity of crashes at high hazard locations.

"(3) An assessment of the adequacy of authorized funding for the program and State use of such funding to address the national need for such projects.

"(4) Recommendations for funding and program improvements to reduce the number of high hazard locations.

"(5) An analysis and evaluation of each State program, an identification of any State found not to be in compliance with the schedule of improvements required by subsection (a), and recommendations for future implementation of the hazard elimination program.".

(B) CONFORMING AMENDMENT.—Section 152(g) of such title is amended by striking the third sentence through the last sentence.

(g) EFFECTIVE DATE.—The amendments made by subsections (d), (e), and (f) shall take effect on September 30, 2004.

SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to decrease the likelihood of worker injury and maintain the free flow of vehicular traffic by requiring workers whose duties place them on or in close proximity to a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high visibility garments. Such regulations may also require such other worker-safety measures for workers with those duties as the Secretary determines appropriate.

SEC. 1403. HIGH RISK RURAL ROAD SAFETY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and implement a high risk rural road safety improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State may obligate funds apportioned to it under this section only for construction and operational improvement projects on high risk rural roads and only if the primary purpose of the project is to improve highway safety on a high risk rural road.

(2) SPECIAL RULE.—A State may use funds apportioned to it under this section for any project approved by the Secretary under section 152 of title 23, United States Code, if the State certifies to the Secretary that it has no projects described in paragraph (1).

(c) STATE ALLOCATION SYSTEM.—Each State shall establish a system for allocating funds apportioned to it under this section among projects eligible for assistance under this section that have the highest benefits to highway safety. Such system may include a safety management system established by the State under section 303 of title 23, United States Code, or a survey established pursuant to section 152(a) of such title.

(d) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion among States sums authorized to be appropriated to carry out this section for such fiscal year as follows:

(1) ⅓ in the ratio that—

(A) each State's public road lane mileage for rural minor collectors and rural local roads; bears to

(B) the total public road lane mileage for rural minor collectors and rural local roads of all States.

(2) ⅓ in the ratio that—

(A) the population of areas other than urbanized areas in each State, as shown by the most recent Government decennial census of population; bears to

(B) the population of all areas other than urbanized areas in the United States, as shown by that census.

(3) ⅓ in the ratio that—

(A) the total vehicle miles traveled on public roads in each State; bears to

(B) the total number of vehicle miles traveled on public roads in all States.

(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent. Notwithstanding any other provision of law, projects assisted under this section shall be treated as projects on a Federal-aid system under such chapter.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) HIGH RISK RURAL ROAD.—The term "high risk rural road" means any roadway functionally classified as a rural major or minor collector or a rural local road—

(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for these functional classes of roadway; or

(B) which will likely have increases in traffic volume that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for these functional classes of roadway.

(2) STATE AND URBANIZED AREA.—The terms "State" and "urbanized area" have the meaning such terms have under section 101(a) of title 23, United States Code.

SEC. 1404. TRANSFERS OF APPORTIONMENTS TO SAFETY PROGRAMS.

(a) USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.—Section 153(h) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) in the paragraph heading by striking "THEREAFTER.—" and inserting "FISCAL YEARS 1995–2003.—"; and

(B) by inserting "and ending before October 1, 2003," after "September 30, 1994,";

(2) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(3) by inserting after paragraph (2) the following:

"(3) FISCAL YEAR 2004 AND THEREAFTER.—On October 1, 2003, and each October 1 thereafter, if a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer from the funds apportioned to the State on that date under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 to the apportionment of the State under section 402 an amount equal to 3 percent of the funds apportioned to the State under such subsections for fiscal year 2003."; and

(4) in paragraph (5) (as so redesignated)—

(A) by striking "which is determined by multiplying" and inserting "which, for fiscal year 2004 and each fiscal year thereafter, is determined by multiplying"; and

(B) in subparagraph (B) by striking "such fiscal year" each place it appears and inserting "fiscal year 2003".

(b) OPEN CONTAINER REQUIREMENTS.—Section 154(c) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) in the paragraph heading by striking "AND FISCAL YEARS THEREAFTER"; and

(B) by striking "and each October 1 thereafter,";

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(3) by inserting after paragraph (2) the following:

"(3) FISCAL YEAR 2004 AND THEREAFTER.—On October 1, 2003, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer from the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to 3 percent of the funds apportioned to the State under such paragraphs for fiscal year 2003 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).";

(4) in paragraph (5) (as so redesignated) by striking "paragraph (3)" and inserting "paragraph (4)";

(5) in paragraphs (4), (5), and (6) (as so redesignated) by striking "paragraph (1) or (2)" and inserting "paragraph (1), (2), or (3)"; and

(6) in paragraph (7)(B) (as so redesignated)—

(A) by striking "The amount" and inserting "For fiscal year 2004 and each fiscal year thereafter, the amount"; and

(B) in subclauses (I) and (II) of clause (ii) by striking "the fiscal year" and inserting "fiscal year 2003".

(c) MINIMUM PENALTIES FOR CERTAIN REPEAT OFFENDERS.—Section 164(b) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) in the paragraph heading by striking "AND FISCAL YEARS THEREAFTER"; and

(B) by striking "and each October 1 thereafter,";

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(3) by inserting after paragraph (2) the following:

"(3) FISCAL YEAR 2004 AND THEREAFTER.—On October 1, 2003, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer from the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to 3 percent of the funds apportioned to the State under such paragraphs for fiscal year 2003 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).";

(4) in paragraph (5) (as so redesignated) by striking "paragraph (3)" and inserting "paragraph (4)";

(5) in paragraphs (4), (5), and (6) (as so redesignated) by striking "paragraph (1) or (2)" and inserting "paragraph (1), (2), or (3)"; and

(6) in paragraph (7)(B) (as so redesignated)—

(A) by striking "The amount" and inserting "For fiscal year 2004 and each fiscal year thereafter, the amount"; and

(B) in subclauses (I) and (II) of clause (ii) by striking "the fiscal year" and inserting "fiscal year 2003".

SEC. 1405. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

Section 157(g)(1) of title 23, United States Code, is amended by striking "fiscal year 2003" and inserting "each of fiscal years 2003 and 2004".

SEC. 1406. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.

(a) CODIFICATION OF PENALTY.—Section 163 of title 23, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PENALTY.—

"(1) IN GENERAL.—On October 1, 2003, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold from amounts apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to the amount specified in paragraph (2).

"(2) AMOUNT TO BE WITHHELD.—If a State is subject to a penalty under paragraph (1), the Secretary shall withhold for a fiscal year from the apportionments of the State described in paragraph (1) an amount equal to a percentage of the funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) for fiscal year 2003. The percentage shall be as follows:

"(A) For fiscal year 2004, 2 percent.

"(B) For fiscal year 2005, 4 percent.

"(C) For fiscal year 2006, 6 percent.

"(D) For fiscal year 2007, and each fiscal year thereafter, 8 percent.

"(3) FAILURE TO COMPLY.—If, within 4 years from the date that an apportionment for a State is withheld in accordance with this subsection, the Secretary determines that the State has enacted and is enforcing a law described in subsection (a), the apportionment of the State shall be increased by an amount equal to the amount withheld. If, at the end of such 4-year period, any State has not enacted or is not enforcing a law described in subsection (a) any amounts so withheld from such State shall lapse.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 163(f)(1) of such title, as redesignated by subsection (a)(1) of this section, is amended by striking "fiscal year 2003" and inserting "each of fiscal years 2003 and 2004".

(c) REPEAL.—Section 351 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (23 U.S.C. 163 note; 114 Stat. 1356A-34) is repealed.

SEC. 1407. REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED.

Section 164(a)(5)(A) of title 23, United States Code, is amended to read as follows:

"(A) receive (i) a driver's license suspension for not less than 1 year, or (ii) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the propose of getting to and from work, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;".

Subtitle E—Construction and Contract Efficiencies

SEC. 1501. DESIGN-BUILD.

(a) QUALIFIED PROJECTS.—Section 112(b)(3)(C) of title 23, United States Code, is amended to read as follows:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.".

(b) EXPERIMENTAL PROCUREMENT.—Section 112(b)(3) of such title is further amended—

(1) by redesigning subparagraph (D) as subparagraph (G); and

(2) by inserting after subparagraph (C) the following:

"(D) EXPERIMENTAL PROCUREMENT.—As part of any experimental program carried out under this section, the Secretary shall evaluate the use of procurement procedures under this paragraph where subjective evaluation criteria account for the majority of the selection determination.

"(E) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as effecting the authority to carry out any experimental program concerning design-build contracting that is being carried out by the Secretary on the date of enactment of this subparagraph.

"(F) REPORT.—Not later than 3 years after the date of enactment of this subparagraph, the Secretary shall transmit to Congress a report on the effectiveness of design-build contracting procedures in which the majority of the selection determinations are made based on subjective criteria in accordance with subparagraph (D). ".

SEC. 1502. WARRANTY HIGHWAY CONSTRUCTION PROJECT PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement a pilot program designed to encourage States to incorporate warranties in the letting of contracts for highway construction projects.

(b) MAXIMUM NUMBER OF PROJECTS.—The Secretary may allow not more than 15 projects a year to be carried out under the pilot program.

(c) FEDERAL SHARE.—The Federal share of the costs of a project under the pilot program may not exceed 90 percent.

(d) MINIMUM PROJECT COST.—The estimated total cost of a project to be carried out under the pilot program must be greater than $15,000,000.

(e) SELECTION PROCESS.—In the selection process for the pilot program, the Secretary shall select, to the extent possible, projects from several different regions of the United States in order to demonstrate the effects that different climates and traffic patterns have on warranty highway construction projects.

(f) RULEMAKING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a rule to implement the pilot program. The rule shall include the following factors for eligibility of a highway construction project to be included in the program:

(A) A requirement that the contract for the project must include a long-term limited warranty that is of a duration sufficient to ensure that—

(i) the cost to the State of the project that will be carried out is less than the estimated cost to construct the project without the warranty plus the estimated costs that would be incurred by the State and that would otherwise be covered during the proposed warranty period if a warranty were in effect; and

(ii) the estimated cost to road users during the warranty period is less than such estimated cost without a warranty.

(B) In determining the sufficient duration of a long-term limited warranty under subparagraph (A), the Secretary shall establish separate sufficient durations for different types of projects, such as initial construction, pavement resurfacing and rehabilitation, and pavement markings.

(C) A requirement that the limited warranty must address, at a minimum—

(i) the responsibilities of the warranty provider;

(ii) the responsibilities of the Department of Transportation;

(iii) the terms of the warranty, including duration and, if applicable, traffic volumes and vehicle classification; and

(iv) performance criteria to be met to determine if maintenance is required.

(2) FACTORS TO CONSIDER.—In issuing the rule, the Secretary may consider the following factors as requirements for the warranty contract for eligibility under the pilot program:

(A) A plan to account for inflation during the warranty period.

(B) The frequency of performance assessments performed.

(C) The response time for repairs.

(D) A plan for emergency repairs.

(E) Clearly set out limits of liability under the warranty, if any.

(F) Dispute resolution provisions.

(G) A severability provision.

(H) Other provisions the Secretary considers necessary for carrying out the program.

(g) SAVINGS.—Section 112 of title 23, United States Code, shall apply to the projects carried out under this section unless the Secretary determines that applying such section to such projects is inconsistent with the provisions of this section.

(h) REPORTS.—Not later than 5 years after the date of enactment of this Act and every year thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report outlining activities carried out under the program and the results of the program.

SEC. 1503. PRIVATE INVESTMENT STUDY.

(a) STUDY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a comprehensive study of private investment in surface transportation infrastructure.

(b) MATTERS TO BE EVALUATED.—Under the agreement, the National Academy of Sciences shall evaluate the advantages and disadvantages of private investment in surface transportation infrastructure and the impact of such investment on the ability of State and local authorities to use innovative financing, including—

(1) preconstruction funding requirements;

(2) integration of private investment in the transportation planning process;

(3) use of toll revenues by State and local authorities;

(4) use of toll credits by State and local authorities;

(5) requirements for debt financing instruments, reimbursable expenses, and conditions on payments;

(6) limitation on fees charged at federally funded fringe and corridor parking facilities;

(7) revenues needed to provide a reasonable rate of return to private investors;

(8) costs to users of facilities due to imposition of tolls;

(9) sales-in-lease-out arrangement of transportation assets; and

(10) such other matters as the Secretary considers appropriate.

(c) REPORT.—

(1) TO SECRETARY.—Under the agreement, the National Academy of Sciences shall submit to the Secretary a report on the results of the study by such date as the Secretary may require.

(2) TO CONGRESS.—Not later than January 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a copy of the report of the National Academy of Sciences, together with such recommendations as the Secretary considers appropriate.

SEC. 1504. HIGHWAYS FOR LIFE PILOT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish and implement a pilot program to be known as the "Highways for LIFE pilot program".

(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

(b) PROJECTS.—

(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

(C) meets additional criteria as determined by the Secretary.

(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

(A) an identification and description of the projects to be delivered;

(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

(D) such other information as the Secretary may require.

(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;

(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

(D) are or will be ready for construction within 12 months of approval of the project proposal; and

(E) meet such other criteria as the Secretary determines appropriate.

(5) FINANCIAL ASSISTANCE.—

(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than $15,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under 1 or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.

(6) PROJECT SELECTIONS.—In the period of fiscal years 2004 through 2009, the Secretary shall approve at least one project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

(c) TECHNOLOGY PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.

(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—

(1) IN GENERAL.—The Secretary shall conduct a Highways for LIFE technology transfer program.

(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE pilot program. The process may include participation by representatives of State departments of transportation and other interested persons.

(f) PROJECT MONITORING AND EVALUATION.—The Secretary shall monitor and evaluate the effectiveness of any activity carried out under this section.

(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) STATE DEFINED.—In this section, the term "State" has the meaning such term has under section 101(a) of title 23, United States Code.

Subtitle F—Finance

SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "category"; and

(B) by striking "offered into the capital markets";

(2) by striking paragraph (7);

(3) by redesignating paragraphs (8) through (15) as paragraphs (7) through (14), respectively;

(4) by striking the period at the end of paragraph (8)(B) (as so redesignated) and inserting a semicolon; and

(5) in paragraph (10) (as so redesignated) by striking "bond" and inserting "credit".

(b) DETERMINATION OF ELIGIBILITY.—Section 182(a) of such title is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

"(2) APPLICATION.—A State, a local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.";

(2) in paragraph (3)(A)(i) by striking "$100,000,000" and inserting "$50,000,000";

(3) in paragraph (3)(B) by striking "$30,000,000" and inserting "$15,000,000"; and

(4) in paragraph (4)—

(A) by striking "Project financing" and inserting "The Federal credit instrument"; and

(B) by inserting before the period at the end "that also secure the project obligations".

(c) PROJECT SELECTION.—Section 182(b) of such title is amended—

(1) in paragraph (1) by striking "criteria" the second place it appears and inserting "requirements"; and

(2) in paragraph (2)(B) by inserting ", which may be the Federal credit instrument," after "obligations".

(d) SECURED LOANS.—

(1) AGREEMENTS.—Section 183(a)(1) of such title is amended—

(A) in each of subparagraphs (A) and (B) by inserting "of any project selected under section 602" after "costs"; and

(B) by striking the semicolon at the end of subparagraph (B) and all that follows through "under section 602".

(2) INVESTMENT-GRADE RATING REQUIREMENT.—Section 183(a)(4) of such title is amended—

(A) by striking "The funding" and inserting "The execution"; and

(B) by striking the first comma and all that follows through "1 rating agency".

(3) TERMS AND LIMITATIONS.—Section 183(b) of such title is amended—

(A) in paragraph (2) by inserting "the lesser of" after "exceed";

(B) in paragraph (2) by inserting "or the amount of the senior project obligations" after "costs";

(C) in paragraph (3)(A)(i) by inserting "that also secure the senior project obligations" after "sources"; and

(D) in paragraph (4) by striking "marketable".

(4) REPAYMENT.—Section 183(c) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(e) LINES OF CREDIT.—

(1) TERMS AND LIMITATIONS.—Section 184(b) of such title is amended—

(A) in paragraph (3)—

(i) by striking the first comma; and

(ii) by striking "any debt service reserve fund, and any other available reserve" and inserting "but not including reasonably required financing reserves";

(B) in paragraph (4)—

(i) by striking "marketable";

(ii) by striking "on which" and inserting "of execution of"; and

(iii) by striking "is obligated" and inserting "agreement"; and

(C) in paragraph (5)(A)(i) by inserting "that also secure the senior project obligations" after "sources"; and

(2) REPAYMENT.—Section 184(c) of such title is amended—

(A) in paragraph (2)—

(i) by striking "scheduled";

(ii) by inserting "be scheduled to" after "shall"; and

(iii) by striking "be fully repaid, with interest," and inserting "conclude, with full repayment of principal and interest,"; and

(B) by striking paragraph (3).

(f) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to read as follows:

"§ 185. Program administration

"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instrument made available under this chapter.

"(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal Government of servicing the Federal credit instrument.

"(c) SERVICES.—The Secretary may identify a financial entity to assist the Secretary in servicing a Federal credit instrument. The services—

"(1) shall act as the agent for the Secretary; and

"(2) shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of one or more expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(g) FUNDING.—Section 188 of such title is amended to read as follows:

"§ 188. Funding

"(a) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $130,000,000 for fiscal year 2004 and $140,000,000 for each of fiscal years 2005 through 2009 to carry out this chapter.

"(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this subchapter, not more than $3,000,000 for each of fiscal years 2004 through 2009.

"(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

"(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 2004 through 2009, principal amounts of Federal credit instruments made available under this chapter shall be limited to $2,600,000,000.".

SEC. 1602. STATE INFRASTRUCTURE BANKS.

(a) IN GENERAL.—Section 189 of title 23, United States Code, is amended to read as follows:

"§ 189. State infrastructure bank program

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) CAPITAL PROJECT.—The term 'capital project' has the meaning such term has under section 5302 of title 49, United States Code.

"(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term 'other forms of credit assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

"(3) STATE.—The term 'State' has the meaning such term has under section 401 of this title.

"(4) CAPITALIZATION.—The term 'capitalization' means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.

"(5) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means written consent between a State and the Secretary which sets forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.

"(6) LOAN.—The term 'loan' means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

"(7) GUARANTEE.—The term 'guarantee' means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

"(8) INITIAL ASSISTANCE.—The term 'initial assistance' means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

"(9) LEVERAGE.—The term 'leverage' means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

"(10) LEVERAGED.—The term 'leveraged', as used with respect to a State infrastructure bank, means that the bank has total potential liabilities that exceed the capital of the bank.

"(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(c) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multi-State infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.

"(d) FUNDING.—

"(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

"(A) 10 percent of the funds apportioned to the State for each of fiscal years 2004 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and

"(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105.

"(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of fiscal years 2004 through 2009 for capital projects under each of such sections.

"(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2004 through 2009 for capital projects under such subtitle.

"(4) CAPITAL GRANTS.—

"(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.

"(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute

for purposes of this section a capitalization grant for the transit account of the bank.

"(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.

"(5) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under section 133(d)(3) may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

"(6) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State's infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.

"(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other forms of credit assistance to a public or private entity in an amount equal to all or a part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other form of credit assistance provided for the project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds deposited into an infrastructure bank under this section may not be made in the form of a grant.

"(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects related to surface transportation that the Secretary determines to be appropriate.

"(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, the State establishing the bank shall—

"(1) deposit in cash, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;

"(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;

"(3) ensure that investment income derived from funds deposited to an account of the bank are—

"(A) credited to the account;

"(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the account; and

"(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

"(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and

"(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.

"(h) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—

"(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49), is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

"(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, shall not apply to funds deposited into an infrastructure bank under this section.

"(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2004 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.".

(b) PREPARATORY AMENDMENTS.—

(1) SECTION 181.—Section 181 of such title is further amended—

(A) by striking the section designator and heading and inserting the following:

"§ 181. Generally applicable provisions";

(B) by striking "In this subchapter" and inserting "(a) DEFINITIONS.—In this chapter";

(C) in paragraph (5) by striking "184" and inserting "604"; and

(D) in paragraph (11) (as redesignated by section 1601(a) of this Act) by striking "183" and inserting "603"; and

(E) by adding at the end the following:

"(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.".

(2) SECTION 182.—Section 182(b)(2)(A)(viii) of such title is further amended by inserting "and chapter 1" after "this chapter".

(3) SECTION 183.—Section 183(a) of such title is further amended—

(A) in paragraph (1) by striking "182" and inserting "602"; and

(B) in paragraph (3) by striking "182(b)(2)(B)" and inserting "602(b)(2)(B)".

(4) SECTION 184.—Section 184 of such title is further amended—

(A) in subsection (a)(1) by striking "182" and inserting "602";

(B) in subsection (a)(3) by striking "182(b)(2)(B)" and inserting "602(b)(2)(B)"; and

(C) in subsection (b)(10) by striking "183" and inserting "603".

(5) REFERENCES IN SUBCHAPTER.—Subchapter II of chapter 1 of such title is amended by striking "this subchapter" each place it appears and inserting "chapter".

(6) SUBCHAPTER HEADINGS.—Chapter 1 of such title is further amended—

(A) by striking "**SUBCHAPTER I—GENERAL PROVISIONS**" preceding section 101; and

(B) by striking "**SUBCHAPTER II—INFRASTRUCTURE FINANCE**" preceding section 181.

(c) CHAPTER 6.—Such title is further amended by adding at the end the following:

"CHAPTER 6—INFRASTRUCTURE FINANCE

"Sec.
"601. Generally applicable provisions.
"602. Determination of eligibility and project selection.
"603. Secured loans.
"604. Lines of credit.
"605. Program administration.
"606. State and local permits.
"607. Regulations.
"608. Funding.
"609. State infrastructure bank program.".

(d) MOVING AND REDESIGNATING.—Such title is further amended—

(1) by redesignating sections 181 through 189 as sections 601 through 609, respectively;

(2) by moving such sections from chapter 1 to chapter 6 (as added by subsection (c)); and

(3) by inserting such sections after the analysis for chapter 6.

(e) ANALYSIS FOR CHAPTER 1 AND TABLE OF CHAPTERS.—

(1) ANALYSIS FOR CHAPTER 1.—The analysis for chapter 1 of such title is amended—

(A) by striking the headings for subchapters I and II; and

(B) by striking the items relating to sections 181 through 189.

(2) TABLE OF CHAPTERS.—The table of chapters for such title is amended by inserting after the item relating to chapter 5 the following:

"6. Infrastructure and Finance .... 601".

SEC. 1603. INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION TOLL PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating the facility.

(b) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

(c) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

(1) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.

(2) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under chapter 52 of title 49, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

(3) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

(4) A facility management plan that includes—

(A) a plan for implementing the imposition of tolls on the facility;

(B) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;

(C) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

(D) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

(E) such other information as the Secretary may require.

(d) SELECTION CRITERIA.—The Secretary may approve the application of a State under subsection (c) only if the Secretary determines that—

(1) the State's analysis under subsection (c)(3) is reasonable;

(2) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

(3) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(4) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable;

(5) the State will develop, manage, and maintain a system that will automatically collect the tolls;

(6) in developing the State plan for implementing tolls on the facility, the State includes a program to permit low-income drivers to pay a reduced toll amount; and

(7) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

(e) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

(1) excessive congestion;

(2) pavement wear; and

(3) an increased incidence of traffic accidents, injuries, or fatalities.

(f) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

(1) all toll revenues received from operation of the toll facility will be used only for—

(A) debt service;

(B) reasonable return on investment of any private person financing the project; and

(C) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

(2) regular audits will be conducted to ensure compliance with paragraph (1) and the results of such audits will be transmitted to the Secretary.

(g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

(h) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.

(i) INTERSTATE SYSTEM DEFINED.—In this section, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.

(j) REPORT.—Not later than September 30, 2011, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on traffic congestion on, pavement wear of, and incidence of accidents, injuries, and fatalities on public roads adjacent to toll facilities established under this section and section 1604.

(k) REPEAL.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.

SEC. 1604. INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.

(b) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on 3 facilities on the Interstate System.

(c) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

(1) An identification of the facility on the Interstate System proposed to be a toll facility.

(2) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under chapter 52 of title 49, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

(3) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

(4) A facility management plan that includes—

(A) a plan for implementing the imposition of tolls on the facility;

(B) a schedule and finance plan for the construction of the facility using toll revenues;

(C) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

(D) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

(E) such other information as the Secretary may require.

(d) SELECTION CRITERIA.—The Secretary may approve the application of a State under subsection (c) only if the Secretary determines that—

(1) the State's analysis under subsection (c)(3) is reasonable;

(2) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(3) the State plan for construction of the facility using toll revenues is reasonable;

(4) the State will develop, manage, and maintain a system that will automatically collect the tolls;

(5) in developing the State plan for implementing tolls on the facility, the State includes a program to permit low-income drivers to pay a reduced toll amount; and

(6) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

(e) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

(1) excessive congestion;

(2) pavement wear; and

(3) an increased incidence of traffic accidents, injuries, or fatalities.

(f) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

(1) all toll revenues received from operation of the toll facility will be used only for—

(A) debt service;

(B) reasonable return on investment of any private person financing the project; and

(C) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

(2) regular audits will be conducted to ensure compliance with paragraph (1) and the results of such audits will be transmitted to the Secretary.

(g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

(h) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.

(i) INTERSTATE SYSTEM DEFINED.—In this section, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1605. USE OF EXCESS FUNDS.

Section 106 of title 23, United States Code, is amended by adding at the end the following:

"(i) USE OF EXCESS FUNDS.—

"(1) AUDITS.—A State may audit projects funded with amounts apportioned under sections 104 and 144 to determine whether any amounts obligated for a project are excess funds.

"(2) PLANS FOR USE OF EXCESS FUNDS.—If a State determines, after conducting an audit under paragraph (1), that funds obligated for a project are excess funds, the State may develop a plan for obligating the funds for the design and construction of one or more projects that are eligible for funding under the program for which the funds were originally apportioned.

"(3) CERTIFICATION TO THE SECRETARY.—A State that has developed a plan under paragraph (2) shall transmit to the Secretary a certification that the State has conducted an audit under paragraph (1) and developed the plan in accordance with paragraph (2).

"(4) IMPLEMENTATION OF PLANS.—After transmitting a certification to the Secretary with respect to a plan under paragraph (3), the State may carry out the plan.

"(5) APPLICABILITY OF REQUIREMENTS.—Excess funds used to carry out a project under this section shall be subject to the requirements of this title that are applicable to the program for which the funds were originally apportioned.

"(6) EXCESS FUNDS DEFINED.—In this subsection, the term 'excess funds' means funds obligated for a project that remain available for the project after the project has been completed.".

Subtitle G—High Priority Projects

SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM.

(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—Section 117(a) of title 23, United States Code, is amended by striking "1602 of the Transportation Equity Act for the 21st Century" and inserting "1701 of the Transportation Equity Act: A Legacy for Users".

(b) ALLOCATION PERCENTAGES.—Section 117(b) of such title is amended by striking paragraphs (1) through (6) and inserting the following:

"(1) 19.6 percent of such amount shall be available for obligation beginning in fiscal year 2004;

"(2) 18.5 percent of such amount shall be available for obligation beginning in fiscal year 2005;

"(3) 16.3 percent of such amount shall be available for obligation beginning in fiscal year 2006;

"(4) 15.3 percent of such amount shall be available for obligation beginning in fiscal year 2007;

"(5) 15.8 percent of such amount shall be available for obligation beginning in fiscal year 2008; and

"(6) 14.5 percent of such amount shall be available for obligation beginning in fiscal year 2009.".

(c) FEDERAL SHARE.—Section 117(c) of such title is amended by striking "; except" and all that follows through "cost thereof".

(d) ADVANCE CONSTRUCTION.—Section 117(e) of such title is amended by striking "1602 of the Transportation Equity Act for the 21st Century" each place it appears and inserting "1701 of the Transportation Equity Act: A Legacy for Users".

(e) AVAILABILITY OF OBLIGATION LIMITATION.—Section 117(g) of such title is amended by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users".

(f) FEDERAL-STATE RELATIONSHIP.—Section 145(b) of such title is amended—

(1) by inserting after "described in" the following: "section 1702 of the Transportation Equity Act: A Legacy for Users,";

(2) by inserting after "for such projects by" the following: "section 1101(a)(17) of the Transportation Equity Act: A Legacy for Users,"; and

(3) by striking "117 of title 23, United States Code," and inserting "section 117 of this title,".

SEC. 1702. PROJECT AUTHORIZATIONS.

Subject to section 117 of title 23, United States Code, the amount listed for each high priority project in the following table shall be available (from amounts made available by section 1101(a)(17) of the Transportation Equity Act: A Legacy for Users) for fiscal years 2004 through 2009 to carry out each such project:

High Priority Projects

No.	State	Project Description	Amount
1.	Alaska	Bogard/Seldon Extension in Matanuska-Susitna Borough	$4,000,000.00
2.	Utah	Widen and improve Geneva Road/ SR-114 connecting Provo Utah and Plesant Grove Utah	$2,100,000.00
3.	Mississippi	Philadelphia Bypass Hwys 15 to 19:Four-lane bypass connecting MS Hwys 15, 16 & 19 south of Philadelphia with major interchanges at each connection point.	$1,500,000.00
4.	Virginia	Town of Pound Riverwalk -construction of pedestrian riverwalk, Town of Pound	$100,000.00
5.	California	Construct parking lot and improved museum pedestrian access from the trolley station, San Diego.	$1,000,000.00
6.	Pennsylvania	Improve State Route 1001 at Section 601 from the Village of Lockport to Queensrun	$1,000,000.00
7.	Kansas	Construct 127th Street bridge over I-35, Olathe	$3,000,000.00
8.	New York	Improvements to Rt. 32/17/6 and County Route 105 in Orange County - NY	$9,000,000.00
9.	Missouri	Resurfacing and shoulder widening on US 136, and replacement of 2 deficient bridges	$3,000,000.00
10.	New Hampshire	Replace Ash Street, Pillsbury Road bridge over I93 in Londonderry	$1,430,000.00
11.	Georgia	Pave portions of CR345, CR44, and CR 45, Hancock County	$370,000.00
12.	Georgia	Install traffic lights and pedestrian walkways on Highway 441 at MLK, Jr. Boulevard, Dublin	$500,000.00
13.	Washington	Construct a multi-jurisdictional non-motorized transportation project parallel to SR99 called the Interurban Trail.	$2,000,000.00
14.	Virginia	Green Cove - improvements to existing Forest Service facility located at the trailhead of the Virginia Creeper Trail.	$100,000.00
15.	Michigan	Westland, Reconstruct and Widen Palmer Road	$2,500,000.00
16.	Mississippi	Upgrade roads in Port Gibson (U.S. Hwy 61), Claiborne County	$600,000.00
17.	New York	Build a structural deck that spans the New Haven Railroad cut to create parking for commuters, Mount Vernon.	$2,000,000.00
18.	California	Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion, Hawthorne.	$2,000,000.00
19.	Illinois	Improvements to Diehl Road between Eola Road and Route 59	$500,000.00
20.	New Jersey	Streetscape Improvements to Clements Bridge Road from Newton Avenue to New Jersey Turnpike, Barrington.	$500,000.00
21.	New York	Design and construct new Interchange 11A on I-87, connector road extending from I-87 to Route 9/67, and interchange between the connector road and Route 9/67.	$3,400,000.00
22.	Massachusetts	Planning and construction of East Boston Haul Road, Boston	$6,000,000.00
23.	Arkansas	Construction of Camden Port Access Road, Camden	$480,000.00
24.	New York	Construct phase 2 of the Grand Concourse improvements from East 161st St. to East 166th St	$10,000,000.00
25.	Ohio	Construct upgrade of SR 16 to 4 lanes from SR 60 to SR 16 in Coshocton County	$3,000,000.00
26.	California	Construct Cypress Avenue over-pass to separate Interstate 10 and Union Pacific Railroad tracks, Fontana.	$3,500,000.00
27.	Arkansas	Improvements to Johnson Road from Hwy 412 to I-540 through Springdale and Johnson	$6,000,000.00
28.	Minnesota	For design of an extension of road from TH10 in the city of Blaine north to the city of Ham Lake	$2,000,000.00
29.	California	8.5 miles of six and eight lane arterial roadways, building an essential east-west route across Santa Clarita Valley.	$5,000,000.00
30.	Iowa	Completion of Highway 20 from Fort Dodge, Iowa through Sioux City, Iowa	$3,000,000.00
31.	Alabama	I-65 interchange at CR-222 between SR-69 and US-278	$1,000,000.00
32.	Minnesota	Becker County CR 143 and CR 124 improvements	$960,000.00
33.	South Carolina	BMW/I-85 Interchange - construct a new interchange on I-85 between the Greenville Spartanburg Airport and SC Highway 101 interchanges.	$10,000,000.00
34.	Illinois	Construct bike/pedestrian paths, Orland Hills	$350,000.00
35.	New York	Rehabilitate a historic warehouse on the Erie Canal in the Town of Lyon, NY	$600,000.00
36.	Arkansas	Improvements to the I-540 and SH-102 Interchange in Bentonville	$1,420,000.00
37.	Florida	Airport Entrance Streetscape, Sanford	$500,000.00
38.	Washington	East Marine View Drive Widening, Everett	$9,000,000.00
39.	Ohio	Improvements to the intersection of Fulton Dr. and Wales Ave. in Jackson Township	$2,000,000.00
40.	Oregon	Highway 34/Corvallis Bypass Intersection	$2,100,000.00
41.	New Jersey	Route 82 Union County Streetscape improvements, including signing and lighting upgrades in Elizabeth City and Union Township.	$1,000,000.00
42.	Illinois	Construct connector road between Collinsville Rd to IL 3/North First Street, St. Clair County	$6,400,000.00
43.	Colorado	New bridge across Roaring Fork River near S end of Glenwood Springs, improve roads connecting Midland Ave/SH 82.	$6,500,000.00
44.	Pennsylvania	Design and construct improvements to the I-81/Route 465 interchange and Route 465 from Walnut Bottom Road to PA 641.	$3,670,500.00

High Priority Projects—Continued

No.	State	Project Description	Amount
45.	Texas	Extend and improve Mission Trails Project, San Antonio	$4,000,000.00
46.	Minnesota	Improve TH241 in St. Michael, MN by increasing lanes from 2 to 4	$4,000,000.00
47.	Ohio	Upgrade safety devices at Sheldon Road Crossing, Berea	$140,000.00
48.	Michigan	Gravel and paving of remaining 3.2 miles in 5.5 mile stretch of Jacobsville Road, Houghton County.	$430,000.00
49.	New York	Implement safety measures at Railroad grade crossings in Rockland County	$1,000,000.00
50.	Illinois	Construct pedestrian underpass at South Shore Drive and 67th Street, Chicago	$1,000,000.00
51.	Ohio	Bicycle Trails construction and design in Bainbridge Township	$1,440,000.00
52.	Ohio	Construct MetroParks Bikeway, Mahoning County	$376,000.00
53.	Georgia	Streetscape [pedestrian safety enhancements, sidewalks, curb replacement, restoration, landscaping, ADA compliance], Bainbridge.	$600,000.00
54.	Nebraska	Construct an 8.7 mile roadway constituting the first phase of a comprehensive Beltway System around the City of Lincoln.	$14,566,300.00
55.	Minnesota	Design engineering and ROW acquisition to reconstruct TH95 bridge, North Branch	$1,000,000.00
56.	Virginia	Improve Colorado Street bridge, Salem	$1,000,000.00
57.	California	Implement streetscape improvements on segments of Laurel Canyon Blvd. and Victory Blvd., North Hollywood.	$1,200,000.00
58.	New Jersey	Bicycle and pedestrian paths for New Jersey Underground Railroad	$1,000,000.00
59.	Arizona	Major widening of SR 95 within Lake Havasu City	$2,000,000.00
60.	Minnesota	Lake Street Access to I-35W, Minneapolis	$10,000,000.00
61.	New York	Implement Improvements for Pedestrian Safety in Kings County	$1,000,000.00
62.	California	Construct a diamond interchange on State Route 60 at Lemon·Avenue in the city of Diamond Bar.	$12,600,000.00
63.	Arkansas	Downtown Dickson Street Enhancement - College Avenue from Dickson Street to Archibald Yell and School Avenue to 6th Street in Fayetteville.	$4,000,000.00
64.	Pennsylvania	Flyover ramp and new interchange at proposed Town Center in Cranberry Twp at I-79 and Rte 228.	$500,000.00
65.	Texas	Improvements to RR 1017, Hebbronville	$500,000.00
66.	Arizona	Construction of a bicycle/pedestrian bridge to connect the shores of the Salt River	$3,000,000.00
67.	Pennsylvania	Germantown Avenue Revitalization Project involving landscaping, scenic enhancements, and pedestrian safety improvements along the heavily traveled thoroughfare.	$2,600,000.00
68.	Georgia	Widening SR-104 to increase Columbia Co. access to critical Augusta medical facilities as well as the Medical College of GA.	$4,750,000.00
69.	California	Repair Rosecrans Ave and Alondra Blvd bridges, Bellflower	$50,000.00
70.	California	Study feasibility of Maglev link between San Diego and proposed San Diego Regional International Airport, Imperial County.	$1,000,000.00
71.	Illinois	The addition of turning lanes to US Rt. 14 (Northwest Highway) at the Arthur Avenue Union Pacific grade crossing and at the Prindle Underpass in Arlington Heights, Illinois.	$1,100,000.00
72.	Connecticut	Improve Route 1 between Belden Ave and East Ave in Norwalk, CT	$2,000,000.00
73.	Maryland	South Shore Trail. Construct first phase of greenway from Odenton to Annapolis, Anne Arundel County.	$1,000,000.00
74.	Virginia	Widening Highway-15 in Prince Edward County	$5,000,000.00
75.	New York	Rehab of Hornbeck Rd in Town of Poughkeepsie-NY	$426,550.00
76.	Illinois	Phase II engineering to widen US 45/LaGrange Road through Orland Park, IL	$1,000,000.00
77.	Virginia	Improve Frederick Street, Staunton	$1,300,000.00
78.	Alabama	Riverwalk project with continuous river-edge walkway creating a system of parks and open spaces in historic downtown Montgomery, AL.	$3,000,000.00
79.	Georgia	Install landscaping and upgrade lighting on Fall Line Freeway, Reynolds	$500,000.00
80.	Utah	13th East, Sandy City	$6,300,000.00
81.	Ohio	Construction of rail grade separations at intersections in Lima to improve motorist and pedestrian safety.	$1,250,000.00
82.	New Jersey	Observer Highway Operational and Safety Improvements, Hoboken	$2,500,000.00
83.	New York	Implement ITS system and apparatus to enhance citywide truck route system on LIE Eastbound Service Road at 74th Street to Caldwell Ave, Grand Ave from 69th Street to Flushing Ave, and Eliot Ave from 69th Street to Woodhaven Blvd.	$100,000.00
84.	California	Construction of interchange on Interstate 10 at Palm Drive	$2,000,000.00
85.	Illinois	Improve roads and bridges and undertake enhancements, Chicago	$1,000,000.00
86.	New York	Rehabilitate Tappan Street Bridge in Town of Newark Valley	$1,040,000.00
87.	California	Widen the Marin- Sonoma Narrows section of Highway 101 to include a carpool HOV lane in each direction.	$13,000,000.00
88.	Wisconsin	Replace Wisconsin Street Bridge (State Highway 44), Oshkosh, WI	$10,000,000.00
89.	Florida	Construct I-95/N US 1 Business Park Interchange in Ormond Beach, Florida	$4,000,000.00
90.	New York	Replacement of the structurally deficient Pleasantville Road bridge over the Pocantico River, the Village of Pleasantville.	$1,000,000.00
91.	Arkansas	Widen Lone Sassafrass Road, Drew County	$304,000.00
92.	Texas	Planning, design and engineering for transportation projects in the I-35 corridor between San Antonio and Georgetown.	$4,000,000.00
93.	California	State Route 67 (Mapleview to Dye Rd) Project Studies/Environmental Phase	$6,400,000.00
94.	New York	Construction of and improvements to Route 62 in the Village of Hamburg	$500,000.00
95.	Texas	Relocation of FM 450 to the west of Hallsville	$3,000,000.00
96.	Oregon	Upgrade the Interstate 5 Fern Valley Interchange (exit 24)	$3,000,000.00
97.	California	Provide grade separation at the Firestone / Old River School Road intersection, Downey	$1,000,000.00
98.	Texas	Grade separation at US59-SH99 & replace proposed interim ramps. Complete US59 reconstruction project. Recommended by the US59 MIS.	$5,000,000.00
99.	Maine	Calais/St. Stephen Border Crossing Project	$5,000,000.00
100.	Michigan	US-127 Completion in Gratiot County	$5,000,000.00
101.	Nebraska	Construct two Missouri River bridges and their approach roadways	$3,000,000.00
102.	New Jersey	Highway Improvements in Liberty Corridor	$5,000,000.00
103.	New Jersey	Interstate 195 Allentown, NJ Exit at Sharon Station Road	$1,500,000.00
104.	California	Expand carsharing pilot program to serve low- and moderate-income neighborhoods in the City and County of San Francisco.	$2,000,000.00
105.	Ohio	Construct the existing industrial park road from local to state standards near Cadiz	$4,100,000.00
106.	Pennsylvania	Median, guiderail and sidework improvements to intersection of SR 51 and Franklin Ave, Beaver County.	$2,000,000.00
107.	New York	Roadway improvements on Pidgeon Hill Road (NYS Route 25 to Old Country Road) and Old Country Road (NYS Route 25 to I-495), Huntington.	$1,500,000.00
108.	Alabama	Alignment of existing roads along County Road 83 providing hurricane evacuation from coast to I10.	$8,000,000.00
109.	Texas	Construction of SH121 main lanes and interchanges between Preston Road and US75	$9,000,000.00
110.	Texas	SH 114/SH 170 in South Denton County	$2,500,000.00
111.	Oregon	Repair and recoat logging bridge over Highway 99E, Canby	$150,000.00
112.	North Carolina	Relocate US 70 to multi-lane facility around Clayton	$9,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
113.	Ohio	Construct Morse Road Corridor Improvements Phase I in Columbus, Ohio	$1,000,000.00
114.	California	Improve I-8 offramp to the Desert Farming Institute, Imperial County	$1,000,000.00
115.	Georgia	Upgrade sidewalks, lighting, landscaping from Cherry Street to Hampton Street, Industrial Park to Dooly Street, Montezuma.	$500,000.00
116.	New York	Dolsontown Rd. improvements in Town of Wawayanda	$1,400,000.00
117.	Maryland	Replace Dover Bridge on MD 331Design and Right of Way	$4,080,000.00
118.	Pennsylvania	Reconstruct PA Route 274, at PA Route11/15, Duncannon	$1,000,000.00
119.	Virginia	Construct I-64 and Pocahontas Parkway Connector	$9,000,000.00
120.	Texas	IH-653 and I-30 interchange improvements	$8,000,000.00
121.	North Carolina	Widen Berkley Blvd in Goldsboro, NC by constructing an additional lane, curbs, and gutters	$1,000,000.00
122.	California	Replace SR22 Interchanges and Bridges, Garden Grove	$7,300,000.00
123.	Illinois	Construction of 2 North-South Blvds, and one east-west blvd in the vicinity of Northern Illinois University.	$14,400,000.00
124.	Illinois	Improve University Drive, Macomb	$500,000.00
125.	Tennessee	Develop trails, bike paths and recreational facilities on Brady Mountain, Cumberland County for Cumberland Trail State Park.	$250,000.00
126.	Minnesota	Construct ramps and new bridge over Interstate 35 at CSAH 17, and reconstruct CSAH 17 from west County Line to CSAH 30, Chisago County.	$900,000.00
127.	Massachusetts	I-93 Interchange, Andover/Tewksbury	$600,000.00
128.	Pennsylvania	Two-lane extension of Bristol Road from US 202 to Park Avenue, Chalfont, New Britian	$1,000,000.00
129.	Michigan	Reconstruction of Ritchie Road from village of Lincoln to Hubbard Lake road and of Hubbard Lake road to Mt. Maria Road, Alcona County.	$813,000.00
130.	Mississippi	Madison/Ridgeland I-55 Interchange:I-55 Interchange and connectors at juncture of Madison and Ridgeland corp. limits.	$1,500,000.00
131.	California	Construct Daggett Road and Bridge Project, Port of Stockton, CA	$5,000,000.00
132.	New York	Construct Wading River bicycle and pedestrian project, Riverhead	$1,200,000.00
133.	Oregon	Improve U.S. 97 from Modoc Point to Algoma	$2,000,000.00
134.	New York	Design, Study and Construct Ferry Terminal Facilities at Floyd Bennett Field	$1,000,000.00
135.	Minnesota	US Highway 10 interchange in the city of Ramsey for necessary corridor enhancements	$1,250,000.00
136.	Arkansas	Continued development of Caraway Road Overpass Project, Jonesboro	$7,000,000.00
137.	New York	Conduct study on extending the limited access portion of NYS Rt. 5 to Auburn	$150,000.00
138.	California	Rehabilitate arterials, Compton	$1,500,000.00
139.	Texas	US 82--Widen existing 2-lane facility to 4-lane divided facility from FM 1417 in Sherman to US 69 in Bells.	$5,900,000.00
140.	Maryland	US 220/MD53 North-South Corridor	$1,000,000.00
141.	Connecticut	Improve Route 111 between Purdy Hill Road and Fan Hill Road in Monroe, CT	$1,500,000.00
142.	Michigan	Wixom, Beck Road from I-96 to West Rd. widen to 5 lanes	$250,000.00
143.	Pennsylvania	SR 219-Purchase of right-of-way and the completion of the four-lane expansion of limited access highway from Town of Somerset to Maryland border.	$20,000,000.00
144.	New York	Improvements of concrete curbs, aprons, sidewalks, and asphalt along Sunrise Highway, Rockville Centre.	$1,000,000.00
145.	North Carolina	Construction of Interstate 74 from Maxton Bypass to NC 41.near Lumberton	$5,000,000.00
146.	Michigan	Expansion of US-31 from Nelson Street to Merkey Road	$1,500,000.00
147.	Arizona	Develop a 4-lane divided roadway on US 60 from Florence to Superior, Arizona	$3,000,000.00
148.	New York	Reconstruct Streets and Sidewalks in Middle Village	$1,000,000.00
149.	California	Improvements for the Watt Avenue corridor between Antelope Road and the Capital City Freeway.	$3,000,000.00
150.	Pennsylvania	Design, engineering, ROW acquisition, and construction of a connector road between the Valmont Industrial Park and Pennsylvania State Route 924 at Cranberry Creek.	$500,000.00
151.	Minnesota	Edge of Wilderness Discovery Center, Marcell	$471,000.00
152.	North Carolina	Construction of a multi-lane facility on new location from Beach Drive (SR 1104) to NC 211, Brunswick County.	$4,000,000.00
153.	New York	Bartow Ave Ramp and Reconstruction at the Hutchinson Parkway	$1,600,000.00
154.	Ohio	South Connector in Waverly, Ohio for new access to school campus and new development areas in a repressed Appalachian region.	$4,100,000.00
155.	South Carolina	Construct grade separation at U.S. 521, Lancaster County	$1,745,000.00
156.	Massachusetts	Downtown road revitalization for Pleasant Street, Malden	$4,000,000.00
157.	California	Widen & realign Cherry Avenue from 19th Street to one block south of Pacific Coast Highway, Signal Hill.	$5,630,000.00
158.	New York	Construction of Bikeway Phase III in Putnam County-NY	$459,895.00
159.	Ohio	Miami St. along St. Route 53 safety enhancement project to improve access to railroad crossing	$1,000,000.00
160.	Pennsylvania	Design and construct access to York County intermodal facility, York County	$2,000,000.00
161.	California	Traffic signal upgrade, road reconfiguration, and median strip improvements to Lakewood Blvd between Telegraph Rd and Gardendale St, Downey.	$2,500,000.00
162.	New York	To conduct mitigation measures associated with the Palisades Interstate Parkway for the Village of New Square, Rockland County.	$600,000.00
163.	Alabama	County Road 52 widening from S. Shades Crest Road to U.S. 31 in Helena and Pelham	$5,000,000.00
164.	Louisiana	Improve I-10/LA 95 intersection, Duson	$200,000.00
165.	Michigan	Reconstruct 4,000 feet of Church Road from Meridian to East River Road (excluding canal Bridge) including widening and sidewalk construction to eliminate safety hazards, Grosse Ile.	$450,000.00
166.	Michigan	Construct road improvements to Flushing Road from Ballenger Highway to I-475, City of Flint	$2,500,840.00
167.	South Carolina	Airline Road Bridge in Anderson	$170,000.00
168.	New Jersey	Planning for Liberty Corridor	$500,000.00
169.	Pennsylvania	Enhance existing directional markers and increase wayfinding signage infrastructure, Monroe County.	$750,000.00
170.	California	Construct Coyote Creek Trail from Kelly Park to Berryessa station, San Jose	$5,500,000.00
171.	Michigan	Garden City, Reconstruction Maplewood between Inkster and Merriman	$1,000,000.00
172.	Missouri	Study of BNSF Railroad Reconfiguration Needs to eliminate Highway Crossings in/around Springfield, MO.	$200,000.00
173.	Tennessee	Construct new exit on I-75 and connect to U.S. 11, U.S. 411 and State Route 30	$4,500,000.00
174.	Ohio	Road widening and safety improvements at Main and Bell Streets in the Village of Chagrin Falls	$500,000.00
175.	Utah	Construct Westside Connector in Provo Utah connecting I-15 University Ave Interchange and Provo Commercial Sector with the Provo Airport.	$2,050,000.00
176.	California	Reconstruct I-880/Route 92 Interchange, Hayward	$2,000,000.00
177.	California	Reconstruct and widen Garfield Ave. bridge over Rio Hondo River Channel and apply seismic improvements, South Gate.	$4,000,000.00
178.	Massachusetts	Somerville bikepath extension and improvements, Somerville	$1,000,000.00
179.	Pennsylvania	Upgrade of southbound access ramp at Exit 3 on Interstate 81	$1,000,000.00
180.	Oklahoma	Construct overpass over 2 rail lines and Highway 66, Claremore	$2,700,000.00
181.	Pennsylvania	Upgrade intersection of SR 30 and SR 981 at Arnold Palmer Regional Airport	$1,000,000.00
182.	Indiana	Realign State Road 312, Hammond	$4,200,000.00
183.	Pennsylvania	Replacement of bridge without pedestrian access in Mount Joy	$250,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
184.	Georgia	Highway 78 Corridor Improvement Project: This project consists of safety enhancements for the corridor, infrastructure needs, median upgrades, and lighting.	$7,000,000.00
185.	Virgin Islands	Construct extensions to Routes 703 & 70, St. Croix	$7,000,000.00
186.	Illinois	IL29 from IL 6 to I 180 study and land acquisition	$1,000,000.00
187.	New York	Construct Northern State Parkway and Long Island Expressway.access at Marcus Avenue and Lakeville Road and associated Park and Ride.	$6,000,000.00
188.	New York	Highway Construction I-87 Exit 3 Airport Connector	$2,000,000.00
189.	New York	Transportation Enhancements in Orleans and/or Niagara Counties to support development of Erie Canal.	$1,750,000.00
190.	New Jersey	Addresses congestion, safety, drainage, maintenance, signing, access, pedestrian circulation and transit access along Rt. 17 & Rt. 4 in Bergen County.	$4,500,000.00
191.	New Jersey	Safety, traffic and pedestrian improvements to Newark/1st Streets, Hoboken	$300,000.00
192.	California	Upgrade Route 4 East from the vicinity of Loveridge Road to G Street, Contra Costa County	$15,000,000.00
193.	Florida	Interchange with I-10 to connect to a new north-south highway, and a second phase extending to US 90.	$3,000,000.00
194.	North Carolina	Widen and improve US 1 in Richmond County with a bypass of Rockingham, NC	$10,000,000.00
195.	New York	Construct pedestrian waterfront walkway, Owego	$1,000,000.00
196.	Kansas	Rehabilitate Kansas and Oklahoma Rail Line to improve highway safety, decrease highway cnogestion, and reduce future road and bridge repairs.	$5,730,000.00
197.	Georgia	East Point Downtown Streetscape Project	$2,000,000.00
198.	New York	Improvements to Route 96 Bridges over Seneca River	$3,000,000.00
199.	Illinois	Reconstruction of Frank Scott Parkway East, St. Clair County	$3,000,000.00
200.	Texas	Conduct feasibility study for a second bridge to Pleasure Island in Port Arthur	$500,000.00
201.	Texas	Relocation of 10th Street, relocation of Mission Inlet, and extension of runway 13/31, McAllen	$1,000,000.00
202.	New York	Bridge replacement at Turk Hill Rd in Putnam County-NY	$1,800,000.00
203.	Oregon	Street improvements to provide better access to the Wayne L. Morse United States Courthouse	$6,000,000.00
204.	California	Mid Valley Station Road and Inter-Modal Improvement Project	$2,500,000.00
205.	Alabama	To provide four lanes on US-80, Perry County, Marengo County, and Sumter County	$14,000,000.00
206.	Tennessee	Construction of visitors center on Cherohala Skyway, a scenic byway, in Monroe County	$100,000.00
207.	New York	Improve CR39 from NY27 to NY27A, Suffolk County	$3,000,000.00
208.	Illinois	Pre-construction activities IL 336 from Macomb to Peoria	$1,000,000.00
209.	New York	Install Improvements for Pedestrian Safety in the vicinity of PS 81	$250,000.00
210.	Minnesota	Cedar Lake Regional Trail Extension, Minneapolis	$3,000,000.00
211.	Tennessee	Modification of existing interchange on I-81 at SR-341/SR-66 located in Jefferson County	$500,000.00
212.	Louisiana	Upgrade 28 West from Alexandria, Louisiana to Ft. Polk	$1,500,000.00
213.	Massachusetts	State Street reconstruction from Main Street to Saint Michael's Cemetery, Springfield	$6,000,000.00
214.	Michigan	Construct road improvements to North Henry St. from Vermont Ave. to Wilder Road, Bay City	$1,600,000.00
215.	Illinois	Improve intersection of McCarthy Road, Derby Road, and Archer Avenue in Lemont, IL	$350,000.00
216.	Oregon	Agness Road, Curry County	$1,000,000.00
217.	Illinois	Upgrade roads in the vicinity of Robert Taylor Homes, Chicago	$592,000.00
218.	Florida	Widening of US Highway 17 from Zolfo Springs south to the DeSoto County line	$2,000,000.00
219.	Utah	Atkinville Interchange, St. George	$4,000,000.00
220.	Tennessee	Reconstruct State Route 109 from I-40 in Wilson County to Portland in Sumner County	$1,000,000.00
221.	Missouri	I-470 and Strother Road Interchange	$1,000,000.00
222.	New York	Improve Traffic Flow on Lefferts Boulevard by Rehabilitating Facilities Surrounding LIRR/Kew Gardens Eastbound Station.	$500,000.00
223.	Maine	Maintenance training facilities and vehicle acquisition for Kidspeace, Ellsworth	$500,000.00
224.	Illinois	Improve Great River Road, Warsaw	$500,000.00
225.	Texas	Improvements to East 7th Street in Austin from I-35 to US 183	$2,000,000.00
226.	Illinois	Upgrade I-294 and I-90 and implement ITS projects	$3,000,000.00
227.	California	Reconstruct interchange at I-10 and Riverside Avenue to improve traffic, Rialto	$2,800,000.00
228.	New Jersey	Rahway River Corridor Greenway Bicycle and Pedestrian Path, South Orange	$400,000.00
229.	California	Construct multi-use trails at Galster Park that link to other local Los Angeles County trails, West Covina.	$1,100,000.00
230.	Arkansas	Improvements on County Roads 18, 32, 33, and 16, Bradley County	$500,000.00
231.	Indiana	Roadway improvements in Downtown Indianapolis	$18,775,000.00
232.	Ohio	Geauga Co. acquisition of historic covered bridge	$60,000.00
233.	Oregon	U.S. 199/Laurel Road intersection	$2,000,000.00
234.	New York	Rt. 32 Corridor access management & improvement in Orange County - NY	$500,000.00
235.	Missouri	Construction of interstate flyover at Hughes Road and Liberty Drive to 76th Street. Part of Liberty Parkway Project.	$8,000,000.00
236.	Maryland	Widen I-695 from I-83 to MD147. Includes maintenance and interchange work	$9,780,000.00
237.	Texas	Elevate Choate Road over Union Pacific right-of-way and SH 146. system of improvements to support the proposed Bayport Terminal Complex.	$6,600,000.00
238.	California	I-580 Castro Valley Interchange Improvements	$1,200,000.00
239.	Illinois	City of Washington, Mueller Road Rehabilitation	$280,000.00
240.	New York	Upgrade Route 17 to Interstate Standards from the Route 14 Interchange through Horseheads, to NY SR 13 Interchange.	$2,000,000.00
241.	Tennessee	Extension of bicycle and pedestrian trail, Smyrna	$4,000,000.00
242.	Iowa	Reconstruction and expansion of the East 1st Street interchange on I 35, Ankeny	$5,000,000.00
243.	Ohio	Construct transportation museum (Crawford Museum of Transportation and Industry at Aviation High School), Cleveland.	$250,000.00
244.	Wisconsin	Reconstruct Cameron Bypass on State Highway 8	$3,000,000.00
245.	Ohio	Wetlands Land Preservation & Enhancements in the Town of Aurora	$750,000.00
246.	New Jersey	Bridge replacement on Section 6V of Route 1 from Ryders Lane to Milltown Road, North Brunswick.	$3,000,000.00
247.	Arkansas	For acquisition and construction of an alternate transportation (pedestrian/ bicycle) trail from East Little Rock to Pinnacle Mountain State Park.	$800,000.00
248.	New York	Construct new access road linking North & South sides of Rt. 17 in Town of Wallkill-NY	$2,250,000.00
249.	Texas	SH 349 construction south of Lamesa from Intersection of SH 137	$4,000,000.00
250.	California	Construct 4,700 ft. of medians to improve safety/congestion on Imperial Highway from Valley View to Telegraph Road, La Mirada.	$700,000.00
251.	Pennsylvania	Design and construct additional turn lanes, signal upgrades, and related improvements at Routes 34 and 174 intersection in Cumberland County.	$580,000.00
252.	Maine	Construction and snowmobile safety accommodations for Route 116 Bridge. Medway	$4,000,000.00
253.	Pennsylvania	Bedford Springs Project, Bedford, PA: Relocation of Old Route 220 and Sweet Root Road. Complete preliminary and final engineering, purchase of right-of-way, and begin construction.	$3,150,000.00
254.	Michigan	Geddes Road at Superior Road Roundabout, Washtenaw County	$750,000.00
255.	Minnesota	Construct Paul Bunyan Trail from Mississippi River Bridge Trail to Crow Wing State Park	$600,000.00
256.	California	Improvements (including arterial street rehabilitation) to enhance traffic and pedestrian safety in Sylmar, Lake View Terrace, and Mission, Los Angeles.	$1,250,000.00
257.	Kentucky	Widen and reconstruct Mason's Gap Rd. (KY 698), Lincoln County	$500,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
258.	Pennsylvania	Reconstruction of SR 2001 Sec. 401 from the intersection of SR 2001 and U.S. 209 Bushkill Township north. Pike County.	$2,000,000.00
259.	Texas	Construct a 4-lane urban roadway, along with reconstructing a bridge over UP RR on Ritchie Road, McLennan County.	$4,000,000.00
260.	North Carolina	Construct grade separated crossing at Sugar Creek Road of NC Railroad-Norfolk Southern Railroad.	$4,000,000.00
261.	Illinois	Complete Stage III of reconstruction of the Naperville Road-Warrenville Road/I-88 interchange	$2,150,000.00
262.	Wisconsin	Widen State Highway 10 from City of Marshfield to City of Stevens Point	$20,000,000.00
263.	Texas	Widening of 16-mile two-lane gap on SH 24 to four lanes from SH 19 in Cooper	$3,000,000.00
264.	Pennsylvania	Design and construct interchange and related improvements at I-83, Exit 18, or other projects selected by York County, Pennsylvania MPO.	$6,000,000.00
265.	California	Implement Manor Drive overpass improvement, Pacifica	$800,000.00
266.	Maryland	Indian Head Highway Upgrades--Design for upgrades to MD 210 to replace intersections with grade separated interchanges from MD 228 to I-495.	$5,000,000.00
267.	Texas	Improvements to FM 676, Alton	$500,000.00
268.	California	Construct pedestrian streetscape improvements on Ocean Blvd and Anaheim Street in Long Beach, including lighting landscaping and irrigation, and seating, drinking fountains, bicycle racks and trash receptacles.	$1,500,000.00
269.	Wisconsin	Replace 17th Street Lift Bridge, Two Rivers, WI	$6,000,000.00
270.	California	Conduct Study and Construct I 205/ Chrisman Road Interchange Project, Tracy, CA	$1,000,000.00
271.	Alabama	New freeway connector from Dothan, AL to the FL border	$5,000,000.00
272.	Pennsylvania	Design and construct widening of PA Route 94 from York/Adams County line to Elm Street, Hanover.	$3,000,000.00
273.	California	First Street Bridge realignment, Los Angeles	$1,250,000.00
274.	Ohio	Construct a proposed relocation of US 22 and SR 93 from the current IR 70, US 40 west of Zanesville.	$10,000,000.00
275.	South Carolina	Construct Bishopville Bypass, Lee County	$4,000,000.00
276.	Virginia	Widening I-95 between Fairfax County Pkwy and Rt. 123	$5,150,000.00
277.	Oregon	Study the feasibility of widening US 26 from its interchange with Oregon Highway 217 in Beaverton to the Cornelius Pass exit.	$750,000.00
278.	Louisiana	Leeville Bridge	$2,250,000.00
279.	New York	Implement Central NY grade crossing and grade separation project	$2,000,000.00
280.	Georgia	Widen Godby road to HWY 314 to widen an east-west corridor to connect three counties, Clayton County.	$2,500,000.00
281.	Florida	SR710 Expansion and Improvements in Palm Beach County, FL	$2,000,000.00
282.	Iowa	Complete final segment of MLK Parkway West Project, and complete four segments of MLK Parkway East Project, Des Moines.	$9,000,000.00
283.	Arkansas	Resurface Jack Creek Road, Logan County	$200,000.00
284.	California	Upgrade San Fernando Road corridor to include traffic calming measures, Los Angeles	$7,500,000.00
285.	Georgia	Sidewalk revitalization project in downtown Eastman	$593,175.00
286.	North Carolina	Conversion of the American Tobacco Trail for use as bike/pedestrian trail, Durham/Chatham counties.	$2,000,000.00
287.	Texas	Lamesa Bypass - US 87 N to near US180	$6,500,000.00
288.	Michigan	Bridge connecting to East Marshall Bypass Road in East Marshall, crossing the Kalamazoo River and Norfolk South Railroad.	$300,000.00
289.	Texas	Widen Washington Blvd. from Langham Rd. to FM 364	$2,592,000.00
290.	Illinois	Improve roads and bridges, Illinois	$10,000,000.00
291.	New York	Multi-modal project in Downtown Flushing, Queens	$1,000,000.00
292.	New Jersey	Rt. 139 Bridge Rehabilitation, Hoboken	$2,000,000.00
293.	Louisiana	Belle Chasse Tunnel	$500,000.00
294.	Pennsylvania	Design, engineering, ROW acquisition and reconstruction of Main Street in the vicinity of Parsonage Street, City of Pittston.	$250,000.00
295.	Wisconsin	Pioneer Road Rail Grade Separation, Fond du Lac, WI	$4,000,000.00
296.	Michigan	Holmes Road Reconstruction - From Prospect Road to Michigan Avenue, Charter Township of Ypsilanti.	$2,000,000.00
297.	Georgia	Improvement and expansion of Camp Creek Road at Enon road, Fulton County	$1,000,000.00
298.	New York	Seeks to provide direct access from I-81 to Fort Drum gates; 1st phase of larger Northern Tier Expressway (linking I-81 to I-87).	$6,000,000.00
299.	Tennessee	Bicycle and pedestrian trail, Eagleville	$100,000.00
300.	California	Widen Boulder Avenue Bridge in Highland	$1,000,000.00
301.	Tennessee	Reconstruct and Widen US-64 from a two-lane to a four-lane facility	$5,225,000.00
302.	Wisconsin	Widen US 51/State Highway 29	$8,000,000.00
303.	Minnesota	Replace and Realign the Sauk Rapids Bridge and approaches in St. Cloud and Sauk Rapids	$3,000,000.00
304.	Ohio	Widen Pearl Road, Strongsville	$1,600,000.00
305.	Nevada	I-80 Interchange at Nevada Pacific Parkway, Fernley, Nevada. Will benefit commuting employees of NAS Fallon.	$1,000,000.00
306.	Ohio	Replace and improve Mill Street Bridge, Akron	$2,000,000.00
307.	Pennsylvania	Complete a half diamond interchange at PA-309 and Norristown Rd. by the Montgomery County Planning Commission.	$4,000,000.00
308.	Texas	South McColl Extension between Oragewood and Military Highway, Hidalgo County	$2,500,000.00
309.	New York	Improve downtown streets, Saugerties	$1,000,000.00
310.	Mississippi	Upgrade roads in Arcola, Greenville, and Hollandale (U.S. Highway 61 and 18), Washington County.	$1,800,000.00
311.	Pennsylvania	Design and construct the relocation of U.S. 11 northbound between Ridge Hill and Hempt Roads and around New Kingstown.	$5,680,000.00
312.	New Mexico	Construct NM 128 from NM 31 to Texas State line	$6,000,000.00
313.	California	Construct pedestrian, bicycle and ADA accessible boardwalks at the Pismo Beach Promenade, San Luis Obispo County.	$300,000.00
314.	Tennessee	Eliminate blockage of 2 lanes on Gay Street in Knoxville to accommodate loading dock	$2,000,000.00
315.	Tennessee	Construct trail and bike path at S. Chickamauga Creek	$1,600,000.00
316.	California	Resurface and construct truck lane at CA Hwy. 94 and Interstate 8 interchange, Boulevard	$3,000,000.00
317.	Michigan	Canton, Pave Cherry Hill west of Denton Rd	$2,500,000.00
318.	Minnesota	Birch Cove Rest Area, Hoyt Lakes	$200,000.00
319.	Illinois	Construct parking facility and undertake circulation enhancements at 96th and East Shore Drive, Oak Lawn.	$200,000.00
320.	Pennsylvania	Finish missing ramps and widening at intersection of I-279 and I-79 in the Pittsburgh Airport Corridor.	$3,000,000.00
321.	Georgia	Improvements to intersection of SR 196 and US 84 in Liberty County	$2,000,000.00
322.	Illinois	Reconstruct Milwaukee Avenue, Chicago	$1,500,000.00
323.	New York	Construction of an Intermodal transportation facility just off of the Bronx River Parkway's exit 6.	$2,500,000.00
324.	Michigan	Ultra thin demonstration project resurfacing of Mitchell Road from the City of Petoskey limits east to Division, Emmet County.	$60,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
325.	Florida	Widen U.S. 17 to 4 lanes in Putnam County, Florida	$12,000,000.00
326.	New York	Enhance road and transportation facilities in the vicinity of the Brooklyn Children's Museum	$50,000.00
327.	Alaska	Point MacKenzie in Matamuska-Susitna Borough plan and design road access	$1,000,000.00
328.	Nevada	Construct North Las Vegas Craig Road Overpass at the Union Pacific Railroad Crossing	$5,500,000.00
329.	Pennsylvania	Design and construct intersection and related upgrades on PA Routes 24 and 124 in York County	$1,000,000.00
330.	Pennsylvania	Rail Bridge Removal and intersection improvements, Cameron and Paxton Streets, Harrisburg	$1,400,000.00
331.	Oregon	Construct sidewalks and improve storm drainage and gutters for the city of Medford, Oregon's, Safe Walk Plan.	$1,000,000.00
332.	New York	I-81 Corridor Improvements from Hancock Intl. Airport to and including the reconstruction of the Interchange at I-690.	$3,000,000.00
333.	Wisconsin	Reroute State Highway 11 through Burlington, Wisconsin	$911,000.00
334.	California	Construct sound barriers at the I-5/S.R. 54 Interchange, National City	$150,000.00
335.	Illinois	Reconstruction and widening of the Illinois Route 60 bridge over Interstate 94 in Lake Forest, Illinois.	$8,010,000.00
336.	New York	Construction of and improvements to Lovejoy Avenue in Buffalo	$1,000,000.00
337.	Missouri	Construction of replacement for Interstate 44 & US 65 Interchange, Springfield, MO	$16,300,000.00
338.	New York	Funds an intermodal transportation facility on Clarkson Avenue in Brooklyn	$1,000,000.00
339.	Michigan	Novi, Reconstruct Grand River between Novi Rd. and Haggerty	$1,000,000.00
340.	California	Construct bypass along California Hwy 101 around the town of Willits	$8,000,000.00
341.	New York	Rehabilitate bike and pedestrian path in Utica Marsh	$124,000.00
342.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Knoxville, TN	$57,000.00
343.	New York	Develop terminal facilities for water taxi projects, New York City	$4,600,000.00
344.	Utah	Northern Corridor, St. George	$6,000,000.00
345.	Alaska	Planning and design of a bridge joining the Island of Gravina to the community of Ketchikan	$3,000,000.00
346.	Massachusetts	Construct 3.5 mile Grand Trunk Trail, Sturbridge/Southbridge	$750,000.00
347.	Illinois	Provide a four-lane connection between Rt. 13 and Rt. 45 near Harrisburg	$500,000.00
348.	Indiana	Construct US 31 Freeway Project for St. Joseph and Marshall Counties	$25,000,000.00
349.	Virginia	Reconstruct Route 20 at/adjacent to Montpelier for entryway project	$1,000,000.00
350.	Michigan	repave Caseville Road from state highway M-142 to state highway M-25	$500,000.00
351.	Maine	Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements.	$4,000,000.00
352.	Illinois	Village of South Jacksonville, West Vandalia Road upgrades	$800,000.00
353.	Alabama	US 278, 4-laning 10.5 miles between Sulligent and Crews, AL	$1,000,000.00
354.	New York	Construct bicycle/pedestrian trail on old Mahopac RR right of way in Westchester County- NY	$1,000,000.00
355.	Pennsylvania	Design, engineering, ROW acquisition, and construction of intersection improvements and safety enhancements, Borough of Throop in Lackawanna County.	$250,000.00
356.	Georgia	Decatur Bikeway	$200,000.00
357.	Virginia	Repair of Commonwealth Blvd Bridge in Martinsville	$500,000.00
358.	New Mexico	I-25 Tramway Interchange: I-25 and Tramway Interchange	$2,000,000.00
359.	Wyoming	Casper West Belt Loop:Construct new connector route between Highway 220 and US 20-26	$2,000,000.00
360.	Maryland	Hughesville Bypass--relocation of MD 5 from end of divided highway south of Hughesville to end of the divided highway north of Hughesville.	$10,000,000.00
361.	Pennsylvania	Construct the widening of PA 94 from the Adams/York County line north to Appler Road in Adams County.	$1,500,000.00
362.	Arkansas	Upgrade Nevada County Roads 7, 4, 17, and 6	$400,000.00
363.	Oregon	Preliminary engineering and construction of a railroad crossing at the intersection of Havlik Drive and Highway 30, Scappoose.	$200,000.00
364.	Tennessee	Widen SR-36 to five lanes in Washington County	$1,000,000.00
365.	Ohio	SR 20/Mentor Rd. road widening and safety improvements in the Town of Painesville	$350,000.00
366.	Missouri	Improve intersection of the I-44 and Missouri Route 100 interchange and the Shaw Nature Reserve Access near Gray Summit, Missouri.	$500,000.00
367.	Georgia	Resurface and widen Jac-Art Road as part of Bleckley County Development Authority project	$200,000.00
368.	New Jersey	Widens the intersection, replaces bridge structures and improves other road segments leading to the intersection NJ Route 57/ CR Route 519 in Warren County.	$2,700,000.00
369.	Illinois	Widen U.S. Route 67 from Macomb to Illinois 101	$3,000,000.00
370.	Minnesota	To expand Stearns County Road 4 from 4 to six lanes and realign Stearns County Road 134	$2,000,000.00
371.	Tennessee	Extension of SR-449 in Sevier County, now under construction	$500,000.00
372.	South Carolina	Construction to improve Assembly Street between Pendleton Street and the Williams-Brice stadium to eliminate roadway-rail.	$1,500,000.00
373.	Alabama	20 mile limited access corridor from US highway 80 to US highway 231 and I-85	$3,000,000.00
374.	California	Roadway surface improvements, street lighting, and storm drain improvements to South Center Street from Baughman Road to State Route 78/86, Westmoreland.	$800,000.00
375.	Georgia	South Lumpkin Road Trail [pedestrian, bicycle, jogging, safety upgrades], Columbus	$1,000,000.00
376.	Wisconsin	Reconstruct State Highway 16 (Columbus to Hwy. 26), Dodge County, WI	$4,000,000.00
377.	Georgia	Buford Highway pedestrian safety improvement	$2,500,000.00
378.	New York	Construct visitor center, access road and parking at Sam's Point Preserve, Ellenville	$750,000.00
379.	Texas	Completion of the 3rd and 4th phases on the Marsha Sharp Freeway, US 82-62. Construction between Chicago and Salem Avenues.	$16,000,000.00
380.	Massachusetts	Westford Street-Wood Street-Rourke Bridge Corridor improvements, Lowell	$750,000.00
381.	Texas	Interchange of I-10 and SH99 (the Grand Parkway), a multi-lane highway that will form a third loop around Houston.	$5,000,000.00
382.	New Jersey	Safety improvements and widening Route 206 and CR 513 Main Street (Route 24)	$1,000,000.00
383.	New York	Comprehensive traffic congestion mitigation study of Hauppauge Industrial Park and surrounding area, Suffolk County.	$750,000.00
384.	Georgia	SR 133 upgrade, Dougherty/Colquitt Co	$1,000,000.00
385.	New York	Construction, re-design and improvements to Fargo Street in Buffalo	$3,000,000.00
386.	Washington	Spokane Advanced Traffic Management System Expansion: Expand existing Intelligent Transportation System (ITS) in City of Spokane.	$500,000.00
387.	Michigan	M-13 Washington Avenue Streetscape Project - Phase II of High Priority Project 192 in PL 105-550, Saginaw.	$1,500,000.00
388.	Guam	Reconstruct Hagåtña River Bridges, Municipality of Hagåtña	$6,000,000.00
389.	New York	Hopewell Junction Bypass Road in Town of East Fishkill- NY	$1,000,000.00
390.	New York	Implement Improvements for Pedestrian Safety in Bronx County	$1,000,000.00
391.	Illinois	Upgrade streets and implement traffic and pedestrian safety signalization improvements, Oak Lawn.	$7,740,000.00
392.	California	Widening on Bear Valley Pkwy, City of Escondido, Citrus Ave to Valley Pkwy and to northern city limit, local arterial.	$2,000,000.00
393.	California	Reconstruction and repair of pedestrian walkways in and around the campus of California State University Northridge to improve traffic and safety.	$784,000.00
394.	New York	Study of goods movement through I-278 in New York City and Northern New Jersey to be conducted by Region II University Transportation Research Center.	$1,500,000.00
395.	Missouri	Mississippi Riverfront Bicycle/Pedestrian trail connecting with Columbia Bottom conservation area.	$300,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
396.	New Jersey	Route 22 Sustainable Corridor Plan	$2,000,000.00
397.	Minnesota	Reconstruct Unorganized Township Road 488 from CSAH 138, Koochiching County	$1,025,000.00
398.	New York	Widening and resurfacing of a one-mile stretch of the bicycle path from Boston Post Rd. to Playland Park, Rye.	$275,000.00
399.	Arkansas	Construction of roadway for SE Intermodal, Drew/Bradley Counties	$2,080,000.00
400.	Virginia	Widen Rt. 33 at High Street, Harrisonburg	$500,000.00
401.	Indiana	New road construction of Dixon Road from Alto Road to Greentree Lane and Dixon Road from Markland Avenue to Judson Road in Kokomo, Indiana.	$2,000,000.00
402.	Georgia	Design, right of way acquisition and construction of Fulton County Industrial Blvd	$2,000,000.00
403.	Louisiana	Essen Lane at I-12; Perkins Road; Central Thruway; O'Neal Lane; LA 408 study; and Burbank Drive; and Essen Park Extension in East Baton Rouge Parish.	$30,000,000.00
404.	Alabama	Patton Island Bridge Corridor connecting Colbert and Lauderdale Counties	$10,000,000.00
405.	Pennsylvania	Improve Route 89 one mile north of Titusville	$300,000.00
406.	South Carolina	Construction of Safety Improvements and Beautification along I-385	$2,000,000.00
407.	Illinois	Engineering and right-of-way acquisition to widen 95th Street between Plainfield-Naperville Road and Boughton Road.	$500,000.00
408.	Minnesota	Environmental impact statement for improvement along the entire US 10 corridor	$1,300,000.00
409.	Idaho	Widen US-95 from 2 to 4 lanes from Worley to Mica Creek	$6,000,000.00
410.	Kentucky	Rehabilitate US 127 from US 127 South (Hustonville Rd.) to the Mercer County line, Danville	$1,000,000.00
411.	California	Improvements to increase beach access, prevent storm drain failure and accommodate increasing pedestrian traffic on The Stand, Manhattan Beach.	$2,000,000.00
412.	Pennsylvania	Construct a new parking facility for the Cruise Terminal Transportation Center within the Philadelphia Naval Business Center.	$5,000,000.00
413.	Washington	To replace BNSF trestle, Sammamish River bridge and reconstruct SR202/127th Pl NE and SR202/180th Ave NE intersections.	$2,000,000.00
414.	New York	Roadway improvements in Village of Schuylerville, including Routes 4/32 & 29. Includes infrastructure, mobility, safety and streetscape improvements.	$4,350,000.00
415.	New York	Reconstruction of Route 59 from Sickletown Road to Route 303, Rockland County	$1,000,000.00
416.	Kansas	Construction of a 1.5 mile new roadway truck route in Downs, KS	$500,000.00
417.	Hawaii	Upgrade Farrington Highway	$2,800,000.00
418.	California	Upgrade Jepson Parkway at the North and South Access Gates of Travis Air Force Base and widen Vanden Road segment, Solano County.	$2,000,000.00
419.	California	Will add landscaping enhancements along the freeway for aesthetic purposes in Ventura County	$2,500,000.00
420.	South Carolina	Palmetto Trails Project - a statewide bicycle and pedestrian trails project connecting historic sites, important natural landscapes and many communities.	$2,000,000.00
421.	Oklahoma	Widen US 60 between Bartlesville and Pawhuska, Osage County	$2,000,000.00
422.	Pennsylvania	Design, engineering, ROW acquisition, and construction of intersection improvements and safety enhancements, Borough of Moosic in Lackawanna County.	$250,000.00
423.	California	Construction of a .2 miles section of Poinsettia Lane in the City of Carlsbad, local arterial	$2,000,000.00
424.	Michigan	Reconstruct Lake road in Ironwood from Margaret Street to Airport Road, Gogebic County	$805,000.00
425.	Georgia	Widening of GA SR 400 from 4 lanes to 6 lanes between Haynes Bridge Road and McFarland Rd	$10,000,000.00
426.	Illinois	Construct road from Rt.13 to Carterville Herrin Road, Herrin	$800,000.00
427.	Tennessee	Construct and Widen State Route 33 in Monroe County	$5,000,000.00
428.	Pennsylvania	Replace traffic signals, optimize signal timing devices, and install traffic calming devices and new signage through construction in Mechanicsburg.	$1,200,000.00
429.	Indiana	1.5 mile rd ext., Allen Cnty, IN. The project is the 1.5 mile road extension from Lake Ave. to State Road 930.	$11,000,000.00
430.	New Jersey	Construct Parking Facility at Union City Intermodal Facility	$2,000,000.00
431.	New York	Construction of and improvements to Union Road in West Seneca	$1,000,000.00
432.	Alabama	Birmingham Northern Beltline	$20,000,000.00
433.	Florida	Removal and replacement of Columbus Street bridge, Hillsborough County	$750,000.00
434.	North Carolina	Rerouting of Holly Springs Church Road (NCSR 1815) beginning near the intersection with Airport Road (NCSR 1876) to Janice Drive (NCSR 1894) near Mount Airy in Surry County.	$1,000,000.00
435.	California	Implement and maintain an incident management system for I-880 and I-80, Alameda and Contra Costa Counties.	$500,000.00
436.	California	Replace South Access to Golden Gate Bridge, San Francisco	$6,000,000.00
437.	California	Construct an auxiliary lane on Highway 17 between Camden and Hamilton Avenues, Campbell	$12,900,000.00
438.	California	Cabot-Camino Capistrano Bridge. Construction of a bridge that will connect highways Camino Capistrano and Cabot Road.	$838,690.00
439.	California	Realign State Route 79 from Gilman Springs Road to Domenigoni Parkway in San Jacinto	$2,000,000.00
440.	Illinois	Construct bikepath and pedestrian walkway along Western Avenue; construct access road for West Ridge Nature Preserve, Chicago.	$3,000,000.00
441.	California	Pasadena Multi-modal intelligent transportation system: traffic management center upgrade, transit management system, parking guidance system, the City of Pasadena.	$2,500,000.00
442.	New York	Rehab Rt 35/202 from Bear Mtn Parkway to Taconic Parkway in New York State DOT	$1,575,000.00
443.	Hawaii	Construct Waimea Bypass	$1,000,000.00
444.	Kansas	Construct I-35/Lone Elm Road interchange and widen I-35 from 151st Street to 159th Street, City of Olathe.	$1,000,000.00
445.	Texas	Complete State Highway 146, Baytown	$500,000.00
446.	New Jersey	Rehabilitation of West Broadway Bridge, Paterson	$3,500,000.00
447.	Illinois	Improve safety of horizontal curve on 725th St. in Grandview Twp	$80,000.00
448.	Georgia	New interchange on I-95 at Horsestamp Rd	$5,000,000.00
449.	Michigan	Implement driveway control along the 3 lane segment of US-31 North and South of Honor, Michigan.	$2,500,000.00
450.	Michigan	Resurface 3.51 miles of Hamilton and Wessel Roads, Alpena County	$640,000.00
451.	Mississippi	Pirate Cove Interchange/Access Rd:I-20 Interchange and access roads linking I-20 to US Hwy 80	$500,000.00
452.	California	Implement streetscape project on Central Avenue from 103rd Street to Watts / 103rd Street Station, Watts.	$3,500,000.00
453.	New York	Improvements on Lower Rd. in Town of Minisink-NY	$175,000.00
454.	Ohio	Construct SR 104 into a 4 lane facility with a turning lane in Ross County	$6,000,000.00
455.	Pennsylvania	Design, engineering, ROW acquisition, and construction of intersection improvements and safety enhancements, Borough of Old Forge in Lackawanna County.	$250,000.00
456.	New York	Reconstruct NYS Rt. 12 (Rt 20 to Waterville North Village Line)	$4,927,000.00
457.	Michigan	Reconstruction of Intersection at Woodside Avenue and Borton Avenue,Essexville	$960,000.00
458.	Pennsylvania	US Route 13 corridor reconstruction, redevelopment, and beautification in Bucks County	$5,000,000.00
459.	Maryland	Jones Falls Greenway (hiker/biker trail). Funding for Baltimore City to construct Phase 2 of this urban trail.	$4,000,000.00
460.	California	Construct grade separation at State College Blvd., Fullerton/Anaheim	$2,000,000.00
461.	New York	Reconstruction of Herald and Greeley Squares, New York City	$500,000.00
462.	Florida	Alternate US 19, Tyrone Blvd. at 72nd St., St. Petersburg	$6,000,000.00
463.	California	Reconstruct overcrossing and interchange at Interstate 10 & Tippecanoe Ave in Loma Linda	$4,000,000.00
464.	Florida	State Road 9B / I-295 Extension and Connection (Duval County)	$3,500,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
465.	Illinois	Construction of a new intersection of a public road at U S Route 50 in Olney	$550,000.00
466.	Missouri	Intelligent Transportation System pilot deployment to enhance efficiency and security of cargo in Kansas City region.	$500,000.00
467.	Connecticut	Widen Route 34, Derby	$3,000,000.00
468.	Texas	Arlington, IH-30 at FM 157 (Collins) and Center Street interchange improvements	$2,000,000.00
469.	Tennessee	Widen State Route 62 in Knox County, TN	$6,500,000.00
470.	Massachusetts	Rehabilitation of Whittier Bridge which carries Route I-95 over the Merrimack between Amesbury and Newburyport.	$2,000,000.00
471.	California	Port of Hueneme Intermodal Access Improvement Project, including grade separation at Rice Avenue/State Route 34; road widening at Hueneme Road.	$4,700,000.00
472.	Arkansas	Improve County Road 75, Polk County	$200,000.00
473.	Florida	Construction and four-laning of State Road 80, Hendry County	$3,500,000.00
474.	Ohio	Improve roads and bridges, City of Youngstown	$3,000,000.00
475.	Wisconsin	Reconstruct East Washington Avenue, Madison	$7,050,000.00
476.	California	Widening of State Route 76 from Melrose Drive to I-15	$5,000,000.00
477.	Nebraska	Planning and design of sections of the Heartland Expressway located in and around the cities of Scottsbluff and Gering, Nebraska.	$300,000.00
478.	Illinois	ITS deployment, Cook County	$160,000.00
479.	South Carolina	Design, acquire land, and undertake improvements to the South Corridor project from York County to City of Charlotte.	$2,255,000.00
480.	Texas	Making transportation corridor improvements along I-69 from Palo Alto to the U.S-Mexico border at Brownsville Navigation District.	$1,500,000.00
481.	North Carolina	Upgrade portions of US 220 (future I-73/74) to interstate standards in Montgomery County, NC	$2,500,000.00
482.	Kentucky	Construct the main street connector between Lisa Lane and Main Street, Stanton	$500,000.00
483.	Pennsylvania	Construct access ramp from SR 247/SR 1012 into Valley View Business Park, Lackawanna County.	$2,000,000.00
484.	Florida	Construct I-95/Matanzas Woods Parkway Interchange in Flagler County, Florida	$4,000,000.00
485.	Michigan	CR 515 from US2 & US41 in Rapid River to County Road 446 at Days River Road - bituminous overlay and joint repair, Delta County.	$320,000.00
486.	California	Construct truck lane from Britannia Blvd to the Otay Mesa Port of Entry, San Diego County	$4,000,000.00
487.	New York	Rehabilitate bridges in Tompkins County-Ithaca Secondary Line	$2,500,000.00
488.	California	Improve Glendale Freeway Terminus to provide pedestrian access, construct sound barriers, and implement landscaping, Los Angeles.	$2,500,000.00
489.	Pennsylvania	Three at grade rail crossings along Amtrak Keystone Corridor need to be closed for safety reasons.	$500,000.00
490.	New Mexico	Planning, design and construction of bikeways, walkways and underpass at the City of Santa Fe's downtown railyard redevelopment project.	$2,000,000.00
491.	Indiana	Construct grade separated interchange at Hively Avenue in the City of Elkhart	$2,000,000.00
492.	New York	Erie Canalway National Heritage Corridor Transportation Enhancement Project	$500,000.00
493.	Texas	Hwy 80/123 overpass at Hwy 181, Karnes County	$300,000.00
494.	New York	Improve uptown streets, Kingston	$594,500.00
495.	Ohio	Reconstruct US Route 6, Rocky River	$2,000,000.00
496.	Illinois	Complete 80,000 lb. truck route between C.H. 2 (Burma Rd.) and Il Rte 130 in Cumberland County.	$3,000,000.00
497.	New York	Realignment & rehab of Kirk Lane Drive in Town of Carmel-NY	$100,000.00
498.	Florida	New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, Florida	$5,000,000.00
499.	Illinois	Widen U.S. Route 34 from U.S. 67 to Carmen Road	$4,000,000.00
500.	Washington	41st Street Bridge Widening, Everett	$3,500,000.00
501.	New York	Improvements to Intermodal transportation facility at Fort Totten, New York	$1,000,000.00
502.	Tennessee	Construct pedestrian bridge in Alcoa	$1,000,000.00
503.	Texas	Additional right-of-way along US 71 north of Texarkana along the Arkansas-Texas state line	$1,000,000.00
504.	Florida	Shops of Sherwood Access Road, Jacksonville	$1,500,000.00
505.	Arkansas	Widen Jefferson Parkway, Jefferson County	$500,000.00
506.	Alaska	Make necessary improvements to Indian River Road in City and Borough of Sitka	$2,000,000.00
507.	California	Construction of new freeway lanes, including HOV lanes at US HWY 50 and Empire Ranch Road, Folsom, CA.	$4,000,000.00
508.	Arkansas	Hwy 65 improvements including construction of passing lanes, bridge improvements, intersection improvements and other roadway improvements, Van Buren County.	$1,200,000.00
509.	Missouri	Relocate this portion of I-44 between Route D and Sugar Tree Road in West Phelps County	$2,000,000.00
510.	Iowa	Phase III of the Main Street project, Amana	$1,000,000.00
511.	Florida	Improvements of segments of US Highway 27 from SR 540 to SR 544 and from I-4 to US 192, in Polk County, FL.	$8,000,000.00
512.	Tennessee	Upgrade circuit at gates/lights for Bristol grade crossing (USDOT#731120J) to intelligent systems that eliminate current variability.	$100,000.00
513.	New York	Improvements and restoration at old US Rt 9 & Van Cortlandt Manor in Village of Croton on Hudson.	$2,700,000.00
514.	Minnesota	New Interchange at I-35 and CSAH 2 in the city of Forest Lake	$3,000,000.00
515.	West Virginia	Construct Coalfields Expressway	$7,200,000.00
516.	New Jersey	Route 46 & Main Street, Lodi - Roadway and Drainage Improvements	$2,000,000.00
517.	Nevada	Construct a series of 4 system-to-system interchanges on the Clark County Beltway	$16,500,000.00
518.	Missouri	Design, Right of Way and Construction of Highway 13- Branson West By-Pass, Stone County, MO.	$5,200,000.00
519.	Tennessee	Reconfiguration and Removal of I-40 and I-55 ramps to reduce heavy traffic volumes on Riverside Drive.	$1,000,000.00
520.	Pennsylvania	PA Route 309 roadway construction and signalization improvements in Tamaqua Borough	$2,000,000.00
521.	California	Improve Ave 12-Fwy 99 interchange; create five lanes and install traffic signals. Construct Road 29 entrance east of the interchange.	$1,500,000.00
522.	California	Improve 16 roads, bridge and one bike path in Mariposa County	$2,000,000.00
523.	Pennsylvania	Swamp Road corridor safety and roadway improvements	$3,500,000.00
524.	Alaska	Crooked Creek Road to the mine site at Donlin Creek	$15,000,000.00
525.	California	Widen Wilmington Ave from 223rd street including ramp modifications, Carson	$2,000,000.00
526.	Florida	Route 610 Widening, Greensville County	$500,000.00
527.	New York	Install Improvements for Pedestrian Safety in the vicinity of St. Roberts Bellarmine	$250,000.00
528.	Hawaii	H-1 Counterflow Zipper Lane	$4,000,000.00
529.	Texas	SH 205--Widen 2 lane to 6 lane urban divided highway north of SH 66 to SH 276	$2,000,000.00
530.	California	Improvements at First Street and Erringer Road. The project will widen off ramps and surface streets.	$2,000,000.00
531.	Florida	Construct St. Augustine to Palatka Rail Trail in Northeast Florida	$2,900,000.00
532.	Ohio	Construct connector trail connecting Xenia to Jamestown to Washington Court House	$1,000,000.00
533.	California	Construct new interchange at I-15 and State Route 18(Falchion Road) and provide new highway access to U.S. 395.	$2,000,000.00
534.	Illinois	Construct Streetscape project on Morse Avenue from Clark Avenue to Sheridan Road, Chicago	$2,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
535.	Pennsylvania	Design, engineering, ROW acquisition, and construction of street improvements and safety enhancements, Borough of Plymouth in Luzerne County.	$250,000.00
536.	Ohio	Road widening and safety improvements to Pettibone Rd. in the City of Solon	$3,000,000.00
537.	New York	Improvement of road and bridges between 2 state highways leading to Stewart International Airport in New Windsor-NY.	$2,000,000.00
538.	New York	Re-construction, re-design and improvements to Ohio Street from Fuhrmann Boulevard to Michigan Avenue in Buffalo.	$8,000,000.00
539.	New York	Implements traffic calming measures using streetscape improvements from Court to Smith Street	$800,000.00
540.	Illinois	Extension of Willow Creek Trail, engineering of an 8-mile trail from Rock Cut State Park to the Long Prairie Trail in Caledonia, Grand Illinois Trail System.	$100,000.00
541.	California	Construct highway connecting State Route 78/86 and State Route 111, Brawley	$10,000,000.00
542.	New York	Construct Auburn New "Connector Road" - New highway between Rt. 5 and Rt 34	$2,000,000.00
543.	Kentucky	Reconstruct Turkeyfoot Road from Autumn to Richardson	$2,000,000.00
544.	Georgia	Stone Mountain-Lithonia bikeway and sidewalks	$1,200,000.00
545.	Washington	Roosevelt Extension/SR 538 at Urban Avenue to Cameron Way, Mount Vernon	$4,000,000.00
546.	Ohio	Construct Farm Road Project, Gallia County	$550,000.00
547.	California	Construction of improvements to the Western Placerville Interchanges on SR 50 between the Missouri Flat Road Over-crossing and the Placerville Drive under-crossing in and near the City of Placerville in El Dorado County.	$3,000,000.00
548.	New York	Implement Improvements for Pedestrian Safety in Richmond County	$1,000,000.00
549.	Georgia	Construction of the U.S. 411 Connector between U.S. 41 and I-75 in Floyd and Bartow Counties	$14,000,000.00
550.	Illinois	Construct streetscape project at the intersection of Foster and Kedzie, Chicago	$2,220,000.00
551.	Pennsylvania	Construct Campbelltown Connector, Lebanon County	$2,000,000.00
552.	Illinois	Complete construction of route from Industrial Park Drive to Bakery Boulevard, DuQuoin	$625,000.00
553.	Iowa	Extend Muscatine Mississippi River Levee Trail in Iowa	$500,000.00
554.	California	Project design, environmental assessment, and roadway construction of Lonestar Road from Alta Road to Enrico Fermi Drive, San Diego County.	$500,000.00
555.	Minnesota	Roadway improvements, City of Federal Dam	$1,000,000.00
556.	American Samoa	Village road improvements for Launiusaelua and Ituau counties in the Central District	$3,000,000.00
557.	California	Elk Horn Boulevard Widening to SR 99, Sacramento, CA	$1,000,000.00
558.	Missouri	Construction of US 71 to Expressway status, McDonald County, MO	$15,000,000.00
559.	Pennsylvania	Construction of University Boulevard interchange on PA 60 Business near Pittsburgh International Airport.	$1,000,000.00
560.	New York	Rehabilitation of North and South Ridge Street and Wappanocca Ave. in the Village of Rye Brook and City of Rye.	$2,160,000.00
561.	Ohio	Construction of a connector road between Orchard Land and Factory Rd in Beavercreek, OH	$500,000.00
562.	West Virginia	Construct I-74/74 Corridor, Mercer Co	$11,200,000.00
563.	Illinois	Eldamain Road: Construction of the Eldamain Road Bridge over the Fox River	$5,000,000.00
564.	Kentucky	Reconstruct I-275/KY 212/KY 20 interchange	$2,000,000.00
565.	South Carolina	Transportation infrastructure improvements in Orangeburg County	$10,000,000.00
566.	Georgia	Phase III Streetscape [pedestrian safety enhancements, sidewalks, curb replacement, restoration; landscaping, ADA compliance], Columbus.	$1,500,000.00
567.	Alaska	Planning, design, and EIS of Bradfield Canal Road	$2,300,000.00
568.	Rhode Island	Restore and expand maritime heritage site, Bristol	$1,000,000.00
569.	New York	Restores Eastern Parkway by adding a bicycle crossing lane and traffic lights	$3,000,000.00
570.	Michigan	Study of direct highway access between the I-96/36th Street interchange and the passenger terminal of the Grand Rapids airport.	$900,000.00
571.	Washington	Construction of .6 mile span to connect trail and I-5	$5,500,000.00
572.	North Carolina	Construct the US 74 Bypass around Shelby to add additional traffic-carrying capacity and enhance safety.	$5,000,000.00
573.	Texas	Improvements to I-35E/I-635 Interchange	$1,000,000.00
574.	Illinois	City of Oreana "Original Town" road upgrades	$884,000.00
575.	Mississippi	Popps Ferry Road bridge, Biloxi	$4,000,000.00
576.	New York	Improvement of Hatfield Lane in Village of Goshen-NY	$400,000.00
577.	Florida	Construct SR20/CR 309C/SR 100 Connnector in Palatka, Florida	$4,000,000.00
578.	New York	This project involves a full reconstruction of all the streets in Long Island City surrounding 11th Street.	$2,400,000.00
579.	Washington	Cultural/Interpretive Center (Hanford Reach National Monument) facility and highway offramps near I-182 and SR240, Richland.	$1,570,000.00
580.	Utah	Reconstruction of State Route 158 at Pine View Dam, Weber County, Utah	$5,000,000.00
581.	American Samoa	Shoreline protection and drainage mitigation for Nuuli village roads	$1,000,000.00
582.	Minnesota	Construct Pfeifer Road, remove 10 foot raised crossing, Twin Lakes Township	$251,717.00
583.	North Carolina	Design and construct regional shared use pedestrian and bicycle pathway along Little Sugar Creek.	$3,000,000.00
584.	Maine	Penobscot Riverfront Development for bicycle trails, amenities, and traffic circulation improvements, Bangor.	$2,000,000.00
585.	Virginia	Reconstruct 3 deteriorating highway bridges and rebuild 2 interchanges on Arlington Boulevard and Washington Boulevard.	$2,000,000.00
586.	Tennessee	Constuct transportation and heritage museum in Townsend	$1,000,000.00
587.	New Jersey	Elizabeth Pedestrian Bicycle Project for the NorthAvenue/Route 1 transportation corridor	$546,000.00
588.	New York	Construct an access road and make drainage improvements and aesthetic enhancements to area between Ocean Parkway and Oak Beach Park.	$2,700,000.00
589.	Virginia	Blue Ridge Music Center - install lighting/steps, upgrade existing trail system and equip interpretative center with visitor information.	$2,500,000.00
590.	Pennsylvania	Design, engineering, ROW acquisition, and construction of the widening of Pennsylvania Route 443 Corridor Widening, Carbon County.	$1,000,000.00
591.	Wisconsin	Construct U.S. Highway 41 North of Lake Butte des Morts Bridge, WI	$16,400,000.00
592.	Missouri	Extension and rehabilitation of Riverside Road (MO Route AC)	$10,000,000.00
593.	Texas	Engineering, design and construction of freight connector roads along F.M. 511 at Brownsville Navigation District.	$1,000,000.00
594.	Nevada	Widening of US-95 from Craig Road to the Clark County Beltway	$5,000,000.00
595.	New Jersey	Improve the US Interstate 78 Interchange at Exit 15 in Franklin Township, Union Township and Town of Clinton.	$1,000,000.00
596.	Montana	Build Four Lane Western Bypass on US 93 around Kalispell	$22,000,000.00
597.	North Carolina	Widen Derita Road from Poplar Tent Road in Concord, NC to the Cabarrus-Mecklenburg County line.	$2,000,000.00
598.	Ohio	Replace Fulton Road Bridge, Cleveland	$1,700,000.00
599.	Texas	Pedestrian path and sidewalk improvements along US 83, Rio Grande City	$500,000.00
600.	Texas	Widen Hempstead Highway from 12th Street to Washington Avenue from four lanes to six lanes	$2,000,000.00
601.	California	Pine Avenue extension from route 71 to Pomona Rincon Road in the city of Chino	$8,500,000.00
602.	Texas	Providing preliminary engineering for and constructing a loop in and around Texarkana, along the US 71-I-49 corridor.	$3,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
603.	Michigan	West Michigan Regional Trail Network connector to link two trail systems together and to Grand Rapids.	$2,950,000.00
604.	New York	Plan and construct greenway along Red Hook, Brooklyn waterfront, and conduct transportation study to improve pedestrian safety and air quality.	$1,440,000.00
605.	North Carolina	Installation of ITS devices along I-85 from North of SR 1002 to North of SR 2120 near Spencer	$2,200,000.00
606.	Wisconsin	Construct U.S. Highway 151, Fond du Lac Bypass, WI	$3,000,000.00
607.	Nevada	Meadowood Interchange: will mitigate traffic congestion on Interstate and arterials in Reno's primary retail center. State Priority.	$2,000,000.00
608.	Illinois	Improve roads, Village of Forest Park	$750,000.00
609.	California	Reconstruct 152/156 Interception Project, Santa Clara County, CA	$1,000,000.00
610.	Rhode Island	Restoration of Canal at John Chafee Blackstone River Valley Heritage Corridor	$500,000.00
611.	Illinois	Widen and resurface South Wall St, Carbondale	$700,000.00
612.	New York	Intermodal transportation improvements, Coney Island	$3,600,000.00
613.	Texas	Construct landscaping and other pedestrian amenities in segments of the Old Spanish Trail and Griggs Road rights-of-way.	$2,000,000.00
614.	Pennsylvania	Construct Route 219 Bypass in the City of Bradford	$2,000,000.00
615.	Minnesota	Reconstruct Sucker Bay Road, Cass County	$2,500,000.00
616.	Illinois	Baseline Rd. Improvement (Montgomery): Reconstruction and realignment of Baseline Road	$2,080,000.00
617.	New Jersey	Replace steep grade and dangerous two lane bridge on Schooley's Mountain Road	$1,000,000.00
618.	South Carolina	Fire Station Road Bridge in Anderson County	$230,000.00
619.	Georgia	Uptown Jogging, Bicycle, Trolley Trail [pedestrian, bicycle, jogging, safety upgrades, trolley lane,,skating trail], Columbus.	$1,425,000.00
620.	Ohio	Construct turn lane, install traffic light, and reorient traffic on SR 146 near Bussemer Lane in Muskingum County.	$600,000.00
621.	New York	Funds an intermodal transportation facility on Brooklyn Avenue	$1,400,000.00
622.	Missouri	Highway 350 upgrade through Raytown	$1,000,000.00
623.	Kansas	Construction of a two-lane on a four-lane right of way bypass with controlled access on US-400 at Dodge City.	$12,800,000.00
624.	Illinois	Extends MacArthur Blvd. from Wabash to Iron Bridge Road in Springfield	$1,500,000.00
625.	Minnesota	Upgrade CSAH 21 to a 4 Lane divided roadway with left turn lanes at public streets in Scott County.	$1,000,000.00
626.	Virginia	Chestnut Mountain Road - feasibility study, design and construction start for road improvement on National Forest lands.	$1,000,000.00
627.	Michigan	Walled Lake, Decker Rd. between Maple and S. Commerce	$125,000.00
628.	Tennessee	Widen State Route 30 from Athens to Etowah	$5,758,000.00
629.	California	Construction of interchange at State Hwy 86 at Ave 66 in Coachella, CA	$4,500,000.00
630.	Illinois	Improve roads and enhance area in the vicinity of South Archer Avenue and Midway Airport, Chicago.	$5,500,000.00
631.	New Mexico	Reconstruction of I-40 west of Gallup to maintain safety and travelability of I-40	$1,500,000.00
632.	California	Construct off ramp at Interstate 8/Imperial Avenue Interchange, El Centro	$3,000,000.00
633.	Michigan	Dynamite Hill Road demonstration whitetoping on rural major collector leading to industrial park, Baraga County.	$200,000.00
634.	Texas	Reconstruction of US 277 and curb and gutter from the San Felipe Bridge to the approach on Sycamore Creek Bridge in Del Rio.	$6,800,000.00
635.	Texas	Completion of US 77 relief route around City of Robstown	$4,000,000.00
636.	Maryland	Construction of interchange at MD4 and Suitland Parkway and widening of MD 4	$2,100,000.00
637.	Washington	Improve Cemetary Road and rebuild/widen bridge over U.S. Bureau of Reclamation irrigation canal, Othello.	$190,000.00
638.	Oregon	Regional Trails Program for the first phase of three phases of trails in the comprehensive regional system.	$4,500,000.00
639.	New York	Rehab of Village of Kiryas Joel sidewalks, signalization and roadways	$1,250,000.00
640.	Illinois	Resurface Trumbull Avenue and Homan Avenue, Evergreen Park	$350,000.00
641.	Indiana	Replace Samuelson Road underpass, Portage	$3,200,000.00
642.	New Jersey	Bridge replacement and realignment on Amwell Road Bridge over the Neshanic River in Hillsborough, New Jersey.	$500,000.00
643.	New Jersey	Improvement to St. Georges Avenue from Wood Avenue, Roselle	$350,000.00
644.	Ohio	Construct roadway improvement project along State Routes 37 and 78 through Fairfield, Perry, Morgan, Noble, Monroe Counties.	$250,000.00
645.	Michigan	repave Old State Highway M-51 from Village of Applegate to Village of Carsonville	$500,000.00
646.	Georgia	Streetscape project to improve accessibility and safety for pedestrians, Mount Vernon	$606,000.00
647.	South Carolina	US & Bowman Road Interchange, Mount Pleasant	$7,000,000.00
648.	Ohio	Upgrade grade crossing safety devices in Elyria and North Ridgeville	$952,000.00
649.	Guam	Construct Route 3A Extension, Municipality of Yigo	$3,000,000.00
650.	California	I-80 Gilman Street interchange improvements, Berkeley	$1,500,000.00
651.	Texas	Reconstruct Ella/Wheatley from Little York to West Gulf Bank	$1,250,000.00
652.	Alaska	Planning and Design Knik Arm Bridge	$3,000,000.00
653.	Texas	Connect Pharr International Bridge to US 83	$10,000,000.00
654.	Michigan	Pittsfield Greenways Bridge - Nonmotorized bridge enhancement onto existing Bemis Road Bridge over US-23 to connect Pittsfield Greenways, Pittsfield Charter Township.	$275,000.00
655.	Connecticut	Reconstruct I-95 bridge over the Quinnipiac River	$1,500,000.00
656.	Illinois	Widening existing 2 lanes to 5 lanes; install closed drainage system; add additional right of way and new traffic signals.	$3,360,000.00
657.	Illinois	Widen U.S. Route 51 from Pana to Vandalia	$3,000,000.00
658.	Wyoming	Widen State Hwy 59:Widen 5 miles of existing 2-lane road to a 4-lane road, w/ a center turn lane	$1,000,000.00
659.	Missouri	Complete environmental impact study for North Oak Redevelopment	$500,000.00
660.	Michigan	Hartman-Hammond-Three Mile Road widening and bridge project	$3,000,000.00
661.	Massachusetts	Reconstruction of Goddard Memorial Drive from State Route 9 to Airport Drive, Worcester	$2,000,000.00
662.	New Jersey	Rehabilitation of Route 35 between Point Pleasant and Mantoloking NJ	$1,250,000.00
663.	California	Harbor Blvd. Intelligent Transportation System (ITS). Widen intersections and add lanes, Garden Grove/Anaheim.	$1,200,000.00
664.	New York	Improvements for pedestrian and vehicular access to Baychester Avenue and Bartow Avenue	$600,000.00
665.	Minnesota	Corridor preservation and right of way acquisition from I-494 to the city of Annandale in Wright County, MN.	$5,000,000.00
666.	New York	Rehabilitate Route 13 over Tioughnioga River-bridge access to City of Cortland	$1,020,000.00
667.	Pennsylvania	Restoration of I-176 from milepost 4 to milepost 7 and restoration of interchanges in Cumru and Robeson Townships, Berks County.	$4,531,000.00
668.	Arkansas	Improvement on County Road 14, Grapevine	$500,000.00
669.	Illinois	Construct grade separation on Grand Avenue, Franklin Park	$500,000.00
670.	Pennsylvania	Provide four through lanes on PA 100 by constructing two through lanes to the east of Ludwig's Corner.	$6,000,000.00
671.	Arizona	Design Concept Study of Rio Salado Parkway West to connect Loop 202 extension in Phoenix to Loop 303, Buckeye.	$2,800,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
672.	Illinois	Expand US Rte 20 to four lanes from Freeport to Galena, IL	$3,000,000.00
673.	California	Replace Davis Street Highway I-880 overpass, San Leandro	$1,000,000.00
674.	Texas	Add shoulders to FM 156 from Ponder, Texas to Krum, Texas	$4,000,000.00
675.	New Jersey	Preliminary engineering for connection of Route 23 and I-80	$1,500,000.00
676.	Minnesota	Construct bridge for Paul Bunyan Trail over Excelsior Road, Baxter	$1,200,000.00
677.	South Carolina	Bobby Jones Expressway (I-520) -To construct a circumferential route around Augusta, GA, and N. Augusta, SC, that is part of a larger system to relieve traffic congestion.	$2,000,000.00
678.	Virginia	Route 369 - construction of Route 369 from Southwest Virginia Community College campus to Route 19.	$983,000.00
679.	Florida	Belleair Causeway Bridge, Pinellas County	$19,000,000.00
680.	New Jersey	Roadway improvements in vicinity of Exit 12, NJ Turnpike, Carteret	$1,000,000.00
681.	California	Widening of two lane SR79 highway to four lanes	$2,000,000.00
682.	Georgia	Streetscape project to replace sidewalks in downtown Forsyth	$300,000.00
683.	Iowa	Complete the bicycle and pedestrian trail system for the Des Moines area through the development of a signature Riverwalk project.	$5,000,000.00
684.	California	Improvements (including arterial street rehabilitation) to enhance traffic and pedestrian safety in Reseda, Canoga Park, and Winnetka, Los Angeles.	$3,250,000.00
685.	Maine	Plan and construct highway access between Route 161 in Daigle to US Route 1, Madawaska	$1,000,000.00
686.	Wyoming	Bike Path from Jackson to Jenny Lake (25 mi)	$2,000,000.00
687.	Pennsylvania	Construct the realignment of Cool Creek Road in York County, Pennsylvania, or other eligible projects selected by York County, Pennsylvania MPO.	$1,000,000.00
688.	Pennsylvania	Design, engineering, ROW acquisition, and construction of intersection improvements and safety enhancements, Borough of Dunmore in Lackawanna County.	$650,000.00
689.	California	Upgrade roads, traffic signals and turn lanes in order to ease traffic congestion for the Willow/Ashlan & Shaw intersections.	$1,500,000.00
690.	New York	Design and construct pedestrian and bicycle path (Buttermilk Falls Trail), Ithaca	$544,000.00
691.	Pennsylvania	Redesign and upgrade of I-70 and I-79 South interchange to current federal safety standards	$1,000,000.00
692.	Mississippi	Martin Bluff Road improvements, Gautier	$3,000,000.00
693.	California	Improvements to interchange between SR 23 and SR 101. Could include widening of SR 23 from 2 lanes to 3.	$4,856,000.00
694.	Washington	Extension of Waaga Way W to Old Frontier Rd to complete a portion of the SR3, 303 interchange	$500,000.00
695.	Pennsylvania	The French Creek Parkway and Connector Roads	$5,000,000.00
696.	California	Coastal Corridor Investments Phase II -A - multi-modal improvements on Rosecrans Avenue between Sepulveda Blvd and I-405, El Segundo.	$3,000,000.00
697.	New York	Plan and construct greenway/bicycle path/esplanades and ferry landing along New York Bay in Sunset Park, Brooklyn.	$10,000,000.00
698.	Mississippi	Upgrade roads in Gunnison, Mound Bayou, Beulah, Benoit, and Shaw, Bolivar County	$2,400,000.00
699.	Alabama	Study and Design phase of major north-south West Alabama highway from Muscle Shoals to Mobile.	$1,000,000.00
700.	Ohio	Call Road Paving, and construction of access improvements in Perry Village	$67,000.00
701.	California	Reconstruct and widen Del Amo Blvd to four lanes between Normandie Ave and New Hampshire Ave, Los Angeles County.	$3,000,000.00
702.	Texas	Drainage study and engineering for US 83, Starr County	$1,000,000.00
703.	Iowa	Construct bypass (US 61) around City of Fort Madison, Iowa	$5,000,000.00
704.	New Jersey	Replace Rockaway Road Bridge over NJ Transit and Rockaway River	$1,000,000.00
705.	Florida	Replacing the outdated signals along US 19 in Pasco County and linking them together for one computerized system.	$7,000,000.00
706.	Maine	Improvements to Route 108 to enhance access to business park, Rumford	$1,500,000.00
707.	Arkansas	Development of grade separation on Highway 165, Stuttgart	$1,000,000.00
708.	Illinois	Resurface Shawnee College Road, Pulaski County	$1,264,000.00
709.	Pennsylvania	Design, engineering, ROW acquisition and construction of surface improvements to the area adjacent to Exit 168 of Interstate 81 at the Wachovia Arena, Wilkes-Barre Township.	$500,000.00
710.	New York	Construct Millennium Parkway in the towns of Dunkirk and Sheridan	$11,500,000.00
711.	Connecticut	Construct Pomfret Pedestrian Bridge	$120,000.00
712.	Illinois	Resurface Clifton Park Avenue and South Louis Avenue, Evergreen Park	$350,000.00
713.	New York	Buttermilk Falls bridge replacement in Town of Warwick-NY	$250,000.00
714.	Iowa	Construction and access between Sioux City, the primary routes leading to the city (Interstate-29, U.S. Highway 20, U.S. Highway 75, U.S. Highway 77, and Iowa Highway 12.).	$1,000,000.00
715.	New Jersey	Construct United States Avenue bridge, Lindenwold	$1,000,000.00
716.	Ohio	Land acquisition for enhancements and pedestrian paths in Silver Lake Township	$450,000.00
717.	Minnesota	Construct 3 segments of Cuyuna Lakes Trails, Crow Wing County	$1,200,000.00
718.	Missouri	Construction of diamond interchange at US 71 and Business 71. Final project in US 71 upgrade	$3,000,000.00
719.	Utah	Reconstruction of Box Elder County Road 523 (Forest Street), Box Elder County, Utah	$3,000,000.00
720.	Virginia	Improve Main Street in Covington	$500,000.00
721.	California	Realign and make improvements to California Hwy 199 between mile marker 22.16 and mile marker 23.65.	$1,000,000.00
722.	Ohio	Construct bike/pedestrian path, Fairview Park	$200,000.00
723.	Florida	Construct Eastern Connector in East Central Florida	$1,000,000.00
724.	Michigan	Pittsfield Greenways - 2.5 miles of pathways to existing Ann Arbor pathways, Pittsfield Charter Township.	$299,000.00
725.	Tennessee	Interchange improvements to increase traffic safety on US25E between I-81 and Cherokee Lake and bridge improvements to local roads.	$500,000.00
726.	Pennsylvania	This project involves widening the intersection of PA 100 and Park Road to accommodate left turn lanes on all approaches and installation of a new traffic signal.	$1,322,000.00
727.	Florida	Pedestrian/bike path improvements and safety projects in Windermere, Florida	$500,000.00
728.	Florida	Construct high rise replacement bridge and approaches adjacent to existing moveable bridge over the Intercoastal Waterway, Brevard Co, FL.	$6,000,000.00
729.	Ohio	St. Route 8 Safety Improvement and road expansion Project in Macedonia City	$4,000,000.00
730.	New Jersey	Route 17 Congestion Improvements and Widening, from Route 46 - Williams Avenue, Hasbrouck Heights to Routes 4 & 17 Interchange, Paramus.	$12,000,000.00
731.	Iowa	University Boulevard widening between 73rd St and NW 86th St, Clive	$1,000,000.00
732.	Minnesota	Kandiyohi and Meeker Counties Hwy 7 between TH 71 and TH 22	$2,440,000.00
733.	Texas	Improvements to Military Road, Penitas	$400,000.00
734.	Ohio	Bicycle trail and pedestrian trail construction in Willoughby Township	$600,000.00
735.	Missouri	Conduct Study of US 65 & US 60 Interchange Replacement, Springfield, MO	$2,000,000.00
736.	Connecticut	Reconstruct I-95/I-91/Rte. 34 Interchange and construct pedestrian walkway	$2,000,000.00
737.	Florida	Florida Keys Overseas Heritage Trail bridge rehabilitation	$2,000,000.00
738.	Illinois	Undertake access improvements to Museum Campus, Chicago	$2,000,000.00
739.	New York	Implement Intelligent Transportation System Sensor Technology to Improve Security at Bridges and Tunnels in Metropolitan New York City.	$1,000,000.00
740.	Louisiana	Upgrade LA 28 to four lanes from LA 121 to LA 465	$2,000,000.00
741.	Illinois	Reconstruct Lakeshore Drive overpass over Wilson Avenue, Chicago	$1,500,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
742.	Missouri	Access improvements at US 7 and Interstate 70 and safety and mobility upgrades. Part of Hwy 7 corridor development plan.	$3,000,000.00
743.	Wisconsin	Reconstruct Marquette Interchange	$10,000,000.00
744.	Minnesota	CSAH 21 roadway improvements, City of Ely	$1,000,000.00
745.	California	Improvement of Culver Boulevard between Elenda and Sepulveda; Sepulveda Blvd between Green Valley Circle and Jefferson Boulevard, Culver City.	$2,300,000.00
746.	New York	Improvements on the Cross Island Bridge Overpass/212 Street and vicinity, Queens, New York	$3,120,000.00
747.	Tennessee	Improve State Route 62 in Morgan County near US-27 in Wartburg to Petit Lane from existing two lane highway to four lanes.	$2,000,000.00
748.	California	Develop and implement traffic calming measures for traffic exiting the I-710 into Long Beach	$1,000,000.00
749.	Ohio	Safety improvements to 2 intersections at Meese Rd. and Easton St. in Nimishillen Township	$1,500,000.00
750.	Hawaii	Widen Queen Kaahumanu Highway	$4,850,000.00
751.	Massachusetts	Feasibility and environmental impact study into proposed relocation of New Bedford - Fairhaven (Route 6) Bridge.	$3,000,000.00
752.	Pennsylvania	This project involves realigning the intersection of King of Prussia Road and Upper Gulph Road and provide turning lanes and signalization.	$1,649,000.00
753.	New York	Rehab and realign Union Valley Rd, beginning at Sandy St. in Town of Carmel-NY	$500,000.00
754.	Utah	Highway 191, Moab	$400,000.00
755.	Idaho	New roadway, overpass and connecting intersection to provide access across I-84 in Meridian, Ada County.	$4,000,000.00
756.	Michigan	Greenville, Michigan - Fred Meijer Heartland Trail Completion,	$2,000,000.00
757.	Pennsylvania	PA Route 183 widening and ramp enhancement, Bern Township	$1,600,000.00
758.	Minnesota	North-South Corridor with Railroad Overpass, City of Staples	$1,500,000.00
759.	California	Modifies 9 traffic signals between Willow Road and Middlefield Road and Hamilton Avenue, Menlo Park.	$300,000.00
760.	Arkansas	New Interchange on I-540 near the existing Perry Road overpass in Rogers	$7,000,000.00
761.	Illinois	Upgrade roads, Village of Berkeley	$800,000.00
762.	California	Develop bicycle paths and public park space adjacent to the New River, Calexico	$5,000,000.00
763.	Michigan	Northville, Taft Rd. from 8 mile north to city limits	$500,000.00
764.	Rhode Island	Route 403 Construction, stage 2 - complete freeway in East Greenwich and North Kingstown, and Rt. 4 to Davisville Road.	$6,000,000.00
765.	Arkansas	Improvements to SH 102 in Bentonville from U.S. 71B to west city limits	$1,500,000.00
766.	Pennsylvania	Widening of US Route 22 and SR 26 in Huntingdon. Upgrades to the interchange at US 22 and State Route 26.	$3,200,000.00
767.	Texas	Feasibility study to examine the southern route of the La Entrada al Pacifico Trade Corridor	$2,000,000.00
768.	Delaware	Operational and capacity improvements to critical locations along I-95 in New Castle County	$2,500,000.00
769.	Florida	Expanding the capacity of a segment of US 19 from Whitney Road to Drew Street in Pinellas County.	$6,000,000.00
770.	Michigan	Upgrade Tilson Road between M-28 South to intersection of M-28 at Rudyard, Chippewa County	$1,000,000.00
771.	New York	Rehabilitate Bridge Street Bridge in Town of Newark Valley	$1,040,000.00
772.	Tennessee	Construct State Route 1/US-70 to a four lane divided highway on new alignment from Centertown to McMinnville, Warren County.	$11,500,000.00
773.	Pennsylvania	Widen Route 22 to eight lanes from the intersection of Route 22 and I-78 in the west to Route 33 in the east.	$8,000,000.00
774.	Kentucky	Reconstruct I-471/KY 8 interchange	$2,000,000.00
775.	Illinois	Construct road to provide access to Belleville's Citizen Park, Belleville	$2,000,000.00
776.	New York	Rehabilitate Riis Park Boardwalk	$300,000.00
777.	California	Construct right turn lanes, bus turn out lanes, right of way, traffic signals	$2,400,000.00
778.	Indiana	Study approximately two miles of railroad to eliminate in-town crossing, thus enhancing safety and reducing congestion in Delaware County, IN.	$150,000.00
779.	New York	Improve Montauk Highway from CR46 to Barnes Road, Suffolk County	$8,000,000.00
780.	New York	Improve Ashburton Ave from the Saw Mill River Parkway to the waterfront, Yonkers	$500,000.00
781.	Arizona	Widening of I-10 from 40th Street to Baseline Rd. in Phoenix	$4,500,000.00
782.	Georgia	Build a bridge across Big Indian Creek, Perry County	$1,500,000.00
783.	Georgia	Streetscape project to upgrade sidewalks, lighting, and streets, Jeffersonville	$500,000.00
784.	Florida	PALM BAY PARK WAY from Malabar Road to Ellis Road located west of Palm Bay	$4,000,000.00
785.	Pennsylvania	New interchange off of Rte. 60 into proposed industrial park in Neshannock Township, PA	$1,000,000.00
786.	Louisiana	LA 10/Zachary Taylor Parkway, and LA 1148 in Iberville Parish, and LA1/I-10 Connector Study	$4,000,000.00
787.	Illinois	Improve roads and bridges, Cicero	$4,000,000.00
788.	Georgia	Streetscape [pedestrian safety enhancements, sidewalks, curb replacement, restoration, landscaping, ADA compliance, restoration], Quitman.	$75,000.00
789.	Georgia	Purchase of 4,000 acres for widening US 441 for mitigation purposes	$2,000,000.00
790.	Minnesota	Stillwater-Oak Park Heights Right of Way acquisition for approaches to St. Croix River Crossing	$5,000,000.00
791.	Tennessee	Upgrade circuit at gates/lights for Bristol grade crossing (Hazelwood Street) to intelligent systems that eliminate current variability.	$100,000.00
792.	Arkansas	For rail grade separations identified by the MPO for the Little Rock/North Little Rock metropolitan area, (which may include: Edison Avenue; McCain/Fairfax; Hwy 100; J.P. Wright Loop; Hwy 89 Extension; Geyer Springs Road; Confederate Blvd.).	$12,000,000.00
793.	New York	Construction of and improvements to Main Street in the Town of Aurora	$500,000.00
794.	Alabama	US 280 - Urban Interchanges from US 31 (Red Mountain Expressway) to Shelby CR 47	$10,000,000.00
795.	California	Rehabilitate the pavement of Vincent Avenue between Interstate I-10 and the north city limit, West Covina.	$450,000.00
796.	New York	Realignment of Union Valley Rd. in Town of Carmel-NY	$300,000.00
797.	Texas	Grade separation of SH 146 over future Port Terminal Railway (PTRA) lead track & Red Bluff Rd. supports proposed Bayport Terminal Complex.	$11,400,000.00
798.	Tennessee	Continuation of Shelby Avenue-Demonbreun Street project, Nashville	$6,500,000.00
799.	Arizona	Construction of a four lane tunnel to link Butherus Dr. to Raintree Dr. in Scotsdale	$1,500,000.00
800.	Michigan	Michigan Intermodal Transportation Management Center to administer surface, highway, transit, and bridge tunnel intelligent hardware.	$350,000.00
801.	Pennsylvania	PA896 between Strasburg Borough and US30 needs to be widened to reduce congestion and to improve safety.	$1,000,000.00
802.	New York	Rehabilitate a historic freight warehouse in the Erie Canal's Inner Harbor of Syracuse, NY and develop it into a transportation museum.	$400,000.00
803.	Ohio	Construct connector road between I-680 and I-80, Hubbard	$2,000,000.00
804.	Nevada	Design and Construct I-15 Interchange, Mesquite Nevada	$500,000.00
805.	North Carolina	Expand freeway management system on I-540 through video camera and fiber optic communications installation, Wake County.	$1,700,000.00
806.	Michigan	Design, ROW acquisition, and construction for road widening/passing lane on US-127 South between M-50 and Michigan 223 and on Michigan 223 toUS-23.	$2,200,000.00
807.	Illinois	Intelligent Transportation System (ITS) demonstration project. Emphasis will be on improved incident management strategies and collecting/providing real-time travel information on Lake Cook Road from US 12 and US 41.	$540,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
808.	California	Widen Harbor Blvd to 8 lanes in Anaheim Resort Area	$1,000,000.00
809.	Indiana	Reconstruction from intersection of County Road 500E and US52 to the intersection of County Road 500E and County Road 1200N.	$914,000.00
810.	California	Upgrade and extend Commerce Avenue, City of Concord	$1,750,000.00
811.	Nebraska	Completion of the Columbus, Nebraska, North Arterial road	$5,000,000.00
812.	Florida	West Avenue Connector Bridge, Miami Beach	$3,000,000.00
813.	Connecticut	Improve roads and bridges, Connecticut	$1,500,000.00
814.	Massachusetts	Reconstruct and enhance Melnea Cass Boulevard, Boston	$2,000,000.00
815.	California	Preliminary engineering and EIS/EIR process for 33-mile long Orange Line mag-lev connecting Los Angeles with Orange County.	$300,000.00
816.	New York	Construction of and improvements to Union Road and Walden Avenue in Cheektowaga	$1,000,000.00
817.	Indiana	126th St. Project is a 3.9 mile roadway between two high schools in Fisher. St. will expand to 4 lanes with curb.	$2,000,000.00
818.	New York	Bicycle/Pedestrian trail linking East & West portions of town in Town of Warwick-NY	$500,000.00
819.	Texas	Construct highway improvements on E. Tidwell, Ley Rd, and E. Little York Rd	$4,000,000.00
820.	California	Widen and reconstruct Arch-Sperry Road to improve connection between Interstate 5 and State Route 99, San Joaquin County.	$5,000,000.00
821.	California	Construct San Leandro-Oakland biking and hiking path	$750,000.00
822.	Mississippi	Memorial Boulevard improvements, Picayune	$1,380,000.00
823.	Wisconsin	Widen State Highway 29 from I-94 to City of Chippewa Falls	$4,000,000.00
824.	Virginia	Further widen I-66 westbound from Rosslyn Tunnel to Dulles Access Road	$5,000,000.00
825.	Pennsylvania	Oakland Portal-Bates Street/I-376 exchange reconfiguration and resignalization and replacement of low clearance bridge carrying the Eliza Furnace Trail.	$1,000,000.00
826.	Texas	Engineering, Design, Environmental Studies, and right-of-way acquisition for a direct connector interchange from between I-45 and State Highway 146.	$4,000,000.00
827.	Illinois	Construct Leon Pass overpass, Hodgkins	$1,000,000.00
828.	North Carolina	Lenoir County highway improvements on Crescent Road to NC 58	$1,600,000.00
829.	California	Auburn Boulevard Reliever Route Under-grounding construction along I-80, Sacramento, CA	$2,000,000.00
830.	New York	Improve pedestrian and bicyclist safety along Queens Boulevard in Sunnyside and Woodside, Queens.	$500,000.00
831.	California	Build interchange connecting State Route 99 to newly aligned State Hwy 132, Modesto	$18,500,000.00
832.	Michigan	Van Buren, Belleville Rd. widen to 5 lanes between Tyler and Ecourse	$1,000,000.00
833.	Virginia	Repair of Starling Av Bridge in Martinsville	$500,000.00
834.	California	Widen State Route 99 to six lanes between Kingsburg and Selma, Fresno County	$14,000,000.00
835.	Pennsylvania	Redesigning the intersection of US 322/High Street and Rosedale Ave, constructing a new East Campus Drive.	$1,000,000.00
836.	Florida	Improvements to U.S. 1 between SW 4th street to the south and George Bush Blvd. To the north, Delray Beach, Florida.	$2,000,000.00
837.	New York	Install Improvements for Pedestrian Safety in the vicinity of PS 200	$250,000.00
838.	Massachusetts	Extensions and additions to the existing North Worcester County Bike Path System, including the Hardwick bike path.	$6,000,000.00
839.	New York	Construction of and improvements to South Park Avenue and Lake Avenue in the Village of Blasdell.	$500,000.00
840.	Illinois	Reconstruct Irving Park Road bridge of the North Branch of the Chicago River, Chicago	$4,030,000.00
841.	Washington	Tacoma Lincoln Avenue - Elevate Lincoln Ave. by constructing a viaduct over existing railroad lines.	$1,000,000.00
842.	Ohio	Road paving, pedestrian traffic and safety improvements throughout the Village of Bentleyville	$833,000.00
843.	Michigan	Reconstruct Bissonette Road from Lorenz Road to M65 with 12' lanes and 2'paved shoulders and gravel shoulders, Iosco County.	$623,500.00
844.	Illinois	Improve roads and bridges, Village of River Forest	$1,000,000.00
845.	Virginia	Rocky Knob Appalachian Heritage Center - feasibility study, design, site acquisition for trail system and visitors center on Blue Ridge Parkway.	$1,500,000.00
846.	Connecticut	Improve Plainfield Cemetery Road and Drainage	$300,000.00
847.	Ohio	Rehabilitation/replacement of rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties.	$360,000.00
848.	Ohio	St.Route 8 Interchange and Ramp Construction in Summit Co	$4,000,000.00
849.	Mississippi	Upgrade roads in Indianola (U.S. Hwy 82 and 49), Ruleville (U.S. Hwy 82 and 6), Moorehead (U.S. Hwy 82 and 3), Doddsville (U.S. Hwy 49), Sunflower (U.S. Hwy 49) and Drew (U.S. Hwy 49), Sunflower County.	$2,300,000.00
850.	California	Renovation and repair of Rosemead Blvd-Hwy19 such as new sidewalks, traffic loops, pavement, street lights.	$100,000.00
851.	Illinois	Connects about a two-mile two lane segment through Collinsville with IDOT's current project of widening IL-159.	$1,000,000.00
852.	New York	Improvements to the Far Rockaway Business District, Queens	$2,400,000.00
853.	New Jersey	Construct new ramps between I-295 and Route 42	$5,000,000.00
854.	South Carolina	Simmons Ford/Fork School Road Bridge in Anderson County	$235,000.00
855.	Arkansas	Improvement of Higdon Ferry Road, Hot Springs	$4,000,000.00
856.	California	Eucalyptus/ Peyton Drive intersection improvements in the city of Chino Hills	$7,036,110.00
857.	Mississippi	Upgrade roads in Mayersville (U.S. Hwy 14 and 1), Issaquena County	$200,000.00
858.	New York	Rehabilitation of Guy Lombardo Avenue in Freeport, New York	$1,700,000.00
859.	Indiana	Extend and improve the Cardinal Greenway in the City of Richmond, Indiana	$2,000,000.00
860.	Virginia	Reconstruction of Robertson Bridge in Danville	$5,970,000.00
861.	Connecticut	Conduct multimodal study of Route 8 corridor	$1,000,000.00
862.	Ohio	Construct an access road into the industrial park near SR 209 and CR 345 in Guernsey County	$800,000.00
863.	California	Widen South Main Street/Soda Bay Road between CR 400A /miler marker 0.0-mile marker 0.7 and CR502/mile marker 0.0 and mile marker 0.9.	$4,000,000.00
864.	Ohio	Construct grade separation at Stearns Road, Cuyahoga County	$3,750,000.00
865.	Illinois	Construct DuPage River Bike and Pedestrian Trail linking Grand Illinois, Midewin, and I&M Canal Trails.	$100,000.00
866.	Texas	Construct parallel bridge for SH 35 over Copano Bay	$2,000,000.00
867.	Pennsylvania	For the City of Philadelphia to begin construction of a low-impact, 2-lane roadway serving the North Delaware Riverfront corridor.	$10,000,000.00
868.	Arkansas	Improvement of Ryburn road, Parker Loop, Hill Harper Road, Rogers Road, and Shady Grove Road, Cleveland County.	$500,000.00
869.	Alaska	Keystone Drive Road Improvements	$1,000,000.00
870.	New York	Improve Long and Short Beach Road, Southampton	$2,100,000.00
871.	California	Widen Avenue P to six lanes to alleviate traffic congestion in Palm Dale, CA	$4,000,000.00
872.	Colorado	East 104th and US85 Intersection: Study, design and construction of needed improvements to intersection.	$2,000,000.00
873.	Alaska	Construct access road connection from Seward Highway to rail and airport facilities in Seward	$3,000,000.00
874.	Texas	Widen FM 380 West from 2 to 4 lanes from the Denton, Texas city limits to western Denton County line.	$5,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
875.	Ohio	Construct Safety and Accessibility Improvement project on U.S. Route 40, Bridgeport	$100,000.00
876.	Michigan	repave of Frenchline Road from state highway M-53 to Juhl Road	$500,000.00
877.	Pennsylvania	Design, engineering, ROW acquisition, and construction of street improvements and safety enhancements, Borough of Duryea in Luzerne County.	$250,000.00
878.	Alabama	Create a US-431 bypass around Eufaula, AL	$1,000,000.00
879.	North Carolina	New route from US 17 in Brunswick County to Independence·Boulevard in Wilmington, including new bridge over Cape Fear River.	$1,000,000.00
880.	Washington	Congestion relief on I-405 with added lanes from SR520-SR522 including 2 lanes each way from NE 85th-NE 124th.	$1,000,000.00
881.	Illinois	Resurface Internationale Parkway between Lemont Road and Joliet Road in Woodridge, IL	$100,000.00
882.	Texas	Pedestrian walkway improvements for the Main Street Corridor Revitalization Project, Houston	$16,000,000.00
883.	Wisconsin	onstruct State Highway 110 (County Highway G to Winchester), Winnebago County, WI	$5,000,000.00
884.	Minnesota	Construct 4th Street overpass grade separation crossing a BNSF Rail Road, City of Carlton	$199,794.00
885.	American Samoa	Village road improvements for Tau, Ofu, and Olosega-Sili counties in Manua District	$1,400,000.00
886.	New York	Remediate road runoff in vicinity of Peconic Estuary watershed	$1,000,000.00
887.	Texas	I35 Replacement Bridge, Dallas	$10,400,000.00
888.	Ohio	Red Bank Road Widening I-71 to Fair Lane in Hamilton County	$4,100,000.00
889.	Georgia	Upgrade sidewalks and lighting, Wrightsville	$500,000.00
890.	Louisiana	Construct Kansas-Garrett Connector and I-20 Interchange Improvements, Ouachita Parish	$5,000,000.00
891.	Connecticut	Construct Enfield Maple Street Bridge Replacement	$1,910,000.00
892.	Texas	Anzalduas Bridge Connection from the proposed bridge GSA facilities, north 2.4 miles to connect to Bryan Road, Mission.	$500,000.00
893.	Ohio	Paving, access and service road construction at Gate Lodge site in the City of Akron	$180,000.00
894.	Oregon	I-5/Beltline Interchange	$15,000,000.00
895.	Texas	Construction of the Northeast Parkway from Loop 375 to the Texas-New Mexico state line on FM3255, El Paso.	$4,500,000.00
896.	Illinois	Improve streets, Merrionette Park	$500,000.00
897.	Illinois	For widening from two to four lanes, the Brookmont Boulevard Viaduct in the city of Kankakee	$750,000.00
898.	Georgia	Create a greenway trail along the Oconee River connecting parks, preserving historic sites, and promoting economic development.	$2,000,000.00
899.	Nevada	Widening of I-15 from US-95 to Speedway Blvd	$6,000,000.00
900.	Pennsylvania	Conducting environmental review and acquire right of way for preferred alternative to improve Rt. 41.	$4,000,000.00
901.	Georgia	Construct Peter St. and Olympic Drive access perimeter around city of Athens	$2,000,000.00
902.	New York	Rehab Fishkill Road, culvert replacement at Foundry Brook in Putnam County-NY	$1,200,000.00
903.	Virginia	Construct Route 29 Bypass in Amherst and Lynchburg	$2,000,000.00
904.	Minnesota	Construction of Mesabi Station, City of Virginia	$1,300,000.00
905.	Pennsylvania	Construction of the Jeannette Truck Route to upgrade access from SR 30 to the City of Jeannette and the Jeannette Industrial Park.	$1,000,000.00
906.	Kentucky	Replace bridge over Stoner Creek (C-37), 2 miles east of Junction US 27	$800,000.00
907.	Texas	Construct Arkansas Avenue railroad grade separation project, Laredo	$4,500,000.00
908.	Minnesota	CSAH 61 improvements, City of Coleraine, Itasca County	$490,000.00
909.	New Jersey	Rte. 52 Causeway Replacement & Somers Point Circle Elimination. Replace 4 bridges with fixed span elevated structure, replace circle with intersection.	$9,000,000.00
910.	North Carolina	Study feasibility of widening NC226, initiate preliminary planning and design and make operational upgrades to improve safety.	$2,000,000.00
911.	District of Columbia	11th St. BridgesRehabilitation of structures as well as new ramps to provide for traffic at Navy Yard, Southeast Federal Ctr., and Gateway Government Ctr.	$32,000,000.00
912.	Delaware	Replacement of Indian River Inlet Bridge along SR-1	$5,000,000.00
913.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Niota, TN	$57,000.00
914.	Virginia	Wolf Creek Trail - development of trail along Wolf Creek, Washington County	$75,000.00
915.	Virginia	Improve Rt. 221 in Forest, VA	$1,000,000.00
916.	Tennessee	Widen SR-66 in Sevier County, north of Sevierville to a six-lane facility	$2,000,000.00
917.	Illinois	Patch, drain, resurface, reshoulder, and reconstruct county highways 8 and 29 at their I-55 interchanges.	$1,000,000.00
918.	Mississippi	State Route 44 rerouting, Columbia	$3,500,000.00
919.	New York	Pedestrian walkway and bikeway improvements along the NYC Greenway System in Coney Island.	$3,200,000.00
920.	Massachusetts	Construct Blackstone River Bikeway between Providence, RI and Worcester, MA	$3,500,000.00
921.	Washington	SR 2/ Main Street/Old Owen Road Intersection, Monroe	$540,000.00
922.	Iowa	Construct SW connector from the interchange of relocated IA 5 to IA 28 in West Des Moines	$2,000,000.00
923.	Florida	Construction of US 1 Interchange at CR 210 in St. Johns County, Florida	$6,300,000.00
924.	Massachusetts	Reconstruction of the North Washington Street Bridge, Boston	$8,000,000.00
925.	Oregon	South Bank Trail, Eugene	$1,920,000.00
926.	Minnesota	Construct roadway improvements to CSAH 76, Little Falls	$600,000.00
927.	Illinois	Widen IL Route 47 thru Huntley, IL	$3,900,000.00
928.	Rhode Island	Replace Sakonnet Bridge	$9,500,000.00
929.	New Jersey	Study and preliminary engineering designs for a boulevard on State Route 440 and .S. Highway Route 1 & 9, Jersey City.	$1,000,000.00
930.	Ohio	Highway safety construction/improvements in Geauga Co on Merrit Rd	$300,000.00
931.	Louisiana	Develop master transportation plan for the New Orleans Regional Medical Center	$300,000.00
932.	Pennsylvania	Erie Corridor Upgrades: Peach St. - I-90 to Waterford; Rte. 89 - Rte. 6 to Rte. 8; Rte. 6N - I-79 to Angling Rd.; Rte. 6 - Rte. 89N to Corry; Rte. 6 at: Ranges Corner Hill, E. of Union City, Routes. 89, 8 and 19.	$1,000,000.00
933.	Tennessee	Create a multi-faceted greenway in downtown Columbia on the Duck River	$8,000,000.00
934.	Michigan	M-6 Paul Henry Freeway trail design and construction	$2,660,000.00
935.	Mississippi	Pearl-Richland Intermodal Connector:Intermodal connector linking I-20 to US Hwy 49 and servicing Kansas City Southern Railroad Intermodal facility.	$1,000,000.00
936.	Washington	Bremerton Pedestrian/Bremerton Transportation Center Access Improvement project	$20,000,000.00
937.	California	Construct Silicon Valley Transportation Incident Management Center, San Jose	$6,000,000.00
938.	New York	Rehab Rt 9 in City of Peekskill	$1,775,000.00
939.	New York	Construction of and improvements to Niagara Street in Buffalo	$1,000,000.00
940.	Alabama	Construct interchange on I-59 at 49th Street (city of Fort Payne)	$3,000,000.00
941.	West Virginia	Constructing four lane improvements on US Route 35 in Mason County, West Virginia	$44,250,000.00
942.	Pennsylvania	Replacement of the Blair Creek Bridge (SR 1010) over the Little Lehigh Creek, just west of the Maple Grove Bridge, in Longswamp Township, Berks County.	$1,600,000.00
943.	California	Improve I-8 offramp at Octotillo to the Imperial Valley College Desert Museum/Regional Traveler Visitor Center, Imperial County.	$1,000,000.00
944.	California	Widen State Route 99 between Tulare and Kingsburg, California	$3,800,000.00
945.	California	Add carpool lane and truck lane on Interstate 5 in Santa Clarita Valley, CA	$1,500,000.00
946.	Minnesota	Construct full diamond interchange for TH 53 at 6th Ave, City of Virginia	$2,100,000.00
947.	Florida	Improvements to Interstate 75 between Daniels Parkway in Lee County, FL, and Golden Gate Parkway in Collier County.	$34,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
948.	Virgin Islands	Reconstruct Scott Free Road, St. Thomas	$7,000,000.00
949.	Connecticut	Construct Groton Bicycle and Pedestrian Trails and Facilities	$380,000.00
950.	Pennsylvania	Logan Sq. transportation enhancements involving pedestrian, safety, and landscaping improvements to area bisected by Benjamin Franklin Parkway and Logan Circle.	$1,250,000.00
951.	New Hampshire	Reconstruction and upgrade of the intersection of NH 130 and Broad Street in Hollis, NH	$464,000.00
952.	Alabama	Additional lanes on US-84 from Andalusia to Enterprise	$1,000,000.00
953.	New York	Implement Improvements for Pedestrian Safety in New York County	$1,000,000.00
954.	Ohio	Road Construction parallel to railway crossing to eliminate use of unsafe grade crossing	$300,000.00
955.	Minnesota	Construction of primary and secondary access roadways to the Duluth Air National Guard Base, City of Duluth.	$4,000,000.00
956.	New Jersey	Project will separate the intersection of 13th Street and the Lehigh Rail Line through bridge or tunnel in Borough of Manville, NJ.	$500,000.00
957.	Ohio	Expand Cuyahoga Tow Path, Brooklyn Heights and Newburg Heights	$3,250,000.00
958.	Florida	Improvements to State Road 710, Congress Avenue to Dixie Highway, Palm Beach County	$3,000,000.00
959.	Nebraska	Construct an Interchange at Pflug Road and I-80, Sarpy County	$1,000,000.00
960.	Georgia	I - 75 widening from 4-8 lanes, Tift/Lowndes/Turner Co	$1,000,000.00
961.	California	Monterey Bay Sanctuary Scenic Trail -- connect missing segments of a bike and pedestrian trail around the Monterey Bay National Marine Sanctuary.	$5,000,000.00
962.	Illinois	Construct pedestrian walkways and streetscaping projects, Western Springs	$4,210,000.00
963.	Illinois	Undertake streetscaping project on Harlem Avenue initiating from 71st Street to I-80, Cook County.	$5,000,000.00
964.	Pennsylvania	SR 3003 Bridge, replace bridge with possible roadway realignment in Mehoopany, Wyoming County.	$2,000,000.00
965.	Arkansas	Construction of I-49, Arkansas portion of Bella Vista Bypass to Pineville, Missouri on current Hwy 71.	$10,000,000.00
966.	Ohio	Improvements to Lauby Rd., an exit off Interstate 77 in the City of Green	$1,500,000.00
967.	Georgia	SE DeKalb Arterial Analysis	$1,000,000.00
968.	Oregon	Study landslides on U.S. Hwy. 20 between Cascadia and Santiam Pass to develop long-term repair strategy.	$1,000,000.00
969.	Illinois	Construct connector road from McCormick Blvd. to I-94, Lincolnwood	$1,000,000.00
970.	New Jersey	Pedestrian facilities and street lighting on Route 551 from Route 130 to Chestnut Street, Brooklawn.	$400,000.00
971.	New Hampshire	Relocation of the intersection of Maple Avenue and Charleston Road (Route 12 and 11) in Claremont, NH.	$500,000.00
972.	Illinois	Conduct study of Oak Park Environmental Cap	$1,000,000.00
973.	New York	Construct and improve access roads to Northland Commerce Park in Buffalo	$1,500,000.00
974.	Florida	I-75 Interchange Improvements in Pembroke Pines, Broward County, Florida	$9,000,000.00
975.	Texas	Hike and bike trail will tie into the Gellhorn Dr. project providing an improved multi-modal transportation facility.	$1,000,000.00
976.	Tennessee	Widen SR-75 to five lanes in Washington and Sullivan Counties	$2,500,000.00
977.	Arkansas	Repair Clear Creek Bridge and approaches, Lafayette County	$280,000.00
978.	Wisconsin	Reconstruct US Highway 41 in Oconto County, WI	$2,000,000.00
979.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Sweetwater, TN	$96,000.00
980.	Oklahoma	Construction of Norman Grade Separation	$2,000,000.00
981.	Washington	U.S.-12, Burbank to Walla Walla: Construct U.S. Highway 12 from Wallula to Walla Walla, Washington.	$3,000,000.00
982.	Illinois	Improve roads, Village of Bellwood	$1,328,000.00
983.	Ohio	Bridge replacement over the Tuscarawas River in Bethlehem Township	$1,300,000.00
984.	New York	Improve North Fork Trail, Southold	$200,000.00
985.	Arizona	Construct railroad grade separations (on 6th St. and 22nd St). and reconstruct Speedway Blvd. Underpass, Tucson.	$7,000,000.00
986.	California	Atlantic Blvd Bridge widening, Vernon	$1,000,000.00
987.	Indiana	Upgrade of US 31 from I-465 to SR 38 in Hamilton County, a distance of 12.5 miles	$1,000,000.00
988.	Connecticut	Construct Valley Service Road Project, North Haven	$1,000,000.00
989.	Pennsylvania	SR 3005 Bridge, replace the existing one span steel truss bridge with concrete box beam bridge. In Sterling Township, Wayne County.	$1,000,000.00
990.	Puerto Rico	To provide for the extension of PR-53 between Yabucoa and underserved Maunabo. Project will enhance safety and efficiency while protecting the environment.	$5,000,000.00
991.	South Carolina	Murphy Road West Bridge in Anderson County	$150,000.00
992.	California	Improve farm to market roads in Tulare County	$6,000,000.00
993.	Illinois	Phase II engineering study for high level bridge linking Caton Farm Road with Bruce Road	$2,000,000.00
994.	Maine	Safety Enhancements on Routes 11, 6, and 16 for Piscataquis County Industrial Development	$400,000.00
995.	Mississippi	Old Augusta Road project, Perry County	$3,500,000.00
996.	Missouri	Lane widening and shoulder construction as part of larger 92-10 corridor development	$4,000,000.00
997.	Georgia	Construct a new Interchange at I-75 and CR 65 and perform renovations on CR 65	$7,757,976.00
998.	Texas	US 59 just south of Nacogdoches, from Loop 224 south to Spradley Street	$3,000,000.00
999.	New York	Reconstruct Page Green Road (Starr Road to Congdon Lane)	$2,900,000.00
1000.	Massachusetts	Reconstruct and enhance Massachusetts Avenue, Boston	$5,000,000.00
1001.	Oregon	Construct turn lane on Hwy. 101, Gold Beach	$200,000.00
1002.	Florida	Timucuan Bike Trail in Duval County	$1,500,000.00
1003.	Texas	Extension of SH190, the President George Bush Tollway, in Rowlett to IH-30 in Garland	$5,000,000.00
1004.	Colorado	Bromley Lane and US 85 interchange feasibility study and construction of needed improvements	$2,000,000.00
1005.	Texas	SH 158 from US87, N of Sterling City to 9.5 miles west	$1,500,000.00
1006.	Alabama	Continuous river edge walkway creating a system of parks and open spaces in historic downtown Montgomery.	$1,000,000.00
1007.	Wyoming	U.S. 85 Passing Lanes:Add passing lanes on the hills from Lusk to Mule Creek Junction	$2,000,000.00
1008.	Texas	Ennis, US 287 Bypass from US 287 South to IH-45, take from two lanes to four	$7,000,000.00
1009.	Mississippi	Airport Parkway Connector:Multi-lane limited access highway linking downtown Jackson to Jackson International Airport - western segment of project connecting I-55 to MS Hwy 468.	$2,000,000.00
1010.	Tennessee	Widen State Route 101 in Cumberland County from two lane highway to five lanes between State Routes 282 (Dunbar Road) and 392, Crossville.	$8,000,000.00
1011.	Illinois	Feasibility study to examine transportation access improvements related to South Suburban Airport, Will County.	$100,000.00
1012.	Florida	Expansion of SR 35 in Marion County. The Project extends from SR 40 south to SR 464	$3,000,000.00
1013.	New Jersey	Expand Interchange at Exit 16 on Interstate 280, Harrison	$10,000,000.00
1014.	Iowa	Reconstruct U.S. 30 "Liberty Square Redevelopment" in City of Clinton	$10,000,000.00
1015.	Pennsylvania	Enhance and further build out existing ITIP ITS system, the Philadelphia region	$4,100,000.00
1016.	California	Conduct Study and Construct Vasco Road Safety Improvements Project, Contra Costa County, CA.	$1,000,000.00
1017.	Illinois	Improve Cottage Grove/South Chicago Avenue/71st Street intersection, Chicago	$700,000.00
1018.	Florida	Improvements to Interstate 75 between Daniels Parkway in Lee County, FL, and Golden Gate Parkway in Collier County, FL.	$14,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1019.	Pennsylvania	Freeport Bridge Rehabilitation for structural improvements, Armstrong County	$1,500,000.00
1020.	Indiana	Improve Rt. 100 South, Porter County	$1,000,000.00
1021.	Illinois	Study, design, and construct a designated truck route through the City of Monticello	$1,000,000.00
1022.	Florida	Upgrade US 301 to 4 lanes between CR475 & Jarrell Ave in Sumter County	$3,000,000.00
1023.	Illinois	Construct certain segments of Southern DuPage County Regional Trail	$100,000.00
1024.	Texas	Reconstruct the I-30 Bridge over the Trinity River in Dallas, Texas	$1,000,000.00
1025.	Ohio	New highway connector linking U.S. Route 36 and I-71 in Delaware County	$14,000,000.00
1026.	New York	Conduct corridor study on NYS 5 in the village of Herkimer ,	$80,000.00
1027.	Texas	Reconstruct and elevate FM3005, Harborside Dr., and Stewart Rd., Galveston	$500,000.00
1028.	Florida	Construction of a new bridge at Indian Street, Martin County	$1,000,000.00
1029.	Ohio	Construct pedestrian bridge over I77; tunnel underneath railroad; bridge over Tuscarawas River along Ohio and Erie Canal in Tuscarawas County.	$2,000,000.00
1030.	Maine	Kennebec River Rail Trail	$400,000.00
1031.	Colorado	Widen and upgrade US 36 from City of Boulder to I-25	$5,000,000.00
1032.	Illinois	Engineering studies and construction of Romeoville and/or Plainfield interchange(s) approved by FHWA.	$1,500,000.00
1033.	Texas	US 380 from Throckmorton/Young County line, 7.409 miles west	$1,000,000.00
1034.	Illinois	Construction and engineering US Rte 30 to four lanes between Fulton and Rockfalls, IL	$1,000,000.00
1035.	California	I-5 CIP adds general purpose lanes, HOV lanes & corridor arterial improvements from SR 91 to I-710.	$5,650,000.00
1036.	Florida	I-95 Interchange at Becker Road in St. Lucie County, Florida	$2,000,000.00
1037.	New York	Implement Diamond Grinding Measures to Reduce Noise on I-95, I-278, Mosholu Parkway, I- 495, Grand Central Parkway, and Richmond Parkway.	$700,000.00
1038.	Missouri	Construct new Missouri Route 19 Bridge at Hermann, Missouri	$1,000,000.00
1039.	Oregon	Reroute U.S. 97 at Redmond, OR and improve the intersection of U.S. 97 and Oregon 126	$5,000,000.00
1040.	Texas	Improvements to North I Road, north of FM 3461 to SH 495, Hidalgo County	$1,900,000.00
1041.	Tennessee	Proposed State Route 385 from US -72 to I-40 in Shelby and Fayette Counties. It is part of an outer loop, around the city of Memphis.	$3,150,000.00
1042.	Florida	Replacement of a two lane bridge with a four lane bridge including bicycle and pedestrian lanes in Bay County.	$5,000,000.00
1043.	Pennsylvania	Intersection improvements at PA Route 209 and Water Company Road, construction of a bridge and access enhancements to Nature and Arts Center, Upper Paxton Township.	$500,000.00
1044.	Ohio	Upgrade Riversouth street networks between Route 40 and I-70/71 in Columbus, Ohio	$8,000,000.00
1045.	Maryland	Design and right of way of an interchange connecting MD 5, MD 373, and Brandywine Road, and the widening of MD 5 between Moore's Road and US 301, Charles County.	$10,000,000.00
1046.	Virginia	Town of St. Paul - restoration of historic Hillman House to serve as trail system information center on and construction of stations.	$300,000.00
1047.	Arkansas	Overlay Lester Road, County Road 25, Ouachita County	$500,000.00
1048.	Indiana	Extend Interstate 69 from Indianapolis to Evansville	$10,000,000.00
1049.	Louisiana	Construct bridge across Ouachita River from Monroe, LA to West Monroe, LA	$1,500,000.00
1050.	Florida	Depot Avenue Road Enhancements, Gainesville	$6,000,000.00
1051.	New York	The Town of North Hempstead's improvements along Prospect Avenue corridor in the hamlet of New Cassel.	$1,000,000.00
1052.	California	Reconstruct the interchange of I-5 and Richards Boulevard and other improvements	$10,000,000.00
1053.	New York	Rt 17 M Corridor access management and safety improvements in Orange County - NY	$500,000.00
1054.	Oregon	Construct highway and pedestrian access to Macadam and construct street improvements as part of South Waterfront development.	$9,000,000.00
1055.	Mississippi	Widening of MS Hwy 15: Reconstruction, relocation, and widening segment of MS Hwy 15 from Louisville to Philadelphia.	$1,250,000.00
1056.	Illinois	Next phase of the US Route 51 four-lane expressway extension from Moweaqua to Pana	$1,800,000.00
1057.	California	Reconstruct 7 miles of Whittier Blvd. from Valley Home to Rivera Road (State Route 72), Whittier.	$1,100,000.00
1058.	Louisiana	New Iberia rail grade separation	$250,000.00
1059.	Mississippi	Feasibility Study for MS Hwy 27:Feasibility study for widening MS Hwy 27 south from Monticello to Louisiana line.	$500,000.00
1060.	Georgia	7.3 mile recreation and multi-use trail in Hall County, Georgia	$5,200,000.00
1061.	District of Columbia	South Capitol Street/Fredrick Douglass BridgeRehabilitation of structures and environmental studies.	$20,000,000.00
1062.	South Carolina	Construction of SC 9 in Spartanburg County	$9,000,000.00
1063.	Florida	Upgrade of I-75 between SR52 and SR 50 in Pasco & Hernando County	$1,000,000.00
1064.	North Carolina	Widening of US 29 Business (Freeway Drive) from South Scales Street to NC 14, Rockingham County.	$10,000,000.00
1065.	California	Realign Route 4 within the City of Oakley to construct a northerly bypass west of Vintage Parkway to Main Street at the intersection of Second Street.	$2,000,000.00
1066.	Ohio	Upgrade U.S. Route 30 between State Route 235 and Upper Sandusky in Hancock and Wyandot Counties.	$10,090,000.00
1067.	Michigan	Highland, Pave Clyde Rd. from Strathcona to Hickory Ridge	$125,000.00
1068.	New York	Improvements to Lexington Ave. in Village of Mt. Kisco in Westchester County	$500,000.00
1069.	New Mexico	Complete design, environmental and cultural resource studies and initial construction of NM4 around, or improvements through, Walatowa.	$1,500,000.00
1070.	California	Widen California Hwy 101 and reconstruct off ramps between Steele Lane and the town of Windsor.	$9,000,000.00
1071.	Virginia	North Fork of Pound Lake Trail and Visitors Center - construction of trails network and visitors center on Forest Service land.	$750,000.00
1072.	Maryland	Rt. 29 lane widening from Rt. 32 intersection to Johns Hopkins Rd. to reduce congestion and increase safety, Howard County.	$11,000,000.00
1073.	Alaska	Construct linking road from airport to port in Akutan	$3,000,000.00
1074.	Pennsylvania	California University of Pennsylvania Urban Maglev Demonstration Project	$2,000,000.00
1075.	Virginia	Engineering and Right-of-Way for Interstate-73 in Henry County	$2,000,000.00
1076.	Indiana	Widening of 1.2 miles of 4 lane street, with sidewalks in Carmel, IN	$1,000,000.00
1077.	Arkansas	Improve Johnny Tate Bridge, Scott County	$280,000.00
1078.	Minnesota	Phase III of Devil Track Road Project, Cook County	$1,200,000.00
1079.	New York	Pedestrian access improvements to Main Street in the central business district of Hempstead	$2,000,000.00
1080.	Minnesota	Construct Paul Bunyan Trail Walker to Bemidji Segment	$1,400,000.00
1081.	California	Construct exit from SR 78 to San Diego State University-Brawley Campus, Brawley	$500,000.00
1082.	Mississippi	Upgrade roads in Fayette (U.S. Hwy 61 and 33), Jefferson County	$600,000.00
1083.	Michigan	grade separation over the Canadian National Railroad at Wilder Road	$1,000,000.00
1084.	Alaska	Citywide pavement rehabilitation in City of North Pole	$1,000,000.00
1085.	Pennsylvania	Construction of 15 mile segment of Mon-Fayette Expressway from Rt 119, Fayette County to Rt 88, Washington County.	$5,000,000.00
1086.	North Dakota	Replacement of Bismarck Mandan Memorial Bridge. This bridge spans the Missouri River and connects two of North Dakota's largest cities.	$24,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1087.	Oklahoma	Construct and widen six lanes on Interstate 44 from the Arkansas River extending east approximately 3.7 miles to Yale Avenue in Tulsa.	$12,000,000.00
1088.	Michigan	Croix Street reconstruction - remove and install new surface, curb, gutter, sidewalk from US 41 to Mass Street, Negaunee.	$1,125,000.00
1089.	Virginia	Construct I-73 in Roanoke County	$2,000,000.00
1090.	Texas	Complete upgrade of US 290 East of Williamson Creek to West of RM 1826	$6,000,000.00
1091.	New York	Deer Avoidance System	$250,000.00
1092.	Mississippi	Longleaf Trace Rail-Trail:Expansion and improvement of Longleaf Trace rails-to-trail, running from Prentiss to Hattiesburg.	$250,000.00
1093.	Pennsylvania	Rt-422-Complete preliminary engineering and four lane expansion from Ebensburg to Kitanning	$3,000,000.00
1094.	Georgia	1-mile pedestrian pathway along Spring Road, Cobb County	$2,000,000.00
1095.	Georgia	US 27 reconstruction and rehabilitation, Colquitt to CR279/Damascus-Hilton Road	$1,000,000.00
1096.	Mississippi	Upgrade roads in Kilmichael, Montgomery County	$400,000.00
1097.	New York	Rehabilitation of road and drainage systems on Sequams Lane Center and Sequams Lane West in the Town of Islip.	$700,000.00
1098.	New York	Improvements to Old Glanham Rd in Town of Fishkill	$125,000.00
1099.	California	Alhambra Valley Boulevard Enhancement Project, the City of Alhambra	$2,000,000.00
1100.	California	Widening of Mount Vernon Avenue bridge to four lanes, Colton	$1,250,000.00
1101.	Ohio	Continue enhancement of successful riverfront project to provide valuable pedestrian and bikeway linkages, connecting surrounding neighborhoods and downtown.	$3,480,000.00
1102.	Massachusetts	Geometric improvements, safety enhancements, and signal upgrades at Rt. 28 & Rt. 106, intersection West Bridgewater.	$1,500,000.00
1103.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Knoxville, TN	$158,000.00
1104.	Indiana	New road construction of Oak Road Extension in Plymouth, Indiana	$1,000,000.00
1105.	California	Implement intelligent management & logistics measures to improve freight movement, Gateway Cities.	$3,000,000.00
1106.	Indiana	Modernize traffic signals throughout the city, reduce congestion, enhance economy, ease air pollution in Muncie, IN.	$600,000.00
1107.	Mississippi	Upgrade roads at Coahoma Community College, and roads in Coahoma and Jonestown, Coahoma County.	$1,600,000.00
1108.	Alabama	Pedestrian Improvements for the cities of Moody, Leeds, Homewood, Columbiana, Northport, Gardendale, Morris, Centerpoint and Pell City.	$1,200,000.00
1109.	Arizona	Resurface Navajo Mountain Road, Navajo Nation	$1,000,000.00
1110.	Texas	Road grade separation at Fairmont Parkway over Southern Pacific Road	$5,000,000.00
1111.	New York	Construct smart growth improvements in the Nepperhan Valley, Yonkers	$500,000.00
1112.	California	Reconstruct segments of Hollister Avenue between San Antonio Road and State Route 154, Santa Barbara County.	$2,500,000.00
1113.	Indiana	Interchange of Interstate 64, Harrison County	$600,000.00
1114.	Missouri	Expand MO Rt. 94 (St. Charles Cnty, MO) to accommodate increased traffic flow from completed Page Ave Bridge.	$3,000,000.00
1115.	Florida	Miami River Greenway Roadway Improvements Project	$2,000,000.00
1116.	Michigan	M-72 Widening in Grand Traverse County	$2,500,000.00
1117.	Ohio	Construct bike/pedestrian path, Independence	$1,100,000.00
1118.	Texas	I35 East/I-635 Interchange	$2,500,000.00
1119.	Florida	Park Blvd. (SR 694), Pinellas Park	$5,000,000.00
1120.	Colorado	Improve US 40 over Berthoud Pass, Clear Creek and Grand Counties	$1,000,000.00
1121.	Illinois	Improve streets, Westchester	$150,000.00
1122.	Nevada	Construct City of Henderson, Nevada Interchanges, I-515	$21,000,000.00
1123.	Arizona	Construct the Rio Salado Parkway from 7th Street to the planned loop 202 freeway, Phoenix	$8,000,000.00
1124.	Washington	24-hour two-way transit and HOV facility on I-90 between I-5 in downtown Seattle and I-405 in Bellevue.	$10,000,000.00
1125.	New York	Restore vehicular traffic to Main Street in downtown Buffalo	$5,000,000.00
1126.	West Virginia	Construct Shawnee Parkway	$1,100,000.00
1127.	Pennsylvania	Upgrades to Business Route 220 (SR 4009) at the entrance of the Bedford Business Park to Beldon County Ridge intersection.	$2,100,000.00
1128.	New York	Construction of and improvements to Michigan Avenue, Buffalo	$1,000,000.00
1129.	Illinois	Reconstructs and realigns 2.3 miles of Evergreen Avenue located west of the City of Effingham, IL.	$1,875,000.00
1130.	New York	Improvements to Brewster Hill Rd., Starr Ridge Rd., Independence Way, Sherwood Hill, and Shore Dr. in Town of Southeast.	$240,000.00
1131.	Puerto Rico	Project will provide for a central segment of PR-10 between Utuado and Adjuntas. This will help complete a much needed north/south artery.	$5,000,000.00
1132.	Illinois	Development of an interchange at Brisbin Rd and Interstate 80	$6,000,000.00
1133.	Arkansas	Construction of Gilham Lake Access Road, Howard County	$1,144,000.00
1134.	Florida	Intermodal connector between the Tallahassee Regional Airport and I-10	$9,000,000.00
1135.	Florida	New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, Florida	$1,000,000.00
1136.	Arkansas	Development of interchange at state highway 89 and Interstate 40	$3,000,000.00
1137.	Pennsylvania	Design, engineering, ROW acquisition and construction of a connector road between PA 115 and Interstate 81, Luzerne County.	$500,000.00
1138.	California	mitigate current and future congestion and operational problems occurring daily along Harbor Boulevard between I-405 southbound onramp and Sunflower Avenue.	$3,000,000.00
1139.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Loudon, TN	$57,000.00
1140.	Oklahoma	Enhancements for Highway 19 from Ada to Stratford	$3,000,000.00
1141.	Minnesota	Economic Development Corridor planning between Aurora and Ely	$3,000,000.00
1142.	Texas	Houston Region Highway Mitigation Demonstration project to measure impact of forestation and landscaping along Houston freeways.	$6,000,000.00
1143.	New Jersey	New Jersey Turnpike/Route 440 Interchange Improvement, Bayonne	$5,000,000.00
1144.	Iowa	Construction of roadway south of Cedar Lane to Highways 92 and southwest to Interstate 29 at the East Beltway - Council Bluffs, IA (Pottawattamie County).	$1,000,000.00
1145.	New York	Improve Traffic Flow on Noel Road between Church and Crossbay Boulevard Including Work Necessary to Demolish and Reconstruct the Firehouse Facility.	$1,000,000.00
1146.	New York	Conduct ITS study for Intermodal Chassis	$1,500,000.00
1147.	New York	Improve bicycle and pedestrian safety on Main Street, Holbrook	$100,000.00
1148.	Nevada	Construct US-95 Interchange with Horse Road, Las Vegas, Nevada	$6,000,000.00
1149.	Texas	Waxahachie, build out and improvements to a portion of IH-35, from US 77 North of Waxahachie to US 77 South of Waxahachie.	$5,000,000.00
1150.	Ohio	Wilson Mills Road intersection construction and enhancement project in the town of Highland Heights.	$940,000.00
1151.	North Carolina	Relocate US 70 as a four lane divided facility to increase capacity and safety	$2,000,000.00
1152.	New York	Rehab of Bedell Road in Town of Poughkeepsie-NY	$481,555.00
1153.	Oregon	Construct bike/pedestrian path, Powers	$440,000.00
1154.	New York	Transportation facility for Harlem Hospital Complex	$11,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1155.	Georgia	Upgrade sidewalks, replace street lights, and landscaping, Metter	$500,000.00
1156.	Indiana	Construct interchange at I-65 and 109th Avenue, Crown Point	$6,000,000.00
1157.	Michigan	Realignment of 3200 feet of County Road 492 from US-41 north to County Road HD	$500,000.00
1158.	Illinois	Relocate US Route 41, Chicago	$6,500,000.00
1159.	Georgia	Replace sidewalks, upgrade lighting, and install landscaping, Soperton	$865,200.00
1160.	Washington	SR 2/Kelsey Street Intersection Improvements, Monroe	$135,000.00
1161.	Ohio	St. Route 8 Service Road Construction in Summit County	$1,303,000.00
1162.	New Jersey	Hoboken Waterfront Bicycle and Pedestrian Facilities	$2,000,000.00
1163.	Virginia	Occoquan, VA Mill Street improvement project	$200,000.00
1164.	Ohio	Reconstruct and widen State Route 82, North Royalton	$1,000,000.00
1165.	New York	Reconstruct the Niagara Street culvert/bridge which crosses over Two Mile Creek, City of Tonawanda.	$600,000.00
1166.	Wisconsin	Rehabilitate State Highway 51 from County S to State Highway 8	$4,000,000.00
1167.	New Jersey	Safety and flow improvements for I-287/I-80/Route 202 Interchange	$2,000,000.00
1168.	North Carolina	Installation of Intelligent Transp. Systems devices along US 52 over Norfolk Southern RR, Winston Salem.	$700,000.00
1169.	District of Columbia	Metro Branch Trail Construction	$2,000,000.00
1170.	Tennessee	Expansion of Rutherford County signage system (visitor's center and transportation information hub).	$400,000.00
1171.	Texas	Construct I-69 as an interstate facility from Texas/Louisiana to Mexico border	$150,000.00
1172.	Oregon	Sunrise Corridor for planning, engineering, and multimodal development work in Clackamas County and the Damascus Area Concept and Implementation Plan.	$3,000,000.00
1173.	Illinois	Upgrade roads in the vicinity of ABLA Homes, Chicago	$1,000,000.00
1174.	Florida	To complete improvements to Eller Drive including right-of-way acquisition and construction of return loop connector beginning on I-595 west of U.S. 1 and connecting U.S. 1 south.	$2,000,000.00
1175.	Pennsylvania	US30 corridor improvements from PA896 to PA897. Connects PA41	$3,000,000.00
1176.	Pennsylvania	For the development of 9.6 miles of public bicycle and pedestrian trail along the Delaware River by the PA Environmental Council.	$9,288,525.00
1177.	Massachusetts	Somerville roadway improvements, Somerville	$2,000,000.00
1178.	Texas	North Cameron County East-West Railroad Relocation Project	$500,000.00
1179.	California	Construct truck lane on Baughman Road from State Route 78/86 to Forrester Road, Westmoreland.	$550,000.00
1180.	Connecticut	Construct UCONN Storrs Campus - Hillside Road Connection	$4,500,000.00
1181.	California	Upgrade and reconstruct the I-80/I-680/SR 12 Interchange, Solano County	$8,000,000.00
1182.	Texas	Widen Mile 6 West to four lanes from US 83 to SH 107, Hidalgo County	$2,000,000.00
1183.	Missouri	12th street Viaduct bistate connector, Kansas City	$1,000,000.00
1184.	New York	Study and Implement Improvements to Avenue U from Mill Avenue to East 38th Street and Flatbush Avenue from Avenue T to Avenue V.	$500,000.00
1185.	New York	Construct Fire Island ferry terminal facility, Patchogue	$2,000,000.00
1186.	New York	Rehab of Sharon Dr. in Town of Poughkeepsie-NY	$328,000.00
1187.	Florida	Streetscape improvements on Blue Heron Boulevard from US 1 to SR A1A, City of Riviera Beach	$2,000,000.00
1188.	California	Construction of 7 grade separations in cities of Santa Fe Springs, Pico Rivera, and La Mirada along BNSF Railway.	$2,150,000.00
1189.	Iowa	Build IA-32 "Southwest Arterial" in Dubuque County	$20,000,000.00
1190.	Washington	U.S.-395, North Spokane Corridor: Construct two-lane highway from US 2 interchange to Francis Avenue.	$4,380,000.00
1191.	California	Reconstruction of Sheldon Road and SR 99 Interchange, Elk Grove, CA	$7,000,000.00
1192.	Ohio	I-90/SR 615 bicycle and pedestrian trails expansion in the City of Mentor	$5,000,000.00
1193.	Minnesota	Main Street streetscape reconstruction, 2nd Street from Ash Ave. to State Hwy 2, and Grant Utley Ave from 2nd Street to 6th Street N. across State Hwy 2, Cass Lake.	$1,700,000.00
1194.	Tennessee	Connector Road Extending I-75 across to Highway 58	$12,400,000.00
1195.	California	Transportation enhancements on Slauson Ave and Atlantic Blvd, Maywood	$2,500,000.00
1196.	Indiana	Improve Calumet Avenue between Vale Park Road and Bullseye Lake Road, Valparaiso	$1,200,000.00
1197.	Maine	Construct bicycle and pedestrian bridge over Stillwater River, Orono	$1,000,000.00
1198.	Pennsylvania	Route 313 turning lanes, truck climbing lanes, Doylestown, Plumstead, Hilltown Township	$1,000,000.00
1199.	West Virginia	Construct I-74/74 Corridor, Mingo Co	$12,000,000.00
1200.	New York	Construction of median, re-design and improvements to Main Street in Buffalo	$1,000,000.00
1201.	Michigan	Widen and reconstruct a 2 lane road into a 4 lane divided road with landscaped median	$3,000,000.00
1202.	Connecticut	Undertake improvements associated with Coltsville Area Redevelopment, Hartford	$2,000,000.00
1203.	Illinois	Construct parking facility and pedestrian walkways at 94th and South Oak Park Avenue, Oak Lawn.	$150,000.00
1204.	Alabama	I-65 widening to six lanes in Shelby County from AL 119 to AL 25	$10,000,000.00
1205.	Virginia	Wheelchair-accessible connector trail in Charlottesville	$30,000.00
1206.	California	Widen State Route 46 to four lanes between Airport Road and the Shandon Rest Stop in San Luis Obispo County.	$33,461,000.00
1207.	Colorado	I-70 and SH58 interchange: Completion of interchange including reconstruction of existing ramps, building of missing ramps and ROW acquisition.	$14,000,000.00
1208.	Texas	Tower 55 CMAQ Congestion and Preliminary Engineering Study	$500,000.00
1209.	Texas	Hike and Bike lanes on Sunset Dr., along Clear Creek and trails along Sunset & Briarmeadow to two city parks.	$600,000.00
1210.	Connecticut	Construct Montville-Preston Mohegan Bridge Expansion	$2,000,000.00
1211.	Illinois	Conduct study and design of Chicago North Lakefront path expansion project	$1,000,000.00
1212.	California	Montclair Ramona Avenue grade separation along Alameda Corridor East	$2,000,000.00
1213.	Arkansas	Development of infrastructure to Van Buren's intermodal facilities	$1,500,000.00
1214.	Ohio	Lake County MetroParks for completion of Phase III bicycle path project	$348,000.00
1215.	Oregon	Widen I-5 between Vancouver,WA, and Portland, OR	$5,000,000.00
1216.	Iowa	Add two lanes to the existing Highway 63 from Iowa Highway 3 north 18.1 miles to just south of Highway 18.	$8,700,000.00
1217.	California	widening the Fairview Road bridge over I, widening the onramp to accommodate three lanes, and provide one right-turn lane, one optional through or right-turn lane and three through lanes.	$1,900,000.00
1218.	New Jersey	Pedestrian facilities and street lighting on Haddon Avenue from Albertson Avenue to Glenwood Avenue, Haddon Township.	$433,000.00
1219.	Pennsylvania	Relocation and upgrade of Beaver Hallow Rd, leading to the Beaver Medical Center	$1,500,000.00
1220.	California	Reconstruct 1.5 miles of Paramount Blvd. from Carson Street to Candlewood St., Lakewood	$1,250,000.00
1221.	New York	Redesign and Reconstruction of the Putnam Rail trail, the Bronx	$700,000.00
1222.	Oregon	Construct turn lane on Gateway Boulevard, Cottage Grove	$90,000.00
1223.	New York	Construction of median, design and improvements to Main Street, Buffalo	$1,000,000.00
1224.	California	Diesel Emissions Reduction Program for Gateway Cities Council of Governments	$3,250,000.00
1225.	Kentucky	Reconstruct Harrodsburg-Lexington Road from KY 29 north of Wilmore to 4800's of Brannon Road.	$1,000,000.00
1226.	Michigan	Resurfacing of Frazho Road, Roseville	$1,280,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1227.	Pennsylvania	Construct a four lane limited access facility connecting SR 119 north of Mount Pleasant to the Pennsylvania Turnpike.	$2,000,000.00
1228.	New Mexico	I-40/Coors Interchange: Reconstruction of this major interchange in Albuquerque	$10,000,000.00
1229.	New York	Mill Road: NY Rte 261 to North Avenue in the Town of Greeoe	$2,000,000.00
1230.	Pennsylvania	Design, engineering, ROW acquisition and construction of street improvements and safety enhancements, City of Pittston.	$1,750,000.00
1231.	Texas	Add 2 lanes from Victoria Co line to 1.9 miles W. of Gin Road in Pt Lavaca	$1,500,000.00
1232.	Connecticut	Establish intermodal service at Bridgeport, CT port	$1,500,000.00
1233.	New York	Construction of pedestrian walkways, Village of Northport	$100,000.00
1234.	Massachusetts	Northern Avenue Bridge rehabilitation, Boston	$3,000,000.00
1235.	California	Grade separation on Lenwood Road in Barstow, CA	$1,500,000.00
1236.	New Jersey	Pedestrian facilities, street lighting and streetscaping improvements in downtown Laurel Springs	$596,324.00
1237.	California	Realign California State Route 299 between the Trinity County line and mile marker 7.4, Shasta County.	$8,000,000.00
1238.	Nebraska	Funding for rail grade separation projects located in the Third Congressional District of Nebraska as identified by the Nebraska State Department of Roads.	$4,500,000.00
1239.	New York	Rehabilitation of Oak Beach Road in the Town of Babylon	$515,000.00
1240.	Texas	Construct four-lane urban arterial segment of FM60 from SH6 to FM158 in Brazos County, Texas	$4,000,000.00
1241.	New York	Improvements to Pudding St. at Taconic State Parkway	$1,700,000.00
1242.	Nevada	Design and Construct Cactus Avenue and I-15 Interchange, Clark County Nevada	$10,000,000.00
1243.	Pennsylvania	Restoration of Route 222, including concrete patching and overlay, in Maxatawny and Richmond Townships, Berks County.	$2,500,000.00
1244.	Kentucky	Widen Route 11 from US 460 to the Mt. Sterling Bypass (KY 686)	$700,000.00
1245.	Washington	Lewis and Clark Discovery Trailhead and Scenic Overlook - expand size and improve safety	$146,000.00
1246.	New York	Construct highway and ramp improvements at Erie Canal Harbor in downtown Buffalo	$10,000,000.00
1247.	Indiana	Star Hill Road project between SR 60 and Starlight	$4,000,000.00
1248.	Texas	Construct direct connectors on US 59, 59B, US77	$4,500,000.00
1249.	Maryland	US1 Corridor enhancements. Partial funding for comprehensive improvements to road corridor between Elkridge and Laurel.	$1,000,000.00
1250.	California	I-238 Widening between I-580 and I-880, Ashland/Cherryland/San Leandro/San Lorenzo	$1,900,000.00
1251.	Florida	Springfield Roadway Improvements, Jacksonville	$5,000,000.00
1252.	New Jersey	East Coast Greenway bicycle and pedestrian path from New Brunswick to Hudson River	$1,000,000.00
1253.	New York	Reconstruct Nassau Avenue, improve sidewalks and include pedestrian amenities in Greenpoint, Brooklyn.	$2,400,000.00
1254.	Missouri	Improve safety conditions along high traffic area in St. Francois County	$2,000,000.00
1255.	Washington	Valley Ave/70th - Widen both 70th Avenue and Valley Avenue, Pierce County	$1,000,000.00
1256.	Florida	Atlantic Corridor Greenway Roadway Improvements	$1,500,000.00
1257.	Georgia	Elimination of highway-rail grade crossings in Augusta, GA by relocating the Norfolk Southern rail line.	$3,000,000.00
1258.	Florida	For the implementation of Advanced Traffic Management System, Boca Raton, Florida	$2,000,000.00
1259.	New York	Route 78 (Transit Road), I-90 to Main Street, Towns of Amherst, Cheektowaga and Clarence	$3,000,000.00
1260.	Georgia	Relocate Whitehall Road in Hall County, Georgia	$1,042,024.00
1261.	California	Construct A 2.8 mile bikeway, working in conjunction with the city of La Habra, along Lambert Road from Mills Ave. to Valley Home Ave.	$2,500,000.00
1262.	Pennsylvania	Finish the installation of sound walls along Route 309 by the Montgomery County Planning Commission.	$5,000,000.00
1263.	California	Improve Ben Maddox Bridge crossing State Route 198, Visalia	$2,000,000.00
1264.	Florida	Traffic Reconfiguration of SR934 and US Route 1, Miami	$2,000,000.00
1265.	Wisconsin	Reconstruct interchange at State Highway 21 and I-94	$2,500,000.00
1266.	New York	Construct pedestrian walkway from 233rd Street to the Bronx River Greenway and commuter rail station. Bronx.	$1,000,000.00
1267.	New York	Conduct studies, if necessary, and construct the High Line Trail Project, New York City	$5,000,000.00
1268.	New York	Develop Erie Canal Heritage Project in Port Byron	$2,000,000.00
1269.	New York	Construct safety improvements for Rt. 12 intersection at Pamela Drive/River Rd./ Town of Chenango.	$1,050,000.00
1270.	California	Construct truck lane on Keystone Road from State Route 111 to Austin Road, Imperial County	$2,500,000.00
1271.	New York	Congestion reduction, traffic flow improvement and intermodal transfer study at Roosevelt Avenue/74th Street, Queens.	$640,000.00
1272.	Ohio	Widening from 2 lanes to 4 lanes between Main St. and SR 43 in North Canton and Plain Township.	$3,000,000.00
1273.	Rhode Island	Construct 8 lane 1.5 mile segment of I-95 and I-195	$2,000,000.00
1274.	North Carolina	Monroe Bypass -- Project proposes to construct a multilane freeway on new location from the I-485 to the Monroe bypass.	$2,500,000.00
1275.	New York	Improve Traffic Flow Improvement at Atlantic Yard/ NETS Arena Development	$3,000,000.00
1276.	Pennsylvania	SR 1022 Ulster River Bridge, replace 14-span bridge spanning Susquehanna	$2,000,000.00
1277.	New York	Funds an intermodal transportation facility on Clarkson Avenue	$1,000,000.00
1278.	Illinois	Construct grade separation on 25th Avenue, Melrose Park	$750,000.00
1279.	Massachusetts	Canalside Rail Trail. Construction of the Canalside Rail Trail, Deerfield & Montague	$1,900,000.00
1280.	Oregon	Planning, design, right-of-way acquisition, and construction of a bypass around the cities of Newberg and Dundee, Yamhill County.	$6,343,000.00
1281.	South Carolina	Berlin G. Meyers Parkway Extension, Summerville	$8,000,000.00
1282.	New York	Construct improvements in Sight Distance at Road Grade and Trail Crossings in Oneida and Herkimer County.	$550,000.00
1283.	New Jersey	Construction of Rowan Boulevard from US Route 322 to Main Street, Glassboro	$600,000.00
1284.	New Jersey	The rebuilding of three deteriorated orphan bridges in Trenton, NJ that cross over the Northeast Corridor Line. The East State Street Bridge, the Chestnut Avenue Bridge, and the Monmouth Street Bridge.	$1,500,000.00
1285.	Texas	Develop Intelligent Transport System for the City of San Antonio	$3,200,000.00
1286.	Louisiana	Upgrade highway-rail crossings at Madison Street, City of Gretna	$200,000.00
1287.	Virginia	Improve Rt. 42 in Bridgewater	$500,000.00
1288.	Arizona	Upgrade and re-open Main Street, Yuma	$1,200,000.00
1289.	Tennessee	Replacing one-lane underpass with five-lane underpass and associated roadway realignments of Knob Creek, Mountainview, and Claude Simmons Roads.	$500,000.00
1290.	Michigan	widen, from 2 to 5 lanes, Romeo Plank Road from M-59 to 23 Mile Road	$10,000,000.00
1291.	Ohio	St. Route 44 - Overpass, interchange construction, and road expansion in the city of Painesville	$4,250,000.00
1292.	Maryland	Alt 40 Middletown Bypass	$1,000,000.00
1293.	Alabama	East Bypass would provide direct access from I-20 to Fort McClellan, Alabama	$10,000,000.00
1294.	Ohio	Provide an interchange at Bixby Rd and Route 33, including construction of necessary service roads and removal of signal at Route 33 and Ebright Road.	$4,250,000.00
1295.	Michigan	Eliminate major roadway that passes between Cleary and charter school building and route a roadway with parking lots.	$500,000.00
1296.	Florida	Construct SR 312 Extension/Bypass in St. Johns County, Florida	$13,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1297.	California	Design and implement Intelligent Transportation Systems on Long Beach Boulevard, Compton Boulevard, Wilmington Avenue, Walnut Avenue including communication interface with the Los Angeles County ITS System.	$3,000,000.00
1298.	Tennessee	Construct shoulder and turn lane on S.R. 35 in Seymour, TN	$1,500,000.00
1299.	Pennsylvania	Provide trail connects at the Hot Metal Bridge to reduce the need for trail users to use city streets.	$500,000.00
1300.	Georgia	Bridge improvements on Cochran Road at Deep Creek, Fulton Co	$560,000.00
1301.	Alabama	Additional lanes would be added to US-331 from Luverne to Montgomery	$2,000,000.00
1302.	California	Phase II of the Alameda Corridor East Project, constructing grade separation projects from E. Los Angeles to Pomona.	$300,000.00
1303.	New Mexico	Develop Paseo del Volcan corridor located in Sandoval County to connect I-40 and I-25	$2,000,000.00
1304.	Pennsylvania	Design, engineering, ROW acquisition and construction of Phase II of the South Valley Parkway from Roberts Street in Newport Township to Mocanaqua, Luzerne County.	$7,000,000.00
1305.	Maryland	Dualization of MD 404 in Caroline	$17,600,000.00
1306.	California	Widen State Route 98, including storm drain improvements, from Kloke Road to State Route 111, Calexico.	$3,000,000.00
1307.	California	Provide landscape enhancement of an existing open culvert on Atherton Street, Long Beach	$600,000.00
1308.	Michigan	Baldwin St. extension to I-196 and new entrance and exit ramps on I-196	$3,000,000.00
1309.	North Carolina	Pavement and bridge rehabilitation on I-85 from the Granville County line to US 158	$2,000,000.00
1310.	Florida	West Virginia Corridor Expansion Project between I-95 to US Highway 1 in St. Lucie County	$4,000,000.00
1311.	Ohio	Transportation infrastructure improvements in Toledo	$10,000,000.00
1312.	New York	Pedestrian/Bike Path along Hudson River in City of Beacon - NY	$350,000.00
1313.	Texas	Rehabilitate Yale Street between IH10 to IH610	$1,000,000.00
1314.	North Carolina	Installation of ITS devices along the Winston-Salem Northern Beltway (I-40 near Clemmons to US 52/Future I-74) in Forsyth County.	$4,000,000.00
1315.	Washington	Cross Base Highway - a new highway from I-5 to SR 7 located between Fort Lewis and McChord AFB.	$1,500,000.00
1316.	Pennsylvania	Create a direct connection between State Road Route 29 and State Route 113	$3,000,000.00
1317.	Tennessee	Improvements to bridge along SR-21 in Lake County, from Log Mile 7.0 to Obion County Line	$14,000,000.00
1318.	Missouri	I-55/Weber Road Improvements, St. Louis City and St. Louis County	$5,000,000.00
1319.	Colorado	Construct arterial on W side of Montrose to ease traffic congestion on SH 550 between Grand Avenue, N-S of city.	$7,500,000.00
1320.	Washington	SR28 / SR285 George Sellar Bridge Approach Improvements, Wenatchee/East Wenatchee	$5,000,000.00
1321.	Massachusetts	Highspeed catamaran ferry. Increase accessibility to inner-city public transit and two federal parks Quincy.	$2,000,000.00
1322.	Ohio	Ashtabula Harbor infrastructure improvements as part of the Revitalization Project on SR 531 in Ashtabula County.	$1,000,000.00
1323.	North Carolina	Right of way acquisition and construction for segment of the 1-540 Loop from I-40 to NC 55	$11,000,000.00
1324.	New York	Replace bridge carrying Rt.55 over Fishkill Creek and provide turn lanes in Town of Beekman-NY.	$2,500,000.00
1325.	Michigan	Design, right of way acquisition and improvements for the I-196/Chicago Drive (Baldwin Street) Interchange modification.	$19,800,000.00
1326.	Georgia	Upgrade sidewalks, parking, street lighting, and landscaping, Claxton	$500,000.00
1327.	California	Alameda Corridor East Gateway to America Trade Corridor Project, Highway-railgrade seperation along 35-mile corridor from Alameda Corridor (Hobart Junction) to Los Angeles/San Bernardino County line.	$15,500,000.00
1328.	New York	Roadway and Pedestrian Improvements for Times and Duffy Squares, New York City	$4,200,000.00
1329.	Arizona	Construct the Querino Bridge in Apache County, Arizona, on the Navajo Nation	$500,000.00
1330.	California	FHWA Diesel Emissions Reduction program for the Gateway Cities. Los Angeles County	$1,250,000.00
1331.	New York	Construct four lane expressway meeting Interstate standards from Pennsylvania to Presho	$2,000,000.00
1332.	Florida	SW 24th Ave.-SW 62nd Blvd., from Archer Rd west to SW 20th Avenue, Gainesville	$3,000,000.00
1333.	Pennsylvania	Replace Lycoming Valley Railroad Bridge near Montoursville Borough	$2,000,000.00
1334.	Texas	Extend US90 six main lanes from Hunting Bayou to Wallisville	$5,000,000.00
1335.	Ohio	SR 91 Road Safety project and overpass construction in the City of Twinsburg	$1,950,000.00
1336.	Colorado	Reconstruct US 36/McCaslin interchange	$1,000,000.00
1337.	Ohio	Rehabilitation/replacement of rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties.	$250,000.00
1338.	South Carolina	Carolina Bays Parkway (Phase II), Horry County	$5,000,000.00
1339.	Michigan	Development and construction of new interchange at Marquette Avenue/US-31	$5,000,000.00
1340.	New York	Install Improvements for Pedestrian Safety in the vicinity of PS 114	$250,000.00
1341.	Tennessee	Construct interchange on Interstate 40, Wilson County	$1,000,000.00
1342.	Ohio	Construct new interchange at Gracemont St. and I-77 Interchange in Bethlehem Township	$3,000,000.00
1343.	New York	Design and construction of 20th Avenue from Whitestone Expressway Service Road to 130th Street in Queens, New York.	$700,000.00
1344.	Georgia	Streetscape [pedestrian safety enhancements, sidewalks, curb replacement, restoration, landscaping, ADA compliance, restoration], Dawson.	$500,000.00
1345.	Indiana	Construct grade separated interchange at Main Street with Canadian National Railroad in Mishawaka, Indiana.	$1,500,000.00
1346.	California	Hollister SR25 widening -- 4 lane freeway between San Felipe Road to the US 101 separation, Gilroy.	$3,660,000.00
1347.	Missouri	I-29/I-35 reconstruction of Kansas City Downtown/Paseo Bridge	$2,000,000.00
1348.	California	Develop bicycle paths and pedestrian access to Third Avenue, Chula Vista	$300,000.00
1349.	Georgia	Upgrade Old Petersburg/Old Evans Rd	$6,000,000.00
1350.	Washington	New County Road, Whidbey Island	$900,000.00
1351.	New York	Highway/Railway crossing improvements in the Town of Clarkstown and villages of Haverstraw and West Haverstraw.	$1,600,000.00
1352.	California	Improvements for Folsom Boulevard between Rod Beaudry Drive and Sunrise Boulevard	$8,000,000.00
1353.	California	Improvements (including arterial street rehabilitation) to enhance traffic and pedestrian safety in the Van Nuys community, Los Angeles.	$750,000.00
1354.	Texas	Construct highway - railroad grade separation at Calton Road in Laredo Texas	$2,200,000.00
1355.	Michigan	Reconstruct highway under a railroad bridge, Wyoming Ave. from Eagle Pass to Michigan Avenue, Wayne County.	$1,000,000.00
1356.	Michigan	Resurfacing of Masonic Boulevard, Fraser	$1,160,000.00
1357.	New York	Access and Safety improvements to Route 208 in Orange County -NY	$1,500,000.00
1358.	Pennsylvania	The project will provide for the reconstruction of US 30 from PA 10 to Business US 30 including the travel lanes, shoulders and egress and exist ramps.	$5,000,000.00
1359.	Texas	Integrate & deploy rural ITS components of the Texas Hurricane Evacuation Information System.	$4,000,000.00
1360.	New York	Streetscape improvements to Sunrise Highway between Guy Lombardo Avenue and Henry Street, Freeport.	$500,000.00
1361.	California	Interchange expansion at Interstate 10 and Indian Canyon Drive, City of Palm Springs	$1,000,000.00
1362.	Michigan	Reconstruction and surfacing of Valley Road from M-33 west to Mapes Road, Oscoda County	$960,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1363.	Connecticut	Construct bike/pedestrian path, Shelton	$1,000,000.00
1364.	New York	Rehabilitation of Frank Street in the Village of Lindenhurst	$775,000.00
1365.	Illinois	Sullivan Rd. Approaches (Aurora): Construction of highway approaches to Sullivan Rd. Bridge	$1,600,000.00
1366.	Virginia	Widen US 15/29 in Culpeper	$2,000,000.00
1367.	Virginia	Jamestown 2007 -- to provide transportation infrastructure for visitors to Jamestown Island	$500,000.00
1368.	California	Construct 4-lane connector between I-40 and Arizona Route 95 in Needles	$1,000,000.00
1369.	Oregon	Construct passing lanes on U.S. 199, Josephine County	$900,000.00
1370.	Louisiana	Upgrade I-49	$1,700,000.00
1371.	Minnesota	Construct a pedestrian/bicycle/ATV/snowmobile bridge across TH169, Onamia	$1,097,600.00
1372.	Colorado	Wadsworth Blvd. & Bowles Ave. Intersection Improvements: Ramp, and interchange improvements, lane improvements on Wadsworth from Coal Mine Ave. to W. Cross Dr.	$2,000,000.00
1373.	Illinois	Improve access roads related to Racehorse Business Park, Alorton	$200,000.00
1374.	Texas	For completion of I-35 bypass project - northern 48 miles of SH 130, from Georgetown, TX to US 183.	$7,000,000.00
1375.	Minnesota	Polk, Pennington, Marshall County 10-ton Corridor in Northwestern Minnesota	$5,600,000.00
1376.	New York	Construct Route 15/18 Interchange Phases I, II, and III	$3,000,000.00
1377.	Mississippi	Star Landing Road - new east-west connector from I-55 in Desoto County	$2,000,000.00
1378.	Georgia	Replace sidewalks, meet ADA guidelines, and install a crosswalk, McRae	$800,000.00
1379.	Georgia	Construct sidewalks between Marion Middle School, City Park, and Community Center, Buena Vista.	$500,000.00
1380.	Ohio	Pedestrian Walkway Safety Improvements and Road Paving in Lakeline Village	$289,000.00
1381.	Florida	Reconstruction of Hanford Boulevard, North Miami Beach	$2,750,000.00
1382.	Illinois	Undertake improvements within West End Business District, LaGrange	$3,200,000.00
1383.	Arkansas	Repair Bowen Bridge on Hwy 301, Pike County	$24,000.00
1384.	New Jersey	Road-widening, new shoulder construction, drainage improvements and intersection upgrades in Burlington County.	$6,850,000.00
1385.	Florida	Upgrading of SR 50 in Orange County, Florida	$2,000,000.00
1386.	South Carolina	Construction of East Washington Connector	$1,000,000.00
1387.	Texas	Dyess AFB Access Project	$8,500,000.00
1388.	California	Upgrade Olympic Blvd between Vermont Ave. and Western Ave. to improve pedestrian safety and reduce congestion, Los Angeles.	$2,000,000.00
1389.	Virginia	New, regional access improvement at I-64 and City Line Road, Virginia Beach and Chesapeake	$2,500,000.00
1390.	Georgia	Construct Chase St Elementary to Botanical Gardens bike/pedestrian trail	$500,000.00
1391.	Illinois	This project consists of resurfacing and restriping of Euclid Avenue between Walnut Avenue and Douglas Avenue in Arlington Heights, Illinois. It also includes curb and gutter repair as well as pavement base repair.	$350,000.00
1392.	Connecticut	Construct Putnam ADA-compliant Curb Cut	$50,000.00
1393.	Georgia	Northlake Streetscape in DeKalb	$1,000,000.00
1394.	California	I-880 Federal highway safety improvements, High Street to I-980, Oakland	$2,500,000.00
1395.	Louisiana	Reconstruct I-49/US 190 interchange, Opelousas	$500,000.00
1396.	Michigan	the Port Huron, MI Highway-Rail Grade Crossing Separation Project	$1,000,000.00
1397.	Colorado	Reconstruct US 36/US 287 interchange	$2,000,000.00
1398.	Georgia	2.5 mile East Hiram Parkway Project: to complete by-pass around the City of Hiram	$5,000,000.00
1399.	Washington	Widening SR527 from 2 lanes to 5 from Bothell to Mill Creek	$1,500,000.00
1400.	New York	Rehabilitation of North and South Delaware Avenue in the Village of Lindenhurst	$875,000.00
1401.	Texas	Improve SH 199 at intersection of White Settlement Rd., Ft. Worth	$8,000,000.00
1402.	Missouri	Upgrade U.S. Highway 36 to four lanes between Macon and Hannibal, Missouri	$3,000,000.00
1403.	Arkansas	Improve Colin Ray Blvd, De Queen	$500,000.00
1404.	Illinois	Extend Remington Blvd from Veterans Parkway to Weber Road in Bolingbrook, IL	$500,000.00
1405.	New Hampshire	Design and construction of the project to repaint the bridge on Main Street in Enfield, NH	$140,000.00
1406.	Mississippi	East Metro Corridor:Four-lane corridor linking I-20 at Brandon to US Hwy 25 at Flowood - part of I-20/US Hwy 25/ Jackson International Airport network.	$1,500,000.00
1407.	South Carolina	Cox Road Bridge in Anderson County	$405,000.00
1408.	Michigan	repave Sebewaing Road from state highway M-25 to Caseville Road	$500,000.00
1409.	Virginia	Interchange Improvements along I-264 in Virginia Beach	$9,500,000.00
1410.	Indiana	Construction of Parkway around the west side of Shelbyville from SR9 on the South to SR9 on the North.	$914,000.00
1411.	California	Constructs a Highway and Railroad grade separation at North Milliken Avenue, Ontario	$3,000,000.00
1412.	Georgia	Streetscape [pedestrian safety enhancements, sidewalks, curb replacement, restoration, landscaping, ADA compliance, restoration], Richland.	$500,000.00
1413.	New York	Planning and coordination studies for the Tappan Zee Bridge/I-287 corridor, Rockland/Westchester County.	$1,000,000.00
1414.	California	Construction of HOV lanes on I-5 from Vandegrift Blvd to La Jolla Village Drive	$1,000,000.00
1415.	North Carolina	Add 6.5 miles to the City of Greeneville's greenway system by constructing three additional sections.	$2,015,000.00
1416.	California	Construct left turn lane to ease congestion at Interstate-10 into Rosemead Boulevard and Telstar Avenue, El Monte.	$1,250,000.00
1417.	Ohio	Planning and Construction of network of recreational trails in Perry Township	$650,000.00
1418.	Kansas	Construct highway rail grade separation from Douglas Ave to 17th Street North in Wichita, KS	$7,000,000.00
1419.	Texas	Widen I-35 between SH 81 and FM 286 South of Hillsboro	$3,000,000.00
1420.	New York	Establish an identity and signage program for the Erie Canalway National Heritage Corridor	$1,000,000.00
1421.	Illinois	Construct pedestrian walkways in Columbus Park, Chicago	$750,000.00
1422.	Texas	Construction of frontage road between the Harris County Line and FM 518	$2,700,000.00
1423.	Minnesota	Construct third lane on I-494 from Hwy 212 to its Fish Lake Road terminus in Maple Grove, MN	$5,000,000.00
1424.	Maryland	Dualization of US 113 in Worcester	$13,200,000.00
1425.	New York	Preliminary design and environmental impact study for a collector-distributor road along I-95 from Westchester Ave. to Bartow Ave.	$7,110,000.00
1426.	Oklahoma	Construct US69 and Hereford Lane Interchange, McAlester	$8,000,000.00
1427.	Massachusetts	Reconstruction of Pleasant Street to enhance vehicular safety and capacity, Watertown	$2,000,000.00
1428.	New Jersey	Safety and operations improvements on Route 73, Berlin/Voorhees/Evesham	$1,200,000.00
1429.	California	Repair and replace tunnel lining on Kanan, Kanan Dume, and Malibu Canyon Roads, Los Angeles County.	$3,000,000.00
1430.	Arkansas	Downtown Dickson Street Enhancement - Block Avenue and Downtown Square	$1,750,000.00
1431.	Arkansas	Improvements to Clear Creek Bridge and surrounding infrastructure in Washington County on CR31.	$1,000,000.00
1432.	Georgia	Streetscape [pedestrian safety enhancements, curb replacement, sidewalks, restoration landscaping, ADA compliance], Ashburn.	$400,000.00
1433.	Mississippi	Upgrade Blue Cane Road in Tallahatchie County, and roads in Webb and Tutwiler	$1,000,000.00
1434.	Pennsylvania	SR 3027 Bridge, replace posted two span steel I-beam bridge with one span concrete box beam bridge in Jessup Township, Susquehanna County.	$1,000,000.00
1435.	Mississippi	Upgrade roads at Tougaloo College	$1,000,000.00
1436.	Minnesota	Construct roadway improvements on the Great River Road on CSAH 10 and CSAH 21, Aiken County.	$6,324,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1437.	Mississippi	State Route 590 extension, Ellisville	$4,000,000.00
1438.	Iowa	Construct four-lane expressway on U.S. Highway 60 through Plymouth, Sioux, O'Brien, and Osceola Counties, Iowa.	$500,000.00
1439.	Utah	SR-92 from I-15 to SR-74, Utah County	$5,500,000.00
1440.	Arizona	Construction of structure for US 60 at 59th Avenue and Glendale in city of Glendale	$1,000,000.00
1441.	Mississippi	U.S. Highway 90 and State Highways 43 and 603 Gateways Enhancement Project, Hancock County.	$250,000.00
1442.	New Mexico	Construct Sunland Park Road in Sunland Park	$5,000,000.00
1443.	Minnesota	Bruce Vento Nature Sanctuary Trail Project, St. Paul	$2,000,000.00
1444.	New York	Improvements to Mearns Ave. & Fostoria St. in Village of Highland Falls-NY	$200,000.00
1445.	Arkansas	Construction of Ashdown Bypass, Ashdown	$500,000.00
1446.	Texas	Coverage of the state with the ITS systems through compatibility, interoperability, and uniformity of the entire statewide system.	$5,000,000.00
1447.	Minnesota	Construct Two Harbors High School Trail connecting Two Harbors High School to Two Harbors City.	$891,600.00
1448.	Michigan	Design, right of way acquisition, engineering work for US-31 bypass	$7,000,000.00
1449.	Indiana	Added travel lanes on Gordon Road, Sixth Street, and West Shafer Drive in Monticello, IN	$14,000,000.00
1450.	Indiana	Upgrade roads, Fowler	$100,000.00
1451.	New Jersey	Reconstruct Route 168 from Route 41 to Sixth Avenue, Runnemede	$658,000.00
1452.	New York	Install Two Permanent Variable Message Signs (VMS) on Belt Parkway	$500,000.00
1453.	Arkansas	Improvement of Jennie Road, Chicot County	$288,000.00
1454.	Georgia	Construct sidewalks and install landscaping, Vienna	$500,000.00
1455.	Texas	FM 2499, Section 4, from Highland Village to Corinth	$1,000,000.00
1456.	Virginia	Route 104/Dominion Boulevard corridor connects Interstate 464 and Interstate 64 to Route 17/George Washington Highway. Widening of the existing two-lane section to four lanes with a new bridge over the Southern Branch of the Elizabeth River.	$6,500,000.00
1457.	Mississippi	Old Richton Road and State Highway 42 connector, Petal	$1,500,000.00
1458.	Oklahoma	Widen US 281 from the New US 281 Spur North to Geary, Canadian County	$5,700,000.00
1459.	Illinois	Improve Mill Street, Rock Island	$500,000.00
1460.	New Jersey	Interchange improvements and bridge replacements, Route 46, Passaic County	$12,000,000.00
1461.	New Jersey	Project involves bridge replacement and State Route 31 widening add left turn lanes and shoulders in Glen Gardner/Hampton, Hunterdon County.	$1,000,000.00
1462.	Connecticut	Conduct study of multimodal cargo capacity on Waterfront Street, New Haven	$1,000,000.00
1463.	California	Install a traffic signal and ramps at Interstate-10 and Walnut Grove Avenue to reduce congestion, Rosemead.	$85,000.00
1464.	California	Citywide traffic signal upgrades requiring the installation of hardware and software at 9 major intersections, Palo Alto.	$500,000.00
1465.	California	Widen State Route 98 from Route 111 to State Route 7, Calexico	$5,000,000.00
1466.	Pennsylvania	Extension of River Road in Reading Pennsylvania in order to provide access to major industrial and brownfields sites.	$1,500,000.00
1467.	Louisiana	LA 16 Interchange at I-12 and improvements, and Cook Road	$13,000,000.00
1468.	California	Construct truck ramp linking Interstate 5 to the National City Marine Cargo Terminal, National City.	$1,500,000.00
1469.	New York	Implement ITS system and apparatus to enhance citywide truck route system at 9th Street and 3rd Avenue intersection in Kings County.	$100,000.00
1470.	Iowa	Construction of Outer Drive from Floyd Boulevard to Business Highway 75 in Sioux City, IA	$1,000,000.00
1471.	Vermont	Road improvements for the City of Rutland along U.S. Route 7 and U.S. Route 4	$3,560,000.00
1472.	Pennsylvania	Mitigation of water pollution due to Highway runoff on SR28 as allowed by 23 USC133(b)(14) and 23USC133(b)(8).	$1,000,000.00
1473.	Virginia	Glen Alton - design and construction of recreation trails, access and visitor information center ...	$1,600,000.00
1474.	Tennessee	Develop trails, bike paths and recreational facilities on Bird Mountain, Morgan County for Cumberland Trail State Park.	$250,000.00
1475.	Illinois	Construct pedestrian underpass at East 57th Place, Chicago	$700,000.00
1476.	New York	Construction of and improvements to Michigan Avenue in Buffalo	$1,000,000.00
1477.	New York	Enhance Battery Park Bikeway Perimeter, New York City	$2,000,000.00
1478.	Texas	Construct and rehabilitate pedestrian walkways along the Main Street Corridor to improve transit-related accessibility.	$1,000,000.00
1479.	Kansas	Upgrade US-69/135th Street interchange, City of Overland Park	$2,000,000.00
1480.	Wisconsin	Reconstruct Highway 141 in Marinette County, WI	$2,000,000.00
1481.	Florida	Beautify SR A1A in Ormond Beach, Daytona Beach and Daytona Beach Shores, Florida	$1,000,000.00
1482.	New York	Enhance road and transportation facilities in the vicinity of W. 65th St and Broadway, New York City.	$5,000,000.00
1483.	Arizona	Construct parallel roadway to create divided roadway for US 93, south of I-40 near Kingman	$2,000,000.00
1484.	Missouri	Upgrade U.S. Highway 61 to four lanes between Wayland and Canton, Missouri	$8,000,000.00
1485.	Arkansas	Construction of Prescott Overpass, Prescott	$2,400,000.00
1486.	Texas	Environmental, schematics and right of way acquisition for Hidalgo County Loop, Hidalgo County.	$1,000,000.00
1487.	Nebraska	Construction of two Missouri River bridges and their approach roadways	$6,500,000.00
1488.	New York	Cedar Swamp Rd. improvements in Town of Goshen-NY	$800,000.00
1489.	North Carolina	Northwest Corridor - Western Boulevard in Jacksonville, NC: Construct a 4-mile, 4-lane divided facility including a 400-foot concrete bridge.	$1,000,000.00
1490.	Tennessee	Widen Campbell Station Road in Knoxville, TN	$1,800,000.00
1491.	North Carolina	Development of a Master Transportation Plan for the Piedmont Triad Research Park (Idealliance) in Winston-Salem (Forsyth County).	$3,400,000.00
1492.	Maryland	Safety and operations improvements at Martin Luther King Blvd. and W. Baltimore St., Baltimore.	$1,700,000.00
1493.	Tennessee	Retrofit noise abatement walls, Davidson County	$2,500,000.00
1494.	Virginia	Improve N. Main Street Bridge in Lexington	$1,000,000.00
1495.	New York	Mill St. enhancements, realignments and culvert replacement in Putnam County-NY	$2,000,000.00
1496.	California	Construct nine rail-highway grade separations along Alameda Corridor East through the cities of Fullerton, Placentia, and Anaheim.	$14,000,000.00
1497.	Maryland	Rehabilitate 5 bridges carrying streets over CSX Railroad, Baltimore	$10,000,000.00
1498.	New York	Implement Improvements for Pedestrian Safety in Queens County	$1,000,000.00
1499.	California	405 Freeway Widening	$6,700,000.00
1500.	New York	Highway Construction I-90 Exit 8 Connector Phase II	$3,900,000.00
1501.	Tennessee	North Second Street Corridor Upgrade to provide alternate route around St. Jude's medical center to downtown, Memphis.	$4,000,000.00
1502.	Illinois	Reconstruction of Quentin Road from existing 2 lanes to 4 lanes with median from Dundee Road to Lake Cook Road.	$5,160,000.00
1503.	Tennessee	Widen U.S. 321. Construct new bridge across the Tennessee River in Loudon County	$7,500,000.00
1504.	Colorado	Improvements on US 36 corridor from I-25 to Boulder. Improvements include interchange and overpass rebuilding.	$3,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1505.	California	San Gabriel Boulevard Highway widening and intersection improvement project, the City of San Gabriel.	$1,000,000.00
1506.	Georgia	Replace sidewalks, upgrade lighting, and install landscaping, Helena	$500,000.00
1507.	Pennsylvania	Design, engineering, ROW acquisition, and construction of street improvements and safety enhancements, Borough of Edwardsville in Luzerne County.	$250,000.00
1508.	Connecticut	Upgrade Plainfield Moosup Pond Road	$300,000.00
1509.	Illinois	Improve North Illinois (Illinois 159) and related roads, Belleville	$6,937,000.00
1510.	Pennsylvania	Design and construct improvements to mitigate traffic congestion that currently exists on the west side of the Ben Franklin Bridge.	$4,000,000.00
1511.	Illinois	Construct bike path, parking facility, and related transportation enhancement projects, North Riverside.	$2,750,000.00
1512.	South Carolina	Construction of West Georgia Road in Greenville County	$9,000,000.00
1513.	Massachusetts	Rt. 128/95 off ramp-Northbound to Kendrick Street, Needham	$2,000,000.00
1514.	New York	Traffic control mitigation for Jericho Turnpike between Hillside Blvd and New Hyde Park Road, New Hyde Park.	$1,000,000.00
1515.	Maine	Improvements to the Interconnecting Trail System for bike/pedestrian trails near Baxter State Park.	$500,000.00
1516.	California	Construction of HOV and BRT lanes on I-15 from SR-78 to SR-163	$2,000,000.00
1517.	Missouri	Widening, curb, and gutter improvements as part of larger Hwy 33 development project	$3,000,000.00
1518.	Minnesota	Reconstruct CSAH 91 from the D.M. and I.R. Railroad crossing at 8th Street in Duluth to CSAH 56, St Louis County.	$5,000,000.00
1519.	South Carolina	US Highway 123 - The SCDOT would construct deceleration and turning lanes to improve safety in Pickens County, SC.	$2,000,000.00
1520.	New Jersey	Rehabilitation of Hillery Street Bridge connecting Totowa and West Paterson	$2,500,000.00
1521.	American Samoa	Upgrade, repair and continue construction of Tau ferry terminal facility on island of Manua	$1,600,000.00
1522.	Louisiana	Pointe Clair Expressway in Iberville Parish	$3,000,000.00
1523.	Pennsylvania	Construct Southern Beltway (PA 60 to US 22) of the Mon Fayette Expressway	$2,000,000.00
1524.	Illinois	Construct intermodal facility, Cook County	$450,000.00
1525.	Georgia	Renovate Wilcox County Arts Complex, renovate Train Caboose as a Welcome Center, and construct pedestrian trail, Abbeville.	$500,000.00
1526.	Tennessee	Add third lane on US-27/State Route 29 for truck climbing lane and realignment of roadway at Wolf Creek Road to Old US-27 North of Robbins.	$6,000,000.00
1527.	California	Reconstruct Intersection at Highways 152 & 156, Santa Clara County	$7,000,000.00
1528.	Ohio	City of Fostoria/Seneca County loop road along rt. 23	$7,700,000.00
1529.	Mississippi	U.S. Highway 98 access improvement at Interstate 59, Lamar County	$5,000,000.00
1530.	California	Design and environmental analysis for State Route 11 connecting State Route 905 to the new East Otay Mesa Port of Entry, San Diego.	$1,000,000.00
1531.	Michigan	Resurfacing of Nine Mile Road, Eastpointe	$1,040,000.00
1532.	New York	Improve Tissle Road/Old Kings Highway intersection, Saugerties	$500,000.00
1533.	California	Upgrade existing county highway J59 in Tuolumne, Stanislaus and Merced Counties	$2,000,000.00
1534.	North Carolina	Acquire, design and renovate historic rail station into a multimodal center in downtown Winston Salem.	$4,000,000.00
1535.	California	Construct Marin-Sonoma Narrows bicycle and pedestrian walkway	$500,000.00
1536.	Oklahoma	I-40 Crosstown Expressway realignment project from I-44 to I-35 in Oklahoma City, OK	$13,000,000.00
1537.	Colorado	C-470 & Hwy 85 Interchange Reconstruction: Replace interchange ramps, bridge widening, lane improvements.	$6,000,000.00
1538.	Tennessee	Improve heavy vehicle access to interstate 55 from proposed Super Terminal distribution center along Mallory Avenue, Shelby County.	$3,000,000.00
1539.	Idaho	To construct a bypass corridor around the City of Twin Falls for US-93	$4,500,000.00
1540.	Illinois	Undertake Dempster St. Commercial corridor improvements project, Morton Grove	$250,000.00
1541.	Ohio	Improvements to 4 intersections at Lake Center St. North through Route 619 in Lake Township	$2,200,000.00
1542.	Minnesota	Design, engineering, and ROW for the French Rapids Bridge, City of Brainerd	$800,000.00
1543.	Ohio	Acquire land along US 24, Lucas County	$1,000,000.00
1544.	California	Conduct a project study to examine an interchange at State Route 165 and Bradbury Road, Merced County.	$500,000.00
1545.	New York	Construct parking spaces in Elmira, NY, on North Main Street	$500,000.00
1546.	Indiana	Reconstruct 45th Avenue from Colfax Street to Grant Street, Lake County	$2,700,000.00
1547.	Michigan	Rebuilding Jackson Road with experimental materials	$5,000,000.00
1548.	Florida	Expansion from 2 to 4 lanes with grassed median, from Interstate 10 to US 90	$10,000,000.00
1549.	North Carolina	The reconstruction of US Hwy 19 from Cherokee County, NC to Maggie Valley, NC	$7,300,000.00
1550.	New York	Continuation of the public awareness program about transportation infrastructure, Lower Manhattan.	$600,000.00
1551.	Kentucky	Rehabilitate I-75 Brent Spence Bridge	$7,000,000.00
1552.	California	Widen Washington Blvd, Commerce	$3,000,000.00
1553.	Pennsylvania	Route 422 improvement project from Ebensburg to Indiana, PA	$1,500,000.00
1554.	Texas	Completion of JBS Parkway by connecting IH-20, the 2 segments of JBS Parkway across the railroad right-of-way and BI20.	$5,000,000.00
1555.	Oregon	North Bend Waterfront District Bike/Pedestrian project	$600,000.00
1556.	Ohio	SR 82 bridge construction in Macedonia City	$3,000,000.00
1557.	Michigan	Reconstruction of County Road 612 from W. County Line to County Road 491, Montmorency County.	$800,000.00
1558.	Ohio	Construct grade separation at State Route 252, Cuyahoga County	$460,000.00
1559.	New York	Replace bridge over Mud Pond Outlet on Spring Lake Road	$400,000.00
1560.	Illinois	Upgrade connector road from I-255 to Rt. 3, Sauget	$2,400,000.00
1561.	New Jersey	Installation of automatic track switch, Port Reading/Woodbridge	$800,000.00
1562.	Georgia	Streetscape [pedestrian safety enhancements, sidewalks, curb replacement, restoration, landscaping, ADA compliance, restoration], Albany.	$1,000,000.00
1563.	Wisconsin	Reconstruct and rebuild bridge over St. Croix River from Houlton, WI to Stillwater, MN	$6,000,000.00
1564.	Washington	Replace existing seismically vulnerable viaduct and adjacent seawall, Seattle	$12,000,000.00
1565.	Illinois	Expedite engineering studies, land acquisition, and construction to widen I-55 between I-80 and Naperville Road.	$3,500,000.00
1566.	Oregon	Gateway Urban Renewal District Development Plan for reconstruction and/or new construction of local multi-modal street projects.	$7,800,000.00
1567.	Mississippi	Upgrade roads in Anguilla and Rolling Fork, Sharkey County	$1,000,000.00
1568.	Georgia	Streetscape [pedestrian safety enhancements, curb replacement, landscaping, ADA compliance], Cordele.	$500,000.00
1569.	California	Colima Road/ Fullerton Road intersection improvements in the city of Rowland Heights	$1,000,000.00
1570.	Arizona	Replace Veterans' Memorial Overpass and upgrade it's associated roadway approaches, Pima County.	$2,000,000.00
1571.	Illinois	Upgrade roads, Plainfield	$500,000.00
1572.	New York	Rehabilitation of Rt. 100 from Virginia Road to Westchester Community College	$1,100,000.00
1573.	New Mexico	Widen the US 491 (formerly US 666) corridor from Gallup north to Shiprock	$2,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1574.	California	Reconstruct I-710 southern terminus off ramps, Long Beach	$1,000,000.00
1575.	New Hampshire	Design, right-of-way procurement, and construction from intersection NH 110 and 1st Avenue to Wight Street in Berlin, NH.	$2,860,000.00
1576.	New Jersey	Improvements to Clove Road and Long Hill Road in Little Falls & Upper Mountain Avenue in Montclair.	$2,650,000.00
1577.	Texas	Port of Corpus Christi Joe Fulton International Trade Corridor for congestion and safety enhancements.	$1,000,000.00
1578.	New York	Rehabilitate 125th Street Corridor from Old Broadway to Marginal Street/Waterfront	$2,000,000.00
1579.	Florida	Dinky Line Trail from SR 527 to South Lake Formosa Drive in Orlando, Florida	$500,000.00
1580.	Texas	Relief route for US 271 from US 67 to FM 3417 around the west side of Mount Pleasant in Titus County.	$2,000,000.00
1581.	Texas	Reconstruct the I-35E Bridge over the Trinity River in Dallas, Texas	$1,000,000.00
1582.	Pennsylvania	Independence National Historic Park transportation enhancements: pedestrian facilities, and safety improvements, including landscaping.	$4,500,000.00
1583.	California	Design and Implement Trails and Bikeways Plan for the Golden Gate National Recreation Area and Presidio.	$5,000,000.00
1584.	Illinois	Upgrade roads in the vicinity of Henry Horner Homes, Chicago	$1,000,000.00
1585.	New York	Construct Lower Falls Pedestrian Bridge and Approaches, Rochester	$1,000,000.00
1586.	Pennsylvania	Replace a highway railcrossing in Osborne, PA	$2,000,000.00
1587.	Oklahoma	Reconstruct US412P East to I-44 from regional port	$7,250,000.00
1588.	Arkansas	Improvements to Bridge #19032 in Sulphur Springs	$50,000.00
1589.	New York	Reconstruction of 3.28 miles of Surrey Meadow subdivision in Town of Chester- NY	$729,000.00
1590.	California	Construct Inland Empire Transportation Management Center to better regulate traffic and dispatch personnel to incidents, Fontana.	$1,500,000.00
1591.	American Samoa	Village road improvements for Sua Vaifanua, and Saole counties in the Eastern District	$2,000,000.00
1592.	Minnesota	Reconstruction of CSAH 7 from Itasca County Road 341 to Scenic State Park entrance, Itasca County.	$2,800,000.00
1593.	Washington	Renton 405/167 - Rebuild the SR 167 and I-405 interchange and add additional lanes to relieve congestion.	$2,000,000.00
1594.	Michigan	Convert existing interchange at Cedar Street and Pennsylvania Avenue off I-96	$1,900,000.00
1595.	Connecticut	Construct Salem Greenway	$65,000.00
1596.	New York	Pedestrian walkway improvements along Sunrise Highway, Lynbrook	$500,000.00
1597.	New York	Roadway improvements to Jackson Avenue between Jericho Turnpike and Teibrook Avenue, Nassau County.	$2,000,000.00
1598.	Iowa	Reconstruct 14.3-miles of I-235 mainline roadway through Des Moines metro area	$8,000,000.00
1599.	Florida	Church Street Road Improvements, Orlando	$13,000,000.00
1600.	Ohio	Bridge rehabilitation crossing the Tuscarawas River in the City of Massillon	$335,600.00
1601.	Michigan	Nonmotorized Pathway, City of Rockwood	$426,000.00
1602.	Virginia	Highway Connector Road to Marine Terminal Site, Portsmouth	$2,000,000.00
1603.	Florida	Upgrade I-75 from 6 to 8 lanes between SR 54 and SR 52 in Pasco & Hernando County	$2,000,000.00
1604.	Arkansas	Widening of Highway 118 to four lanes from I-40 interchange North	$3,000,000.00
1605.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Loudon, TN	$57,000.00
1606.	Michigan	I-94 Widening Bt. 12th St/Sprinkle Rd	$14,000,000.00
1607.	Texas	This project will continue the development and integration of statewide ITS systems	$2,500,000.00
1608.	Mississippi	Upgrade roads in Terry (U.S. hwy 51 and I-55), Edwards (U.S. Hwy 80, 22 and I-20), Utica (U.S. Hwy18 and 27), and Bolton (U.S. Hwy. 80 and I-20), Hinds County.	$1,366,000.00
1609.	Connecticut	Construct Farmington Canal Greenway, New Haven	$2,000,000.00
1610.	Michigan	Menominee County Road 557 Bridge Replacement over the Little Cedar River	$280,000.00
1611.	California	Improvements (including arterial street rehabilitation) to enhance traffic and pedestrian safety in Northridge, Granada Hills, and Porter Ranch, Los Angeles.	$3,750,000.00
1612.	Michigan	Carpenter Road - 700 feet South of Textile Road to I-94, Washtenaw County	$2,000,000.00
1613.	Maryland	MD 30 Hampstead Bypass	$1,000,000.00
1614.	Massachusetts	Relocation of Route 79, creating 4-lane urban boulevard with landscaped median, opening up 8.5 acres of developable waterfront land, Fall River.	$5,000,000.00
1615.	Arkansas	Upgrade Pedee Creek Bridge and approaches, Logan County	$240,000.00
1616.	New York	Utica Marsh-Restablish Water Street. Entails various road openings and improvements	$2,650,000.00
1617.	Wisconsin	Widen State Highway 64 between Houlton and New Richmond	$4,500,000.00
1618.	Illinois	Veterans Drive upgrades in Pekin	$800,000.00
1619.	Ohio	Construct the existing IR 70 interchange at US 40, SR 331 west of St Clairsville	$12,000,000.00
1620.	California	Install signal pre-emption hardware at 53 traffic signals throughout Culver City to improve bus and first responder travel times.	$108,000.00
1621.	Arizona	Construct 73 miles of wheelchair accessible trails on the north and south rims of the Grand Canyon.	$2,000,000.00
1622.	Louisiana	Conduct multimodal corridor study from Louis Armstrong New Orleans International Airport to New Orleans Central Business District.	$2,500,000.00
1623.	Tennessee	Construction of greenway in Knoxville	$2,000,000.00
1624.	Virginia	Ceres Recreation Trail and Center - design and construct pedestrian/bicycle recreation trail in the community of Ceres and establish trail center.	$250,000.00
1625.	Alabama	Interchange at I-65 and Limestone County 24/Browns Ferry Road, Tanner	$1,000,000.00
1626.	Illinois	Construct access road to Southern Illinois University's Research Park from Hwy 51	$1,636,000.00
1627.	Illinois	Construct I-80/Ridgeland Avenue interchange, Tinley Park	$700,000.00
1628.	New York	Reconstructs Empire Boulevard from Nostrand Avenue to Utica Avenue	$4,000,000.00
1629.	Pennsylvania	Construct Southern Beltway (US 22 to Mon Fayette Expressway)	$2,000,000.00
1630.	Texas	Provide an intermodal roadway connection from SH87 to the Port of Port Arthur	$1,500,000.00
1631.	Indiana	New road construction for McClung Road from State Road 39 to Park Street in LaPorte, Indiana	$1,000,000.00
1632.	New Jersey	Replacement of Sparta Stanhope Road Bridge	$1,000,000.00
1633.	Arkansas	Development of infrastructure road to Russellville's intermodal facilities	$2,000,000.00
1634.	Ohio	Eastgate Area improvements for Interchange Improvements at Route 32 & I-275 in Clermont County.	$4,100,000.00
1635.	Texas	Extend Munn Street from Demaree Ln to Gellhorn Drive	$1,000,000.00
1636.	California	Geary Boulevard Improvements, San Francisco	$12,000,000.00
1637.	Illinois	Upgrades to Cockrell Lane in Springfield	$800,000.00
1638.	Michigan	Construct railroad grade separation on M-85 (Fort Street) North of Van Horn Road, Trenton	$250,000.00
1639.	Illinois	Improve Great River Road, Mercer County	$500,000.00
1640.	Florida	Connect Interstate 4 with the Tampa Port	$8,000,000.00
1641.	Illinois	Municipal Drive (Sugar Grove): Extension North from Rt. 30 to Wheeler Rd. and Galena Blvd. Extension west of Rt. 47.	$4,760,000.00
1642.	Georgia	Bicycle and pedestrian trail connecting Dabney-Hunter-Simmons Park with Davidson Parkway, City of Stockbridge.	$1,000,000.00
1643.	California	Reconstruct interchange with partial-cloverleaf on-ramp for south-bound traffic entering I-80 from Central Avenue, City of Richmond.	$3,000,000.00
1644.	Illinois	Improve roads and grade separations in the vicinity of 130th Street and Torrance Avenue, Chicago.	$4,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1645.	New Jersey	Construction and rehabilitation of bridges W-7, W-8, and W-9 connecting Manasquan and Brielle Boroughs.	$2,500,000.00
1646.	New York	Conduct studies to consider transportation planning and community involvement for infrastructure projects that address congestion relief, New York City.	$1,000,000.00
1647.	Mississippi	Upgrade roads in North Carrollton (U.S. Hwy 35 and 82) McCain Street, South Street, Love Street, and Colver Street, Carroll County.	$500,000.00
1648.	Louisiana	Upgrade the 3.6 mile section of LA 478 from I-49 at exit 132 to LA 1 south of Natchitoches, LA	$5,650,000.00
1649.	Washington	Replace I5 exit 79 interchange bridge along Chamber of Commerce Way to provide more capacity	$2,000,000.00
1650.	Illinois	Widen U.S. Route 30 from Rock Falls to Round Grove, Whiteside County	$500,000.00
1651.	California	Rosecrans Avenue/Aviation Blvd/Douglas Street improvements to reduce congestion and improve traffic flow, El Segundo.	$6,000,000.00
1652.	New York	Update all county and town signage in Wayne County, NY	$75,000.00
1653.	New Mexico	Construct the four lane expansion of U.S. 62/180 from Carlsbad, New Mexico to Texas State line	$10,000,000.00
1654.	Illinois	Upgrade 31st Street and Golfview Road intersection and construct parking facilities, Brookfield	$6,400,000.00
1655.	South Carolina	Install and improve highway-rail crossing safety devices, Richland and Orangeburg Counties	$992,000.00
1656.	North Carolina	Widen SR 1165 from Parish Mill Road to Dabney Drive, Henderson	$960,000.00
1657.	New York	Safety enhancements on East Shore Road in Town of Warwick-NY	$1,000,000.00
1658.	Iowa	Upgrade Collins Road (Iowa Highway 100) and 1st Avenue in Cedar Rapids, Iowa	$2,600,000.00
1659.	Alaska	Bridge over Fish Creek in Matanuska-Susitna Borough	$1,000,000.00
1660.	Georgia	Addition of barrier-separated HOV lanes on SR 316 from the I-85 interchange to SR 20, Gwinnett Co.	$500,000.00
1661.	Arkansas	Improvement of County Road 32, Little Garnett/Cane Creek, Lincoln County	$500,000.00
1662.	New York	Rehabilitate and Improve Erie Station Road, Route 15-I390 in the Town of Henrietta	$1,000,000.00
1663.	Indiana	Construct pedestrian islands and narrow campus streets in the City of Anderson, Indiana	$1,000,000.00
1664.	California	Technical Feasibility Study for the 710 Tunnel to connect the 710 to the 210	$3,000,000.00
1665.	Ohio	Multi-use, non-motorized use, recreational trail that will connect Miami, Montgomery, Warren, and Butler Counties in SW Ohio.	$3,000,000.00
1666.	Florida	I-75 Interchange Improvements in Pembroke Pines, Broward County, Florida	$2,000,000.00
1667.	Louisiana	Construct I-20/Tarbutton Road Interchange, Lincoln Parish	$2,000,000.00
1668.	California	Replace Winters Bridge, Yolo County	$2,000,000.00
1669.	Michigan	White Pine Trail State Park paving project	$1,500,000.00
1670.	California	Construct Route 101 Auxiliary Lanes 3rd Ave in the City of San Mateo to Millbrae Ave in Millbrae.	$4,200,000.00
1671.	New York	Downtown Flushing traffic & Pedestrian improvements	$1,000,000.00
1672.	Massachusetts	Extension, resurfacing and alignment improvements to the Norwottuck Rail Trail, Hampshire County.	$6,000,000.00
1673.	Indiana	Widen Wheeling Avenue from Centennial Road to McGalliard Road in the City of Muncie, Indiana.	$960,000.00
1674.	Ohio	Construct interchange at CR 80 on IR 77 near Dover	$5,000,000.00
1675.	California	Repair and realignment of Brahma Drive and Winnetka Avenue, which serves the students of Los Angeles Pierce College.	$600,000.00
1676.	New York	Implement ITS system and apparatus to enhance citywide truck route system on Avenue P between Coney Island Avenue and Ocean Avenue in the 9th District of New York.	$100,000.00
1677.	Oregon	Interstate-5 Trade Corridor for preliminary engineering of Columbia River vehicle and transit crossings and interchange improvements.	$6,000,000.00
1678.	Texas	Widen 4-lane urban divided roadway with raised median on FM 1637, McLennan County	$4,000,000.00
1679.	Florida	Construct US 17-92 Improvements in Maitland, Florida	$1,500,000.00
1680.	California	Widen State Route 112 to four lanes through Jamieson Canyon (between Interstate 80 and SR 29)	$8,000,000.00
1681.	New York	Improve Queens Boulevard, New York	$500,000.00
1682.	Vermont	Construction of the Lamoille Valley Rail Trail for the Vermont Association of Snow Travelers	$7,268,486.00
1683.	Florida	Construct SR 9B Extension in St. Johns County, Florida	$2,800,000.00
1684.	Massachusetts	Pedestrian access and streetscape improvements in the area of Huntington Avenue, Longwood Avenue, and Palace Road, Boston.	$2,100,000.00
1685.	Pennsylvania	Improve Route 666 from Henry's Bend in Forest County to junction with Route 948 in Warren County.	$1,000,000.00
1686.	West Virginia	Fairmont Gateway Connector System to provide an improved highway link between downtown Fairmont and I-79 in the vicinity of Fairmont.	$20,000,000.00
1687.	Michigan	Study to determine replacement options for obsolete and structurally deteriorating bridge (Trenton- Grosse Ile Bridge) including approach roadways, Charter County of Wayne.	$750,000.00
1688.	Illinois	Construct streetscape project, Orland Hills	$350,000.00
1689.	Kansas	Deployment of an Intelligent Traffic System within the Wichita Metropolitan Area	$7,000,000.00
1690.	Indiana	Realign and depress I-70 to make way for new airport Interchange, Indianapolis	$10,000,000.00
1691.	Illinois	Reconstruct Old Madison Rd and interconnected roadways, St. Clair County	$2,000,000.00
1692.	North Carolina	Garden Parkway -- Project proposes to construct multilane freeway that will provide a high-speed corridor around south side of Gastonia.	$2,500,000.00
1693.	Ohio	Reconstruct I-75/I-475 Interchange, Toledo	$3,000,000.00
1694.	Illinois	Upgrade Keystone Avenue and Homan Avenue, Robbins	$1,000,000.00
1695.	Tennessee	Develop trails, bike paths and recreational facilities on the Crest of Black Mountain, Cumberland County for Cumberland Trail State Park.	$250,000.00
1696.	Nevada	Improve Lake Mead Parkway Henderson, Nevada	$1,500,000.00
1697.	Louisiana	LA 42 in Ascension Parish, and LA 73 improvements	$10,000,000.00
1698.	Tennessee	Widen SR35/US-411 beginning in Sevier County an crossing through Jefferson County, ending at I-40 in Cocke County.	$2,000,000.00
1699.	Texas	Construction of Old Hueco Tanks Road from Interstate 10 to FM76, Socorro	$2,500,000.00
1700.	Ohio	Construct full movement interchange on I-75 at Austin Pike from Wood Road to the west and SR41 to the east.	$7,500,000.00
1701.	New York	Replace bridge over CSX lines on Highbridge Road	$400,000.00
1702.	Iowa	Reconstruct NW 70th Avenue from 86th Street to NW Beaver Drive	$5,000,000.00
1703.	Georgia	Upgrade SR141 corridor in the Buckhead Community Improvement District	$2,000,000.00
1704.	Ohio	Bridge replacement over the Nimishillen Creek in the City of Canton	$400,000.00
1705.	Illinois	US 67 Corridor Concord/Arenzville Rd. to East of IL 100	$1,000,000.00
1706.	Alabama	City of Vestavia Hills pedestrian walkway to cross U.S. 31	$500,000.00
1707.	Mississippi	State Route 609 to State Highway 15 connector, Jackson and Harrison Counties	$3,000,000.00
1708.	Wisconsin	Reconstruct State Highway 45, City of Antigo	$1,000,000.00
1709.	California	Widen Santa Maria River Bridge on U.S. Highway 101 between Santa Barbara County and San Luis Obispo County.	$3,400,000.00
1710.	Illinois	Improve 83rd Street from Roberts Road to 83rd Avenue and improve 79th Street/88th Avenue intersection, Justice.	$5,250,000.00
1711.	California	Improve Central Avenue Historic Corridor Streetscape, Los Angeles	$1,000,000.00
1712.	Massachusetts	Safety and Operational improvements to three Route 128 North exchanges, Town of Danvers	$3,000,000.00
1713.	Illinois	Resurface Elston Avenue, Chicago	$2,000,000.00
1714.	New York	Atlantic Avenue Highway Access Improvement between Van Wyck Expressway and Jamaica Station.	$5,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1715.	Florida	Construct I-4/GreeneWay Ramp Connector in Seminole County, Florida	$5,000,000.00
1716.	New York	Reconstruct pedestrian walkways located in the Bronx	$1,000,000.00
1717.	Illinois	Metra/Anderson Rd. (Elburn Station): Construction of a new roadway and grade separation of the UP West Line east of Elburn, IL.	$9,500,000.00
1718.	South Carolina	Replacement of Greenville County maintained bridges	$2,000,000.00
1719.	Pennsylvania	Design, engineering, ROW acquisition, and construction of a connector road between Pennsylvania State Route 93 and Pennsylvania State Route 309, Hazle Township.	$600,000.00
1720.	Oklahoma	Construction of Midwest City Pedestrian Walkway	$1,000,000.00
1721.	Texas	The project is part of the 177-mile Grand Parkway loop being constructed around the metropolitan Houston Area.	$11,500,000.00
1722.	Massachusetts	Rehabilitation of Route 21 bridge over the Chicopee River, Springfield	$2,030,000.00
1723.	New Jersey	Replacement of the Magnolia Avenue Bridge over Route 1 & 9, Elizabeth City	$1,000,000.00
1724.	Illinois	For engineering, right-of-way acquisition and reconstruction of two existing lanes on Arsenal Road from Baseline Rd to Rt 53.	$1,750,000.00
1725.	Iowa	Construction and replacement of a deficient bridge at U.S. Highway 34 Missouri River Bridge at Glenwood, IA (Mills County).	$2,500,000.00
1726.	Illinois	Upgrade roads and bridges, Chicago	$1,000,000.00
1727.	Illinois	Upgrade roads in the vicinity of Rockwell Gardens, Chicago	$1,180,000.00
1728.	Virginia	Upgrade/Widen Route 11 at Maurertown in Shenandoah County	$1,000,000.00
1729.	Michigan	Reconstruct 3.2 miles of I-96 including all ramps at M-39, Detroit	$2,000,000.00
1730.	New York	Road construction at new Town Hall facility in Town of Kent, NY	$750,000.00
1731.	Illinois	Upgrade streets, Stickney Township	$5,000,000.00
1732.	Minnesota	Construct bike-walk trail between the cities of Isanti and Cambridge in the State Highway 65 Corridor.	$288,602.00
1733.	Illinois	Improve Ogden Avenue, Chicago	$13,000,000.00
1734.	Pennsylvania	Improve Route 322 at Halls Run in Venango County	$1,700,000.00
1735.	Colorado	Construct East Corridor project	$2,000,000.00
1736.	California	Provide widening of the existing two-lane railroad underpass on SR89 in Nevada County	$3,000,000.00
1737.	New York	Staten Island Fast Ferry Purchase	$14,000,000.00
1738.	Tennessee	Interchange planning on I-65 at Highland Road	$400,000.00
1739.	Oklahoma	Construct SH3 improvements from Antlers to Broken Bow	$15,000,000.00
1740.	Illinois	Improve roads and construct pedestrian underpass, Western Springs	$2,790,000.00
1741.	Arkansas	Improvement of Sugarloaf Road and Sugarloaf Bridge Construction, Clark County	$500,000.00
1742.	Ohio	Road improvements from Elton St. North to Wooster St. in Tuscarawas Township	$800,000.00
1743.	Missouri	Hanley Road Improvements, St. Louis County	$2,000,000.00
1744.	Tennessee	Construct portion of new State Route 374 Bypass west of Clarksville	$3,400,000.00
1745.	Florida	Miami River Greenway Roadway Improvements and 5th Street Improvements	$1,000,000.00
1746.	Michigan	Improve Fed Forest HWY 16 from M-38 to Houghton County Line, Ontonagon County	$500,000.00
1747.	Illinois	Upgrade Ridge Avenue, Evanston	$3,000,000.00
1748.	New Jersey	Garden State Parkway Grade Separation, Cape May County. Eliminates 3 at grade interchanges (9,10,11) & replace with grade separations.	$45,000,000.00
1749.	Oklahoma	Improvements to I-235 (Broadway Extension) from 36th St. To 63rd St. in Oklahoma City, OK	$1,000,000.00
1750.	California	Improve access from I-8 and construct parking lot for the Imperial Sand Dunes Recreation Area Visitors Center, Imperial Valley.	$1,000,000.00
1751.	Oklahoma	HW 60 Pawhuska to Bartlesville, Osage Co	$2,000,000.00
1752.	Maryland	Upgrade conduit for traffic signal system, street lighting, and traffic-related video cameras, Baltimore.	$1,700,000.00
1753.	Washington	Overpass improvement along 3 mile section of SR501, between MP 0 and MP 3	$1,000,000.00
1754.	Ohio	Construct Portage Bike and Hike Trail, Portage County	$1,000,000.00
1755.	Tennessee	Widen State Route 33 in Knox County, TN	$6,500,000.00
1756.	Illinois	Upgrade Curtis Rd in conjunction with state plan for I-57 interchange, from Duncan Rd to 1st St in Champaign.	$7,000,000.00
1757.	Washington	Avenue D Reconstruction, Snohomish	$1,800,000.00
1758.	Illinois	de roads, Village of Hillside	$1,000,000.00
1759.	Louisiana	North-South Corridor from Houma/Thibodaux to I-10	$5,000,000.00
1760.	New York	Construction of and improvements to Main Street in the Town of Eden	$500,000.00
1761.	California	State Route 52 East upgrade (SR 125 to SR 67)	$6,400,000.00
1762.	California	I-80 at Eureka Road Interchange -Improve access to I-80 by reducing traffic congestion at two heavily traveled on-ramps at Eureka Road and Riverside Avenue in Placer County.	$2,000,000.00
1763.	Massachusetts	Study and design I-93 / Mystic Avenue Interchange at Assembly Sq, Somerville	$500,000.00
1764.	Tennessee	Construct roundabout intersection at Hwy 41A and Hwy 49, Pleasant View	$900,000.00
1765.	California	Bay Road improvements between Clarke Avenue and Cooley Landing. Northern access improvements between University and Illinois Avenues, East Palo Alto.	$4,000,000.00
1766.	Texas	Construct new intersection direct connections between IH-635 and IH-35E, Dallas County, Texas	$17,000,000.00
1767.	Texas	Continuation of item number 92 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century.	$2,500,000.00
1768.	California	Transportation enhancements, Bellflower	$75,000.00
1769.	Texas	Implement the recommendations of a forthcoming study on reducing congestion in and around the Texas Medical Center.	$5,000,000.00
1770.	Arkansas	Improvements to Jenny Lind Road and Ingersoll Road in Fort Smith	$6,000,000.00
1771.	New York	Design/Environmental work on the Inner Loop from Clinton Avenue to East Main Street, Rochester.	$2,400,000.00
1772.	New York	Implement ITS system and apparatus to enhance citywide truck route system on Victory Blvd Between Travis Ave and West Shore Expressway Travis Section of SI.	$100,000.00
1773.	Maine	Gorham Village Bypass, Gorham	$9,600,000.00
1774.	Michigan	Street Project for Access Road to Develop 65-Acre of Municipal Tract of Industrial Land, Village of Cass City, Tuscola County.	$23,160.00
1775.	Colorado	Roadway widening and interchange rebuilding on I-225 from I-70 to Parker road	$14,000,000.00
1776.	Indiana	Improve Baile Street, Kentland	$300,000.00
1777.	Virginia	Extension of six-lane section of U.S. Rt. 29 between Eaton Place at Rt. 123	$3,000,000.00
1778.	Georgia	Improve sidewalks, upgrade lighting, and add landscaping in downtown Glennville	$680,000.00
1779.	Georgia	Construct Effingham bypass, SR 21 to SR 275	$3,500,000.00
1780.	Texas	SH 114/SH 121 "Funnel Project" - Preliminary Engineering Study	$4,000,000.00
1781.	Georgia	DeKalb schools pedestrian safety upgrades	$4,500,000.00
1782.	Washington	Install dual left turn lanes and intersection signal modifications at SR432 and Columbia Blvd	$1,750,000.00
1783.	Indiana	Reconstruction of .46 miles of Range Line Rd. and replacement of Hamilton County Bridge number 194 in Carmel, IN.	$1,000,000.00
1784.	California	Land acquisition to mitigate impacts to natural habitats and wetlands caused by highway projects on US1 and US101 in areas around Solstice Canyon in the Santa Monica National Mountains Recreation Area.	$1,000,000.00
1785.	Arizona	Construct and replace Safford 8th Avenue north of Safford, Arizona	$3,000,000.00
1786.	California	Construct overpass at Central Avenue Overpass and the Union Pacific railroad crossing, Newark	$1,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1787.	Oregon	Widen Oregon Highway 217 between Tualatin Valley Highway and the US 26 interchange, Beaverton.	$6,250,000.00
1788.	South Carolina	I-73 Interstate from South Carolina State line to Myrtle Beach Area	$10,000,000.00
1789.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Athens, TN	$99,000.00
1790.	Texas	Extend Dowlen Rd. from College St. to Walden Rd., Beaumont	$3,460,000.00
1791.	Louisiana	Peters Road improvements in Plaquemines Parish	$1,000,000.00
1792.	Florida	Expand I-95/Palm Coast Parkway Interchange in Flagler County, Florida	$3,000,000.00
1793.	New Mexico	Improvements to U.S. Highway 87 from Raton to Clayton	$2,000,000.00
1794.	New York	Implement traffic calming and safety improvements in the Gateway to Great Neck area	$400,000.00
1795.	Tennessee	Increase safety at intersections on US11E through Russellville, Whitesburg, Bulls Gap and I-81, roadway improvements for local access roads.	$500,000.00
1796.	Massachusetts	Charlemont Bridge, Route 2. Replacement of the Charlemont Bridge that crosses Deerfield River, Charlemont.	$4,800,000.00
1797.	New York	Install Improvements for Pedestrian Safety in the vicinity of IS 194	$250,000.00
1798.	Florida	Extension of Apopka Bypass-Maitland Boulevard in Orange County, Florida	$1,000,000.00
1799.	Virginia	Jamestown 2007. To provide transportation infrastructure for visitors to Jamestown Island	$2,750,000.00
1800.	Minnesota	Trunk Highway 23 bypass of the city of Paynesville	$3,000,000.00
1801.	New York	Construct improvements on Rt. 12- Phase I other projects	$1,205,000.00
1802.	Florida	Widening and improvements to Snake Road (BIA Rt. 1281) in Hendry County	$1,000,000.00
1803.	Texas	Expansion and improvements to Loop 304, Crockett	$16,000,000.00
1804.	South Carolina	McClellan Road Bridge in Anderson County	$310,000.00
1805.	Michigan	Construction of I-696 freeway ramps, Southfield	$1,000,000.00
1806.	Georgia	Revitalization project will extend and resurface the Roberta Walker Trail, Roberta	$500,000.00
1807.	California	Provides funding for the construction of auxiliary lanes in each direction of U.S. 101 from Marsh Road to the Santa Clara County line.	$2,000,000.00
1808.	New York	Wayne County rails to trails initiative, creating bicycle/pedestrian trails	$345,000.00
1809.	Arkansas	Widen and replace bridges on Hopewell Road, Union County	$500,000.00
1810.	New York	Construct Setauket/Port Jefferson Station Greenway Trail	$5,000,000.00
1811.	California	Construct new ramps to Route 262, widen 262, reconstruct railroad bridges, Fremont	$3,000,000.00
1812.	Michigan	Resurfacing of Eleven Mile Road, St. Clair Shores	$480,000.00
1813.	Illinois	Construction of new access road from Hazel Dell Lane to Hope School in Springfield	$75,000.00
1814.	New York	Construction of a new entrance ramp from 9A Southbound to the Taconic State Parkway Southbound near the northbound Taconic exit ramp to 9A.	$1,000,000.00
1815.	New York	Route 590 Reconstruction Project in the Town of Irondequoit, NY	$4,000,000.00
1816.	New York	Improve Hospital Road Bridge between CR99 and CR101, Patchogue	$6,000,000.00
1817.	Minnesota	Interchange at CSAH & Hwy 24 in Cannon Falls, project development cost three interchange sites & one overpass along 52.	$1,000,000.00
1818.	New York	Queens and Brooklyn County Graffiti Elimination Program including Kings Highway from Ocean Parkway to McDonald Avenue.	$4,000,000.00
1819.	Texas	Construction of La Entrada al Pacifico south of Odessa to relieve traffic from El Paso and Del Rio.	$5,000,000.00
1820.	Alabama	Additional lanes would be added to SR-167 from Troy to Enterprise	$1,000,000.00
1821.	Ohio	Improve SR 14/Washingtonville Rd Intersection, Washingtonville	$824,000.00
1822.	Ohio	Transportation Museum facility expansion and improvements, City of Warren	$750,000.00
1823.	New York	Install Improvements for Pedestrian Safety in the vicinity of PS 277	$250,000.00
1824.	Kentucky	Construct the Albany Bypass, Clinton County	$4,000,000.00
1825.	Massachusetts	Route 110 & I-93 rotary improvements	$1,500,000.00
1826.	Tennessee	Upgrade circuit at gates/lights for Bristol grade crossing (Cedar Street) to intelligent systems that eliminate current variability.	$50,000.00
1827.	Massachusetts	Improvements to Mass. Ave, Andover Street, Osgood Street, Salem Street, and Johnson Street, Town of North Andover.	$1,000,000.00
1828.	New York	Construct W. 79th St. Rotunda, New York City	$2,000,000.00
1829.	California	Conduct Study and Construct Mc Kinley Interchange at SR 120 Project, Manteca, CA	$4,000,000.00
1830.	Indiana	Construct Margaret Avenue Underpass in Terre Haute	$4,000,000.00
1831.	Kansas	Removal of structurally deficient bridge and construction of a new major river crossing of Topeka Blvd. over the Kansas River.	$7,000,000.00
1832.	Michigan	Replacement of the interchange at 44th Street and US-131 in Grand Rapids	$8,700,000.00
1833.	New Jersey	Pedestrian, safety, and street lighting improvements, Edison National Historic Site	$520,000.00
1834.	Maine	Construct and plan Lewiston/Auburn Downtown Connector	$5,800,000.00
1835.	Michigan	Improve the existing highway-rail crossing at Cogshall Street, relocate existing signals	$2,000,000.00
1836.	Illinois	Improve Sheridan Road, Evanston	$2,000,000.00
1837.	South Carolina	Murphy Road East Bridge in Anderson County	$115,000.00
1838.	Texas	Construct 36th Street Extension to connect KellyUSA, San Antonio	$6,000,000.00
1839.	New York	Rehabilitate Rt. 12 at Town and Village of Greene	$4,852,000.00
1840.	Kentucky	Replace bridge and approaches over Beaver Creek (C14) 1.0 mile SE of JCT CR-1221	$500,000.00
1841.	Mississippi	US Hwy 61 Widening/ImprovementWidening US Hwy 61 through Natchez and improving 3 major intersections, including turn lanes, at Devereaux, Liberty, and Junkin Roads.	$1,500,000.00
1842.	Oregon	Rockwood Town Center for Stark Street from190th to 197th for pedestrian, bicycle and transit facilities and safety mitigation.	$2,000,000.00
1843.	Michigan	Expansion of Cass Avenue, Clinton Township	$8,763,000.00
1844.	Washington	Port of Tacoma Road - Construct a second left turn lane from westbound Pac Hwy to Port of Tacoma Road.	$500,000.00
1845.	Georgia	Bicycle and pedestrian trail 1.5 miles along Jester Creek, City of Morrow	$960,000.00
1846.	Mississippi	I-20 Interchange and Connectors at Hawkins Crossing:I-20 Interchange and connectors linking Meridian and industrial complex to US Hwys 11 and 45.	$1,000,000.00
1847.	Massachusetts	Engineering and construction of the Longfellow Bridge, Boston	$2,500,000.00
1848.	California	Construct A 2.8 mile bikeway, working in conjunction with the city of Whittier, that will connect four other regional trails and bikeways.	$400,000.00
1849.	Ohio	Construct White Pond Dr. project, Akron	$1,000,000.00
1850.	Arkansas	Resurfacing Grigsby Ford Road, Hot Spring County	$220,000.00
1851.	Oregon	Lake Road, Milwaukie for improvements in traffic flow, safety, bicycle and sidewalk facilities along the length of the road.	$3,000,000.00
1852.	North Carolina	Improve US221 to multilane highway resulting in additional traffic-carrying capacity and enhanced safety.	$5,000,000.00
1853.	Arkansas	Continued development of connector from relocated Highway 67 North to Highways 49 and future Interstate 555.	$1,000,000.00
1854.	Nevada	Construct Las Vegas Martin Luther King Blvd. to Industrial Road Connector	$5,500,000.00
1855.	Ohio	Grading, paving, roads, and ramp facilities for the transfer of rail-to-truck for the intermodel facility at Rickenbacker Airport.	$5,500,000.00
1856.	Illinois	Upgrade roads, Village of Maywood	$1,005,000.00
1857.	Illinois	IL Rt. 82 Railroad Underpass (Geneseo): Would raise the height of a narrow highway underpass	$3,000,000.00
1858.	Minnesota	Hwy 36/McKnight Road Interchange Reconstruction, Ramsey County	$5,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1859.	New York	Rehabilitation of the bridge at Warburton Avenue and Factory Lane, Yonkers	$1,000,000.00
1860.	Minnesota	Skyline Parkway Corridor preservation and roadway improvements from Seven Bridges Road to Becks Road, City of Duluth.	$4,000,000.00
1861.	Indiana	Reconstruct 3.4 miles of 2 lane rural road as divided parkway with landscaped median and recreation paths in Carmel, IN.	$500,000.00
1862.	Massachusetts	Design and engineering of 30-mile bikeway extending south from the Town of Salisbury to the Town of Danvers.	$600,000.00
1863.	Minnesota	Stearns County Bridge no. 73501 improvements	$400,000.00
1864.	Louisiana	Improve Zachary Taylor Parkway in LA	$1,000,000.00
1865.	Texas	SH 164 in Groesbeck to Sand Branch Creek. Reconstruct a two-eleven foot main lane roadway to a two-lane twelve-foot main lane with eight-foot shoulder facility. Overall widening of SH 164 for safety.	$2,000,000.00
1866.	Colorado	Upgrade I-70 from Glenwood Canyon to C-470	$4,000,000.00
1867.	New York	Phase II Corning Preserve Transportation Enhancement Project	$5,000,000.00
1868.	Michigan	Purchase and implementation of various Intelligent Transportation System technologies in the Grand Rapids metro region.	$13,100,000.00
1869.	Connecticut	Upgrade North Stonington, CT - Westerly, RI Bridge	$480,000.00
1870.	California	Oregon-Page Mill expressway improvements between U.S. 101 and S.R. 82, Palo Alto	$2,000,000.00
1871.	New York	Pedestrian walkway improvements along Sunrise Highway, Valley Stream	$1,000,000.00
1872.	California	Study economic, environmental and congestion mitigation benefits of a Hybrid Utility Vehicle, Santa Barbara County.	$100,000.00
1873.	Virginia	Route 613 Bridge over Gold Mine Creek - Louisa County	$500,000.00
1874.	Illinois	Undertake traffic mitigation and circulation enhancements on 57th and Lake Shore Drive, Chicago.	$500,000.00
1875.	Ohio	Walnut Ave. Bridge replacement project in the City of Alliance	$500,000.00
1876.	California	Pedestrian Bridge Over Atlantic Boulevard, the City of Monterey Park	$510,000.00
1877.	New York	Emergency vehicle preemption system at traffic signals, Smithtown	$500,000.00
1878.	New York	Implement ITS system and apparatus to enhance citywide truck route system on Broadway to Irwin Ave between 232 to 231 in the neighborhood of Kingsbridge, NY.	$100,000.00
1879.	Ohio	Conduct Phase II of U.S. Route 68 bypass project in Urbana	$2,300,000.00
1880.	Texas	This project will develop a statewide 511 program	$4,000,000.00
1881.	New Jersey	Intermodal Access Improvements to former MOTBY, Bayonne	$2,000,000.00
1882.	Connecticut	Construct Route 11 Extension and Greenway from Salem to Waterford	$15,345,000.00
1883.	New Jersey	Rowan Boulevard Parking adjacent to Highway 322 Corridor, Glassboro Township	$1,000,556.00
1884.	Kentucky	Construct the Northern Bypass of Somerset, Kentucky and Interstate 66 from the Cumberland (Louie B. Nunn) Parkway west of Somerset, Kentucky to Interstate 75 south of London, Kentucky.	$14,000,000.00
1885.	New York	Construct sidewalk along KingsFerry Rd. and Cortlandt St. in Town of Cortlandt -NY	$400,000.00
1886.	Virginia	Appalachian Traditions - construction of outdoor facilities along Music Heritage Trail, Josephine.	$250,000.00
1887.	Louisiana	Construct US 90/LA 675 interchange, Iberia Parish	$5,000,000.00
1888.	Kentucky	Widening US 25 from US 421 to KY876, Richmond	$800,000.00
1889.	Washington	Kent Willis UP Tracks - Provide grade separation at the existing railroad tracks at the UP tracks.	$1,000,000.00
1890.	New York	Improvement on Burnt Corners Rd and Grahamtown Rd. in Town of Greeneville-NY	$100,000.00
1891.	Nebraska	Construct new E-W and N-S roadways/elevated railroad crossing to enhance comprehensive redevelopment of downtown Lincoln.	$4,000,000.00
1892.	Illinois	Improve roads, Benton	$2,300,000.00
1893.	Pennsylvania	Northwest Lancaster County River Trail will parallel 14 miles of Susquehanna River	$250,000.00
1894.	Georgia	Bridge replacement on County Road 183-FAS Route 1509, Peach County	$425,000.00
1895.	Florida	Construction of a new bridge at Indian Street, Martin County, Florida	$4,000,000.00
1896.	New York	Improvements to Ashburton Ave. from the Saw Mill River Parkway to the waterfront	$600,000.00
1897.	Florida	SW 62nd - SW 24th arteriol connector alleviating traffic on I-75	$1,000,000.00
1898.	Kentucky	Make Highway 55 (aka Highway 555) into a 4 lane highway	$10,000,000.00
1899.	Missouri	RiversSouth Development, St. Louis County	$3,000,000.00
1900.	Washington	Emission reduction kits to be put on diesel vehicles (Diesel Solution program, Puget Sound Clean Air Agency).	$2,000,000.00
1901.	Alaska	Variety of road improvements and upgrades to service road areas and miscellaneous projects within Northstar Borough.	$5,000,000.00
1902.	Indiana	Louisville/Southern Indiana Ohio River Bridges Project, Indiana	$14,400,000.00
1903.	New York	Roadway improvements on CR3 between Ruland Rd and I-495, Suffolk County	$2,000,000.00
1904.	New York	Improve the Bronx River Greenway Park Connection	$800,000.00
1905.	Illinois	Resurface Yellow Banks Road, Franklin County	$300,000.00
1906.	Iowa	Construct a Pedestrian Trail Bridge adjacent to U.S. Highway 275 across the Southern half of Council Bluffs, IA between the Missouri River and the Interstate 29 interchange.	$250,000.00
1907.	Florida	SR 434 to JKF Blvd. Roadway Reconstruction, Eatonville	$3,000,000.00
1908.	California	Improving the interchanges on I-5 at Genesee Ave and Sorrento Valley Blvd	$2,000,000.00
1909.	Georgia	Construct Statesboro North bypass, SR 26 to SR 73	$2,000,000.00
1910.	Washington	Intersection project at South Access-522 beginning and ending at the UWB-CCC campus to improve access and alleviate congestion.	$3,000,000.00
1911.	Michigan	Plymouth, Repair Auburn St	$500,000.00
1912.	Missouri	Add 2 lanes to current 2 lane roadway, front street between I-29, I-35 and Chouteau Trafficway	$1,000,000.00
1913.	Florida	Airport Access Road, Gainesville	$1,000,000.00
1914.	Oregon	Columbia Intermodal Corridor for rail congestion relief, improved intersections and access to Interstate-5 for trucks, and grade-separate road from rail, Portland.	$12,000,000.00
1915.	California	This project will widen the northbound ramps and widen the southbound ramps at the I-15 and SR-79 south interchange.	$2,000,000.00
1916.	Washington	Realign West Main Street through west Kelso	$2,000,000.00
1917.	Washington	Construct an off-ramp from I-5 to the intersection of Alderwood Mall Blvd and Alderwood Mall Pkwy.	$500,000.00
1918.	New York	Resurface Grade Crossing at Old State Road (County Route 82)	$500,000.00
1919.	New York	Reconstruct a historic bridge crossing Maxwell Creek in the Town of Sodus, NY	$580,000.00
1920.	New York	Fulton Street Improvements from Pennsylvania Avenue to Eldert Lane, Brooklyn	$5,600,000.00
1921.	Alabama	Talledega Mountains Natural Resource Center - an educational center and hub for hikers, bicyclists, and automobiles.	$1,000,000.00
1922.	Pennsylvania	Design, engineering, ROW acquisition, and construction of street improvements and safety enhancements, Borough of Dupont in Luzerne County.	$250,000.00
1923.	Nebraska	Construct planned 68-mile, 4-lane expressway on N-35 from Norfolk to South Sioux City	$13,000,000.00
1924.	Missouri	Modifications to I-470-US50 Interchange	$1,000,000.00
1925.	Michigan	West Michigan Regional Planning Study for transportation and infrastructure	$500,000.00
1926.	Virginia	Improve State Routes 161 and 315 and construct infrastructure improvements at/adjacent to Virginia Museum of Fine Arts in Richmond.	$1,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1927.	California	Development study of the Riverside-Orange corridor through the Community Environmental Transportation Acceptability Process (CETAP).	$14,000,000.00
1928.	California	Land acquisition in Sargent Hills to mitigate for road runoff into water sources and to protect a wildlife corridor connecting Santa Cruz Mountains to Mt. Hamilton Range, Santa Clara County.	$1,000,000.00
1929.	Michigan	CR 186 from M-35 at Brampton to US2 & US41 - bituminous overlay with super elevation, correction, curb, and gutter, Delta County.	$240,000.00
1930.	Oklahoma	Widen US 60 from approximately 2 miles east of the US 60/US 75 interchange east approximately 5.5 miles.	$2,000,000.00
1931.	North Carolina	Continued development of pedestrian bike paths, Cary	$1,300,000.00
1932.	Massachusetts	Warren Street and Blue Hill Avenue street improvements, Boston	$2,000,000.00
1933.	Pennsylvania	Construct limited access interchange on I-81 in Guilford Township	$3,150,000.00
1934.	Michigan	Construction of improvements of 4 miles connecting M40 in Western Allegan County to Middleville and a bridge over Thornapple River.	$3,400,000.00
1935.	Georgia	Historic preservation of a city bus station in downtown Eastman	$134,917.00
1936.	Texas	This project will deploy ITS elements in the rural areas of Texas	$4,000,000.00
1937.	Texas	Relocation of FM 156 at Alliance Airport	$5,000,000.00
1938.	Texas	Construct a 3 level diamond interchange on IH 35, Bell County	$2,000,000.00
1939.	Washington	Improvements in the SR9 corridor, Snohomish County	$1,500,000.00
1940.	Texas	Reconstruct State Highway 87 from SH 124 to Sabine Pass	$7,000,000.00
1941.	New York	Install Improvements for Pedestrian Safety in the vicinity of Prospect Park Yeshiva	$250,000.00
1942.	Ohio	Replace McDonald Industrial Bridge, Village of McDonald	$500,000.00
1943.	Tennessee	Plough Boulevard Interchange project to improve access to Memphis International Airport	$2,000,000.00
1944.	New York	Rehabilitation of the Ashford Ave. bridge over I-87 in the Villages of Dobbs Ferry and Ardsley ...	$2,600,000.00
1945.	Washington	Granite Falls Alternate Freight Route, Granite Falls	$2,400,000.00
1946.	New York	Rebuild Queens Plaza, a 250-foot wide roadway on the astern end of the Queensborough Bridge	$8,000,000.00
1947.	New Jersey	Reconfiguration of Bay Avenue and Polaris Street in Newark, NJ	$8,000,000.00
1948.	Illinois	Reconstruct Winter Ave, existing 1 lane Railroad subway, and 1 lane bridge to provide access to Winter Park in Danville.	$5,400,000.00
1949.	New York	Eastern Laurelton Area Improvements, Queens	$6,600,000.00
1950.	Texas	Construct grade-separation bridges at Wintergreen and Millers Ferry Roads in Hutchins and at Pleasant Run and Millers Ferry Roads, Wilmer.	$7,200,000.00
1951.	Pennsylvania	Engineering, design and construction of an extension of Park Avenue north to Lakemont Park in Altoona.	$2,000,000.00
1952.	Florida	Increase four lane road to a six lane segment on Highway 98, Walton County	$2,000,000.00
1953.	New Jersey	Pedestrian facilities and street lighting on Haddon Avenue from Voorhees Township Line to Bate Avenue, Berlin Township.	$347,120.00
1954.	Minnesota	Acquire right of way for reconstruction and relocation of U.S. Highway 14 from CSAH 2 to Owatonna.	$12,000,000.00
1955.	New York	Construct highway improvements necessary to develop an industrial park in Lackawanna	$2,000,000.00
1956.	Alaska	Emergency evacuation road at Point Hope in North Slope Borough	$5,000,000.00
1957.	Michigan	Rail Consolidation Phase II, City of Monroe	$5,250,000.00
1958.	New York	Road and pedestrian safety improvements on Main Street, Village of Patchogue	$1,400,000.00
1959.	Ohio	Construct connector between Crocker and Stearns County Highways, Westlake and North Olmsted.	$700,000.00
1960.	Tennessee	Improve and relocate section of SR-66 from I-81 in Jefferson County and extending to SR-34 in Hamblen County via SR-160.	$2,750,000.00
1961.	Ohio	Calming of traffic on Greenfield st. in City of Tiffin and improving intersection of Greenfield St. with Routes 18 and 101.	$1,700,000.00
1962.	California	Realignment of La Brea Avenue to reduce congestion, Inglewood	$4,240,000.00
1963.	Minnesota	Construct one mile of new roadway and a bridge crossing the DM&IR railroad tracks, and construct connector between CSAH 14 and CSAH 284, Proctor.	$3,280,000.00
1964.	Georgia	Construct 5 ft. bicycle lanes to connect the cities of Elberton and Lake Russell, and rest stops for recreational use.	$1,250,000.00
1965.	California	Construct fourth bore of Caldecott Tunnel on Route 24	$1,000,000.00
1966.	Illinois	Prospect St. Project (Cambridge): Restoration and reconstruction of the central business district street.	$1,200,000.00
1967.	New York	Roadway improvements to Woodbury Rd at intersection with Syosset-Woodbury Rd., Nassau County.	$1,500,000.00
1968.	New Jersey	Rt. 1&9, Roadway Rehabilitation in North Bergen	$1,000,000.00
1969.	New York	Construct and improve access roads to Northland Commerce Park, Buffalo	$1,500,000.00
1970.	Massachusetts	Meridian Street Bridge. Replacement of the Meridian Street bridge that crosses the Green River, Greenfield.	$2,300,000.00
1971.	Kansas	Highway construction project on K-18 in Geary County, south 2.7 miles to Interstate 70	$13,970,000.00
1972.	Pennsylvania	Schaefferstown Bypass, PA Route 501, Lebanon	$1,000,000.00
1973.	North Carolina	Widen US 401 to multilane facility between Fayetteville and Fuquay-Varina	$4,000,000.00
1974.	Washington	North Sound Connecting Communities Project Planning Funds	$1,000,000.00
1975.	Georgia	Construct Blue Jay Rd. to Highway 30 in Effingham	$2,500,000.00
1976.	North Carolina	Widening of US501 from NC 49 in Roxboro, North Carolina to the Virginia State line, part on new location.	$10,000,000.00
1977.	Maryland	Reconstruction of roadways in the East Baltimore Biotechnology Park	$6,000,000.00
1978.	Ohio	Construct additional lane to alleviate traffic congestion on US 40 in and adjacent to St Clairsville.	$800,000.00
1979.	Missouri	Intersection improvement of Hwy 45, Hwy K, and Union Chapel Road, in addition to widening Hwy 45.	$3,000,000.00
1980.	Maryland	Interchange at Musgrove Road and Fairland Road on US29	$3,400,000.00
1981.	California	Traffic signal upgrades on Bellflower Blvd at Alondra Blvd and Rosecrans Ave, Bellflower	$350,000.00
1982.	Utah	Virgin River Bridge, Washington City	$2,800,000.00
1983.	Nebraska	Construction of a 2-lane roadway on new alignment south and east of Louisville	$1,626,400.00
1984.	Florida	Ludlum Trail	$1,000,000.00
1985.	New Jersey	Route 21 Improvements and bridge replacement in vicinity of Chester Avenue, Newark	$1,000,000.00
1986.	Indiana	US 231 new road construction in Spencer and Dubois Counties	$5,000,000.00
1987.	South Carolina	Southern Conway Bypass (701 Connector)	$5,000,000.00
1988.	South Carolina	Railroad Avenue Extension, Road S-732, Berkeley County	$2,000,000.00
1989.	Louisiana	Construct Mississippi River Trail and Bikepath, New Orleans	$500,000.00
1990.	Washington	Preliminary engineering and EIS for I-5 from SR500 WA crossing the Columbia River, to Marine Drive in OR.	$10,000,000.00
1991.	New York	Improvements to the intermodal transportation on the Jacobi Campus-1400 Pelham Park	$250,000.00
1992.	Texas	Pedestrian improvements and traffic control projects in the central business district of downtown El Paso.	$2,000,000.00
1993.	Alabama	4-laning of US 278 from I-65 to US 231	$3,000,000.00
1994.	Kansas	Construct bike/pedestrian path along K-10 between Douglas and Johnson Counties	$500,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
1995.	Florida	Construction and four-laning of State Road 80 in Hendry County, Florida	$1,000,000.00
1996.	Missouri	Upgrade interchange at I170 & Ladue Road (Ladue, MO)	$2,000,000.00
1997.	Maryland	Funding for Baltimore City to begin development of a City Transportation Management Center utilizing ITS.	$1,000,000.00
1998.	Texas	Environmental Mitigation and wetland protection funding for US 290 to US 59 (The Grand Parkway) and Right of Way funding for US 290 to SH249 and I-45 to US 59.	$14,000,000.00
1999.	Arkansas	Improvement of Hwy 65b-North, Pine Bluff	$3,200,000.00
2000.	Texas	Loop 49--Construct a new location 4-lane divided controlled access facility from SH 155 to SH 31	$6,100,000.00
2001.	California	Construct State Route 905 to connect the Otay Mesa Port of Entry to Interstate 805, San Diego	$15,000,000.00
2002.	Washington	Improvements at I-5 and 134th Street and arterial network linking I-5 and I-205	$12,354,000.00
2003.	Florida	North Access Road / International Airport Boulevard in Duval County	$5,000,000.00
2004.	Ohio	Construct a 4 lane limited access road to link Newcomerstown and Cadiz	$750,000.00
2005.	Alaska	Westside development Williamsport-Pile Bay Road	$5,000,000.00
2006.	Massachusetts	Engineering and construction of the Chelsea St Bridge, Boston	$8,000,000.00
2007.	Oregon	Widen Delauro Road and add a bike lane in both directions, Clatsop County	$90,000.00
2008.	Iowa	Build extension to U.S. 20 Mississippi River Bridge in Dubuque County	$25,000,000.00
2009.	Mississippi	Upgrade roads in Attala County District 4 (Roads 4211 and 4204), Kosciusko, Ward 3 (U.S. Hwy 16), and Ethel (U.S. Hwy 12), Attala County.	$1,300,000.00
2010.	California	Widen the Mountain View Avenue Bridge in Loma Linda	$2,000,000.00
2011.	Alaska	Construct access road and a bridge crossing the Naknek River terminus points in South Naknek-King Salmon Highway.	$5,000,000.00
2012.	California	Construct Illinois Street Bridge/Amador Street Connection and Improvements, San Francisco	$5,000,000.00
2013.	Michigan	Commerce, widen Haggerty Rd. from 14 mile to Richardson	$2,000,000.00
2014.	South Carolina	North Rhett Boulevard Extension to US Hwy 52, Berkeley County	$7,000,000.00
2015.	Michigan	Allen Road Highway-Rail Grade Separation under CN Railroad, City of Woodhaven	$3,000,000.00
2016.	Pennsylvania	Complete the reconstruction of roadways around the David L. Lawrence Convention Center	$1,000,000.00
2017.	Oklahoma	Construct Texanna Road Improvements from Highway 69 to Highway 71, McIntosh County	$2,000,000.00
2018.	New Mexico	Construct Fairgrounds Road in Alamogordo	$5,000,000.00
2019.	New York	Reconstruction of Times and Duffy Squares, New York City	$1,500,000.00
2020.	Florida	US Highway 19 North, Pinellas County	$10,000,000.00
2021.	Maryland	MD70/Rowe Boulevard Bridge. Funding to undertake environmental mitigation work on Weems Creek associated with bridge reconstruction.	$2,000,000.00
2022.	Alabama	Extension of I-565 westward from existing interchange to existing Tennessee River bridges at Decatur, AL.	$5,000,000.00
2023.	Washington	San Juan Boulevard Project, Bellingham	$4,000,000.00
2024.	Oklahoma	Reconstruct the I-44/Fort Sill Key Gate Interchange	$1,000,000.00
2025.	New York	Improve safety measures at railroad grade crossings on the West Shore River Line, Rockland County.	$1,000,000.00
2026.	Oregon	Improve Millican/West Butte Road which connects U.S. Highway 20 with U.S. Highway 126	$2,000,000.00
2027.	California	Construct Alviso Bay Trail project, a 1.3 mile trail from Gold Street to San Tomas Aquino Creek, Santa Clara County.	$800,000.00
2028.	Kentucky	Reconstruct KY 750 from KY 3105 to US 23, Raceland	$500,000.00
2029.	Illinois	Upgrade Missouri Ave from 1st St to 10th St, East St. Louis	$2,500,000.00
2030.	New York	Install Improvements for Pedestrian Safety in the vicinity of IS 72/PS 69	$250,000.00
2031.	California	Improvements (including arterial street rehabilitation) to enhance traffic and pedestrian safety in the Sherman Oaks community, Los Angeles.	$214,000.00
2032.	Georgia	Install walkways, lighting, landscaping in Water Works Park and south along river through Ocmulgee National Monument and Central City Park.	$4,500,000.00
2033.	California	Reconstruct 1.1 miles of Long Beach Blvd from Imperial Hwy. to Tweedy Blvd., Lynwood	$2,200,000.00
2034.	Michigan	Overlay of Fairview Road to improve network of all-season Truck routes, Ogemaw County	$369,600.00
2035.	Washington	I-90, Spokane to Idaho State Line Widening: Construct two general purpose lanes from Sprague Avenue in City of Spokane to Idaho State Line.	$5,000,000.00
2036.	Texas	Greater Galveston Bay Area cooperative development for landscape beautification, hike & bike trail extension, and extension of current trails.	$2,000,000.00
2037.	Virginia	Blue Ridge Travel Association - establishment of website providing information including trails and road systems within the region.	$250,000.00
2038.	South Carolina	Construct intersection and corridor improvements to US 278 to include widening and traffic control improvements.	$6,500,000.00
2039.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Niota, TN	$99,000.00
2040.	Arkansas	Improvement of Hwy 82 East/West Project, Ashley County	$500,000.00
2041.	Ohio	Construct proposed connection SR 207, SR104, and US 23 in Ross County	$2,000,000.00
2042.	Indiana	Construct an economic thoroughfare parallel to I-69 in the City of Anderson, Indiana	$2,000,000.00
2043.	Washington	Cascade Gateway Coordination of Binational Planning; The International Mobility and Trade Corridor Project.	$1,300,000.00
2044.	Illinois	City of Peoria Riverfront area street improvements	$800,000.00
2045.	New Mexico	Mesa Del Sol: Improve and renhance access to existing county recreational complex and the new Mes Del Sol development.	$2,000,000.00
2046.	California	Replace Route 1 San Pedro Creek bridge, Pacifica	$1,500,000.00
2047.	Massachusetts	Reconstruction of Union St and Route 138W, Holbrook	$1,800,000.00
2048.	New York	Construction of and improvements to highway / rail grade crossing at Harrington Road in the Town of Sheridan.	$500,000.00
2049.	California	The Foothill South Project will construct 16 miles of a six lane limited access highway system	$10,000,000.00
2050.	Florida	Roadway and drainage improvements in the city of Key West to reduce street flooding	$2,000,000.00
2051.	New Jersey	Route 46 Little Ferry Traffic Circle Elimination, Roadway and Drainage Improvements	$1,500,000.00
2052.	California	Planning, engineering, and construction of a tunnel on SR 75/282 to Naval Air Station. San Diego.	$5,000,000.00
2053.	Massachusetts	Replace Cross Street Bridge spanning the flood-prone Aberjona River, Winchester	$1,000,000.00
2054.	Georgia	Widening of SR 196 in Liberty County	$1,000,000.00
2055.	Illinois	Annie Glidden Rd. (DeKalb): Widen the two-lane road to five lanes with intersection improvements.	$8,000,000.00
2056.	Mississippi	Highway 45 Bypass - Provides a 4-lane alternative to Highway 45 in Columbus	$6,000,000.00
2057.	New York	Construction of ferry terminals and ferry boats for Haverstraw, Yonkers, and Manhattan	$1,500,000.00
2058.	California	Construct road from Mace Blvd in Yolo County to federally supported Pacific Flyway wildlife area.	$1,000,000.00
2059.	New York	Construction of roadways to improve access to waterfront at Erie Street in Buffalo	$1,500,000.00
2060.	Washington	Route analysis for a planned community pathway through Chehalis	$50,000.00
2061.	California	Improve access roads to Beale Air Force Base (Spenceville, Smartville, Hammonton-Smartville, and North Beale Roads).	$6,500,000.00
2062.	Mississippi	Canal Road intermodal connector, Gulfport	$8,000,000.00
2063.	Iowa	Reconstruction and relocation of US 30 from 4.5 miles west of Toledo to 1 mile east of Tama	$4,000,000.00
2064.	Nebraska	Highway grade separation structure across the BNSF/FEVR railroad corridor in the western part of the City of Fremont.	$1,807,300.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2065.	Illinois	Construct Illinois Route 336 from Macomb to Peoria	$2,000,000.00
2066.	Pennsylvania	Schuylkill River Gateway project enhancing bridge and roadway structures connecting Center City and University City for pedestrians, bicyclists, and motorists.	$1,250,000.00
2067.	North Carolina	Add interchange on I-26 north of NC 146 and south of the Blue Ridge Parkway	$5,000,000.00
2068.	Virginia	Widen Route 7 from Reston Parkway to Rolling Holly Drive	$6,000,000.00
2069.	Mississippi	Upgrade roads in Beauregard (U. S. Hwy 51), Crystal Springs (U.S. Hwy 51 and I-55), and Hazelhurst (U.S. Hwy 51 and I-55), Copiah County.	$1,000,000.00
2070.	California	Conduct Study and Construct Lammers Rd / I -205 Widening and Interchange Project, Tracy, CA	$1,000,000.00
2071.	Maryland	Design ramp from I-495 to MD 4 and signalized intersection	$3,500,000.00
2072.	Oregon	Add a southbound lane to section of I-5 between Delta Park and Lombard	$5,000,000.00
2073.	Minnesota	Reconstruction of CSAH 4 and CSAH 5 (Forest Highway 11) between CSAH 15 and Trunk Highway 61, Silver Bay.	$1,740,000.00
2074.	California	Upgrade Kanan Road interchange at US101 (Agoura Hills) to improve safety and accessibility	$5,000,000.00
2075.	Washington	U.S.-395, Spokane to Stevens County Line Widening: Construct US-395 from milepost 172.6 to Stevens County line just north of Deer Park, Washington.	$1,000,000.00
2076.	Georgia	Upgrade sidewalks and lighting, Lyons	$709,098.00
2077.	Ohio	Construction of new roadway intersecting Chestnut St. and Paradise St. and modifications to Chestnut St. and Paradise St. in the City of Orville.	$6,004,400.00
2078.	Georgia	Extend East Greene Street, install street lights, utilities, and landscaping, Milledgeville	$500,000.00
2079.	Wisconsin	Construct Michigan Street Bridge in Sturgeon Bay, Wisconsin	$5,000,000.00
2080.	Missouri	Complete the upgrade of Hwy. 60 to 4 lanes from Willow Springs to Van Buren	$10,000,000.00
2081.	Ohio	Deconstruct the Bellaire Highway Bridge which connects Bellaire, OH and Benwood, WV	$1,700,000.00
2082.	California	Construction of interchange at State Hwy 86 and Ave 50 in Coachella, CA	$1,000,000.00
2083.	Virginia	Preliminary engineering for Hampton Roads Third Crossing	$3,000,000.00
2084.	Arizona	Improve 15 miles of Navajo Route 16 in the Navajo Mountain Community	$1,000,000.00
2085.	New Hampshire	Construction of interchange on I93. The project is not part of a larger system. But, will be compatible with the NHDOT I-93 widening project.	$2,500,000.00
2086.	Vermont	Construction of the St. Albans intermodal connector roadway with I-89 for the City of St. Albans	$1,200,000.00
2087.	Illinois	Widen Algonquin Rd to four-lane divided highway in McHenry County, IL	$4,000,000.00
2088.	Mississippi	Upgrade roads in Itta Bena (U.S. Hwy 82 and 7) and in vicinity of Viking Range Corp. (U.S. Hwy 7 and 49), Leflore County.	$1,500,000.00
2089.	New York	Improvements to Robinson La and Lake Walton Rd at Rt 376 in Town of East Fishkill	$500,000.00
2090.	Hawaii	Conduct study of East Hawaii Alternative Road, Island of Hawaii	$250,000.00
2091.	Washington	Tukwila Urban Access - address necessary improvements to Southcenter Parkway in Tukwila to relieve congestion.	$1,000,000.00
2092.	California	Quincy-Oroville Highway Rehabilitation - Provides for 9.5 miles of pavement rehabilitation, culvert replacements, guardrail installation, signing and stripping in Plumas County.	$1,000,000.00
2093.	New Jersey	Rt. 33 from Rt. 35 to Rt. 71 -Widening existing roadway, sidewalks, left turn lanes, signage and drainage, Neptune.	$2,000,000.00
2094.	Missouri	Ogden Ave improvements - property acquisition, design & engineering, and enhanced streetscapes for bike and pedestrian traffic, St. Louis County.	$400,000.00
2095.	California	Interchange improvements at Rice Avenue and U.S. Highway 101, City of Oxnard	$3,000,000.00
2096.	New Jersey	Pedestrian walkway improvements across three bridges over I-280, Orange	$1,000,000.00
2097.	Arizona	Pave 12 miles of Pine Springs Road, N9010, on the Navajo Nation	$1,000,000.00
2098.	California	Utilize funds over a four-year period to reconstruct and deep-lift asphalt on various roads throughout the district in Santa Barbara County.	$4,644,000.00
2099.	Minnesota	Lyndale Avenue Bridge Project, Richfield	$7,000,000.00
2100.	Virginia	Route 635 Bridge Over Southern Railway - Orange County	$500,000.00
2101.	New York	Construct Safe Routes to Schools projects, New York City	$3,000,000.00
2102.	Nevada	Design and Construct Hoover Dam Bypass Extension, Boulder City, Nevada	$6,000,000.00
2103.	Texas	Construct pedestrian trail from Pasadena Heritage Park to Memorial Park, then continue south along Vince Bayou to Strawberry Park.	$150,000.00
2104.	Pennsylvania	Widening of 4.5 miles of northbound Rte 28 at Yutes Run Rd for the Frazer Mills Project	$1,500,000.00
2105.	Illinois	Construct parking facility, LaGrange	$3,700,000.00
2106.	Ohio	Replace the Edward N. Waldvogel Viaduct	$8,000,000.00
2107.	Georgia	Install sidewalks on Highway 23 from Dykes Street to Sarah Street, Cochran	$300,000.00
2108.	North Carolina	10th St. Connector in Greenville, NC: Widen Farmville Blvd. from Memorial Dr. to 14th St. and extend from 14th St. to 10th St.	$12,000,000.00
2109.	Florida	Construction and Right of Way activities for SR 548, In-Town Bypass in Lakeland, FL	$6,000,000.00
2110.	Oklahoma	Construct SH28 Improvements from I-44 to Langley	$2,300,000.00
2111.	Ohio	Rehabilitate tunnel and bridge on National Road Bikeway in St Clairsville	$700,000.00
2112.	Ohio	Ashtabula Co. MetroParks completion of bicycle trails project	$1,000,000.00
2113.	Hawaii	Design/engineering of Puainako Street	$1,500,000.00
2114.	Virginia	Expansion of South Airport Drive near Richmond International Airport	$500,000.00
2115.	North Carolina	Construction of a hard surface road that will establish a new port access point to receive and dispatch trucks from/to US 74/76, US 421, and US 17S.	$3,000,000.00
2116.	Minnesota	City of Moorhead SE Main GSI, 34th St and I94 Interchange, and Moorhead Comprehensive Rail Safety Program.	$2,600,000.00
2117.	Nevada	Enhancement to ReTrac project that provided for separation of 11 street crossings through downtown Reno.	$1,000,000.00
2118.	New York	Improve NY112 from Old Town Road to NY347	$10,000,000.00
2119.	California	Construct 213th Street pedestrian bridge to provide safe passage for pedestrians and wheelchairs, Carson.	$1,050,000.00
2120.	Connecticut	Construct additional southbound Route 8 Entrance Ramp at Exit 11 in Shelton, CT	$1,500,000.00
2121.	Virginia	Cranesnest Trail - construction of 16 mile hiking, biking, horse trail from Route 83 to Cranesnest Campground.	$650,000.00
2122.	Maryland	Reconstruction of MD 175 from the Baltimore-Washington Parkway to MD 170 (Telegraph Road)	$2,000,000.00
2123.	Ohio	City of Tiffin/Sarah st. along St. route 18 and 101 to calm traffic	$2,600,000.00
2124.	New Jersey	Road improvement to improve the intersection of Rt. 173, Pittstown Road, and Interstate 78, Franklin Township of Hunterdon County.	$1,650,000.00
2125.	Alabama	Huntsville Southern Bypass from I565 through Redstone Arsenal to US Highway 231	$3,000,000.00
2126.	Michigan	Widen Maple and Orchard Lake Roads at Northwestern Highway intersections	$5,000,000.00
2127.	Montana	Bozeman Parking Facility	$5,000,000.00
2128.	New Hampshire	Relocation of the intersection of Route 103 and North Street and the reconstruction of North Street in Claremont, NH.	$2,680,000.00
2129.	Washington	SR 35 - Columbia River Crossing Environmental Impact Statement completion, Klickitat County	$800,000.00
2130.	Utah	Southern Corridor, St. George	$4,000,000.00
2131.	Oregon	Construction of roadway facilities at the Tualatin River National Wildlife Refuge	$60,000.00
2132.	Pennsylvania	State Street and Mulberry Street Bridge Lighting project, Harrisburg	$4,000,000.00
2133.	Florida	Widening and improvement of State Road 64 from Lakewood Ranch Boulevard to Lorraine Road	$2,000,000.00
2134.	Idaho	A widening project at the Sunnyside IC located on I-15 between mileposts 113 and 116	$4,500,000.00
2135.	Indiana	Riverfront trail, community gathering space and safe passage for pedestrians linking Noblesville to the White River Trails in Hamilton County.	$500,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2136.	Louisiana	Upgrade I-49 South from Lafayette, Louisiana to New Orleans, Louisiana	$3,500,000.00
2137.	Tennessee	New five-lane connector north of the city of Elizabethton, Carter County, located within Urbanized Area Boundary of Johnson City.	$500,000.00
2138.	Georgia	Link US 84 with Hinesville downtown redevelopment via Memorial Drive	$1,200,000.00
2139.	Pennsylvania	PA Route 61 safety improvements, Leesport Borough/Ontelaunee/Muhlenburg	$3,000,000.00
2140.	California	Builds a pedestrian bridge from Hiller Street to the Bay Trail, Belmont	$2,000,000.00
2141.	Michigan	Transportation Aesthetics project in City of Durand, includes new curb and gutter	$500,000.00
2142.	Illinois	Dixon Riverfront Plan: Development of a coordinated trail system, parking, and trial system	$3,200,000.00
2143.	California	Develop conceptual master plan including economic analysis and environmental study to improve the efficiency of transportation facilities, Covina.	$215,000.00
2144.	California	Streetscape improvements at E. 14th/Mission Blvd., Alameda County	$1,250,000.00
2145.	Utah	Cottonwood and Winchester Intersection, Murray City	$5,000,000.00
2146.	Massachusetts	Southwick and Westfield Rail Trail. Construction of a 9.5 mile multi-use trail, Southwick and Westfield.	$5,000,000.00
2147.	Florida	For land acquisition and construction of the Englewood Interstate Connector, a vital evacuation route for Sarasota, Charlotte and Lee Counties.	$4,000,000.00
2148.	Illinois	Engineering and construction of the 15.1-mile Alliance Trail from LaSalle to Bureau Junction	$1,000,000.00
2149.	Texas	Construct Hidalgo County Loop	$2,000,000.00
2150.	Pennsylvania	Flyover ramps at SR837/Center Street to Industrial Drive and SR148/Coursin Street to Industrial Drive, McKeesport/Duquesne.	$9,000,000.00
2151.	Virginia	Widen Rt. 820 in Bergton	$1,200,000.00
2152.	Idaho	A project to directly contribute to completed and future improvements to US-30 from I-15 from milepost 363.8 to milepost 365.9.	$5,000,000.00
2153.	New Jersey	Perth Amboy Rt. 440/State St. Interchange	$5,000,000.00
2154.	District of Columbia	Rock Creek Recreational Trail study to assess feasibility of constructing recreation trail	$1,000,000.00
2155.	Ohio	Construction/improvements of Lake Co Highway Administration Center in Madison	$500,000.00
2156.	Kansas	Reconstruct US-69 between 87th Street and 119th Street, City of Overland Park	$2,000,000.00
2157.	Virginia	Concept design and scope for a slip ramp from E. Eisenhower Valley area of Alexandria	$500,000.00
2158.	Oregon	BNSF Intermodal Hub for improved traffic flow, safety, and the construction of a turnout lane parallel to NW Yeon Avenue, Portland.	$200,000.00
2159.	Virginia	Whitetop Station - completion of renovation of Whitetop Station (which serves as trailhead facility), including construction of trail.	$100,000.00
2160.	West Virginia	Upgrade Route 10, Logan Co	$5,000,000.00
2161.	California	Construct Guadalupe River Trail project from highway 237 to I-880, San Jose	$5,500,000.00
2162.	Texas	Tower 55 CMAQ Congestion and Preliminary Engineering Study	$2,000,000.00
2163.	Illinois	Upgrade traffic signalization on Sheridan Road from Hollywood to Juneway, Chicago	$1,500,000.00
2164.	Massachusetts	Reconstruct Route 24 / Route 140 Interchange, replacing bridge and ramps, widening lanes, extending acceleration and deceleration lanes.	$8,700,000.00
2165.	New York	Construct turning lane on Rt 55 at Gardner Hollow Rd. in Town of Beekman-NY	$560,000.00
2166.	Illinois	Replace bridge structure over Wabash River between Mt.Carmel, IL and Princeton, IN	$7,200,000.00
2167.	Kansas	Construct K-10/ Lone Elm Road interchange, Lenexa	$3,000,000.00
2168.	Oregon	Barber Road extension, Wilsonville	$1,000,000.00
2169.	Texas	Bicycle and pedestrian trail network southeast Austin, including McKinney Falls Trail, Pierce Lane Link, Onion Creek Trail, and Southern Walnut Creek Trail.	$9,000,000.00
2170.	Florida	Link I-95 in St. Johns County to I-10 in Duval County with a 4-lane freeway running through Clay County.	$3,000,000.00
2171.	Arizona	Improve Interstate 40 at the Country Club Interchange in East Flagstaff, Arizona	$2,000,000.00
2172.	Illinois	Construct Bike paths, Madison County	$3,200,000.00
2173.	Pennsylvania	PA72 corridor improvements from PA283 to PA Turnpike. Connect with PA 283	$600,000.00
2174.	New York	Bicycle and pedestrian safety improvements on Main Street, Riverhead	$1,200,000.00
2175.	Georgia	Pedestrian streetscape project, including curbs, bicycle parking, and landscaping, to revitalize downtown Locust Grove.	$1,000,000.00
2176.	New Jersey	Project will fund improvements along County Route 523 corridor from Village of Oldwick south to US 22 in the Readington-Tewksbury, Improvement District.	$500,000.00
2177.	Kentucky	Newtown Pike extension from West Main Street to South Limestone Street, Lexington	$5,250,000.00
2178.	Louisiana	Construct improvements to I-10 interchange with Ryan Street, Lake Charles	$4,500,000.00
2179.	New York	Construction of and improvements to Route 5 in the Town of Hamburg	$500,000.00
2180.	Minnesota	TH 38 reconstruction from Itasca CSAH 19 to Marcell	$4,675,942.00
2181.	Maryland	Baltimore-Washington Maglev Demonstration Project will demonstrate capabilities of Maglev technology.	$200,000.00
2182.	Nebraska	Upgrade Cuming Street and US-75 entrance ramp, Omaha	$4,000,000.00
2183.	Texas	South Orient Rail economic & rehabilitation Project	$3,000,000.00
2184.	Illinois	City of Bartonville, Street widening and improvements and sidewalk improvements	$800,000.00
2185.	Mississippi	Interstate 59, U.S. Highway 84, and State Highway 15 interchange, Laurel	$2,120,000.00
2186.	Georgia	Streetscape project to install sidewalks and bicycle trails, Gray	$500,000.00
2187.	Massachusetts	Realignments and reconstruction of a section of Route 32 in Palmer to the Ware town line	$4,000,000.00
2188.	Maryland	I-81 Improvements South of I-70 to North of Halfway Blvd	$1,000,000.00
2189.	Georgia	Streetscape [pedestrian safety enhancements, sidewalks, curb replacement, landscaping, restoration, ADA compliance, restoration], Thomasville.	$500,000.00
2190.	Maryland	Land acquisition for highway mitigation in Cecil and Worcester	$14,800,000.00
2191.	Michigan	Construct Industrial Park Service Road and Caine Road Bridge Replacement,Village of Millington, Tuscola County.	$416,000.00
2192.	Minnesota	8th Street Right of Way Acquisition for Stearns country road expansion and realignment	$4,000,000.00
2193.	California	For environmental review and preliminary engineering for a freeway-to-freeway interchange connecting Interstate 5 to State Route 78.	$5,000,000.00
2194.	Pennsylvania	Identify multi-modal commercial and military freight corridors in PA. Part of PA Reg. Agile Port Intermodel Distribution Sys. Philadelphia.	$500,000.00
2195.	California	The Esplanade improvements to reduce pedestrian/bicycle/automobile traffic congestion and improve oceanfront access, Redondo Beach.	$1,000,000.00
2196.	New York	Create overpass at Peruville Road to address intersection safety issues	$4,432,000.00
2197.	Missouri	Rehabilitate and widen Route 71 from Route W to Blue Ridge Blvd, Grandview Triangle	$2,000,000.00
2198.	Minnesota	City of East Grand Forks 13th Street Extension	$1,200,000.00
2199.	Illinois	Illinois Prairie Path (Wayne): Construction of a new bicucle-pedestrian bridge	$1,200,000.00
2200.	Illinois	Upgrade Pioneer Parkway in Peoria	$800,000.00
2201.	New York	Design and Construction of an enhancement project within the Erie Canal Aqueduct in downtown Rochester.	$1,500,000.00
2202.	Kentucky	A 20-mile priority design segment of the route from Campbellsville to Columbia	$2,000,000.00
2203.	Illinois	Pre construction activities, IL 8 upgrades from East Peoria to Washington	$800,000.00
2204.	Pennsylvania	Design and construct interchange improvements including sound barriers at I-83, Exit 19, or other projects designated by York County MPO.	$6,000,000.00
2205.	Alabama	Valleydale Road widening from U.S. 31 to I-65 (Shelby County Rd 17)	$5,000,000.00
2206.	New Jersey	Route 21 congestion relief improvements - Murray Street to Green Street, Newark	$900,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2207.	Wisconsin	Construct Highway 32/Claude Allouez Bridge in DePere, WI	$500,000.00
2208.	New York	Construction of a Greenway along the waterfront, the Village of Irvington in Westchester	$200,000.00
2209.	Michigan	Repaving a portion of H-58 between Sullivan Creek towards Little Beaver Road, Alger County	$1,600,900.00
2210.	Illinois	The widening of Midlothian Road including signalization and pedestrian crosswalk installation at the entrance of Lake Zurich High School.	$480,000.00
2211.	New York	Improve the Bronx River Greenway Bronx Park East Pathways	$800,000.00
2212.	Florida	Wekiva Parkway in Orange, Seminole and Lake Counties, Forida	$5,000,000.00
2213.	Kentucky	Reconstruct KY 244 from KY 3105 to the railroad underpass, Raceland	$500,000.00
2214.	Pennsylvania	Design and construct and upgrade the interchange of U.S. 15 and U.S. 30 in Adams County	$4,000,000.00
2215.	Iowa	Acquire right of way, widen, resurface and replace three bridges on IA T14, 22 to IA 80	$500,000.00
2216.	Illinois	Improve roads and bridges, Cook County	$5,000,000.00
2217.	Florida	Arlington Expressway Access Road, Jacksonville	$1,500,000.00
2218.	California	Construct a soundwall along Esperanza Road in the city of Yorba Linda	$2,000,000.00
2219.	Illinois	Reconstruct Lakeshore Drive overpass over Lawrence Avenue, Chicago	$1,500,000.00
2220.	New Jersey	Quinn Road widening, Little Falls	$2,500,000.00
2221.	Virginia	Study to upgrade U.S. Route 460 in the Petersburg- Hampton Roads Corridor from approximately I-295 to Bowers Hill including an evaluation of rail.	$5,500,000.00
2222.	Louisiana	Construct frontage streets along I-10, Crowley	$1,100,000.00
2223.	Oregon	Connect Boeckman Road to Tooze Road, Wilsonville	$3,000,000.00
2224.	Mississippi	US Hwy 49 Interchange - Seminary:US Hwy 49 Interchange with SR 589 and 590 at Seminary to significantly reduce congestion and accidents.	$500,000.00
2225.	Kansas	Highway construction project on US-54/400 for four miles west of Pratt-Kingman County line	$12,000,000.00
2226.	Wyoming	Casper Bypass:Reconstruct Old Yellowstone Hwy from David to Poplar St., and 2nd St. from David St. to E Yellowstone Hwy.	$3,000,000.00
2227.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Athens, TN	$59,000.00
2228.	Pennsylvania	Deploy an Intelligent Transportation System by the Montgomery County Planning Commission	$4,000,000.00
2229.	California	Montclair Monte Vista Avenue grade separation along Alameda Corridor East	$2,000,000.00
2230.	Kentucky	2 new bridges over Ohio River & reworking I65-I64-I265 interchange	$14,000,000.00
2231.	Illinois	Undertake traffic mitigation and circulation enhancements on 57th and Lake Shore Drive, Chicago.	$3,000,000.00
2232.	New York	Construct pedestrian waterfront walkway, Kingston	$1,600,000.00
2233.	Louisiana	Plan and construct bike/pedestrian crossings of Washington-Palmetto Canal in the vicinity of Xavier University, New Orleans.	$3,000,000.00
2234.	California	Study to evaluate traffic implications resulting from the proposed re-alignment of Nutwood Avenue, Fullerton.	$500,000.00
2235.	New Jersey	Project will rehabilitate existing structure at the Bridge Street bridge over the CSX Railroad Trenton line in Manville, Somerset County.	$500,000.00
2236.	Massachusetts	Assabet River Rail Trail design and construction	$700,000.00
2237.	Pennsylvania	Transportation enhancements along the Delaware Canal between Yardley, PA and Bristol, PA	$1,000,000.00
2238.	Texas	Construct a loop at 201 beginning at SH 195 and terminate at connection to FM 3841, Bell County.	$4,000,000.00
2239.	Montana	Pave MT Secondary 323 from Ekalaka to Alzada	$23,000,000.00
2240.	California	Salinas Airport Boulevard/Hwy 101 interchange -- new 4 lane overpass with 2 lanes each direction, new approaches, new southbound on/off ramps, bicycle lanes.	$3,670,000.00
2241.	Illinois	Eastern Peoria Bypass and Bridge (ring road) study and land acquisition	$1,600,000.00
2242.	Texas	9-1-1 Crash Demonstration Project providing communication between crash subject and first responders/EMS.	$2,000,000.00
2243.	Rhode Island	Replace I-195 Washington Bridge Eastbound	$3,000,000.00
2244.	Arkansas	Improvements to Rena Road in Van Buren	$1,500,000.00
2245.	Ohio	Upgrade State Route 82/State Route 46 interchange, Trumbull County	$2,000,000.00
2246.	New York	Improve SCCC roads, Fallsburg	$1,500,000.00
2247.	New York	Implement Pedestrian Safety Improvements on Queens Boulevard	$500,000.00
2248.	Illinois	Implement ITS and congestion mitigation project on I-294 and I-90	$5,000,000.00
2249.	California	Upgrade and reconstruct the I-80/I-680/SR 12 Interchange, Solano County	$13,000,000.00
2250.	West Virginia	Connect existing RHL Boulevard to State Route 601 (Jefferson Road)	$750,000.00
2251.	North Carolina	Upgrade US 158 to construct a multilane facility between I85 and I95	$2,600,000.00
2252.	Florida	Keys Endangered Species Habitat Protection	$1,000,000.00
2253.	Louisiana	Widen and improve LaPlaco Boulevard from Bayou Segnette to US90, Jefferson Parish	$3,500,000.00
2254.	Illinois	Improve U.S. Route 34 from Kewanee to Kentville Road	$500,000.00
2255.	Florida	Florida Keys Overseas Heritage Trail	$500,000.00
2256.	Georgia	Reconstruct roadways to add bicycle lanes or bike-able road shoulders, Atlanta	$2,000,000.00
2257.	Illinois	Upgrade county highways 18 and 22 in conjunction with state I-57 interchange plan north of Mattoon.	$2,000,000.00
2258.	Massachusetts	Improvements to Kenmore Square Station and Commonwealth Avenue between Amory Street and Packard's Corner, Boston.	$5,000,000.00
2259.	California	4-lane overpass for Mission Blvd grade separation project, City of Pomona	$4,400,000.00
2260.	Louisiana	Construct LA 1 at Port Fourchon, Louisiana	$3,000,000.00
2261.	Tennessee	Extension of bicycle and pedestrian trail, LaVergne	$1,500,000.00
2262.	North Carolina	Upgrade existing US 220 I-73/74 from south of NC 134 US 220 Business to North of Park Drive Extension.	$6,600,000.00
2263.	Hawaii	Construct access roads to Kahului Airport	$600,000.00
2264.	California	Improve SR219 to 4-lanes in the cities of Riverbank, Oakdale and Modesto	$2,000,000.00
2265.	Indiana	Correct visibility problems and sharp grade changes at SR 332 and Nebo Road intersection in Delaware County, Indiana.	$650,000.00
2266.	Iowa	Complete construction of Phase 6 of US Highway 6 in Coralville, Iowa	$900,000.00
2267.	Minnesota	MNTH 169 safety improvements from City of Virginia to Ely/Winton	$14,300,000.00
2268.	New Jersey	Reconstruct roadways in Union County/Elizabeth - Kapowski Road Area Project	$5,000,000.00
2269.	Vermont	Construction and rehabilitation of the Cross Vermont Trail for the Cross Vermont Trail Association.	$1,386,000.00
2270.	Ohio	Widening from 2 lanes to 5 lanes between Woodlawn Ave. and Whipple Ave. in Jackson Township.	$2,000,000.00
2271.	Michigan	Planning and Engineering for The American Road, The Henry Ford Museum, Dearborn	$1,500,000.00
2272.	Arkansas	Sidewalks in Altus	$40,000.00
2273.	New Jersey	Provide an alternate Route for traffic passing through congested State Route 31 corridor in the Flemington Area.	$2,000,000.00
2274.	Maryland	Bridge rehabilitation of Hanover Street and Pennington Avenue drawbridges, Baltimore	$3,000,000.00
2275.	Connecticut	Construct Shoreline Greenway, Madison, Guilford, Branford and East Haven	$1,500,000.00
2276.	Texas	Reconstruction of Clinton Dr. from Federal Rd. to N. Wayside Dr., an intermodal freight artery near Port of Houston.	$9,500,000.00
2277.	Texas	Study, design and construct new border crossing and facilities - Donna/Rio Bravo International Bridge.	$2,000,000.00
2278.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Philadelphia, TN	$99,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2279.	Oklahoma	Construction of Duncan Bypass Grade Separation	$3,000,000.00
2280.	Florida	Clark Road Clover Leaf at I-95, Jacksonville	$5,000,000.00
2281.	Pennsylvania	Improvements to Plank, Otts, Meyers, and Seitz roads in Mongomery County	$1,000,000.00
2282.	California	Temecula Winchester Project- This project will require a partial cloverleaf interchange on I-15 at exit/entrance ramps at Winchester Road.	$2,000,000.00
2283.	California	Conduct Study of State Route 130 Realignment Project, San Joaquin County and Santa Clara County, CA.	$2,000,000.00
2284.	California	Widen roads, construct bicycle lane and parking facility to enhance access to Hansen Dam Recreation Area, Los Angeles.	$6,500,000.00
2285.	Pennsylvania	SR 29 Bridge, replace T-beam bridge in Noxen Township, Wyoming County	$1,000,000.00
2286.	Minnesota	Construct Soo Line Trail from north of Bowlus to the east side of Mississippi River	$495,000.00
2287.	Ohio	Construction of an interchange at Interstate 70 and Burnett Rd and items associated with construction of interchange.	$2,000,000.00
2288.	Indiana	New road construction of Boston Street intersection with Route 2 in LaPorte, Indiana	$1,500,000.00
2289.	South Carolina	Milfred Road Bridge in Anderson County	$350,000.00
2290.	Virginia	White's Mill Recreation Trail and Renovation - design and construction of recreational trail and preservation of watermill for use as visitors center.	$750,000.00
2291.	Georgia	Pedestrian and streetscape improvements, Ellaville	$500,000.00
2292.	Alaska	Various road improvements in City of Fairbanks	$5,000,000.00
2293.	Alabama	4 US hwy 84 from Evergreen to Monroeville in Alabama	$6,000,000.00
2294.	California	Feasibility study, design, engineering, grade separation, pedestrian improvements, and traffic calming project. the City of South Pasadena.	$1,000,000.00
2295.	Texas	Construct a 4-lane urban roadway at US Bus77 on Loop 574, McLennan County	$2,000,000.00
2296.	California	ATIS added to the Magnolia corridor connecting Riverside, Corona, Moreno Valley and portions of Riverside County.	$480,000.00
2297.	Maryland	Widen MD 45 from Ridgley to Seminary Roads. Widening includes addition of a middle turn lane and to acquire right of way.	$5,520,000.00
2298.	North Carolina	Upgrade of US321 corridor in Burke, Caldwell and Catawba counties mitigating severe congestion near bridge over Catawba river.	$2,000,000.00
2299.	Virginia	Secure right-of-way and construct improvements along Jefferson Davis/Route 1 corridor for vehicle traffic and improved bus service, Arlington County.	$4,000,000.00
2300.	New Jersey	Pedestrian and bicycle facilities, and street lighting, Haddon Heights/Barrington	$750,000.00
2301.	Florida	PINEDA CAUSEWAY INTERCHANGE at I-95	$8,000,000.00
2302.	Minnesota	To study a major river crossing over the Mississippi river between Monticello and St. Cloud and TH10 and I-94.	$1,000,000.00
2303.	Texas	Highway construction to expand SH 71 in Austin to US 281	$1,000,000.00
2304.	New Jersey	Project will improve State Route 22 by improving section of highway that connects Route 22 and 287 in two locations.	$3,000,000.00
2305.	New York	Construct greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP.	$1,250,000.00
2306.	Wisconsin	Resurface State Highway 8 from County C to Town of Monico	$1,000,000.00
2307.	South Carolina	Construct I-73 from Bennettsville to I-95	$10,000,000.00
2308.	Louisiana	Replace Almonaster Bridge, New Orleans	$500,000.00
2309.	Washington	SR 167 - a new freeway from SR 509 (Port of Tacoma) to SR 161 (Puyallup)	$2,500,000.00
2310.	Pennsylvania	Erie - Replacement of Asbury Road underpass; replacement of Powell Ave. Bridge; Peninsula Dr. improvements.	$4,000,000.00
2311.	Michigan	Rehabilitate 2 piers and remove old bridge caissons for Sturgeon River Road bridge, Houghton County.	$270,000.00
2312.	Michigan	Rebuilding M-99 for flood control in Hillsdale	$2,000,000.00
2313.	Virginia	Chessie Work Station - renovation of abandoned rail site to enable intermodal access at site, Clifton Forge.	$2,736,000.00
2314.	Wisconsin	Construct State Highway 23 (County Highway OJ to U.S. Highway 41), WI	$16,000,000.00
2315.	Iowa	Extend Mormon Trek Boulevard in Iowa City, Iowa	$5,000,000.00
2316.	Ohio	Construct access roads and freight intermodal facility, Columbiana County	$5,000,000.00
2317.	Maryland	Reconstruction of Route 32 to freeway standards from Route 108 to I-70	$2,000,000.00
2318.	Pennsylvania	SR 22 widening to 4 lanes from Export to Delmont, Westmoreland County, PA	$1,300,000.00
2319.	American Samoa	Drainage mitigation for Malaeloa-Leone village roads	$1,000,000.00
2320.	New York	Design and construct Upper Delaware Scenic Byway Visitor Center, Cochecton	$448,000.00
2321.	Pennsylvania	Continued Construction of the Montour Trail which is part of the Great Allegheny Passage	$1,000,000.00
2322.	Washington	SR 538 (College Way) and North 26th Street Signal, Mount Vernon	$175,000.00
2323.	Pennsylvania	Construction of 2 ramps, replacement of 2 ramps on I-79 at SR 3025 in Jackson Township, PA	$1,000,000.00
2324.	Texas	Construct US183-A, a 12 mile turnpike to connect US183 at SH45 and extend northward to US183 in Williamson County, Texas.	$10,000,000.00
2325.	Illinois	Construct Grand Illinois Trail, Cook County	$1,000,000.00
2326.	Ohio	Construct connector road between SR 79 and Thornwood Drive in Licking County	$5,000,000.00
2327.	Maryland	Fringe and Corridor Parking Facility at Clinton Street and Keith Avenue	$3,000,000.00
2328.	Ohio	Widen SR 170, Calcutta	$2,500,000.00
2329.	California	Replacement of existing 2 lane interchange to full 6 lane interchange where Cajalco Road and I-15 meet in Corona, CA.	$10,000,000.00
2330.	Oregon	Highway 22, Polk County	$1,000,000.00
2331.	Pennsylvania	Final engineering and design to construct a four lane connector and bridge over the Allegheny River to link New Kensington to Rt 28.	$5,000,000.00
2332.	South Carolina	Construct Calhoun Clarendon Connector	$14,008,000.00
2333.	Virginia	Mayo Bridge, Richmond	$2,000,000.00
2334.	Oklahoma	Reconstruct US 69 from US 62 West to the US 69/US 62 intersection, Muskogee	$750,000.00
2335.	Maryland	Engineering and construction of the MD Route 355 at Montrose Road/Randolph Road Interchange, Rockville.	$5,000,000.00
2336.	Pennsylvania	PA23 corridor improvements from US30 to US322	$3,000,000.00
2337.	Michigan	Construct interchange at I-675 and M-13 (Washington Avenue) and Northbound Exit, Saginaw	$2,000,000.00
2338.	Florida	To complete design and construction of double-deck roadway system exiting Ft. Lauderdale/Hollywood International airport connecting U.S. 1 and I-595.	$5,000,000.00
2339.	Illinois	Upgrade roads, Summit	$1,000,000.00
2340.	Kentucky	Reconstruct Georgetown Northwest Bypass from US-460 W to I-75 N, Scott County	$1,000,000.00
2341.	Wisconsin	Construct Lake Butte des Morts Bridge, U.S. Highway 41, Winnebago County, WI	$25,600,000.00
2342.	Texas	SH 288 at BW 8: construct two direct connectors	$5,000,000.00
2343.	Washington	Yelm 510/507 - an alternative route to two existing state highways that bisect Yelm	$2,500,000.00
2344.	Iowa	Improvements at the IA 146 and I 80 interchange	$1,000,000.00
2345.	New Hampshire	Crystal Lake Mitigation preservation of 110 acres of land in Manchester	$1,000,000.00
2346.	Arkansas	Construction of I-49 from Hwy 22 near Barling to Hwy 71 at Jenny Lind Road	$5,000,000.00
2347.	Minnesota	Right of way acquisition for the expansion of 3rd street north in the city of St. Cloud	$750,000.00
2348.	Nebraska	New interchange on Interstate-80 near milepost 275 and improvements to Cherry Avenue to provide an east bypass for Kearney, Nebraska.	$2,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2349.	Virginia	UVA-Wise Entrance - second phase of project to address road and stormwater problems	$1,000,000.00
2350.	Tennessee	Improve existing two lane highway to a four lane facility along the US-412 Corridor west of Natchez Trace to US-43 at Mt. Pleasant.	$5,500,000.00
2351.	Maryland	Pedestrian bridge crossing North Avenue and street signage, Baltimore	$1,800,000.00
2352.	Michigan	South Lyon, 2nd Street between Warren and Haggadorn	$125,000.00
2353.	Tennessee	Continue construction of the Foothills Parkway in the Great Smoky Mountains National Park	$7,500,000.00
2354.	Illinois	Construct bike/pedestrian path and related facilities in Spring Rock Park, Western Springs	$700,000.00
2355.	Maryland	US 219 Oakland Bypass	$1,000,000.00
2356.	Pennsylvania	Relocation of PA52 on edge of Longwood Gardens	$1,000,000.00
2357.	Michigan	Construct improvements to existing 68th Avenue bridge over Grand River	$6,700,000.00
2358.	Illinois	Construct Cedar Creek Linear Park Trail, Quincy	$500,000.00
2359.	Tennessee	Reconstruct connection with Hermitage Ave. to Cumberland River bluff, Nashville	$500,000.00
2360.	South Carolina	I-385 and SC14 (Exit 19) - The SCDOT would reconstruct the existing interchange at I-385 and SC 14 (Exit 19) in Laurens, Co., SC.	$1,985,000.00
2361.	New Mexico	Ease traffic congestion and improve intersection safety by identifying alternative alignment to US 84/285 and NM 68 through Espanola.	$2,000,000.00
2362.	Mississippi	Highway 6 - adds two lanes parallel to existing lanes in Lee COunty	$6,000,000.00
2363.	New York	Suffolk County ITS arterial monitoring and performance measures system	$1,500,000.00
2364.	Pennsylvania	Design and construction of Portzer Road connector in Milford, Quakertown	$2,500,000.00
2365.	Washington	DesignValley Mall Blvd. from Main Street to I-82 and I-82 interchanges at MPs 36 and 38, Union Gap.	$6,440,000.00
2366.	California	Acquire approximately 4,000 acres of land at the Desert Cahuilla Prehistoric Site, Imperial County.	$1,000,000.00
2367.	Michigan	Ogden Street bridge rehabilitation project - replacement of deck, expansion of joints, sidewalks, railing and all other joints, Menominee.	$200,000.00
2368.	Pennsylvania	Design, engineering, ROW acquisition, and construction of street improvements and safety enhancements, City of Scranton.	$2,500,000.00
2369.	Georgia	DeKalb Greenway Trails	$1,100,000.00
2370.	Missouri	Route MM Improvements, Jefferson County	$4,000,000.00
2371.	Indiana	The reconstruction of existing Co. Rds. 400N, 825W and 525N in Shelby County	$1,672,000.00
2372.	New Jersey	Safety and operational improvements on Route 23 in Hardyston and Franklin	$3,800,000.00
2373.	New York	Rehabilitate pavement and bridges from I-86, Exit 24 to Allegany County Line	$1,000,000.00
2374.	New York	Access improvements for terminal located on 12th Ave between W. 44th and W. 54th St in Manhattan.	$4,000,000.00
2375.	Florida	Construction and engineering of the Central Sarasota Parkway Interchange at I-75, a evacuation route for Sarasota and the barrier islands.	$2,000,000.00
2376.	California	Construct Dry Creek and Enterprise canal trails in Clovis	$700,000.00
2377.	Texas	Widening project on FM 60 from SH 6 to FM 158, Brazos County	$3,000,000.00
2378.	California	To provide for the preparation of environmental documents and design for conversion of the reliquished railroad bridge over the Feather River between Yuba City and Marysville.	$5,000,000.00
2379.	Colorado	SH 83 & SH 88 Interchange Reconstruction: Grade separation of SH 83 over SH 88	$6,000,000.00
2380.	Nevada	US50A Fernley-Fallon replace UPRR bridge in Fernley, realign intersection US95A/50A	$9,000,000.00
2381.	California	Construct safe access to streets for bicyclists and pedestrians including crosswalks, sidewalks and traffic calming measures, Covina.	$500,000.00
2382.	Illinois	Logan County 5th Street Road upgrades	$800,000.00
2383.	Virginia	Route 50 Traffic Calming at Gilbert's Corner	$1,000,000.00
2384.	California	Implement Congestion Mitigation and Air Quality Improvement Project, Orange County	$1,000,000.00
2385.	Georgia	US 25 widening in Burke, Jenkins Co. and Millen bypass	$28,000,000.00
2386.	Ohio	Widening from 2 lanes to 5 lanes between 55th St. and Applegrove St. in Plain Township	$5,000,000.00
2387.	Maryland	MD 85/I-270 Interchange	$2,000,000.00
2388.	Washington	Inchelium Bridge Feasibility Study: Conduct study to determine whether bridge over Lake Roosevelt would meet needs of residents of Gifford and Inchelium, Washington.	$120,000.00
2389.	New York	For the acquisition of ferry boats and ferry terminal facilities and for the operation of ferry service from Rockland County/Yonkers/Manhattan.	$1,000,000.00
2390.	Missouri	Grading for 4 lanes, lighting, roadways, and bridges on Highway 5 in Camdenton	$10,000,000.00
2391.	Washington	Burien SR 518 project - interchange improvements and the addition of one travel lane on a portion of corridor.	$1,000,000.00
2392.	Georgia	Install sidewalks, trails, lighting, and amenities in Balls Ferry Park, Wilkinson County	$500,000.00
2393.	West Virginia	Construct New River Parkway between I-64/Sandstone Interchange and Sandstone Falls, Summers and Raleigh Counties.	$4,500,000.00
2394.	Illinois	Road Construction and Reconstruction in the Village of Hampshire: Keyes Ave. Reconstruction; Industrial Drive Overlay; Mill Ave. Reconstruction.	$2,300,000.00
2395.	Illinois	Transportation Enhancement and road improvements necessary for Downtown Plaza restoration in Jacksonville, IL.	$800,000.00
2396.	California	Construction of a bikeway on the North bank of the Los Angeles River between Sepulveda Boulevard and Kester Avenue in Sherman Oaks, Los Angeles.	$575,000.00
2397.	New York	Design & Construct a Bicycle and Pedestrian Walkway along the Decommissioned Putnam Rail Line.	$950,000.00
2398.	Pennsylvania	Greencastle, Pa- Upgrade intersection of SR 0011 and I-81 at exit 3 (northbound) and the proposed Grindstone Hill Road intersection.	$1,200,000.00
2399.	California	Construct auxiliary lanes, bicycle, pedestrian improvements, signal modifications on Almaden Expressway between Branham Lane and Blossom Hill Road, Santa Clara County.	$3,500,000.00
2400.	Texas	Widen SH 36/ US 190 to 4 lanes, Milam County	$2,000,000.00
2401.	Minnesota	Bike Trail extensions and walking trails, connect to Mesabi Trail, City of Aurora	$294,745.00
2402.	Maryland	Plan, Design, and construct the Intercounty Connector	$9,000,000.00
2403.	Massachusetts	Design, permitting, and ROW acquisition for new on/off ramps on I-95 between Route 1A and Route 123 interchanges.	$500,000.00
2404.	Texas	Replaces 3 structures at interchanges of I20, US83, and US 277 in Abilene	$1,500,000.00
2405.	Texas	Improvements to National High Priority Corridor #38 for the Oklahoma border south through Amarillo.	$14,000,000.00
2406.	Michigan	Milford Village, Roundabout at N. Milford Rd. and Summit St	$125,000.00
2407.	Kentucky	Replace bridge #C00004 on Oregon Road, Mercer County	$680,000.00
2408.	North Carolina	Widen NC 49 from Harrisburg east of SR 2630 to the Yadkin River, NC	$10,000,000.00
2409.	California	Santa Cruz Highway 1 widening and HOV lanes-- 8.3 miles from Morrissey Boulevard to San Andreas-Larkin Valley Road south of Aptos.	$3,670,000.00
2410.	New York	Improvements to Harlem River Park and Greenway including park amenities	$4,000,000.00
2411.	Illinois	Expansion of Miller Road from 2 - 4 lanes; bridge improvements; further expansion from IL Route 31 to IL Route 120.	$5,000,000.00
2412.	Minnesota	For design of a new interchange with TH169 over CSAH4	$1,000,000.00
2413.	New Mexico	Construct the two lane enhancement of U.S. 54 from Tularosa to Santa Rosa	$11,000,000.00
2414.	Florida	Widening and improvements to Snake Road (BIA Rt. 1281)	$2,000,000.00
2415.	Minnesota	Consolidate access, provide supporting roadways and add an additional lane to CSAH 42 in Dakota County and Scott County.	$1,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2416.	Massachusetts	Reconstruction of Washington St., Walpole	$2,000,000.00
2417.	Massachusetts	Extensions to the Berkshire County Bike Paths, Berkshire County	$5,000,000.00
2418.	Ohio	Pleasant Valley Road bridge renovation over the Chagrin River in Willoughby Hills Township	$260,000.00
2419.	Arizona	Upgrade and widen SR85 (mileposts 120.5 --147.6)	$1,000,000.00
2420.	California	Construction of an interchange at the at-grade intersection of Stillwater Road and State Route 44.	$7,500,000.00
2421.	Oregon	Highway 20, Lincoln County	$7,000,000.00
2422.	Massachusetts	Lawrence Canal and Union Street intersection improvements	$1,000,000.00
2423.	Pennsylvania	Construct Route 219 Bypass in the Borough of Johnsonburg	$2,000,000.00
2424.	New York	Design and construct pedestrian and bicycle path (Cayuga Waterfront Trail), Ithaca	$1,200,000.00
2425.	California	Reconstruct Carson St. with an on/off ramp to Interstate 605, Hawaiian Gardens	$400,000.00
2426.	Illinois	Construct North Main St (Il Rte 2) Rockford, IL to four lanes	$1,000,000.00
2427.	Ohio	Construct Chesapeake Bypass/Tri State Metro Outer Belt	$2,000,000.00
2428.	Ohio	SR 322 roadway safety improvements in the Village of Gates Mills	$520,000.00
2429.	Missouri	Expand to six lanes Rt. 141/Woods Mill Rd (Chesterfield, MO) from I64 north to Rt. 340	$3,000,000.00
2430.	Alaska	False Pass Road construction from small boat harbor dock to airport and town	$3,000,000.00
2431.	Georgia	Install sidewalks, improve lighting, and install landscaping along Riverside Drive, Macon	$500,000.00
2432.	Illinois	Undertake streetscaping on Ridgeland Avenue, Oak Park Avenue, and 26th Street, Berwyn	$1,500,000.00
2433.	Massachusetts	Roosevelt Avenue intersection improvements from Bay Street to Page Boulevard, Springfield	$1,500,000.00
2434.	Pennsylvania	9th Avenue Project, Altoona, PA: Complete preliminary engineering study and begin right of way acquisition.	$3,500,000.00
2435.	New York	Improve Maple Avenue, Smithtown	$1,000,000.00
2436.	New York	Improve East End roads, Newburgh	$1,863,500.00
2437.	Ohio	Relocate SR 149, Bellaire	$650,000.00
2438.	Illinois	Improve safety of horizontal curve on 250th Rd. in Grandview Twp	$320,000.00
2439.	Illinois	Construct pedestrian bridge over Chicago Ship & Sanitary Canal to link Centennial Trail to I&M Canal Trail in Lemont, IL.	$100,000.00
2440.	Texas	Connector Sbound SH 146 to Ebound Port Road, from Wbound Port Road to Nbound SH 146. supports proposed Bayport Terminal Complex.	$9,000,000.00
2441.	Pennsylvania	Tidal Schuylkill Riverfront project consists of eight mile bike and pedestrian recreation trail from Locust Street to Historic Bartram's Garden.	$3,500,000.00
2442.	Florida	Upgrade SR 50 from US 27 to Orange Co. line in Lake County	$3,000,000.00
2443.	New York	Structural analysis and feasibility study evaluating options for rehabilitating the Bronx River Parkway at Crane Road over the Bronx River and Harlem line, Scarsdale.	$400,000.00
2444.	Massachusetts	Cape Cod Bicycle Path with Shining Sea Link: Connects core to heavily visited national sites of upper and lower Cape.	$3,000,000.00
2445.	Michigan	Belleville, Repave Main Street	$125,000.00
2446.	Illinois	Construct the Lisle Township segment of the East Branch DuPage River Greenway Trail	$100,000.00
2447.	Illinois	Upgrade roads, Cicero	$1,010,000.00
2448.	North Carolina	Wayne County road improvements for US 117 to SR 1342	$1,200,000.00
2449.	Pennsylvania	Linglestown Square, roadway and intersection improvements, Lower Paxton Township	$3,000,000.00
2450.	Maryland	Widen MD 295 near BWI airport from 695 to MD 100	$8,700,000.00
2451.	Illinois	Widen and improve Pulaski Road, Alsip	$700,000.00
2452.	Texas	Widening FM 423, from The Colony (crossroad - State Highway 121) to Little Elm (crossroad - US 380 East).	$8,000,000.00
2453.	Indiana	Construction of the Hoosier Heartland along SR 25, from Lafayette to Logansport, Indiana	$5,000,000.00
2454.	Georgia	Replace sidewalks, upgrade lighting in downtown Vidalia	$708,610.00
2455.	North Carolina	Construction of a four-lane divided route on new location that will serve as the US 421 bypass from NC 16 to the Yadkin River in Wilkes County.	$4,000,000.00
2456.	Connecticut	Construct Madison Shoreline Greenway Trail	$750,000.00
2457.	Connecticut	Upgrade Mark Twain Drive, Hartford	$2,000,000.00
2458.	New York	Reconstruction of the Gowanus Expressway	$500,000.00
2459.	New Jersey	Traffic Signal Upgrade, Union City	$800,000.00
2460.	Florida	Construct US 1/SR 100 Connector in Bunnell, Florida	$2,500,000.00
2461.	New York	West Harlem Waterfront-ferry, intermodal and street improvements and vicinity	$7,500,000.00
2462.	Missouri	Highway 115 extension - land acquisition & roadway design to coordinate with Lambert Airport expansion.	$1,000,000.00
2463.	New York	Improve Front Street, Binghamton	$5,000,000.00
2464.	Washington	Centennial Trail Project, Snohomish	$200,000.00
2465.	New Jersey	Passaic Avenue along Riverbank Park, Kearny: Bikeway, Jogging and Fitness Trails	$2,500,000.00
2466.	Pennsylvania	Design and construct inner loop roadway around Shippensburg, Pennsylvania, or other Cumberland County projects selected by Harrisburg Area Transportation Study.	$500,000.00
2467.	Illinois	Construct interchange at I-255/Dupo-Columbia	$19,000,000.00
2468.	North Carolina	Adding passing lanes to Hwy. 64 from NC 107 to US 178	$1,700,000.00
2469.	Kentucky	I-65 Interchange at Mile Marker 32 in Bowling Green	$3,000,000.00
2470.	Illinois	Improve roads, Village of Westchester	$850,000.00
2471.	New York	Conduct studies and construct infrastructure projects on Governor's Island	$4,000,000.00
2472.	Iowa	Reconstruct 15.3 miles of the US 30 corridor from Colo, Iowa to the beginning of the Marshalltown bypass and reconstruct the 7.5 mile segment from 4.5 miles west of Toledo to 1 mile east of Tama.	$2,300,000.00
2473.	Florida	State Road A-1-A Corridor from I-95 east to the Amelia River Bridge (Nassau County)	$4,000,000.00
2474.	Iowa	Reconstruction of the existing IA 945 interchange, with I 80 widened and reconstructed	$1,000,000.00
2475.	California	Seismic retrofit of Golden Gate Bridge	$10,000,000.00
2476.	Louisiana	Construct I-49 North from Shreveport, Louisiana to Arkansas line	$3,500,000.00
2477.	Indiana	US 31 Freeway Project for Kokomo Howard County	$5,000,000.00
2478.	Tennessee	Improve circuitry on vehicle protection device installed at railroad crossing in Lenoir City, TN	$104,000.00
2479.	California	Arcadia Santa Anita Avenue Corridor Improvement project, street rehabilitation	$3,000,000.00
2480.	Texas	Improvements to FM 716 between Realitos and Conception, Duval County	$1,000,000.00
2481.	Minnesota	Lyon County, City of Marshall Hwy 23 between CSAH 33 and TH19	$3,700,000.00
2482.	Pennsylvania	Construction of ramps on I-95 and US 322, widening of streets and intersections, increase vertical clearance at Amtrak bridges.	$3,000,000.00
2483.	Oregon	Weaver Road Extension/Bridge Project, Douglas County	$16,259,000.00
2484.	New York	Improve bicycle and pedestrian safety on NY25, Jamesport	$300,000.00
2485.	Illinois	Reconstruction of Bus US 20- West State St corridor in Rockford, IL	$1,000,000.00
2486.	New Hampshire	Creation of a footbridge to connect overflow parking to the main lot in Pinkham Notch, NH. As well as provide necessary backfill and stabilization work.	$150,000.00
2487.	Alabama	I-20 widening and safety improvements in St. Clair County	$5,000,000.00
2488.	Wisconsin	Construct the Gateway Boulevard project, Rock County	$6,950,000.00
2489.	California	Add turn lane and adaptive traffic control system at intersection of San Tomas Expressway and Hamilton Avenue, Campbell.	$1,300,000.00
2490.	California	Conduct Study and Construct I - 580 Corridor HOV Improvements Project, Alameda County, CA	$5,000,000.00
2491.	Pennsylvania	Transportation improvements to SR 56 and SR 403 through Johnstown West end to improve safety, access and traffic conditions.	$2,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2492.	New York	Improve I-87 Exit 18 interchange in Town of Queensbury, Warren County. Includes ramp reconfigurations & improvements to adjacent intersections.	$2,250,000.00
2493.	Oklahoma	Complete Reconstruction of the I-35/SH 9 West Interchange	$4,000,000.00
2494.	Louisiana	Fund the 8.28 miles of the El Camino East-West Corridor along LA 6 from LA 485 near Robeline, LA to I- 49.	$2,000,000.00
2495.	New Jersey	Bicycle facilities, West Deptford Township	$115,000.00
2496.	Florida	Upgrade CR491 from Pine Ridge Blvd to US 41	$2,000,000.00
2497.	Washington	5th Street/US 2 Signalization Improvements, Sultan	$400,000.00
2498.	New Mexico	Conduct the development of a transportation access plan for Santa Teresa	$1,000,000.00
2499.	Kentucky	Reconstruct KY 70 (KY 259) from Brownsville to Kyrock Elementary School	$1,000,000.00
2500.	Maine	Bike/Ped Trail Construction, Eastern Trail Management District	$1,000,000.00
2501.	Texas	Street Improvements for Willow Street, between North Street and Crockett Street, Beaumont	$360,000.00
2502.	Illinois	Upgrade traffic signal system on 87th Street, Chicago	$500,000.00
2503.	Ohio	Widen Hamilton Avenue/U.S. 127	$2,700,000.00
2504.	Nebraska	Construct 25 miles of recreational trail in Douglas County	$6,000,000.00
2505.	Washington	I-5 widening, Lewis County	$4,000,000.00
2506.	Pennsylvania	Relocate Crow's Run Rd between SR 65 and Freedom Crider Rd in Beaver County, PA	$2,200,000.00
2507.	New Jersey	A 521 space parking garage, New Brunswick	$2,000,000.00
2508.	Michigan	Complete multistage reconstruction of Walton Boulevard with curb and gutter improvements	$5,000,000.00
2509.	Virginia	Heart of Appalachia - construction of stations for distribution of informational brochures along roads and trailways throughout seven counties.	$100,000.00
2510.	Virginia	Widen Route 7 Leesburg Bypass	$2,000,000.00
2511.	New Jersey	Bicycle route connecting parks in Irvington to the Irvington Bus Terminal through the business center.	$350,000.00
2512.	Connecticut	Construct arterial roadway from Boston Avenue north to proposed Lake Success Business Park site in Bridgeport, CT.	$7,000,000.00
2513.	Illinois	Project is part of the overhaul of 230 miles of US 67, near Jerseyville	$1,700,000.00
2514.	South Carolina	Reconstruct I-95/SC 327 interchange	$7,000,000.00
2515.	Texas	Construct roadway to connect Anzalduas Bridge to US83	$3,500,000.00
2516.	California	Construct interchange at Interstate-605 and Arrow Highway and at Live Oak Avenue including engineering, surveying, and right-of-way acquisition, Irwindale.	$1,600,000.00
2517.	Mississippi	Widening of MS Hwy 24:Widening MS Hwy 24 from I-55 in McComb to US Hwy 61 in Woodville	$500,000.00
2518.	Texas	Construct IH-30 replacement bridge, Trinity River, Dallas, Texas	$17,000,000.00
2519.	Maine	I-295/Franklin Street Arterial Interchange, Portland	$3,000,000.00
2520.	Alabama	American Village - Montevallo construction of closed loop Access Road, bus lanes and parking facility.	$300,000.00
2521.	Illinois	Upgrade harbor access at Tri-City Regional Port District	$832,000.00
2522.	Indiana	Reconstruct Standard Avenue, Whiting	$1,300,000.00
2523.	Minnesota	Connect CSAH 48 with MN State Trunk Hwy 210. Complete portions of Paul Bunyan Trail	$1,000,000.00
2524.	Texas	Construct proposed "super streets" that are part of the Houston-Galveston Area Council's 100% Solution Plan to reduce regional congestion.	$4,000,000.00
2525.	Tennessee	Extension of bicycle and pedestrian trail, Springfield	$200,000.00
2526.	Pennsylvania	Design and construct interchange and related improvements at I-83, Exit 4, or other projects selected by York County, Pennsylvania MPO.	$3,500,000.00
2527.	Missouri	Design, Right of Way and Construction of Highway 465, from Highway 76 to Highway 376, Taney Cty, MO.	$6,800,000.00
2528.	Connecticut	Widen and improve Metro North Railroad Underpasses at Atlantic, Elm, and Canal Streets and Route 1 in Stamford, CT.	$500,000.00
2529.	Pennsylvania	Extension of Third Street from Interstate 83 to Chestnut Street, Harrisburg	$5,000,000.00
2530.	New York	Reconstruction of West Neck Road from Huntington-Lloyd Harbor boundary to the end of the Village-maintained road, Lloyd Harbor.	$2,000,000.00
2531.	New York	To design/construct safer roadway for high volume traffic, connecting I-87 in NY with I-89 in VT, via Cumberland Head peninsula, NY.	$1,000,000.00
2532.	Georgia	Improvements of St. Marys Road from I-95 to Kings Bay Subbase	$1,800,000.00
2533.	New York	Pedestrian Bridge to Stony Pt Battlefield. Bicycle and pedestrian trail rehab & related improvements in Rockland County - NY.	$1,200,000.00
2534.	New York	Rehabilitation of Pines Bridge Road/Lake Avenue and Ryder Road, in Ossining, Yorktown and New Castle.	$2,765,000.00
2535.	Louisiana	Kerner Bridge	$1,000,000.00
2536.	North Carolina	Construct Interstate 73/74 in Montgomery County and Richmond County, NC	$18,500,000.00
2537.	Massachusetts	Replacement of failing bridge / underpass (Route 106) and concrete support structure, Town of Mansfield.	$1,800,000.00
2538.	Minnesota	Acquisition of ROW and environmental review for additional Mississippi River crossing, City of Little Falls.	$2,200,000.00
2539.	Iowa	Construct a roadway extending north from the I 80/US 65 interchange to NE 118th Avenue, west to I 35 and the Mile Long Bridge (IA 415).	$500,000.00
2540.	Pennsylvania	Central Susquehanna Valley Thruway U.S. 15. Construct 4 lane limited access highway. Connect SR 147 south of I-80 with US 11/15 south of Selingsgrove.	$2,000,000.00
2541.	Minnesota	Munger Trail Extension, City of Duluth	$3,200,000.00
2542.	California	Interchange improvements at Interstate 215 at Los Alamos Road, City of Murrieta	$2,000,000.00
2543.	Illinois	Construct I-57/I-294 interchange	$2,900,000.00
2544.	Louisiana	Widen LA 18 from Northrup Grumman/Avondale Shipyards to US 90, Jefferson Parish	$2,500,000.00
2545.	Maine	Replacement of the Route 201-A "covered" bridge, Norridgewock	$1,000,000.00
2546.	New Hampshire	Improvements of the intersection of Route 101A and Route 13 in Milford, NH	$1,700,000.00
2547.	California	Adds NB lane and auxiliary lanes on I-5 and widens the I-8 west to I-5 north, San Diego	$6,000,000.00
2548.	Maine	Route 2 Improvements from Bethel to Gilead	$500,000.00
2549.	Missouri	Construct U.S. Highway 54 Expressway near Osage Beach, Missouri	$1,500,000.00
2550.	Georgia	Construct road around the high school, two blocks from SR 42 and SR 80, Crawford County	$8,000.00
2551.	Tennessee	Proposed State Route 397 extension from State Route 96, west' to US 431 North in Franklin, Williamson County.	$2,225,000.00
2552.	Wisconsin	Upgrade State Highway 2, City of Ashland	$4,000,000.00
2553.	California	Ferrari Interchange Project - Construction of an interchange located at the intersection of future State Route 65 and Ferrari Ranch Road/Westwood in Placer County.	$3,000,000.00
2554.	Illinois	Construct and improve bike path network, Evanston	$250,000.00
2555.	Michigan	Reconstruct East Spruce Street with drainage, curb, gutter, pavement, traffic control devices, Sault Ste. Marie.	$950,000.00
2556.	New York	Enhance road and transportation facilities in the vicinity of W. 65th St and Broadway, New York City.	$3,000,000.00
2557.	New York	Design and reconstruction of roadways & sidewalks, including Washington Street to Stone Street, and throughout Public Square, located in Watertown, NY.	$2,000,000.00
2558.	Georgia	Rockbridge Road improvements DeKalb	$2,500,000.00
2559.	Georgia	Construct rail overpass, SR 21 to SR 25	$2,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2560.	Florida	Normandy Blvd. & Cassat Avenue, Jacksonville	$1,500,000.00
2561.	Florida	Complete Removal and Replacement of Platt Street Bridge, Hillsborough County	$750,000.00
2562.	Pennsylvania	State Street Bridge Rehabilitation, Hamburg	$1,500,000.00
2563.	Missouri	Widening of Chouteau Trafficway to 4 lanes and necessary safety improvements	$3,000,000.00
2564.	Virginia	To enhance Main Street (US Route 1 South) in Dumfries, Prince William County	$725,000.00
2565.	Illinois	Construct pedestrian tunnel under railroad tracks at commuter lot, Winfield, IL	$1,700,000.00
2566.	Virginia	Maple Avenue street improvement project in Vienna	$1,650,000.00
2567.	Georgia	Streetscape project for lighting and landscaping on Main Street along Georgia Highway 231, Davidsboro.	$300,000.00
2568.	Ohio	Construct interchange or other appropriate access on IR 70 west of existing mall road exit in Belmont County.	$6,935,000.00
2569.	California	Design and Construction Camino Tassajara -Crown Canyon to East Town Project, Danville, CA	$1,000,000.00
2570.	Hawaii	Construct Kapaa Bypass	$3,000,000.00
2571.	Arkansas	Repair and Improvement of East Patrol Road, Hempstead County	$200,000.00
2572.	Florida	I-95 / Spanish River Blvd. Interchange, Palm Beach County	$14,000,000.00
2573.	Pennsylvania	Improvements, including a turn lane at, new signing and markings at intersection of Route 422 and Route 662 in Berks County.	$2,430,000.00
2574.	Georgia	Reconstruction of the shoulders of GA SR 400 from mile post 6.65 north to SR 306 for use by transit vehicles.	$10,000,000.00
2575.	Virginia	Construct Route 262 Bypass at Rt. 252/Rt. 254 in Augusta County	$1,000,000.00
2576.	Kansas	Construct K-7/55th St./Johnson Drive interchange and construct Clear Creek Parkway overpass over K-7, City of Shawnee.	$3,000,000.00
2577.	California	Multi-year integrated project to develop regional transportation plan for next 20 yrs for Riverside County and Orange County. Major investment study and PA-ED phase work.	$3,520,000.00
2578.	New York	Orzeck Rd. improvements in Town of Goshen-NY	$500,000.00
2579.	New Jersey	Replace Haynes Avenue bridges over Waverly Yards and Routes 1 and 9, Newark	$900,000.00
2580.	Ohio	Construct shared use trail from Bellbrook to Spring Valley connecting with the Little Miami Scenic Trail.	$500,000.00
2581.	California	Reconstruct 1.9 miles of Paramount Blvd. Major arterial in region with interchange at 91 Freeway to Del Amo Blvd., Long Beach.	$500,000.00
2582.	Mississippi	Upgrade roads in Humphreys County Districts 1 and 5 and Isola	$944,000.00
2583.	Missouri	Lewis and Clark Expressway	$2,000,000.00
2584.	Missouri	Design, Right of Way and Construction of Interstate 44 & Highway 39 Interchange, Mt. Vernon, MO.	$5,000,000.00
2585.	New York	Rehabilitation of East and West John Streets in the Village of Lindenhurst	$1,015,000.00
2586.	Arkansas	Widen Old Boyd Road and upgrade associated bridges, Miller County	$500,000.00
2587.	Florida	Widening I-95, from Ft. Pierce to Melbourne	$2,000,000.00
2588.	Texas	Construct Santa Fe Trail DART LR overpass from Hill Street to Commerce Street along abandoned Santa Fe Rail right of way.	$2,400,000.00
2589.	Alabama	Decatur/Hartselle. Southern Bypass connecting Alabama 67 near Priceville continuing between Hartselle & Decatur ending on Alabama Hwy 20.	$2,000,000.00
2590.	Ohio	Study and design of the I-74 / I-75 interchange	$2,000,000.00
2591.	Texas	I-30 Bridge over the Trinity River, Dallas	$42,000,000.00
2592.	Illinois	City of Havana upgrades to Broadway St	$800,000.00
2593.	Massachusetts	Engineering, design and restoration of State Route 146 site for Northern Gateway Visitor Information Center Blackstone Corridor Worcester.	$4,650,000.00
2594.	Georgia	Reconstructing State Route 316 into a limited-access highway	$2,000,000.00
2595.	Florida	Reconstruct 40th Street, Tampa	$4,000,000.00
2596.	Virginia	Craig County Trail - improvements to trail, Craig County	$150,000.00
2597.	Ohio	Bicycle trail construction from Chardon south to East Branch Reservoir	$500,000.00
2598.	Texas	State Loop 390 in Marshall, Harrison County	$6,000,000.00
2599.	Ohio	Widen Western Reserve Road, Mahoning County	$2,000,000.00
2600.	Arkansas	Relocate Mazarn Bridge, SE Montgomery County	$60,000.00
2601.	California	Undertake Fernandez Ranch transportation enhancement project, Contra Costa County	$1,000,000.00
2602.	Michigan	Build 1.5 mile road between M-66 and B drive N, including improved drainage	$1,500,000.00
2603.	New York	Rt. 531 Expansion, Gates-Brockport, 4-Lane Highway is a Project to Extend Route 531	$5,000,000.00
2604.	Louisiana	Widen LA Highway 28 from Vernon/Rapides line to State Route 121, Rapides Parish	$5,000,000.00
2605.	Tennessee	Construction of park access road and adjacent trails at the Athens Regional Park in Athens	$300,000.00
2606.	Ohio	Construct Lakefront Plan (pedestrian/bike path and road improvements), Cleveland	$3,750,000.00
2607.	Tennessee	Construct greenway system, Nashville and Davidson County	$1,100,000.00
2608.	Texas	Reconstruction of IH 35E/Loop 12 from Spur 408 north to IH 635 thru Grand Prairie, Irving, and Dallas.	$5,000,000.00
2609.	Maryland	Chestertown Trail, Kent County	$300,000.00
2610.	New York	Reconstruction of Route 340 and Erie Street Intersections with Route 303, Rockland County	$1,000,000.00
2611.	North Carolina	Purchase of two rail corridors for future use as a bike/pedestrian trail, Durham	$2,000,000.00
2612.	Illinois	Construct and expand the Greenway Trail along the East Branch of the DuPage River in Bloomingdale and Milton townships, IL.	$400,000.00
2613.	Wisconsin	Reconstruct US Highway 41 in Green Bay, WI	$2,500,000.00
2614.	Mississippi	Upgrade roads in Canton (U.S. Hwy 51, 22, 16 and I-55), Madison County	$800,000.00
2615.	Pennsylvania	Indiana', Pa-Construct 5 mile segment of rail line and eliminate use of existing line and 37 grade crossings, Glenn Lock to Middletown.	$2,700,000.00
2616.	Texas	Extension of Radio Road from I-30 to SH 11 at FM 2560	$1,000,000.00
2617.	Texas	US Route 87 Big Spring Bypass part of the Ports-to-Plains Corridor, a National High Priority Corridor from Mexico to Denver.	$16,000,000.00
2618.	California	Reconstruct I880/Coleman Avenue Interchange to improve traffic flow, San Jose	$10,000,000.00
2619.	California	Construct grade separation between State Street and BNSF tracks along with street improvements on State Street, San Bernardino.	$1,250,000.00
2620.	New York	Big Ridge Road: Spencerport Village Line to Gillett Road in the Town of Ogden	$2,000,000.00
2621.	California	Rancho Cucamonga I-15/Base Line Interchange, removal and reconstruction of on and off ramps, and construction of auxiliary lanes.	$5,000,000.00
2622.	Kansas	Replacement or Rehabilitation of the Amelia Earhart Bridge over the Missouri River from Kansas into Missouri.	$2,000,000.00
2623.	Wisconsin	Reconstruct US Highway 45 in Waupaca County	$2,000,000.00
2624.	Michigan	Wayne, Laurenwood reconstruct 1/4 mile stretch	$125,000.00
2625.	Missouri	Study Needs and Design of Highway 37 & 60 Corridor, from Republic, MO to Arkansas stateline	$2,500,000.00
2626.	Maryland	MD237-right-of-way acquisition to upgrade and wide MD237 to a multi-lane highway from Pegg Road to MD235.	$10,000,000.00
2627.	Texas	US 83 underpass and pedestrian crossing at Abrams Road, Palmview	$1,900,000.00
2628.	Tennessee	Replace Unitia Bridge in Loudon County	$900,000.00
2629.	Minnesota	Construct bicycle trails in and around Aitkin connecting the Paul Bunyan Trail to the Mesabi Bike Trail.	$400,000.00
2630.	Colorado	Wadsworth Bypass (State Highway 121)/Burlington Northern Railroad and Grandview Grade separation.	$6,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2631.	Illinois	Complete Phase II engineering for reconstruction of 159th Street/US 6 in Will County	$1,000,000.00
2632.	Illinois	Construct and replace East Branch River bridge on Illinois Prairie Path, Milton Township, IL ...	$300,000.00
2633.	Nebraska	Pave 5.5 miles of road north of the Village of Cordova to I-80	$1,500,000.00
2634.	Ohio	Land acquisition for construction of bicycle and pedestrian·trails at Mentor Marsh	$710,000.00
2635.	California	Widen Interstate 8 overpass at Dogwood Road, Imperial County	$2,500,000.00
2636.	Texas	Improve Bus 287 between 8th Street and Northside Drive, Ft. Worth	$4,000,000.00
2637.	Oklahoma	Widen SH 33 from Cimarron River East to US 177, Payne County	$6,300,000.00
2638.	Georgia	Bridge improvements on Rico Tatum Road at Cedar Creek, Fulton Co	$560,000.00
2639.	Michigan	Expansion of Ten Mile Road, Hazel Park/Madison Heights	$277,000.00
2640.	Texas	Widen from 4 to 6 lanes I-35E from Lake Lewisville to Loop 288	$14,000,000.00
2641.	Arizona	Roadway widening from two lanes to four on US 93 near the town of Wikieup	$1,000,000.00
2642.	Florida	Designation of State Road 70 as an I2 corridor connecting the east and west coasts of Florida	$4,000,000.00
2643.	Kentucky	Replace bridge and approaches on KY-1665 over Stony Creek (B48) west of Jct. US 421	$500,000.00
2644.	Oklahoma	Construct US 59 improvements from Westville to US 412, Delaware County	$5,000,000.00
2645.	California	Conduct Study and Construct Contra Costa County Brentwood Tracy Expressway Project, CA ...	$5,000,000.00
2646.	Michigan	Carlysle Road - 2 miles east of city limit to Middlebelt Road, City of Inkster	$2,000,000.00
2647.	California	Folsom Boulevard & Power Inn Road improvements and widening	$9,000,000.00
2648.	Florida	44th St. Extension to Golfair Blvd., Jacksonville	$1,500,000.00
2649.	Georgia	Construct two lane bypass from US 1 to SR 88 around Wrens	$1,000,000.00
2650.	California	Construct Highway 101 bicycle/pedestrian overpass at Millbrae Ave for the San Francisco Bay Trail, Millbrae.	$1,000,000.00
2651.	New York	Design and Construction of bicycle and pedestrian facilities in the area of the Roosevelt Avenue Bridge.	$480,000.00
2652.	Ohio	Reconstruction of a urban collector street within the federal highway system at SR 18 and Smith Rd. in the City of Medina.	$1,960,000.00
2653.	Louisiana	Construct LA 143/US 165 Connector and North Ouachita River Bridge, Ouachita Parish	$12,000,000.00
2654.	Pennsylvania	Replace an existing stone-arch rail bridge, Upper Dublin Township	$9,500,000.00
2655.	Pennsylvania	Design, engineering, ROW acquisition, and construction of intersection improvements and safety enhancements, Borough of Taylor in Lackawanna County.	$250,000.00
2656.	Minnesota	Heritage Center at the Grand Portage National Monument	$1,355,000.00
2657.	New Hampshire	Public safety improvement by easement, building side-crosswalks, parking, traffic calming work. Part of Chocorua Village Intersect Improvement project.	$2,020,000.00
2658.	Illinois	Construct West Corbin Overpass over Illinois 255, Bethalto	$5,000,000.00
2659.	Indiana	CR 17, Elkhart Cnty, IN. The project is for a new four lane highway from County Rd. 26 to County Rd 38.	$3,000,000.00
2660.	Virginia	Construct equestrian enhancement in Mount Rogers NRA adjacent to Virginia Highlands Horse Trail.	$2,000,000.00
2661.	New York	Rehabilitate the High Bridge over the Harlem River between Manhattan and the Bronx	$5,000,000.00
2662.	Indiana	Extend Everbrook Drive from SR 332 to Bethel Avenue in the City of Muncie, Indiana	$640,000.00
2663.	New York	Continue design phase, including tiered, multi-year environmental scoping study, & construction on proposed route of Northern Tier Expressway (NTE), connecting I-81 and I-87, via US Rte.11.	$5,000,000.00
2664.	Michigan	Complete reconstruction of Tienken Road with curb and gutter improvements	$4,000,000.00
2665.	New Jersey	Vernon Township Traffic Calming, Pedestrian Safety and Traffic Congestion Circulation Improvement Project.	$3,000,000.00
2666.	Oregon	Improvements to Bandon-Charleston State Scenic Tour on Randolph Road and North Bank Lane.	$4,200,000.00
2667.	Nebraska	Construct Pflug Road and I-80 Interchange	$2,000,000.00
2668.	Oregon	Rogue River Bikeway/Pedestrian Path, Curry County	$600,000.00
2669.	Utah	Widen and improve 800 North/SR - 52 a main east-west corridor in Orem Utah	$2,100,000.00
2670.	New York	Rehabilitation of East and West Gates Avenue in the Village of Lindenhurst	$1,020,000.00
2671.	Virginia	Daniel Boone Wilderness Trail Corridor - design and construction of interpretive center and enhancement of trail corridor.	$4,000,000.00
2672.	Minnesota	Reconditioning CSAH 61 from Barnum to TH 210 at Carlton, and improve Munger Trail	$1,480,000.00
2673.	American Samoa	Village road improvements for Tualauta, Tualatai, Aitulagi, Fofo,and Alataua counties in the Western District.	$3,000,000.00
2674.	Pennsylvania	The project involves building an interchange, extending Lafayette Street, and building a toll interchange connecting Lafayette Street with the Pennsylvania Turnpike.	$5,188,000.00
2675.	Pennsylvania	Design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project, Monroe County.	$1,000,000.00
2676.	Michigan	New Interchange at Latson Road on I-96	$6,000,000.00
2677.	Florida	Coral Way Phase One, City of Miami	$3,000,000.00
2678.	Wisconsin	Reconstruct State Highway 32 in Kenosha and Racine Counties, Wisconsin	$11,900,000.00
2679.	Missouri	Chain of Rocks Bicycle/Pedestrian connector linking regional network of trails & greenways	$300,000.00
2680.	Illinois	Pre construction activities for Sangamon Valley Trail	$236,000.00
2681.	Michigan	Resurfacing and widening of Parmater Road, Otsego County	$368,000.00
2682.	Virginia	Virginia Creeper Trail - ongoing trail needs, including construction of restroom facilities at Watauga and Alvarado and parking expansion at Watauga.	$1,300,000.00
2683.	Indiana	Connection of Hazelldell Parkway to proposed Little Chicago Road in Hamilton County	$500,000.00
2684.	Alaska	Construction of and improvements to roads at Alaska Pacific University	$3,000,000.00
2685.	North Carolina	3.5 mile extension of Martin Luther King, Jr. Arterial Boulevard in Monroe, NC	$2,000,000.00
2686.	California	Widen and add turn lanes to Firestone Blvd, Downey	$2,500,000.00
2687.	Arkansas	Improvement of Judges Road, Desha County	$500,000.00
2688.	Pennsylvania	Complete design for Eastern Inner Loop connector between Business Route 322 and State Route 3022 in Centre County.	$1,000,000.00
2689.	New York	Highway Construction Selkirk Bypass Truck Route	$1,600,000.00
2690.	Iowa	Right-of-way and construction of U.S. Highway 20 at Woodbury County (Interstate 29), Ida County, Sac County from Ida County line to U.S. 71 at Early, IA.	$7,750,000.00
2691.	Arizona	Construction of interim bypass for US 93, circumventing the town of Wickenburg	$1,000,000.00
2692.	Texas	Construct grade separation at the intersection of Medical Drive and Fredericksburg Road	$3,800,000.00
2693.	Massachusetts	Union Square street improvements and enhancements, Somerville	$500,000.00
2694.	Indiana	I-69 access project connects 146th St. to I-69 Interchange at Exit 10	$4,000,000.00
2695.	Texas	Construct IH-35E replacement bridge, Trinity River, Dallas, Texas	$5,000,000.00
2696.	Mississippi	Upgrade Alex Gates Road and Walnut Road in Quitman County, and roads in Falcon, Sledge and Lambert.	$2,200,000.00
2697.	Illinois	Improve 63rd Street, Chicago	$2,000,000.00
2698.	Pennsylvania	SR 3003 Bridge, replace one span steel stringer bridge with a one span concrete box beam bridge in Auburn Township, Susquehanna County.	$1,000,000.00
2699.	New Jersey	Widening Routes 1 & 9, Production Way to East Lincoln Avenue	$500,000.00
2700.	New Jersey	Rte. 50 Bridge & Road improvements, Cape May & Atlantic Counties. Replace Rte. 50 bridge over Tuckahoe River with fixed span.	$5,000,000.00
2701.	Florida	Upgrade SR 50 from US 19 to US 41 in Hernando County	$3,000,000.00
2702.	Tennessee	Addition of an interchange on I-40 in Roane County at Buttermilk Road and I-40 to provide safe, efficient access to interstate.	$3,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2703.	New Hampshire	Intersection improvements at US Route 3 and the Franklin Industrial Drive entrance in Franklin, NH.	$1,000,000.00
2704.	Maine	Relocation of southbound on-ramp to I-95 at exit 47, Bangor	$1,500,000.00
2705.	New Jersey	Extend CR Route 605	$1,000,000.00
2706.	Arkansas	Development of infrastructure to Regional Airport in Fort Smith	$1,200,000.00
2707.	Ohio	City of Tiffin Kennedy bridge overpass and lighting improvement along St. Route 53	$1,000,000.00
2708.	Louisiana	Construct pedestrian walkways between Caddo Street and Milam Street along Edwards Street in Shreveport, LA.	$1,000,000.00
2709.	Michigan	Construct improvements and modifications to M-40/I-196 Interchange	$6,000,000.00
2710.	Massachusetts	Rt. 20 - I-95 Interchange, Waltham	$1,500,000.00
2711.	Massachusetts	Reconstruct Rutherford Avenue from City Square to Route 99, Boston	$1,000,000.00
2712.	New York	Study, design, and reconstruction of pedestrian walkways, the Bronx	$1,000,000.00
2713.	Michigan	Construct road improvements to Miller Road from Interstate 75 to Linden Road, Flint Township	$4,500,000.00
2714.	Arkansas	Relocation of Highway 412 bypass, Paragould	$1,000,000.00
2715.	Georgia	Construct Coastal Ga Greenway trail from Bee Road to Lake Mayer	$500,000.00
2716.	Arkansas	Replacement of bridges #11597, #11598, and #11590, Columbia County	$500,000.00
2717.	Utah	Parley's Creek Corridor Project	$5,000,000.00
2718.	Kansas	Improve I-35/95th Street interchange, City of Lenexa	$1,000,000.00
2719.	New Jersey	Rehabilitation of Benigno Boulevard from I-295 to Route 168, Bellmawr	$400,000.00
2720.	Arizona	Roadway widening from two lanes to four on US 93 south of the town of Wikieup	$1,000,000.00
2721.	Ohio	Construct Riverwalk project (bike/pedestrian path and facilities), City of Warren	$1,500,000.00
2722.	Pennsylvania	Design, engineering, ROW acquisition, and construction of street improvements and safety enhancements, City of Nanticoke in Luzerne County.	$2,000,000.00
2723.	Massachusetts	Pedestrian walkway for the Town of Norwood	$700,000.00
2724.	Maryland	I-70/MD85/MD355 Interchange	$3,000,000.00
2725.	Missouri	Study of Needs and Design Highway 160 & Kansas Expressway, Greene County, MO	$2,000,000.00
2726.	Missouri	Grand Ave Viaduct replacement of 6 lane structure with 5 lanes plus pedestrian walkways, St. Louis.	$12,000,000.00
2727.	Florida	Construct I-4 Frontage Road in Volusia County, Florida	$2,000,000.00
2728.	New York	Reconfiguration of New Rochelle Toll Plaza, including installation of high-speed EZPass, at this congested segment of I-95.	$1,000,000.00
2729.	Louisiana	Elimination of highway-rail grade crossings along Louisiana and Delta railroad	$1,000,000.00
2730.	Pennsylvania	York City Northwest Triangle redevelopment project	$1,500,000.00
2731.	California	Improve pedestrian and biking trails within East Bay Regional Park District, Contra Costa County.	$1,000,000.00
2732.	South Carolina	SC-81 Turning Lane - The SCDOT would construct a turning lane to feed traffic into lakeside development at Lake Russell, SC.	$50,000.00
2733.	Kentucky	Construct priority section 1 of the E.T. Breathitt (Pennyrile) Parkway Extension from Lovers Lane North to U.S. 41-A, Christian County.	$8,000,000.00
2734.	Pennsylvania	Design, engineering, ROW acquisition and construction of streetscaping enhancements, including paving, lighting and safety improvements, in downtown Wilkes-Barre.	$2,500,000.00
2735.	Georgia	Rehabilitate sidewalks and replace streetlights, Swainsboro	$500,000.00
2736.	New York	Construction of and improvements to Seneca Street in Buffalo	$2,000,000.00
2737.	Tennessee	Restoration of historic downtown Cobblestone Landing, Memphis	$1,000,000.00
2738.	New Jersey	Rte. 30 & Pomona Rd. intersection improvements. Widens road, improves signals and turn lanes at intersection.	$4,000,000.00
2739.	Virginia	NRV Trail - construction of multi-use trail between the Towns of Rich Creek and Glen Lyn, Giles County.	$56,000.00
2740.	New Jersey	Ferry Service Terminal, Carteret	$2,100,000.00
2741.	California	Pedestrian calming measures along Las Tunas Blvd., the City of San Gabriel	$600,000.00
2742.	Tennessee	Extension of bicycle and pedestrian trail, Murfreesboro	$9,400,000.00
2743.	Minnesota	Construct Final Segment of Hwy 610 from TH169 in Brooklyn Park, MN to its terminus in Maple Grove, MN.	$5,000,000.00
2744.	New York	Roadway improvements on Woodbine Avenue between 5th Avenue and Beach Avenue, Northport	$640,000.00
2745.	Texas	Construct bicycle and pedestrian trails in Houston's historic Third Ward	$750,000.00
2746.	Massachusetts	Construct 1.5 mile East Longmeadow Redstone Trailway	$720,000.00
2747.	Mississippi	State Highway 57 widening, Jackson County	$5,000,000.00
2748.	Illinois	Construction of a highway on new alignment to create a cross town route across Godfrey, IL from Illinois Route 3 to US 67.	$1,000,000.00
2749.	Nevada	New Interchange for Industrial Park in Mesquite along I-15 corridor from MP 117.5 @MP 118.5	$1,000,000.00
2750.	Kansas	Reconstruct grade separation on US-169, Kansas City	$6,500,000.00
2751.	New York	Roadway, streetscape, pedestrian, transit, and parking improvements to the Buffalo Niagara Medical Campus, Buffalo.	$2,000,000.00
2752.	Ohio	Construct replacement of Morgan Township Road 209 between SR 60 and SR 78 in Morgan County.	$3,300,000.00
2753.	New York	Improve intersection of Old Dock Road and Church Street, Kings Park	$500,000.00
2754.	New York	Construction of sidewalks along Rt 9A corridor in Village of Buchanan-NY	$475,000.00
2755.	Texas	Port of Beaumont Intermodal Corridor Project	$6,488,000.00
2756.	Maine	Replacement of Waldo-Hancock Bridge	$16,000,000.00
2757.	Illinois	Establish transportation museum on Navy Pier (Chicago Children's Museum), Chicago	$540,000.00
2758.	California	Sierra College/I-80 Interchange Project - Correct design deficiencies at the Sierra College Boulevard interchange with I-80 in Placer County.	$2,000,000.00
2759.	Washington	US 2/Sultan Basin Road Improvements, Sultan	$400,000.00
2760.	Mississippi	Ohr-O'Keefe Welcome Center, Biloxi	$750,000.00
2761.	Illinois	Replace Interstate 74 Bridge, Moline	$4,000,000.00
2762.	Massachusetts	Improve traffic signal operations, pavement markings & regulatory signage, Milton-Boston City Line.	$1,500,000.00
2763.	Illinois	Realign Irving Park Road (State Highway 19) and construct grade separation for RR tracks that intersect Irving Park and Wood Dale roads, Wood Dale, IL.	$11,600,000.00
2764.	Virginia	US Rt. 17 (Warrenton Road) Stafford County. To widen road and alleviate traffic congestion	$2,000,000.00
2765.	Ohio	Upgrade Manchester Rd., Akron	$4,000,000.00
2766.	Georgia	Infantry Museum Transportation Network [4-lane connector], Columbus	$1,000,000.00
2767.	Massachusetts	Widen Crosby Drive from north of Route 62 in the Town of Bedford to Middlesex Turnpike in the Town of Burlington.	$1,000,000.00
2768.	North Carolina	Expand and replace traffic signal systems and intelligent transportation systems in the City of Greensboro.	$16,000,000.00
2769.	New York	Rehabilitation of road and drainage systems on Beach, Canal, and Sea Breeze Roads in the Town of Oyster Bay.	$3,000,000.00
2770.	Virginia	High Knob Horse Trails - construction of network of horse riding trails and associated facilities in High Knob area of Jefferson National Forest.	$1,500,000.00
2771.	New York	Reconstruction of Schenck Avenue from Jamaica Avenue to Flatlands Avenue, Brooklyn	$5,000,000.00
2772.	Pennsylvania	Construct new alignment of Route 830 from Interstate 80 to Dubois-Jefferson County Airport	$2,000,000.00

High Priority Projects—Continued

No.	State	Project Description	Amount
2773.	Pennsylvania	SR 21 safety and capacity improvements, Greene and Fayette Counties	$2,000,000.00
2774.	Arkansas	Improvements on Calhoun County Roads 64, 73, 81, and 26	$500,000.00
2775.	California	Improve the signal system infrastructure and timing of 10 traffic signals on Antonio Parkway	$125,200.00
2776.	Idaho	Improve and widen US-95. Includes replacement of two bridges, Copeland to Eastport in Boundary County.	$4,000,000.00
2777.	New Jersey	Route 7 Wittpenn Bridge over Hackensack River, Bridge Replacement and Reconstruction of Route 7 - Fish House Road Interchange.	$1,000,000.00
2778.	Texas	Pedestrian improvements and traffic control projects for Alameda, Dyer, and North Loop, El Paso.	$2,500,000.00
2779.	New Jersey	Sea Isle Blvd. Reconstruction, Cape May County. Reconstruct and raise road bed above FEMA 100 year flood level.	$2,000,000.00
2780.	Oregon	Renewal of wooden trestle bridge west of Albany	$6,000,000.00
2781.	Missouri	Construction of Highway 249 (Range Line By-pass), Jasper County, MO	$10,000,000.00
2782.	Minnesota	Construction of street underpass and 2 bicycle-pedestrian underpasses of rail-crossing and grade separated interchange with U.S. Highway 61.	$2,000,000.00
2783.	New York	Purchase Three Ferries and Establish System for Ferry Service from Rockaway Peninsula to Manhattan.	$15,000,000.00
2784.	Hawaii	Ft. Weaver Road Widening	$10,000,000.00
2785.	New York	Install Improvements for Pedestrian Safety in the vicinity of PS 153	$250,000.00
2786.	Illinois	South Chicago Street Improvements (Geneseo): Construction of a pedestrian sidewalk along S. Chicago Street.	$145,000.00
2787.	Pennsylvania	Construct PA Route 61/Schulkill Haven Bypass, Schuylkill Haven	$10,000,000.00
2788.	Ohio	Construct Front Street grade separation, Berea	$500,000.00
2789.	Michigan	Widen, pulverize and improve drainage with new bituminous pavement surface Nahma Bridge on CR 497 from US 2 at Nahma Junction to Village of Nahma.	$575,000.00
2790.	Mississippi	Lake Harbour Drive Extension:Extension of Lake Harbour Dr at US Hwy 51 to Highland Colony Pkwy, providing a major east-west corridor through Ridgeland.	$500,000.00
2791.	Alaska	Realign rail track to eliminate highway-rail crossings and improve highway safety and transit times.	$5,000,000.00
2792.	Illinois	Construct 1.5 miles of roadway from Mississippi River Barge Dock to the Intersection of IL3 & IL157, Cahokia.	750,000.00
2793.	Ohio	Replace Rock Spring Bridge, Portage County	$500,000.00
2794.	New York	Install Improvements for Pedestrian Safety in the vicinity of PS 124	$250,000.00
2795.	Michigan	ROW acquisition and construction for I-94 widening between Sargent Road and M-60, including interchange improvements at I-94/US-127 North.	$3,000,000.00
2796.	California	Implement ITS on Muni Transit System, San Francisco	$4,000,000.00
2797.	Illinois	Widen and improve Chain of Rocks Road between IL 111 and I-255	$2,156,000.00
2798.	Pennsylvania	Improve handicapped accessibility and provide a pedestrian overpass	$3,000,000.00
2799.	Kentucky	Replace bridge and approaches on CR-5230 over North Rolling Fork River (C20), Danville	$770,000.00
2800.	Tennessee	Develop trails, bike paths and recreational facilities on Western Slope Black Mountain, Cumberland County for Cumberland Trail State Park.	$250,000.00
2801.	Minnesota	Construct Mesabi Trail completion from Grand Rapids to City of Ely	$2,700,000.00
2802.	Ohio	Construct transportation enhancements projects, Toledo	$6,000,000.00
2803.	Virginia	Construct eastbound and westbound ramps with bridges to provide direct access from Interstate 95 to Temple Avenue in Colonial Heights.	$2,000,000.00
2804.	New Jersey	Newark Waterfront pedestrian and bicycle access, Broad Street to NJPAC to Minish Park	$1,784,000.00
2805.	California	Upgrade and reconstruct I-580/Vasco Road Interchange, City of Livermore	$2,500,000.00
2806.	Michigan	Livonia, Reconstruct Stark Rd. between Plymouth Rd. and I-96	$1,000,000.00
2807.	Georgia	Add 5-10 ft. sidewalks in downtown Winder to improve bicycle/pedestrian streetscapes, safety, increase handicap access, and add bicycle parking.	$2,000,000.00
2808.	Utah	Highway 6 From I-15 to I-70	$3,000,000.00
2809.	California	Upgrade Save Mart Center intersection at Willow and Ashlan and Willow and Shaw, City of Fresno.	$1,500,000.00
2810.	Alabama	US 82 - I-65 connector and/or AL 5 improvements in Bibb County	$3,000,000.00
2811.	California	Undertake Cordelia Hill/Sky Valley transportation enhancement project including upgrade of pedestrian and bicycle corridors, Solano County.	$2,000,000.00
2812.	Michigan	White Lake, Pave Cooley Lake Rd. between Hix and Newburgh Roads	$500,000.00
2813.	Massachusetts	Construct Quinebaug River Rail Trail	$1,000,000.00
2814.	Texas	Widen Spur 298 to a six-lane urban roadway, McLennan County	$4,000,000.00
2815.	New Mexico	Construct the NM524 South truck bypass in Carlsbad	$7,000,000.00
2816.	Michigan	Pave Braves Avenue to connect the high school and grade school for safe bus route, Gladstone	$370,000.00
2817.	Michigan	Study the development and construction of a new interchange at Sternberg Road and I-96	$1,000,000.00
2818.	Georgia	Truck bypass - I - 75 at Oakridge Road, Tift County	$500,000.00
2819.	Texas	Construction of Segment #1 of Morrison Road for the City of Brownsville	$2,000,000.00
2820.	Florida	I-275 Roosevelt Blvd. Connector, Pinellas County	$10,000,000.00
2821.	Mississippi	Upgrade Dog Pen Road and Galilee Road in Holmes County, and roads in Cruger, Pickens, and Goodman.	$1,490,000.00
2822.	California	I-5/SR-56 connector construction from westbound SR-56 to north bound I-5, and from southbound I-5 to eastbound SR-56.	$4,000,000.00
2823.	Connecticut	Construct Enfield high-speed rail crossing to bike and pedestrian trails	$2,300,000.00
2824.	Minnesota	Aerial Lift Bridge preservation and improvements	$3,040,000.00
2825.	American Samoa	Drainage mitigation for Pago Pago village roads	$1,000,000.00
2826.	California	Install new crossing under the BNSF railroad at Ranchero Road in Hesperia	$2,000,000.00
2827.	Pennsylvania	Construct 9th and 10th Street bridges over Norfolk Southern Tracks, Lebanon	$7,000,000.00
2828.	Pennsylvania	Relocate New Salem Road to create a four lane connection from SR 21 and Matthew Drive to US 40.	$2,000,000.00
2829.	Arkansas	Improvement of Dallas County Roads 101, 124, 209, and 113	$500,000.00
2830.	Pennsylvania	Improve Route 6 from Mansfield Borough to the Village of Mainesburg	$1,000,000.00
2831.	Washington	Three Bridge Corridor (Skagit River) Extension Project, Skagit County	$5,000,000.00
2832.	California	Add interchange to I-15 and improve connecting roads in Victorville, CA	$1,500,000.00
2833.	Colorado	Build Powers/Woodmen Interchange to a grade separated interchange	$8,000,000.00
2834.	Texas	Preston Road will connect air & seaport facilities via Ellington Air Field and several Houston Ship Channel industry locations.	$1,000,000.00
2835.	Texas	Union Pacific Railroad Bridge Expansion Over U.S. 287	$3,000,000.00
2836.	Washington	Modernize and study interchange at I-5 and SR503	$300,000.00
2837.	Kansas	Widening of US 69 from Pittsburg to Baxter Springs, KS	$5,000,000.00
2838.	Georgia	Flint River Bridge; right of way acquisition, construction, Albany	$1,000,000.00

Subtitle H—Miscellaneous Provisions

SEC. 1801. BUDGET JUSTIFICATION.

The Department of Transportation and each agency therein shall submit to the Committee on Transportation and Infrastructure of the House of Representatives a budget justification concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code.

SEC. 1802. MOTORIST INFORMATION.

Section 124 of of title I of division F of the Consolidated Appropriations Act, 2004 (118 Stat. 296–297) is repealed.

SEC. 1803. MOTORIST INFORMATION CONCERNING FULL SERVICE RESTAURANTS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall initate a rulemaking to determine whether or not—

(1) full service restaurants should be given priority on not more than 2 panels of the camping or attractions logo specific service signs in the Manual on Uniform Traffic Control Devices of the Department of Transportation when the food logo specific service sign is fully utilized; and

(2) full service restaurants should be given priority on not more than two panels of the food logo specific service signs in such Manual when the camping or attractions logo specific service signs are fully utilized.

SEC. 1804. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) by adding at the end the following:

"(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.

"(47) Interstate Route 87 from the Quebec border to New York City.

"(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.

"(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.

"(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.

"(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.

"(52) The route in Arkansas running south and parallel to United States Route 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63."; and

(2) by aligning paragraph (45) with paragraph (46).

SEC. 1805. ADDITIONS TO APPALACHIAN REGION.

(a) Kentucky.—Section 14102(a)(1)(C) of title 40, United States Code, is amended—

(1) by inserting "Nicholas," after "Morgan,"; and

(2) by inserting "Robertson," after "Pulaski,".

(b) Ohio.—Section 14102(a)(1)(H) of such title is amended—

(1) by inserting "Ashtabula," after "Adams,";

(2) by inserting "Fayette," after "Coshocton,";

(3) by inserting "Mahoning," after "Lawrence,"; and

(4) by inserting "Trumbull," after "Scioto,".

(c) Tennessee.—Section 14102(a)(1)(K) of such title is amended—

(1) by inserting "Giles," after "Franklin,"; and

(2) by inserting "Lawrence, Lewis, Lincoln," after "Knox,".

(d) Virginia.—Section 14102(a)(1)(L) of such title is amended—

(1) by inserting "Henry," after "Grayson,"; and

(2) by inserting "Patrick," after "Montgomery,".

SEC. 1806. TRANSPORTATION ASSETS AND NEEDS OF DELTA REGION.

(a) Agreement.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the Delta Regional Authority (referred to in this section as the "DRA") to conduct a comprehensive study of transportation assets and needs for all modes of transportation (including passenger and freight transportation) in the 8 States comprising the Delta region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri and Tennessee).

(b) Consultation.—Under the agreement, the DRA, in conducting the study, shall consult with the Department of Transportation, State transportation departments, local planning and development districts, local and regional governments, and metropolitan planning organizations.

(c) Report.—Under the agreement, the DRA, not later than 24 months after the date of entry into the agreement, shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a final report on the results of the study, together with such recommendation as the DRA considers appropriate.

(d) Plan.—Under the agreement, the DRA, upon completion of the report, shall establish a regional strategic plan to implement the recommendations of the report.

(e) Funding.—

(1) Authorization of appropriations.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 for each of the fiscal years 2005 and 2006 to carry out this section.

(2) Contract authority.—Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended and shall not be transferable.

SEC. 1807. TOLL FACILITIES WORKPLACE SAFETY STUDY.

(a) In General.—The Secretary shall conduct a study on the safety of highway toll collection facilities, including toll booths, to determine the safety of the facilities for the toll collectors who work in and around the facilities, including consideration of—

(1) the effect of design or construction of the facilities on the likelihood of vehicle collisions with the facilities;

(2) the safety of crosswalks used by toll collectors in transit to and from toll booths;

(3) the extent of the enforcement of speed limits in the vicinity of the facilities;

(4) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching the facilities;

(5) the use of cameras to record traffic violations in the vicinity of the facilities;

(6) the use of traffic control arms in the vicinity of the facilities;

(7) law enforcement practices and jurisdictional issues that affect safety in the vicinity of the facilities; and

(8) the incidence of accidents and injuries in the vicinity of toll booths.

(b) Data Collection.—As part of the study, the Secretary shall collect data regarding the incidence of accidents and injuries in the vicinity of highway toll collection facilities.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study, together with recommendations for improving toll facilities workplace safety.

(d) Funding.—

(1) Authorization of appropriations.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 for fiscal year 2005.

(2) Contract authority.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; expect that the Federal share of the cost of the project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1808. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.

(a) In General.—The Secretary shall conduct a demonstration project in the State of Alaska, and a demonstration project in the State of Tennessee, to study the safety impacts, environmental impacts, and cost effectiveness of different pavement marking systems and the effect of State bidding and procurement processes on the quality of pavement marking material employed in highway projects. The demonstration projects shall each include an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches.

(b) Report.—Not later than June 30, 2009, the Secretary shall transmit to Congress a report on the results of the demonstration projects, together with findings and recommendations on methods that will optimize the cost-benefit ratio of the use of Federal funds on pavement marking.

(c) Funding.—

(1) Authorization of appropriations.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 per fiscal year for each of the fiscal years 2005 through 2009.

(2) Contract authority.— Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; expect that the Federal share of the cost of the demonstration projects shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1809. WORK ZONE SAFETY GRANTS.

(a) In General.—The Secretary shall establish and implement a work zone safety grant program under which the Secretary may make grants to nonprofit organizations to provide training to prevent or reduce highway work zone injuries and fatalities.

(b) Eligible Activities.—Grants may be made under the program for the following purposes:

(1) Training for construction craft workers on the prevention of injuries and fatalities in highway and road construction.

(2) Development of guidelines for the prevention of highway work zone injuries and fatalities.

(3) Training for State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.

(c) Funding.—

(1) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out

this section $5,000,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.

(d) CONSTRUCTION WORK IN ALASKA.—Section 114 of title 23, United States Code, is amended by adding at the end the following:

"(c) CONSTRUCTION WORK IN ALASKA.—

"(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.

"(2) LODGING.—The lodging under paragraph (1) shall be in accordance with section 1910.142 of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) REMOTE.—The term 'remote', as used with respect to a project, means that the project is 75 miles or more from the United States Post Office in either Fairbanks, Anchorage, Juno, or Ketchikan, Alaska, or is inaccessible by road in a 2-wheel drive vehicle.

"(B) RESIDENT.—The term 'resident', as used with respect to a project, means a person living within 75 miles of the midpoint of the project for at least 12 months.".

SEC. 1810. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.

(a) GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to a State that—

(1)(A) has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways; and

(B) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver and any passengers; or

(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).

(b) ELIGIBLE ACTIVITIES.—A grant received by a State under subsection (a) shall be used by the State—

(1) in the case of a State eligible under subsection (a)(1), for costs of—

(A) collecting and maintaining of data on traffic stops;

(B) evaluating the results of the data; and

(C) developing and implementing programs to reduce the occurrence of racial profiling, including programs to train law enforcement officers; and

(2) in the case of a State eligible under subsection (a)(2), for costs of—

(A) activities to comply with the requirements of subsection (a)(1); and

(B) any eligible activity under paragraph (1).

(c) RACIAL PROFILING.—To meet the requirement of subsection (a)(1), a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops on Federal-aid highways. Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.

(d) LIMITATIONS.—

(1) MAXIMUM AMOUNT OF GRANTS.—The total amount of grants received by a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.

(2) ELIGIBILITY.—A State may not receive a grant under subsection (a)(2) in more than 2 fiscal years.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for each of fiscal years 2004 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1811. AMERICA'S BYWAYS RESOURCE CENTER.

(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section to the America's Byways Resource Center established pursuant to section 1215(b)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 209).

(b) TECHNICAL SUPPORT AND EDUCATION.—

(1) USE OF FUNDS.—The Center shall use funds allocated to the Center under this section to continue to provide technical support and conduct educational activities for the national scenic byways program established under section 162 of title 23, United States Code.

(2) ELIGIBLE ACTIVITIES.—Technical support and educational activities carried out under this subsection shall provide local officials and organizations associated with National Scenic Byways and All-American Roads with proactive, technical, and on-site customized assistance, including training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain such byways and roads.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,500,000 for each of fiscal years 2004 through 2009.

(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this subsection shall be 100 percent and such funds shall remain available until expended and shall not be transferable.

SEC. 1812. TECHNICAL ADJUSTMENT.

(a) IN GENERAL.—The donee of the vessel with the Unit Identification Code number 13862 is deemed to be the owner of that vessel free and clear as of September 1, 2000.

(b) FEDERAL CLAIMS.—All Federal claims arising from the donation or use of the vessel described in subsection (a) are permanently extinguished.

SEC. 1813. ROAD USER CHARGE EVALUATION PILOT PROJECT.

(a) IN GENERAL.—The Secretary shall carry out a national evaluation pilot project to assess how intelligent transportation system technology can be applied to assess mileage-based road user charges for the purposes of collecting revenues for the Highway Trust Fund.

(b) MATTERS TO BE EVALUATED.—The following matters shall be evaluated under the pilot project:

(1) Technical feasibility of imposing mileage-based road user charges, including cost, reliability, and security of on-board and intelligent transportation systems.

(2) Compatibility of technology for imposing such charges with automobile and truck design.

(3) Design and testing of a collection system for such charges that is secure, low cost, and easy to use.

(4) Methods of ensuring privacy of road users and assessing public attitudes and views of motorists who participate in field tests of the equipment and system.

(c) REPORTS.— The Secretary shall transmit annual reports on the status of the pilot project and, not later than June 30, 2009, a final report on the results of the pilot project, together with findings and recommendations, to the Secretary of the Treasury, the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Finance of the Senate.

(d) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.—There is authorize from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,000,000 for each of fiscal years 2005 and 2006 and $3,500,000 for each of fiscal years 2007, 2008, and 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except the Federal share of the cost of the pilot project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1814. SENSE OF CONGRESS.

In honor of his service to the Commonwealth of Massachusetts and the United States of America, and in recognition of his contributions toward the construction of Central Artery Tunnel project in Boston, it is the sense of the Congress that the northbound and southbound tunnel of Interstate Route 93, located in the city of Boston, which extends north of the intersection of Interstate Route 90 and Interstate Route 93 to the Leonard P. Zakim Bunker Hill Bridge, should be designated and known as the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".

SEC. 1815. CONFORMING AMENDMENT FOR TRANSPORTATION PLANNING SECTIONS.

(a) METROPOLITAN PLANNING.—Section 134 of title 23, United States Code is amended to read as follows:

"§ 134. Metropolitan planning

"Metropolitan transportation planning programs funded under section 104(f) shall be carried out in accordance with the metropolitan planning provisions of chapter 52, title 49, United States Code.".

(b) STATEWIDE PLANNING.—Section 135 of such title is amended to read as follows:

"§ 135. Statewide planning.

"Statewide transportation planning programs funded under section 104(f) shall be carried out in accordance with the statewide planning provisions of chapter 52, title 49, United States Code.".

SEC. 1816. DISTRIBUTION OF METROPOLITAN PLANNING FUNDS WITHIN STATES.

Section 104(f)(4) of title 23, United States Code, is amended by adding at the end the following: "Such distribution of funds to metropolitan planning organizations shall be made within 30 days of the date of receipt of such funds from the Secretary.".

SEC. 1817. TREATMENT OF OFF RAMP.

The Harbor Boulevard off ramp from Interstate Route 405 in Costa Mesa, California, is deemed to satisfy the requirements of title 23, United States Code, that govern the approval of the placement of ramps off of a Federal-aid highway.

SEC. 1818. LOAN FORGIVENESS.

The right-away revolving fund loan issued for the rail project that extends from Humbolt County to the San Francisco Bay Area and secured by the State of California and that was initiated in 2001 is deemed satisfied.

TITLE II—HIGHWAY SAFETY

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) Highway safety programs.—For carrying out section 402 of title 23, United States Code, $165,000,000 for fiscal year 2004, $201,000,000 for fiscal year 2005, $202,000,000 for fiscal year 2006, $205,000,000 for fiscal year 2007, $209,000,000 for fiscal year 2008, and $212,000,000 for fiscal year 2009.

(2) Highway safety research and development.—For carrying out section 403 of title 23, United States Code, $72,000,000 for fiscal year 2004 and $73,000,000 for each of fiscal years 2005 through 2009.

(3) Occupant protection incentive grants.—For carrying out section 405 of title 23, United States Code, $20,000,000 for fiscal year 2004, $117,000,000 for fiscal year 2005, $120,000,000 for fiscal year 2006, $123,000,000 for fiscal year 2007, $125,000,000 for fiscal year 2008, and $130,000,000 for fiscal year 2009.

(4) Alcohol-impaired driving countermeasures incentive grant program.—For carrying out section 410 of title 23, United States Code, $40,000,000 for fiscal year 2004, $111,000,000 for fiscal year 2005, $114,000,000 for fiscal year 2006, $117,000,000 for fiscal year 2007, $121,000,000 for fiscal year 2008, and $125,000,000 for fiscal year 2009.

(5) State traffic safety information improvements.—For carrying out section 412 of title 23, United States Code, $24,000,000 for fiscal year 2005, $28,000,000 for fiscal year 2006, $32,000,000 for fiscal year 2007, $36,000,000 for fiscal year 2008, and $39,000,000 for fiscal year 2009.

(6) National driver register.—For carrying out chapter 303 of title 49, United States Code, by the National Highway Traffic Safety Administration, $4,000,000 for each of fiscal years 2004 through 2009.

(7) High visibility enforcement program.—For carrying out section 2005 of this title, $10,000,000 for each of fiscal years 2005 through 2009.

(b) Applicability of Title 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2004 through 2009 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(c) Transfers.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (3), (4), or (5) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 410, and 412 of title 23, United States Code.

SEC. 2002. OCCUPANT PROTECTION INCENTIVE GRANTS.

(a) General Authority.—Section 405(a) of title 23, United States Code, is amended—

(1) in paragraph (2) by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users";

(2) in paragraph (3) by striking "1997" and inserting "2003"; and

(3) in paragraphs (4)(A), (4)(B), and (4)(C) by inserting after "years" the following: "beginning after September 30, 2003,".

(b) Grant Eligibility.—Section 405(b) of title 23, United States Code, is amended by striking "A State shall become eligible" and inserting the following: "A State shall be eligible for a grant under this section if the State has a seat belt usage rate of 85 percent or greater as of the date of the grant, as determined by the Secretary. A State shall also become eligible".

(c) Grant Amounts.—Section 405(c) of title 23, United States Code, is amended—

(1) by striking "25 percent" and inserting "100 percent"; and

(2) by striking "1997" and inserting "2003".

SEC. 2003. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) General Authority.—Section 410(a) of title 23, United States Code, is amended—

(1) in paragraph (2) by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users";

(2) in paragraph (3) by striking "1997" and inserting "2003"; and

(3) in paragraphs (4)(A), (4)(B), and (4)(C) by inserting after "years" the following: "beginning after September 30, 2003,".

(b) Basic Grant A.—Section 410(b)(1) of title 23, United States Code, is amended—

(1) by striking "A State shall become eligible" and inserting the following: "A State shall be eligible for a grant under this paragraph if the State has an alcohol-related fatality rate per 100,000,000 vehicle miles traveled of 0.5 or less as of the date of the grant, as determined by the Secretary using the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration. A State shall also become eligible";

(2) by striking "at least 5 of" and inserting "at least 6 of";

(3) in subparagraph (A)—

(A) by striking "and" at the end of clause (i)(II);

(B) by striking the period at the end of clause (ii) and inserting a semicolon; and

(C) by adding at the end the following:

"(iii) the suspension referred to under clause (i)(I) may allow an individual to operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

"(iv) the suspension and revocation referred to under clause (i)(II) may allow an individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual.";

(4) in subparagrdph (B)—

(A) by striking "may include the issuance" and inserting the following: "may include—

"(i) the issuance"; and

(B) by striking the period at the end and inserting "; and" and the following:

"(ii) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum, the following:

"(I) the clinical effects of alcohol;

"(II) methods of preventing second party sales of alcohol;

"(III) recognizing signs of intoxication;

"(IV) methods to prevent underage drinking;

"(V) Federal, State, and local laws that are relevant to such personnel.";

(5) by striking subparagraph (F) and inserting the following:

"(F) Outreach program.—A judicial and prosecutorial education, training, and outreach program that provides information on the appropriateness and effectiveness of sentencing options."; and

(6) by adding at the end the following:

"(H) Self-sustaining drunk driving prevention program.—A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities that have comprehensive programs for the prevention of such operations of motor vehicles.

"(I) Programs for effective alcohol rehabilitation.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment for repeat offenders described in subparagraph (A)(i)(II).".

(c) Basic Grant B.—Section 410(b) of title 23, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) Basic grant B.—A State shall become eligible for a grant under this paragraph if the State—

"(A) has an alcohol-related fatality rate per 100,000,000 vehicle miles traveled of 0.8 or more as of the date of the grant, as determined by the Secretary using the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and

"(B) establishes, subject to such requirements as the Secretary may prescribe, a task force to evaluate and recommend changes to the State's drunk driving programs."; and

(2) in paragraph (3)—

(A) by striking "25 percent" and inserting "100 percent"; and

(B) by striking "1997" and inserting "2003".

(d) Supplemental Grants.—Section 410(c) of title 23, United States Code, is amended to read as follows:

"(c) Allocation for Basic Grants B.—Not more than $16,000,000 per fiscal year of amounts made available to carry out this section shall be available for making grants under subsection (b)(2).".

SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) In General.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"§412. State traffic safety information system improvements

"(a) General Authority.—

"(1) Authority to make grants.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to—

"(A) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

"(B) evaluate the effectiveness of efforts to make such improvements;

"(C) link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

"(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash *occurrences, rates, outcomes, and circumstances.*

"(2) Use of Grants.—A State may use a grant received under this section only to implement such programs.

"(3) Model Data Elements.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze State and national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall certify to the Secretary the State's adoption and use of such model data elements.

"(4) Maintenance of Effort.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require ensuring that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this section.

"(5) Federal Share.—The Federal share of the cost of implementing in a fiscal year a program of a State pursuant to paragraph (1) shall not exceed 80 percent.

"(b) First-Year Grants.—To be eligible for a first-year grant under this section, a State shall demonstrate to the satisfaction of the Secretary that the State has—

"(1) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

"(2) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system and is approved by the highway safety data and traffic records coordinating committee and—

"(A) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

"(B) prioritizes, based on the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities described in subsection (a)(1);

"(C) identifies performance-based measures by which progress toward those goals will be determined;

"(D) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan; and

"(E) includes a current report on the progress in implementing the multiyear plan that documents progress toward the specified goals.

"(c) Succeeding-Year Grants.—

"(1) Eligibility.—A State shall be eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

"(A) submits an updated multiyear plan that meets the requirements of subsection (b)(2);

"(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

"(C) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan;

"(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

"(E) includes a current report on the progress in implementing the multiyear plan.

"(d) Grant Amounts.—

"(1) In general.—The amount of a grant made to a State for a fiscal year under this section shall equal an amount determined by multiplying—

"(A) the amount appropriated to carry out this section for such fiscal year; by

"(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under section 402 for fiscal year 2003.

"(2) Minimum amount.—Notwithstanding subparagraph (A)—

"(A) a State eligible for a first-year grant under this section shall not receive less than $300,000; and

"(B) a State eligible for a succeeding-year grant under this section shall not receive less than $500,000.

"(e) Administrative Expenses.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

"(f) Applicability of Chapter 1.—The provisions contained in section 402(d) shall apply to this section.".

(b) Conforming Amendment.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"412. State traffic safety information system improvements.".

SEC. 2005. HIGH VISIBILITY ENFORCEMENT PROGRAM.

The Secretary shall establish a program to support national impaired driving mobilization and enforcement efforts and national safety belt mobilization and enforcement, including the purchase of national paid advertisement (including production and placement) to support such efforts.

SEC. 2006. MOTORCYCLE CRASH CAUSATION STUDY.

(a) In General.—Using funds made available to carry out section 403 of title 23, United States Code, the Secretary shall conduct a study of the causes of motorcycle crashes.

(b) Report.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 2007. CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.

(a) General Authority.—Subject to the requirements of this section, the Secretary shall make grants to States that enact or have enacted and are enforcing a law requiring that children riding in passenger motor vehicles who are too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton's Law (116 Stat. 2772).

(b) Maintenance of Effort.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for child safety seat and child booster seat programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(c) Federal Share.—The Federal share of the cost of implementing and enforcing in a fiscal year a law adopted by a State under subsection (a) shall not exceed—

(1) for the first 3 fiscal years for which a State receives a grant under this section, 75 percent; and

(2) for the fourth and fifth fiscal years for which a State receives a grant under this section, 50 percent.

(d) Grant Eligibility.—

(1) In general.—A State is eligible for a grant under this section if the State has in effect and enforces a law described in subsection (a).

(2) Maximum period of eligibility.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 2004.

(e) Eligible Uses of Funds.—A State may use a grant under this section only to carry out child safety seat and child booster seat programs, including the following:

(1) A program to educate the public concerning the proper use and installation of child safety seats and child booster seats.

(2) A program to train child passenger safety professionals, police officers, fire and emergency medical personnel, and educators concerning all aspects of the use of child safety seats and booster seats.

(3) A program to purchase and distribute child safety seats, child booster seats, and other appropriate passenger motor vehicle child restraints to families that cannot otherwise afford such seats or restraints.

(4) A program to support enforcement of child restraint laws.

(f) Grant Amount.—The amount of a grant to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

(g) Administrative Expenses.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 2.5 percent for the necessary costs of administering the provisions of this section.

(h) Applicability of Chapter 1.—The provisions contained in section 402(d) of title 23, United States Code, apply to this section.

(i) Report.—Each State to which a grant is made under this section shall transmit to the Secretary a report documenting the manner in which grant amounts were obligated and expended and identifying the specific programs carried out with or supported by grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under of chapter 4 of title 23, United States Code.

(j) Definitions.—In this section, the following definitions apply:

(1) Child restraint.—The term "child restraint" means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) Child safety seat.—The term "child safety seat" has the meaning such term has in section 405(f) of title 23, United States Code.

(3) Passenger motor vehicle.—The term "passenger motor vehicle" has the meaning such term has in such section 405(f).

(4) State.—The term "State" has the meaning such term has in section 101 (a) of such title.

(k) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $5,000,000 for each of fiscal years 2005 through 2009.

SEC. 2008. SAFETY DATA.

(a) In General.—Using funds made available to carry out section 403 of title 23, United States Code, for fiscal years 2005 through 2009, the Secretary shall collect data and compile statistics on accidents involving motor vehicles being backed up that result in fatalities and injuries and that occur on public and nonpublic roads and residential and commercial driveways and parking facilities.

(b) Report.—Not later than January 1, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House

of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on accidents described in subsection (a), including the data collected and statistics compiled under subsection (a) and any recommendations regarding measures to be taken to reduce the number of such accidents and the resulting fatalities and injuries.

SEC. 2009. MOTORCYCLIST SAFETY.

(a) MOTORCYCLIST ADVISORY COUNCIL.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

(A) barrier design;

(B) road design, construction, and maintenance practices; and

(C) the architecture and implementation of intelligent transportation system technologies.

(2) COMPOSITION.—The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

(A) at least—

(i) 1 member recommended by a national motorcyclist association;

(ii) 1 member recommended by a national motorcycle riders foundation;

(iii) 1 representative of the National Association of State Motorcycle Safety Administrators;

(iv) 2 members of State motorcyclists' organizations;

(v) 1 member recommended by a national organization that represents the builders of highway infrastructure;

(vi) 1 member recommended by a national association that represents the traffic safety systems industry; and

(vii) 1 member of a national safety organization; and

(B) at least 1, and not more than 2, motorcyclists who are traffic system design engineers or State transportation department officials.

(b) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

(c) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all the other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(d) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 2004.

(e) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State in accordance with subsection (a) shall not exceed—

(1) for the first 3 years for which a State receives a grant under this section, 75 percent; and

(2) for the next 2 years for which a State receives a grant under this section, 50 percent.

(f) GRANT ELIGIBILITY.—

(1) IN GENERAL.—A State becomes eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary—

(A) for the first fiscal year for which the State will receive a grant under this section, at least 1 of the 6 criteria listed in paragraph (2);

(B) for the second, third, and fourth fiscal years for which the State will receive a grant under this section, at least 2 of the 6 criteria listed in paragraph (2); and

(C) for any subsequent fiscal years for which the State will receive a grant under this section, at least 3 of the 6 criteria listed in paragraph (2).

(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:

(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists, and may include innovative training opportunities to meet unique regional needs.

(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

(F) FEES COLLECTED FROM MOTORCYCLISTS.—All licensing and registration fees collected by the State from motorcyclist are used for motorcycle safety programs.

(g) ELIGIBLE USES.—

(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safety training and motorcyclist awareness programs, including—

(A) improvements to motorcyclist safety training curricula;

(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—

(i) procurement or repair of practice motorcycles;

(ii) instructional materials;

(iii) mobile training units; and

(iv) leasing or purchase of facilities for classroom instruction and closed-course skill training;

(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(D) public awareness, public service announcements, and other outreach programs to enhance motorcyclist awareness.

(2) SUBALLOCATIONS OF FUNDS.—An agency that receives a grant under this subsection may suballocate funds from the grant to a nonprofit organization to carry out under this section.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTORCYCLIST SAFETY TRAINING.—The term "motorcyclist safety training" means a formal program of instruction that—

(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists; and

(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues.

(2) MOTORCYCLIST AWARENESS.—The term "motorcyclist awareness" means individual or collective awareness of—

(A) the presence of motorcycles on or near roadways; and

(B) safe driving practices that avoid injury to motorcyclists.

(3) MOTORCYCLIST AWARENESS PROGRAM.—The term "motorcyclist awareness program" means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues.

(4) STATE.—The term "State" has the same meaning such term has in section 101(a) of title 23, United States Code.

(i) MAXIMUM GRANT AMOUNT.—The amount of a grant made to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

(j) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction by the Secretary not to exceed 5 percent for the necessary costs of administering the provisions of this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $5,000,000 for each of fiscal years 2005 through 2009.

(l) APPLICABILITY OF TITLE 23.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.

SEC. 2010. DRIVER FATIGUE.

Section 402(a) of title 23, United States Code, is amended—

(1) by striking "and" before "(6)"; and

(2) by inserting before the period the following: "; and (7) to reduce deaths and injuries resulting from persons driving motor vehicles while fatigued".

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

SEC. 3001. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the "Federal Public Transportation Act of 2004".

(b) AMENDMENTS TO TITLE 49, UNITED STATES CODE.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3002. POLICIES, FINDINGS, AND PURPOSES.

(a) IN GENERAL.—Section 5301(a) is amended to read as follows:

"(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the interest of the United States to foster the development and revitalization of public transportation systems that—

"(1) maximize the safe, secure, and efficient mobility of individuals;

"(2) minimize environmental impacts; and

"(3) minimize transportation-related fuel consumption and reliance on foreign oil.".

(b) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(c) General Purposes.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "mass" the first place it appears and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "both public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "both public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5) by striking "urban mass" and inserting "public".

SEC. 3003. DEFINITIONS.

(a) Lead-in.—Section 5302(a) is amended in the matter preceding paragraph (1) by striking "In this chapter" and inserting "Except as otherwise specifically provided, in this chapter".

(b) Capital Project.—Section 5302(a)(1) is amended—

(1) in subparagraph (G) by inserting "construction, renovation, and improvement of intercity bus stations and terminals," before "and the renovation and improvement of historic transportation facilities,";

(2) in subparagraph (G)(ii) by inserting "(other than an intercity bus station or terminal)" after "commercial revenue-producing facility";

(3) by striking "or" at the end of subparagraph (H);

(4) by striking the period at the end of subparagraph (I) and inserting a semicolon; and

(5) by adding at the end the following:

"(J) crime prevention and security—

"(i) including—

"(I) projects to refine and develop security and emergency response plans;

"(II) projects aimed at detecting chemical and biological agents in public transportation;

"(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; and

"(IV) security training for public transportation employees; but

"(ii) excluding all expenses related to operations, other than such expenses incurred in conducting activities described in subclauses (III) and (IV);

"(K) establishment of a debt service reserve made up of deposits with a bondholders' trustee in a noninterest bearing account for the purpose of ensuring timely payment of principal and interest on bonds issued by a grant recipient for purposes of financing an eligible project under this chapter; or

"(L) mobility management—

"(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

"(ii) excluding operating public transportation services.".

(c) Individual With a Disability.—Section 5302(a)(5) is amended—

(1) by striking "Handicapped individual" in the heading and inserting "Individual with a disability"; and

(2) by striking "handicapped individual" and inserting "individual with a disability".

(d) Mass Transportation.—Section 5302(a)(7) is amended to read as follows:

"(7) Mass transportation.—The term 'mass transportation' means public transportation.".

(e) Public Transportation.—Section 5302(a)(10) is amended to read as follows:

"(10) Public transportation.—The term 'public transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or sightseeing transportation.".

(f) Urbanized Area.—Section 5302(a)(17) is amended to read as follows:

"(17) Urbanized area.—The term 'urbanized area' means an area encompassing a population of at least 50,000 people that has been defined and designated in the latest decennial census as an urbanized area by the Secretary of Commerce.".

(g) Authority to Modify Definition.—Section 5302(b) is amended—

(1) by striking "Handicapped Individual" in the heading and inserting "Individual With a Disability"; and

(2) by striking "handicapped individual" and inserting "individual with a disability".

SEC. 3004. METROPOLITAN PLANNING.

Section 5303 is amended to read as follows:

"§ 5303. Metropolitan planning

"(a) In General.—Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the metropolitan planning provisions of chapter 52.

"(b) Certification.—

"(1) In general.—The Secretary shall ensure and certify that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable laws of the United States. The Secretary may make the certification only if the organization is complying with chapter 52 and other applicable requirements of laws of the United States and the organization and chief executive officer have approved a transportation improvement program for the area.

"(2) Limitation on withholding certification.—The Secretary may not withhold certification based on the policies and criteria a metropolitan planning organization or mass transportation grant recipient establishes under section 5306(a) for deciding the feasibility of private enterprise participation.".

SEC. 3005. STATEWIDE PLANNING.

(a) In General.—Section 5304 is amended to read as follows:

"§ 5304. Statewide planning

"Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the statewide planning provisions of chapter 52.".

(b) Conforming Amendment.—The analysis for chapter 53 is amended by striking the item relating to section 5304 and inserting the following:

"5304. Statewide planning.".

SEC. 3006. PLANNING PROGRAMS.

(a) In General.—Section 5305 is amended to read as follows:

"§ 5305. Planning programs

"(a) State Defined.—In this section the term 'State' means a State of the United States, the District of Columbia, and Puerto Rico.

"(b) General Authority.—

"(1) Assistance.—Under criteria to be established by the Secretary, the Secretary may provide assistance for—

"(A) the development of transportation plans and programs;

"(B) planning, engineering, designing, and evaluating a public transportation project; and

"(C) for other technical studies.

"(2) Grants, agreements, and contracts.—The Secretary may provide assistance under paragraph (1)—

"(A) by making grants to States, authorities of States, metropolitan planning organizations, and local governmental authorities; or

"(B) by making agreements with other departments, agencies, and instrumentalities of the Government.

"(3) Eligible activities.—Activities eligible for assistance under paragraph (1) include the following:

"(A) Studies related to management, planning, operations, capital requirements, and economic feasibility.

"(B) Evaluating previously financed projects.

"(C) Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners.

"(D) Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

"(c) Purpose.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 to carry out this section and sections 5303 and 5304 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(d) Metropolitan Planning Program.—

"(1) Apportionment to states.—

"(A) In general.—The Secretary shall apportion 80 percent of the amounts made available under subsection (g)(1) among the States to carry out sections 5303 and 5306 in the ratio that—

"(i) the population of urbanized areas in each State, as shown by the latest available decennial census of population; bears to

"(ii) the total population of urbanized areas in all States, as shown by that census.

"(B) Minimum apportionment.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

"(2) Allocation to MPO's.—Amounts apportioned to a State under paragraph (1) shall be made available within 30 days after allocation to metropolitan planning organizations in the State designated under this section under a formula that—

"(A) considers population of urbanized areas;

"(B) provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section;

"(C) the State develops in cooperation with the metropolitan planning organizations; and

"(D) the Secretary approves.

"(3) Supplemental amounts.—

"(A) In general.—The Secretary shall apportion 20 percent of the amounts made available under subsection (g)(1) among the States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) Formula.—The Secretary shall apportion amounts referred to in subparagraph (A) under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 in certain urbanized areas.

"(e) State Planning and Research Program.—

"(1) Apportionment to states.—

"(A) In general.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out sections 5303 through 5306, 5312, 5315, and 5322 in the ratio that—

"(i) the population of urbanized areas in each State, as shown by the latest available decennial census; bears to

"(ii) the population of urbanized areas in all States, as shown by that census.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

"(2) SUPPLEMENTAL AMOUNTS.—A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts made available under subsection (d).

"(f) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government not to require a State or local match.

"(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(c) for fiscal years 2004 through 2009—

"(1) 82.72 percent shall be available for the metropolitan planning program under subsection (d); and

"(2) 17.28 percent shall be available to carry out subsection (e).

"(h) AVAILABILITY OF FUNDS.—Funds apportioned under this section in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned that remain unobligated at the end of that period shall be reapportioned among the States.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5305 and inserting the following:

"5305. Planning programs.".

SEC. 3007. PRIVATE ENTERPRISE PARTICIPATION.

(a) SECTION HEADING.—Section 5306 is amended by striking the section heading and inserting the following:

"§5306. Private enterprise participation in planning; relationship to other limitations".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5306 and inserting the following:

"5306. Private enterprise participation in planning; relationship to other limitations.".

SEC. 3008. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h) and (k); and

(2) by redesignating subsections (i), (j), (l), (m), and (n) as subsections (h), (i), (j), (k), and (l), respectively.

(b) DEFINITIONS.—Section 5307(a)(2)(A) is amended—

(1) by striking "a person" and inserting "an entity"; and

(2) by striking "section 5305(a) of this title" and inserting "chapter 52".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) GRANTS.—The Secretary may make grants under this section for—

"(A) capital projects and associated capital maintenance items;

"(B) planning;

"(C) transit enhancements; and

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000.";

(2) in the heading to paragraph (2) by striking "FISCAL YEAR 2003 AND FOR THE PERIOD OF OCTOBER 1, 2003, THROUGH APRIL 30, 2004" and inserting "FISCAL YEARS 2003 THROUGH 2005";

(3) in paragraph (2)(A) by striking "fiscal year 2003" and all that follows through "2004" and inserting "fiscal years 2003, 2004, and 2005,";

(4) in paragraph (3) by striking "section 5305(a) of this title" and inserting "chapter 52"; and

(5) in paragraph (3)(A) by striking "section 5303 of this title" and inserting "chapter 52".

(d) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A) by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (H) by striking "sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(3) in subparagraph (I) by striking "and" at the end; and

(4) by adding at the end the following:

"(K) in the case of a recipient for an urbanized area with a population of at least 200,000—

"(i) will expend one percent of the amount the recipient receives each fiscal year under this section for projects for transit enhancements, as defined in section 5302(a); and

"(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and".

(e) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended to read as follows:

"(e) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project (including associated capital maintenance items) under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

"(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

(3) REMAINDER.—The remainder of the net project cost shall be provided—

"(A) in cash from sources other than amounts of the Government or revenues from providing public transportation (excluding revenues derived from the sale of advertising and concessions);

"(B) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

"(C) from amounts received under a service agreement with a State or local social service agency or private social service organization.".

(f) REVIEWS, AUDITS, AND EVALUATIONS.—Section 5307(h)(1)(A) (as redesignated by subsection (a) of this section) is amended by striking "shall" and inserting "may".

(g) RELATIONSHIP TO OTHER LAWS.—Section 5307(l) (as redesignated by subsection (a) of this section) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) by inserting "THIS CHAPTER.—" before "Sections 5302";

(4) by adding at the end the following:

"(2) CHAPTER 15 OF TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5 any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable."; and

(5) by aligning the left margin of paragraph (1) (as so redesignated) with paragraph (2) (as added by paragraph (4) of this subsection).

(h) TREATMENT.—At the end of section 5307, add the following:

"(m) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.".

SEC. 3009. CLEAN FUELS FORMULA GRANT PROGRAM.

Section 5308 is amended to read as follows:

"§5308. Clean fuels formula grant program

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) CLEAN FUEL BUS.—The term 'clean fuel bus' means a passenger vehicle used to provide public transportation that—

"(A) is powered by—

"(i) compressed natural gas;

"(ii) liquefied natural gas;

"(iii) biodiesel fuels;

"(iv) batteries;

"(v) alcohol-based fuels;

"(vi) hybrid electric;

"(vii) fuel cell;

"(viii) clean diesel, to the extent allowed under this section; or

"(ix) other low or zero emissions technology; and

"(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

"(2) ELIGIBLE PROJECT.—The term 'eligible project'—

"(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—

"(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

"(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or

"(iii) improving existing public transportation facilities to accommodate clean fuel buses; and

"(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (3)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

"(3) MAINTENANCE AREA.—The term 'maintenance area' has the meaning such term has under section 101 of title 23.

"(4) RECIPIENT.—

"(A) IN GENERAL.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) for an area that, and a recipient for an urbanized area with a population of less than 200,000 that—

"(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

"(ii) is a maintenance area for ozone or carbon monoxide.

"(B) SMALLER URBANIZED AREAS.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.

"(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.

"(c) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—The Secretary shall apportion among recipients amounts made available to carry out this section for a fiscal year. Of such amounts—

"(A) two-thirds shall be apportioned to recipients serving urbanized areas with a population of at least 1,000,000, of which—

"(i) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—

"(I) the number of vehicles in the bus fleet of the recipient, weighted by severity of nonattainment for the area served by the recipient; bears to

"(II) the total number of vehicles in the bus fleets of all such recipients, weighted by severity of nonattainment for all areas served by such recipients; and

"(ii) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—

"(I) the number of bus passenger miles (as defined in section 5336(c)) of the recipient, weighted by severity of nonattainment of the area served by the recipient; bears to

"(II) the total number of bus passenger miles (as defined in section 5336(c)) of all such recipients, weighted by severity of nonattainment of all areas served by such recipients; and

"(B) one-third shall be apportioned to recipients serving urbanized areas with a population of less than 1,000,000, of which—

"(i) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—

"(I) the number of vehicles in the bus fleet of the recipient, weighted by severity of nonattainment for the area served by the recipient; bears to

"(II) the total number of vehicles in the bus fleets of all such recipients, weighted by severity of nonattainment for all areas served by such recipients; and

"(ii) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—

"(I) the number of bus passenger miles (as defined in section 5336(c)) of the recipient, weighted by severity of nonattainment of the area served by the recipient; bears to

"(II) the total number of bus passenger miles (as defined in section 5336(c)) of all such recipients, weighted by severity of nonattainment of all areas served by such recipients.

"(2) WEIGHTING OF SEVERITY OF NONATTAINMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (B), the number of buses in the bus fleet, or the number of passenger miles, shall be multiplied by a factor of—

"(i) 1.0 if, at the time of the apportionment, the area is a maintenance area for ozone or carbon monoxide;

"(ii) 1.1 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.2 if, at the time of the apportionment, the area is classified as—

"(I) a moderate ozone nonattainment area under subpart 2 of such part; or

"(II) a moderate carbon monoxide nonattainment area under subpart 3 of such part;

"(iv) 1.3 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under subpart 2 of such part; or

"(v) 1.4 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under subpart 2 of such part; or

"(vi) 1.5 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under subpart 2 of such part.

"(B) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone under subpart 2 of such part, the area was also classified under subpart 3 of such part as a nonattainment area for carbon monoxide, the weighted nonattainment or maintenance area fleet and passenger miles for the recipient, as calculated under subparagraph (A), shall be further multiplied by a factor of 1.2.

"(d) CLEAN DIESEL BUSES.—Not more than 35 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

"(e) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

"(2) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.

"(f) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

"(1) shall remain available to a project for 1 year after the fiscal year for which the amount is made available or appropriated; and

"(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.".

SEC. 3010. CAPITAL INVESTMENT GRANTS.

(a) SECTION HEADING.—Section 5309 is amended by striking the section heading and inserting the following:

"§5309. Capital investment grants".

(b) LOANS FOR REAL PROPERTY INTERESTS.—Section 5309 is amended—

(1) in subsections (a)(1) and (a)(2) by striking "and loans";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(c) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—Section 5309(b) (as redesignated by subsection (b) of this section) is amended—

(1) by striking "Except as provided in subsections (b)(2) and (e) of the section, the" and inserting "The"; and

(2) by striking "or loan".

(d) CRITERIA AND FUNDING.—Section 5309 is amended by striking subsections (e) through (p) and inserting the following:

"(c) MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

"(1) FULL FUNDING GRANT AGREEMENT.—A major new fixed guideway capital project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

"(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the proposal is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, transit supportive policies, and existing land use; and

"(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension.

"(3) CONSIDERATIONS.—

"(A) RESULTS OF ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a proposed project for purposes of making the finding required by paragraph (2)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

"(B) PROJECT JUSTIFICATION.—In evaluating a proposed project for purposes of making the finding required by paragraph (2)(B), the Secretary shall—

"(i) consider the direct and indirect costs of relevant alternatives;

"(ii) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed and recognize reductions in local infrastructure costs achieved through compact land use development;

"(iii) identify and consider public transportation supportive existing land use policies and future patterns and the cost of suburban sprawl;

"(iv) consider the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

"(v) consider population density and current transit ridership in the corridor;

"(vi) consider the technical capability of the grant recipient to construct the project;

"(vii) adjust the project justification to reflect differences in local land, construction, and operating costs; and

"(viii) consider other factors that the Secretary determines appropriate to carry out this chapter.

"(C) LOCAL FINANCIAL COMMITMENT.—In evaluating a proposed project under paragraph (2)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed public transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing public transportation services to operate the proposed project.

"(D) ASSESSMENT OF LOCAL FINANCING.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which financing sources are dedicated to the purposes proposed;

"(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other public transportation purpose; and

"(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

"(4) EVALUATION AND RATING OF PROJECTS.—A proposed project under this subsection may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making the findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended' based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

"(5) MAJOR DEFINED.—In this section, the term 'major', as used with respect to a new fixed guideway capital project, means the Federal assistance provided or to be provided under this section for the project is $75,000,000 or more.

"(d) CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, if the Federal assistance provided or to be provided under this section with respect to a new fixed guideway capital project is less than $75,000,000, and not less than $25,000,000, the project shall be subject to the requirements in this subsection.

"(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project is—

"(A) based on the results of planning and alternatives analysis;

"(B) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

"(C) supported by an acceptable degree of local financial commitment.

"(3) PLANNING AND ALTERNATIVES.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

"(4) PROJECT JUSTIFICATION.—For purposes of making the finding under paragraph (2)(B), the Secretary shall—

"(A) determine the degree to which the project is consistent with local land use policies and is likely to achieve local developmental goals;

"(B) determine the cost effectiveness of the project at the time of the initiation of revenue service;

"(C) determine the degree to which the project will have a positive effect on local economic development;

"(D) consider the reliability of the forecasts of costs and ridership associated with the project; and

"(E) consider other factors that the Secretary determines appropriate to carry out this subsection.

"(5) LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(6) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

"(A) GENERAL RULE.—A proposed project under this subsection may advance from planning and alternatives analysis to project development and construction only if—

"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as 'recommended' or 'not recommended' based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection.

"(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as 'recommended' under this subsection.

"(9) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.

"(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term 'fixed guideway capital project' includes a corridor-based public transportation bus capital project if the majority of the project's corridor right-of-way is dedicated alignment for exclusive use by public transportation vehicles for all or part of the day.

"(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (c) and (d) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

"(f) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

"(1) LETTERS OF INTENT.—

"(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

"(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.

"(2) FULL FUNDING GRANT AGREEMENTS.—

"(A) TERMS.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

"(i) establish the terms of participation by the Government in a project under this section;

"(ii) establish the maximum amount of Government financial assistance for the project;

"(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

"(iv) make timely and efficient management of the project easier according to the law of the United States.

"(B) SPECIAL FINANCIAL RULES.—

"(i) IN GENERAL.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

"(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

"(3) EARLY SYSTEM WORK AGREEMENTS.—

"(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

"(i) a full funding grant agreement for the project will be made; and

"(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

"(B) CONTENTS.—

"(i) IN GENERAL.—A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

"(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) LIMITATION ON AMOUNTS.—

"(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(b) and 5338(h)(1) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(B) and (m)(2)(B)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

"(B) OTHER CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all project construction grant agreements and early system work agreements under this subsection *for small capital projects described in subsection (d) may be not more than the greater of the amount allocated under subsection (m)(2)(A) for such projects or an amount equivalent to the last fiscal year of funding allocated under subsection (m)(2)(A) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in project construction grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.*

"(C) Inclusion of certain commitments.—Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125) for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.

"(D) Appropriation required.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

"(5) Notification of congress.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

"(g) Government's Share of Net Project Cost.—

"(1) Federal share.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

"(2) Remainder of net project cost.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

"(3) Limitation on statutory construction.—Nothing in this section, including paragraph (1) and subsections (c)(3)(D)(iv) and (c)(4), shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

"(4) Special rule for rolling stock costs.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

"(5) Limitation on applicability.—This subsection does not apply to projects for which the Secretary has entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

"(h) Fiscal Capacity Considerations.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (g), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(i) Reports on New Starts.—

"(1) Annual DOT report.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes—

"(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

"(B) evaluations and ratings, as required under subsection (c), for each such project that is authorized by the Federal Public Transportation Act of 2004; and

"(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

"(2) Annual GAO review.—The Comptroller General shall—

"(A) conduct an annual review of—

"(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) report to Congress on the results of such review by May 31 of each year.

"(j) Undertaking Projects in Advance.—

"(1) In general.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

"(A) the State or local governmental authority applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

"(2) Financing costs.—

"(A) In general.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

"(B) Limitation on amount of interest.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

"(C) Certification.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(3) Capital project cost indices.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2).

"(k) Bus and Bus Facilities Projects.—

"(1) Considerations.—In making grants under subsections (m)(1)(C) and (m)(2)(B)(iii), the Secretary shall consider the age of buses, bus fleets, related equipment, and bus-related facilities.

"(2) Fuel cell bus program.—Of the amounts made available under subsections (m)(1)(C) and (m)(2)(B)(iii) for a fiscal year, the following amounts shall be set aside for the national fuel cell bus technology development program under section 3039 of the Federal Public Transportation Act of 2004:

"(A) $4,849,950 for fiscal year 2004.

"(B) $10,000,000 for fiscal year 2005.

"(C) $11,000,000 for fiscal year 2006.

"(D) $12,000,000 for fiscal year 2007.

"(E) $13,000,000 for fiscal year 2008.

"(F) $14,000,000 for fiscal year 2009.

"(l) Availability of Amounts.—An amount made available or appropriated under section 5338(b), 5338(g), or 5338(h) for replacement, rehabilitation, and purchase of buses and related equipment and construction of bus-related facilities or for new fixed guideway capital projects shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period shall be deobligated and may be used by the Secretary for any purpose under this section.

"(m) Allocating Amounts.—

"(1) Fiscal year 2004.—Of the amounts made available by or appropriated under section 5338(b), $85,000,000 shall be allocated to new fixed guideway capital projects under subsection (d). Remaining amounts shall be allocated as follows:

"(A) 40 percent for fixed guideway modernization;

"(B) 40 percent for major new fixed guideway capital projects; and

"(C) 20 percent to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

"(2) Fiscal years 2005–2009.—The total amount of funds made available by section 5338(g), and appropriated under section 5338(h), for each of fiscal years 2005 through 2009 shall be allocated in the fiscal year as follows:

"(A) Small capital projects.—From funds appropriated under section 5338(h) for new fixed guideway capital projects described in subsection (d)—

"(i) $135,000,000 in fiscal year 2005;

"(ii) $175,000,000 in fiscal year 2006;

"(iii) $200,000,000 in fiscal year 2007;

"(iv) $200,000,000 in fiscal year 2008; and

"(v) $225,000,000 in fiscal year 2009.

"(B) Remainder.—After the allocation under subparagraph (A), the remainder of such total amount shall be allocated as follows:

"(i) 40 percent for fixed guideway modernization, to be derived from funds made available under section 5338(g).

"(ii) 40 percent for major new fixed capital guideway projects, to be derived from funds appropriated under section 5338(h).

"(iii) 20 percent to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, to be derived from funds made available under section 5338(g).

"(3) Funding for ferry boat systems.—Of the amounts made available under paragraphs (1)(B) and (2)(B)(ii), $10,400,000 shall be available in each of fiscal years 2004 through 2009 for new fixed guideway capital projects in Alaska or Hawaii that are for ferry boats or ferry terminal facilities or that are for approaches to ferry terminal facilities.

"(n) New Fixed Guideway Capital Project Defined.—In this section, the term 'new fixed guideway capital project' means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.".

(e) Conforming Amendments.—

(1) Chapter analysis.—The analysis for chapter 53 is amended by striking the item relating to section 5309 and inserting the following:

"5309. Capital investment grants.".

(2) Section 5328.—Section 5328(a) is amended—

(A) in paragraph (2) by striking "5309(e)" and inserting "5309(c)"; and

(B) in paragraph (4) by striking "under section 5309(o)(1)" and inserting "under section 5309(i)(1)".

SEC. 3011. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended—

(1) by striking the section heading and inserting the following:

"§5310. Formula grants for special needs of elderly individuals and individuals with disabilities";

(2) by striking subsections (a) through (g) and inserting the following:

"(a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital projects, and operating costs associated with public transportation capital projects, planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

"(2) SUBRECIPIENTS.—A State that receives a grant under this section may allocate the amounts of the grant to—

"(A) a private nonprofit organization if the public transportation service provided under paragraph (1) is unavailable, insufficient, or inappropriate; or

"(B) a governmental authority that—

"(i) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

"(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described under paragraph (1).

"(3) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

"(4) ADMINISTRATIVE EXPENSES.—A State or local governmental authority may use not more than 10 percent of the amounts apportioned to the State under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) APPORTIONMENT AND TRANSFERS.—

"(1) APPORTIONMENT.—

"(A) FORMULA.—The Secretary shall apportion amounts made available to carry out this section under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

"(B) LOW DENSITY ADJUSTMENT.—In administering the apportionment formula under subparagraph (A)—

"(i) in the case of a State with a population density of 10 or fewer persons per square mile, the Secretary shall multiply by a factor of 2 the number of elderly individuals and individuals with disabilities in the State (as determined using the most recent decennial United States Census); and

"(ii) in the case of a State with a population density of more than 10 but equal to or fewer than 30 persons per square mile, the Secretary shall multiply by a factor of 1.25 the number of elderly individuals and individuals with disabilities in the State (as determined using the most recent decennial United States Census).

"(2) TRANSFERS.—Any State's apportionment remaining available for obligation at the beginning of the 90-day period before the end of the period of availability of the apportionment is available to the State for transfer to supplement amounts apportioned to the State under section 5311(c) or 5336(a)(1), or both. Any funds transferred pursuant to this paragraph shall be made available only for eligible projects as described in this section.

"(c) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary; except that in the case of a State described in section 120(b)(1) of title 23, such percentage shall be increased in accordance with such section.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(3) REMAINDER.—The remainder of the net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) GRANT REQUIREMENTS.—

"(1) IN GENERAL.--A grant under this section shall be subject to all requirements of a grant under section 5307. A grant to a subrecipient under this section shall be subject to such requirements to the extent the Secretary considers appropriate.

"(2) COORDINATION WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336(a)(1) pursuant to subsection (b)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

"(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify that—

"(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(4) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

"(e) STATE PROGRAM.—

"(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.

"(2) SUBMISSION AND APPROVAL.—A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

"(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities."; and

(3) by redesignating subsections (h) through (j) as subsections (g) through (i), respectively.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5310 and inserting the following:

"5310. Formula grants for special needs of elderly individuals and individuals with disabilities.".

SEC. 3012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) RECIPIENT.—The term 'recipient' means a State that receives a Federal transit program grant directly from the Government.

"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a Federal transit program grant indirectly through a recipient.".

(b) GENERAL AUTHORITY.—Section 5311(b) is amended to read as follows:

"(b) GENERAL AUTHORITY.—

"(1) GRANTS.—Except as provided in paragraph (2), the Secretary may make grants to other than urbanized areas under this section for the following:

"(A) Public transportation capital projects.

"(B) Operating costs of equipment and facilities for use in public transportation.

"(C) Acquisition of public transportation services, including service agreements with private providers of public transportation services.

"(2) STATE PROGRAM.—

"(A) IN GENERAL.—Amounts made available to carry out this section shall be used for projects included in a State program for public transportation projects, including service agreements with private providers of public transportation.

"(B) SUBMISSION.—The program shall be submitted annually to the Secretary for approval.

"(C) APPROVAL.—The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

"(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

"(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available to carry out this section to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

"(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.".

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) IN GENERAL.—The Secretary shall apportion amounts made available to carry out this section among the States in the ratio that—

"(A) the population of other than urbanized areas in each State, as shown by the most recent Government decennial census of population; bears to

"(B) the population of all other than urbanized areas in the United States, as shown by that census.

"(2) LOW DENSITY ADJUSTMENT.—In administering the apportionment formula under paragraph (1)—

"(A) in the case of a State with a population density of 10 or fewer persons per square mile in other than urbanized areas of the State, the

Secretary shall multiply by a factor of 1.5 the population of such other than urbanized areas (as determined using the most recent decennial United States Census); and

"(B) in the case of a State with a population density of more than 10 but equal to or fewer than 12 persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.25 the population of such other than urbanized areas (as determined using the most recent decennial United States Census).

"(3) AVAILABILITY.—The amount apportioned to a State under this subsection may be obligated by the State for 2 fiscal years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.".

(d) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) in the subsection heading by inserting ", PLANNING," after "ADMINISTRATION";

(2) by striking "(1) The Secretary" and inserting "The Secretary";

(3) by striking paragraph (2); and

(4) by striking "recipient" and inserting "subrecipient".

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1) by striking "after September 30, 1993,"; and

(2) in paragraph (2) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

"(g) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary; except that in the case of a State described in section 120(b)(1) of title 23, such percentage shall be increased in accordance with such section.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(3) REMAINDER.—The remainder of net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.".

(g) RELATIONSHIP TO OTHER LAWS.—Section 5311 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(h) CORRECTION TO CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:

"5311. Formula grants for other than urbanized areas.".

SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) in subsection (a)—

(A) by striking the first parenthetical phrase;

(B) by striking "or contracts" and inserting ", contracts, cooperative agreements, or other transactions";

(C) by striking "help reduce urban transportation needs, improve mass transportation service," and inserting "improve transportation service";

(D) by striking "urban" each place it appears; and

(E) by striking "and demonstration projects" and inserting ", demonstration or deployment projects, or evaluation of technology of national significance";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively;

(4) in subsection (b)(2) (as so redesignated) by striking "other agreements" and inserting "other transactions"; and

(5) in subsection (c)(2) (as so redesignated) by striking "public and" and inserting "public or".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 5312 is amended by striking the section heading and inserting the following:

"§5312. Research, development, demonstration, and deployment projects".

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5312 and inserting the following:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 3014. COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) in subsection (a) by striking "(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d) of this title" and inserting "The amounts made available under paragraphs (1)(C)(iv) and (2)(C) of section 5338(d)";

(2) by striking subsection (b);

(3) in subsection (a)(2) by striking "(2) The" and inserting "(b) FEDERAL ASSISTANCE.—The"; and

(4) in subsection (c) by striking "subsection (a) of".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 5313 is amended by striking the section heading and inserting the following:

"§5313. Cooperative research program".

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5313 and inserting the following:

"5313. Cooperative research program.".

SEC. 3015. NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) by striking the section heading and inserting the following:

"§5314. National research and technology programs";

(2) in subsection (a)(1)—

(A) by striking "subsections (d) and (h)(7) of section 5338 of this title" and inserting "section 5338(d)";

(B) by striking "and contracts" and inserting ", contracts, cooperative agreements, or other transactions";

(C) by striking "5303–5306,"; and

(D) by striking "5317,";

(3) in subsection (a)(2) by striking "Of the amounts" and all that follows through "$3,000,000 to" and inserting "The Secretary shall";

(4) by striking subsection (a)(4)(B);

(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B); and

(6) in subsection (b) by striking "or contract" and all that follows through "section," and inserting ", contract, cooperative agreement, or other transaction under subsection (a) or section 5312,".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5314 and inserting the following:

"5314. National research and technology programs.".

SEC. 3016. NATIONAL TRANSIT INSTITUTE.

Section 5315 is amended—

(1) in subsection (a) by striking "public mass transportation" and inserting "public transportation"; and

(2) in subsection (d) by striking "mass" each place it appears.

SEC. 3017. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§5316. Job access and reverse commute formula grants

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ACCESS TO JOBS PROJECT.—The term 'access to jobs project' means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

"(A) transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

"(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

"(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

"(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

"(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual' means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

"(3) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

"(4) REVERSE COMMUTE PROJECT.—The term 'reverse commute project' means a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities, including any projects to—

"(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;

"(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

"(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

"(5) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

''(6) WELFARE RECIPIENT.—The term 'welfare recipient' means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

''(b) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary may make grants under this section to a recipient for access to jobs and reverse commute projects carried out by the recipient or a subrecipient.

''(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(c) APPORTIONMENTS.—

''(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

''(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

''(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to

''(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.

''(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

''(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

''(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

''(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

''(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in each State; bears to

''(ii) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in all States.

''(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

''(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

''(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

''(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

''(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—

''(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

''(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

''(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

''(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

''(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

''(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

''(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

''(e) TRANSFERS.—

''(1) IN GENERAL.—A State may transfer any funds apportioned to it under subsection (c)(1)(B) or (c)(1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

''(2) LIMITED TO ELIGIBLE PROJECTS.—Any apportionment transferred under this subsection shall be made available only for eligible job access and reverse commute projects as described in this section.

''(3) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

''(f) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

''(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

''(g) COORDINATION.—

''(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

''(2) WITH NONPROFIT PROVIDERS.—A State that transfers funds to an apportionment under section 5336 pursuant to subsection (e) shall certify to the Secretary that any project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

''(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

''(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

''(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

''(h) GOVERNMENT'S SHARE OF COSTS.—

''(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

''(3) REMAINDER.—The remainder of the net project costs—

''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

''(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

''(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

''(i) PROGRAM EVALUATION.—

''(1) COMPTROLLER GENERAL.—Beginning 1 year after the date of enactment of the Federal Public Transportation Act of 2004, and every 2 years thereafter, the Comptroller General shall—

''(A) conduct a study to evaluate the grant program authorized by this section; and

''(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

''(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of Federal Public Transportation Act of 2004, the Secretary shall—

''(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and

''(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5315 the following:

''5316. Job access and reverse commute formula grants.''.

(c) REPEAL.—Section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 387) is repealed.

SEC. 3018. NEW FREEDOM PROGRAM.

(a) IN GENERAL.—Chapter 53 is further amended by inserting after section 5316 the following:

''§ 5317. New Freedom program

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

''(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

''(b) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

''(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(c) APPORTIONMENTS.—

''(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

''(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

"(i) the number of individuals with disabilities in each such urbanized area; bears to

"(ii) the number of individuals with disabilities in all such urbanized areas.

"(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to

"(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.

"(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to

"(ii) the number of individuals with disabilities in other than urbanized areas in all States.

"(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

"(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

"(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

"(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

"(3) LOW DENSITY ADJUSTMENT.—

"(A) SMALLER URBANIZED AREAS.—In administering the apportionment formula under paragraph (1)(B)—

"(i) in the case of a State with a population density of 10 persons per square mile or fewer, the Secretary shall multiply by a factor of 2 the number of individuals with disabilities in urbanized areas of the State with a population of less than 200,000 (as determined using the most recent decennial United States Census); and

"(ii) in the case of a State with a population density of more than 10 but equal to or fewer than 30 persons per square mile, the Secretary shall multiply by a factor of 1.25 the number of individuals with disabilities in urbanized areas of the State with a population of less than 200,000 (as determined using the most recent decennial United States Census).

"(B) OTHER THAN URBANIZED AREAS.—In administering the apportionment formula under paragraph (1)(C)—

"(i) in the case of a State with a population density of 10 persons per square mile or fewer, the Secretary shall multiply by a factor of 1.5 the number of individuals with disabilities in other than urbanized areas of the State (as determined using the most recent decennial United States Census); and

"(ii) in the case of a State with a population density of more than 10 but equal to or fewer than 12 persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.25 the number of individuals with disabilities in other than urbanized areas of the State (as determined using the most recent decennial United States Census).

"(4) TRANSFERS.—

"(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

"(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.

"(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

"(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

"(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

"(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

"(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

"(e) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall be subject to all the requirements of section 5307.

"(2) EMPLOYEE PROTECTIVE ARRANGEMENTS.—Section 5333(b) shall apply to grants under this section, except that the Secretary of Labor shall utilize, for urbanized areas with a population of less than 200,000 and for other than urbanized areas, a special warranty described in section 215.7 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the Federal Public Transportation Act of 2004), that provides a fair and equitable arrangement to protect the interest of employees.

"(3) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

"(f) COORDINATION.—

"(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

"(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify that—

"(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(g) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(3) REMAINDER.—The remainder of the net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5316 the following:

"5317. New freedom program.".

SEC. 3019. BUS TESTING FACILITY.

(a) IN GENERAL.—Section 5318 is amended—

(1) by striking subsection (a) and inserting the following:

"(a) FACILITY.—The Secretary of Transportation shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.";

(2) in subsection (d) by striking "under section 5309(m)(1)(C) of this title" and inserting "to carry out this section"; and

(3) by striking subsection (e) and inserting the following:

"(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).".

(b) CONFORMING AMENDMENT.—Section 5323(c) is repealed.

SEC. 3020. BICYCLE FACILITIES.

The first sentence of section 5319 is amended—

(1) by striking "5309(h)," and inserting "5309(g),"; and

(2) by striking "and 5311" and inserting "5311, and 5320".

SEC. 3021. TRANSIT IN THE PARKS PILOT PROGRAM.

(a) IN GENERAL.—Section 5320 is amended to read as follows:

"§5320. Transit in the parks pilot program

"(a) PUBLIC TRANSPORTATION DEFINED.—In this section, the term 'public transportation' means general or special transportation to the public by a conveyance that is publicly or privately owned. Such term does not include schoolbus or charter transportation but does include sightseeing transportation.

"(b) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary of Transportation and the Secretary of the Interior shall enter into a memorandum of understanding to establish a transit in the parks pilot program in accordance with the requirements of this section.

"(c) PURPOSE.—The purpose of the pilot program shall be to encourage and promote the development of transportation systems described in section 5301(a) within units of the National Park System to improve visitor mobility and enjoyment (including visitors with disabilities), reduce pollution and congestion, and enhance resource protection through the use of public transportation.

"(d) ADMINISTRATION OF PROGRAM.—The program shall be administered by the Secretary of Transportation, in consultation with the Secretary of the Interior.

"(e) MEMORANDUM OF UNDERSTANDING.—

"(1) PLANNING.—The memorandum of understanding under subsection (b) shall include *transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under chapter 52.*

"(2) PROGRAMS.—The memorandum of understanding shall include descriptions of programs and activities eligible for assistance under the pilot program.

"(3) EXCEPTIONS.—The memorandum of understanding shall limit or modify the applicability of the provisions referred to in subsection (f) to the extent necessary to carry out the objectives of this section and to be compatible with the laws and regulations governing units of the National Park System.

"(f) ELIGIBLE USE OF FUNDS.—Except as provided under subsection (e)(3), the Secretary may provide funds made available to carry out this section to the Secretary of the Interior under interagency agreements for the following purposes:

"(1) PLANNING, ENGINEERING, DESIGN, AND EVALUATION.—Planning, engineering, design, and evaluation of public transportation projects in units of the National Park System, and for technical studies, in accordance with section 5305(b)(2).

"(2) PUBLIC TRANSPORTATION CAPITAL PROJECTS.—Public transportation capital projects (as defined in section 5302(a)(1)) for such units in accordance with all the terms and conditions to which a grant is made under subsections (a), (b), (c), and (d) of section 5307 and such other terms and conditions as are determined by the Secretary. The Secretary of the Interior shall act as the designated recipient for the purposes of subsection (a)(2) of section 5307.

"(3) OPERATING COSTS.—Operating costs of equipment and facilities used in public transportation for such units.

"(g) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—The Government share of the cost of any capital project or activity under this section shall be 100 percent of the costs of the project, as determined by the Secretary.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(h) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, modifying, or repealing any provision of law applicable to units of the National Park System.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by striking the item relating to section 5320 and inserting the following:

"5320. Transit in the parks pilot program.".

SEC. 3022. HUMAN RESOURCE PROGRAMS.

Section 5322 is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) GRANTS TO HIGHER LEARNING INSTITUTIONS.—

"(1) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to nonprofit institutions of higher learning—

"(A) to conduct research and investigations into the theoretical or practical problems of public transportation; and

"(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages a public transportation system.

"(2) RESEARCH AND INVESTIGATIONS.—Research and investigations under this subsection include—

"(A) the design and use of public transportation systems and public roads and highways;

"(B) the interrelationship between various modes of urban, suburban, rural, and intercity transportation;

"(C) the role of transportation planning in overall urban planning;

"(D) public preferences in transportation;

"(E) the economic allocation of transportation resources; and

"(F) the legal, financial, engineering, and esthetic aspects of public transportation.

"(3) PREFERENCE.—When making a grant under this subsection, the Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to public transportation problems.

"(c) FELLOWSHIPS.—

"(1) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the public transportation field.

"(2) TERMS.—

"(A) PERIOD OF TRAINING.—A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the public transportation industry.

"(B) SELECTION OF INDIVIDUALS.—The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation.

"(C) AMOUNT.—A grant for a fellowship may not be more than the lesser of $65,000 or 75 percent of—

"(i) tuition and other charges to the fellowship recipient;

"(ii) additional costs incurred by the training institution and billed to the grant recipient; and

"(iii) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.".

SEC. 3023. GENERAL PROVISIONS ON ASSISTANCE.

(a) INTERESTS IN PROPERTY.—Section 5323(a)(1) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "private mass transportation company" each place it appears and inserting "private company engaged in public transportation";

(B) by striking "mass transportation equipment or a mass transportation facility" and inserting "a public transportation facility or equipment"; and

(C) by striking "mass transportation company" and inserting "public transportation company"; and

(2) in subparagraph (B) by striking "private mass transportation companies" and inserting "private companies engaged in public transportation".

(b) NOTICE AND PUBLIC HEARING.—Section 5323(b) is amended—

(1) in paragraph (1)—

(A) by striking "(1) An application" and inserting the following:

"(1) APPLICATIONS.—An application";

(B) in the matter preceding subparagraph (A) by striking "or loan"; and

(C) by moving subparagraphs (A) through (D) 2 ems to the right;

(2) in paragraph (2) by striking "(2) Notice of" and inserting the following:

"(2) NOTICE.—Notice of"; and

(3) by adding at the end the following:

"(3) ENVIRONMENTAL RECORD.—An applicant shall include in the environmental record for a project under this chapter evidence that the applicant has complied with the requirements of subparagraphs (A) through (D) of paragraph (1).".

(c) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—Section 5323(d) is amended—

(1) by striking "(1) Financial assistance" and inserting the following:

"(1) AGREEMENTS.—Financial assistance"; and

(2) by striking paragraph (2) and inserting the following:

"(2) VIOLATIONS.—

"(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

"(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

"(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.".

(d) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—Section 5323(e) is amended to read as follows:

"(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under chapter 52 is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

"(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309, or both; except that such reimbursement in a fiscal year may not exceed 10 percent of the amounts made available to the recipient under section 5307 in such fiscal year.".

(e) SCHOOLBUS TRANSPORTATION.—Section 5323(f) is amended—

(1) by striking "(1) Financial assistance" and inserting the following:

"(1) AGREEMENTS.—Financial assistance";

(2) in paragraph (1) by moving subparagraphs (A), (B), and (C) 2 ems to the right; and

(3) by striking paragraph (2) and inserting the following:

"(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.".

(f) BUYING BUSES UNDER OTHER LAWS.—Section 5323(g) is amended by striking "103(e)(4)" each place it appears and inserting "133".

(g) BUY AMERICA.—

(1) PUBLIC INTEREST WAIVER.—Section 5323(j) is amended—

(A) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) WRITTEN JUSTIFICATION FOR PUBLIC INTEREST WAIVER.—When issuing a waiver based on a public interest determination under paragraph (2)(A), the Secretary shall issue a detailed written justification as to why the waiver is in the public interest. The Secretary shall publish such justification in the Federal Register and provide the public with a reasonable period of time for notice and comment.".

(2) INELIGIBILITY FOR CONTRACTS.—Section 5323(j)(6) (as so redesignated) is amended by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004".

(3) ADMINISTRATIVE REVIEW.—Section 5323(j) is amended by adding at the end the following:

"(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5, United States Code.".

(4) REPEAL OF GENERAL WAIVER.—Subsections (b) and (c) of Appendix A of section 661.7 of title 49, Code of Federal Regulations, shall cease to be in effect beginning on the date of enactment of this Act.

(h) RELATIONSHIP TO OTHER LAWS.—Section 5323(l) is amended to read as follows:

"(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a Federal transit program.".

(i) GRANT REQUIREMENTS.—Section 5323(o) is amended by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "chapter 6 (other than section 609) of title 23".

(j) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—Section 5323 is amended by adding at the end the following:

"(p) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

"(1) IDENTIFICATION OF LANDS NECESSARY FOR TRANSIT PURPOSES.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for public transportation purposes eligible under this chapter, including corridor preservation, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which is desired to be transferred for public transportation purposes.

"(2) DEADLINE FOR CERTIFICATION.—If, within 4 months of such filing, the Secretary of such Department has not certified to the Secretary that the proposed transfer of such land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved or has agreed to the transfer under conditions that the Secretary of such Department considers necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to a State, or local government, or public transportation operator for such purposes and subject to the conditions so specified.

"(3) REVERSION.—If at any time such lands are no longer needed for public transportation purposes, notice shall be given to the Secretary by the State, local government, or public transportation operator that received the land, and such lands shall immediately revert to the control of the Secretary of the Department from which the land was originally transferred.".

SEC. 3024. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

"§5324. Special provisions for capital projects

"(a) RELOCATION PROGRAM REQUIREMENTS.—Financial assistance may be provided under section 5309 only if the Secretary decides that—

"(1) an adequate relocation program is being carried out for families displaced by a project; and

"(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area generally not less desirable for public utilities and public and commercial facilities, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.

"(b) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) COOPERATION AND CONSULTATION.—In carrying out the policy of section 5301(e), the Secretary shall cooperate and consult with the Secretaries of the Interior, Health and Human Services, and Housing and Urban Development and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

"(2) PUBLIC PARTICIPATION IN ENVIRONMENTAL REVIEWS.—In performing environmental reviews, the Secretary shall review each transcript of a hearing submitted under section 5323(b) to establish that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

"(A) the environmental impact of the proposal;

"(B) adverse environmental effects that cannot be avoided;

"(C) alternatives to the proposal; and

"(D) irreversible and irretrievable impacts on the environment.

"(3) APPROVAL OF APPLICATIONS FOR ASSISTANCE.—

"(A) FINDINGS BY THE SECRETARY.—The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the application and the transcript of any hearing held before a State or local governmental authority under section 5323(b), that—

"(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;

"(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and

"(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

"(B) HEARING.—If a hearing has not been conducted or the Secretary decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

"(C) AVAILABILITY OF FINDINGS.—The Secretary's findings under subparagraph (A) shall be made a matter of public record.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5324 and inserting the following:

"5324. Special provisions for capital projects.".

SEC. 3025. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) COMPETITION.—Recipients of Federal assistance under this chapter shall conduct all procurement transactions involving such assistance in a manner providing full and open competition, as determined by the Secretary.

"(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

"(1) PROCEDURES FOR AWARDING CONTRACT.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement of a State.

"(2) EFFECT OF STATE LAWS.—This subsection does not apply to the extent a State has adopted, before the date of enactment of the Federal Public Transportation Act of 2004, by law a formal procedure for procuring those services.

"(3) ADMINISTRATION OF CONTRACTS.—When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies as follows:

"(A) PERFORMANCE OF AUDITS.—Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulation (part 31 of title 48, Code of Federal Regulations).

"(B) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for one-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) APPLICATION OF RATES.—Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings.

"(D) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient of funds requesting or using the cost and rate data described in paragraph (3) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency that is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances."; and

(2) by adding at the end the following:

"(d) DESIGN-BUILD SYSTEM PROJECTS.—

"(1) DEFINITION.—In this section, the term 'design-build system project' means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) FINANCIAL ASSISTANCE.—Government financial assistance under this chapter may be made available for the capital costs of a design-build system project after the recipient complies with Government requirements.

"(e) MULTIYEAR ROLLING STOCK.—

"(1) CONTRACTS.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

"(2) COOPERATION AMONG RECIPIENTS.—The Secretary shall allow at least 2 recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

"(f) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(1) based on—

"(A) initial capital costs; or

"(B) performance, standardization, life cycle costs, and other factors; or

"(2) with a party selected through a competitive procurement process.

"(g) EXAMINATION OF THE RECORDS.—Upon request, the Secretary, the Comptroller General, or a representative of the Secretary or the Comptroller General shall have access to and the right to examine and inspect all records, documents, papers, including contracts, related to a project for which a grant is made under this chapter.

"(h) GRANT PROHIBITIONS.—A grant may not be used to support a procurement that uses an exclusionary or discriminatory specification.".

(b) CONFORMING AMENDMENTS.—Section 5326, and the item relating to section 5326 in the analysis for chapter 53, are repealed.

SEC. 3026. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) LIMITATIONS.—Section 5327(c) is amended to read as follows:

"(c) LIMITATIONS.—

"(1) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—The Secretary may use not more than .5 percent of amounts made available for a fiscal year to carry out section 5311, not more than .75 percent of amounts made available for a fiscal year to carry out section 5307, and not more than 1 percent of amounts made available for a fiscal year to carry out section 5309 to make contracts for the following activities:

"(A) To oversee the construction of a major project.

"(B) To review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under sections 5307, 5309, and 5311.

"(C) To provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

"(2) LIMITATIONS ON APPLICABILITY.—Subsections (a), (b), and (e) do not apply to contracts under this section for activities described in paragraphs (1)(B) and (1)(C).

"(3) GOVERNMENT'S SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.".

SEC. 3027. INVESTIGATIONS OF SAFETY AND HAZARDS.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§5329. Investigation of safety and hazards

"(a) IN GENERAL.—The Secretary may investigate safety and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) PLANS FOR ELIMINATING, MITIGATING, OR CORRECTING HAZARDS.—If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING FINANCIAL ASSISTANCE.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5329 and inserting the following:

"5329. Investigation of safety and hazards.".

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

"§5330. State safety oversight

"(a) APPLICATION.—This section applies only to—

"(1) States that have rail fixed guideway public transportation systems not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.";

(2) in subsection (d) by inserting "shall ensure uniform safety standards and enforcement and" after "affected States"; and

(3) by striking subsection (f).

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5330 and inserting the following:

"5330. State safety oversight.".

SEC. 3029. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

(a) DEFINITIONS.—Section 5331(a)(3) is amended by striking the period at the end and inserting the following: "or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.".

(b) TECHNICAL CORRECTIONS.—Subsections (b)(1) and (g) of section 5331 are each amended by striking "or section 103(e)(4) of title 23".

(c) REGULATIONS.—Section 5331(f) is amended by striking paragraph (3).

SEC. 3030. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b)(1) is amended by striking "5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)" each place it appears and inserting "5316, 5317, 5318, 5320, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), 5338(g), and 5338(h)".

SEC. 3031. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

(C) by adding at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by striking subsection (i);

(3) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(4) by inserting after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.";

(5) in subsection (c)(4) (as redesignated by paragraph (3) of this section)—

(A) by striking "subsections (h) and (i)" and inserting "subsection (i)"; and

(B) by striking "5323(c), 5323(e), 5324(c),"; and

(6) by adding at the end of subsection (c) (as redesignated by paragraph (3) of this section) the following:

"(5) NONREGULATORY SUBSTANTIVE POLICY STATEMENTS.—The Secretary shall provide notice and an opportunity for public comment at least 60 days before issuing any nonregulatory substantive policy statements (regardless of the form of issuance), including guidance, policy statements, and regulatory interpretations.".

SEC. 3032. NATIONAL TRANSIT DATABASE.

(a) IN GENERAL.—Section 5335 is amended—

(1) by striking the section heading and inserting the following:

"§5335. National transit database";

(2) by striking subsection (b); and

(3) in subsection (a)—

(A) by striking "(1) To help" and inserting "To help"; and

(B) by striking "(2) The Secretary" and inserting "(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5335 and inserting the following:

"5335. National transit database.".

SEC. 3033. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.

(a) DISTRIBUTION.—Section 5337 is amended—

(1) by striking the section designation and all that follows before paragraph (1) of subsection (a) and inserting the following:

"§5337. Apportionment based on fixed guideway factors

"(a) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization under sections 5338(b) and 5338(g) as follows:";

(2) in subsection (a) by striking "(e)(1)" each place it appears and inserting "(e)"; and

(3) in subsection (a) by striking "(e)(2)" each place it appears and inserting "(e)".

(b) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—Section 5337(e) is amended by striking paragraph (1) and all that follows through "(2) OTHER STANDARDS.—".

(c) CONFORMING AMENDMENT.—The item relating to section 5337 in the table of sections for chapter 53 is amended to read as follows:

"5337. Apportionment based on fixed guideway factors.".

SEC. 3034. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§5338. Authorizations

"(a) FORMULA GRANTS.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, 5311, 5316, 5317, 5318, and 5320 of this chapter, 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program), and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393) $3,132,304,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5308, 5310, 5311, 5316, 5317, and 5318 of this chapter, 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program), and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393) $783,076,000 for fiscal year 2004.

"(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

"(i) $4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $125,000,000 shall be available to provide job access and reverse commute formula grants under section 5316;

"(iii) $50,000,000 shall be available to carry out the New Freedom program under section 5317;

"(iv) $50,000,000 shall be available to provide clean fuels formula grants under section 5308;

"(v) $8,000,000 shall be available to carry out the transit in the parks pilot program under section 5320;

"(vi) $4,000,000 shall be available to carry out the nonmotorized transportation pilot program under section 1118(b) of the Transportation Equity Act: A Legacy for Users;

"(vii) $8,000,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(viii) $3,100,000 shall be available to carry out bus testing under section 5318;

"(ix) $91,560,751 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(x) $292,994,404 shall be available to provide financial assistance for other than urbanized areas under section 5311; and

"(xi) $3,277,874,895 shall be available to provide financial assistance for urbanized areas under section 5307, subject to section 3041(h) of the Federal Public Transportation Act of 2004.

"(2) FISCAL YEARS 2005 THROUGH 2009.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, 5311, 5316, 5317, 5318, and 5320 of this chapter, section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393), and section 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program)—

"(i) $4,181,125,000 for fiscal year 2005;

"(ii) $4,464,295,000 for fiscal year 2006;

"(iii) $4,766,420,000 for fiscal year 2007;

"(iv) $5,089,172,500 for fiscal year 2008; and

"(v) $5,433,667,500 for fiscal year 2009.

"(B) ALLOCATION OF FUNDS FOR BUS TESTING AND OVER-THE-ROAD BUS ACCESSIBILITY.—Of the aggregate of amounts made available by this paragraph for a fiscal year—

"(i) $3,100,000 shall be available to carry out section 5318; and

"(ii) $8,000,000 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) ALLOCATION OF FUNDS FOR CLEAN FUELS FORMULA GRANT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $75,000,000 for fiscal year 2005 and $100,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 shall be available to carry out section 5308.

"(D) ALLOCATION OF FUNDS FOR JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $150,000,000 for fiscal year 2005, $175,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007, $200,000,000 for fiscal year 2008, and $200,000,000 for fiscal year 2009 shall be available to carry out section 5316.

"(E) ALLOCATION OF FUNDS FOR NEW FREEDOM PROGRAM.—Of the aggregate of amounts made available by this paragraph, $95,000,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $105,000,000 for fiscal year 2007, $115,000,000 for fiscal year 2008, and $125,000,000 for fiscal year 2009 shall be available to carry out section 5317.

"(F) ALLOCATION OF FUNDS FOR TRANSIT IN THE PARKS PILOT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $8,000,000 for fiscal year 2005, $16,000,000 for fiscal year 2006, $16,000,000 for fiscal year 2007, $16,000,000 for fiscal year 2008, and $16,000,000 for fiscal year 2009 shall be available to carry out section 5320.

"(G) ALLOCATION OF FUNDS FOR NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $4,000,000 for fiscal year 2005, $4,000,000 for fiscal year 2006, $4,000,000 for fiscal year 2007, $8,000,000 for fiscal year 2008, and $8,000,000 for fiscal year 2009 shall be available to carry out section 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program).

"(H) ALLOCATION OF FUNDS FOR THE ALASKA RAILROAD.—Of the aggregate of amounts made available by this paragraph, $10,000,000 for fiscal year 2005, $11,000,000 for fiscal year 2006, $12,000,000 for fiscal year 2007, $13,000,000 for fiscal year 2008, and $14,000,000 for fiscal year 2009 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307.

"(I) REMAINDER.—Of the remainder of the aggregate amounts made available by this paragraph for a fiscal year after the allocations under subparagraphs (B) through (H) for such fiscal year—

"(i) 2.5 percent shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(ii) 8.0 percent shall be available to provide financial assistance for other than urbanized areas under section 5311; and

"(iii) 89.5 percent shall be available to provide financial assistance for urbanized areas under section 5307, subject to section 3041(h) of the Federal Public Transportation Act of 2004.

"(b) CAPITAL PROGRAM GRANTS IN FISCAL YEAR 2004.—

"(1) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309, $2,499,504,000 for fiscal year 2004.

"(2) FROM GENERAL FUND.—In addition to amounts made available by paragraph (1), there is authorized to be appropriated to carry out section 5309, $624,876,200 for fiscal year 2004.

"(c) PLANNING.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, and 5305, $72,660,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available by subparagraph (A), there is authorized to be appropriated to carry out sections 5303, 5304, and 5305, $18,165,000 for fiscal year 2004.

"(2) FISCAL YEARS 2005 THROUGH 2009.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, and 5305—

"(i) $96,875,000 for fiscal year 2005;

"(ii) $103,325,000 for fiscal year 2006;

"(iii) $110,200,000 for fiscal year 2007;

"(iv) $117,537,500 for fiscal year 2008; and

"(v) $125,362,500 for fiscal year 2009.

"(B) ALLOCATION OF FUNDS.—Of the funds made available by this paragraph for a fiscal year—

"(i) 82.72 percent shall be available for metropolitan planning under sections 5303, 5304, and 5305 (other than 5305(e)); and

"(ii) 17.28 percent shall be available for State planning under section 5305(e).

"(d) RESEARCH.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, 5322, and 5335, $41,888,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available by subparagraph (A), there is authorized to be appropriated to carry out sections 5311(b), 5312, 5313, 5314, 5315, 5322, and 5335, $10,472,000 for fiscal year 2004.

"(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated pursuant to this paragraph for fiscal year 2004—

"(i) not less than $4,500,000 shall be available to carry out programs under the National Transit Institute under section 5315;

"(ii) not less than $3,500,000 shall be available to carry out section 5335;

"(iii) not less than $3,500,000 shall be available to carry out section 5314(a)(2); and

"(iv) not less than $8,860,000 shall be available to carry out section 5313(a).

"(2) FISCAL YEARS 2005 THROUGH 2009.—

"(A) FROM THE GENERAL FUND.—There is authorized to be appropriated to carry out sections 5312, 5313, 5314, 5315, 5322, and 5335—

"(i) $54,500,000 for fiscal year 2005;

"(ii) $57,000,000 for fiscal year 2006;

"(iii) $59,500,000 for fiscal year 2007;

"(iv) $62,000,000 for fiscal year 2008; and

"(v) $64,500,000 for fiscal year 2009.

"(B) ALLOCATION OF FUNDS.—Of the funds appropriated pursuant to this paragraph for a fiscal year—

"(i) not less than $4,500,000 shall be available to carry out programs under the National Transit Institute under section 5315;

"(ii) not less than $3,500,000 shall be available to carry out section 5335; and

"(iii) not less than $3,500,000 shall be available to carry out section 5314(a)(2).

"(C) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Of the funds appropriated pursuant to this paragraph, $9,000,000 for fiscal year 2005, $9,500,000 for fiscal year 2006, $10,000,000 for fiscal year 2007, $10,500,000 for fiscal year 2008, and $11,000,000 for fiscal year 2009 shall be available to carry out section 5313(a).

"(D) REMAINDER.—The remainder of the funds appropriated pursuant to this paragraph for a fiscal year after the allocations under subparagraphs (A) and (B) for such fiscal year shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(e) UNIVERSITY TRANSPORTATION RESEARCH.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506, $6,400,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available by subparagraph (A), there is authorized to be appropriated to carry out sections 5505 and 5506, $1,600,000 for fiscal year 2004.

"(2) FISCAL YEARS 2005 THROUGH 2009.—Subject to paragraph (3), there is authorized to be appropriated to carry out sections 5505 and 5506, $8,000,000 for each of fiscal years 2005 through 2009.

"(3) FUNDING OF UNIVERSITY TRANSPORTATION CENTERS.—

"(A) IN GENERAL.—Of the amounts made available by and appropriated under paragraphs (1) and (2) $2,000,000 for each of fiscal years 2004, 2005, and 2006 shall be available for the institution identified in section 5505(j)(3)(E), as so in effect.

"(B) USE OF FUNDS.—Funds made available for the institution identified in subparagraph (A)(iii) shall be used to make grants under 5506(f)(5) for that institution.

"(C) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.

"(f) ADMINISTRATION.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334, $60,044,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5334, $15,011,000 for fiscal year 2004.

"(2) FISCAL YEARS 2005 THROUGH 2009.—There are authorized to be appropriated to carry out section 5334—

"(A) $77,000,000 for fiscal year 2005;

"(B) $79,000,000 for fiscal year 2006;

"(C) $81,000,000 for fiscal year 2007;

"(D) $83,000,000 for fiscal year 2008; and

"(E) $85,000,000 for fiscal year 2009.

"(g) TRUST FUND CAPITAL PROGRAM GRANTS.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5309(m)(2)(B)(i) and 5309(m)(2)(B)(iii)—

"(1) $1,918,500,000 for fiscal year 2005;

"(2) $2,027,628,000 for fiscal year 2006;

"(3) $2,154,528,000 for fiscal year 2007;

"(4) $2,305,974,000 for fiscal year 2008; and

"(5) $2,452,482,000 for fiscal year 2009.

"(h) GENERAL FUND CAPITAL PROGRAM GRANTS.—There are authorized to be appropriated to carry out sections 5309(m)(2)(A) and 5309(m)(2)(B)(ii)—

"(1) $1,414,000,000 for fiscal year 2005;

"(2) $1,526,752,000 for fiscal year 2006;

"(3) $1,636,352,000 for fiscal year 2007;

"(4) $1,737,316,000 for fiscal year 2008; and

"(5) $1,859,998,000 for fiscal year 2009.

"(i) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(l)(A), (a)(2), (b)(1), (c)(2), (d)(1)(A), (e)(1)(A), (f)(1)(A), or (g) is a contractual obligation of the Government to pay the Government's share of the cost of the project.

"(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(l)(B), (b)(2), (c)(1)(B), (d)(1)(B), (d)(2), (e)(1)(B), (e)(2), (f)(1)(B), (f)(2), or (h) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

"(j) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a) through (h) shall remain available until expended.".

SEC. 3035. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) IN GENERAL.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM. ";

(2) by striking subsection (e) and inserting the following:

"(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section. The Federal share of the costs for a project shall not exceed 80 percent of the project cost."; and

(3) by striking subsection (g) and inserting the following:

"(g) FUNDING.—

"(1) Of the amounts made available to carry out this section in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

"(2) Of the amounts made available to carry out this section in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century (112 Stat. 107) is amended by striking the item relating to section 3038 and inserting the following:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 3036. UPDATED TERMINOLOGY.

(a) AMENDMENTS TO CHAPTER 53.—Chapter 53 is amended—

(1) in the chapter heading by striking "**MASS**" and inserting "**PUBLIC**";

(2) in section 5310(h) by striking "Mass" and inserting "Public";

(3) in the subsection heading for section 5331(b) by striking "MASS" and inserting "PUBLIC"; and

(4) by striking "mass" each place it appears in such chapter before "transportation" and inserting "public", except in sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and 5323(a)(1)(B).

(b) TABLE OF CHAPTERS.—The table of chapters for subtitle III is amended in the item relating to chapter 53 by striking "MASS" and inserting "PUBLIC".

SEC. 3037. PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.

(a) EXISTING FULL FUNDING GRANT AGREEMENTS.—The following projects are authorized for final design and construction for existing full funding grant agreements in not less than the amount specified for each fiscal year:

(1) Baltimore—Central LRT Double Tracking $39,367,154 for fiscal year 2004, $29,009,003 for fiscal year 2005, and $12,424,581 for fiscal year 2006.

(2) Chicago—Chicago Transit Authority Douglas Branch Reconstruction $83,655,202 for fiscal year 2004, $85,000,000 for fiscal year 2005, and $45,145,190 for fiscal year 2006.

(3) Chicago—Chicago Transit Authority Ravenswood Expansion Project $9,841,789 for fiscal year 2004, $40,000,000 for fiscal year 2005, $40,000,000 for fiscal year 2006, $40,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, and $64,832,615 for fiscal year 2009.

(4) Dallas—North Central LRT Extension $29,684,097 for fiscal year 2004.

(5) Denver Southeast Corridor LRT $78,734,308 for fiscal year 2004, $80,000,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, and $76,552,758 for fiscal year 2008.

(6) Fort Lauderdale—Tri-Rail Commuter Rail Upgrade $18,118,733 for fiscal year 2004 and $11,210,695 for fiscal year 2005.

(7) Memphis—Medical Center Extension $9,101,281 for fiscal year 2004.

(8) Metra North Central Corridor Commuter Rail $19,177,300 for fiscal year 2004, $20,000,000 for fiscal year 2005, and $20,613,452 for fiscal year 2006.

(9) Metra Southwest Corridor Commuter Rail $15,000,000 for fiscal year 2004, $20,000,000 for fiscal year 2005, and $7,281,395 for fiscal year 2006..

(10) Metra Union Pacific West Line Extension $17,000,000 for fiscal year 2004, $12,000,000 for fiscal year 2005, and $14,285,749 for fiscal year 2006.

(11) Minneapolis—Hiawatha Corridor LRT $73,793,730 for fiscal year 2004 and $33,111,257 for fiscal year 2005.

(12) New Jersey Urban Core—Hudson-Bergen LRT MOS–2 $98,417,885 for fiscal year 2004, $100,000,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, and $52,402,995 for fiscal year 2008.

(13) New Jersey Urban Core—Newark-Elizabeth Rail Link MOS–1 $22,209,000 for fiscal year 2004 and $1,342,076 for fiscal year 2005.

(14) New Orleans MOS–1 Canal Street $22,922,877 for fiscal year 2004 and $16,455,206 for fiscal year 2005.

(15) Pittsburgh—Stage II LRT Reconstruction $31,733,314 for fiscal year 2004 and $1,120,914 for fiscal year 2005.

(16) Portland—Interstate MAX LRT Extension $76,273,861 for fiscal year 2004, $23,480,000 fiscal year 2005, and $18,104,710 for fiscal year 2006.

(17) Salt Lake City—Medical Center $30,178,231 for fiscal year 2004 and $8,682,141 for fiscal year 2005.

(18) San Diego—Mission Valley East LRT Extension $63,971,625 for fiscal year 2004, $81,640,000 fiscal year 2005, and $7,700,304 for fiscal year 2006.

(19) San Diego—Oceanside Escondido Rail Corridor $47,240,585 for fiscal year 2004, $55,000,000 fiscal year 2005, and $12,211,061 for fiscal year 2006.

(20) San Francisco—BART Extension to San Francisco Airport $98,417,890 for fiscal year 2004, $100,000,000 fiscal year 2005, and $81,855,680 for fiscal year 2006.

(21) San Juan—Tren Urbano $19,683,577 for fiscal year 2004 and $54,818,940 fiscal year 2005.

(22) Seattle—Central Link Initial Segment LRT $73,813,414 for fiscal year 2004, $80,00,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, $70,000,000 for fiscal year 2008, and $24,028,149 for fiscal year 2009.

(23) Washington DC/MD—Largo Metrorail Extension $63,971,625 for fiscal year 2004 and $75,432,887 fiscal year 2005.

(b) FINAL DESIGN AND CONSTRUCTION.—The following projects are authorized for final design and construction for fiscal years 2004 through 2009 under paragraphs (1)(B), (2)(A), and (2)(B)(ii) of section 5309(m) of title 49, United States Code:

(1) Baltimore—MARC Commuter Rail Improvements.

(2) Boston—Silver Line BRT Phase III.

(3) Bridgeport—Intermodal Corridor.

(4) Central Phoenix—East Valley Corridor LRT extensions.

(5) Charlotte—South Corridor LRT.

(6) Cleveland—Euclid Corridor Bus Rapid Transit.

(7) Dallas Area Rapid Transit—Northwest-Southeast Extension, Pleasant Grove to Farmers Branch.

(8) Delaware—I-95 Corridor Commuter Rail.

(9) Denver—West Corridor LRT.

(10) El Paso-Juarez—International Fixed Guideway.

(11) Harrisburg—Corridor One Commuter Rail (MOS–1), East Mechanicsburg-Lancaster, Pennsylvania.

(12) Kansas City, Kansas—Southtown Commuter Rail.

(13) Las Vegas—Monorail Transit Corridor Project, Phase II.

(14) Los Angeles—Gold Line Phase 1 Eastside Extension.

(15) Los Angeles—Gold Line Phase II Extension, Pasadena to Claremont.

(16) Los Angeles MTA—Exposition LRT.

(17) Miami-Dade Transit—North Corridor.

(18) Minneapolis—North Star Corridor.

(19) Missouri/Kansas—Interstate 35 Commuter Rail.

(20) Nashua—Commuter Rail.

(21) Nashville-Franklin, Tennessee Commuter Rail.

(22) New Britain-Hartford Busway Project.

(23) New Jersey Urban Core.

(24) New Orleans—Desire Corridor Streetcar.

(25) New York—Long Island Railroad East Side Access Project.

(26) New York—Second Avenue Subway.

(27) Norfolk Regional Light Rail.

(28) Northern Virginia—Dulles Corridor Extension.

(29) Orange County, California—Center Line LRT.

(30) Philadelphia—Schuylkill Valley Metro-Rail.

(31) Pittsburgh—North Shore Connector.

(32) Portland, Oregon—Interstate MAX South LRT Extensions.

(33) Sacramento—South Corridor (Phase 3), Downtown to Elk Grove.

(34) Salt Lake City—Airport to University LRT.

(35) Salt Lake City—Ogden-Provo Commuter Rail.

(36) Salt Lake City—West Jordan LRT extension.

(37) San Francisco MUNI—Third Street LRT-Phase I/II.

(38) Santa Clara Valley Transit Authority—BART Extension to Santa Clara County.

(39) Triangle Transit Authority, North Carolina—Regional Rail Project.

(40) Washington County, Oregon—Commuter Rail.

(41) Wasilla-Girdwood, Alaska—Commuter Rail.

(c) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—The following projects are authorized for alternatives analysis and preliminary engineering for fiscal years 2004 through 2009 under paragraphs (1)(B), (2)(A), and (2)(B)(ii) of section 5309(m) of title 49, United States Code:

(1) Albuquerque—High Capacity Corridor.

(2) Alburquerque-Santa Fe—New Mexico Commuter Rail.

(3) Ann Arbor/Detroit—Commuter Rail.

(4) Atlanta—GRTA I–75 Corridor, Wade Green Road-Akers Mill Road BRT/HOV.

(5) Atlanta—North Line Corridor expansion project.

(6) Atlanta—Belt Line C–Loop.

(7) Atlanta—West Line Corridor.

(8) Austin—San Antonio I–35 Commuter Rail.

(9) Austin—Central LRT Line.

(10) Baltimore Light Rail System Extensions.

(11) Baton Rouge Bus Rapid Transit.

(12) Birmingham, Alabama—Transit Corridor.

(13) Boise—Downtown Circulator.

(14) Boston—North Shore Corridor and Blue Line Extension.

(15) Boston—North/South Rail Link.

(16) Boston—Urban Ring BRT.

(17) Broward County, Florida—Bus Rapid Transit.

(18) Buffalo—Niagara Frontier Transit Authority Improvements.

(19) Burlington-Clemmons, North Carolina—Piedmont Authority Regional Rail.

(20) Charles Town-Ranson, West Virginia—MARC Commuter Rail Spur.

(21) Charlotte—North Corridor Project.

(22) Charlotte—Northeast Corridor Project.

(23) Charlotte—Southeast-West Corridor Project.

(24) Charlotte—Streetcar Loop Project.

(25) Chicago CTA—Red Line Extension (95th Street to 130th Street/Stony Island).

(26) Chicago CTA—Chicago Transit Hub (Circle Line-Ogden Streetcar).

(27) Chicago CTA—Orange Line Extension (Midway Airport to Ford City).

(28) Chicago CTA—Southeast Service-La Salle Street Station to Baltimore Race Track.

(29) Chicago CTA—Yellow Line Extension (Dempster-Old Orchard).

(30) Chula Vista, California—Bus Rapid Transit.

(31) Cleveland-Akron-Canton (Northeast Ohio) Commuter Rail.

(32) Coachella Valley—Indio-Palm Desert Bus Rapid Transit Connector.

(33) Columbia, South Carolina—Light Rail.

(34) Corpus Christi—Downtown Rail Trolley.

(35) Dallas Area Rapid Transit—Rowlett LRT Extension.

(36) Dallas Area Rapid Transit—Beltline to DFW Airport.

(37) Denton County Transportation Authority, Texas—Fixed Guideway Project.

(38) Denver—Gold Line Extension to Arvada.

(39) Detroit—Center City Loop.

(40) District of Columbia—Light Rail Starter Line.

(41) Fairfax County, Virginia—Bus Rapid Transit/HOV.

(42) Fitchburg, Massachusetts—Commuter Rail Extensions and Improvements.

(43) Fort Lauderdale—Downtown Rail Link.

(44) Fort Worth—Trinity Railway Express Commuter Rail Extension.

(45) Fresno—Transit Corridor.

(46) Galveston—Rail Trolley Extension.

(47) Grand Rapids—Fixed Guideway Corridor Project.

(48) Guam—Tumon Bay-Airport Light Rail.

(49) Harrisburg—Corridor One Commuter Rail (MOS–2), East Mechanicsburg-Carlisle, Pennsylvania.

(50) Honolulu—Downtown BRT.

(51) Houston Advanced Transit Program Light Rail.

(52) Indianapolis—System of Metropolitan Area Rapid Transit.

(53) Kansas City, Missouri-Lawrence, Kansas—Commuter Rail.

(54) Kansas City, Missouri—Regional BRT.

(55) Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin).

(56) King County, Washington—I–405 Corridor Bus Rapid Transit.

(57) Lakeview, Minnesota—Cedar Avenue Corridor Bus Rapid Transit.

(58) Lane County, Oregon—Bus Rapid Transit, Phase 2.

(59) Little Rock—River Rail Streetcar Extensions.

(60) Little Rock—West Little Rock Commuter Rail.

(61) Long Island Railroad—Nassau Hub.

(62) Lorain-Cleveland Commuter Rail.

(63) Los Angeles—Metrolink San Bernardino Line Improvements.

(64) LOSSAN Del Mar-San Diego—Rail Corridor Improvements.

(65) Madison and Dane Counties, Wisconsin—Transport 2020 Commuter Rail.

(66) Maryland—I–270 Corridor Cities Transitway.

(67) Maryland—Route 5 Corridor to Waldorf.

(68) Memphis Regional Rail Plan.

(69) Memphis, Medical Center Rail Extension to Airport.

(70) Metra BNSF Naperville to Aurora Corridor Extension and Improvements.

(71) Metra SouthEast Service Line Commuter Rail.

(72) Metra STAR Line Inter-Suburban Commuter Rail.

(73) Metra UP Northwest Line Core Capacity Upgrades.

(74) Metra UP West Line Core Capacity Upgrades.

(75) Miami-Dade Transit—Douglas Road Extension.

(76) Miami-Dade Transit—East-West Corridor.

(77) Miami-Dade Transit—Kendall Corridor.

(78) Miami-Dade Transit—Northeast Corridor.

(79) Miami-Dade Transit—Rail Extension to Florida City.

(80) Middletown-South Fallsburg, New York, Passenger Rail.

(81) Monterey County, California—Commuter Rail.

(82) Montgomery and Prince George's Counties, Maryland—Purple Line.

(83) Nassau and Queens Counties, New York—LIRR Main Line Third Track Project.

(84) New Haven, Connecticut-Hartford, Connecticut-Springfield, Massachusetts Commuter Line.

(85) New Jersey Trans-Hudson Midtown Corridor.

(86) New Jersey Transit—Northeast Corridor Trans-Hudson Commuter Rail Improvements.

(87) New Jersey Transit—Morris/Essex/Boonton Trans-Hudson Commuter Rail Improvements.

(88) New Jersey Transit—New York Susquehanna and Western RR Commuter Extension.

(89) New Jersey Transit—West Trenton Line Commuter Line Service Extension.

(90) New Orleans—Airport-CBD Commuter Rail.

(91) New York—Rockaway-Brooklyn Army Terminal-Manhattan Ferry Service.

(92) New York—Staten Island to Manhattan High-Speed Ferry Service Extension.

(93) New York—Stewart Airport Rail Access.

(94) Newburg, New York—LRT System.

(95) Northern Indiana—Commuter District Line.

(96) Northern Indiana—West Lake Commuter Rail Link (South Shore Commuter Rail).

(97) Norfolk—Naval Station Corridor.

(98) Northern Virginia—Jefferson Davis Transitway (Columbia Pike to Pentagon).

(99) Pittsburgh—Martin Luther King, Jr. Busway Extension.

(100) Orlando—I–4 Central Florida Commuter Rail System.

(101) Pawtucket, Rhode Island Commuter Rail Improvement Program.

(102) Philadelphia—Route 100 Rapid Trolley Extension to King of Prussia.

(103) Philadelphia—Broad Street Subway Line Extension.

(104) Pittsburgh—East-West Corridor Rapid Transit.

(105) Pittsburgh—Martin Luther King, Jr. Busway Extension.

(106) Portland Streetcar Extension to City of Lake Oswego.

(107) Quakertown-Stoney Creek, Pennsylvania—Rail Restoration.

(108) Raritan Valley, New Jersey—Commuter Rail.

(109) Reno, Nevada—Virginia Street Bus Rapid Transit Project.

(110) Riverside-Perris, California—Rail Passenger Service.

(111) Roaring Fork Valley, Colorado—Bus Rapid Transit.

(112) Rock Island, Illinois—Quad Cities Rapid Transit System.

(113) Sacramento—Regional Rail, Dixon to Bowman.

(114) Sacramento—Downtown/Natomas Airport Transit Corridor.

(115) San Antonio—Bus Rapid Transit.

(116) San Francisco—BART Extension, Pittsburg to Tracy.

(117) San Francisco—BART Extension to Livermore.

(118) San Francisco—BART Extension to Oakland International Airport.

(119) San Francisco—Geary Boulevard Bus Rapid Transit.

(120) San Joaquin Regional Rail Commission Commuter Rail (Altamont Commuter Express).

(121) San Juan Tren Urbano—Extension from Rio Piedras to Carolina.

(122) Santa Fe—El Dorado Rail Link.

(123) Seattle—Monorail Project.

(124) Sevierville to Pigeon Ford, Tennessee—Bus Rapid Transit.

(125) Sonoma/Marin (SMART) Commuter Rail, California.

(126) South Carolina High Speed Rail Corridor.

(127) Southern California High Speed Regional Transit.

(128) St. Louis Metro Link—Scott AFB to Mid America Airport.

(129) St. Louis—East/West Gateway.

(130) St. Louis—Metro Link Northside Daniel Boone Project.

(131) St. Louis—Metro South Corridor.

(132) St. Louis—University Downtown Trolley.

(133) Stamford, Connecticut—Urban Transitway Phase II.

(134) Toledo, Ohio—CBD to Zoo.

(135) Toledo, Ohio—University Corridor.

(136) Trenton Trolley.

(137) Tri-Rail Dolphin Extension.

(138) Tri-Rail Florida East Coast Commuter Rail Extension.

(139) Tucson—Old Pueblo Trolley Expansion.

(140) Tulsa, Oklahoma, Light Rail.

(141) Vancouver—Interstate MAX Extension to Clark County, Washington.

(142) Virginia Railway Express Capacity Improvements.

(143) Williamsburg-Newport News—Peninsula Rail Transit.

(d) OTHER PROJECT AUTHORIZATIONS.—Of the amount authorized under section 5338(h) in fiscal year 2005 to carry out section 5309(m)(2)(B)(ii), the Secretary shall make funds available to the following projects for final design and construction in an amount not to exceed the amount specified:

(1) Atlanta—North Springs Extension, $260,785.

(2) Los Angeles—North Hollywood MOS-3, $663,339.

(3) New Jersey Urban Core—Hudson Bergen LRT Phase I, $313,896.

(4) Salt Lake City—CBD to University LRT, $1,127,405.

(5) St. Louis-St. Clair—MetroLink Extension Phase IIa, $59,383.

(e) RULES RELATING TO FUNDING.—

(1) SUBSECTION (a) PROJECTS.—

(A) IN GENERAL.—The Secretary is authorized to expend funds made available under section 5309(m) of title 49, United States Code, for final design and construction of projects authorized by subsection (a) as existing full funding grant agreements.

(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (a): $1,042,307,000 for fiscal year 2004, $928,303,000 for fiscal year 2005, $519,622,000 for fiscal year 2006, $300,000,000 for fiscal year 2007, $238,956,000 for fiscal year 2008, and $88,861,000 for fiscal year 2009.

(2) SUBSECTION (b) PROJECTS.—

(A) IN GENERAL.—Projects authorized by subsection (b) for final design and construction are also authorized for alternatives analysis and preliminary engineering.

(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (b): $132,850,000 for fiscal year 2004, $350,000,000 for fiscal year 2005, $861,376,000 for fiscal year 2006, $1,180,821,000 for fiscal year 2007, $1,333,823,000 for fiscal year 2008, and $1,595,648,000 for fiscal year 2009.

(C) PRIORITY.—In making funds available under subparagraph (B), the Secretary shall first make such funds available for any full funding grant agreement executed by the Secretary in fiscal year 2004 after the date of enactment of this Act and for any full funding grant agreement executed by the Secretary in the amount indicated in fiscal years 2005 through 2009 in the amount indicated in the "Schedule of Federal Funds for the Project" included in such agreement.

(3) SUBSECTION (c) PROJECTS.—

(A) IN GENERAL.—Effective October 1, 2006, projects authorized by subsection (c) for alternatives analysis and preliminary engineering are also authorized for final design and construction.

(B) MAXIMUM FUNDING LEVELS.—The Secretary shall make available not more than the following amounts for projects authorized by subsection (c): $102,188,000 for fiscal year 2004, $111,157,000 for fiscal year 2005, and $120,087,000 for fiscal year 2006.

(C) MAXIMUM FUNDING LEVELS FOR ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In fiscal years 2007, 2008, and 2009, the Secretary shall make available not more than the following amounts for projects authorized by subsection (b), and projects authorized by subsection (c), to conduct alternatives analysis and preliminary engineering activities: $128,767,000 in fiscal year 2007, $136,763,000 in fiscal year 2008, and $146,479,000 in fiscal year 2009.

(f) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (112 Stat. 380; 105 Stat. 2122) is amended—

(1) by striking "associated components to and at the contiguous New Jersey Meadowlands Sports Complex)," and inserting "to and at the contiguous New Jersey Meadowlands Sports Complex), including a connection to the Hudson River Waterfront Transportation System, the Lackawanna Cutoff,"; and

(2) by striking "in Lakewood to Freehold to Matawan or Jamesburg, New Jersey, as described in section 3035(p) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131)" and inserting "from Lakehurst to the Northeast Corridor or the New Jersey Coast Line".

(g) NEW JERSEY TRANS-HUDSON MIDTOWN CORRIDOR.—Project elements of the New Jersey Trans-Hudson Midtown Corridor advanced with 100 percent non-Federal funds shall be given consideration by the Federal Transit Administration when evaluating the local share and mobility improvements of the project in the new starts rating process, including the purchase of bilevel rail equipment.

SEC. 3038. PROJECTS FOR BUS AND BUS-RELATED FACILITIES.

Of the amounts made available to carry out section 5309(m)(2)(B)(iii) of title 49, United States Code, for each of fiscal years 2005 through 2007, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

Project	FY 05	FY 06	FY 07
1. Hillsborough County, FL - Replacement buses and vans	$320,000.00	$330,000.00	$350,000.00
2. Winston-Salem, NC - Union Station Intermodal Transfer Center, Martin Luther King Drive	$480,000.00	$495,000.00	$525,000.00
3. Purchase of Buses; North Carolina Statewide Request (NCDOT)	$32,000.00	$33,000.00	$35,000.00
4. Geneva Parking Deck: Construction of a 3-tier commuter Parking deck for metra service	$1,280,000.00	$1,320,000.00	$1,400,000.00
5. St. Charles, IL Intermodal Parking Structures	$1,440,000.00	$1,485,000.00	$1,575,000.00
6. Clinton, NJ Construct an intermodal bus terminal and rail station at the Intersection of I-78, Route 22 and the NJ Transit Raritan Valley Line in Clinton, NJ (Hunterdon County)	$320,000.00	$330,000.00	$350,000.00
7. Knoxville, TN intermodal facility	$3,264,000.00	$3,366,000.00	$3,570,000.00
8. Miami, FL Miami-Dade County Buses	$1,600,000.00	$1,650,000.00	$1,750,000.00
9. Pittburgh, PA - Purchase of new buses for Pittsburgh Port Authority	$160,000.00	$165,000.00	$175,000.00
10. Lake Success, NY intermodal facility	$544,000.00	$561,000.00	$595,000.00
11. Charlotte, NC West Trade Street intermodal center	$1,600,000.00	$1,650,000.00	$1,750,000.00
12. Corning, NY Transit Center	$1,280,000.00	$1,320,000.00	$1,400,000.00
13. Burlington County, NJ New Jersey Transit buses	$1,008,000.00	$1,039,500.00	$1,102,500.00
14. Hamilton County, OH - Metro Bus Service Enhancements – Neighborhood Transit Centers and Hubs	$544,000.00	$561,000.00	$595,000.00

Project	FY 05	FY 06	FY 07
15. Adams County Transit Authority, PA - Gettysburt transit transfer center or other related projects	$287,680.00	$296,670.00	$314,650.00
16. Oneida County, NY - buses and facilities	$640,000.00	$660,000.00	$700,000.00
17. Utica, NY - Utica Union Station track improvements	$32,000.00	$33,000.00	$35,000.00
18. Utica and Thendara, NY - Install Two Handicap Lifts	$32,000.00	$33,000.00	$35,000.00
19. Myrtle Beach, SC - Regional Multimodal Transit Center	$320,000.00	$330,000.00	$350,000.00
20. Buffalo, NY intermodal facility	$1,280,000.00	$1,320,000.00	$1,400,000.00
21. Buffalo Niagara Medical Campus intermodal facility roadway, streetscape, pedestrian, transit, and parking improvements	$640,000.00	$660,000.00	$700,000.00
22. Juneau, AK transit bus acquisition and transit center	$800,000.00	$825,000.00	$875,000.00
23. Roanoke, VA - Improve buses at Commonwealth Coach and Trolley Museum	$80,000.00	$82,500.00	$87,500.00
24. Roanoke, VA - Improve Virginian Railway Intermodal Station	$80,000.00	$82,500.00	$87,500.00
25. City of Flagstaff, AZ Purchase of buses and bus related facilities	$240,000.00	$247,500.00	$262,500.00
26. City of Sedona, AZ Purchase of buses and bus related facilities	$240,000.00	$247,500.00	$262,500.00
27. Parking garage at SEPTA Market Street Elevated Line	$1,280,000.00	$1,320,000.00	$1,400,000.00
28. Normal, IL Multimodal center that will provide for eight transportation modes and help to redevelop Normal downtown area	$640,000.00	$660,000.00	$700,000.00
29. San Joaquin, CA Altamont Commuter Express Corridor intermodal centers	$1,280,000.00	$1,320,000.00	$1,400,000.00
30. Cleveland Clinic Intermodal Center and Parking Facility	$2,720,000.00	$2,805,000.00	$2,975,000.00
31. Cuyahoga County, OH University Hospital Intermodal Center and related improvements	$1,328,000.00	$1,369,500.00	$1,452,500.00
32. Akron Art Museum, OH enhancements & transit improvements/safety	$208,000.00	$214,500.00	$227,500.00
33. Coffman Cove, AK IFA ferry terminal	$1,024,000.00	$1,056,000.00	$1,120,000.00
34. Unalaska, AK Construction of AMHW ferry terminal including approach, staging, and upland improvements	$2,400,000.00	$2,475,000.00	$2,625,000.00
35. St. Johns, MI buses	$32,000.00	$33,000.00	$35,000.00
36. Eastlake Stadium, OH Transit Improvements	$1,280,000.00	$1,320,000.00	$1,400,000.00
37. Cleveland Art Museum Intermodal Center and Parking Facility	$2,560,000.00	$2,640,000.00	$2,800,000.00
38. Joliet, IL For the construction of 1,000 commuter car parking structure parking at Joliet Union station	$800,000.00	$825,000.00	$875,000.00
39. Grand Rapids, MI Bus replacement expansion	$4,797,760.00	$4,947,690.00	$5,247,550.00
40. Ionia County, MI - Vehicle replacement	$83,840.00	$86,460.00	$91,700.00
41. Barry County, MI bus maintenance equipment	$11,200.00	$11,550.00	$12,250.00
42. Sevierville to Pigeon Forge, TN BRT	$160,000.00	$165,000.00	$175,000.00
43. Lower Merion Township, PA relocate the SEPTA/AMTRAK Ardmore Station	$2,329,600.00	$2,402,400.00	$2,548,000.00
44. Mammoth Lakes, CA expanded transit service	$160,000.00	$165,000.00	$175,000.00
45. Westmoreland County, PA Buses	$320,000.00	$330,000.00	$350,000.00
46. Warwick, NY Bus Depot and Shelters	$160,000.00	$165,000.00	$175,000.00
47. Tempe/Scottsdale, AZ East Valley Bus Facility	$1,600,000.00	$1,650,000.00	$1,750,000.00
48. Lancaster, PA Job Access buses and services	$128,000.00	$132,000.00	$140,000.00
49. I–80/Howard Blvd New Jersey Transit Park and Ride	$320,000.00	$330,000.00	$350,000.00
50. Calstart fuel cell buses	$320,000.00	$330,000.00	$350,000.00
51. Coachella Valley, CA - Bus rapid transit, Cities of Indio/ Palm Desert	$160,000.00	$165,000.00	$175,000.00
52. Spring Valley, CA Multi-Modal Center	$384,000.00	$396,000.00	$420,000.00
53. Escondido, CA Compressed Natural Gas (CNG) operation and maintenance facility	$160,000.00	$165,000.00	$175,000.00
54. San Diego, CA Off-street multimodal center and service facility	$160,000.00	$165,000.00	$175,000.00
55. Roanoke, VA - Improve Link Passenger Rail Intermodal Facility	$160,000.00	$165,000.00	$175,000.00
56. Zanesville, OH bus system signage and shelters	$20,800.00	$21,450.00	$22,750.00
57. Allegheny County, PA Clean Fuel Buses	$320,000.00	$330,000.00	$350,000.00
58. Mariposa, CA CNG-Hydrogen transit system with fueling stations and buses for Yosemite National Park	$800,000.00	$825,000.00	$875,000.00
59. Northern Neck and Middle Peninsula, VA multi-modal bus facilities	$1,040,000.00	$1,072,500.00	$1,137,500.00
60. Improvements to Metro North Railroad's Beacon Train Station	$160,000.00	$165,000.00	$175,000.00
61. Faquier County, VA Bealeton Station depot rehabilitation	$88,000.00	$90,750.00	$96,250.00
62. Kearney, NE RYDE transit Bus and maintenance facility	$608,000.00	$627,000.00	$665,000.00
63. Statewide, NE - Statewide rural transit needs assessment for the state of Nebraska	$96,000.00	$99,000.00	$105,000.00
64. Trenton, NJ Intermodal Train Station reconstruction	$800,000.00	$825,000.00	$875,000.00
65. York, PA Rabbittransit transit hubs and communications equipment	$886,560.00	$914,265.00	$969,675.00
66. Harrison, AR Trolley Barn	$12,800.00	$13,200.00	$14,000.00
67. Dakota County, MN - Lakeview - Cedar Avenue Corridor BRT	$1,600,000.00	$1,650,000.00	$1,750,000.00
68. Miami, FL Miami-Dade County Buses	$1,600,000.00	$1,650,000.00	$1,750,000.00
69. Monrovia, CA multi-modal regional transit center	$960,000.00	$990,000.00	$1,050,000.00
70. Cleveland, OH Transit Improvements for the upcoming International Children's Games	$48,000.00	$49,500.00	$52,500.00
71. Hampton Roads, VA Southside Bus Facility	$640,000.00	$660,000.00	$700,000.00
72. Denver, CO - Regional Transportation District Bus Replacement	$1,280,000.00	$1,320,000.00	$1,400,000.00
73. Foothill Transit, CA commuter park and ride facilities	$3,040,000.00	$3,135,000.00	$3,325,000.00
74. Salt Lake Community Collage, UT - Intermodal Hub	$560,000.00	$577,500.00	$612,500.00
75. Fresno, CA low-emission transit vehicles	$800,000.00	$825,000.00	$875,000.00
76. Fredericksburg, VA VRE station restoration	$320,000.00	$330,000.00	$350,000.00
77. Lakewood, NJ bus route	$240,000.00	$247,500.00	$262,500.00
78. Elmira, NY buses and related transit systems	$160,000.00	$165,000.00	$175,000.00
79. South Bend, IN Operations Center / Mishawaka Transfer Facility	$320,000.00	$330,000.00	$350,000.00

Project	FY 05	FY 06	FY 07
80. Atlanta, GA - BRT/HOV project; I–75 from Wade Green road to Akers Mill Road	$3,200,000.00	$3,300,000.00	$3,500,000.00
81. Kodiak, AK Construction of AMHW ferry terminal and approach	$2,400,000.00	$2,475,000.00	$2,625,000.00
82. Utica, NY - Union Station canopy	$240,000.00	$247,500.00	$262,500.00
83. Shreveport, LA Intermodal Transit Facility	$1,072,000.00	$1,105,500.00	$1,172,500.00
84. Bend, Oregon Replacement of the city's 22 person vans	$320,000.00	$330,000.00	$350,000.00
85. Pasadena to Claremont, CA Gold Line Light Rail Phase II intermodal centers	$4,800,000.00	$4,950,000.00	$5,250,000.00
86. NC - North Carolina Statewide Bus and Bus Facilities	$5,952,000.00	$6,138,000.00	$6,510,000.00
87. Triad, NC - Multimodal facility to serve as the central facility for the PART routes throughout the Triad region	$3,712,000.00	$3,828,000.00	$4,060,000.00
88. High Point, NC - Home Funishings Market terminals/parking	$1,600,000.00	$1,650,000.00	$1,750,000.00
89. Cincinnati Zoo/Uptown Crossing, OH - Intermodal bus facility/commuter parking garage	$416,000.00	$429,000.00	$455,000.00
90. Florida Keys Bus System Facility Improvements	$160,000.00	$165,000.00	$175,000.00
91. Florida Keys Bus System Improvements, Job Access Reverse Commute	$160,000.00	$165,000.00	$175,000.00
92. Rome, NY - VIP bus system	$80,000.00	$82,500.00	$87,500.00
93. Geneva, NY - Intermodal Facility renovations	$345,600.00	$356,400.00	$378,000.00
94. Oneonta, NY - Heavy Duty Buses	$80,000.00	$82,500.00	$87,500.00
95. Cooperstown, NY - Construct Cooperstown Intermodal Facility	$1,600,000.00	$1,650,000.00	$1,750,000.00
96. Seneca City Public Transit, NY - Develop a transportation service plan for the county	$48,000.00	$49,500.00	$52,500.00
97. Columbus, OH Paratransit and Small Bus Service Facility	$1,600,000.00	$1,650,000.00	$1,750,000.00
98. Erie County, NY Niagara Frontier Transportation Authority rehabilitation	$960,000.00	$990,000.00	$1,050,000.00
99. Jamestown, NY intermodal facility	$480,000.00	$495,000.00	$525,000.00
100. Dunkirk, NY intermodal facility	$320,000.00	$330,000.00	$350,000.00
101. Tinley Park, IL - Commuter rail intermodal station at 80th Avenue	$160,000.00	$165,000.00	$175,000.00
102. Londonderry, NH - Park and Ride Bus Facility at Exit 5	$640,000.00	$660,000.00	$700,000.00
103. Enfield, CT - Enfield Intermodal Station on New Haven CT – Springfield, MA Commuter Rail Line	$640,000.00	$660,000.00	$700,000.00
104. Atlanta, GA Atlanta Transportation Trolley Link clean fuel transit vehicles	$1,600,000.00	$1,650,000.00	$1,750,000.00
105. Stonington and Mystic, CT - Construct Stonington-Mystic Village Intermodal Center Parking facility and Improve streetscapes	$640,000.00	$660,000.00	$700,000.00
106. Atlanta, GA MARTA low- floor clean fuel buses	$3,200,000.00	$3,300,000.00	$3,500,000.00
107. Glenwood Park, PA Transit Center and adjacent park & ride facility	$1,600,000.00	$1,650,000.00	$1,750,000.00
108. Beaver, PA - Expand and improve 2 park and ride facilities in Beaver County, PA	$160,000.00	$165,000.00	$175,000.00
109. Vernon, CT - Construct Vernon Intermodal Center, Parking and Streetscapes	$1,920,000.00	$1,980,000.00	$2,100,000.00
110. New London, CT - Improve New London Intermodal Transportation Center Streetscapes and Traffic Flow	$480,000.00	$495,000.00	$525,000.00
111. Warren, PA intermodal transportation center	$960,000.00	$990,000.00	$1,050,000.00
112. Sharon, PA bus facilities, parking lots and bus stops	$320,000.00	$330,000.00	$350,000.00
113. New Orleans, LA Multimodal Riverfront Center	$160,000.00	$165,000.00	$175,000.00
114. Manchester, NH North River Road Intermodal Facility and streetscape improvements	$288,000.00	$297,000.00	$315,000.00
115. River parishes, LA South Central Planning and Development Commission, bus and bus facilities	$320,000.00	$330,000.00	$350,000.00
116. Regional Planning Commission, New Orleans, LA bus and bus facilities	$160,000.00	$165,000.00	$175,000.00
117. St. Bernard Parish, LA Intermodal facility improvements	$320,000.00	$330,000.00	$350,000.00
118. Rockville, MD Maryland Avenue and Market Street Intermodal Access Project	$1,280,000.00	$1,320,000.00	$1,400,000.00
119. Detroit, MI Replacement bus facility	$240,000.00	$247,500.00	$262,500.00
120. Detroit, MI Replacement buses	$240,000.00	$247,500.00	$262,500.00
121. Oakland, CA San Francisco Bay Trail, Oakland Coliseum - Martin Luther King Jr. Regional Shoreline	$288,000.00	$297,000.00	$315,000.00
122. Covina/El Monte/Baldwin Park/Upland, CA Improve parking and station access at Metrolink stations	$1,184,000.00	$1,221,000.00	$1,295,000.00
123. Bronx, NY Complete Penn Station/East Side Access Programs. Upgrade Metro North stations in the Bronx and construct station at Yankee Stadium	$960,000.00	$990,000.00	$1,050,000.00
124. Nashville, TN Downtown Transit Transfer Facility	$160,000.00	$165,000.00	$175,000.00
125. Sandy Hook National Park, NJ Connect passengers from lower Manhattan & other NY/NJ ferry terminals through construction of a fixed & floating pier	$640,000.00	$660,000.00	$700,000.00
126. Long Beach, CA Acquire property and construct a park and ride structure in Downtown Long Beach	$320,000.00	$330,000.00	$350,000.00
127. Camden County, NJ Intermodal facility serving critical bus and rail lines to East and North Camden Neighborhoods	$320,000.00	$330,000.00	$350,000.00
128. New York City, NY Purchase Handicapped-Accessible Livery Vehicles	$320,000.00	$330,000.00	$350,000.00
129. Glendale, CA CNG Buses	$224,000.00	$231,000.00	$245,000.00
130. Las Vegas, NV Construct Las Vegas Center City Intermodal Transportation Terminal	$960,000.00	$990,000.00	$1,050,000.00
131. Middletown, CT Construct intermodal facility	$160,000.00	$165,000.00	$175,000.00
132. Los Angeles County, CA Develop intermodal centers along the Gold Line phase II rail project	$256,000.00	$264,000.00	$280,000.00
133. Los Angeles, CA Implement parking and electronic signage improvements on the Metrolink commuter rail system	$640,000.00	$660,000.00	$700,000.00
134. Corvallis, OR Bus Replacement	$396,800.00	$409,200.00	$434,000.00
135. Eugene, OR Purchase new buses for Lane Transit District's Bus Rapid Transit service	$1,280,000.00	$1,320,000.00	$1,400,000.00

Project	FY 05	FY 06	FY 07
136. Detroit, MI Mid-Life Vehicle Overhaul	$4,608,000.00	$4,752,000.00	$5,040,000.00
137. Torrington, CT Construct bus-related facility (Northwestern Connecticut Central Transit District)	$640,000.00	$660,000.00	$700,000.00
138. Bronx, NY For the acquisition of buses to provide service from the Jacobi Intermodal Center to North Central Bronx Hospital	$128,000.00	$132,000.00	$140,000.00
139. Columbia County, OR Purchase buses	$44,800.00	$46,200.00	$49,000.00
140. Yamhill County, OR Construction of bus shelters and park and ride facilities in Yamhill County	$21,440.00	$22,110.00	$23,450.00
141. Albany, OR Construct pathway at Multimodal Transit Station	$128,000.00	$132,000.00	$140,000.00
142. Miami-Dade County, FL County Buses	$1,888,000.00	$1,947,000.00	$2,065,000.00
143. Brownsville, TX Brownsville Urban System City-Wide Transit Improvement project	$640,000.00	$660,000.00	$700,000.00
144. Sandy City, UT Intermodal Hub and Station	$640,000.00	$660,000.00	$700,000.00
145. Howard County, MD Design and construct Howard County Bus Operation Repair Facility	$832,000.00	$858,000.00	$910,000.00
146. Carson, CA Purchase one bus	$80,000.00	$82,500.00	$87,500.00
147. Carson, CA Purchase two tripper buses	$160,000.00	$165,000.00	$175,000.00
148. Carson, CA Purchase one trolley-bus vehicle	$80,000.00	$82,500.00	$87,500.00
149. Des Moines, IA Purchase currently leased 40-foot heavy-duty buses	$640,000.00	$660,000.00	$700,000.00
150. Bellflower, CA Conversion of an historic train depot into an intermodal center	$88,000.00	$90,750.00	$96,250.00
151. Bellflower, CA Bus shelter improvements	$80,000.00	$82,500.00	$87,500.00
152. Albany, GA Bus replacement program	$160,000.00	$165,000.00	$175,000.00
153. Sylvester, GA Intermodal Facility: Construction/restoration of Train Depot for train, intercity bus, local transit, taxi	$96,000.00	$99,000.00	$105,000.00
154. Thomasville, GA Bus Replacement program	$64,000.00	$66,000.00	$70,000.00
155. Quitman County / Clay County / Randolph County / Stewart County, GA Regional Rural Transit Bus Project (initiate joint/cooperative rural transit program)	$160,000.00	$165,000.00	$175,000.00
156. Albany, GA Multi-modal facility (Construction of local transit transfer station/garage/office headquarters, intercity bus, taxi)	$320,000.00	$330,000.00	$350,000.00
157. North Carolina expand bus facilities and buses statewide	$1,680,000.00	$1,732,500.00	$1,837,500.00
158. Charlotte, NC Design and construct new intermodal facility housing intra-city buses, inter-city rail and commuter rail. (West Trade)	$160,000.00	$165,000.00	$175,000.00
159. Carson/South Bay, CA Construct a transit center to serve existing routes and additional MTA lines	$480,000.00	$495,000.00	$525,000.00
160. Compton, CA Construct fuel dispensing facility for the transit CNG bus fleet	$480,000.00	$495,000.00	$525,000.00
161. Compton, CA Expand existing transit center in to a multi modal transportation building	$992,000.00	$1,023,000.00	$1,085,000.00
162. Los Angeles County, CA Construct commuter park-and-ride facilities in the San Gabriel Valley	$256,000.00	$264,000.00	$280,000.00
163. Akron, OH Construct Downtown Multi-modal Transportation Center	$1,280,000.00	$1,320,000.00	$1,400,000.00
164. Elyria, OH Construct the New York Central Train Station into an intermodal transportation hub	$655,360.00	$675,840.00	$716,800.00
165. Long Beach, CA Purchase ten clean fuel busses	$1,440,000.00	$1,485,000.00	$1,575,000.00
166. Los Angeles, CA Mission College Transit Center construction	$160,000.00	$165,000.00	$175,000.00
167. Windfall, NC Purchase of buses	$40,000.00	$41,250.00	$43,750.00
168. Montgomery County, MD intermodal access programs in the Silver Spring and Wheaton Central Business Districts	$320,000.00	$330,000.00	$350,000.00
169. Compton, CA Improve 33 bus stops in the local transit system and purchase 7 CNG buses	$518,400.00	$534,600.00	$567,000.00
170. St. Lucie County, FL Acquisition of Americans with Disabilities Act compliant buses	$320,000.00	$330,000.00	$350,000.00
171. Los Angeles, CA California State University Northridge propane-powered tram service project	$104,000.00	$107,250.00	$113,750.00
172. Jacksonville, FL Bus Facility Expansion	$640,000.00	$660,000.00	$700,000.00
173. Hampton Roads, VA Develop, design and build new Hampton Roads Transit Southside Bus Facility to house bus fleet, maintenance, warehouse, and administrative functions	$640,000.00	$660,000.00	$700,000.00
174. Phoenix, AZ West Phoenix Bus Facility	$1,920,000.00	$1,980,000.00	$2,100,000.00
175. Phoenix, AZ Phoenix Heavy Bus Facility	$320,000.00	$330,000.00	$350,000.00
176. Phoenix, AZ Phoenix Dial-a-Ride Operating Facility	$320,000.00	$330,000.00	$350,000.00
177. Trenton, NJ Reconstruction and rehabilitation of the Trenton Train Station	$2,352,000.00	$2,425,500.00	$2,572,500.00
178. La Crosse, WI Transit Center and Bus Replacement	$160,000.00	$165,000.00	$175,000.00
179. Eau Claire, WI Transfer Center and Vehicle Replacement	$160,000.00	$165,000.00	$175,000.00
180. Lowell, MA Lowell Regional Transit Authority transit buses	$864,000.00	$891,000.00	$945,000.00
181. Calexico, CA Purchase new buses for the Calexico Transit System	$160,000.00	$165,000.00	$175,000.00
182. San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community	$1,056,000.00	$1,089,000.00	$1,155,000.00
183. Cleveland, OH Buses and bus-related facilities	$64,000.00	$66,000.00	$70,000.00
184. Cleveland, OH Construct intermodal facility	$288,000.00	$297,000.00	$315,000.00
185. Cleveland, OH Construct intermodal facility on Euclid Avenue	$160,000.00	$165,000.00	$175,000.00
186. Berkeley/Oakland, CA AC Transit Bus Rapid Transit, bus shelters & intelligent systems, Berkeley-Oakland corridor project	$640,000.00	$660,000.00	$700,000.00

Project	FY 05	FY 06	FY 07
187. Gardena, CA Purchase of alternate fuel buses for service expansion, on-board security system and bus facility training equipment	$1,565,571.84	$1,614,495.96	$1,712,344.20
188. Wilmington, NC A multi-modal center for rail station and downtown hub for city and intercity bus services	$240,000.00	$247,500.00	$262,500.00
189. Westchester County, NY Acquisition of clean fuel buses	$80,000.00	$82,500.00	$87,500.00
190. Pleasant Hill, CA Construct Diablo Valley College Bus Transit Center	$480,000.00	$495,000.00	$525,000.00
191. Rock Island, IL Construct bus and bus-related facilities	$160,000.00	$165,000.00	$175,000.00
192. Beckley, WV Beckley Intermodal Gateway, pursuant to the eligibility provisions for projects listed under section 3030(d)(3) of P.L. 105–178	$7,680,000.00	$7,920,000.00	$8,400,000.00
193. Newark, NJ Newark Penn Station Intermodal Improvements including the rehabilitation of boarding areas	$320,000.00	$330,000.00	$350,000.00
194. San Francisco, CA Construct Transbay Terminal	$4,480,000.00	$4,620,000.00	$4,900,000.00
195. Bronx, NY Conduct a study to construct an intermodal facility in Riverdale/Kingsbridge	$112,000.00	$115,500.00	$122,500.00
196. Philadelphia, PA Philadelphia Zoo Intermodal Transportation project entailing parking consolidation, pedestrian walkways, public transportation complements, and landscape improvements to surface parking lots	$2,211,672.00	$2,280,786.75	$2,419,016.25
197. Thurston County, WA Purchase buses to replace existing equipment and expand service	$288,000.00	$297,000.00	$315,000.00
198. Gresham, OR Construction of a light rail station, bus, bicycle and parking plaza facilities, and in support of transit-oriented development	$480,000.00	$495,000.00	$525,000.00
199. New Jersey, Passaic Valley Intermodal and Parking Facilities	$1,600,000.00	$1,650,000.00	$1,750,000.00
200. Denver, CO Construct intermodal center at Denver Union Station	$3,200,000.00	$3,300,000.00	$3,500,000.00
201. Corpus Christi, TX Corpus Regional Transit Authority for maintenance facility improvements	$640,000.00	$660,000.00	$700,000.00
202. Albany, OR Rehabilitate building at Multimodal Transit Station	$281,600.00	$290,400.00	$308,000.00
203. Alameda, CA Planning, design, construction of an aerial tramway at the former Naval Air Station on Alameda Point to Oakland BART	$640,000.00	$660,000.00	$700,000.00
204. Union City, CA Grade separation to provide new vehicle, pedestrian, and bike access to BART	$800,000.00	$825,000.00	$875,000.00
205. Westchester County, NY Replacement of buses in Westchester's Beeline fleet	$1,200,000.00	$1,237,500.00	$1,312,500.00
206. Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority	$720,000.00	$742,500.00	$787,500.00
207. Martinez, CA Martinez Intermodal Facility Depot restoration	$320,000.00	$330,000.00	$350,000.00
208. San Juan, PR Purchase of 27 new buses for replacement and service expansion	$960,000.00	$990,000.00	$1,050,000.00
209. San Juan, PR Purchase of security cameras on board 404 buses	$320,000.00	$330,000.00	$350,000.00
210. Flint, MI Purchase new and replacement vehicles for expanded job related service. Flint MTA	$160,000.00	$165,000.00	$175,000.00
211. Sonoma County, CA Purchase CNG buses	$160,000.00	$165,000.00	$175,000.00
212. Arlington, VA Improve pedestrian access, construct shelters, and purchase buses to improve service along Columbia Pike corridor	$1,600,000.00	$1,650,000.00	$1,750,000.00
213. Santa Clara County, CA Purchase 6 hydrogen fuel-cell buses, installation of fuel station, and modification of existing facilities for the new technology	$1,024,000.00	$1,056,000.00	$1,120,000.00
214. Los Angeles, CA Improve Wilshire Vermont transit station to provide improved pedestrian and intermodal access	$320,000.00	$330,000.00	$350,000.00
215. Indianapolis, IN Create downtown transit center for the intra-city bus system	$5,192,000.00	$5,354,250.00	$5,678,750.00
216. Fairfax, VA Construct transit center and improve service and pedestrian and passenger access on Richmond Highway	$640,000.00	$660,000.00	$700,000.00
217. Alexandria, VA Purchase buses and relocate WMATA's 58-year old Royal Street garage	$640,000.00	$660,000.00	$700,000.00
218. Bar Harbor, ME Purchase new buses to enhance commuting near the Jackson Labs	$96,000.00	$99,000.00	$105,000.00
219. Los Angeles, CA Los Angeles City College Red Line Pedestrian Connector Project to improve pedestrian access	$400,000.00	$412,500.00	$437,500.00
220. Stanwood, WA Terry's Corner Park and Ride	$336,000.00	$346,500.00	$367,500.00
221. Denver, CO Construct intermodal facility at Stapleton as part of FasTracks project	$640,000.00	$660,000.00	$700,000.00
222. Alexandria, VA Construct shelters, walkways and traffic light signals in Eisenhower Avenue area to increase bus ridership and improve connectivity to Metrorail stations	$800,000.00	$825,000.00	$875,000.00
223. Island County, WA Island Transit Capital Improvements	$768,000.00	$792,000.00	$840,000.00
224. Kansas City, MO Regional Bus rapid transit system	$640,000.00	$660,000.00	$700,000.00
225. Pittsburgh, PA For the purchase of clean fuel buses	$160,000.00	$165,000.00	$175,000.00
226. Burbank, CA Construction of the Empire Area Transit Center near the Burbank/Pasadena/Glendale Airport	$320,000.00	$330,000.00	$350,000.00
227. New Orleans, LA Plan and construct New Orleans Union Passenger Terminal intermodal facilities	$320,000.00	$330,000.00	$350,000.00
228. Kansas City, MO Bus transit infrastructure	$160,000.00	$165,000.00	$175,000.00
229. Dallas, TX Bus Passenger Facilities for Dallas Area Rapid Transit: shelters, benches, and bus stop improvements	$3,200,000.00	$3,300,000.00	$3,500,000.00
230. Los Angeles, CA Reseda Blvd. Bus Rapid Transit Route, a small-start project already begun by the LA MTA	$320,640.00	$330,660.00	$350,700.00

Project	FY 05	FY 06	FY 07
231. Monterey Park, CA Safety improvements at a bus stop including creation of bus loading areas and street improvements	$544,000.00	$561,000.00	$595,000.00
232. Washington, DC Purchase of clean fuel transit buses and improved passenger facilities including bus system maps, dynamic bus arrival indicators and improved bus stop signage	$6,400,000.00	$6,600,000.00	$7,000,000.00
233. Cheltenham Township, PA Glenside Rail Station Parking Garage project involving the construction of a 300–400 space parking lot @ Easton Road and Glenside Avenue	$544,000.00	$561,000.00	$595,000.00
234. San Mateo County, CA Install security cameras for buses and passenger stations	$384,000.00	$396,000.00	$420,000.00
235. Torrance, CA Acquisition of EPA and CARB-certified, low emission replacement buses	$1,280,000.00	$1,320,000.00	$1,400,000.00
236. Portland, OR Renovation of Union Station, including structural reinforcement and public safety upgrades	$32,000.00	$33,000.00	$35,000.00
237. Long Beach, CA Install security cameras on busses	$320,000.00	$330,000.00	$350,000.00
238. Pittsburgh, PA North Shore improvements. Funding for the West End Bridge improvements, Intermodal Transportation Center, Brighton Road, Canal and Market Streets	$320,000.00	$330,000.00	$350,000.00
239. Los Angeles, CA Expand intermodal center at California State University to accommodate additional buses, ADA improvements, upgrade lighting	$320,000.00	$330,000.00	$350,000.00
240. Cleveland, OH Construct intermodal center and bus facilities at Euclid Avenue and East 96th Street	$640,000.00	$660,000.00	$700,000.00
241. Brockton, MA Bus replacement for the Brockton Area Transit Authority (BA4T)	$480,000.00	$495,000.00	$525,000.00
242. Sacramento, CA Improvements to bus facilities	$1,600,000.00	$1,650,000.00	$1,750,000.00
243. Orange County, CA Purchase inter-county express buses for Orange County Transportation Authority	$320,000.00	$330,000.00	$350,000.00
244. New Jersey, Community Shuttle Buses	$640,000.00	$660,000.00	$700,000.00
245. Nacogdoches, TX Bus fleet vehicle replacement for the Brazos Transit District	$320,000.00	$330,000.00	$350,000.00
246. Lufkin, TX Bus fleet vehicle replacement for the Brazos Transit District	$320,000.00	$330,000.00	$350,000.00
247. Burbank, CA Burbank Regional Intermodal Transportation Center – Chandler Bikeway Extension	$252,800.00	$260,700.00	$276,500.00
248. Miramar, FL Miramar Transit Hub	$320,000.00	$330,000.00	$350,000.00
249. Atlanta, GA Redevelopment of the Metro Atlanta Rapid Transit Authority Hamilton bus facility to support clean fuel buses	$1,894,400.00	$1,953,600.00	$2,072,000.00
250. Rockport, MA Improvements to Rockport Station including station renovations, barrier free access, and expanded parking	$768,000.00	$792,000.00	$840,000.00
251. Cleveland, OH Construct intermodal facility, East Side Transit Authority	$1,920,000.00	$1,980,000.00	$2,100,000.00
252. Grants Pass, OR Purchase vehicles for use by Josephine Community Transit	$54,720.00	$56,430.00	$59,850.00
253. Plantation, FL Construction of the Central Plantation Transit Greenway System	$512,000.00	$528,000.00	$560,000.00
254. Oakland, CA Pedestrian and bicycle-oriented improvements at four BART Transit Villages	$320,000.00	$330,000.00	$350,000.00
255. Santa Monica, CA Purchase and service Liquid Natural Gas buses for Santa Monica Big Blue Bus to service increased ridership and reduce emissions	$1,280,000.00	$1,320,000.00	$1,400,000.00
256. Broward County, FL Buses and bus facilities	$3,760,000.00	$3,877,500.00	$4,112,500.00
257. Glendale, CA Glendale Beeline Bus/Trolley System	$416,000.00	$429,000.00	$455,000.00
258. Baldwin Park, CA Construct vehicle and bicycle parking lot at and pedestrian rest area at transit center	$96,000.00	$99,000.00	$105,000.00
259. Baldwin Park, CA Construct new sidewalks, lighting, and curbs between Metrolink station and downtown	$160,000.00	$165,000.00	$175,000.00
260. Buses and bus related facilities throughout the state of Connecticut	$1,920,000.00	$1,980,000.00	$2,100,000.00
261. Hartford, CT Buses and bus-related facilities	$1,280,000.00	$1,320,000.00	$1,400,000.00
262. New Jersey, Intermodal passenger transportation deployment initiative for Passaic-Bergen DMU demonstration program	$3,200,000.00	$3,300,000.00	$3,500,000.00
263. Santa Monica, CA Construction of intermodal facility and purchase and service of buses for joint Santa Monica College and community transit service	$720,000.00	$742,500.00	$787,500.00
264. Los Angeles, CA Improve transit shelters, sidewalks and landscaping around Cedar's-Sinai Medical Center	$240,000.00	$247,500.00	$262,500.00
265. Nassau County, NY Intermodal transportation improvements for the Nassau HUB	$2,240,000.00	$2,310,000.00	$2,450,000.00
266. Memphis, TN Memphis South Intermodal Center will be a major connection point for local bus, intercity bus, automobiles and airport transportation	$960,000.00	$990,000.00	$1,050,000.00
267. Tampa, FL Purchase replacement buses and vanpools	$160,000.00	$165,000.00	$175,000.00
268. San Jose, CA Reconstruct Santa Clara Valley Transportation Authority's Cerone Operating Division Facilities	$1,600,000.00	$1,650,000.00	$1,750,000.00
269. Belle Glade, FL Construction and Land Acquisition of a Combined Passenger Transfer and Maintenance/Operations Facility	$960,000.00	$990,000.00	$1,050,000.00
270. Denver, CO Construct bus maintenance facility	$320,000.00	$330,000.00	$350,000.00
271. Rhode Island Bus purchase and park & ride facilities	$320,000.00	$330,000.00	$350,000.00
272. Monterey Park, CA Monterey Park Busline Intelligent Transit Information system	$192,000.00	$198,000.00	$210,000.00
273. Providence, RI Expansion of RIPTA Elmwood Facility for Paratransit Maintenance	$960,000.00	$990,000.00	$1,050,000.00
274. Johnson County, KS Bus and bus-related facilities (I–35 Corridor)	$640,000.00	$660,000.00	$700,000.00
275. Santa Fe, NM Purchase Santa Fe Trails Downtown Transit Center buses, support vehicles, paratransit vehicles, and six trolley buses for downtown shuttle service	$320,000.00	$330,000.00	$350,000.00

Project	FY 05	FY 06	FY 07
276. Milwaukee County, WI Milwaukee County bus replacements	$1,280,000.00	$1,320,000.00	$1,400,000.00
277. South San Francisco, CA Construct ferry terminal at Oyster Point to provide ferry service from San Francisco by Water Transit Authority	$1,920,000.00	$1,980,000.00	$2,100,000.00
278. Niles, OH Bus and bus-related facilities	$240,000.00	$247,500.00	$262,500.00
279. Rhode Island Bus Replacement	$1,280,000.00	$1,320,000.00	$1,400,000.00
280. San Diego, CA Construct intermodal transportation management center to improve coordination, efficiency and security	$960,000.00	$990,000.00	$1,050,000.00
281. Las Vegas, NV Construct North Las Vegas Boulevard Intermodal Transportation Terminal	$960,000.00	$990,000.00	$1,050,000.00
282. Lawrence, MA Parking and drainage related to a Regional Intermodal Center	$1,920,000.00	$1,980,000.00	$2,100,000.00
283. Richmond, VA Bus Operation and Maintenance Facility for Greater Richmond Transit Company	$480,000.00	$495,000.00	$525,000.00
284. Attleboro, MA Multimodal transit hub, including central bus terminal, commuter park-and-ride garage, and improved access to commuter rail	$640,000.00	$660,000.00	$700,000.00
285. Miami Dade County, FL N.W. 7th Avenue Transit Hub	$1,440,000.00	$1,485,000.00	$1,575,000.00
286. Haverhill, MA Commuter rail parking	$320,000.00	$330,000.00	$350,000.00
287. Los Angeles, CA Install permanent irrigation system and enhanced landscaping on San Fernando Valley bus rapid transitway	$960,000.00	$990,000.00	$1,050,000.00
288. St. Paul, MN Union Depot Multimodal Transportation Hub	$2,240,000.00	$2,310,000.00	$2,450,000.00
289. Gainesville, FL Bus Replacement	$2,560,000.00	$2,640,000.00	$2,800,000.00
290. Salem, MA Design and Construction of station with 700–1000 parking spaces, bus layover facility, including pedestrian-vehicle access	$640,000.00	$660,000.00	$700,000.00
291. Richmond, VA Main Street Station project	$352,000.00	$363,000.00	$385,000.00
292. Jacksonville, FL Bus Replacement	$2,240,000.00	$2,310,000.00	$2,450,000.00
293. Monmouth County, NJ Construction of main bus facility for Freehold Township, including a terminal and repair shop	$640,000.00	$660,000.00	$700,000.00
294. Falls Church, VA Design and build an intermodal transit center in downtown Falls Church	$640,000.00	$660,000.00	$700,000.00
295. Beverly, MA Construction of a 500 space parking garage adjacent to the Beverly depot	$640,000.00	$660,000.00	$700,000.00
296. San Fernando, CA Construct CNG fueling station and other related infrastructure	$416,000.00	$429,000.00	$455,000.00
297. Rialto, CA Expansion parking lot at Metrolink station in Rialto	$224,000.00	$231,000.00	$245,000.00
298. El Paso, TX Purchase of buses for the SMART Starter service	$800,000.00	$825,000.00	$875,000.00
299. Luzerne County, PA For the acquisition of new public transportation vehicles, includes buses and trolleys	$160,000.00	$165,000.00	$175,000.00
300. San Antonio, TX VIA Metropolitan Transit - Purchase of new buses to replace the aging bus fleet and paratransit vans and upgrade of the bus maintenance facility	$2,240,000.00	$2,310,000.00	$2,450,000.00
301. New York City, NY New Urban Center – Broadway Junction Intermodal Facility	$307,200.00	$316,800.00	$336,000.00
302. Jacksonville, FL Paratransit Program	$1,600,000.00	$1,650,000.00	$1,750,000.00
303. Las Vegas, NV Construct Las Vegas WestCare Intermodal Facility	$160,000.00	$165,000.00	$175,000.00
304. Chicago, IL Construct intermodal facility at 35th Street at Metra Red Line	$1,536,000.00	$1,584,000.00	$1,680,000.00
305. San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline-Paradise Hills neighborhood	$64,000.00	$66,000.00	$70,000.00
306. Culver City, CA Expand natural gas fuel facility, purchase CNG buses	$1,204,049.28	$1,241,675.82	$1,316,928.90
307. Mukilteo, WA Mukilteo Multimodal Terminal	$1,856,000.00	$1,914,000.00	$2,030,000.00
308. S. Amboy, NJ Improvements to the rail, bus passenger, parking facilities at S. Amboy station	$2,560,000.00	$2,640,000.00	$2,800,000.00
309. Detroit, MI Two new garage and fuel facilities for Compressed Natural Gas buses	$160,000.00	$165,000.00	$175,000.00
310. Chicago, IL Feasibility study for intermodal station on the Metra Rock Island near Kennedy-King College	$160,000.00	$165,000.00	$175,000.00
311. Detroit, MI Timed Transfer Center, providing child care centers at transit transfer facilities	$3,008,000.00	$3,102,000.00	$3,290,000.00
312. Pottsville, PA Union Street Trade and Transfer Center Intermodal Facility	$640,000.00	$660,000.00	$700,000.00
313. Detroit, MI Bus Purchase	$416,000.00	$429,000.00	$455,000.00
314. Atlanta, GA Multi Modal Terminal for Amtrak, high speed trains, and commuter buses in downtown Atlanta	$1,280,000.00	$1,320,000.00	$1,400,000.00
315. Richmond, CA Design and construct transit structure for Richmond BART station	$1,280,000.00	$1,320,000.00	$1,400,000.00
316. Baltimore, MD Studies, planning and construction of Intermodal Terminal	$1,600,000.00	$1,650,000.00	$1,750,000.00
317. City of Norwalk, CA EPA and CARB certified low emission replacement & expansion buses; develop parking facility for users of LAX airport	$224,000.00	$231,000.00	$245,000.00
318. Los Angeles, CA Expand Bus Rapid Transit on Crenshaw Blvd	$2,185,390.72	$2,253,684.18	$2,390,271.10
319. City of Montebello, CA Replace 16 eighteen-year-old diesel fueled bus with hybrid gas fueled bus	$320,000.00	$330,000.00	$350,000.00
320. Tidewater, VA Eastern Seaboard Intermodal Transportation Application Center at Hampton University	$448,000.00	$462,000.00	$490,000.00
321. Los Angeles, CA Purchase of clean fuel buses to improve bus service in South Los Angeles	$837,628.16	$863,804.04	$916,155.80
322. Revere, MA Design and construction of an MBTA commuter rail stop and parking garage	$1,280,000.00	$1,320,000.00	$1,400,000.00

Project	FY 05	FY 06	FY 07
323. Woburn, MA Expansion of commuter parking spaces at the MBTA Transit Facility	$480,000.00	$495,000.00	$525,000.00
324. Charlotte, NC Design and construct new bus garage to support expansion of regional bus system	$416,000.00	$429,000.00	$455,000.00
325. Salem, OR Keizer Transit, bus and bus facilities	$640,000.00	$660,000.00	$700,000.00
326. Tillamook County, OR Construction of a transit facility	$32,000.00	$33,000.00	$35,000.00
327. Canby, OR bus replacement and bus facilities	$48,000.00	$49,500.00	$52,500.00
328. Wilsonville, OR South Metro Area Regional Transit, bus and bus facilities	$80,000.00	$82,500.00	$87,500.00
329. Lincoln County, OR bus replacement	$80,000.00	$82,500.00	$87,500.00
330. Molalla, OR South Clackamas Transportation District, bus replacement and expansion of service	$32,000.00	$33,000.00	$35,000.00
331. Chicago, IL Construct intermodal facility at Sheridan Road and Loyola Avenue	$96,000.00	$99,000.00	$105,000.00
332. Philadelphia, PA PCDC Pedestrian facilities, safety improvements, and motor vehicle access along Market St. Elevated Rail project	$608,000.00	$627,000.00	$665,000.00
333. Davis, CA Provide additional parking and enhancement to entrance of the Davis Multi-modal station	$480,000.00	$495,000.00	$525,000.00
334. Woodland, CA Improve Yolobus Administration and Maintenance Facilities	$800,000.00	$825,000.00	$875,000.00
335. Albany/Schenectady, NY Bus Facility Improvements in NY–5 Corridor	$320,000.00	$330,000.00	$350,000.00
336. Jersey City, NJ Newport Station Intermodal Improvements	$640,000.00	$660,000.00	$700,000.00
337. Galveston County, TX Intermodal facility to include bus and car parking	$320,000.00	$330,000.00	$350,000.00
338. Maywood, IL Purchase buses	$14,400.00	$14,850.00	$15,750.00
339. Galveston, TX Galveston Intermodal facility	$1,440,000.00	$1,485,000.00	$1,575,000.00
340. Elizabeth, NJ Bus Shelters	$320,000.00	$330,000.00	$350,000.00
341. Hingham, MA Hingham Marine Intermodal Center Improvements: Enhance public transportation infrastructure/parking	$2,880,000.00	$2,970,000.00	$3,150,000.00
342. New York City, NY First Phase Implementation of Bus Rapid Transit System	$320,000.00	$330,000.00	$350,000.00
343. Galveston, TX Relocation of rail facilities	$480,000.00	$495,000.00	$525,000.00
344. Bronx, NY Establishment of a new intermodal facility near Exit 6 of the Bronx River Parkway	$80,000.00	$82,500.00	$87,500.00
345. Berkeley, CA Ed Roberts Campus: Intermodal transit center above Ashby BART station providing multiple services for disabled people	$960,000.00	$990,000.00	$1,050,000.00
346. Niagara Falls, NY Relocation and Development of Niagara Falls International Railway Station/Intermodal Transportation Center	$960,000.00	$990,000.00	$1,050,000.00
347. Mountlake Terrace, WA Community Transit's Snohomish County Park and Ride Expansion Program	$960,000.00	$990,000.00	$1,050,000.00
348. Town of North Hempstead, NY Acquisition and expansion of commuter parking field adjacent to Albertson train station	$320,000.00	$330,000.00	$350,000.00
349. Babylon, NY Design and construction of intermodal transit facility in Wyandanch	$1,040,000.00	$1,072,500.00	$1,137,500.00
350. Suffolk County, NY Purchase four handicapped accessible vans in Northport	$83,200.00	$85,800.00	$91,000.00
351. Piti, GU Construct Cabras Island Intermodal Facility	$1,600,000.00	$1,650,000.00	$1,750,000.00
352. Lake Charles, LA Bus and bus related facilities	$320,000.00	$330,000.00	$350,000.00
353. Normal, IL - Multimodal Transportation Center	$1,600,000.00	$1,650,000.00	$1,750,000.00
354. Champaign, IL - University of Illinois Research Park park and ride/daycare facility	$480,000.00	$495,000.00	$525,000.00
355. Mattoon, IL - historic railroad depot/intermodal center	$480,000.00	$495,000.00	$525,000.00

SEC. 3039. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the "program") to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.

(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 4 nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant's—

(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

(2) financing plan and cost share potential;

(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and

(4) other criteria that the Secretary determines are necessary to carry out the program.

(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 10 years.

(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

(2) such other terms and conditions as are determined by the Secretary.

SEC. 3040. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 106 Stat. 1552) is amended by striking "2003" and inserting "2009".

SEC. 3041. HIGH-INTENSITY SMALL-URBANIZED AREA FORMULA GRANT PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE AREA.—The term "eligible area" means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

(2) PERFORMANCE CATEGORY.—The term "performance category" means each of the following:

(A) Passenger miles traveled per vehicle revenue mile.

(B) Passenger miles traveled per vehicle revenue hour.

(C) Vehicle revenue miles per capita.

(D) Vehicle revenue hours per capita.

(E) Passenger miles traveled per capita.

(F) Passengers per capita.

(b) GENERAL AUTHORITY.—In order to address the needs of small urbanized areas with unusually high levels of public transportation service, the Secretary shall make capital and operating grants under this section to eligible recipients described in subsection (d) for use in eligible areas.

(c) APPORTIONMENT.—

(1) APPORTIONMENT FORMULA.—Funds made available for grants under this section in a fiscal year shall be apportioned among eligible areas in the ratio that—

(A) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

(B) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

(2) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under section 5336 of title 49, United States Code.

(d) ELIGIBLE RECIPIENT.—Grant amounts apportioned to an eligible area under this section shall be made available to a public transportation agency or other governmental entity in the eligible area for obligation in the eligible area.

(e) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL GRANTS.—A grant for a capital project under this section (including associated capital maintenance items) shall be for 80 percent of the net capital costs of the project, as determined by the Secretary. The recipient may provide additional local matching amounts for such projects.

(2) OPERATING GRANTS.—A grant under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER.—The remainder of the net project costs may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) PERIOD OF AVAILABILITY.—Funds apportioned under this section to an eligible area shall remain available for obligation in that eligible area for a period of 3 years after the last day of the fiscal year for which the funds are apportioned. Any amounts so apportioned that remain unobligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(g) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323, 5332, 5333, and 5336(e) of title 49, United States Code, apply to this section and to a grant made under this section.

(h) FUNDING.—Of the amounts made available to carry out section 5307 of title 49, United States Code, $35,000,000 for fiscal year 2004, $38,000,000 for fiscal year 2005, $41,000,000 for fiscal year 2006, $44,000,000 for fiscal year 2007, $47,000,000 for fiscal year 2008, and $50,000,000 for fiscal year 2009 shall be available to carry out this section.

(i) TECHNICAL AMENDMENTS.—Section 5336 is amended—

(1) in subsection (a)—

(A) by striking "of this title" and inserting "to carry out section 5307"; and

(B) in paragraph (2) by inserting before the period at the end the following: ", except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations";

(2) in subsection (b)(1) by inserting "and the Alaska Railroad passenger operations" after "recipient";

(3) in subsection (j) by striking "a grant made under" each place it appears and inserting "a grant made with funds apportioned under"; and

(4) in subsection (k)(1) by striking "section 5302(a)(13) of this title" and inserting "section 5302(a)".

SEC. 3042. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

(a) IN GENERAL.—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary as follows:

(1) SAFETY AND EMERGENCY PREPAREDNESS.—For carrying out safety and emergency preparedness research activities consisting of technical assistance, training, and data analysis and reporting to improve public transportation system safety and security and emergency preparedness—

(A) $6,500,000 for fiscal year 2004;
(B) $7,000,000 for fiscal year 2005;
(C) $7,400,000 for fiscal year 2006;
(D) $7,800,000 for fiscal year 2007;
(E) $8,200,000 for fiscal year 2008; and
(F) $8,700,000 for fiscal year 2009.

(2) EQUIPMENT AND INFRASTRUCTURE.—For carrying out equipment and infrastructure research activities on public transportation and infrastructure technologies and methods and voluntary industry standards development—

(A) $5,450,000 for fiscal year 2004;
(B) $5,700,000 for fiscal year 2005;
(C) $6,200,000 for fiscal year 2006;
(D) $6,550,000 for fiscal year 2007;
(E) $6,900,000 for fiscal year 2008; and
(F) $7,200,000 for fiscal year 2009.

(3) PUBLIC TRANSPORTATION OPERATIONS EFFICIENCY.—For carrying out public transportation operations efficiency research activities on high-performance public transportation services and other innovations in fleet operations and maintenance—

(A) $4,350,000 for fiscal year 2004;
(B) $4,700,000 for fiscal year 2005;
(C) $4,900,000 for fiscal year 2006;
(D) $5,200,000 for fiscal year 2007;
(E) $5,500,000 for fiscal year 2008; and
(F) $5,800,000 for fiscal year 2009.

(4) ENERGY INDEPENDENCE AND ENVIRONMENTAL PROTECTION.—

(A) IN GENERAL.—For carrying out energy independence and environmental protection research activities on improved public transportation energy use and propulsion systems and public transportation oriented development—

(i) $3,450,000 for fiscal year 2004;
(ii) $3,700,000 for fiscal year 2005;
(iii) $3,900,000 for fiscal year 2006;
(iv) $4,150,000 for fiscal year 2007;
(v) $4,300,000 for fiscal year 2008; and
(vi) $4,300,000 for fiscal year 2009.

(B) TRANSIT-ORIENTED DEVELOPMENT CENTER.—Of the funds allocated for each of fiscal years 2005 through 2009 under subparagraph (A), not less than $1,000,000 shall be made available by the Secretary for establishment and operation of a national center for transit-oriented development—

(i) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;

(ii) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and

(iii) to provide research support and technical assistance to public transportation agencies, metropolitan planning agencies, and other persons regarding transit-oriented development.

(5) MOBILITY MANAGEMENT.——

(A) IN GENERAL.—or carrying out research activities on mobility management, as described in section 5302(a)(1) of title 49, United States Code—

(i) $6,500,000 for fiscal year 2004;
(ii) $7,000,000 for fiscal year 2005;
(iii) $7,400,000 for fiscal year 2006;
(iv) $7,800,000 for fiscal year 2007;
(v) $8,200,000 for fiscal year 2008; and
(vi) $8,700,000 for fiscal year 2009.

(B) TRANSPORTATION EQUITY RESEARCH PROGRAM.—Of the funds allocated for each of fiscal years 2005 through 2009 under subparagraph (A), not less than $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent. Such activities shall include the development of strategies to advance economic and community development in low-income and minority communities and the development of training programs that promote the employment of low-income and minority community residents on Federal-aid transportation projects constructed in their communities.

(6) PUBLIC TRANSPORTATION CAPACITY BUILDING.—

(A) IN GENERAL.—For carrying out public transportation capacity building activities consisting of workforce and industry development, the International Mass Transportation Program, and technology transfer and industry adoption activities—

(i) $2,300,000 for fiscal year 2004;
(ii) $2,400,000 for fiscal year 2005;
(iii) $2,500,000 for fiscal year 2006;
(iv) $2,600,000 for fiscal year 2007;
(v) $2,700,000 for fiscal year 2008; and
(vi) $3,000,000 for fiscal year 2009.

(B) TRANSIT CAREER LADDER TRAINING PROGRAM.—Of the funds allocated for each fiscal year under subparagraph (A), not less than $1,000,000 shall be available for a nationwide career ladder job training partnership program for public transportation employees to respond to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.

(7) STRATEGIC PLANNING AND PERFORMANCE MEASURES.—For carrying out strategic planning and performance measures consisting of policy and program development, research program planning and performance, evaluation, and industry outreach—

(A) $3,450,000 for fiscal year 2004;
(B) $3,500,000 for fiscal year 2005;
(C) $3,700,000 for fiscal year 2006;
(D) $4,000,000 for fiscal year 2007;
(E) $4,200,000 for fiscal year 2008; and
(F) $4,300,000 for fiscal year 2009.

(b) REMAINDER.—After making allocations under subsection (a) of this section and section 5338(d)(2) of title 49, United States Code, the remainder of funds made available by section 5338(d)(2) of such title for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.

SEC. 3043. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the

Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,266,000,000 for fiscal year 2004;
(2) $7,750,000,000 for fiscal year 2005;
(3) $8,266,000,000 for fiscal year 2006;
(4) $8,816,000,000 for fiscal year 2007;
(5) $9,403,000,000 for fiscal year 2008; and
(6) $10,029,000,000 for fiscal year 2009.

SEC. 3044. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004.

(a) In General.—Notwithstanding any other provision of law, the Secretary shall ensure that the total apportionments and allocations made to a designated grant recipient under section 5338 of title 49, United States Code, for fiscal year 2004 shall be reduced by the amount apportioned to such designated recipient pursuant to section 9 of the Surface Transportation Extension Act of 2004.

(b) Fixed Guideway Modernization Adjustment.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 2004 to reflect the method for apportioning funds in section 5337(a) of title 49, United States Code.

TITLE IV—MOTOR CARRIER TRANSPORTATION AND SAFETY

Subtitle A—Commercial Motor Vehicle Safety

SEC. 4101. AUTHORIZATION OF APPROPRIATIONS.

(a) Administrative Expenses.—Section 31104 of title 49, United States Code, is amended by adding the following at the end:

"(i) Administrative Expenses.—

"(1) Authorization of appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $196,000,000 for fiscal year 2004;
"(B) $208,000,000 for fiscal year 2005;
"(C) $215,000,000 for fiscal year 2006;
"(D) $221,000,000 for fiscal year 2007;
"(E) $226,000,000 for fiscal year 2008; and
"(F) $232,000,000 for fiscal year 2009.

"(2) Use of funds.—The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board), the administration of the performance and registration information system management, and outreach and education; other operating expenses; and such other expenses as may from time to time become necessary to implement statutory mandates of the Administration not funded from other sources.

"(3) Period of availability.—The amounts made available under this section shall remain available until expended.

"(4) Initial date of availability.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subtitle IV, part B, and subtitle VI, part B, of this title, or the provisions of title IV of the Transportation Equity Act: A Legacy for Users, shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(5) Contract authority.—Approval by the Secretary of a grant with funds made available under paragraph (4) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(b) Grant Programs.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

(1) For commercial driver's license program improvement grants under section 31313 of title 49, United States Code—

(A) $22,000,000 for fiscal year 2005;
(B) $23,000,000 for each of fiscal years 2006 and 2007;
(C) $24,000,000 for fiscal year 2008; and
(D) $25,000,000 for fiscal year 2009.

(2) For border enforcement grants under section 31107 of such title—

(A) $32,000,000 for fiscal year 2005;
(B) $32,000,000 for fiscal year 2006;
(C) $32,000,000 for fiscal year 2007;
(D) $32,000,000 for fiscal year 2008; and
(E) $32,000,000 for fiscal year 2009.

(3) For the performance and registration information system management grant program under section 31109 of such title—

(A) $4,000,000 for fiscal year 2005;
(B) $4,000,000 for fiscal year 2006;
(C) $4,000,000 for fiscal year 2007;
(D) $4,000,000 for fiscal year 2008; and
(E) $4,000,000 for fiscal year 2009.

(4) Commercial vehicle information systems and networks deployment.—For carrying out the commercial vehicle information systems and networks deployment program under section 4009 of this Act, $22,000,000 for each of fiscal years 2005 through 2009.

(c) Period of Availability.—The amounts made available under subsection (b) of this section shall remain available until expended.

(d) Initial Date of Availability.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (b) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(e) Contract Authority.—Approval by the Secretary of a grant with funds made available under subsection (b) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

SEC. 4102. MOTOR CARRIER SAFETY GRANTS.

(a) State Plan Contents.—Section 31102(b)(1) of title 49, United States Code, is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) implements performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;";

(2) by striking subparagraph (Q) and inserting the following:

"(Q) provides that the State has established a program to ensure accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary and that the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;";

(3) by aligning subparagraph (R) with subparagraph (S);

(4) by striking "and" at the end of subparagraph (S);

(5) by striking the period at the end of subparagraph (T) and inserting a semicolon; and

(6) by adding at the end the following:

"(U) provides that the State will include in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of noncommercial motor vehicles, respectively;

"(V) provides that the State will enforce the registration requirements of section 13902 by placing out of service any vehicle discovered to be operated by a motor carrier without a registration issued under such section or to be operating beyond the scope of such registration; and

"(W) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors.".

(b) Use of Grants to Enforce Other Laws.—Section 31102 of such title is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Use of Grants to Enforce Other Laws.—A State may use amounts received under a grant under subsection (a)—

"(1) for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

"(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles if the number of roadside safety inspections conducted in the State is maintained at a level at least equal to the average number conducted in the State in fiscal years 2001, 2002, and 2003; except that the State may not use more than 5 percent of the aggregate amount the State receives under the grant under subsection (a) for enforcement activities relating to noncommercial motor vehicles described in this paragraph."; and

(2) by adding at the end the following:

"(e) Annual Report.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate an annual report that describes the effect of activities carried out with funds from grants made under this section on commercial motor vehicle safety.".

(c) Authorization of Appropriations.—Section 31104(a) of such title is amended to read as follows:

"(a) In General.—Subject to subsection (f), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102—

"(1) $168,000,000 for fiscal year 2004;
"(2) $183,000,000 for fiscal year 2005;
"(3) $185,000,000 for fiscal year 2006;
"(4) $190,000,000 for fiscal year 2007;
"(5) $195,000,000 for fiscal year 2008; and
"(6) $200,000,000 for fiscal year 2009.".

(d) New Entrant Audits.—Section 31104(f) of such title is amended—

(1) in paragraph (1) by striking "deduction under subsection (e)" and inserting "deductions under subsection (e) and paragraphs (2) and (3)";

(2) the first sentence of paragraph (2)(A)—

(A) by striking "or"; and

(B) by inserting after "technologies" the following: ", or improve the quality and accuracy of data provided by the State";

(3) in paragraph (2)—

(A) by striking "and border activities.—" and all that follows through "5 percent" and inserting "activities.—The Secretary may designate up to 10 percent"; and

(B) by striking subparagraph (B); and

(4) by adding at the end the following:

"(3) New entrant audits.—The Secretary may deduct up to $15,000,000 of the amounts available under subsection (a) for a fiscal year for audits of new entrant motor carriers under section 31144(g).".

(e) Technical Amendments.—Sections 31102(b)(3) and 31103(a) of such title are amended by striking "(1)(D)" and inserting "(1)(E)".

SEC. 4103. BORDER ENFORCEMENT GRANTS.

(a) In General.—Chapter 311 of title 49, United States Code, is amended—

(1) by striking:

"SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS"

and inserting:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"; and

(2) by striking section 31107 and inserting the following:

"§31107. Border enforcement grants

"(a) General Authority.—The Secretary of Transportation may make a grant in a fiscal year to a State that shares a land border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) Maintenance of Expenditures.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of the Transportation Equity Act: A Legacy for Users.

"(c) Government's Share of Costs.—The Secretary shall reimburse a State under a grant made under this section an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(d) Availability and Reallocation of Amounts.—Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are available to the Secretary for reallocation under this section.".

(b) Conforming Amendments.—The analysis for such chapter is amended—

(1) by striking

"SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS"

and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"; and

(2) by striking the item relating to section 31107 and inserting the following:

"31107. Border enforcement grants.".

SEC. 4104. COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.

(a) State Grants.—Chapter 313 of title 49, United States Code, is amended by inserting after section 31312 the following:

"§31313. Grants for commercial driver's license program improvements

"(a) Grants for Commercial Driver's License Program Improvements.—

"(1) General authority.—The Secretary of Transportation may make a grant to a State in a fiscal year—

"(A) to comply with the requirements of section 31311; and

"(B) in the case of a State that is in substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program.

"(2) Purposes for which grants may be used.—A State may use grants under paragraphs (1)(A) and (1)(B) only for expenses directly related to its compliance with section 31311; except that a grant under paragraph (1)(B) may be used for improving implementation of the State's commercial driver's license program, including expenses for computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings.

"(3) Application.—In order to receive a grant under this section, a State must submit an application for such grant that is in such form, and contains such information, as the Secretary may require. The application shall include the State's assessment of its commercial drivers license program.

"(4) Maintenance of expenditures.—The Secretary may make a grant to a State under this subsection only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for the State's commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of the Transportation Equity Act: A Legacy for Users.

"(5) Government share.—The Secretary shall reimburse a State under a grant made under this subsection an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in complying with section 31311 and improving its implementation of its commercial driver's license program. In determining such costs, the Secretary shall include in-kind contributions by the State. Amounts required to be expended by the State under paragraph (4) may not be included as part of the non-Federal share of such costs.

"(b) High-Priority Activities.—

"(1) Grants for national concerns.—The Secretary may make a grant to a State agency, local government, or other person for 100 percent of the costs of research, development, demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances.

"(2) Funding.—The Secretary may deduct up to 10 percent of the amounts made available to carry out this section for a fiscal year to make grants under this subsection.".

(b) Conforming Amendment.—The analysis for such chapter is amended by inserting after the item relating to section 31312 the following:

"31313. Grants for commercial driver's license program improvements.".

(c) Amounts Withheld.—Subsections (a) and (b) of section 31314 of such title are each amended by inserting "up to" after "withhold".

SEC. 4105. HOBBS ACT.

(a) Jurisdiction of Court of Appeals Over Commercial Motor Vehicle Safety Regulation and Operators and Motor Carrier Safety.—Section 2342(3)(A) of title 28, United States Code, is amended by inserting before "of title 49" the following: ", subchapter III of chapter 311, chapter 313, or chapter 315".

(b) Judicial Review.—Section 351(a) of title 49, United States Code, is amended by striking "Federal Highway Administration" and inserting "Federal Motor Carrier Safety Administration".

(c) Authority to Carry Out Certain Transferred Duties and Powers.—Section 352 of title 49, United States Code, is amended by striking "Federal Highway Administration" and inserting "Federal Motor Carrier Safety Administration".

SEC. 4106. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b) of title 49, United States Code, is amended—

(1) by striking "(b)(1)(A) If the Secretary" and inserting the following:

"(b) Violations Relating to Commercial Motor Vehicle Safety Regulation and Operators.—

"(1) Notice.—

"(A) In general.—If the Secretary"; and

(2) by adding at the end of paragraph (2) the following:

"(E) Copying of records and access to equipment, lands, and buildings.—A person subject to chapter 51 or part B of subtitle VI who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings, and other property in accordance with section 504(c), 5121(c), or 14122(b) shall be liable to the United States for a civil penalty not to exceed $1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings, and other property shall constitute a separate offense; except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph shall be construed as amending or superseding any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.".

SEC. 4107. MEDICAL REVIEW BOARD.

Section 113 of title 49, United States Code, is amended by adding at the end the following:

"(j) Medical Review Board.—

"(1) Establishment and function.—The Administrator shall establish a Medical Review Board as an advisory committee to provide the Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

"(2) Composition.—The Medical Review Board shall consist of 5 members appointed for a term not to exceed 3 years by the Secretary from medical institutions and private medical practice. The membership shall reflect expertise in a variety of medical specialties relevant to the functions of the Administration.".

SEC. 4108. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Recordkeeping and Reporting Violations.—Section 521(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i) by striking "$500" and inserting "$1,000"; and

(2) by striking "$5,000" each place it appears and inserting "$10,000".

(b) Violations of Out-Of-Service Orders.—Section 31310(i)(2) of title 49, United States Code, is amended—

(1) by striking "Not later than December 18, 1992, the" and inserting "The";

(2) in subparagraph (A)—

(A) by striking "90 days" and inserting "180 days"; and

(B) by striking "$1,000" and inserting "$2,500";

(3) in subparagraph (B)—

(A) by striking "one year" and inserting "2 years"; and

(B) by striking "$1,000; and" and inserting "$5,000;";

(4) in subparagraph (C) by striking "$10,000." and inserting "$25,000; and"; and

(5) by adding at the end the following:

"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, or both.".

SEC. 4109. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles and drivers; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial motor vehicle operations, commercial driver, and carrier-specific information systems and networks.

(c) CORE DEPLOYMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

(2) AMOUNT OF GRANTS.—The maximum aggregate amount the Secretary may grant to a State for the core deployment of commercial vehicle information systems and networks under this subsection and sections 5001(a)(5) and 5001(a)(6) of the Transportation Equity Act for the 21st Century (112 Stat. 420) may not exceed $2,500,000.

(3) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. An eligible State that has either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before grant funds are expended under this subsection may use the grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made grants under subsection (c), the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks in such State is eligible for an expanded deployment grant under this subsection.

(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.

(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

(e) ELIGIBILITY.—To be eligible for a grant under this section, a State—

(1) shall have a commercial vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of core capabilities;

(2) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

(A) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

(B) promote interoperability and efficiency to the extent practicable; and

(3) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial motor vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial motor vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) COMMERCIAL MOTOR VEHICLE OPERATIONS.—The term "commercial motor vehicle operations"—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial motor vehicle movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) CORE DEPLOYMENT.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) Safety information exchange to—

(i) electronically collect and transmit commercial motor vehicle and driver inspection data at a majority of inspection sites in the State;

(ii) connect to the safety and fitness electronic records system for access to interstate carrier and commercial motor vehicle data, summaries of past safety performance, and commercial motor vehicle credentials information; and

(iii) exchange carrier data and commercial motor vehicle safety and credentials information within the State and connect to such system for access to interstate carrier and commercial motor vehicle data.

(B) Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the international registration plan and international fuel tax agreement credentials and extend this processing to other credentials, including intrastate registration, vehicle titling, oversize vehicle permits, overweight vehicle permits, carrier registration, and hazardous materials permits;

(ii) connect to such plan and agreement clearinghouses; and

(iii) have at least 10 percent of the credentialing transaction volume in the State handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.

(4) EXPANDED DEPLOYMENT.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of a core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial motor vehicle operations, and enhance transportation security.

(h) REPEAL.—Section 5209 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 460–461) is repealed.

SEC. 4110. SAFETY FITNESS.

(a) IN GENERAL.—Section 31144(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".

(b) PROHIBITED TRANSPORTATION.—The first subsection (c) of such section 31144 is amended by adding at the end the following:

"(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".

(c) DETERMINATION OF UNFITNESS BY A STATE.—Such section 31144 is further amended—

(1) by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively;

(2) by inserting after the first subsection (c) the following:

"(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives a grant under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from

operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.''; and

(3) in subsection (g) (as redesignated by paragraph (1) of this subsection) by adding at the end the following:

''(5) GRANTS FOR AUDITS.—From amounts deducted under section 31104(f)(3), the Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States or local governments.

''(6) DOT AUDITS.—If the Secretary determines that a State or local government is unable to use government employees to conduct new entrant motor carrier audits, the Secretary may utilize the funds deducted under section 31104(f)(3) to conduct such audits in areas under the jurisdiction of such State or local government.''.

SEC. 4111. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER OR BROKER MANAGEMENT.

(a) DUTIES OF EMPLOYERS AND EMPLOYEES.—Section 31135 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Each''; and

(2) by adding at the end the following:

''(b) PATTERN OF NONCOMPLIANCE.—If an officer of a motor carrier or broker engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this chapter, the Secretary may suspend, amend, or revoke any part of the registration of the motor carrier or broker under section 13905.

''(c) LIST OF PROPOSED OFFICERS.—Each person seeking registration as a motor carrier under section 13902 or as a broker under section 13904 shall submit a list of the proposed officers of the motor carrier or broker. If the Secretary determines that any of the proposed officers has previously engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this chapter, the Secretary may deny the person's application for registration as a motor carrier under section 13902(a)(3) or as a broker under section 13904(a).

''(d) REGULATIONS.—The Secretary shall by regulation establish standards to implement subsections (b) and (c) and a procedure to allow a person who is denied registration under subsection (c) or whose registration is suspended, amended, or revoked under subsection (b) to remedy the pattern or practice that results in the denial, suspension, amendment, or revocation.

''(e) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) MOTOR CARRIER AND BROKER.—The terms 'motor carrier' and 'broker' have the meanings such terms have under section 13102.

''(2) OFFICER.—The term 'officer' means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions.''.

(b) MOTOR CARRIER REGISTRATION.—Section 13902(a)(1)(B) of such title is amended to read as follows:

''(B)(i) any safety regulations imposed by the Secretary;

''(ii) the duties of employers and employees established by the Secretary under section 31135; and

''(iii) the safety fitness requirements established by the Secretary under section 31144; and''.

SEC. 4112. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 31108 of title 49, United States Code, is amended to read as follows:

''§31108. Motor carrier research and technology program

''(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish and carry out a motor carrier research and technology program.

''(2) MULTI-YEAR PLAN.—The program must include a multi-year research plan that focuses on nonredundant innovative research.

''(3) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out under the program research, development, technology, and technology transfer activities with respect to—

''(A) the causes of accidents, injuries, and fatalities involving commercial motor vehicles;

''(B) means of reducing the number and severity of accidents, injuries, and fatalities involving commercial motor vehicles;

''(C) improving commercial motor vehicle and motor carrier safety, and industry efficiency, through technological improvement;

''(D) improving technology used by enforcement officers when conducting roadside inspections and compliance reviews to increase efficiency and information transfers; and

''(E) increasing the safety and security of hazardous materials transportation.

''(4) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

''(5) TRAINING.—The Secretary may use the funds made available to carry out this section for training or education of commercial motor vehicle safety personnel, including training in accident reconstruction and detection of controlled substances or other contraband and stolen cargo or vehicles.

''(6) PROCEDURES.—The Secretary may carry out this section—

''(A) independently;

''(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

''(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

''(7) DEVELOPMENT AND PROMOTION OF USE OF PRODUCTS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

''(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

''(B) Federal laboratories.

''(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

''(3) COST SHARING.—

''(A) FEDERAL SHARE.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent; except that, if there is substantial public interest or benefit associated with any such activity, the Secretary may approve a greater Federal share.

''(B) TREATMENT OF DIRECTLY INCURRED NON-FEDERAL COSTS.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

''(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 of such title is amended by striking the item relating to section 31108 and inserting the following:

''31108. Motor carrier research and technology program.''.

SEC. 4113. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER IV—MISCELLANEOUS

''§31161. International cooperation

''The Secretary of Transportation is authorized to use funds made available by section 31104(i) to participate and cooperate in international activities to enhance motor carrier, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.''.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

''SUBCHAPTER IV—MISCELLANEOUS

''31161. International cooperation.''.

SEC. 4114. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) DESIGN AND CONDITIONS FOR PARTICIPATION.—Section 31106(b) of title 49, United States Code, is amended by striking paragraphs (2), (3), and (4) and inserting the following:

''(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

''(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

''(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

''(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

''(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4); and

''(B) possess or seek the authority to deny, suspend, or revoke commercial motor vehicle registrations based on the issuance of an operations out-of-service order by the Secretary.''.

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) IN GENERAL.—Subchapter I of chapter 311 of title 49, United States Code, is further amended by adding at the end the following:

"§31109. Performance and registration information system management

"(a) IN GENERAL.—The Secretary of Transportation may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b).

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

"31109. Performance and registration information system management.".

SEC. 4115. DATA QUALITY IMPROVEMENT.

Section 31106(a)(3) of title 49, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(3) by adding at the end the following:

"(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate across all information systems and initiatives; and

"(G) establish and implement a national motor carrier safety data correction system.".

SEC. 4116. DRIVEAWAY SADDLEMOUNT VEHICLES.

(a) DEFINITION.—Section 31111(a) of tile 49, United States Code, is amended by adding at the end of the following:

"(4) DRIVE-AWAY SADDLEMOUNT WITH FULLMOUNT VEHICLE TRANSPORTER COMBINATION.—The term 'drive-away saddlemount with fullmount vehicle transporter combination' means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it.".

(b) GENERAL LIMITATIONS.—Section 31111(b)(1) of such title is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following:

"(D) imposes a vehicle length limitation of not less than or more than 97 feet on a driveaway saddlemount with fullmount vehicle transporter combinations;".

SEC. 4117. COMPLETION OF UNIFORM CARRIER REGISTRATION.

(a) IN GENERAL.—Section 14504 of title 49, United States Code, and the item relating to such section in analysis for chapter 145 of such title, are repealed.

(b) CONFORMING AMENDMENTS.—Section 13908 of such title is amended—

(1) in subsection (a) by striking "the single State registration system under section 14504,";

(2) in subsection (b)—

(A) by striking paragraphs (2) and (3); and

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively;

(3) by striking subsection (d); and

(4) by striking "(e) DEADLINE FOR CONCLUSION; MODIFICATION.—" and all that follows through "1996," and inserting the following:

"(d) DEADLINE FOR COMPLETION.—Not later than 1 year after the date of enactment of the Transportation Equity Act: A Legacy for Users,".

SEC. 4118. REGISTRATION OF MOTOR CARRIERS AND FREIGHT FORWARDERS.

(a) DEFINITIONS RELATING TO MOTOR CARRIERS.—Paragraphs (6), (7), (12), and (13) of section 13102 of title 49, United States Code, are each amended by striking "motor vehicle" and inserting "commercial motor vehicle (as defined in section 31132)".

(b) FREIGHT FORWARDERS.—Section 13903(a) of title 49, United States Code, is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) HOUSEHOLD GOODS.—The Secretary";

(2) by inserting "of household goods" after "freight forwarder"; and

(3) by adding at the end the following:

"(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder (other than a freight forwarder of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.".

SEC. 4119. DEPOSIT OF CERTAIN CIVIL PENALTIES INTO HIGHWAY TRUST FUND.

Sections 31138(d)(5) and 31139(f)(5) of title 49, United States Code, are each amended by striking "Treasury as miscellaneous receipts" and inserting "Highway Trust Fund (other than the Mass Transit Account)".

SEC. 4120. OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Secretary shall conduct, through any combination of grants, contracts, or cooperative agreements, an outreach and education program to be administered by the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration.

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) A program to promote a more comprehensive and national effort to educate commercial motor vehicle drivers and passenger vehicle drivers about how commercial motor vehicle drivers and passenger vehicle drivers can more safely share the road with each other.

(2) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

(3) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in paragraphs (1) and (2) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.

(c) FEDERAL SHARE.—The Federal share of a program or activity for which a grant is made under this section shall be 100 percent of the cost of such program or activity.

(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section.

(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration, and $3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 to carry out this section.

SEC. 4121. INSULIN TREATED DIABETES MELLITUS.

(a) NO PERIOD OF COMMERCIAL DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—The Secretary may not require individuals with insulin-treated diabetes mellitus to have experience operating commercial motor vehicles while using insulin in order to qualify to operate a commercial motor vehicle in interstate commerce.

(b) MINIMUM PERIOD OF INSULIN USE.—Subject to subsection (a), the Secretary shall require individuals with insulin-treated diabetes mellitus to have a minimum period of insulin use to demonstrate stable control of diabetes before operating a commercial motor vehicle in interstate commerce. For individuals who have been newly diagnosed with type 1 diabetes, the minimum period of insulin use may not exceed 2 months, unless directed by the treating physician. For individuals who have type 2 diabetes and are converting to insulin use, the minimum period of insulin use may not exceed 1 month, unless directed by the treating physician.

(c) LIMITATIONS.—Insulin-treated individuals may not be held by the Secretary to a higher standard of physical qualification in order to operate a commercial motor vehicle in interstate commerce than other individuals applying to operate, or operating, a commercial motor vehicle in interstate commerce; except to the extent that limited operating, monitoring, and medical requirements are deemed medically necessary under regulations issued by the Secretary.

SEC. 4122. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) ESTABLISHMENT.—The Secretary shall establish a grant program for training operators of commercial motor vehicles (as defined in section 31301 of title 49, United States Code). The purpose of the program shall be to train operators and future operators in the safe use of such vehicle.

(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 to carry out this section.

SEC. 4123. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary shall establish a commercial motor vehicle safety advisory committee to provide advice and recommendations to the Secretary on commercial motor vehicle safety regulations and other matters relating to activities and functions of the Federal Motor Carrier Safety Administration.

(b) COMPOSITION.—The members of the advisory committee shall be appointed by the Secretary and shall include representatives of the motor carrier industry, drivers, safety advocates, manufacturers, safety enforcement officials, law enforcement agencies of border States, and other individuals affected by rulemakings under consideration by the Department of Transportation. Representatives of a single interest group may not constitute a majority of the members of the advisory committee.

(c) TERMINATION DATE.—The advisory committee shall remain in effect until September 30, 2009.

SEC. 4124. SAFETY DATA IMPROVEMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall make grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary.

(b) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has—

(1) conducted a comprehensive audit of its commercial motor vehicle safety data system within the preceding 2 years;

(2) developed a plan that identifies and prioritizes its commercial motor vehicle safety data needs and goals; and

(3) identified performance-based measures to determine progress toward those goals.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the

Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for each of fiscal years 2005 through 2009.

(d) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 80 percent and such funds shall remain available until expended.

(e) BIENNIAL REPORT.—Not later 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the activities and results of the program carried out under this section, together with any recommendations the Secretary determines appropriate.

SEC. 4125. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.

(a) GENERAL AUTHORITY.—The Secretary may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize its commercial driver's license information system in accordance with subsection (c) if the State is in substantial compliance with the requirements of section 31311 of title 49, United States Code, and this section, as determined by the Secretary. The Secretary shall establish criteria for the distribution of grants and notify each State annually of such criteria.

(b) MODERNIZATION PLAN.—No later than 120 days after the date of enactment of this Act, the Secretary shall publish a comprehensive national plan to modernize the commercial driver's license information system. The plan shall be developed in consultation with representatives of the motor carrier industry, State safety enforcement agencies, and State licensing agencies designated by the Secretary.

(c) USE OF GRANT.—A State may use a grant under this section only to implement improvements that are consistent with the modernization plan developed by the Secretary.

(d) PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary may conduct with grants under this section a 3-year pilot program in no more than 3 States to evaluate a system for sharing driver's license information on all commercial and noncommercial driver's licenses issued in each participating State.

(2) FUNDING.—The Secretary may use no more than 50 percent of the funds available to carry out this section for the pilot program in any fiscal year.

(3) REPORT.—Not later than 1 year after the last day of the pilot program, the Secretary shall transmit to Congress a report on the results of the pilot program.

(e) GOVERNMENT SHARE.—A grant under this section to a State or organization may not be for more than 80 percent of the costs incurred by the State or organization in a fiscal year in implementing the modernization program developed by the Secretary. In determining these costs, the Secretary shall include in-kind contributions of the State.

(f) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

(1) $6,000,000 for fiscal year 2005;
(2) $6,000,000 for fiscal year 2006;
(3) $6,000,000 for fiscal year 2007;
(4) $6,000,000 for fiscal year 2008; and
(5) $6,000,000 for fiscal year 2009.

(g) CONTRACT AUTHORITY AND AVAILABILITY.—

(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (f) shall remain available until expended.

(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (f) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (f) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

SEC. 4126. MAXIMUM HOURS OF SERVICE FOR OPERATORS OF GROUND WATER WELL DRILLING RIGS.

Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat 613) is amended by adding at the end the following: "Except as required in section 395.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this sentence, no additional off-duty time shall be required in order to operate such vehicle.".

SEC. 4127. SAFETY PERFORMANCE HISTORY SCREENING.

(a) IN GENERAL.—The Secretary shall provide persons conducting preemployment screening services for the motor carrier industry electronic access to the following reports contained in the Motor Carrier Management Information System:

(1) Commercial motor vehicle accident reports.

(2) Inspection reports that contain no driver-related safety violations.

(3) Serious driver-related safety violation inspection reports.

(b) CONDITIONS ON PROVIDING ACCESS.—Before providing a person access to the Motor Carrier Management Information System under subsection (a), the Secretary shall—

(1) ensure that any information that is released to such person will be in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all other applicable Federal law;

(2) ensure that such person will not conduct a screening without the operator-applicant's written consent;

(3) ensure that any information that is released to such person will not be released to any person or entity, other than the motor carrier requesting the screening services or the operator-applicant, unless expressly authorized or required by law; and

(4) provide a procedure for the operator-applicant to correct inaccurate information in the System in a timely manner.

(c) DESIGN.—The process for providing access to the Motor Carrier Management Information System under subsection (a) shall be designed to assist the motor carrier industry in assessing an individual operator's crash and serious safety violation inspection history as a preemployment condition. Use of the process shall not be mandatory and may only be used during the preemployment assessment of an operator-applicant.

(d) SERIOUS OPERATOR-RELATED SAFETY VIOLATION DEFINED.—In this section, the term "serious operator-related violation" means a violation by an operator of a commercial motor vehicle (as defined in section 31102 of title 49, United States Code) that the Secretary determines will result in the operator being prohibited from continuing to operate a commercial motor vehicle until the violation is corrected.

SEC. 4128. INTERMODAL CHASSIS ROADABILITY RULE-MAKING.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers are safe.

(b) MOTOR CARRIER SAFETY REGULATIONS.—The regulations under this section shall be issued as part of the Federal motor carrier safety regulations of the Department of Transportation.

(c) CONTENTS.—The regulations issued under this section shall include, at a minimum—

(1) a requirement to identify providers of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(2) a requirement to match such intermodal equipment readily to the intermodal equipment provider through a unique identifying number;

(3) a requirement to ensure that each intermodal equipment provider maintains a system of maintenance and repair records for such equipment;

(4) a requirement to evaluate the compliance of intermodal equipment providers with the applicable Federal motor carrier safety regulations;

(5) a provision that—

(A) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal motor carrier safety regulations; and

(B) prohibits intermodal equipment providers from placing intermodal equipment on the public highways if such providers are found to pose an imminent hazard;

(6) a process by which motor carriers and agents of motor carriers may petition the Federal Motor Carrier Safety Administration to undertake an investigation of a noncompliant intermodal equipment provider; and

(7) an inspection and audit program of intermodal equipment providers.

(d) DEADLINE FOR RULEMAKING PROCEEDING.—The regulations under this section shall be issued pursuant to a rulemaking proceeding initiated not later than 90 days after the date of enactment of this Act.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) INTERMODAL EQUIPMENT.—The term "intermodal equipment" means equipment that is commonly used in the intermodal transportation of freight over public highways in interstate commerce (as defined in section 31132 of title 49, United States Code), including trailers, chassis, and any associated devices.

(2) INTERMODAL EQUIPMENT PROVIDER.—The term "intermodal equipment provider" means any person with any legal right, title, or interest in intermodal equipment that interchanges such equipment to a motor carrier.

(3) INTERCHANGE.—The term "interchange" means the act of providing intermodal equipment to a motor carrier for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider. Such term does not include the leasing of equipment to a motor carrier for use in the motor carrier's over-the-road freight hauling operations.

SEC. 4129. SUBSTANCE ABUSE PROFESSIONALS.

The Secretary shall conduct a rulemaking to permit State licensed or certified mental health counselors or addiction specialists certified by the American Academy of Health Care Providers in the Addictive Disorders to act as substance abuse professionals under subpart O of part 40 of title 49, Code of Federal Regulations.

SEC. 4130. INTERSTATE VAN OPERATIONS.

The Federal motor carrier safety regulations (other than regulations relating to commercial drivers license and drug and alcohol testing requirements) shall apply to all interstate operations of commercial motor vehicles used to transport between 9 and 15 passengers (including the driver), regardless of the distance traveled.

SEC. 4131. HOURS OF SERVICE FOR OPERATORS OF UTILITY SERVICE VEHICLES.

Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 sTAT. 613) is amended—

(1) in subsection (a) by striking paragraph (4) and inserting the following:

"(4) OPERATORS OF UTILITY SERVICE VEHICLES.—

"(A) INAPPLICABILITY OF FEDERAL REGULATIONS .—Such regulations shall not apply to a driver of a utility service vehicle.

"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.".

(2) in subsection (b) by striking "Nothing" and inserting "Except as provided in subsection (a)(4), nothing"; and

(3) in the first sentence of subsection (c) by striking "paragraph (2)" and inserting "an exemption under paragraph (2) or (4)".

SEC. 4132. TECHNICAL CORRECTIONS.

(a) INTERMODAL TRANSPORTATION ADVISORY BOARD.—Section 5502(b) of title 49, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the Federal Motor Carrier Safety Administration.".

(b) REFERENCE TO AGENCY.—Section 31502(e) of such title is amended—

(1) in paragraph (2) by striking "Regional Director of the Federal Highway Administration" and inserting "Field Administrator of the Federal Motor Carrier Safety Administration"; and

(2) in paragraph (3) by striking "Regional Director" and inserting "Field Administrator".

Subtitle B—Household Goods Transportation

SEC. 4201. FEDERAL-STATE RELATIONS RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.

(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) of title 49, United States Code, is amended by inserting "intrastate" before "transportation".

(b) ENFORCEMENT OF CONSUMER PROTECTION WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—Chapter 145 of such title is amended by adding at the end the following:

"§14506. Enforcement of Federal regulations by State attorneys general

"(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of a resident of the State in an appropriate district court of the United States to enforce a regulation or order of the Secretary or Board—

"(1) to protect an individual shipper of household goods if such regulation or order governs the delivery of the shipper's household goods; or

"(2) to impose a civil penalty under section 14915 whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by—

"(A) a carrier or broker providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 who is committing repeat violations of section 14915; or

"(B) a foreign motor carrier providing transportation of household goods who is registered under section 13902 and who is committing repeat violations of section 14915.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as preventing an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence;

"(2) as prohibiting a State official from proceeding in State court to enforce a criminal statute of the State;

"(3) as authorizing a State or political subdivision of a State to bring an enforcement action under a consumer protection law, regulation, or other provision of the State relating to interstate transportation of household goods (as defined in section 13102(10)(A)) with respect to an activity that is inconsistent with Federal laws and regulations relating to interstate transportation of household goods; or

"(4) as authorizing a State, as parens patriae, to bring a class civil action on behalf of its residents to enforce a regulation or order of the Secretary or Board.

"(c) ACTIONS BY THE SECRETARY OR BOARD.—Whenever a civil action has been instituted by or on behalf of the Secretary or Board for violation of section 14915, no State may, during the pendency of such action, institute a civil action under subsection (a) against any defendant named in the complaint relating to such violation.

"(d) VENUE; SERVICE OF PROCESS.—Any civil action to be brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.".

(c) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"14506. Enforcement of Federal regulations by State attorneys general.".

SEC. 4202. ARBITRATION REQUIREMENTS.

(a) OFFERING SHIPPERS ARBITRATION.—Section 14708(a) of title 49, United States Code, is amended by inserting before the period at the end the following: "and to determine whether carrier charges, in addition to those collected at delivery, must be paid by the shipper for transportation and services related to the transportation of household goods".

(b) THRESHOLD FOR BINDING ARBITRATION.—Section 14708(b)(6) of such title is amended by striking "$5,000" each place it appears and inserting "$10,000".

(c) DEADLINE FOR DECISION.—Section 14708(b)(8) of such title is amended—

(1) by striking "and"; and

(2) by inserting after "for damages" the following: ", and an order requiring the payment of additional carrier charges".

(d) ATTORNEY'S FEES TO SHIPPERS.—Section 14708(d)(3) of such title is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;".

SEC. 4203. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS AND UNAUTHORIZED TRANSPORTATION.

Section 14901(d) of title 49, United States Code, is amended—

(1) by striking "If a carrier" and inserting the following:

"(1) IN GENERAL.—If a carrier"; and

(2) by adding at the end the following:

"(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

"(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".

SEC. 4204. PENALTIES FOR HOLDING HOUSEHOLD GOODS HOSTAGE.

(a) IN GENERAL.—Chapter 149 of title 49, United States Code, is amended by adding at the end the following:

"§14915. Holding household goods hostage

"(a) HOLDING HOUSEHOLD GOODS HOSTAGE DEFINED.—For purposes of this section, the term 'holding household goods hostage' means the knowing and willful refusal to relinquish possession of a shipment of household goods described in section 13102(10)(A) upon payment of not more than 100 percent of a binding estimate (or, in the case of a nonbinding estimate, not more than 110 percent of the estimated charges for such shipment).

"(b) CIVIL PENALTY.—Whoever is found holding a household goods shipment hostage is liable to the United States for a civil penalty of not less than $10,000 for each violation. If such person is a carrier or broker, the Secretary may suspend for a period of not less than 6 months the registration of such carrier or broker under chapter 139.

"(c) CRIMINAL PENALTY.—A motor carrier that has been convicted of knowingly and willfully holding household goods hostage by falsifying documents or demanding the payment of charges for services that were not performed or were not necessary in the safe and adequate movement of a shipment of household goods shall be fined under title 18, or imprisoned not more than 2 years, or both.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"14915. Holding household goods hostage.".

SEC. 4205. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and of making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods.

(c) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under subsection (a).

(d) TERMINATION DATE.—The working group shall remain in effect until September 30, 2009.

SEC. 4206. CONSUMER HANDBOOK ON DOT WEB SITE.

Not later than 1 year after the date of enactment of this Act, the Secretary shall take such action as may be necessary to ensure that publication ESA 03005 of the Federal Motor Carrier Safety Administration entitled "Your Rights and Responsibilities When You Move", is prominently displayed, and available in language that is readily understandable by the general public, on the Web site of the Department of Transportation.

SEC. 4207. RELEASE OF HOUSEHOLD GOODS BROKER INFORMATION.

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a broker that is subject to such regulations to provide shippers with the following information whenever they have contact with a shipper or potential shipper:

(1) The Department of Transportation number of the broker.

(2) The ESA 03005 publication referred to in section 4206 of this Act.

(3) A list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

SEC. 4208. CONSUMER COMPLAINT INFORMATION.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) establish a system for filing and logging consumer complaints relating to motor carriers providing transportation of household goods and for compiling complaint information gathered by the Department of Transportation and the States with regard to such carriers, a database of the complaints, and a procedure for the public to have access to aggregated information and for carriers to challenge information in the database; and

(2) issue regulations requiring each motor carrier of household goods to submit on a quarterly basis a report summarizing—

(A) the number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;

(B) the number and general category of complaints lodged by consumers with the carrier;

(C) the number of claims filed with the carrier for loss and damage in excess of $500;

(D) the number of such claims resolved during the reporting period;

(E) the number of such claims declined in the reporting period; and

(F) the number of such claims that are pending at the close of the reporting period.

(b) USE OF INFORMATION.—The Secretary shall consider information in the data base established under subsection (a) in its household goods compliance and enforcement program.

SEC. 4209. INSURANCE REGULATIONS.

(a) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall undertake a review of the current Federal regulations regarding insurance coverage provided by motor carriers providing transportation of household goods and revise such regulations in order to provide enhanced protection for shippers in the case of loss or damage as determined necessary.

(b) DETERMINATIONS.—The review shall include, but not be limited to, a determination of—

(1) whether the current regulations provide adequate protection for shippers;

(2) whether an individual shipper should purchase insurance as opposed to the carrier; and

(3) whether there are abuses of the current regulations that leave the shipper unprotected in loss and damage claims.

SEC. 4210. ESTIMATING REQUIREMENTS.

Section 14104(b)(1) of title 49, United States Code, is amended to read as follows:

"(1) REQUIRED TO BE IN WRITING.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.

"(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation requirements of the Secretary as are applicable to bills of lading.

"(C) ESTIMATE.—

"(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier's statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding.

"(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.

"(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper's shipment and the carrier's lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.".

SEC. 4211. APPLICATION OF STATE CONSUMER PROTECTION LAWS TO CERTAIN HOUSEHOLD GOODS CARRIERS.

(a) STUDY.—The Comptroller General shall conduct a study on the current consumer protection authorities and actions of the Department of Transportation and the impact on shippers and carriers of houshold goods involved in interstate transportation of allowing State attorneys general to apply State consumer protection laws to such transportation.

(b) MATTERS TO BE CONSIDERED.—In conducting the study, the Comptroller General shall consider, at a minimum—

(1) the level of consumer protection being provided to consumers through Federal household goods regulations and how household goods regulations relating to consumer protection compare to regulations relating to consumer protection for other modes of transportation regulated by the Department of Transportation;

(2) the history and background of State enforcement of State consumer protection laws on household goods carriers providing intrastate transportation and what effects such laws have on the ability of intrastate household goods carriers to operate;

(3) what operational impacts, if any, would result on household goods carriers engaged in interstate commerce being subject to the State consumer protection laws; and

(4) the potential for States to regulate rates or other business operations if State consumer protection laws applied to interstate household goods movements.

(c) CONSULTATION.—In conducting the study, the Comptroller General shall consult with the Secretary, State attorneys general, consumer protection agencies, and the household goods industry.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall transmit to the Committee of Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report on the results of the study.

TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

Subtitle A—Funding

SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEPLOYMENT PROGRAM.—To carry out sections 502, 503, 506, 507, 509, and 510 of title 23, United States Code, and sections 5207, 5210, 5211, and 5402 of this title—

(A) $169,000,000 for fiscal year 2004;

(B) $239,500,000 for fiscal year 2005;

(C) $239,500,000 for fiscal year 2006;

(D) $239,500,000 for fiscal year 2007;

(E) $239,500,000 for fiscal year 2008; and

(F) $239,500,000 for fiscal year 2009.

(2) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, and section 5211 of this Act, $24,500,000 for fiscal year 2004 and $33,500,000 for each of fiscal years 2005 through 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $31,000,000 for fiscal year 2004 and $33,000,000 for each of fiscal years 2005 through 2009.

(4) UNIVERSITY TRANSPORTATION RESEARCH.—To carry out sections 5505 and 5506 of title 49, United States Code, $54,500,000 for fiscal year 2004 and $71,000,000 for each of fiscal years 2005 through 2009.

(5) INTELLIGENT TRANSPORTATION SYSTEMS (ITS) RESEARCH.—To carry out subtitle F of this title, $115,000,000 for each of fiscal years 2004 through 2009.

(6) ITS DEPLOYMENT.—To carry out sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (112 Stat. 458; 112 Stat. 460), $100,000,000 for fiscal year 2004.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project or activity carried out using such funds shall be 50 percent, unless otherwise expressly provided by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such funds shall remain available until expended and shall not be transferable.

SEC. 5102. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by sections 5101(a) and 5401 of this Act shall not exceed $483,000,000 for fiscal year 2004, $484,000,000 for fiscal year 2005, $485,000,000 for fiscal year 2006, $485,000,000 for fiscal year 2007, $486,000,000 for fiscal year 2008, and $487,000,000 for fiscal year 2009.

Subtitle B—Research, Technology, and Education

SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.

(a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 5 and inserting the following:

"5. RESEARCH, TECHNOLOGY,
AND EDUCATION .... 501".

(2) by striking the heading for chapter 5 and inserting the following:

"CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION".

(b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—Section 502 of such title is amended—

(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and

(2) by inserting before subsection (b) (as so redesignated) the following:

"(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

"(1) COVERAGE.—Surface transportation research and technology development shall include all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices, and approaches, through such mechanisms as field applications, education and training, and technical support.

"(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—

"(A) is of national significance;

"(B) supports research in which there is a clear public benefit and private sector investment is less than optimal;

"(C) supports a Federal stewardship role in assuring that State and local governments use national resources efficiently; or

"(D) presents the best means to support Federal policy goals compared to other policy alternatives.

"(3) ROLE.—Consistent with these Federal responsibilities, the Secretary shall—

"(A) conduct research;

"(B) support and facilitate research and technology transfer activities by State highway agencies;

"(C) share results of completed research; and

"(D) support and facilitate technology and innovation deployment.

"(4) PROGRAM CONTENT.—A surface transportation research program shall include—

"(A) fundamental, long-term highway research;

"(B) research aimed at significant highway research gaps and emerging issues with national implications; and

"(C) research related to policy and planning.

"(5) STAKEHOLDER INPUT.—Federally sponsored surface transportation research and technology development activities shall address the needs of partners and stakeholders, and provide for stakeholder input in preparation of a strategic plan for surface transportation research and technology development.

"(6) COMPETITION.—To the greatest extent possible, investment decisions for surface transportation research and technology development activities shall be based on the well established principles of competition and merit review.

"(7) PERFORMANCE REVIEW.—Surface transportation research and technology development activities shall include a component of performance measurement.".

(c) PROCUREMENT FOR RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Section 502(b)(3) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with one or more of the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, any other person.".

(d) TRANSPORTATION POOLED FUND PROGRAM.—Section 502(b) of such title (as redesignated by subsection (b) of this section), is amended by adding at the end the following:

"(6) POOLED FUNDING.—

"(A) COOPERATION.—To promote effective utilization of available resources, the Secretary may cooperate with a State and an appropriate agency in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

"(B) SECRETARY AS AGENT.—The Secretary may enter into contracts, cooperative agreements, grants, and other transactions as agent for all participating parties in carrying out such research, development, or technology transfer.".

(e) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of such title is further amended—

(1) in subsection (b)(1)(B) (as redesignated by subsection (b) of this section) by inserting "transportation system management and operations," after "operation,".

(2) in subsection (d)(5)(C) (as redesignated by subsection (b) of this section) by inserting "system management and" after "transportation"; and

(3) by inserting at the end of subsection (d) (as redesignated by subsection (b) of this section) the following:

"(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and nonrecurrent congestion and increase. transportation system reliability.

"(13) Investigation of processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations and the impact of good security practices on commerce and productivity.

"(14) Research, development, and technology transfer related to asset management.".

(f) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c)(2) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other transactions to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, and their agents to conduct joint transportation research and technology efforts.".

(g) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502(e) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(e) EXPLORATORY ADVANCED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508 that involves and draws upon basic research results to provide a better understanding of problems and develop innovative solutions. In carrying out the program, the Secretary shall strive to develop partnerships with public and private sector entities.

"(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

"(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

"(B) Assessment of the effects of transportation decisions on human health.

"(C) Development of surrogate measures of safety.

"(D) Environmental research.

"(E) Data acquisition techniques for system condition and performance monitoring.

"(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decision-making.".

(h) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

(1) IN GENERAL.—Section 502(f) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(f) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall complete the 20-year long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on June 8, 1998).

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(B) analyze the data obtained under subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future pavement technology needs.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $10,000,000 for fiscal year 2004 and $21,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 502(f) of title 23, United States Code.

(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:

"(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

"(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

"(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

"(A) the conduct of highway research and development related to new highway technology;

"(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials; and

"(C) the development of innovative highway products and practices.".

(j) UNIVERSITY FUNDING.—Except as otherwise provided in this title and any amendments made by this title, the Secretary may not provide financial assistance to a university under section 5101 unless the university is selected to receive such funds through a competitive process that incorporates merit-based peer review and the selection is based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

SEC. 5202. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.

(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

(1) IN GENERAL.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:

"(j) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall establish a 20-year long-term bridge performance program.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate test bridges;

"(B) analyze the data obtained under subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future bridge technology needs.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(j) of title 23, United States Code.

(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503(b)(1) of such title is amended to read as follows:

"(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.".

(2) GOALS.—Section 503(b)(2) of such title is amended to read as follows:

"(2) GOALS.—The goals of the program shall include—

"(A) the development of new, cost-effective, innovative highway bridge applications;

"(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;

"(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(E) the development of highway bridges and structures that will withstand natural disasters;

"(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods;

"(G) the effective transfer of resulting information and technology; and

"(H) the development of improved methods to detect bridge scour and economical bridge foundation designs that will withstand bridge scour.".

(3) FUNDING.—

(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $20,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503(b) of title 23, United States Code; and

(B) HIGH PERFORMANCE CONCRETE BRIDGE TECHNOLOGY RESEARCH AND DEPLOYMENT.—The Secretary shall obligate $2,000,000 of the amount described in subparagraph (A) for each of fiscal years 2004 through 2009 to conduct research and deploy technology related to high-performance concrete bridges.

SEC. 5203. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 507 of title 23, United States Code, is amended to read as follows:

"§507. Surface transportation environment and planning cooperative research program

"(a) ESTABLISHMENT.—The Secretary shall establish and carry out a collaborative, public-private surface transportation environment and planning cooperative research program.

"(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to carry out administrative and management activities relating to the governance of the surface transportation environment and planning cooperative research program.

"(c) ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a committee that will be responsible for program oversight and project selection.

"(2) MEMBERSHIP.—The members of the committee shall be appointed by the Secretary and shall be composed of—

"(A) representatives of State, regional, and local transportation agencies, including transit agencies;

"(B) representatives of State environmental agencies and other environmental organizations;

"(C) representatives of the transportation private sector;

"(D) transportation and environmental scientists and engineers; and

"(E) representatives of the Federal Highway Administration, Federal Transit Administration, Environmental Protection Agency, United States Fish and Wildlife Service, Corps of Engineers, American Association of State Highway and Transportation Officials, and American Public Transportation Association, who shall serve in an ex officio capacity.

"(3) BALANCE.—The majority of the committee's voting members shall be representatives of government transportation agencies.

"(4) MEETINGS.—The National Academy of Sciences shall convene meetings of the committee.

"(d) GOVERNANCE.—The program established under this section shall include the following administrative and management elements:

"(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall develop, recommend, and periodically update a national research agenda for the program. The national research agenda shall include a multiyear strategic plan.

"(2) INVOLVEMENT.—Interested parties may—

"(A) submit research proposals;

"(B) participate in merit reviews of research proposals and peer reviews of research products; and

"(C) receive research results.

"(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award under the program research contracts and grants through open competition and merit review conducted on a regular basis.

"(4) EVALUATION OF RESEARCH.—

"(A) PEER REVIEW.—Research contracts and grants may allow peer review of the research results.

"(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis.

"(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, World Wide Web, and publications for the general public.

"(e) CONTENTS.—The national research agenda for the program required under subsection (d)(1) shall include research in the following areas for the purposes described:

"(1) HUMAN HEALTH.—Human health to establish the links between transportation activities and human health; substantiate the linkages between exposure to concentration levels, emissions, and health impacts; examine the potential health impacts from the implementation and operation of transportation infrastructure and services; develop strategies for avoidance and reduction of these impacts; and develop strategies to understand the economic value of health improvements and for incorporating health considerations into valuation methods.

"(2) ECOLOGY AND NATURAL SYSTEMS.—Ecology and natural systems to measure transportation's short- and long-term impact on natural systems; develop ecologically based performance measures; develop insight into both the spatial and temporal issues associated with transportation and natural systems; study the relationship between highway density and ecosystem integrity, including the impacts of highway density on habitat integrity and overall ecosystem health; develop a rapid assessment methodology for use by transportation and regulatory agencies in determining the relationship between highway density and ecosystem integrity; and develop ecologically based performance techniques to evaluate the success of highway project mitigation and enhancement measures.

"(3) ENVIRONMENTAL AND SOCIOECONOMIC RELATIONSHIPS.—Environmental and socioeconomic relationships to understand differences in mobility, access, travel behavior, and travel preferences across socioeconomic groups; develop improved planning approaches that better reflect and respond to community needs; improve evaluation methods for examining the incidence of benefits and costs; examine the differential impacts of current methods of finance and explore alternatives; understand the socioeconomic implications of emerging land development patterns and new transportation technologies; develop cost-effective applications of technology that improve the equity of the transport system; and develop improved methods for community involvement, collaborative planning, and conflict resolution.

"(4) EMERGING TECHNOLOGIES.—Emerging technologies to assist in the transition to environmentally benign fuels and vehicles for passengers and freight; develop responses to and demand for new technologies that could offer improved environmental performance; identify possible applications of intelligent transportation systems technologies for environmental benefit; develop policy instruments that would encourage the development of beneficial new technologies in a cost-effective manner; and respond to the impact of new technologies.

"(5) LAND USE.—Land use to assess land consumption trends and contributing factors of transportation investment, housing policies, school quality, and consumer preferences; incorporate impacts of transportation investments on location decision and land use; identify the costs and benefits of current development patterns and their transportation implications; determine the effect of the built environment on people's willingness to walk, drive, or take public transportation; determine the roles of public policy and institutional arrangements in current and prospective land use and transportation choices; and develop improved data, methods, and processes for considering land use, transportation, and the environment in an integrated, systematic fashion.

"(6) PLANNING AND PERFORMANCE MEASURES.—Planning and performance measures to

improve understanding of travel needs and preferences; improve planning methods for system analysis, forecasting, and decisionmaking; expand information on consumer choice processes and travel and activity patterns for both local and long-distance trips and both passenger and freight transportation analysis of social, environmental, and economic benefits and cost of various transport options; develop tools for measuring and forecasting complex transportation decisions for all modes and users; and develop performance measures and policy analysis approaches that can be used to determine effectiveness.

"(7) OTHER RESEARCH AREAS.—Other research areas to identify and address the emerging and future surface transportation research needs related to planning and environment.

"(f) FUNDING.—

"(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

"(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized to be appropriated to carry out this section, the National Academy of Sciences may seek and accept additional funding sources to carry out this section from public and private entities capable of attracting and accepting funding from the Department of Transportation, Environmental Protection Agency, Department of Energy, United States Fish and Wildlife Service, and other Federal environmental agencies, States, local governments, nonprofit foundations, and the private sector.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 507 and inserting the following:

"507. Surface transportation environment and planning cooperative research program.".

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 507 of title 23, United States Code.

SEC. 5204. TECHNOLOGY DEPLOYMENT.

(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—

(1) in the subsection heading by striking "INITIATIVES AND PARTNERSHIPS";

(2) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.";

(3) by striking paragraph (7) and inserting the following:

"(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities concerning innovative materials.

"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the grant meets the purpose of the program described in paragraph (2)."; and

(4) by striking paragraph (8) and inserting the following:

"(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (7) is made available to State and local transportation departments and other interested parties as specified by the Secretary.".

(b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503 of such title is further amended by adding at the end the following:

"(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

"(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—

"(A) the deployment of new, cost-effective, innovative designs, materials, and practices to extend pavement life and performance and to improve customer satisfaction;

"(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

"(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

"(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;

"(E) the deployment of new nondestructive and real-time pavement evaluation technologies and techniques;

"(F) the evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;

"(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and

"(H) the development of designs and materials to reduce storm water runoff.

"(3) RESEARCH TO IMPROVE NHS PAVEMENT.—The Secretary shall obligate not less than $2,000,000 for fiscal year 2004 and $6,000,000 for each of fiscal years 2005 through 2009 from funds made available to carry out this subsection to conduct research to improve asphalt pavement, concrete pavement, and aggregates used in highways on the National Highway System.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(c) of title 23, United States Code.

(c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503 of such title is further amended by adding the following:

"(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.

"(2) GOALS.—The goals of the program shall include—

"(A) the deployment and evaluation of safety technologies and innovations at State and local levels; and

"(B) the deployment of best practices in training, management, design, and planning.

"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.

"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the application meets the goals of the program described in paragraph (2).

"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(d) of title 23, United States Code.

(d) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of such title is further amended by adding at the end the following:

"(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.".

(e) WOOD COMPOSITE MATERIALS DEMONSTRATION PROJECT.—

(1) FUNDING.—Of the funds made available to carry out section 5101(a)(1), $1,000,000 shall be made available by the Secretary for each of fiscal years 2005 and 2006 for conducting a demonstration of the durability and potential effectiveness of wood composite materials in multimodal transportation facilities.

(2) FEDERAL SHARE.—The Federal share of the cost of the demonstration under paragraph (1) shall be 100 percent.

SEC. 5205. TRAINING AND EDUCATION.

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) IN GENERAL.—Section 504(a)(3) of title 23, United States Code, is amended to read as follows:

"(3) COURSES.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures in areas, including surface transportation, environmental mitigation, compliance, stewardship, and streamlining, acquisition of rights-of-way, relocation assistance, engineering, safety, transportation system management and operations, construction, maintenance, contract administration, inspection, and highway finance.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $8,000,000 for fiscal year 2004 and $10,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(a) of title 23, United States Code.

(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Section 504(b) of such title is amended by adding at the end the following:

"(3) FEDERAL SHARE.—

"(A) GRANTS.—A grant under this subsection may be used to pay up to 50 percent of local *technical assistance program costs. Funds available for technology transfer and training purposes under this title and title 49 may be used to cover the remaining 50 percent of the program costs.*

"(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $12,000,000 for fiscal year 2004 and $14,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of title 23, United States Code.

(c) EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—Of the amounts made available by section 5101(a)(2) of this Act, $2,000,000 for fiscal year 2004 and $2,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of title 23, United States Code.

(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION FUTURES PROGRAM.—

(1) IN GENERAL.—Section 504 of such title is amended by adding at the end the following:

"(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION FUTURES PROGRAM.—The Secretary shall carry out a program, to be known as the 'Garrett A. Morgan Technology and Transportation Futures Program', for the following purposes:

"(1) To attract young people in all levels of education, from elementary school through college, to careers in transportation, with a special emphasis on attracting minorities, women, and other underrepresented groups.

"(2) To enhance the math, science, and technology skills of young people to prepare them for careers in transportation.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $500,000 for 2004 and $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(d) of title 23, United States Code.

(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504 of such title is further amended by adding at the end the following:

"(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

"(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e) for surface transportation workforce development, training and education, including—

"(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

"(B) employee professional development;

"(C) student internships;

"(D) university or community college support; and

"(E) education activities, including outreach, to develop interest and promote participation in surface transportation careers.

"(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.

"(3) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION DEFINED.—In this subsection, the term 'surface transportation workforce development, training, and education' means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, including activities for women and minorities.".

(f) DEFINITIONS AND DECLARATION OF POLICY.—Section 101(a)(3) of such title is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(3) by adding at the end the following:

"(I) surface transportation workforce development, training, and education.".

(g) TRANSPORTATION TECHNOLOGY INNOVATIONS.—

(1) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—The Secretary shall continue to carry out section 5117(b)(5) of the Transportation Equity Act for the 21st Century (112 Stat. 450).

(2) TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—The Secretary shall continue to carry out section 5117(b)(7) of the Transportation Equity Act for the 21st Century (112 Stat. 450).

(3) FUNDING.—Of the amounts made available for each of fiscal years 2004 through 2009 by section 5101(a)(1) of this Act, $3,000,000 shall be available to carry out paragraph (1) and $1,000,000 shall be available to carry out paragraph (2).

(4) USE OF RIGHTS-OF-WAY.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(A) by redesignating subparagraphs (E) through (G) as subparagraphs (F) through (H), respectively; and

(B) by inserting after subparagraph (D) the following:

"(E) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3), and an intelligent transportation system project described in paragraph (6), that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund (other than the Mass Transit Account) shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which funds from the Highway Trust Fund (other than the Mass Transit Account) have been used for planning, design, construction, or maintenance if the Secretary determines that such use is in the public interest.

"(ii) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to affect the authority of a State, or political subdivision of a State, to regulate highway safety.".

SEC. 5206. FREIGHT PLANNING CAPACITY BUILDING.

(a) IN GENERAL.—Section 504 of title 23, United States Code, is amended further by adding at the end the following:

"(f) FREIGHT CAPACITY BUILDING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—

"(A) better target investments in freight transportation systems to maintain efficiency and productivity; and

"(B) strengthen the decisionmaking capacity of State transportation departments and local transportation agencies with respect to freight transportation planning and systems.

"(2) AGREEMENTS.—The Secretary shall enter into agreements to support and carry out administrative and management activities relating to the governance of the freight planning capacity initiative.

"(3) STAKEHOLDER INVOLVEMENT.—In carrying out this section, the Secretary shall consult with the Association of Metropolitan Planning Organizations, the American Association of State Highway and Transportation Officials, and other freight planning stakeholders, including the other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

"(4) ELIGIBLE ACTIVITIES.—The freight planning capacity building initiative shall include research, training, and education in the following areas:

"(A) The identification and dissemination of best practices in freight transportation.

"(B) Providing opportunities for freight transportation staff to engage in peer exchange.

"(C) Refinement of data and analysis tools used in conjunction with assessing freight transportation needs.

"(D) Technical assistance to State transportation departments and local transportation agencies reorganizing to address freight transportation issues.

"(E) Facilitating relationship building between governmental and private entities involved in freight transportation.

"(F) Identifying ways to target the capacity of State transportation departments and local transportation agencies to address freight considerations in operations, security, asset management, and environmental excellence in connection with long-range multimodal transportation planning and project implementation.

"(5) FUNDING.—

"(A) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

"(B) USE OF NON-FEDERAL FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, Federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.".

(b) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $1,500,000 for fiscal year 2004 and $5,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(f) of title 23, United States Code.

(c) TECHNICAL AMENDMENT.—Section 508(c)(3)(C) of such title is amended by inserting "of title 31" after "1116".

SEC. 5207. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—The Secretary shall accelerate the deployment of the advanced transportation model known as the "Transportation Analysis Simulation System" (in this section referred to as "TRANSIMS"), developed by the Los Alamos National Laboratory. The program shall assist State departments of transportation and metropolitan planning organizations in the implementation of TRANSIMS, develop methods for TRANSIMS applications to transportation planning and air quality analysis, and provide training and technical assistance for the implementation of TRANSIMS. The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available by section 5101(a)(1) to—

(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under chapter 52 of title 49, United States Code, representing a diversity of populations, geographic regions, and analytic needs to implement TRANSIMS;

(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support metropolitan and statewide transportation planning, including integrating highway and transit operational considerations into the transportation planning process; and

(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(c) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2004 and $3,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out this section.

SEC. 5208. *NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.*

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

"§509. National cooperative freight transportation research program

"(a) ESTABLISHMENT.—The Secretary shall establish and support a national cooperative freight transportation research program.

"(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative freight transportation research program.

"(c) ADVISORY COMMITTEE.—The National Academy of Sciences shall select an advisory committee consisting of a representative cross-section of freight stakeholders, including the Department of Transportation, other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

"(d) GOVERNANCE.—The national cooperative freight transportation research program established under this section shall include the following administrative and management elements:

"(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall recommend a national research agenda for the program. The agenda shall include a multiyear strategic plan.

"(2) INVOLVEMENT.—Interested parties may—

"(A) submit research proposals to the advisory committee;

"(B) participate in merit reviews of research proposals and peer reviews of research products; and

"(C) receive research results.

"(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award research contracts and grants under the program through open competition and merit review conducted on a regular basis.

"(4) EVALUATION OF RESEARCH.—

"(A) PEER REVIEW.—Research contracts and grants under the program may allow peer review of the research results.

"(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of research contracts and grants.

"(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, World Wide Web, publications for the general public, and other appropriate means.

"(e) CONTENTS.—The national research agenda required under subsection (d)(1) shall include research in the following areas:

"(1) Techniques for estimating and quantifying public benefits derived from freight transportation projects.

"(2) Alternative approaches to calculating the contribution of truck and rail traffic to congestion on specific highway segments.

"(3) The feasibility of consolidating origins and destinations for freight movement.

"(4) Methods for incorporating estimates of international trade into landside transportation planning.

"(5) The use of technology applications to increase capacity of highway lanes dedicated to truck-only traffic.

"(6) Development of physical and policy alternatives for separating car and truck traffic.

"(7) Ways to synchronize infrastructure improvements with freight transportation demand.

"(8) The effect of changing patterns of freight movement on transportation planning decisions relating to rest areas.

"(9) Other research areas to identify and address the emerging and future research needs related to freight transportation by all modes.

"(f) FUNDING.—

"(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

"(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized for this section, the National Academy of Sciences may seek and accept additional funding sources from public and private entities capable of accepting funding from the Department of Transportation, States, local governments, nonprofit foundations, and the private sector.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

"509. National cooperative freight transportation research program.".

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,500,000 for fiscal year 2004 and $4,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 509 of title 23, United States Code.

SEC. 5209. *FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.*

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

"§510. Future strategic highway research program

"(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.

"(b) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this subsection as the Secretary determines are appropriate.

"(c) PERIOD OF AVAILABILITY.—Funds made available to carry out this section shall remain available for the fiscal year in which such funds are made available and the 3 succeeding fiscal years.

"(d) PROGRAM PRIORITIES.—

"(1) PROGRAM ELEMENTS.—The program established under this section shall be based on the National Research Council Special Report 260, entitled 'Strategic Highway Research: Saving Lives, Reducing Congestion, Improving Quality of Life' and the results of the detailed planning work subsequently carried out in 2002 and 2003 to identify the research areas through National Cooperative Research Program Project 20–58. The research program shall include an analysis of the following:

"(A) Renewal of aging highway infrastructure with minimal impact to users of the facilities.

"(B) Driving behavior and likely crash causal factors to support improved countermeasures.

"(C) Reducing highway congestion due to nonrecurring congestion.

"(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.

"(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.

"(e) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

"(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;

"(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall program level and technical level through the use of expert panels and committees;

"(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and

"(4) there is no duplication of research effort between the program and any other research effort of the Department.

"(f) REPORT ON IMPLEMENTATION OF RESULTS.—

"(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.

"(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—

"(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

"(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

"(C) an estimate of costs of implementation of those results; and

"(D) recommendations on methods by which implementation of those results should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those recommendations.

"(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

"(A) the Federal Highway Administration;

"(B) the National Highway Traffic Safety Administration; and

"(C) the American Association of State Highway and Transportation Officials.

"(4) SUBMISSION.—Not later than February 1, 2009, the report shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(g) LIMITATION OF REMEDIES.—

"(1) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by

sections 1346(b) and 2672 of title 28 for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission by employees and individuals described in paragraph (3) arising from activities conducted under or in connection with this section. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of title 28.

"(2) EXCLUSIVENESS OF REMEDY.—The remedy referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.

"(3) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

"(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds made available to carry out this section for making payments under this paragraph.

"(h) FUNDING.—

"(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using amounts made available under a grant or cooperative agreement under this section shall be 100 percent, and such funds shall remain available until expended.

"(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

"510. Future strategic highway research program.".

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $17,000,000 for fiscal year 2004, $60,000,000 for fiscal year 2005, and $63,000,000 for each of fiscal years 2006 through 2009, shall be available to carry out section 510 of title 23, United States Code.

SEC. 5210. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Secretary shall fund and carry out a project to further the development of a comprehensive transportation safety information management system (in this section referred to as "TSIMS").

(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

(c) FUNDING.—

(1) FEDERAL CONTRIBUTION.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2004 and $3,000,000 for fiscal year 2005 shall be available to carry out the TSIMS project under this section.

(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions to be made by State departments of transportation and other State safety and transportation agencies.

SEC. 5211. SURFACE TRANSPORTATION CONGESTION RELIEF SOLUTIONS RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—During fiscal year 2004, the Secretary, acting through the Federal Highway Administration, shall establish a surface transportation congestion solutions research initiative consisting of 2 independent research programs described in subsections (b)(1) and (b)(2) and designed to develop information to assist State transportation departments and metropolitan planning organizations measure and address surface transportation congestion problems.

(b) SURFACE TRANSPORTATION CONGESTION SOLUTIONS RESEARCH PROGRAM.—

(1) IMPROVED SURFACE TRANSPORTATION CONGESTION MANAGEMENT SYSTEM MEASURES.—The purposes of the first research program established under this section shall be—

(A) to examine the effectiveness of surface transportation congestion management systems since enactment of the Intermodal Surface Transportation Assistance Act of 1991 (Public Law 102–240);

(B) to identify best case examples of locally designed reporting methods and incorporate such methods in research on national models for developing and recommending improved surface transportation congestion measurement and reporting; and

(C) to incorporate such methods in the development of national models and methods to monitor, measure, and report surface transportation congestion information.

(2) ANALYTICAL TECHNIQUES FOR ACTION ON SURFACE TRANSPORTATION CONGESTION.—The purposes of the second research program established under this section shall be—

(A) to analyze the effectiveness of procedures used by State transportation departments and metropolitan planning organizations to assess surface transportation congestion problems and communicate those problems to decisionmakers; and

(B) to identify methods to ensure that the results of surface transportation congestion analyses will lead to the targeting of funding for programs, projects, or services with demonstrated effectiveness in reducing travel delay, congestion, and system unreliability.

(c) TECHNICAL ASSISTANCE AND TRAINING.—In fiscal year 2006, the Secretary, acting through the Federal Highway Administration, shall develop a technical assistance and training program to disseminate the results of the surface transportation congestion solutions research initiative for the purpose of assisting State transportation departments and local transportation agencies with improving their approaches to surface transportation congestion measurement, analysis, and project programming.

(d) FUNDING.—Of the amounts made available by sections 5101(a)(1) of this Act, $4,000,000 for fiscal year 2004 and $11,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out subsections (a) and (b). Of the amounts made available by section 5101(a)(2), $500,000 for fiscal year 2004 and $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out subsection (c).

SEC. 5212. MOTOR CARRIER EFFICIENCY STUDY.

(a) IN GENERAL.—The Secretary, in coordination with the motor carrier and wireless technology industry, shall conduct a study to—

(1) identify inefficiencies in the transportation of freight;

(2) evaluate the safety, productivity, and reduced cost improvements that may be achieved through the use of wireless technologies to address the inefficiencies identified in paragraph (1); and

(3) conduct, as appropriate, field tests demonstrating the technologies identified in paragraph (2).

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) Fuel monitoring and management systems.

(2) Electronic document imaging.

(3) Border pre-clearance systems.

(4) Radio Frequency Identification technology.

(5) Electronic manifest systems.

(6) Cargo theft prevention.

(c) FEDERAL SHARE.—The Federal share of the cost of the study under this section shall be 100 percent.

(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section.

(e) FUNDING.—From funds made available under section 5101(a)(1), the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration for each of fiscal years 2005 through 2009 to carry out this section.

Subtitle C—University Transportation Research; Scholarship Opportunities

SEC. 5301. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

"§5505. National university transportation centers

"(a) IN GENERAL.—

"(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

"(2) ROLE OF CENTERS.—The role of each center shall be to advance significantly transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

"(b) APPLICABILITY OF REQUIREMENTS.—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and conditions, as a grant made to a nonprofit institution of higher learning under section 5506.

"(c) ELIGIBLE NONPROFIT INSTITUTION OF HIGHER LEARNING DEFINED.—In this section, the term 'eligible nonprofit institution of higher learning' means each of the lead institutions identified in subsections (j)(4)(A), (j)(4)(B), and (j)(4)(F) of section 5505 as in effect on the day before the date of enactment of the Transportation Equity Act: A Legacy for Users, the university referred to in section 704 of Public Law 103–206 (107 Stat. 2447), and the university that, as of the day before such date of enactment, is the lead institution for the regional university transportation center for region 5 of the Standard Federal Regional Boundary System.

"(d) GRANTS.—In each of fiscal years 2004 through 2009, the Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount not to exceed $3,500,000.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5505 and inserting the following:

"5505. National university transportation centers.".

SEC. 5302. UNIVERSITY TRANSPORTATION RESEARCH.

(a) IN GENERAL.—Section 5506 of title 49, United States Code, is amended to read as follows:

"§ 5506. University transportation research

"(a) IN GENERAL.—The Secretary of Transportation shall make grants under this section to nonprofit institutions of higher learning to establish and operate university transportation centers.

"(b) OBJECTIVES.—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand the workforce of transportation professionals through the following programs and activities:

"(1) RESEARCH.—Basic and applied research, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

"(2) EDUCATION.—An education program relating to transportation that includes multidisciplinary course work and participation in research.

"(3) TECHNOLOGY TRANSFER.—An ongoing program of technology transfer that makes transportation research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

"(c) REGIONAL, TIER I, AND TIER II CENTERS.—

"(1) IN GENERAL.—For each of fiscal years 2004 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

"(A) 10 regional university transportation centers; and

"(B) 10 Tier I university transportation centers.

"(2) TIER II CENTERS.—For each of fiscal years 2005 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 10 Tier II university transportation centers.

"(3) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

"(4) LIMITATION.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

"(d) COMPETITIVE SELECTION PROCESS.—

"(1) APPLICATIONS.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

"(2) GENERAL SELECTION CRITERIA.—Except as otherwise provided by this section, the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of the following:

"(A) The demonstrated research and extension resources available to the recipient to carry out this section.

"(B) The capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

"(C) The recipient's demonstrated commitment of at least $400,000 each year in regularly budgeted institutional amounts to support ongoing transportation research and education programs.

"(D) The recipient's demonstrated ability to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program.

"(E) The strategic plan the recipient proposes to carry out under the grant.

"(e) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

"(1) COMPETITION.—Not later than March 31, 2005, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 regional university transportation centers referred to in subsection (c)(1)(A).

"(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

"(A) the criteria described in subsection (d)(2);

"(B) the location of the center within the Federal region to be served; and

"(C) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) can demonstrate that it has a well-established, nationally recognized program in transportation research and education, as evidenced by—

"(i) not less than $2,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years;

"(ii) not less than 10 graduate degrees awarded in professional fields closely related to highways and public transportation for year for each of the preceding 5 years;

"(iii) not less than 5 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation; and

"(iv) a faculty that has published a total of at least 50 refereed journal publications on highway or public transportation research during the preceding 5 years.

"(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a regional university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—For each of fiscal years 2004 and 2005, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grants by the Secretary under this section in July 1999 to operate regional university transportation centers.

"(5) AMOUNT OF GRANTS.—For each of fiscal years 2004 through 2009, a grant made by the Secretary to a nonprofit institution of higher learning for a fiscal year to establish and operate a regional university transportation center shall not exceed $3,500,000.

"(f) TIER I UNIVERSITY TRANSPORTATION CENTERS.—

"(1) COMPETITION.—Not later than March 31, 2006, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier I university transportation centers referred to in subsection (c)(1)(B).

"(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

"(A) the criteria described in subsection (d)(2); and

"(B) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) can demonstrate that it has an established, recognized program in transportation research and education, as evidenced by—

"(i) not less than $1,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years or not less than $6,000,000 in such expenditures during the 5 preceding years;

"(ii) not less than 5 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years;

"(iii) not less than 3 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation; and

"(iv) a faculty that has published a total of at least 20 refereed journal publications on highway or public transportation research during the preceding 5 years.

"(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a Tier I university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) SPECIAL RULE FOR FISCAL YEARS 2004, 2005, AND 2006.—For each of fiscal years 2004, 2005, and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grant awards by the Secretary under this section in May 2002 to operate university transportation centers (other than regional centers).

"(5) AMOUNT OF GRANTS.—A grant made by the Secretary to a nonprofit institution of higher learning for a fiscal year to establish and operate a Tier I university transportation center shall not exceed $1,000,000 for fiscal year 2004 and $1,500,000 for each of fiscal years 2005 through 2009.

"(g) TIER II UNIVERSITY TRANSPORTATION CENTERS.—

"(1) COMPETITION.—Not later than August 31, 2004, not later than March 31, 2008, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier II university transportation centers referred to in subsection (c)(2).

"(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of the criteria described in subsection (f)(2).

"(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall—

"(A) in the case of the competition to be completed not later than August 31, 2004, make a grant to the recipient to establish and operate a Tier II university transportation center in each of fiscal years 2005 through 2008; and

"(B) in the case of each subsequent competition, make a grant to the recipient to establish and operate a Tier II university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) AMOUNT OF GRANTS.—For each of fiscal years 2005 through 2009, a grant made by the Secretary to a nonprofit institution of higher learning for a fiscal year to establish and operate a Tier II university transportation center shall not exceed $1,000,000.

"(h) SUPPORT OF NATIONAL STRATEGY FOR SURFACE TRANSPORTATION RESEARCH.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall provide assurances satisfactory to the Secretary that the research and education activities of its university transportation center will support the national strategy for surface transportation research, as identified by—

"(1) the report of the National Highway Research and Technology Partnership entitled 'Highway Research and Technology: The Need for Greater Investment', dated April 2002; and

"(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

"(i) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

"(j) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent of such costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

"(k) PROGRAM COORDINATION.—

"(1) COORDINATION.—The Secretary shall coordinate the research, education, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearinghouse to disseminate the results of the research.

"(2) ANNUAL REVIEW AND EVALUATION.—At least annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate programs of grant recipients.

"(3) MANAGEMENT AND OVERSIGHT.—The Secretary shall expend $1,500,000 for each of fiscal years 2005 through 2009 from amounts made available to carry out this section to carry out management and oversight of the centers receiving assistance under this section.

"(l) PROGRAM ADMINISTRATION.—The Secretary shall carry out this section acting through the Administrator of the Research and Special Programs Administration.

"(m) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period of 2 years after the last day of the fiscal year for which such funds are authorized.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5506 and inserting the following:

"5506. University transportation research.".

SEC. 5303. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

(2) PARTNERSHIP.—The Secretary may establish the program in partnership with appropriate nongovernmental institutions.

(b) PARTICIPATION AND FUNDING.—An operating administration of the Department of Transportation and the Office of Inspector General may participate in the scholarship program. Notwithstanding any other provision of law, the Secretary may use funds available to an operating administration or from the Office of Inspector General of the Department of Transportation for the purpose of carrying out this section.

Subtitle D—Advanced Technologies

SEC. 5401. ADVANCED HEAVY-DUTY VEHICLE TECHNOLOGIES RESEARCH PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"§5507. Advanced heavy-duty vehicle technologies research program

"(a) IN GENERAL.—The Secretary of Transportation shall conduct research, development, demonstration, and testing to integrate emerging advanced heavy-duty vehicle technologies in order to provide seamless, safe, secure, and efficient transportation and to benefit the environment.

"(b) CONSULTATION.—To ensure the activities performed pursuant to this section achieve the maximum benefit, the Secretary of Transportation shall consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and other relevant Federal agencies on research, development, and demonstration activities authorized under this section related to advanced heavy-duty vehicle technologies.

"(c) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may make grants to, and enter into cooperative agreements and other transactions with, Federal and other public agencies (including State and local governments) and persons to carry out subsection (a).

"(d) COST SHARING.—At least 50 percent of the funding for projects carried out under this section must be provided by non-Federal sources.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out subsection (a) $1,000,000 for fiscal year 2004 and $3,000,000 for each of fiscal years 2005 through 2009.

"(f) CONTRACT AUTHORITY.—The funds authorized to be appropriated by subsection (e) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any limitation on obligations imposed on funds made available to carry out title V of the Transportation Equity Act: A Legacy for Users.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by adding at the end the following:

"5507. Advanced heavy-duty vehicle technologies research program.".

SEC. 5402. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

(b) PROGRAM.—

(1) NATIONAL POLICY.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under paragraph (1).

(c) COOPERATION.—The Secretary shall carry out this section in cooperation with the commercial remote sensing program of the National Aeronautics and Space Administration and a consortium of university research centers.

(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $3,000,000 for fiscal year 2004 and $9,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out this section.

Subtitle E—Transportation Data and Analysis

SEC. 5501. BUREAU OF TRANSPORTATION STATISTICS.

Section 111 of title 49, United States Code, is amended by striking subsections (b) through (k) and inserting the following:

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) APPOINTMENT.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis and use of transportation data.

"(3) REPORTING TO SECRETARY.—The Director shall report directly to the Secretary of Transportation.

"(4) TERM.—The term of the Director shall be 4 years. The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.

"(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics and be responsible for carrying out the following duties:

"(1) Collecting, analyzing, and disseminating data concerning the domestic and international movement of freight.

"(2) Collecting, analyzing, and disseminating data concerning travel patterns for local and long-distance travel, at the local, State, national, and international levels.

"(3) Developing, analyzing, and disseminating information on the economics of transportation.

"(4) Building and disseminating the transportation layer of the National Spatial Data Infrastructure, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

"(5) Developing, publishing, and disseminating a comprehensive set of measures of investment, use, costs, performance, and impacts of the national transportation system, including publishing an annual transportation statistics abstract.

"(6) Identifying information needs of the Department and reviewing such needs at least annually with the Advisory Council on Transportation Statistics of the Bureau.

"(7) Conducting or supporting research relating to methods of gathering or analyzing transportation statistics and issuing guidelines for the collection of information by the Department in order to ensure that such information is accurate, relevant, comparable, accessible, and in a form that permits systematic analysis.

"(d) COORDINATING COLLECTION OF INFORMATION.—The Director shall work with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.

"(e) SUPPORTING TRANSPORTATION DECISIONMAKING.—The Director shall ensure that the statistics compiled under this section are relevant for transportation policy, planning, and decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and the public. The Director shall provide to the Department's other operating administrations technical

assistance on collecting, compiling, analyzing, and verifying transportation data and statistics and the design of surveys.

"(f) National Transportation Library.—

"(1) In general.—The Director shall establish and maintain a National Transportation Library. The Library shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) Access.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to disseminate information under subsection (c).

"(3) Coordination.—The Director shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(4) Transportation Research Information Service.—The Director shall provide the full financial support for the web-based version of the Transportation Research Information Service.

"(g) Research and Development Grants.—

"(1) In general.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) if each of the grants, agreements, and contracts—

"(A) provide for an alternative means of accomplishing program-related research of the Department;

"(B) contribute to research and development of new methods of transportation data collection; or

"(C) improve the methods for sharing geographic transportation data.

"(2) Funding limit.—Not more than $500,000 of the amounts made available to carry out this section in a fiscal year may be used for research and development grants under this subsection.

"(h) Transportation Statistics Annual Report.—By March 31 of each year, the Director shall transmit to the President and Congress a report that includes information on the subjects described in subsection (c), documentation of the methods used to obtain the information and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

"(i) Proceeds of Data Product Sales.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"(j) Limitations on Statutory Construction.—Nothing in this section shall be construed to—

"(1) authorize the Bureau to require any other department or agency to collect data; or

"(2) reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

"(k) Mandatory Response Authority for Freight Data Collection.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of his or her knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to make available records or statistics in his or her official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than $500; but if he or she willfully gives a false answer to such a question, he or she shall be fined not more than $10,000.

"(l) Prohibition on Certain Disclosures.—

"(1) In general.—An officer, employee or contractor of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

"(B) use the information provided under subsection (c) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

"(2) Copies of reports.—

"(A) In general.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c) with the Bureau or retained by an individual respondent.

"(B) Limitation on judicial proceedings.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) Applicability.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

"(3) Informing respondent of use of data.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.

"(m) Data Access.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(n) Advisory Council on Transportation Statistics.—

"(1) Establishment.—There is established in the Bureau an Advisory Council on Transportation Statistics.

"(2) Function.—It shall be the function of the Advisory Council to advise the Director of the Bureau on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

"(3) Membership.—The Advisory Council shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States. Each member shall have expertise in transportation data collection or analysis or application; except that 1 member shall have expertise in economics, 1 member shall have expertise in statistics, and 1 member shall have expertise in transportation safety. At least 1 member shall be a senior official of a State department of transportation.

"(4) Applicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 App. U.S.C.) shall apply to the advisory council established under this section, except that section 14 of such Act shall not apply to the Advisory Council.".

Subtitle F—Intelligent Transportation Systems Research

SEC. 5601. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 2004".

SEC. 5602. GOALS AND PURPOSES.

(a) Goals.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles as well as improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

(b) Purposes.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) facilitate, in cooperation with the motor vehicle industry, the introduction of a vehicle-based safety enhancing systems;

(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(8) provide continuing support for operations and maintenance of intelligent transportation systems,

SEC. 5603. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) Scope.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

(b) Policy.—Intelligent transportation system research projects and operational tests funded *pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.*

(c) Cooperation With Governmental, Private, and Educational Entities.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.

(d) Consultation With Federal Officials.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

(e) Technical Assistance, Training, and Information.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) Transportation Planning.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) Information Clearinghouse.—

(1) In general.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) Agreement.—

(A) In general.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) Federal financial assistance.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) Availability of information.—Information in the repository shall not be subject to section 555 of title 5, United States Code.

(h) Advisory Committees.—In carrying out this subtitle, the Secretary may use one or more advisory committees that are subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) Reporting.—

(1) Guidelines and requirements.—

(A) In general.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.

(B) Objectivity and independence.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

(C) Funding.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

(2) Special rule.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

SEC. 5604. NATIONAL ARCHITECTURE AND STANDARDS.

(a) In General.—

(1) Development, implementation, and maintenance.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

(2) Interoperability and efficiency.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

(3) Use of standards development organizations.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

(4) Use of expert panel.—

(A) Designation.—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).

(B) Nonapplicability of advisory committee act.—The expert panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(C) Deadline for recommendation.—No later than September 30, 2005, the expert panel shall provide the Secretary with a recommendation relating to such standards development.

(b) Provisional Standards.—

(1) In general.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

(2) Period of effectiveness.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(c) Conformity With National Architecture.—

(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

(2) Secretary's discretion.—The Secretary may authorize exceptions to paragraph (1) for—

(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this Act if the Secretary determines that the upgrade or expansion—

(i) would not adversely affect the goals or purposes of this subtitle;

(ii) is carried out before the end of the useful life of such system; and

(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

(3) Exceptions.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.

SEC. 5605. RESEARCH AND DEVELOPMENT.

(a) In General.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle.

(b) Priority Areas.—Under the program, the Secretary shall give higher priority to funding projects that—

(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

(2) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

(3) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

(c) Federal Share.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

SEC. 5606. INFRASTRUCTURE DEVELOPMENT.

Funds made available to carry out this subtitle for operational tests—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

SEC. 5607. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) Incident.—The term "incident" means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

(2) Intelligent transportation infrastructure.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(3) Intelligent transportation system.—The term "intelligent transportation system" means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

(4) National architecture.—The term "national architecture" means the common framework for interoperability that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

(5) Project.—The term "project" means a undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

(6) Standard.—The term "standard" means a document that—

(A) contains technical specifications or other precise criteria for intelligent transportation

systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

(B) may support the national architecture and promote—

(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

(7) STATE.—The term "State" has the meaning given the term under section 101 of title 23, United States Code.

(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term "transportation systems management and operations" has the meaning given the term under section 101(a) of such title.

SEC. 5608. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY.

(a) STUDY.—The Secretary, in cooperation with the Secretary of Commerce, State departments of transportation, and other appropriate State, regional, and local officials, shall conduct a study on feasibility of installing fiber optic cabling and wireless communication infrastructure along multistate Interstate System route corridors for improved communications services to rural communities along such corridors.

(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall identify—

(1) impediments to installation of the infrastructure described in subsection (a) along multistate Interstate System route corridors and to connecting such infrastructure to the rural communities along such corridors;

(2) the effective geographic range of such infrastructure;

(3) potential opportunities for the private sector to fund, wholly or partially, the installation of such infrastructure;

(4) potential benefits fiber optic cabling and wireless communication infrastructure may provide to rural communities along such corridors, including the effects of the installation of such infrastructure on economic development, deployment of intelligent transportation systems technologies and applications, homeland security precaution and response, and education and health systems in those communities;

(5) rural broadband access points for such infrastructure;

(6) areas of environmental conflict with such installation;

(7) real estate ownership issues relating to such installation;

(8) preliminary design for placement of fiber optic cable and wireless towers;

(9) monetary value of the rights-of-way necessary for such installation;

(10) applicability and transferability of the benefits of such installation to other rural corridors; and

(11) safety and other operational issues associated with the installation and maintenance of fiber optic cabling and wire infrastructure within Interstate System rights-of-way and other publicly owned rights-of-way.

(c) CORRIDOR LOCATIONS.—The study required under subsection (a) shall be conducted for corridors along—

(1) Interstate Route I–90 through rural Wisconsin, southern Minnesota, northern Iowa, and South Dakota;

(2) Interstate Route I–20 through Alabama, Mississippi, and northern Louisiana;

(3) Interstate Route I–91 through Vermont, New Hampshire, and Massachusetts; and

(4) any other rural corridor the Secretary considers appropriate.

(d) FEDERAL SHARE.—The Federal share of the cost of the study shall be 100 percent.

(e) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall transmit to Congress a report on the results of the study, including any recommendations of the Secretary.

(f) FUNDING.—Of the amounts made available under section 5101(a)(5), $1,000,000 shall be available for fiscal year 2005, and $2,000,000 for fiscal year 2006, to carry out this section.

SEC. 5609. REPEAL.

Subtitle C of title V of The Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 452–463) is repealed.

TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

SEC. 6001. TRANSPORTATION PLANNING.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by inserting after chapter 51 the following:

"CHAPTER 52—TRANSPORTATION PLANNING AND PROJECT DELIVERY

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.
"5201. Definitions.

"SUBCHAPTER B—TRANSPORTATION PLANNING AND PROJECT DELIVERY

"5211. Policy.
"5212. Definitions.
"5213. Metropolitan transportation planning.
"5214. Statewide transportation planning.

"SUBCHAPTER C—EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING

"5251. Definitions and applicability.
"5252. Project development procedures.

"SUBCHAPTER A—GENERAL PROVISIONS

"§5201. Definitions

"In this chapter, the following definitions apply:

"(1) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, and Puerto Rico.

"SUBCHAPTER B—TRANSPORTATION PLANNING AND PROJECT DELIVERY

"§5211. Policy

"(a) IN GENERAL.—It is in the national interest to—

"(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

"(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in sections 5213(f) and 5214(d).

"(b) COMMON TRANSPORTATION PLANNING PROGRAM.—This subchapter provides a common transportation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration.

"§5212. Definitions

"(a) APPLICABILITY BY REFERENCE.—Unless otherwise specified in subsection (b), the definitions in section 101(a) of title 23 and section 5302 are applicable to this subchapter.

"(b) ADDITIONAL DEFINITIONS.—In this subchapter, the following definitions apply:

"(1) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under section 5213(c).

"(2) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization created as a result of the designation process in section 5213(b).

"(3) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means a geographic area outside designated metropolitan planning areas.

"(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

"(5) TIP.—The term 'TIP' means a transportation improvement program developed by a metropolitan planning organization under section 5213.

"(6) URBANIZED AREA.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

"§5213. Metropolitan transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in section 5211, metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

"(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of this paragraph, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in the manner described in subsection (b)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5214.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and under chapter 53, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(e) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement funded from the Highway Trust Fund or authorized under chapter 53 is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

"(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with those officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

"(A) recipients of assistance under chapter 53;

"(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(C) recipients of assistance under section 204 of title 23.

"(f) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address the following factors as they relate to the performance of the metropolitan area transportation systems:

"(A) Support of the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

"(B) Increases in the safety and security of the transportation system for motorized and nonmotorized users.

"(C) Increases in the accessibility and mobility of people and for freight.

"(D) Protection and enhancement of the environment, promotion of energy conservation, improvement of the quality of life, and promotion of consistency between transportation improvements and State and local planned growth and economic development patterns.

"(E) Enhancement of the integration and connectivity of the transportation system, across and between modes, for people and freight.

"(F) Promotion of efficient system management and operation.

"(G) Emphasis on the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

"(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update no less frequently than every 4 years, a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

"(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

"(A) An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system,

giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

“(B) A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(C) Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

“(D) Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

“(E) Proposed transportation and transit enhancement activities.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan, in a manner that the Secretary deems appropriate.

“(5) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).

“(h) METROPOLITAN TIP.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

“(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of the disabled, representatives of users of pedestrian walkways and bicycle facilities, and other interested parties with a reasonable opportunity to comment on the proposed TIP.

“(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

“(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

“(i) demonstrates how the TIP can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

“(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

“(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

“(D) CONGESTION RELIEF ACTIVITIES.—The TIP shall include a listing of congestion relief activities to be carried out to meet the requirements of section 139 of title 23, categorized as either under one or under three congestion relief activities.

“(3) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER TITLE 23 AND CHAPTER 53.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of title 23 and chapter 53.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—All projects proposed for funding under chapter 2 of title 23 shall be identified individually in the TIP.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of the disabled, representatives of users of pedestrian walkways and bicycle facilities, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

“(i) by—

“(I) in the case of projects under title 23, the State; and

“(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

“(ii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

“(7) PUBLICATION.—

“(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

“(i) TRANSPORTATION MANAGEMENT AREAS.—

“(1) IDENTIFICATION AND DESIGNATION.—

“(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

“(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

“(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 through the use of travel demand reduction and operational management strategies and shall identify a sufficient number of congestion relief

activities under section 139 of title 23 to meet the requirements of such section. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one year after the identification of a transportation management area.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects, carried out within the boundaries of a metropolitan planning area serving a transportation management area, on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under title 23 and chapter 53.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or chapter 53, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53.

"(m) FUNDING.—

"(1) SET-ASIDES.—Funds set aside under section 104(f) of title 23 or section 5305(h) shall be available to carry out this section.

"(2) OTHER FUNDING.—Funds made available under section 5338(c) shall be available to carry out this section.

"(n) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

"§5214. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5211, each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State subject to section 5213.

"(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5211, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

"(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5213 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

"(C) increase the accessibility and mobility of people and freight;

"(D) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(E) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(F) promote efficient system management and operation; and

"(G) emphasize the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

"(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

"(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

"(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5213.

"(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the statewide transportation plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(4) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (4).

"(6) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5213.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(4) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—All projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

"(i) consistent with the statewide transportation plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(E) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(F) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (E), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E).

"(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E) for inclusion in an approved transportation improvement program.

"(G) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by title 23 and chapter 53.

"(H) PRIORITIZATION OF CONGESTION RELIEF ACTIVITIES.—The transportation improvement program shall reflect the priorities for congestion relief activities included in the metropolitan transportation plan to meet the requirements of section 139 of title 23.

"(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or under sections 5310, 5311, 5316, and 5317 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

"(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

"(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5213.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

"(h) FUNDING.—

"(1) SET-ASIDE.—Funds set aside pursuant to section 104(i) of title 23 shall be available to carry out this section.

"(2) OTHER FUNDING.—Funds made available under section 5338(c) shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5213, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under section 5213(i)(3) if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5213, as appropriate.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.".

(b) CONFORMING AMENDMENT.—The analysis for such subtitle is amended by inserting the following after the item relating to chapter 51:

"52. TRANSPORTATION PLANNING
AND PROJECT DELIVERY ...... 5201".

SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) POLICY AND PURPOSE.—

(1) POLICY.—The Enlibra principles, as initially developed by the Western Governors Association and adopted by the National Governors Association, represent a sound basis for interaction among the Federal, State, local governments, and Indian tribes on environmental matters and should be followed in the development

of highway construction and public transit improvements. These principles are as follows:

(A) Assign responsibilities at the right level.

(B) Use collaborative processes to break down barriers and find solutions.

(C) Move to a performance-based system.

(D) Separate subjective choices from objective data gathering.

(E) Pursue economic incentives whenever appropriate.

(F) Ensure environmental understanding.

(G) Make sure environmental decisions are fully informed.

(H) Use appropriate geographic boundaries for environmental problems.

(2) PURPOSE.—The purpose of this section is to reduce delays in the delivery of highway construction and public transportation capital projects arising from the environmental review process, while continuing to ensure the protection of the human and natural environment.

(b) PROJECT DEVELOPMENT PROCEDURES.—Chapter 52 of title 49, United States Code, as added by section 6001 of this Act, is amended by adding at the end the following:

"SUBCHAPTER C—EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING

"§5251. Definitions and applicability

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) INCLUSIONS.—The term includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) LEAD AGENCY.—The term 'lead agency' means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

"(5) MULTIMODAL PROJECT.—The term 'multimodal project' means a project funded, in whole or in part, under title 23 or chapter 53 and involving the participation of more than one Department of Transportation administration or agency.

"(6) PROJECT.—The term 'project' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

"(7) PROJECT SPONSOR.—The term 'project sponsor' means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

"(8) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for one or more modes of transportation.

"(b) APPLICABILITY.—This subchapter is applicable to all projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). This subchapter may be applied, to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act. Any authorities granted in this subchapter may be exercised for a project, class of projects, or program of projects.

"§5252. Project development procedures

"(a) LEAD AGENCIES.—

"(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead agency in the environmental review process for a project.

"(2) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under title 23 or chapter 53 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

"(3) ENSURING COMPLIANCE.—The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.

"(4) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

"(b) PARTICIPATING AGENCIES.—

"(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

"(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a project, any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

"(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

"(A) has no jurisdiction or authority with respect to the project;

"(B) has no expertise or information relevant to the project; and

"(C) does not intend to submit comments on the project.

"(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

"(A) supports a proposed project; or

"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

"(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a 'cooperating agency' under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

"(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

"(c) PROJECT INITIATION.—

"(1) IN GENERAL.—The project sponsor shall initiate the environmental review process for a project by submitting an initiation notice to the Secretary.

"(2) CONTENTS OF NOTICE.—The initiation notice shall include, at a minimum, a brief description of the type of work, termini, length, and general location of the proposed project, together with a statement of any Federal approvals anticipated to be needed for the project.

"(d) PURPOSE AND NEED.—

"(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.

"(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.

"(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

"(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;

"(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and

"(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.

"(e) ALTERNATIVES ANALYSIS.—

"(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.

"(2) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

"(3) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

"(4) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

"(f) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a project:

"(1) For comments by agencies and the public on a draft environmental impact statement, a period of no more than 60 days from the date of public availability of such document, unless—

"(A) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

"(B) the deadline is extended by the lead agency for good cause.

"(2) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

"(A) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

"(B) the deadline is extended by the lead agency for good cause.

"(g) Issue Identification and Resolution.—

"(1) Cooperation.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

"(2) Lead agency responsibilities.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

"(3) Participating agency responsibilities.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

"(4) Issue resolution.—Whenever issues of concern are identified or at any time upon request of a project sponsor, the lead agency shall promptly convene a meeting with the relevant participating agencies. If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all Federal agencies involved in the meeting and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and shall publish such notification in the Federal Register.

"(h) Participation of State Agencies.—For any project eligible for assistance under title 23 or chapter 53, a State may require, under procedures established by State law, that all State agencies that have jurisdiction by State or Federal law over environmental-related issues that may be affected by the project, or that are required to issue any environmental-related reviews, analyses, opinions, or determinations on issuing any permits, licenses, or approvals for the project, be subject to the coordinated environmental review process established under this section unless the Secretary determines that a State agency's participation would not be in the public interest. A State participating in the review process must require all State agencies with jurisdiction to be subject to and comply with the review process to the same extent as a Federal agency.

"(i) Assistance to Affected State and Federal Agencies.—

"(1) In general.—For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under title 23 or chapter 53, the Secretary may approve a request by the State to provide funds so made available to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the project. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery. Such activities may include dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements. The Secretary may also use funds made available under section 204 of title 23 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

"(2) Amounts.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

"(3) Condition.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

"(j) Judicial Review and Savings Clause.—

"(1) Judicial review.—Except as set forth under subsection (k), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States.

"(2) Savings clause.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

"(3) Limitations.—Nothing in this section shall preempt or interfere with—

"(A) any practice of seeking, considering, or responding to public comment; or

"(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

"(k) Limitations on Claims.—

"(1) In general.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 90 days after the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

"(2) New information.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of such action.".

(c) Repeal.—Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

SEC. 6003. POLICY ON HISTORIC SITES.

(a) Title 49.—Section 303 of title 49, United States Code, is amended by adding at the end the following:

"(d) Special Rules for Historic Sites.—

"(1) In general.—The requirements of this section are deemed to be satisfied in any case in which the treatment of a historic site has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the agreement includes a determination that the program or project will not have an adverse effect on the historic site.

"(2) Limitation on applicability.—This subsection does not apply in any case in which the Advisory Council on Historic Preservation determines, concurrent with or prior to the conclusion of section 106 consultation, that allowing section 106 compliance to satisfy the requirements of this section would be inconsistent with the objectives of the National Historic Preservation Act. The Council shall make such a determination if petitioned to do so by a section 106 consulting party, unless the Council affirmatively finds that the views of the requesting party have been adequately considered and that section 106 compliance will adequately protect historic properties.

"(3) Definitions.—In this subsection, the following definitions apply:

"(A) Section 106 consultation.—The term 'section 106 consultation' means the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

"(B) Adverse effect.—The term 'adverse effect' means altering, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.".

(b) Title 23.—Section 138 of title 23, United States Code is amended—

(1) by inserting "(a) Policy.—" before "It is"; and

(2) by striking "In carrying" and inserting the following:

"(c) Studies.—In carrying"; and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following:

"(b) Special Rules for Historic Sites.—

"(1) In general.—The requirements of this section are deemed to be satisfied in any case in which the treatment of a historic site has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the agreement includes a determination that the program or project will not have an adverse effect on the historic site.

"(2) Limitation on applicability.—This subsection does not apply in any case in which the Advisory Council on Historic Preservation determines, concurrent with or prior to the conclusion of section 106 consultation, that allowing section 106 compliance to satisfy the requirements of this section would be inconsistent with the objectives of the National Historic Preservation Act. The Council shall make such a determination if petitioned to do so by a section 106 consulting party, unless the Council affirmatively finds that the views of the requesting party have been adequately considered and that section 106 compliance will adequately protect historic properties.

"(3) Definitions.—In this subsection, the following definitions apply:

"(A) Section 106 consultation.—The term 'section 106 consultation' means the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

"(B) Adverse effect.—The term 'adverse effect' means altering, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish *the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.".*

SEC. 6004. EXEMPTION OF INTERSTATE SYSTEM.

Section 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) Exemption of Interstate System.—

"(A) In General.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) Individual Elements.—Subject to subparagraph (C), a portion of the Interstate System that possesses an independent feature of historic significance (such as a historic bridge or a highly significant engineering feature) that is listed on, or eligible for listing on, the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.

"(C) Construction, Maintenance, Restoration, and Rehabilitation Activities.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f).".

TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

SEC. 7001. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 7002. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds with respect to hazardous materials transportation that—

(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality and meet consumer demands and must be conducted in a safe and efficient manner;

(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;

(4) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple regulatory requirements;

(5) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable;

(6) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable; and

(7) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential.

(b) Purpose.—The text of section 5101 is amended to read as follows: "The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".

SEC. 7003. DEFINITIONS.

Section 5102 is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(C) by inserting at the end the following:

"(C) on a United States registered aircraft.";

(2) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively; and

(3) by inserting after paragraph (10) the following:

"(11) 'Secretary' means the Secretary of Transportation.".

SEC. 7004. GENERAL REGULATORY AUTHORITY.

(a) Technical Amendments.—Section 5103(a) is amended—

(1) by striking "etiologic agent," and inserting "infectious substance,"; and

(2) by striking "poison," and inserting "toxic,".

(b) Regulations for Safe Transportation.—Section 5103(b)(1)(A) is amended—

(1) in clause (i) by striking "transporting" and inserting "that transports";

(2) in clause (ii)—

(A) by striking "causing" and inserting "that causes"; and

(B) by striking "or" at the end; and

(3) by striking clause (iii) and inserting the following:

"(iii) that designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package or container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce;

"(iv) that prepares or accepts hazardous material for transportation in commerce;

"(v) that is responsible for the safety of transporting hazardous material in commerce;

"(vi) that certifies compliance with any requirement of this chapter; or

"(vii) that misrepresents whether the person is engaged in any of the activities described in this subparagraph; and".

(c) Technical Amendment.—Section 5103(b) is amended—

(1) by moving subparagraph (C) from the end of paragraph (1) and inserting it after paragraph (2);

(2) by redesignating such subparagraph as paragraph (3); and

(3) by moving such paragraph (3) 2 ems to the left.

SEC. 7005. CHEMICAL OR BIOLOGICAL MATERIALS.

Section 5103a(c) is amended—

(1) in paragraph (2) by striking "this subsection" and inserting "paragraph (1)"; and

(2) by adding at the end the following:

"(3) Standards.—The Secretary shall prescribe by regulation uniform standards (including standards used to disqualify applicants) governing—

"(A) the collection by States of background information authorized by paragraph (1);

"(B) the collection, transmission, and review of background information; and

"(C) the notification of an applicant of the results of the background check.

"(4) Fees.—A State may impose and collect an appropriate fee to carry out paragraph (1) consistent with section 5125(f).

"(5) Operators Registered in Mexico and Canada.—No operator of a commercial motor vehicle (as defined in section 31101) licensed in Mexico or Canada may operate in the United States a commercial motor vehicle transporting hazardous material until the operator has undergone a background records check similar to the background records check required of operators of commercial motor vehicles licensed in the United States to transport hazardous materials.".

SEC. 7006. REPRESENTATION AND TAMPERING.

(a) Representation.—Section 5104(a) is amended—

(1) by striking "A person" and inserting "No person";

(2) in paragraph (1) by striking "only if" and all that follows through "meets" and inserting "if it does not conform to"; and

(3) in paragraph (2) by striking "only if" and inserting "unless".

(b) Tampering.—Section 5104(b) is amended by striking "A person may not" and inserting "No person may".

SEC. 7007. TECHNICAL AMENDMENTS.

(a) Elimination of Completed Study.—Section 5105 is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) Classification of Explosives.—Section 5108(a)(1)(B) is amended by striking "class A or B" and inserting "Division 1.1, 1.2, or 1.3".

SEC. 7008. TRAINING OF CERTAIN EMPLOYEES.

Section 5107 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h);

(2) in subsection (g)(2) (as so redesignated) by striking "sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title" and inserting "section 5106"; and

(3) by inserting after subsection (e) the following:

"(f) Training of Certain Employees.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness/familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.".

SEC. 7009. REGISTRATION.

(a) Persons Required to File.—Section 5108(a) is amended—

(1) in paragraph (2)(B) by striking "manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing" and inserting "designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing"; and

(2) by aligning the left margin of paragraph (4) with the left margin of paragraph (3).

(b) Filing Schedule.—Section 5108(c) is amended—

(1) by striking the subsection heading and inserting "Filing Schedule"; and

(2) in paragraph (1)—

(A) by striking "must file the first" and inserting "shall file that";

(B) by striking "not later than March 31, 1992" and inserting "in accordance with regulations issued by the Secretary"; and

(C) by striking the second sentence.

(c) Fees.—Section 5108(g) is amended—

(1) in paragraph (1) by striking "may" and inserting "shall";

(2) in paragraph (2)(A) by striking "$5,000" and inserting "$3,000"; and

(3) by adding at the end the following:

"(3) Fees on Exempt Persons.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person

who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the cost of the Secretary in processing registration statements filed by such persons.''.

(d) Relationship to Other Laws.—Section 5108(i)(2)(B) is amended by inserting '', Indian tribe,'' after ''State'' the first place it appears.

(e) Hazmat Registration Notification.—As soon as practicable, the Administrator of the Research and Special Programs Administration of the Department of Transportation shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant.

SEC. 7010. PROVIDING SHIPPING PAPERS.

Section 5110 is amended—

(1) in subsection (a) by striking ''under subsection (b) of this section'' and inserting ''by regulation''; and

(2) in subsection (e) by striking ''1 year'' and inserting ''2 years after the date of preparation of the shipping paper''.

SEC. 7011. RAIL TANK CARS.

Section 5111, and the item relating to such section in the analysis for chapter 51, are repealed.

SEC. 7012. UNSATISFACTORY SAFETY RATING.

The text of section 5113 is amended to read as follows: ''A person who violates section 31144(c)(3) shall be subject to the penalties in sections 5123 and 5124.''.

SEC. 7013. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

(a) Requirements.—Section 5115(b)(1)(C) is amended by striking ''under other United States Government grant programs, including those'' and inserting ''with Federal financial assistance, including programs''.

(b) Training on Complying With Legal Requirements.—Section 5115(c)(3) is amended by inserting before the period at the end the following: ''and such other voluntary consensus standard-setting organizations as the Secretary determines appropriate''.

(c) Distribution and Publication.—Section 5115(d) is amended—

(1) in the matter preceding paragraph (1) by striking ''national response team'' and inserting ''National Response Team'';

(2) in paragraph (1) by striking ''Director of the Federal Emergency Management Agency'' and inserting ''Secretary''; and

(3) in paragraph (2)—

(A) by inserting ''and distribute'' after ''publish''; and

(B) by striking ''programs that uses'' and all that follows before the period at the end and inserting ''programs and courses developed under this section''.

SEC. 7014. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.

(a) Factors to Consider in Determining Needs.—Section 5116(b)(4) is amended—

(1) by striking ''and'' at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) the report submitted by the State to the Secretary under section 5125(f)(2); and''.

(b) Compliance With Certain Law.—Section 5116(c) is amended—

(1) by inserting ''or Indian tribe'' after ''a State'';

(2) by inserting ''or Indian tribe'' after ''the State'' the first place it appears; and

(3) by inserting ''(1) the State or Indian tribe is complying with all applicable requirements of this chapter (including section 5125(f)), and (2) in the case of a State,'' after ''certifies that''.

(c) Government's Share of Costs.—Section 5116(e) is amended by striking the second sentence and inserting the following: ''Amounts received by the State or tribe under subsections (a)(1) and (b)(1) are not part of the non-Government share under this subsection.''.

(d) Monitoring and Technical Assistance.—Section 5116(f) is amended—

(1) in the first sentence—

(A) by striking ''Secretaries of Transportation and Energy,'' and inserting ''Secretary of Energy, Director of the Federal Emergency Management Agency,''; and

(B) by striking ''Director of the Federal Emergency Management Agency shall'' and inserting ''Secretary of Transportation shall''; and

(2) in the second sentence—

(A) by striking ''the Secretaries, Administrator, and Directors each shall'' and inserting ''the Secretary shall''; and

(B) by striking ''national response team'' and inserting ''National Response Team''.

(e) Delegation of Authority.—Section 5116(g) is amended by striking ''Government grant programs'' and inserting ''Federal financial assistance''.

(f) Hazardous Materials Emergency Preparedness Fund.—Section 5116(i) is amended—

(1) by striking the subsection heading and inserting ''Hazardous Materials Emergency Preparedness Fund.—'';

(2) in the matter preceding paragraph (1)—

(A) by inserting '', to be known as the 'Hazardous Materials Emergency Preparedness Fund','' after ''account in the Treasury''; and

(B) by striking ''section 5108(g)(2)(A) of this title'' and all that follows before the period at the end of the first sentence and inserting ''this chapter'';

(3) by striking ''and'' at the end of paragraph (2);

(4) by redesignating paragraph (3) as paragraph (4); and

(5) by inserting after paragraph (2) the following:

''(3) to publish and distribute the Emergency Response Guidebook; and''.

(g) Reports.—In section 5116(k)—

(1) by striking the first sentence and inserting the following: ''The Secretary shall submit to Congress and make available to the public annually a report on the allocation and uses of planning grants under subsection (a), training grants under subsection (b), and grants under subsection (j) and under section 5107.''; and

(2) in the second sentence by striking ''Such report'' and inserting ''The report''.

SEC. 7015. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section Heading.—

(1) In general.—Section 5117 is amended by striking the section number and heading and inserting the following:

''§5117. Special permits and exclusions''.

(2) Conforming amendment.—The item relating to section 5117 in the analysis for chapter 51 is amended to read as follows:

''5117. Special permits and exclusions.''.

(b) Subsection Heading.—The heading for subsection (a) of section 5117 is amended by striking ''Exempt'' and inserting ''Issue Special Permits''.

(c) Authority to Issue Special Permits.—Section 5117(a)(1) is amended—

(1) by striking ''an exemption'' and inserting '', modify, or terminate a special permit authorizing a variance''; and

(2) by striking ''transporting, or causing to be transported, hazardous material'' and inserting ''performing a function regulated by the Secretary under section 5103(b)(1)''.

(d) Period of Special Permit.—Section 5117(a)(2) is amended to read as follows:

''(2) A special permit issued under this section shall be effective for an initial period of not more than 2 years and may be renewed by the Secretary upon application for an additional period of not more than 4 years or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.''.

(e) Applications.—Sections 5117(b) is amended—

(1) by striking ''an exemption'' each place it appears and inserting ''a special permit''; and

(2) by striking ''the exemption'' and inserting ''the special permit''.

(f) Dealing With Applications Promptly.—Section 5117(c) is amended by striking ''the exemption'' each place it appears and inserting ''the special permit''.

(g) Limitation on Authority.—Section 5117(e) is amended—

(1) by striking ''an exemption'' and inserting ''a special permit''; and

(2) by striking ''be exempt'' and inserting ''be granted a variance''.

SEC. 7016. UNIFORM FORMS AND PROCEDURES.

Section 5119 is amended to read as follows:

''§5119. Uniform forms and procedures

''(a) Establishment of Working Group.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

''(b) Purpose of Working Group.—The purpose of the working group shall be to establish uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

''(c) Limitation on Working Group.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

''(d) Procedure.—The Secretary shall develop a procedure by which the working group shall harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.

''(e) Report of Working Group.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

''(f) Regulations.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate.

''(g) Limitation on Statutory Construction.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).''.

SEC. 7017. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

(a) Consultation.—Section 5120(b) is amended by inserting ''and requirements'' after ''standards''.

(b) Differences With International Standards and Requirements.—Section 5120(c) is amended—

(1) in paragraph (1) by inserting ''or requirement'' after ''standard'' each place it appears; and

(2) in paragraph (2)—

(A) by inserting ''standard or'' before ''requirement'' each place it appears; and

(B) by striking "included in a standard".

SEC. 7018. ADMINISTRATIVE.

(a) GENERAL AUTHORITY.—Section 5121(a) is amended—

(1) in the first sentence by inserting "conduct tests," after "investigate,";

(2) in the second sentence by striking "After" and inserting "Except as provided in subsections (c) and (d), after"; and

(3) by striking "regulation prescribed" and inserting "regulation, order, special permit, or approval issued".

(b) RECORDS, REPORTS, AND INFORMATION.—Section 5121(b) is amended—

(1) in paragraph (1) by inserting "and property" after "records"; and

(2) in paragraph (2)—

(A) by inserting "property," after "records,";

(B) by inserting "for inspection" after "available"; and

(C) by striking "requests" and inserting "undertakes an investigation or makes a request".

(c) ENHANCED AUTHORITY TO DISCOVER HIDDEN SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121(c) is amended to read as follows:

"(c) INSPECTIONS AND INVESTIGATIONS.—

"(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary may—

"(A) inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);

"(B) except in the case of packaging immediately adjacent to its hazardous material contents, gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material;

"(C) remove from transportation a package or related packages in a shipment offered for or in transportation for which—

"(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

"(ii) such officer, employee, or agent contemporaneously documents such belief in accordance with procedures set forth in guidance or regulations prescribed under subsection (e);

"(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

"(E) as necessary, under terms and conditions specified by the Secretary, order the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and

"(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in the activities conducted under this subsection.

"(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials when requested.

"(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

"(A) in the safe resumption of transportation of the package concerned; or

"(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.".

(d) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (c) the following:

"(d) EMERGENCY ORDERS.—

"(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue an emergency order, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) WRITTEN ORDERS.—An emergency order issued under paragraph (1) shall be in writing, describe the violation, condition, or practice that is causing the imminent hazard, and state the restrictions, prohibitions, recalls, or out-of-service orders issued. The emergency order also shall describe the standards and procedures for obtaining relief from the order.

"(3) OPPORTUNITY FOR REVIEW.—After issuing an emergency order under paragraph (1), the Secretary shall provide an opportunity for review of the order under section 554 of title 5 if a petition for review is filed within 20 calendar days after the date of issuance of the order.

"(4) EXPIRATION OF EFFECTIVENESS OF EMERGENCY ORDER.—If a petition for review is filed for an order and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the order shall cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

"(e) GUIDANCE AND REGULATIONS.—

"(1) GUIDANCE.—Not later than 60 days after the date of enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall issue interim guidance to carry out subsections (c) and (d).

"(2) REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.".

(e) REPORT.—Section 5121(g) (as redesignated by subsection (d)(1) of this section) is amended—

(1) in the matter preceding paragraph (1) by striking "submit to the President for transmittal to the Congress" and inserting "transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate"; and

(2) in paragraph (4) by inserting "relating to a function regulated by the Secretary under section 5103(b)(1)" after "activities".

(f) REPEAL OF OBSOLETE PROVISION.—Section 5118, and the item relating to such section in the analysis for chapter 51, are repealed.

SEC. 7019. ENFORCEMENT.

(a) GENERAL.—Section 5122(a) is amended by striking the second sentence and inserting "The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123.".

(b) IMMINENT HAZARDS.—Section 5122(b) is amended—

(1) by striking paragraph (2);

(2) by striking "(1)";

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) in paragraph (2) (as so redesignated) by striking "or ameliorate the" and inserting "or mitigate the".

SEC. 7020. CIVIL PENALTY.

(a) PENALTY.—Section 5123(a) is amended—

(1) in paragraph (1)—

(A) by striking "regulation prescribed or order issued" and inserting "regulation, order, special permit, or approval issued"; and

(B) by striking "$25,000" and inserting "$50,000";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person or substantial destruction of property, the Secretary may increase the amount of the civil penalty for such violation to not more than $100,000.".

(b) HEARING REQUIREMENT.—Section 5123(b) is amended by striking "regulation prescribed" and inserting "regulation, order, special permit, or approval issued".

(c) CIVIL ACTIONS TO COLLECT.—Section 5123(d) is amended—

(1) by striking "Attorney General" and inserting "Secretary"; and

(2) by adding at the end the following: "In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.".

(d) COMPROMISE.—Section 5123(e) is amended by striking "before referral to the Attorney General".

SEC. 7021. CRIMINAL PENALTY.

Section 5124 is amended to read as follows:

"§ 5124. Criminal penalty

"(a) IN GENERAL.—A person knowingly violating section 5104(b) or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to any person.

"(b) KNOWING VIOLATIONS.—For purposes of this section—

"(1) a person acts knowingly when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

"(2) knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary, is not an element of an offense under this section.

"(c) WILLFUL VIOLATIONS.—For purposes of this section, a person acts willfully when—

"(1) the person has knowledge of the facts giving rise to the violation; and

"(2) the person has knowledge that the conduct was unlawful.

"(d) RECKLESS VIOLATIONS.—For purposes of this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard to the consequences of that person's conduct.".

SEC. 7022. PREEMPTION.

(a) DUAL COMPLIANCE AND OBSTACLE TESTS.—Section 5125(a) is amended by striking the subsection heading and inserting "DUAL COMPLIANCE AND OBSTACLE TESTS.—".

(b) SUBSTANTIVE DIFFERENCES.—The second sentence of section 5125(b)(2) is amended by striking "after November 16, 1990".

(c) DECISIONS ON PREEMPTION.—The third sentence of section 5125(d)(1) is amended by inserting "and publish in the Federal Register" after "issue".

(d) JUDICIAL REVIEW.—Section 5125 is further amended—

(1) by striking subsection (f) and redesignating subsection (g) as subsection (f);

(2) in subsection (f) (as so redesignated) by moving paragraph (2) (including subparagraphs (A) through (D)) 2 ems to the left; and

(3) by adding at the end the following:

"(g) INDEPENDENT APPLICATION OF EACH STANDARD.—Subsections (b), (c)(1), (d), and (g) are independent in their application to a requirement of any State, political subdivision of a State, or Indian tribe and shall be reviewed independently.".

SEC. 7023. RELATIONSHIP TO OTHER LAWS.

Section 5126(a) is amended by striking "must comply" and inserting "shall comply".

SEC. 7024. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 51 is amended by redesignating section 5127 as section 5128 and by inserting after section 5126 the following:

"§5127. JUDICIAL REVIEW

"(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review. .

"5128. Authorization of appropriations.".

SEC. 7025. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 (as redesignated by section 7024) is amended to read as follows:

"§5128. Authorizations of appropriations

"(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2004, $24,981,000.

"(2) For fiscal year 2005, $27,000,000.

"(3) For fiscal year 2006, $29,000,000.

"(4) For fiscal year 2007, $30,000,000.

"(b) EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2004 through 2007 the following:

"(1) To carry out section 5115, $200,000.

"(2) To carry out section 5116(a), $8,000,000.

"(3) To carry out section 5116(b), $13,800,000.

"(4) To carry out section 5116(f), $150,000.

"(5) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), $500,000.

"(6) To pay administrative expenses in accordance with section 5116(i)(4), $150,000.

"(7) To carry out section 5116(j), $1,000,000.

"(c) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) $4,000,000 for each of fiscal years 2004 through 2007.

"(d) UNIFORM FORMS AND PROCEDURES.—There is authorized to be appropriated to the Secretary for making grants to States participating in the working group established under section 5119 $1,000,000 for each of the fiscal years 2005 and 2006.

"(e) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

"(f) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

"(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.".

SEC. 7026. DETERMINING AMOUNT OF UNDECLARED SHIPMENTS OF HAZARDOUS MATERIALS ENTERING THE UNITED STATES.

(a) STUDY.—The Comptroller General shall conduct a study to propose methods of determining the amount of undeclared shipments of hazardous materials (as defined in section 5101 of title 49, United States Code) entering the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 7027. CONFORMING AMENDMENTS.

Chapter 51 is amended by striking "Secretary of Transportation" each place it appears (other than the second place it appears in section 5108(g)(2)(C), the first place it appears in section 5115(a), and in sections 5116(g), 5116(i), and 5120(a)) and inserting "Secretary".

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

SEC. 8001. POLICY.

The guaranteed funding levels provided under this Act are dependent on identifying additional budgetary resources. This title will continue sections 8101 and 8103 of the Transportation Equity Act for the 21st Century that guarantee that specific levels of authorized funding will be available for obligation each year by continuing the highway category budgetary firewall, which protects the Federal-aid highway program's obligation limitation, the programs of the Federal Motor Carrier Safety Administration, and the portion of the National Highway Traffic Safety Administration's programs funded from the Highway Trust Fund, and the mass transit category budgetary firewall, which protects the portion of the Federal Transit Administration programs funded from the Mass Transit Account of the Highway Trust Fund and the portion of such programs funded from the general fund of the Treasury.

SEC. 8002.

For purposes of clauses 2 and 3 of rule XXI of the House of Representatives, it shall be in order to transfer funds, in amounts specified in annual appropriations Acts to carry out the Transportation Equity Act: A Legacy for Users (including the amendments made by that Act), from the Federal Transit Administration's administrative expenses account to other mass transit budget accounts under section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE IX—TAX PROVISIONS

SEC. 9000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization Tax Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Highway Trust Fund Extension

SEC. 9101. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking "2005" each place it appears and inserting "2011":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(D) Section 4071(d) (relating to termination of tax on tires).

(E) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(F) Section 4481(e) (relating to period tax in effect).

(G) Section 4482(c)(4) (relating to taxable period).

(H) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions of such Code are each amended by striking "2005" and inserting "2011":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(c) EXTENSION OF DEPOSITS INTO TRUST FUNDS.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 of such Code (relating to the Highway Trust Fund) are each amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) of such Code are each amended by striking "2005" and inserting "2011".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking "2003" and inserting "2009", and

(ii) by striking "2004" each place it appears and inserting "2010".

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUNDS.—

(1) HIGHWAY TRUST FUND.—

(A) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) of such Code is amended—

(i) in the matter before subparagraph (A), by striking "May 1, 2004" and inserting "October 1, 2009",

(ii) by striking "or" at the end of subparagraph (F),

(iii) by striking the period at the end of subparagraph (G) and inserting ", or",

(iv) by inserting after subparagraph (G), the following new subparagraph:

"(H) authorized to be paid out of the Highway Trust Fund under the Transportation Equity Act: A Legacy for Users.", and

(v) in the matter after subparagraph (H), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004" and inserting "Transportation Equity Act: A Legacy for Users".

(B) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(i) in the matter before subparagraph (A), by striking "May 1, 2004" and inserting "October 1, 2009",

(ii) in subparagraph (D), by striking "or" at the end of such subparagraph,

(iii) in subparagraph (E), by inserting "or" at the end of such subparagraph,

(iv) by inserting after subparagraph (E) the following new subparagraph:

"(F) the Transportation Equity Act: A Legacy for Users,", and

(v) in the matter after subparagraph (F), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004" and inserting "Transportation Equity Act: A Legacy for Users".

(C) LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking "May 1, 2004" and inserting "October 1, 2009".

(2) AQUATIC RESOURCES TRUST FUND.—

(A) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of such Code is amended by striking "Surface Transportation Extension Act of 2004" each place it appears and inserting "Transportation Equity Act: A Legacy for Users".

(B) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(i) by striking "May 1, 2004" and inserting "October 1, 2009", and

(ii) by striking "Surface Transportation Extension Act of 2004" and inserting "Transportation Equity Act: A Legacy for Users".

(C) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking "May 1, 2004" and inserting "October 1, 2009".

Subtitle B—Restructuring of Incentives for Alcohol Fuels, Etc.

SEC. 9201. REDUCED RATES OF TAX ON GASOHOL REPLACED WITH EXCISE TAX CREDIT; REPEAL OF OTHER ALCOHOL-BASED FUEL INCENTIVES; ETC.

(a) EXCISE TAX CREDIT FOR ALCOHOL FUEL MIXTURES.—

(1) IN GENERAL.—Subsection (f) of section 6427 is amended to read as follows:

"(f) ALCOHOL FUEL MIXTURES.—

"(1) IN GENERAL.—The amount of credit which would (but for section 40(c)) be determined under section 40(a)(1) for any period—

"(A) shall, with respect to taxable events occurring during such period, be treated—

"(i) as a payment of the taxpayer's liability for tax imposed by section 4081, and

"(ii) as received at the time of the taxable event, and

"(B) to the extent such amount of credit exceeds such liability for such period, shall (except as provided in subsection (k)) be paid subject to subsection (i)(3) by the Secretary without interest.

"(2) SPECIAL RULES.—

"(A) ONLY CERTAIN ALCOHOL TAKEN INTO ACCOUNT.—For purposes of paragraph (1), section 40 shall be applied—

"(i) by not taking into account alcohol with a proof of less than 190, and

"(ii) by treating as alcohol the alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TREATMENT OF REFINERS.—For purposes of paragraph (1), in the case of a mixture—

"(i) the alcohol in which is described in subparagraph (A)(ii), and

"(ii) which is produced by any person at a refinery prior to any taxable event,

section 40 shall be applied by treating such person as having sold such mixture at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

"(3) MIXTURES NOT USED AS FUEL.—Rules similar to the rules of subparagraphs (A) and (D) of section 40(d)(3) shall apply for purposes of this subsection.

"(4) TERMINATION.—This section shall apply only to periods to which section 40 applies, determined by substituting in section 40(e)—

"(A) 'December 31, 2010' for 'December 31, 2007', and

"(B) 'January 1, 2011' for 'January 1, 2008'."

(2) REVISION OF RULES FOR PAYMENT OF CREDIT.—Paragraph (3) of section 6427(i) is amended to read as follows:

"(3) SPECIAL RULE FOR ALCOHOL MIXTURE CREDIT.—

"(A) IN GENERAL.—A claim may be filed under subsection (f)(1)(B) by any person for any period—

"(i) for which $200 or more is payable under such subsection (f)(1)(B), and

"(ii) which is not less than 1 week.

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (f)(1)(B), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the filing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(C) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim."

(b) REPEAL OF OTHER INCENTIVES FOR FUEL MIXTURES.—

(1) Subsection (b) of section 4041 is amended to read as follows:

"(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

"(1) IN GENERAL.—No tax shall be imposed by subsection (a) or (d)(1) on liquids sold for use or used in an off-highway business use.

"(2) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of paragraph (1) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B), (2)(B), or (3)(A)(ii) of subsection (a) (whichever is appropriate) and by the corresponding provision of subsection (d)(1) (if any).

"(3) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(e)(2); except that such term shall not, for purposes of subsection (a)(1), include use in a diesel-powered train."

(2) Section 4041(k) is hereby repealed.

(3) Section 4081(c) is hereby repealed.

(4) Section 4091(c) is hereby repealed.

(c) TRANSFERS TO HIGHWAY TRUST FUND.—Paragraph (4) of section 9503(b) is amended by adding "or" at the end of subparagraph (B), by striking the comma at the end of subparagraph (C) and inserting a period, and by striking subparagraphs (D), (E), and (F).

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended to read as follows:

"(c) COORDINATION WITH EXCISE TAX BENEFITS.—The amount of the credit determined under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account the benefit provided with respect to such alcohol under section 6427(f)."

(2) Subparagraph (B) of section 40(d)(4) is amended by striking "under section 4041(k) or 4081(c)" and inserting "under section 6427(f)".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxes imposed after September 30, 2003.

SEC. 9202. ALCOHOL FUEL SUBSIDIES BORNE BY GENERAL FUND.

(a) TRANSFERS TO FUND.—Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, the amount of taxes received under section 4081 shall include any amount treated as a payment under section 6427(f)(1)(A) and shall not be reduced by the amount paid under section 6427(f)(1)(B).".

(b) TRANSFERS FROM FUND.—Subparagraph (A) of section 9503(c)(2) is amended by adding at the end the following new sentence: "Clauses (i)(III) and (ii) shall not apply to claims under section 6427(f)(1)(B)."

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxes received after September 30, 2004.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts paid after September 30, 2004, and (to the extent related to section 34 of the Internal Revenue Code of 1986) to fuel used after such date.

Subtitle C—Reduction of Fuel Tax Evasion

SEC. 9301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting

after subsection (f) the following new subsection:

"(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(c) EXEMPTION FROM TAX ON TIRES.—

(1) IN GENERAL.—Section 4072(b)(2) is amended by adding at the end the following flush sentence: "Such term shall not include tires of a type used exclusively on vehicles described in section 4053(8).".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) REFUND OF FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 7,500 miles during the taxpayer's taxable year.".

(2) NO TAX-FREE SALES.—Subsection (b) of section 4082, as amended by section 9302, is amended by inserting before the period at the end "and such term shall not include any use described in section 6421(e)(2)(C)".

(3) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used solely in any off-highway business use described in section 6421(e)(2)(C).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9302. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS TREATED AS TERMINAL.—Subsection (a) of section 4081 is amended by adding at the end the following new paragraph:

"(3) CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS TREATED AS TERMINAL.—

"(A) IN GENERAL.—In the case of aviation-grade kerosene which is removed from any terminal directly into the fuel tank of an aircraft (determined without regard to any refueler truck, tanker, or tank wagon which meets the requirements of subparagraph (B)), a refueler truck, tanker, or tank wagon shall be treated as part of such terminal if—

"(i) such truck, tanker, or wagon meets the requirements of subparagraph (B) with respect to an airport, and

"(ii) except in the case of exigent circumstances identified by the Secretary in regulations, no vehicle registered for highway use is loaded with aviation-grade kerosene at such terminal.

"(B) REQUIREMENTS.—A refueler truck, tanker, or tank wagon meets the requirements of this subparagraph with respect to an airport if such truck, tanker, or wagon—

"(i) is loaded with aviation-grade kerosene at such terminal located within such airport and delivers such kerosene only into aircraft at such airport,

"(ii) has storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft,

"(iii) is not registered for highway use, and

"(iv) is operated by—

"(I) the terminal operator of such terminal, or

"(II) a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or wagon.

"(C) REPORTING.—The Secretary shall require under section 4101(d) reporting by such terminal operator of—

"(i) any information obtained under subparagraph (B)(iv)(II), and

"(ii) any similar information maintained by such terminal operator with respect to deliveries of fuel made by trucks, tankers, or wagons operated by such terminal operator.".

(4) LIABILITY FOR TAX ON AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—Subsection (a) of section 4081 is amended by adding at the end the following new paragraph:

"(4) LIABILITY FOR TAX ON AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—For purposes of paragraph (2)(C), the person who uses the fuel for commercial aviation shall pay the tax imposed under such paragraph. For purposes of the preceding sentence, fuel shall be treated as used when such fuel is removed into the fuel tank.".

(5) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence:

"The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(6) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Subparagraph (A) of section 6427(i)(4) is amended—

(A) by striking "subsection (l)(5)" both places it appears and inserting "paragraph (4)(B) or (5) of subsection (l)", and

(B) by striking "the preceding sentence" and inserting "subsection (l)(5)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(F) Section 6416(b)(2) is amended by striking "4091 or".

(G) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(H) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(I) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(J)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any payment made to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(K) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(L) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(M) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(N) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(O) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(P) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(Q) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.
"Subpart B. Special provisions applicable to fuels tax.".

(R) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(S) The heading for subpart B of part III of subchapter A of chapter 32, as redesignated by paragraph (1), is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 9303. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect on the 180th day after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 9304. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as previously amended by this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9305. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) In General.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

(c) Publication of Registered Persons.—Beginning on July 1, 2004, the Secretary of the Treasury (or the Secretary's delegate) shall periodically publish a current list of persons registered under section 4101 of the Internal Revenue Code of 1986 who are required to register under such section.

SEC. 9306. DISPLAY OF REGISTRATION.

(a) In General.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) In general.—Every", and

(2) by adding at the end the following new paragraph:

"(2) Display of registration.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) Civil Penalty for Failure To Display Registration.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6716 the following new section:

"SEC. 6717. FAILURE TO DISPLAY TAX REGISTRATION ON VESSELS.

"(a) Failure To Display Registration.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) Multiple Violations.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the aggregate number of penalties (if any) imposed with respect to prior months by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6716 the following new item:

"Sec. 6717. Failure to display tax registration on vessels.".

(c) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall take effect on October 1, 2004.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to penalties imposed after September 30, 2004.

SEC. 9307. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) Increased Penalty.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) Increased Criminal Penalty.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) Assessable Penalty for Failure To Register.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6717 the following new section:

"SEC. 6718. FAILURE TO REGISTER.

"(a) Failure To Register.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6717 the following new item:

"Sec. 6718. Failure to register.".

(d) Assessable Penalty for Failure To Report.—

(1) In general.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) In General.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) Failures Subject to Penalty.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) Effective Date.—The amendments made by this section shall apply to penalties imposed after September 30, 2004.

SEC. 9308. COLLECTION FROM CUSTOMS BOND WHERE IMPORTER NOT REGISTERED.

(a) Tax at Point of Entry Where Importer Not Registered.—Subpart B of part III of subchapter A of chapter 32, as redesignated by section 9302(d), is amended by adding after section 4103 the following new section:

"SEC. 4104. COLLECTION FROM CUSTOMS BOND WHERE IMPORTER NOT REGISTERED.

"(a) In General.—The importer of record shall be jointly and severally liable for the tax imposed by section 4081(a)(1)(A)(iii) if, under regulations prescribed by the Secretary, any other person that is not a person who is registered under section 4101 is liable for such tax.

"(b) Collection From Customs Bond.—If any tax for which any importer of record is liable under subsection (a), or for which any importer of record that is not a person registered under section 4101 is otherwise liable, is not paid on or before the last date prescribed for payment, the Secretary may collect such tax from the Customs bond posted with respect to the importation of the taxable fuel to which the tax relates. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any action by the Secretary described in the preceding sentence shall be treated as an action to collect the tax from a bond described in section 4101(b)(1) and not as an action to collect from a bond relating to the importation of merchandise.".

(b) Conforming Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 32, as redesignated by section 9302(d), is amended by adding after the item related to section 4103 the following new item:

"Sec. 4104. Collection from Customs bond where importer not registered.".

(c) Effective Date.—The amendments made by this section shall apply with respect to fuel entered after September 30, 2004.

SEC. 9309. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) Proration of Tax Where Vehicle Sold.—

(1) In general.—Subparagraph (A) of section 4481(c)(2) (relating to where vehicle destroyed or stolen) is amended by striking "destroyed or stolen" both places it appears and inserting "sold, destroyed, or stolen".

(2) Conforming amendment.—The heading for section 4481(c)(2) is amended by striking "DESTROYED OR STOLEN" and inserting "SOLD, DESTROYED, OR STOLEN".

(b) Repeal of Installment Payment.—

(1) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(2) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(c) Electronic Filing.—Section 4481 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Electronic Filing.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) Repeal of Reduction in Tax for Certain Trucks.—Section 4483 is amended by striking subsection (f).

(e) Effective Date.—The amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

SEC. 9310. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—

(1) Refunds.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) Registered vendors permitted to administer certain claims for refund of diesel fuel and kerosene sold to farmers.—

"(A) In general.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 250 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) Payment to ultimate vendor.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 250 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 9311. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties paid under sections 6715, 6715A, 6717, 6718, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

Subtitle D—Other Excise Tax Provisions

SEC. 9401. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor covered by such claim are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel) is amended by adding at the end the following new flush sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9402. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding after section 4104 the following new section:

"SEC. 4105. TWO-PARTY EXCHANGES.

"(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant fuel to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the taxable fuel across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding after the item relating to section 4104 the following new item:

"Sec. 4105. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 9403. SIMPLIFICATION OF TAX ON TIRES.

(a) IN GENERAL.—Subsection (a) of section 4071 is amended to read as follows:

"(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on taxable tires sold by the manufacturer, producer, or importer thereof a tax at the rate of 9.4 cents (4.7 cents in the case of a biasply tire) for each 10 pounds so much of the maximum rated load capacity thereof as exceeds 3,500 pounds."

(b) TAXABLE TIRE.—Section 4072 is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) TAXABLE TIRE.—For purposes of this chapter, the term 'taxable tire' means any tire of the type used on highway vehicles if wholly or in part made of rubber and if marked pursuant to Federal regulations for highway use."

(c) EXEMPTION FOR TIRES SOLD TO DEPARTMENT OF DEFENSE.—Section 4073 is amended to read as follows:

"SEC. 4073. EXEMPTIONS.

"The tax imposed by section 4071 shall not apply to tires sold for the exclusive use of the Department of Defense or the Coast Guard."

(d) CONFORMING AMENDMENTS.—

(1) Section 4071 is amended by striking subsection (c) and by moving subsection (e) after subsection (b) and redesignating subsection (e) as subsection (c).

(2) The item relating to section 4073 in the table of sections for part II of subchapter A of chapter 32 is amended to read as follows:

"Sec. 4073. Exemptions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales in calendar years beginning more than 30 days after the date of the enactment of this Act.

Subtitle E—Small Business Expensing

SEC. 9501. 2-YEAR EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Subsections (b), (c), and (d) of section 179 (as amended by the Jobs and Growth Tax Relief Reconciliation Act of 2003) are each amended by striking "2006" each place it appears and inserting "2008".

Subtitle F—Alternative Minimum Tax Relief

SEC. 9601. NET OPERATING LOSSES AND FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) NET OPERATING LOSSES.—

(1) IN GENERAL.—Subparagraph (A) of section 56(d)(1) is amended to read as follows:

"(A) the amount of such deduction shall not exceed the applicable percentage (determined under paragraph (3)) of the alternative minimum taxable income determined without regard to such deduction, and".

(2) APPLICABLE PERCENTAGE.—Subsection (d) of section 56 is amended by adding at the end the following new paragraph:

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)—

"For taxable years beginning in calendar year—	**The applicable percentage is—**
2006, 2007, or 2008	92
2009 or 2010	94
2011	96
2012	98
2013 or thereafter	100."

(b) FOREIGN TAX CREDIT.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking "and if section 59(a)(2) did not apply".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 9602. EXPANSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX FOR SMALL CORPORATIONS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 55(e)(1) are each amended by striking "$7,500,000" each place it appears and inserting "$20,000,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 9603. INCOME AVERAGING FOR FARMERS NOT TO INCREASE ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 55 (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by *inserting after paragraph (1) the following new paragraph:*

"(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS.—Solely for purposes of this section, section 1301 (relating to averaging of farm income) shall not apply in computing the regular tax liability.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

The CHAIRMAN pro tempore. No further amendment is in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–456 part B.

AMENDMENT NO. 1 OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. YOUNG of Alaska:

In title I, strike the text of section 1105 (page 31) and insert the following:

(a) OVERSIGHT PROGRAM.—Section 106 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) OVERSIGHT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title. At a minimum, the program shall be responsive to all areas related to financial integrity and project delivery.

"(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).

"(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the States' practices for estimating project costs, awarding contracts, and reducing project costs.

"(C) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds under this title have sufficient accounting controls to properly manage such Federal funds. The Secretary shall periodically review the States' monitoring of subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of a State's project delivery system, which includes one or more activities that are involved in the life cycle of a project from its conception to its completion.

"(4) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds under this title have adequate project delivery systems for projects approved under this section. The Secretary shall periodically review the States' monitoring of subrecipients.

"(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law. In addition, the Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

"(i) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision in this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, or any other project in the discretion of the Secretary, shall submit to the Secretary a project management plan and an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—The project management plan shall document the procedures and processes in place to provide timely information to the project decision makers to manage effectively the scope, costs, schedules, and quality, and the Federal requirements of the project and the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—The financial plan shall be based on detailed estimates of the cost to complete the project. Annual updates shall be submitted based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(j) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the Secretary's request.".

(b) SHARING OF MONETARY RECOVERIES.—Notwithstanding any other provision of law, monetary judgments accruing to the Government from judgments in Federal criminal prosecutions and civil proceedings pertaining to fraud in Federally funded highway and public transportation projects and programs shall be treated as follows:

(1) Any amount less than or equal to the single damages incurred as the result of such fraud shall be credited to the Federal account from which the funds for the project or program that is at issue in the fraud came, except to the extent that such Federal account has been credited as the result of any judgment in favor of a grant recipient.

(2) Any amount in excess of the amount credited pursuant to paragraph (1) shall be shared with the State or other recipient involved if—

(A) the State or other recipient enters into a legally binding agreement with the Secretary to use the funds for a purpose eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code, as the case may be;

(B) the amount to be shared with the State or other recipient is determined by the Attorney General, in consultation with the Secretary; and

(C) the Attorney General, in consultation with the Secretary, determines that the fraud did not occur as a result of negligent oversight or actual involvement in the fraud by the State or other recipient or any senior official of the State or other recipient.

Page 34, strike lines 2 through 7 and insert the following:

(a) ALLOCATION.—Section 110(a)(1) of title 23, United States Code, is amended—

(1) by striking "2000" and inserting "2006";

(2) by inserting after "such fiscal year" the following: "and the succeeding fiscal year".

(b) REDUCTION.—Section 110(a)(2) of such title is amended—

(1) by striking "2000" and inserting "2006";

(2) by striking "October 1 of the succeeding" and inserting "October 15 of such"; and

(3) by inserting after "Account)" the following: "for such fiscal year and the succeeding fiscal year".

(c) GENERAL DISTRIBUTION.—Section 110(b)(1)(A) of such title is amended by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users".

Page 34, line 8, strike "(b)" and insert "(d)".

Page 46, after line 13, insert the following:

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall take effect on September 30, 2004.

Page 48, line 13, strike both periods and the closing quotation marks and insert the following:

; except that $25,000,000 shall be available only for projects for the seismic retrofit of bridges, and of which $10,000,000 shall be available only for the seismic retrofit of a bridge described in subsection (l), and except as provided in subparagraph (E).

"(E) GRAVINA ACCESS.—

"(i) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this paragraph, for each of the fiscal years 2005 through 2009, $10,000,000 shall be set aside from the $100,000,000 available at the discretion of the Secretary under subparagraph (D) for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.

"(ii) SCORING.—The project described in this subparagraph shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).".

Page 49, after line 22, insert the following:

(c) PLANNING ACTIVITIES PILOT PROGRAM.—Section 1221 of such Act is amended by adding at the end the following:

"(f) PLANNING ACTIVITIES PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program using funds set aside under paragraph (4) to support planning and public participation activities related to highway and public transportation projects.

"(2) ELIGIBLE ACTIVITIES.—Activities eligible to be carried out under the pilot program may include the following:

"(A) Improving data collection and analysis to improve freight movement, intermodal connections, and transportation access and efficiency for all users, including children, older individuals, individuals with disabilities, low-income individuals, and minority communities.

"(B) Supporting public participation by holding public meetings using an interactive workshop format facilitated by design or planning experts (or both) to consider public input at the initial stages of project development and during other phases of a project.

"(C) Using innovative planning or design visualization and simulation tools to improve the evaluation of alternatives and their impacts and to enhance public participation in the transportation planning process, including tools having a structure that enables modifications to scenarios and assumptions in real time.

"(D) Enhancing coordination among transportation, land use, workforce development, human service, economic development, and other agencies to strengthen access to job training services, daycare centers, health care facilities, senior centers, public schools, universities, and residential areas, including the use of integrated planning and service delivery, especially for transit dependent and low-income individuals.

"(E) Contracting with nonprofit organizations, universities, and local agencies to deliver community-oriented transportation plans and projects, including public outreach, context sensitive design, transit-oriented development, multimodal corridor investments, commuter benefits deployment, and brownfield redevelopment.

"(F) Measuring and reporting on the annual performance of the transportation system (or parts of) relative to State or locally-established criteria regarding—

"(i) maintenance and operating costs of the transportation system, vehicle miles traveled, peak-period travel times, transportation choices, and mode shares;

"(ii) location of housing units, jobs, medical facilities, and commercial centers to transit;

"(iii) improvements directed to low-income families and older individuals;

"(iv) transportation-related pollution emissions into the air and water;

"(v) land consumption; and

"(vi) other locally-significant factors.

"(G) Improving regional travel and emission modeling to examine factors not currently considered, such as induced travel and land use effects of transportation alternatives, types of vehicles owned and used by households, time-of-day of travel and linkage of trips to each other throughout the day, effects of urban design and pedestrian and bicycle environment on travel behavior, and impacts of alternatives on the distribution of benefits and burdens among various groups protected under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(3) Federal share.—Notwithstanding subsection (e)(2), the Federal share of the cost of activities carried out under the pilot program shall be 100 percent.

"(4) Set aside.—The Secretary shall make available $1,500,000 of the amounts made available to carry out this section for each of fiscal years 2004 through 2009 to carry out the pilot program under this subsection.".

Page 62, line 19 strike "202(a)" and insert "202(d) of such title".

Page 63, after line 18, insert the following:

(e) Alaska Native Village Transportation Program.—

(1) Establishment.—Not later than 3 months after the date of enactment of this Act, the Secretary and the Denali Commission, in coordination with the Alaska Federation of Natives, shall establish an Alaska Native Village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified by Alaska Native Villages.

(2) Alaska native village defined.—In this subsection, the term "Alaska Native Village" has the same meaning such term has as used by the Bureau of Indian Affairs in administering the Indian reservation road program under section 202 of title 23, United States Code.

Page 63, strike line 19, insert the following (and conform the table of contents of the bill accordingly):

SEC. 1119. CONSERVATION MEASURES.

(a) Refuge Roads.—Section 204(k)(1) of title 23, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesigning subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following:

"(C) construction, maintenance, and improvement of wildlife observation infrastructure; and"; and

(4) in subparagraph (D) (as so redesignated) by striking "maintenance and improvements" and inserting "construction, maintenance, and improvements".

(b) Forest Highways.—Of the amounts made available for public lands highways under section 1101—

(1) not to exceed $20,000,000 per fiscal year may be used for the maintenance of forest highways;

(2) not to exceed $2,500,000 per fiscal year may be used to repair culverts and bridges on forest highways to facilitate appropriate fish passage and ensure reasonable flows and to maintain and remove such culverts and bridges as appropriate; and

(3) not to exceed $1,000,000 per fiscal year may be used for signage identifying public hunting and fishing access.

(c) Wildlife Vehicle Collision Reduction Study.—

(1) In general.—The Secretary shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as "wildlife vehicle collisions").

(2) Contents.—

(A) Areas of study.—The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.

(B) Methods for conducting the study.—In carrying out the study, the Secretary shall—

(i) conduct a thorough literature review; and

(ii) survey current practices of the Department of Transportation.

(3) Consultation.—In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.

(4) Report.—

(A) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(B) Contents.—The report shall include a description of each of the following:

(i) Causes of wildlife vehicle collisions.

(ii) Impacts of wildlife vehicle collisions.

(iii) Solutions to and prevention of wildlife vehicle collisions.

(5) Manual.—

(A) Development.—Based upon the results of the study, the Secretary shall develop a best practices manual to support State efforts to reduce wildlife vehicle collisions.

(B) Availability.—The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).

(C) Contents.—The manual shall include, at a minimum, the following:

(i) A list of best practices addressing wildlife vehicle collisions.

(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.

(iii) Recommendations for addressing wildlife vehicle collisions.

(iv) Guidance for developing a State action plan to address wildlife vehicle collisions

(6) Training.—Based upon the manual developed under paragraph (5), the Secretary shall develop a training course on addressing wildlife vehicle collisions for transportation professionals.

Page 89, strike lines 18 through 20 and insert the following:

(a) General Provisions.—The Secretary may not apportion before August 1, 2006, any funds for any of the programs referred to in subsection (b) for fiscal year 2006 unless, after·

Page 119, strike lines 7 through 9 and insert the following (and conform the table of contents of the bill accordingly):

SEC. 1207. STATE ASSUMPTION OF RESPONSIBILITIES FOR CERTAIN PROGRAMS AND PROJECTS.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 167. State assumption of responsibilities for certain programs and projects

"(a) Assumption of Secretary's Responsibilities Under Applicable Federal Laws.—

"(1) Pilot program.—

"(A) Establishment.—The Secretary may establish a pilot program under which States may assume the responsibilities of the Secretary under any Federal laws subject to the requirements of this section.

"(B) First 3 fiscal years.—In the first 3 fiscal years following the date of enactment of this section, the Secretary may allow up to 5 States to participate in the pilot program.

"(2) Scope of program.—Under the pilot program, the Secretary may assign, and a State may assume, any of the Secretary's responsibilities (other than responsibilities relating to federally recognized Indian tribes) for environmental reviews, consultation, or decisionmaking or other actions required under any Federal law as such requirements apply to the following projects:

"(A) Projects funded under section 104(h).

"(B) Transportation enhancement activities under section 133, as such term is defined in section 101(a)(35).

"(C) Projects as defined in section 101(a)(39) and section 5607 of the Transportation Equity Act: A Legacy for Users.

"(3) Limitations.—

"(A) Procedural and substantive requirements.—A State that assumes the responsibilities of the Secretary under this section shall be subject to the same procedural and substantive requirements as would apply if the responsibilities were carried out by the Secretary. When a State assumes responsibilities for carrying out a Federal law under this section, the State assents to Federal jurisdiction and shall be solely responsible and solely liable for complying with and carrying out that law instead of the Secretary.

"(B) Assumption of responsibilities.—Any responsibility of the Secretary not assumed by the State in a memorandum of understanding shall remain a responsibility of the Secretary.

"(C) Powers of other agencies.—Nothing in this section preempts or limits any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, with respect to a project.

"(b) Agreements.—

"(1) In general.—The Secretary shall enter into a memorandum of understanding with a State participating in the pilot program setting forth the responsibilities to be assigned under subsection (a)(2) and the terms and conditions under which the assignment is being made.

"(2) Certification.—Before the Secretary enters into a memorandum of understanding with a State under paragraph (1), the State shall certify that the State has in effect laws (including regulations) applicable to projects carried out and funded under this title and chapter 53 of title 49 that authorize the State to carry out the responsibilities being assumed.

“(3) Maximum duration.—A. memorandum of understanding with a State under this section shall be established for an initial period of no more than 3 years and may be renewed by mutual agreement on a periodic basis for periods of not more than 3 years.

“(4) Compliance.—

“(A) In general.—After entering into a memorandum of understanding under paragraph (1), the Secretary shall review and determine compliance by the State with the memorandum of understanding.

“(B) Renewals.—The Secretary shall take into account the performance of a State under the pilot program when considering renewal of a memorandum of understanding with the State under the program.

“(5) Acceptance of federal courts jurisdiction.—A memorandum of understanding with a State under this section shall include a provision under which the State consents to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State may assume under the memorandum.

“(6) Termination of agreements.—A memorandum of understanding with a State under this section shall include a provision authorizing the Secretary to terminate the agreement if the Secretary, after providing an opportunity for a hearing, issues a finding that the State is not in compliance with the terms of the agreement.

“(c) Selection of States for Pilot Program.—

“(1) Application.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains such information as the Secretary may require. At a minimum, an application shall include—

“(A) a description of the projects or classes of projects for which the State seeks to assume responsibilities under subsection (a)(2); and

“(B) a certification that the State has the capability to assume such responsibilities.

“(2) Public notice.—Before entering into a memorandum of understanding allowing a State to participate in the pilot program, the Secretary shall—

“(A) publish notice in the Federal Register of the Secretary's intent to allow the State to participate in the program, including a copy of the State's application to the Secretary and the terms of the proposed agreement with the State; and

“(B) provide an opportunity for public comment.

“(3) Selection criteria.—The Secretary may approve the application of a State to assume responsibilities under the program only if—

“(A) the requirements under paragraph (2) have been met; and

“(B) the Secretary determines that the State has the capability to assume the responsibilities.

“(4) Other federal agency views.—Before assigning to a State a responsibility of the Secretary that requires the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency.

“(d) State Defined.—With respect to the recreational trails program, the term ‘State’ means the State agency designated by the Governor of the State in accordance with section 206(c)(1).

“(e) Preservation of Public Interest Consideration.—Nothing in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decisionmaking.

“(f) State Subject to Federal Laws.—For purposes of assuming responsibilities of the Secretary under this section, a State agency entering into a memorandum of understanding under subsection (b) is deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), this title, and any other provision of Federal law.”.

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

“167. State assumption of responsibilities for certain programs and projects.”.

Page 130, strike line 22 and all that follows through line 24 on page 132 and insert the following (and conform the table of contents of the bill accordingly):

SEC. 1210. ACCESS RAMP.

(a) In General.—Not later 30 days after the date of enactment of this Act, the Secretary shall open the ramp connecting Interstate Route 495/95 and Arena Drive in Prince George's County, Maryland, for the purpose of allowing motor vehicles to exit Interstate Route 495/95 in both northern and southern directions onto Arena Drive. Such ramp shall be open for 24 hours a day, every day during the calendar year.

(b) Fully Opening Arena Drive Ramp.—

(1) Study.—The Secretary shall conduct a study to determine the most appropriate method for opening the ramps for allowing motor vechicles to enter Interstate Route 495/95 from Arena Drive.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(c) Limitation on Statutory Construction.—Nothing in the section shall be construed as altering current traffic management protocols to the Arena Drive ramps during stadium events.

Page 171, line 2, insert “(b)(1),” before “(d),”.

In subtitle D of title I, insert at the end the following (and conform the table of contents accordingly):

SEC. 1408. REPAIR OR REPLACEMENT OF HIGHWAY FEATURES ON NATIONAL HIGHWAY SYSTEM.

(a) Rulemaking Proceeding.—The Secretary shall conduct a rulemaking proceeding to determine the appropriate conditions under which a State when choosing to repair or replace damaged highway features on the National Highway System with State funds (rather than with available Federal financial assistance) should be required to repair or replace such features with highway features that have been tested, evaluated, and found to be acceptable under the guidelines contained in the report of the Transportation Research Board of the National Research Council entitled “NCHRP Report 350-Recommended Procedures for the Safety Performance Evaluation of Highway Features”.

(b) Matters to Be Considered.—The rulemaking proceeding shall cover those highway features that are covered by the guidelines referred to in subsection (a). The conditions to be considered by the Secretary in the rulemaking proceeding shall include types of highway features, cost-effectiveness, and practicality of replacement with highway features that have been found to be acceptable under such guidelines.

(c) Regulations.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations regarding the conditions under which States when choosing to repair or replace damaged highway features described in subsection (a) will be required to repair or replace such features with highway features that have been tested, evaluated, and found to be acceptable as described in subsection (a).

Page 204, line 23, strike “Congress grants” and insert the following:

“(1) In general.—Congress grants

Page 205, after line 4, insert the following:

“(2) Reservation of rights.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.

Page 220, lines 4 and 5, strike “an Interstate System construction toll pilot program” and insert “a pilot program to finance the construction of new Interstate System facilities with toll revenues”.

Page 220, line 9, strike “Interstate highways.” and insert “new Interstate highway facilities. Rehabilitation and reconstruction of Interstate facilities are not eligible under the pilot program.”.

Page 220, lines 16 and 17, strike “facility on the Interstate System” and insert “new Interstate System facility”.

Page 220, line 25, insert “new” before “facility with”.

In each of paragraphs (2), (3), and (5) of section 1604(d) (page 222), insert “new” before “facility”.

In item number 33 of the table contained in section 1702, strike “BMW/I–85” and all that follows through “interchanges” and insert “I–85/Brockman-McClimon Interchange and Connections project”.

In item number 103 of such table, strike “$1,500,000.00” and insert “$250,000.00”.

In item number 142 of such table, strike “$250,000.00” and insert “$600,000.00”.

In item number 143 of such table, strike “$20,000,000.00” and insert “$17,000,000.00”.

In item number 160 of such table, strike “Design” and all that follows through “County”, and insert “Design and construct access to York County intermodal facility, or other projects as selected by York County, Pennsylvania MPO”

In item number 179 of such table, strike “Upgrade” and all that follows through “Interstate 81” and insert “Improvements to I–81, including interchanges, in Franklin County, Pennsylvania”.

In item number 235 of such table, strike “$8,000,000.00” and insert “$12,500,000.00”.

In item number 244 of such table, strike “State” and insert “US”.

In item number 253 of such table, strike “$3,150,000.00” and insert “$5,000,000.00”.

In item number 262 of such table, strike “State” and insert “US”.

In item number 334 of such table, strike “$150,000.00” and insert “$1,000,000.00”.

In item number 365 of such table, strike “Town of” and insert “Township” after “Painesville”.

In item number 438 of such table, strike “Cabot-Camino Capistrano Bridge.” and insert “in the city of Mission Viejo” at the end of the request before the period.

In item number 507 of such table, insert “interchange” between “new” and “freeway”.

In item number 526 of such table, strike "Route" and all that follows through "County" and insert Forrest City Road Extension Study, Maitland".

In item number 557 of such table, strike "Elk Horn" and insert "Elkhorn". Insert "County of" after "SR 99,".

In such table, strike item number 570.

In item number 630 of such table, strike "$5,500,000.00" and insert "$2,500,000.00".

In item number 656 of such table, strike "Widening" and all that follows through "signals" and insert "Widening of Washington Street from 2 to 5 lanes, install drainage system; add additional right of way and traffic signals".

In item number 668 of such table, is amended by insert "Grant" before "County".

In item number 729 of such table, strike "Macedonia City" and insert "North Summit County".

In item number 734 of such table, strike "Willoughby Township" and insert "City of Willoughby".

In item number 762 of such table, strike "$5,000,000.00" and insert "$4,150,000.00".

In item number 768 of such table, strike "$2,500,000.00" and insert "$5,000,000.00".

In item number 782 of such table, strike "Perry County" and insert "Perry".

In item number 804 of such table, strike "$500,000.00" and insert "$1,500,000.00".

In item number 812 of such table, strike "$3,000,000.00" and insert "$1,500,000.00".

In item number 813 of such table, strike "Improve" and all that follows through "Connecticut" and insert "Campbell Avenue streetscape enhancements, West Haven".

In item number 829 of such table, strike "Sacramento" and insert "Citrus Heights".

In item number 832 of such table, strike "Ecourse" and insert "Ecorse", and strike "$1,000,000.00" and insert "$1,100,000.00".

In item number 848 of such table, strike "in Summit Co." and insert "at Seasons Road, Cities of Hudson and Stow."

In item number 874 of such table, strike "Widen" and all that follows through "West" and insert "Widen US 380 West".

In item number 930 of such table, strike "Merrit Rd." and insert "Merritt Rd."

In item 954 of such table, after "unsafe grade crossing" insert "on Hines Hill Road, City of Hudson".

In item number 965 of such table, strike "on current Hwy 71".

In item number 992 of such table, strike "$6,000,000.00" and insert "$7,500,000.00".

In item 1150 of such table, strike "Wilson Mills" and insert "Highland-Bishop"; after "in the" strike "town" and insert "City".

In item number 1166 of such table, strike "Rehabilitate" and all that follows through "8" and insert "Rehabilitate US Highway 51 from County S to US 8".

In item number 1181 of such table, strike "Upgrade" and all that follows through "County" and insert "Purchase one larger (75 passengers) and two smaller (40 passengers) ferry boats and construct related dock work to facilitate the use and accessibility of the ferry boats, Long Beach" and by striking "$8,000,000.00" and insert $3,000,000.00".

In item number 1204 of such table, strike "AL 1119 to AL 25" and insert "Exit 238 (U.S. 31) to Exit 228 (AL 25)".

In item number 1256 of such table, strike "$1,500,000.00" and insert "$3,000,000.00".

In item number 1261 of such table, strike "A 2.8" and all that follows through "La Habra," and insert "a 2.8 mile bikeway," and insert "in the city of Whittier." at the end of the request.

In item number 1314 of such table, strike "(I–40" and all that follows through "I–74)".

In item number 1376 of such table, strike "Route 15/18" and insert "Route 15/86".

In item number 1423 of such table, strike "third lane" and all that follows through "Maple Grove" and insert "an overpass interchange for I–494 and Highway 169".

In item number 1436 of such table, strike "Aiken" and insert "Aitkin".

In item number 1445 of such table, strike "Construction" and all that follows through "Ashdown" the second place it appears and insert "Highway 71, Louisiana state line to Junction City".

In item number 1480 of such table, strike "Reconstruct Highway 141 in Marinette County, WI" and insert "Reconstruct US Highway 141 in Marinette County, WI".

In item number 1491 of such table, strike "Development" and all that follows through "Plan" and insert "Transportation improvements ".

In item number 1589 of such table, strike "Reconstruction" and all that follows through "Subdivision" and insert "Road improvements for Surrey Meadows, Sugarloaf Heights, Lakehill Farms and Walton Lake Estates".

In item number 1636 of such table, strike "Geary" and insert "Muni Geary".

In item number 1664 of such table, strike "Technical" and all that follows through "210" and insert "Technical feasibility study for a tunnel on the 710 Freeway in Southern California".

In item number 1832 of such table, strike "$8,700,000.00" and insert "$9,000,000".

In item number 1848 of such table, strike "A 2.8" and insert "a 2.8" and strike ", working in conjunction with the city of Whittier,".

In item number 1868 of such table, strike "$13,100,000.00" and insert "$13,500,000".

In item number 1907 of such table, strike "SR" and all that follows through "Eatonville" and insert "SR 434 to JFK Boulevard and Destiny Road to Diplomat Circle, Eatonville".

In item number 1933 of such table, strike "Construct" and all that follows through to "Township", and insert "Improvements to I–81, including interchanges, in Franklin County, Pennsylvania", and strike "$3,150,000.00" and insert "$4,000,000.00".

In item number 1934 of such table, strike "$3,400,000.00" and insert "$3,600,000".

In item number 2040 of such table, strike "Improvement" and all that follows through "County" and insert "Improve Ashley 70 and Marais Saline roads in Ashley County".

In item 2155 of such table, after "Madison" insert "Village".

In item number 2180 of such table, strike "$4,675,942.00" and insert $4,425,942.00".

In item number 2249 of such table, strike "$13,000,000.00" and insert "$21,000,000.00".

In item number 2306 of such table, strike "State" and insert "US".

In item number 2376 of such table, strike "$700,000.00" and insert "$200,000.00".

In item number 2398 of such table, strike "Greencastle" and all that follows through to "intersection.", and insert "Improvements to I–81, including interchanges, in Franklin County, Pennsylvania.".

In item 2418 of such table, after "in" insert "the City of" and after "Hills" strike "Township".

In item number 2445 of such table, strike "$125,000.00" and insert "$175,000.00".

In item number 2504 of such table, strike "$6,000,000.00" and insert "$5,500,000.00".

In item number 2552 of such table, strike "State" and insert "US".

In item number 2611 of such table, strike "Purchase" and all that follows through "Durham" and insert "Acquisition of rail corridors for use as a future transportation corridor, Durham".

In item number 2615 of such table, strike "$2,700,000.00" and insert "$3,000,000.00".

In item number 2642 of such table, strike "Designation of" and insert "Improve and widen".

In item number 2730 of such table, after "project" insert "or other projects as selected by York County, Pennsylvania MPO"

In such table, strike item number 2749.

In item number 2775 of such table, insert "Rancho Santa Margarita" at the end.

In item number 2809 of such table, strike "$1,500,000.00" and insert "$500,000.00".

In item number 113 of such table, strike "$1,000,000.00" and insert "$1,500,000.00"

In item number 181 of such table, strike "$1,000,000.00" and insert "$3,000,000.00".

In item number 278 of such table, strike "$2,250,000.00" and insert "$5,000,000.00".

Strike item number 300 of such table.

In item number 345 of such table, strike "Planning and design" and insert "Planning, design, and construction" and strike "$3,000,000.00" and insert "$125,000,000.00".

In item number 358 of such table, strike "$2,000,000.00" and insert "$4,000,000.00".

In item number 463 of such table, strike "Reconstruct" and all that follows through "Loma Linda" and insert "Inland Empire Goods Movement Gateway Project" and strike "$4,000,000.00" and insert "$23,000,000.00".

In item number 533 of such table, strike "$2,000,000.00" and insert "$6,000,000.00".

In item number 549 of such table, strike "$14,000,000.00" and insert "$20,000,000.00"

In item number 559 of such table, strike "$1,000,000.00" and insert "$3,000,000.00"

In item number 652 of such table, strike "Planning and Design" and insert "Planning, design, and construction" and strike "$3,000,000.00" and insert "$200,000,000.00".

In item number 691 of such table, strike "$1,000,000.00" and insert "$3,000,000.00"

In item number 905 of such table, strike "$1,000,000.00" and insert "$4,000,000.00"

In item 1022 of such table, strike "$3,000,000.00" and insert "$4,000,000.00".

In item 1044 of such table, strike "$8,000,000.00" and insert "$8,500,000.00"

In item number 1048 of such table, strike "$10,000,000.00" and insert "$22,500,000.00".

In item number 1058 of such table, strike "$250,000.00" and insert "$2,000,000.00".

In item number 1180 of such table, strike "$4,500,000.00" and insert "$5,000,000.00".

In item number 1201 of such table, insert ", Baldwin Road in Oakland Cty" after "median".

In item number 1210 of such table, strike "$2,000,000.00" and insert "$3,000,000.00".

In item number 1228 of such table, strike "I/40 Coors Interchange: Reconstruction of this major interchange in Albuquerque" and insert "I/40 Coors Interchange and Bridge Reconstruction: Reconstruction of this major interchange and required bridge work in Albuquerque" and strike "$10,000,000.00" and insert "$28,000,000.00".

In item number 1229 of such table, strike "$2,000,000.00" and insert "$2,500,000.00".

In item number 1293 of such table strike "$10,000,000.00" and insert "$30,000,000.00".

In item number 1368 of such table, strike "$1,000,000.00" and insert "$2,000,000.00".

In item number 1523 of such table, strike "$2,000,000.00" and insert "$4,000,000.00"

In item number 1536 of such table, strike "$13,000,000.00" and insert "$34,000,000.00".

In item number 1595 of such table, strike “$65,000.00” and insert “$100,000.00”.

In item 1603 of such table, strike “and Hernando County” and strike “$2,000,000.00” and insert “$3,000,000.00”.

In item number 1629 of such table, strike “$2,000,000.00” and insert “$4,000,000.00”

In item number 1830 of such table, strike “$4,000,000.00” and insert “$17,500,000.00”.

In item number 1869 of such table, strike “$480,000.00” and insert “$500,000.00”.

In item number 1882 of such table, strike “$15,345,000.00” and insert “$16,000,000.00”.

In item number 1921 of such table, strike “$1,000,000.00” and insert “$2,000,000.00”.

In item number 2010 of such table, strike “Widen” and all that follows through “Loma Linda” and insert “Pedestrian safety improvements on State Highway 62 in Yucca Valley” and strike “$2,000,000.00” and insert “$1,000,000.00”.

In item number 2045 of such table, strike “$2,000,000.00” and insert “$3,000,000.00”.

In item number 2230 of such table, strike “$14,000,000.00” and insert “$35,000,000.00”.

In item number 2321 of such table, strike “$1,000,000.00” and insert “$2,000,000.00”

In item 2442 of such table, strike “$3,000,000.00” and insert “$6,000,000.00”.

In item number 2456 of such table, strike “$750,000.00” and insert “$1,000,000.00”.

In item 2496 of such table, strike “Hernando” and insert “Citrus”.

In item number 2535 of such table, strike “$1,000,000.00” and insert “$2,100,000.00”.

In item number 2603 of such table, strike “$5,000,000.00” insert “$8,750,000.00”.

In item number 2620 of such table, strike “$2,000,000.00” and insert “$2,250,000.00”.

In item 2701 of such table, strike “$3,000,000.00” and insert “$4,000,000.00”.

In item number 2826 of such table, strike “$2,000,000.00” and insert “$6,000,000.00”.

In item number 2833 of such table, strike “$8,000,000.00” and insert “$15,000,000.00”

In item number 147 of such table, strike “$3,000,000.00” and insert “$11,000,000.00”.

In item number 1785 of such table, strike “$3,000,000.00” and insert “$7,000,000.00”.

In item number 2084 of such table, strike “$1,000,000.00” and insert “$2,000,000.00”.

In item number 1621 of such table, strike “$2,000,000.00” and insert “$4,500,000.00”.

In item number 1329 of such table, strike “$500,000.00” and insert “$1,000,000.00”.

In item number 2171 of such table, strike “$2,000,000.00” and insert “$7,500,000.00”.

In item number 2097 of such table, strike “$1,000,000.00” and insert “$3,300,000.00”.

At the end of such table, add the following:

HIGH PRIORITY PROJECTS

No.	State	Project Description	Amount
2839.	Minnesota	Provide biking and pedestrian trails between Century Middle School and Minnesota Highway 34 in Park Rapids.	$250,000.00
2840.	Illinois	Construct bike/pedestrian paths, Chicago	$3,000,000.00
2841.	Georgia	Highway 92 realignment in Douglas County	$11,250,000.00
2842.	Georgia	I–285/I–20 West Side Interchange	$1,250,000.00
2843.	Georgia	City of Fayetteville Downtown Enhancements for economic development	$500,000.00
2844.	Georgia	Construct roads in Rockdale Veterans Memorial Park	$500,000.00
2845.	Colorado	I–25 from Highway 52 to Highway 14, widening and safety improvements; implementation of multi-modal alternatives identified in EIS.	$8,000,000.00
2846.	Colorado	Highway 287 from the Oklahoma State Line to Limon, Colorado; reconstruct highway with concrete and create a 2-lane super highway.	$3,000,000.00
2847.	Colorado	I–76 from the Nebraska State Line to its intersection with E470; reconstruction of pavement, major safety and geometric improvements.	$3,000,000.00
2848.	Arkansas	Construction of I–530 between Pine Bluff and Wilmar	$40,000,000.00
2849.	Nebraska	Resurface bridge connecting US–75 and I–29 in the City of Bellevue	$500,000.00
2850.	New Jersey	Washington Township/Downtown Congestion Mitigation Project	$1,250,000.00
2851.	Connecticut	I–84 Waterbury Expressway Reconstruction from Waterbury to Southington.	$3,800,000.00
2852.	Connecticut	Provide substantial improvements to intersection ramps in I–84 from the New York State line at Exit 1 in Danbury easterly to Exit 11 in Newtown.	$3,800,000.00
2853.	Connecticut	Lakeville Center Enhancement improves the pedestrian and vehicle safety of the intersection of Routes 41 and 44.	$895,000.00
2854.	Connecticut	Union Station Reconstruction in Falls Village	$1,705,000.00
2855.	Connecticut	Broad Street Reconstruct Project in New Britain	$3,800,000.00
2856.	Minnesota	City of Moorhead SE Main GSI, 34th St. and I94 Interchange, and Moorhead Comprehensive Rail Safety Program.	$2,000,000.00
2857.	Minnesota	Paynesville Hwy. 23 Bypass	$2,000,000.00
2858.	Commonwealth of Northern Mariana Islands.	Commonwealth of the Northern Mariana Islands planning, design, and construction of East Coast Highway/Route 36 Saipan.	$12,000,000.00
2859.	Illinois	Stearns Road Bridge, Kane County	$88,000,000.00
2860.	Alaska	Intermodal facility improvements at the Port of Anchorage	$25,000,000.00
2861.	Alaska	Improve marine dry-dock and facilities in Ketchikan	$25,000,000.00
2862.	New York	Audobon Parkway at Lee Road (University at Buffalo)	$4,500,000.00
2863.	Louisiana	Replace the Prospect Street bridge (LA 3087), Houma	$3,000,000.00
2864.	Louisiana	Expand existing South Central Planning and Development Commission Intelligent Transportation System program in Houma-Thibodaux area by installing signals, sensors and systems.	$1,800,000.00
2865.	Louisiana	Plan and develop a four-lane roadway, Jeanerette to US 90 connection	$200,000.00
2866.	Louisiana	Plan, design, land acquisition and construction for improved access to I–10 and US61/River Road in St. John the Baptist and in Ascension Parish on the LA22 Corridor.	$2,750,000.00
2867.	Louisiana	Continue planning and construction of the New Orleans Regional Planning Commission Mississippi River trail in St. John, Plaquemines, St. Bernard and St. Charles parishes.	$1,900,000.00
2868.	Louisiana	Improve Ralph Darden Memorial Parkway between LA182 and Martin Luther King Road, St. Mary Parish.	$350,000.00
2869.	Louisiana	Improvements to LA46 in St. Bernard Parish	$400,000.00
2870.	Colorado	Corridor Safety and Capacity Improvements to Powers Blvd. (right of way purchase for Powers Blvd.).	$5,000,000.00
2871.	California	Reconstruct and widen SR 46 to a 4–lane expressway between Kern County line and Interstate 5.	$50,000,000.00
2872.	California	Road construction and surface transportation improvements in Bakersfield Metropolitan area.	$50,000,000.00
2873.	Ohio	Improve Rt. 62 (Town and Main Street) Bridges over Scioto River in Columbus.	$13,000,000.00
2874.	Ohio	Upgrade Rt. 665 Bridge over I–71 and widen I–71 between Rt 665 and I–270 by one lane each direction in Grove City.	$15,000,000.00
2875.	Illinois	Ogden Corridor project alternatives analysis, environmental work, preliminary engineering and final design in Cook County.	$40,000,000.00

HIGH PRIORITY PROJECTS—Continued

No.	State	Project Description	Amount
2876.	Arizona	White Spar Road improvement	$3,000,000.00
2877.	Texas	South Orient Economic Rehabilitation	$14,000,000.00
2878.	Virginia	Construction of I–66/Rt. 29 Interchange in Gainsville	$4,500,000.00
2879.	Virginia	Improvements to Washington Street in Haymarket	$250,000.00
2880.	Virginia	Parking lot expansion and sidewalk improvements on Main Street in Clifton.	$250,000.00
2881.	New York	Roadway improvements, may include drainage, paving and gued rail, to County Route 4, Ensign Pond Road, in the Towns of Moriah and North Hudson.	$1,000,000.00
2882.	New York	Route 4 streetscape improvements, Town and Village of Fort Edward, Washington County.	$2,000,000.00
2883.	New York	Improvements to Batchellorville Bridge, Saratoga County	$2,000,000.00
2884.	Ohio	Rickenbacker Intermodal Facility	$5,500,000.00

In section 1804 (pages 354 and 355), redesignate paragraphs (1) and (2) as paragraphs (3) and (4), respectively, and insert before paragraph (3) (as so redesignated) the following:

(1) in paragraph (23) by inserting before the period at the end the following: "and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I-135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Saline, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I-29 in Sioux City, Iowa";

(2) by striking paragraph (34) and inserting the following:

"(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I-10 from San Bernardino to the Arizona State line.":

At the end of the matter added by section 1804(3) (as so redesignated), strike the closing quotation marks and insert the following:

"(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.

"(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California."

Page 360, line 25, insert before the period the following: "and an evaluation of advanced acrylic water-borne pavement markings".

In title I, strike section 1814 and insert the following:

SEC. 1814. THOMAS P. 'TIP' O'NEILL, JR. TUNNEL.

(a) DESIGNATION.—In honor of his service to the Commonwealth of Massachusetts and the United States of America, and in recognition of his contributions toward the construction of Central Artery Tunnel project in Boston, the northbound and southbound tunnel of Interstate Route 93, located in the city of Boston, which extends north of the intersection of Interstate Route 90 and Interstate Route 93 to the Leonard P. Zakim Bunker Hill Bridge, is designated as the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".

(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the tunnel referred to in subsection (a) shall be deemed to be a reference to the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".

In subtitle H of title I, strike section 1818 and insert the following:

SEC. 1818. LOAN FORGIVENESS.

Debt outstanding as of the date of enactment of this Act for project number Q–DPM–0013(001) carried out under section 108(c) of title 23, United States Code, is deemed satisfied.

SEC. 1819. LEAD AGENCY DESIGNATION.

The public entity established under California law in 1989 to acquire rights-of-way in northwestern California to maintain surface transportation infrastructure is hereby designated as the lead agency for the purpose of accepting Federal funds authorized under item 13 of the table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2061).

SEC. 1820. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES.

The project agreement for a Federal-aid highway project shall provide that any debris from demolition of a bridge or overpass that is on the Federal-aid highway must be made available for beneficial public use by Federal, State, and local governments. Any additional cost associated with making available the debris shall be borne by the recipient of the debris.

SEC. 1821. HUBZONE PROGRAM.

Section 3(p)(4)(B)(ii) of the Small Business Act (15 U.S.C. 632(p)(4)(B)(ii)) is amended

(1) in subclause (I) by striking "or " at the end;

(2) in subclause (II) by striking the period at the end and inserting "; or" ; and

(3) by adding after subclause (II) the following:

"(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(C)(iii) of the Internal Revenue Code of 1986, within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous States.".

SEC. 1822. TECHNICAL AMENDMENTS TO TEA 21 PROJECTS.

The table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 257) is amended—

(1) in item number 35 by adding "and for other related purposes" after "Yard";

(2) in item number 78 by striking "Third" and all that follows through "Bridge" and inserting "Bayview Transportation Improvements Project";

(3) in item number 312 by inserting "through construction" after "engineering";

(4) in item number 800 by striking "Fairview Township" and inserting "or other projects selected by the York County, Pennsylvania MPO";

(5) in item number 820 by striking "Conduct" and all that follows through "interchange" and inserting "Conduct a transportation needs study and make improvements to I-75 interchanges in the Grayling area";

(6) in item number 897 by striking "Upgrade" and all that follows through "interchange" and inserting "Engineering and construction of a new access road to a development near Interstate 57 and 167th Street in Country Club Hills";

(7) in item number 1121 by striking "Construct" and all that follows through "Douglaston Parkway" and inserting "Provide landscaping along both sides of the Grand Central Parkway from 188th Street to 172nd Street";

(8) in item 1225 by striking "Construct SR 9 bypass" and inserting "Study, design, and construct transportation solutions for SR 9 corridor"; and

(9) in item number 1447 strike "Extend" and all that follows through "Valparaiso" and insert "Design and construction of interchange at I-65 and 109th Avenue, Crown Point".

SEC. 1823. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.

The Secretary shall make grants of $1,000,000 for fiscal years 2005 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59, created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.

SEC. 1824. TRANSPORTATION CONFORMITY.

(a) CONFORMITY REDETERMINATIONS.—Section 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

"(E) The appropriate metropolitan planning organization shall redetermine conformity for existing transportation plans and programs not later than 2 years after the date on which the Administrator

"(i) finds a motor vehicle emissions budget in a submitted implementation plan to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003); or

"(ii) approves an implementation plan under section 110(k) or promulgates an implementation plan under section 110(c) that establishes a motor vehicle emissions budget where there was no prior budget or that establishes a budget that significantly varies from any motor vehicle emissions budget in effect pursuant to an adequacy determination in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003) or as part of an implementation plan approved or promulgated under section 110.".

(b) FREQUENCY OF CONFORMITY DETERMINATION UPDATES.—Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4)) is amended follows:

(1) By striking "one year after the date of enactment of the Clean Air Act Amendments

of 1990" and inserting "one year after the date of enactment of the Transportation Equity Act: A Legacy for Users" .

(2) In subparagraph (B) by amending clause (ii) to read as follows:

"(ii) provide that conformity determinations for transportation plans and programs be determined every 4 years in areas designated as nonattainment or redesignated to attainment (unless a metropolitan planning organization as designated in section 5213(b) of title 49, United States Code, elects to update a transportation plan and program more frequently or is required to determine conformity in accordance with paragraph (2)(E)).".

(c) Time Horizon for Conformity Determinations in Nonattainment Areas.—Subsection (c) of section 176 of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding the following new paragraph at the end thereof:

"(7) Time horizon for determinations.—Each conformity determination required under this section for a transportation plan under section 5213(g) of title 49 of the United States Code shall require a demonstration of conformity during the period ending on either the final year of the transportation plan or, at the election of the metropolitan planning organization and an air pollution control agency, as defined in section 302(b), if such air pollution control agency is responsible for developing plans or controlling air pollution within the area covered by the transportation plan on the later of the following dates (hereinafter in this paragraph referred to as the 'final transportation conformity date'):

"(A) The tenth year of the transportation plan.

"(B) The attainment date set forth in the applicable implementation plan for the air pollutant concerned.

"(C) The year after the completion of a regionally significant project, if the project will be programmed in the transportation improvement program or requires approval before the subsequent conformity determination.

Such conformity determination shall be accompanied by a regional emissions analysis for any years of the transportation plan that extend beyond such final conformity date. In the case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect October 1, 2003), or has approved the revision, the demonstration of conformity (at the election of the metropolitan planning organization and an air pollution control agency, as defined in section 302(b), if such air pollution control agency is responsible for developing plans or controlling pollution within the area covered by the transportation plan) and the metropolitan planning organization shall be required to extend only through the last year of the implementation plan required under section 175A(b).".

(d) Substitution of Transportation Control Measures.—Subsection 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the end the following new paragraph:

"(8)(A) Transportation control measures that are specified in an implementation plan may be replaced in the implementation plan with substitute transportation control measures if

"(i) the substitute measures achieve equivalent or greater emission reductions than the control measures to be replaced, as determined by the Administrator,

"(ii) the substitute measures utilize an emissions impact analysis that is consistent with the current methodology used for evaluating replaced control measures in the implementation plan;

"(iii) the substitute control measures are implemented not later than the date on which such emission reductions are necessary to achieve the purpose of the implementation plan;

"(iv) the substitute control measures were developed with reasonable public notice and the opportunity for comments; and

"(v) the metropolitan planning organization finds that adequate funding is included in the transportation improvement program to ensure timely implementation of the substitute control measures.

"(B) After the requirements of paragraph (A) are met, a State may adopt the substitute measures in the applicable implementation plan within a reasonable period of time.

"(C) The substitution of a transportation control measure in accordance with this paragraph shall not be contingent on the existence of any provision in the applicable implementation plan that expressly permits such substitution.

"(D) The substitution of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan, or

"(ii) a revision of the applicable implementation plan.

"(E) A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted.

"(F) Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.

Transportation control measures may be added to an implementation plan subject to subparagraphs (B), (C), and (D), on the same basis as if such measures were substitute transportation control measures if such measures do not increase emissions for which limitations have been established in an implementation plan, and such measures meet the requirements of clauses (ii), (iii), (iv), and (v) of subparagraph (A).".

(e) Lapse of Conformity.—Subsection (c) of section 176 of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding the following new paragraphs at the end thereof:

"(9) Lapse of conformity.—If a conformity determination required under this subsection for a transportation plan under section 5213(g) of title 49 of the United States Code or a transportation improvement program under section 5213(h) of title 49 of the United States Code is not made by the applicable deadline and such failure is not corrected by additional measures to either reduce motor vehicle emissions sufficient to demonstrate compliance with the requirements of this subsection within 12 months after such deadline or other measures sufficient to correct such failures, the transportation plan shall lapse.

"(10) Lapse.—The term 'lapse' means that the conformity determination for a transportation plan or transportation improvement program has expired, and thus there is no currently conforming transportation plan or transportation improvement program.".

SEC. 1825. ELIGIBILITY TO PARTICIPATE IN WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

A community is deemed to be eligible to participate in the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) if the community—

(1) is listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on March 8, 2004; or

(2) was determined to be eligible participate in such program by the National Marine Fisheries Service on April 19, 1999.

SEC. 1826. METROPOLITAN REGIONAL FREIGHT AND PASSENGER TRANSPORTATION STUDY.

(a) In General.—The Secretary shall enter into an agreement with a partnership comprised of 2 institutions of higher learning to study metropolitan regional freight and passenger transportation and system-wide performance utilizing an interdisciplinary technique of supply chain management, geographic information systems, and urban/suburban planning and management.

(b) Contents of Study.—The study under this section shall include, at a minimum, evaluations of—

(1) best practices for regional transportation operations and management;

(2) relationships among truck trip generation and economic activities;

(3) spatial analysis of the distribution of economic activity and transportation investments;

(4) congestion mitigation and management of air quality through the concentration of modeling and technology;

(5) supply chain management and geographic information systems; and

(6) infrastructure management and renewal.

(c) Federal Share.—The Federal share of the cost of the study under this section shall be 100 percent.

(d) Funding.—Of the amounts made available to carry out section 1305 for each of fiscal years 2005 through 2009, $1,800,000 shall be made available to carry out this section.

SEC. 1827. INTERMODAL TRANSPORTATION FACILITY EXPANSION.

Any Federal and non-Federal share provided for the Port of Anchorage for an intermodal transportation marine facility or for access to that facility shall be transferred to and administered by the Administrator of the Maritime Administration.

SEC. 1828. ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.

(a) Definition.—Section 101(a) of title 23, United States Code, as amended by section 1202 of this Act, is further amended by adding at the end the following:

"(40) Advanced Truck Stop Electrification System.—The term 'advanced truck stop electrification system' means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.".

(b) Eligibility Under STP.—Section 133(b)(6) of such title is amended by inserting ", including advanced truck stop electrification systems" before the period at the end.

(c) Eligibility Under CMAQ.—Section 149(b)(4) of such title is amended by inserting ", including advanced truck stop electrification systems," after "facility or program".

SEC. 1829. TECHNOLOGY.

States are encouraged to consider using a non-destructive technology able to detect cracks including sub-surface flaws as small as 0.005 inches in length or depth in steel bridges.

Page 395, line 16, strike "All" and all that follows through the period on line 18 and insert the following: "All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are used for motorcycle training and safety programs.".

Page 396, line 20, before "to carry" insert "incorporated in that State".

At the end of title II, insert the following (and conform the table of contents accordingly):

SEC. 2011. DRUG IMPAIRED DRIVING ENFORCEMENT.

(a) SHORT TITLE.—This section may be cited as the "Drug Impaired Driving Research and Prevention Act".

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" includes substances listed in schedules I through V of section 112(e) of the Controlled Substances Act (21 U.S.C. 812(e)).

(2) INHALANT.—The term "inhalant" means a household or commercial product that can be used by inhaling for intoxicating effect.

(3) DRUG RECOGNITION EXPERT.—The term "drug recognition expert" means an individual trained in a specific evaluation procedure that enables the person to determine whether an individual is under the influence of drugs and then to determine the type of drug causing the observable impairment.

(c) MODEL STATUTE.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall develop and provide to the States a model statute relating to drug impaired driving which incorporates the provisions described in this section.

(2) MANDATORY PROVISIONS.—Provisions of the model statute developed by the Secretary for recommendation to the States under this section shall include, at a minimum, a provision that the crime of drug impaired driving is committed when a person operates a motor vehicle—

(A) while any unlawful detectable amount of a controlled substance is present in the person's body, as measured in the person's blood, urine, saliva, or other bodily substance; or

(B) due to the unlawful presence of a controlled substance or a controlled substance in combination with alcohol or an inhalant, or both, in the person's body, the person's mental or physical faculties are affected to a noticeable or perceptible degree.

(3) DISCRETIONARY PROVISIONS.—Provisions of the model statute developed by the Secretary for recommendation to the States under this section may include the following:

(A) Sanctions for refusing to submit to a test for the unlawful presence of a controlled substance in a person's body which are equivalent to sanctions for a positive test result.

(B) A graduated system of penalties for repeat offenses of drug impaired driving, including, at a minimum, that a third or subsequent offense within a 10-year period shall be a felony punishable by imprisonment for more than a year.

(C) Authorization for States to suspend or revoke the license of any driver upon receiving a record of the driver's conviction of driving a motor vehicle while under the unlawful influence of a controlled substance.

(D) Provisions that require a sentence of imprisonment imposed for any drug impaired driving offense be served consecutively, not concurrently, from a sentence imposed for any other criminal act; except that a sentence imposed for the same act of impaired driving may be imposed concurrently if the additional conviction was based on an alternate theory of culpability for the same act.

(d) RESEARCH AND DEVELOPMENT.—Section 403(b) of title 23, United States Code, is amended by adding at the end the following:

"(5) New technology to detect drug use.

"(6) Research and development to improve testing technology, including toxicology lab resources and field test mechanisms to enable States to process toxicology evidence in a more timely manner.

"(7) Determining per se unlawful impairment levels for controlled substances (as defined in section 2011 of the Transportation Equity Act: A Legacy for Users) and the compound effects of alcohol and controlled substances on impairment to facilitate enforcement of per se drug impaired driving laws. Research under this paragraph shall be carried out in collaboration with the National Institute on Drug Abuse of the National Institutes of Health.".

(e) GOALS FOR TRAINING.—Section 403 of such title is amended by adding at the end the following:

"(g) TRAINING GOALS.—For the purpose of enhancing the States' ability to detect, enforce, and prosecute drug impaired driving laws, the Secretary shall—

"(1) establish and carry out programs to enhance police and prosecutor training efforts for enforcement of laws relating to drug impaired driving and for development of programs to improve enforcement of such laws; and

"(2) ensure that drug impaired driving enforcement training or drug recognition expert programs, or both, exist in all 50 States and the District of Columbia by December 31, 2006.".

(f) DUTIES.—The Administrator of the National Highway Traffic Safety Administration shall—

(1) advise and coordinate with other Federal agencies on how to address the problem of driving under the influence of an illegal drug; and

(2) conduct research on the prevention, detection, and prosecution of driving under the influence of an illegal drug.

(g) REPORTS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act and annually thereafter, the Secretary shall transmit to Congress a report on the progress being made in carrying out this Act, including the amendments made by this Act.

(2) CONTENTS.—The Secretary shall include in the report an assessment of the status of drugged impaired driving laws in the United States—

(A) new research and technologies in the area of drug impaired driving enforcement;

(B) a description of the extent of the problem of driving under the influence of an illegal drug in each State and any available information relating thereto, including a description of any laws relating to the problem of driving under the influence of an illegal drug; and

(C) recommendations for addressing the problem of driving under the influence of an illegal drug.

(h) FUNDING.—Out of amounts appropriated to carry out section 403 of title 23, United States Code, for fiscal years 2004 through 2009, the Secretary shall use, at a minimum, $1,200,000 per fiscal year to carry out drug impaired driving traffic safety programs, including the provisions of this section and the amendments made by this section.

In section 5308(c)(2)(A) of title 49, United States Code, as proposed to be inserted by section 3009 of the bill (pages 422 and 423), strike clause (iii) and insert the following:

"(iii) 1.2 if, at the time of the apportionment, the area is classifed as a moderate ozone nonattainment area under subpart 2 of such part;

Page 426, line 13, strike "transit supportive policies," and insert "and transit supportive policies".

In section 5309 of title 49, United States Code, as proposed to be amended by section 3010(d) of the bill, redesignate paragraph (2) of subsection (k) as paragraph (4) (page 447), move such redesignated paragraph to the end of subsection (m) (page 450), and strike "(1) CONSIDERATIONS.—" in such subsection (k) (page 447, line 9).

Page 450, line 10, after the period insert the following: "Of the amounts made available under paragraphs (1)(C) and (2)(B)(iii), $10,000,000 shall be available in each of fiscal years 2004 through 2009 for ferry boats or ferry terminal facilities.".

Page 482, lines 14 and 15, strike "10 persons per square mile or fewer" and insert "10 or fewer persons per square mile in other than urbanized areas of the State".

Page 500, line 10, strike "(b) and (c)" and insert "(b), (c), and (d)".

Page 501, strike line 3 and all that follows through line 15.

In section 3037(b)(4), strike "extensions".

In section 3037(b)(15)—

(1) strike "Phase II" and insert "Foothill"; and

(2) strike "Claremont" and insert "Montclair".

In section 3037(b)—

(1) in paragraph (37) strike "MUNI" and insert "Muni"; and

(2) after paragraph (36) insert the following (and redesignate subsequent paragraphs accordingly):

(37) San Diego—Mid Coast Extension.

In section 3037(b), after paragraph (38), relating to Santa Clara Valley Transit Authority, insert the following (and redesignate subsequent paragraphs accordingly):

(39) Tampa Bay—Regional Rail.

In section 3037(c)(2), strike "Albuquerque-Santa Fe" and insert "Belen-Santa Fe".

In section 3037(c), strike paragraph (9) and insert the following (and redesignate subsequent paragraphs accordingly):

(9) Austin—Rapid Bus Project.

(10) Austin—Regional Commuter Rail.

In section 3037(c), after paragraph (20), relating to Charles Town-Ranson, West Virginia, insert the following (and redesignate subsequent paragraphs accordingly):

(21) Central Phoenix—East Valley Corridor LRT Extensions.

In section 3037(c), after paragraph (34), relating to Corpus Christi, insert the following (and redesignate subsequent paragraphs accordingly):

(35) Dallas Area Rapid Transit—Dallas Central Business District.

In section 3037(c), after paragraph (38) relating to Denver—Gold Line Extension to Arvada, insert the following (and redesignate subsequent paragraphs accordingly):

(39) Denver—United States Route 36 Transit Corridor.

(40) Denver—North Metro Corridor to Thornton.

(41) Denver—East Corridor to DIA Airport.

In section 3037(c)(44), relating to Fort Worth, strike "Extension" and insert "Extensions".

In section 3037(c)(106), strike "Extension to City of Lake Oswego" and insert "Extensions".

In section 3037(c), after paragraph (114), relating to Sacramento—Downtown, insert the following (and redesignate subsequent paragraphs accordingly):

(115) Salt Lake City—Draper to Sandy LRT Extension.

(116) Salt Lake City—TRAX Capacity Improvements.

(117) Salt Lake City—West Valley City LRT Extension.

In section 3037(c)(119), strike "Geary" and insert "MUNI Geary".

In section 3037(c), after paragraph (123), relating to Seattle, insert the following (and redesignate subsequent paragraphs accordingly):

(124) Seattle—Link LRT Extensions.

(125) Seattle—Sound Transit Commuter Rail.

(126) Seattle—Sound Transit Regional Express Bus.

In section 3037(c), after paragraph (138), relating to Tri-Rail Florida East Coast, insert the following (and redesignate subsequent paragraphs accordingly):

(139) Tri-Rail Jupiter Extension.

In section 3037(c), after paragraph (141), relating to Vancouver, insert the following (and redesignate subsequent paragraphs accordingly):

(142) Virginia Beach—Bus Rapid Transit.

In section 3037(c), after paragraph (142), relating to Virginia Railway Express, insert the following (and redesignate subsequent paragraphs accordingly):

(143) Washington State Ferries and Ferry Facilities.

In item 15 of the table contained in section 3038, strike "Gettysburt" and insert "Gettysburg".

In item number 25 of such table, strike "$750,000.00" and insert "$2,850,000.00".

In item number 26 of such table, strike "$750,000.00" and insert "$2,850,000.00".

In item 85 of such table, strike "Pasadena" and all that follows through "centers" and insert "Pasadena to Montclair, CA Gold Line Light Rail Foothill Extension intermodal centers".

In item 97 of such table, strike "$1,750,000.00" and insert "$3,750,000.00".

In item 98 of such table, strike "vehabilitation" and insert "rehabilitation".

In item 132 of such table, strike "Gold Line phase II rail project" and insert "light rail Foothill Extension".

In item 162 of such table, after "Construct" insert "Foothill Transit".

At the end of such table, add the following:

Project	FY 05	FY 06	FY 07
356. Jesup, GA - Historic depot and bus station rehabilitation	$320,000.00	$330,000.00	$350,000.00
357. Renaissance Square, NY - Intermodal center, below grade transit center with association joint development, including community college and performing arts center	$2,240,000.00	$2,310,000.00	$2,450,000.00
358. Boysville of Michigan - Vans purchase	$1,075,200.00	$1,108,800.00	$1,176,000.00

In section 3039(b), strike "4 nonprofit" and insert "4 geographically diverse nonprofit".

In section 3039(c)(1), strike "transit operations" and insert "transit bus operations".

Redesignate section 3040 as section 1829, move such redesignated section from title III to the end of subtitle H of title I, redesignate subsequent sections of title III accordingly, and conform the table of contents accordingly.

In section 3042(a)(1), strike "For carrying out" and insert the following:

(A) IN GENERAL.—For carrying out

In section 3042(a)(1). redesignate subparagraphs (A) through (F) as clauses (i) through (vi), respectively, move such clauses 2 ems to the right, and after clause (vi) (as so redesignated) insert the following:

(B) PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.—

(i) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.

(ii) ALTERNATIVE ROUTES.—For each system described in clause (i) the study shall identify—

(I) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and

(II) transit routes that, if disrupted, do not have sufficient transit alternatives available.

(iii) REPORT.—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study and evaluation, together with such recommendations as the Academy considers appropriate.

(iv) FUNDING.—Of the amounts made available under section 5338(d) of title 49, United States Code, $250,000 shall be available for each of fiscal years 2005 and 2006 to carry out this subparagraph.

At the end of title III, insert the following and conform the table of contents accordingly:

SEC. 3045. COOPERATIVE PROCUREMENT.

(a) REVIEW OF COOPERATIVE PROCUREMENT; AUTHORITY TO INCREASE FEDERAL SHARE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall undertake a 30-day review of efforts to use cooperative procurement to determine whether benefits are sufficient to formally incorporate cooperative procurement into the mass transit program. In particular the Secretary shall review the progress made under the pilot program authorized under section 166 of division F of the Consolidated Appropriations Act, 2004 (49 U.S.C. 5397 note; 118 Stat. 309), based on experience to date in the pilot program and any available reports to Congress submitted under such section 166. The Secretary shall also consider information gathered from grantees about cooperative procurement, whether or not related to the pilot program.

(2) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the results of the review required under paragraph (1), including a finding of sufficient benefit or insufficient benefit and the reasons for that finding.

In subparagraph (V) that is proposed to be inserted in section 31102(b)(1) of title 49, United States Code, by section 4102(a)(6) of the bill, strike "placing out of service" and insert "prohibiting the operation of".

In section 4120(e), strike "2004,".

In section 4121(a), after "mellitus" insert "who are applying for an exemption from the physical qualification standards".

In section 4121(a), strike "qualify" and insert "be exempted from the physical qualification standards".

In section 4122(c), strike "2004,".

In section 4128, insert at the end the following:

(f) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—Section 31136 of title 49, United States Code, is amended by adding at the end the following:

"(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary, or an employee of the Department of Transportation designated by the Secretary, may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials to inspect intermodal equipment.".

(g) JURISDICTION OVER EQUIPMENT PROVIDERS.—Section 31132(1) of such title is amended by inserting after "towed vehicle" the following: "(including intermodal equipment, including trailers, chassis and associated devices, commonly used for the transportation of intermodal freight via highway)".

In section 4208(a)(1), insert after "challenge" the following: "duplicate or fraudulent".

At the end of title IV, insert the following (and conform the table of contents of the bill accordingly):

SEC. 4212. APPLICABILITY TO HOUSEHOLD GOODS MOTOR CARRIERS.

(a) IN GENERAL.—The provisions of title 49, United States Code, and this Act (including any amendments made by this Act) relating to the transportation of household goods shall only apply to household goods motor carriers.

(b) HOUSEHOLD GOODS MOTOR CARRIER DEFINED.—In this section, the term "household goods motor carrier" means a motor carrier as defined in section 13102(12) of title 49, United States Code, which, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services: binding and nonbinding estimates, inventorying, protective packing and unpacking of individual items, and loading and unloading at personal residences.

Title V, after section 5102, insert the following:

SEC. 5103. FINDINGS.

The Congress finds the following:

(1) Research and development are critical to developing and maintaining a transportation system that meets the goals of safety,

mobility, economic vitality, efficiency, equity, and environmental protection.

(2) Federally sponsored surface transportation research and development has produced many successes. The development of rumble strips has increased safety; research on materials has increased the lifespan of pavements, saving money and reducing the disruption caused by construction; and Geographic Information Systems have improved the management and efficiency of transit fleets.

(3) Despite these important successes, the Federal surface transportation research and development investment represents less than one percent of overall government spending on surface transportation.

(4) While Congress increased funding for overall transportation programs by about 40 percent in the Transportation Equity Act for the 21st Century, funding for transportation research and development remained relatively flat.

(5) The Federal investment in research and development should be balanced between short-term applied and long-term fundamental research and development. The investment should also cover a wide range of research areas, including research on materials and construction, research on operations, research on transportation trends and human factors, and research addressing the institutional barriers to deployment of new technologies.

(6) Therefore, Congress finds that it is in the United States interest to increase the Federal investment in transportation research and development, and to conduct research in critical research gaps, in order to ensure that the transportation system meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.

Title V, section 5201(b) of the bill in the matter proposed to be inserted in section 502(a) of title 23, United States Code, strike paragraphs (5) through (7) and insert the following:

"(5) STAKEHOLDER INPUT.—Federal surface transportation research and development activities shall address the needs of stakeholders. Stakeholders include States, metropolitan planning organizations, local governments, the private sector, researchers, research sponsors, and other affected parties, including public interest groups.

"(6) COMPETITION AND PEER REVIEW.—Except as otherwise provided in this Act, the Secretary shall award all grants, contracts, and cooperative agreements for research and development under this Act based on open competition and peer review of proposals.

"(7) PERFORMANCE REVIEW AND EVALUATION.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation. Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent possible, be outcome-based. All evaluations shall be made readily available to the public.".

Title V, section 5203(a) of the bill, in the matter proposed to be inserted in section 507(d)(1) of title 23, United States Code, strike "a national research agenda for the program" and insert "the national research agenda as set forth in the Transportation Research Board Special Report 268 as described in subsection (e)".

Title V, section 5203(a) of the bill, in the matter proposed to be inserted in section 507(e) of title 23, United States Code, insert at the end the following:

"(8) CONTENTS.—The program established under subsection (d)(1) shall carry out research and development called for in the Transportation Research Board Special Report 268, entitled 'Surface Transportation Environmental Research: A Long-Term Strategy', published in 2002, which included the following research and development areas:

"(1) Human Health.

"(2) Ecology and Natural Systems.

"(3) Environmental and Social Justice.

"(4) Emerging Technologies.

"(5) Land Use.

"(6) Planning and Performance Measures.

Title V, section 5204(b) of the bill, in the matter proposed to be inserted in section 503(c)(2)(A) of title 23, United States Code, after "materials," insert "recycled materials (including taconite tailings and foundry sand),"

Title V, section 5205(a)(2) of the bill, strike "$10,000,000" and insert "$8,500,000".

Title V, strike 5205(d) of the bill and insert the following:

(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—

(1) IN GENERAL.—Section 504 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following new subsection:

"(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.

"(2) AUTHORIZED ACTIVITIES.—The Secretary shall award grants under this subsection on the basis of competitive, peer review. Grants awarded under this subsection may be used for enhancing science, technology, engineering, and mathematics at the elementary and secondary school level through such means as—

"(A) internships that offer students experience in the transportation field;

"(B) programs that allow students to spend time observing scientists and engineers in the transportation field; and

"(C) developing relevant curriculum that uses examples and problems related to transportation.

"(3) APPLICATION AND REVIEW PROCEDURES.—

"(A) IN GENERAL.—An entity described in subparagraph (C) seeking funding under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used and a description of how the funds will be used to serve the purposes described in paragraph (2).

"(B) PRIORITY.—In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.

"(C) ELIGIBILITY.—Local education agencies and State education agencies, which may partner with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

"(B) the term 'local educational agency' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

"(C) the term 'State educational agency' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).".

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $500,000 for 2004 and $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(d) of title 23, United States Code.

Title V, section 5209, redesignate subsections (b) and (c) as subsections (c) and (d).

Title V, section 5209, after subsection (a) insert the following:

(b) PROGRAMMATIC EVALUATIONS.—Within 3 years after the first research and development project grants, cooperative agreements, or contracts are awarded under this section, the Comptroller General shall review the program under this section, and recommend improvements. The review shall assess the degree to which projects funded under this section have addressed the research and development topics identified in the Transportation Research Board Special Report 260, including identifying those topics which have not yet been addressed.

Title V, section 5205 of the bill, in the matter proposed to be inserted in section 504 of title 23, United States Code, redesignate subsections (f) and (g) as subsections (g) and (h), respectively.

Title V, section 5205 of the bill, insert after subsection (e) the following:

(f) TRANSPORTATION EDUCATION DEVELOPMENT PILOT PROGRAM.—Section 504 of title 23, United States Code, is amended by inserting after subsection (e) the following:

"(f) TRANSPORTATION EDUCATION DEVELOPMENT PILOT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to institutions of higher education that in partnership with industry or State Departments of Transportation will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce.

"(2) SELECTION OF GRANT RECIPIENTS.—In selecting applications for awards under this subsection, the Secretary shall consider—

"(A) the degree to which the new curricula or education program meets the specific needs of a segment of the transportation industry, States, or regions;

"(B) providing for practical experience and on-the-job training;

"(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;

"(D) the degree to which the new curricula or program will provide training in areas other than engineering, such as business administration, economics, information technology, environmental science, and law;

"(E) programs or curricula in nontraditional departments which train professionals for work in the transportation field, such as materials, information technology, environmental science, urban planning, and industrial technology; and

"(F) industry or a State's Department of Transportation commitment to the program.

"(3) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $1,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out this subsection.

"(4) LIMITATIONS.—The amount of a grant under this subsection shall not exceed

$250,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal no more than 75 percent of a grantee's program costs.".

Title V, subtitle B, is amended by adding at the end the following:

SEC. 5213. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

(a) AMENDMENT.—Section 508 of title 23, United States Code, is amended to read as follows:

"§ 508. Transportation research and development strategic planning

"(a) IN GENERAL.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of the Surface Transportation Research and Development Act of 2004, the Secretary shall develop a 5-year transportation research and development strategic plan to guide Federal transportation research and development activities. This plan shall be consistent with section 306 of title 5, sections 1115 and 1116 of title 31, and any other research and development plan within the Department of Transportation.

"(2) CONTENTS.—The strategic plan developed under paragraph (1) shall—

"(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

"(i) reducing congestion and improving mobility;

"(ii) promoting safety;

"(iii) promoting security;

"(iv) protecting and enhancing the environment;

"(v) preserving the existing transportation system; and

"(vi) improving the durability and extending the life of transportation infrastructure;

"(B) for each purpose, list the primary research and development topics that the Department intends to pursue to accomplish that purpose, which may include the fundamental research in the physical and natural sciences, applied research, technology development, and social science research intended for each topic; and

"(C) for each research and development topic, describe—

"(i) the anticipated annual funding levels for the period covered by the strategic plan; and

"(ii) the additional information the Department expects to gain at the end of the period covered by the strategic plan as a result of the research and development in that topic area.

"(3) CONSIDERATIONS.—In developing the strategic plan, the Secretary shall ensure that the plan—

"(A) reflects input from a wide range of stakeholders;

"(B) includes and integrates the research and development programs of all the Department's operating administrations, including aviation, transit, rail, and maritime; and

"(C) takes into account how research and development by other Federal, State, private sector, and not-for-profit institutions contributes to the achievement of the purposes identified under paragraph (2)(A), and avoids unnecessary duplication with these efforts.

"(4) PERFORMANCE PLANS AND REPORTS.—In reports submitted under sections 1115 and 1116 of title 31, the Secretary shall include—

"(A) a summary of the Federal transportation research and development activities for the previous fiscal year in each topic area;

"(B) the amount of funding spent in each topic area;

"(C) a description of the extent to which the research and development is meeting the expectations set forth in paragraph (2)(C)(ii); and

"(D) any amendments to the strategic plan.

"(b) The Secretary shall submit to Congress an annual report, along with the President's annual budget request, describing the amount spent in the last completed fiscal year on transportation research and development and the amount proposed in the current budget for transportation research and development.

"(c) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement for the review by the National Research Council of the details of each—

"(1) strategic plan under section 508;

"(2) performance plan required under section 1115 of title 31; and

"(3) program performance report required under section 1116 of title 31,

with respect to transportation research and development.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item related to section 508 and inserting the following:

"508. Transportation research and development strategic planning.".

Title V, in section 5302 of the bill in the matter proposed to be inserted in section 5506(e)(C)(ii) of title 49, United States Code, insert "and" after the semicolon.

Title V, in section 5302 of the bill, in the matter proposed to be inserted in section 5506(e)(2)(C) of title 49, United States Code, strike clause (iv) in such matter.

Title V, in section 5302 of the bill, in the matter proposed to be inserted in section 5506(e)(2)(C)(iii) of title 49, United States Code, strike "; and" and insert the following: "who, as a group, have published a total at least 50 refereed journal publications on highway or public transportation research during the preceding 5 years.".

Title V, in section 5302 of the bill in the matter proposed to be inserted in section 5506(f)(2)(B)(ii) of title 49, United States Code, insert "and" after the semicolon.

Title V, in section 5302 of the bill, in the matter proposed to be inserted in section 5506(f)(2)(B) of title 49, United States Code, strike clause (iv) in such matter.

Title V, in section 5302 of the bill, in the matter proposed to be inserted in section 5506(f)(2)(B)(iii) of title 49, United States Code, strike "; and" and insert the following: "who, as a group, have published a total at least 20 refereed journal publications on highway or public transportation research during the preceding 5 years.".

Title V, strike section 5501 and insert the following:

SEC. 5501. BUREAU OF TRANSPORTATION STATISTICS.

Section 111 of title 49, United States Code, is amended to read as follows:

"§ 111. Bureau of Transportation Statistics

"(a) ESTABLISHMENT.—There is established in the Department of Transportation a Bureau of Transportation Statistics.

"(b) DIRECTOR.—

"(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

"(3) REPORTING.—The Director shall report directly to the Secretary.

"(4) TERM.—The term of the Director shall be 5 years. The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.

"(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics, and shall be responsible for carrying out the following duties:

"(1) PROVIDING DATA, STATISTICS, AND ANALYSIS TO TRANSPORTATION DECISIONMAKERS.—Ensuring that the statistics compiled under paragraph (5) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

"(2) COORDINATING COLLECTION OF INFORMATION.—Working with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.

"(3) DATA MODERNIZATION.—Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

"(4) ENCOURAGING DATA STANDARDIZATION.—Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

"(5) COMPILING TRANSPORTATION STATISTICS.—Compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

"(A) productivity in various parts of the transportation sector;

"(B) traffic flows for all modes of transportation;

"(C) other elements of the Intermodal Transportation Database established under subsection (g);

"(D) travel times and measures of congestion;

"(E) vehicle weights and other vehicle characteristics;

"(F) demographic, economic, and other variables influencing traveling behavior, including choice of transportation mode, and goods movement;

"(G) transportation costs for passenger travel and goods movement;

"(H) availability and use of mass transit (including the number of passengers served by each mass transit authority) and other forms of for-hire passenger travel;

"(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

"(J) safety and security for travelers, vehicles, and transportation systems;

"(K) consequences of transportation for the human and natural environment;

"(L) the extent, connectivity, and condition of the transportation system, building on the National Transportation Atlas Database developed under subsection (g); and

"(M) transportation-related variables that influence the domestic economy and global competitiveness.

“(6) NATIONAL SPATIAL DATA INFRASTRUCTURE.—Building and disseminating the transportation layer of the National Spatial Data Infrastructure, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

“(7) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (5) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis. The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993, and the amendments made by such Act, and shall carry out such other reviews of the sources and reliability of other data collected or statistical information published by the heads of the operating administrations of the Department as shall be requested by the Secretary.

“(8) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible.

“(d) INFORMATION NEEDS ASSESSMENT.—

“(1) IN GENERAL.—Within 60 days after the date of the enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall enter into an arrangement with the National Research Council to develop and publish a National Transportation Information Needs Assessment (referred to in this subsection as the ‘Assessment’). The Assessment shall be transmitted to the Secretary and the Congress not later than 24 months after such arrangement is entered into.

“(2) CONTENT.—The Assessment shall—

“(A) identify, in priority order, transportation data that is not being collected by the Bureau, Department of Transportation operating administrations, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local level and to fulfill the requirements of subsection (c)(5);

“(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is a higher priority than data currently being collected;

“(C) identify any data the Bureau or other Federal, State, and local entities is collecting that is not needed;

“(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State, and local entities should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and

“(E) estimate the cost of implementing any recommendations.

“(3) CONSULTATION.—In developing the Assessment, the National Research Council shall consult with the Department's Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.

“(4) REPORT TO CONGRESS.—Not later than 6 months after the National Research Council transmits the Assessment under paragraph (1), the Secretary shall transmit a report to Congress that describes—

“(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);

“(B) how the Department plans to stop collecting data identified under paragraph (2)(C);

“(C) how the Department plans to implement improved data collection methods and other changes identified under paragraph (2)(D);

“(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;

“(E) any findings of the Assessment under paragraph (1) with which the Secretary disagrees, and why; and

“(F) any proposed statutory changes needed to implement the findings of the Assessment under paragraph (1).

“(e) INTERMODAL TRANSPORTATION DATA BASE.—

“(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

“(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(3) CONTENTS.—The data base shall include—

“(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

“(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

“(C) information on the location and connectivity of transportation facilities and services; and

“(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

“(f) NATIONAL TRANSPORTATION LIBRARY.—

“(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

“(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics readily accessible under subsection (c)(8).

“(3) COORDINATION.—The Director shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

“(g) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

“(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

“(A) transportation networks;

“(B) flows of people, goods, vehicles, and craft over the networks; and

“(C) social, economic, and environmental conditions that affect or are affected by the networks.

“(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

“(h) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of his or her knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to make available records or statistics in his or her official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than $500; but if he or she willfully gives a false answer to such a question, he or she shall be fined not more than $10,000.

“(i) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(1) investigation of the subjects specified in subsection (c)(5) and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

“(2) demonstration programs by States, local governments, and metropolitan planning organizations to harmonize data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

“(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (f); and

“(4) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (g) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.

“(j) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to authorize the Bureau to require any other department or agency to collect data; or

“(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

“(k) PROHIBITION ON CERTAIN DISCLOSURES.—

“(1) IN GENERAL.—An officer, employee or contractor of the Bureau may not—

“(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

“(B) use the information provided under subsection (c) for a nonstatistical purpose; or

“(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

“(2) COPIES OF REPORTS.—

“(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c) with the Bureau or retained by an individual respondent.

“(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

"(3) INFORMING RESPONDENT OF USE OF DATA.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.

"(l) TRANSPORTATION STATISTICS ANNUAL REPORT.—The Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(5), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

"(m) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"(o) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

"(1) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

"(2) FUNCTION.—It shall be the function of the Advisory Council established under this subsection to—

"(A) advise the Director of the Bureau of Transportation Statistics on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau of Transportation Statistics and the Department of Transportation;

"(B) provide input to and review the report to Congress under subsection (d)(4); and

"(C) advise the Director on methods to encourage harmonization and interoperability of transportation data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

"(3) MEMBERSHIP.—The Advisory Council established under this subsection shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who are not officers or employees of the United States. Each member shall have expertise in transportation data collection or analysis or application; except that 1 member shall have expertise in economics, 1 member shall have expertise in statistics, and 1 member shall have experience in transportation safety. At least 1 member shall be a senior official of a State department of transportation. Members shall include representation of a cross-section of transportation community stakeholders.

"(4) TERMS OF APPOINTMENT.—(A) Except as provided in subparagraph (B), members shall be appointed to staggered terms not to exceed 3 years. A member may be renominated for one additional 3-year term.

"(B) Members serving on the Advisory Council on Transportation Statistics as of the date of enactment of the Transportation Equity Act: A Legacy for Users shall serve until the end of their appointed terms.

"(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the Advisory Council established under this subsection, except that section 14 of such Act shall not apply to such Advisory Council.".

Title V, strike section 5603(h)of the bill and insert the following:

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a State highway department;

(B) a representative from a local highway department who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a metropolitan planning organization;

(E) a private sector user of intelligent transportation system technologies;

(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

(G) an academic researcher who is a civil engineer;

(H) an academic researcher who is a social scientist with expertise in transportation issues;

(I) a representative from a not-for-profit group representing the intelligent transportation system industry;

(J) a representative from a public interest group concerned with safety;

(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

(L) members with expertise in planning, safety, and operations.

(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

(A) Provide input into the development of the Intelligent Transportation System aspects of the strategic plan under section 508 of title 23, United States Code.

(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and, if not, to determine the barriers to deployment; and

(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act, the Secretary shall transmit to the Congress, a report including—

(A) all recommendations made by the Advisory Committee during the preceding calendar year;

(B) an explanation of how the Secretary has implemented those recommendations; and

(C) for recommendations not implemented, the reasons for rejecting the recommendations.

(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Title V, section 5605(b), insert after paragraph (1) the following (and redesignate subsequent paragraphs accordingly):

(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

Title V, redesignate sections 5607 through 5609 as sections 5608 through 5610 (and conform the table of contents of the bill accordingly).

Title V, after section 5606, insert the following:

SEC. 5607. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a road weather research and development program to—

(1) maximize use of available road weather information and technologies;

(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and

(3) promote technology transfer of effective road weather scientific and technological advances.

(b) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, nonprofit organizations, and the private sector.

(c) CONTENTS.— The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled "A Research Agenda for Improving Road Weather Services". Such research and development includes—

(1) integrating existing observational networks and data management systems for road weather applications;

(2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;

(3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and

(4) integrating road weather technologies into an information infrastructure.

(d) ACTIVITIES.— In carrying out this section, the Secretary shall—

(1) enable efficient technology transfer;

(2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and

(3) coordinate with transportation weather research programs in other modes, such as aviation.

(e) FUNDING.——

(1) IN GENERAL.—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.

(2) FUNDS FOR ROAD WEATHER RESEARCH AND DEVELOPMENT.—Of the amounts made available by section 5101(a)(5), $4,000,000 shall be available to carry out this section for each of fiscal years 2004 through 2009.

Title V, redesignate section 5609 as section 5610.

Title V, after section 5608, insert the following:

SEC. 5609. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish 3 centers for surface transportation excellence.

(b) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, rural safety, and project finance.

(c) ROLE OF CENTERS.—To achieve the goals set forth in subsection (b), the Secretary shall establish the 3 centers as follows:

(1) ENVIRONMENTAL EXCELLENCE.—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.

(2) RURAL SAFETY.—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and develop online and seminar training needs of rural transportation practitioners and policy-makers.

(3) PROJECT FINANCE.—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state of the art financing methods to advance projects and leverage funds.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts made available under section 5101(a)(1), the Secretary shall make available $2,000,000 for each of fiscal years 2004 through 2009 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:

(A) 40 percent to establish the Center for Environmental Excellence.

(B) 30 percent to establish the Center for Excellence in Rural Safety.

(C) 30 percent to establish the Center for Excellence in Project Finance.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

(e) PROGRAM ADMINISTRATION.—

(1) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under this section shall be selected on a competitive basis, to the maximum extent practicable.

(2) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan that describes—

(A) the activities to be undertaken; and

(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title. Such plans shall be submitted to the Secretary by January 1, 2005 and each year thereafter.

In subsection (d) as proposed to be inserted in section 5213 of title 49, United States Code, by section 6001(a) of the bill (page 769), insert at the end the following:

"(4) RESERVATION OF RIGHTS.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.

In subsection (c) as proposed to be inserted in section 5214 of title 49, United States Code, by section 6001(a) of the bill (page 790), strike "The consent" and insert the following:

"(1) IN GENERAL.—The consent

In such subsection (c), insert at the end the following:

"(4) RESERVATION OF RIGHTS.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.

Page 772, lines 23 and 24, strike "no less frequently than every 4 years" and insert "periodically, according to a schedule that the Secretary determines to be appropriate".

Page 773, at the end of line 2, insert the following:

The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

"(A) any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); and

"(B) any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 4 years unless the metropolitan planning organization elects to update more frequently.

Page 788, at the end of line 25, insert the following: "Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

Page 802, before line 16, insert the following;

(c) REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations that are consistent with the amendments made by this section relating to the Clean Air Act.

In section 6002, strike subsection (c) (page 818) and insert the following:

(c) EXISTING ENVIRONMENTAL REVIEW PROCESSES.—Nothing in this section shall be deemed to affect any existing environmental review process approved by the Secretary.

In section 7003 (pages 825 and 826), insert after paragraph (1) the following (and redesignate subsequent paragraphs of such section accordingly):

(2) in paragraph (8) by striking "national response team" each place it appears and inserting "National Response Team";

In section 7019, strike subsection (b) on page 847 and insert the following:

(b) EMINENT HAZARDS.—Section 5122(b)(1)(B) is amended by striking "or ameliorate the" and inserting "or mitigate the".

In section 7020(c) (page 848), strike "is amended" and all that follows through "(2) by adding" and insert "is amended by adding".

Page 855, strike line 16 and all the follows through line 7 on page 856 and insert the following:

SEC. 8101. DISCRETIONARY SPENDING LIMITS FOR THE HIGHWAY AND MASS TRANSIT CATEGORIES.

(a) LIMITS.—(1) Section 251(c)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subparagraph (A), by striking "$31,834,000,000" and inserting "$28,052,000,000"; and

(B) in subparagraph (B), by striking "$1,462,000,000" and inserting "$1,436,000,000" and by striking "$6,629,000,000" and inserting "$6,271,000,000".

(2) Section 251(c)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting a dash after "2005", by redesignating the remaining portion of such paragraph as subparagraph (C) and by moving it two ems to the right, and by inserting after the dash the following new subparagraphs:

"(A) for the highway category: $30,585,000,000 in outlays;

"(B) for the mass transit category: $1,554,000,000 in new budget authority and $6,787,000,000 in outlays; and".

(3) Section 251(c)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting a dash after "2006", by redesignating the remaining portion of such paragraph as subparagraph (C) and by moving it two ems to the right, and by inserting after the dash the following new subparagraphs:

"(A) for the highway category: $33,271,000,000 in outlays;

"(B) for the mass transit category: $1,671,000,000 in new budget authority and $7,585,000,000 in outlays; and".

(4) Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating paragraphs (4) through (9) as paragraphs (7) through (12) and inserting after paragraph (3) the following new paragraphs:

"(4) with respect to fiscal year 2007—

"(A) for the highway category: $35,248,000,000 in outlays; and

"(B) for the mass transit category: $1,785,000,000 in new budget authority and $8,110,000,000 in outlays;

"(5) with respect to fiscal year 2008—

"(A) for the highway category: $36,587,000,000 in outlays; and

"(B) for the mass transit category: $1,890,000,000 in new budget authority and $8,517,000,000 in outlays; and

"(6) with respect to fiscal year 2009—

"(A) for the highway category: $37,682,000,000 in outlays; and

"(B) for the mass transit category: $2,017,000,000 in new budget authority and $8,968,000,000 in outlays;".

(b) DEFINITIONS.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (B), by—

(A) striking "the Transportation Equity Act for the 21st Century and the Surface Transportation Extension Act of 2003" and inserting "the Transportation Equity Act: A Legacy for Users"; and

(B) inserting before the period at the end the following new clauses:

"(v) 69-8158-0-7-401 (Motor Carrier Safety Grants).

"(vi) 69-8159-0-7-401 (Motor Carrier Safety Operations and Programs).";

(2) in subparagraph (C), by—

(A) inserting "(and successor accounts)" after "budget accounts"; and

(B) striking "the Transportation Equity Act for the 21st Century and the Surface Transportation Extension Act of 2003 or for which appropriations are provided pursuant to authorizations contained in those Acts (except that appropriations provided pursuant to section 5338(h) of title 49, United States Code, as amended by the Transportation Equity Act for the 21st Century, shall not be included in this category)" and inserting "the Transportation Equity Act: A Legacy for Users or for which appropriations are provided pursuant to authorizations contained in that Act"; and

(3) in subparagraph (D)(ii), by striking "section 8103 of the Transportation Equity Act for the 21st Century" and inserting "section 8103 of the Transportation Equity Act: A Legacy for Users".

SEC. 8102. ADJUSTMENTS TO ALIGN HIGHWAY SPENDING WITH REVENUES.

Subparagraphs (B) through (E) of section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:

"(B) Adjustment to align highway spending with revenues.—(i) When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall make adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).

"(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.

(bb) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of receipts for that year.

"(cc) OMB shall add one-half of the sum of the amount calculated under items (aa) and (bb) to the obligation limitations set forth in the section 8103 of the Transportation Equity Act: A Legacy for Users and, using current estimates, calculate the outlay change resulting from the change in obligations for the budget year and the first outyear and the outlays flowing therefrom through subsequent fiscal years. After making the calculations under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year and the first outyear by adding one-half of the sum of the amount calculated under items (aa) and (bb) to each such year.

"(II) The estimated level of highway receipts for the purposes of this clause are—

"(aa) for fiscal year 2004, $30,572,000,000;

"(bb) for fiscal year 2005, $34,260,000,000;

"(cc) for fiscal year 2006, $35,586,000,000;

"(dd) for fiscal year 2007, $36,570,000,000;

"(ee) for fiscal year 2008, $37,603,000,000; and

"(ff) for fiscal year 2009, $38,651,000,000.

"(III) In this clause, the term 'highway receipts' means the governmental receipts credited to the highway account of the Highway Trust Fund.

"(C) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2006, 2007, 2008, or 2009, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

"(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus

"(ii) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.

"(D)(i) When OMB and CBO submit their final sequester report for fiscal year 2004, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2005 through 2009 from obligations at the levels specified in section 8103 of the Transportation Equity Act: A Legacy for Users using current assumptions.

"(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2006, 2007, 2008, or 2009, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

"(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.".

SEC. 8103. LEVEL OF OBLIGATION LIMITATIONS.

(a) Highway Category.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—

(1) for fiscal year 2004, $34,309,000,000;

(2) for fiscal year 2005, $35,671,000,000;

(3) for fiscal year 2006, $36,719,000,000;

(4) for fiscal year 2007, $37,800,000,000;

(5) for fiscal year 2008, $38,913,000,000; and

(6) for fiscal year 2009, $40,061,000,000.

(b) Mass Transit Category.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2004, $7,266,000,000;

(2) for fiscal year 2005, $7,750,000,000;

(3) for fiscal year 2006, $8,266,000,000;

(4) for fiscal year 2007, $8,816,000,000;

(5) for fiscal year 2008, $9,403,000,000; and

(6) for fiscal year 2009, $10,029,000,000.

For purposes of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.

SEC. 8104. ENFORCEMENT OF GUARANTEE.

Clause 3 of rule XXI of the Rules of the House of Representatives is amended—

(1) by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users"; and

(2) by adding at the end the following: "For purposes of this clause, any obligation limitation relating to surface transportation projects under section 1602 of the Transportation Equity Act for the 21st Century and section 1702 of the Transportation Equity Act: A Legacy for Users shall be assumed to be administered on the basis of sound program management practices that are consistent with past practices of the administering agency permitting States to decide High Priority Project funding priorities within State program allocations.".

At the end of the bill, insert the following (and conform the table of contents of the bill accordingly):

TITLE IX—RAIL PROVISIONS

SEC. 9001. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

(a) Corridor Development.—

(1) Amendments.—Section 26101 of title 49, United States Code, is amended—

(A) in the section heading, by striking "**PLANNING**" and inserting "**DEVELOPMENT**";

(B) in the heading of subsection (a), by striking "Planning" and inserting "Development";

(C) by striking "corridor planning" each place it appears and inserting "corridor development";

(D) in subsection (b)(1)—

(i) by inserting ", or if it is an activity described in subparagraph (M)" after "high-speed rail improvements";

(ii) by striking "and" at the end of subparagraph (K);

(iii) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(M) the acquisition of locomotives, rolling stock, track, and signal equipment."; and

(E) in subsection (c)(2), by striking "planning" and inserting "development".

(2) Conforming amendment.—The item relating to section 26101 in the table of sections of chapter 261 of title 49, United States Code, is amended by striking "planning" and inserting "development".

(b) Authorization of Appropriations.—Section 26104 of title 49, United States Code, is amended to read as follows:

"§ 26104. Authorization of appropriations

"(a) Fiscal Years 2005 Through 2012.—There are authorized to be appropriated to the Secretary—

"(1) $70,000,000 for carrying out section 26101; and

"(2) $30,000,000 for carrying out section 26102, for each of the fiscal years 2005 through 2012.

"(b) Funds to Remain Available.—Funds made available under this section shall remain available until expended.".

SEC. 9002. ALASKA RAILROAD.

(a) Grants.—The Secretary shall make grants to the Alaska railroad for capital rehabilitation and improvements benefiting its passenger operations.

(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Alaska (Mr. Young) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment under consideration would make improvements to H.R. 3550 as well as to make some technical corrections. More specifically, it would require more oversight of the use of Federal funds for transportation projects.

It allows funds to be used for additional planning activities under a pilot program. It would allow new activities under the Federal lands highway program to improve how projects are developed in conjunction with wildlife along the highways.

It would allow the Secretary to let States assume the responsibility of the

Secretary for transportation enhancements, recreational trails and ITS projects.

It would require the Secretary to conduct a rulemaking to ensure that States are repairing or replacing damaged features on the National Highway System with highway features that have been tested, evaluated, and found to be acceptable under certain guidelines.

It makes a technical change to ensure that only new interstate facilities are eligible under the interstate system for construction of toll pilot programs.

It designates new highways for high-priority corridors on the National Highway System. It would require the Secretary to conduct a pavement-marking system evaluation study to improve safety on the highways.

It creates a national clearinghouse for the purpose of assembling and disassembling information relating to improvement of roadway work-zone safety.

It makes procedural improvements to the planning requirements for metropolitan areas in States regarding the Clean Air Act.

It directs the Secretary to create a model statute for the States to use when developing drunk-driving detection, prevention, and enforcement programs.

The budget title sets discretionary spending limits on outlays for the highway and mass transit budget categories and for new budget authority for the mass transit category and continues the budgetary fire walls for highway and transit programs.

It would improve the calculation of revenue-aligned budget authority, or RABA, to provide more accurate information of revenue to the Highway Trust Fund.

Finally, it sets the annual obligation limitations for the highway and transit programs for the fiscal years 2004 to 2009.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Alaska has adequately explained the manager's amendment. It needs no further elaboration, and I support the amendment.

The CHAIRMAN pro tempore. Is there any Member opposed to the amendment?

MODIFICATION TO AMENDMENT NO. 1 OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 1 offered by Mr. YOUNG of Alaska:

(1) On page 66 of the amendment, strike "Page 501, strike line 3 and all that follows through line 15." and insert "Page 501, strike line 3 and all that follows through page 502, line 15.".

(2) On page 66 of the amendment, after the amendment relating to section 3037(b)(15), insert the following:

In section 3037(b)(21), strike "-Franklin".

(3) On page 68 of the amendment, after the amendment relating to section 3037(c)(44), insert the following:

In section 3037(c), after paragraph (82) relating to Montgomery and Prince George's Counties, insert the following:

(83) Nashville—Tennessee Commuter Rail.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the modification of the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Alaska?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Alaska (Mr. YOUNG).

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in House Report 108–456.

AMENDMENT NO. 2 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

In title I, section 1103 of the bill—

(1) redesignate subsections (c) and (b) as subsections (d) and (e), respectively; and

(2) insert after subsection (b) the folowing:

(c) REPORT.—Section 104(j) of title 23, United States Code, is amended by striking "submit to Congress a report" and inserting "transmit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet,".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself as much time as I might consume.

Mr. Chairman, this amendment would dramatically improve an existing law provision, section 104(j), that was enacted as part of TEA 21.

Currently, the U.S. Department of Transportation produces an annual report to Congress on the use of Federal transportation funds by program, by type of investment, and by location within the States. My amendment would simply require that this information be provided to the public as well as via the Internet.

This is a nonpartisan amendment. It is broadly supported by a wide array of program partners, county officials, cities, mayors, metropolitan planning organizations, planners, architects and others.

Consider the current state of practice. Today, if you search the U.S. DOT's Web site for a section 104(j) report, you get "no documents match."

Now, the first question that will be asked is: Will this impose a burden on my State? No, absolutely not. This amendment would not impose any additional burden on the States.

Mr. OBERSTAR. Mr. Chairman, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, we have reviewed the gentlewoman's amendment, we have been discussing it for quite some time in committee. This will make it possible to put that information that is already required to be reported on the Internet, and we have agreed on our side to accept the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. First, Mr. Chairman, let me congratulate the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) for this amendment, and more than that for being able to communicate with the ranking member and myself on your wishes in your district, and being so kind to me when I was in your district this last year. I do thank you for that.

I have reviewed this amendment with the gentleman from Minnesota (Mr. OBERSTAR), and we are willing to accept the amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, reclaiming my time, I want to thank the chairman and the ranking member for their cooperation.

Mr. Chairman, I might add that this is not a heavy burden on the FHWA or U.S. DOT bureaucracy. This information is already collected, processed, and provided for the use of State Departments of Transportation, in a use-friendly format for those users. This amendment simply requires that the same information already being processed be provided to the taxpayers and their representatives.

Why "user-friendly"? Lack of ease of Congressional oversight on this report led to a $5 billion discrepancy between Table 1 and Table 4(e) in this report in fiscal year 2000.

Because it is not electronically available as a manipulatable table, any summation that is not presented in the table must be done by hand, which is very difficult.

So, Federal Highway and the public would have a better product as a result of this amendment and the improved access to this information would improve the accuracy of the reporting. It is my belief that better reporting will lend much greater confidence to us as lawmakers as we fight to increase future spending through FHWA.

Federal funds for public transportation have long operated under much more stringent reporting measures.

My amendment is a simple change that would provide our constituents with some information about how their transportation taxes are being invested. They deserve to know if their tax dollars are being invested back into their community, or if the State is spending them elsewhere, and better understand how and where these resources are being invested on their behalf.

After all, we are talking about how more than $200 billion in the taxpayers' money will be spent over the next 6 years.

By adopting my amendment, this Congress can provide some very basic transparency and accountability with Americans' tax dollars in the Federal surface transportation program.

The time has come for FHWA to deliver us and the public a report that is more than a small stack of computer runs that can only be understood by a handful of financial experts at Federal Highway and U.S. DOT.

Let me close by simply urging my colleagues to accept this modest improvement to current law. It is one of the small things we can do to provide for more transparency and accountability to this process.

Taxpayers pay for this bill, and they deserve to understand more about how their tax dollars are spent on transportation infrastructure.

Mr. Chairman, I ask for all of my colleagues to join me in supporting this simple amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Is there any Member in opposition to the amendment?

If not, the question is on the amendment offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The amendment was agreed to.

☐ 1430

The CHAIRMAN pro tempore (Mr. SIMPSON). It is now in order to consider amendment No. 3 printed in House Report 108–456.

AMENDMENT NO. 3 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. FLAKE:

At the end of section 1103, add the following:

(e) SUBTRACTION OF EARMARKS FROM SURFACE TRANSPORTATION PROGRAM FUNDING.—

(1) IN GENERAL.—Section 104(b)(3) of title 23, United States Code, is amended—

(A) in subparagraph (B) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (C)"; and

(B) by adding at the end the following:

"(C) SUBTRACTION OF EARMARKS.——

"(i) IN GENERAL.—Amounts to be apportioned to a State under subparagraph (A) for each of fiscal years 2004 through 2009 shall be reduced by the aggregate amount made available to the State (and recipients in the State) out of the Highway Trust Fund for that fiscal year for projects described in sections 1702, 3037, and 3038 of the Transportation Equity Act: A Legacy for Users.

"(ii) EFFECT ON MINIMUM GUARANTEE.—In determining a State's percentage return from the Highway Trust Fund (other than the Mass Transit Account) for purposes of section 105 for a fiscal year, the Secretary shall treat amounts subtracted under clause (i) for that fiscal year as amounts apportioned to the State for the surface transportation program for that fiscal year.

"(iii) REAPPORTIONMENT.—Amounts subtracted from a State for a fiscal year under this subparagraph shall be reapportioned among the States under the formula in subparagraph (A).".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, growing up in a family of 11 kids, 10 brothers and sisters, I learned the economic principle of scarcity pretty early. We always had enough food, meat and potatoes, to go around but there was rarely enough dessert. Every Sunday, no matter how large the family got, we had one half gallon of ice cream to split amongst us. One particular Sunday, as the ice cream was being scooped by one brother, we always had at least two monitors to make sure each portion was equal, I noticed that my brother made the scoops, the monitors were distracted for a minute, and he carefully slid the half gallon that was supposed to be empty under the kitchen sink. I rushed over there and found that he had left about a quarter of the carton full and he was going to retrieve it later.

I have discovered that things like that happen all the time around here in Congress, in one area in particular, the highway bill, where, instead of leaving a portion at the bottom not to be distributed equally, it is taken right off the top. The process is called earmarking. It is a process that is getting worse and worse and worse around here.

In 1982, there were a total of 10 earmarks in the highway authorization bill. In 1987, President Reagan vetoed the bill because there were 152 earmarks, something he thought was way out of line. Six years later, there were 500 earmarks in the bill; six years later, 1,800; and now we are up to, I think, just north of 3,000 earmarks in the bill and climbing. What that means is that portions are taken off the top and not distributed to the other States, like Arizona, like Georgia, like Florida, like Texas, like California. For years, we have been shorted from what we ought to receive in the formula.

Let me just give an example. I should say that this is just in the authorization process. We have not even gotten to appropriations this year. There will likely be hundreds, perhaps more than a thousand more transportation earmarks in the appropriation bill. Last year, for example, in the omnibus bill that was passed in December, there were over 600 earmarks relating to transportation, a total of $1.4 billion. That is $1.4 billion that comes off the top, that is not distributed by formula to the States, one of those States being Arizona. Mr. Chairman, we cannot continue to do business like this. We cannot.

My amendment is simple. It simply says that the amount the States received in high-priority programs would be subtracted from their formula totals of the surface transportation program. This prevents the minimum guarantee program from backfilling what comes out. What it does essentially is says that if you want an earmark, that is fine, but that earmark should come out of your own State's formula, not everyone else's.

I am not saying at all that nobody ought to get earmarks. A lot of people complain legitimately that some governors or some State officials do not fund what they ought to fund, that they ignore Republican districts, they ignore Democrat districts and do not spread the money equally around.

This is not saying that Members cannot get earmarks. All it is saying is that you ought to discuss that among your own delegation from your State and decide, do we want to put money here or there or should we give the State more flexibility to spend money on its priorities. That, in essence, is the amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who claims the time in opposition?

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

The thrust of this amendment is to adversely affect States, and Members in States, who put priority on transit projects, bus-related projects by deducting dollar for dollar from their apportionments the funds that Members have decided their State needs, their district needs, that is in the interest of their constituents and deducting that from the core surface transportation program apportionment to the individual State, and then it would redistribute those dollars elsewhere in the country. That is totally contrary to the basic principle of Member high-priority projects.

As former Chairman Bud Shuster used to say, Members of Congress are not potted plants. We know our districts. We know what the needs are. Chairman YOUNG has reiterated that principle, that Members understand the needs of their State, and when they are bypassed, when the State DOT does not address the needs in their districts, then we give them an opportunity once every 6 years to do that in the transportation bill, to designate projects according to the needs that Members see best.

The pending amendment would undermine that principle, would redistribute dollars, would take money away from some States, give it to others, punish some because they think transit is more important than a highway project in their State, Member projects.

In addition to that, a Member that has designated a project for interstate maintenance, for congestion mitigation and air quality improvement, for a bridge project, for a national highway system, will be adversely affected by this amendment. Members that have highway priorities as well will find their project simply thrown to the wind and redistributed around the country. That is not adhering to the principle that we have established. It may be very well intentioned, but its effect is highly adverse, undermines the principle that Members of Congress know their districts, are responding to the needs of their constituents, are recommending investments and, in many cases, giving States flexibility as we do in Minnesota. If they are not ready to move ahead with a project I have designated, they can use that dollar amount for a project elsewhere in the State. Its effect is severely adverse.

I will be happy to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I also rise in opposition.

I understand what the gentleman from Arizona is trying to do, and I want to compliment the gentleman. He is one of the few people in this body who did not ask me for any earmarks. I do thank him for that. I understand what he is trying to say.

But I have to remind everybody about earmarks in this legislation. It is, in fact, a request from Members, and it is the one time they might have an opportunity to represent their district. That is very true. I have some Members in this body that get no money out of DOT in their district because they are sparsely populated and all the money goes to the large urban areas. This is one time there is a fairness doctrine. Every nickel that is earmarked in this bill goes to a form of transportation. No dollars go outside that for any other purpose, regardless of what you might read. It goes to a form of transportation.

I know what the gentleman is trying to do. He is right about what the appropriators have done in the past and will probably continue to do. This is an amendment that has good thought but does not have great merit. Because I do think it, in fact, will impede those States that have had projects of national significance or projects of high priority. They will be penalized from getting those projects accomplished.

I thank the gentleman for his presentation. I understand what the gentleman from Arizona is trying to do, but I do believe that the amendment is inappropriate at this time.

Mr. OBERSTAR. Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. I thank the gentleman for yielding me this time.

Mr. Chairman, with great respect to the chairman and the ranking member of the Committee on Transportation and Infrastructure, I rise in strong support of the Flake fair amendment because it is simply that. It is only fair that we would deduct, as the gentleman from Arizona suggests, the amount that has been earmarked specifically by Members of those States from the formula for distributing assets under the transportation bill rather than excluding them and then allowing the formula to only be placed on those which have not been designated as being of particular national significance. It seems to me the money is spent in those States, it is spent on infrastructure projects that the Members of those States can point to with pride and appreciation because of their significance, but it ought not to work a detriment, as it so distinctly does to States like Indiana, that I have the privilege of serving, States like Arizona and so many States in the Union that have to wait until after the special projects to divide up what is left.

I support the Flake fair amendment strongly.

Mr. Chairman, I want to commend the gentleman from Arizona for his hard work on this fair and sensible amendment.

The Flake amendment would solve inequities in TEA–LU by ensuring that the apportion formula can function as intended. Currently, earmarks secured by each member stand apart from the Minimum Guarantee formula. This drastically changes the actual rate of return, as some states perform far worse in this process, losing hundreds of millions of dollars.

Mr. Chairman, this is unacceptable. If we are truly concerned about, and fighting for, equity, why do we not subtract these earmarks from the formula totals in the Surface Transportation Program, thus ensuring equity? Why create an environment in which states must fight one another for extra projects, when instead the formula could be allowed to function as designed?

Mr. Chairman, we cannot allow some of our states to experience a reduction in core programs. The great highway infrastructure of each state serves more than just the citizens in that state. In fact, my home state of Indiana is affectionately known as the Crossroads of America for that very reason. Hoosier Highways serve the whole country through interstate commerce, personal and business travel, and military mobility. For this reason, I am in strong support of Mr. FLAKE's amendment, subtracting the amount of earmarks from state formula totals, and furthering equity between all states.

I urge my colleagues to support the Flake amendment.

Mr. FLAKE. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Minnesota has the right to close.

Mr. FLAKE. Mr. Chairman, I yield myself the balance of my time.

I respect the chairman and the ranking member. I would simply say that we are not potted plants here; and as a Member who is not a potted plant, I know when my State is not being dealt with fairly. My State, the State of Florida, the State of Texas, the State of California, many other donor States are not being dealt with fairly.

I am not saying that no Member should be able to earmark, and so this notion that Members cannot designate projects is not what I am saying. I am simply saying, if you do, then take that out of your own State's formula. Do not take it from other States. If you have the right to earmark, you should not have the right to earmark funds for Arizona to be spent elsewhere.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

I just want to point out to the gentleman from Indiana, whom I greatly respect, that the total for Indiana under TEA LU would be $4.96 billion, a substantial increase of funding over TEA 21.

The point again is that we have distributed these dollars according to a percentage of the total funding available under TEA LU to give Members the authority to designate projects to address transportation needs that they see by their best lights from their constituents in their districts and not be bypassed and run over by State DOTs. It has worked in TEA 21, and it is going to work here.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona (Mr. FLAKE) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 108–456.

AMENDMENT NO. 4 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. JACKSON-LEE of Texas:

After section 1105 of the bill, insert the following (and redesignate subsequent sections of the bill, and conform the table of contents of the bill, accordingly):

SEC. 1106. FEDERAL SHARE PAYABLE.

Section 120(j)(1) of title 23, United States Code, is amended by striking the last sentence and inserting the following: "If such public, quasi-public, or private agency has built, improved, or maintained such facilities using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of such activities that was derived from Federal funds. In the preceding sentence, the term 'Federal funds' does not include loans of Federal funds or other financial assistance that must be repaid to the Government.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me, first of all, again thank the chairman and ranking member for this opportunity to rebuild America's infrastructure and to create jobs. I again ask the President to join us in that effort, as opposed to utilizing a veto on what is a vital and necessary effort. Might I also say that I support the complete funding, the original funding, that was planned for this legislation.

My amendment, Mr. Chairman, will not cost the Federal Government a single dollar. Support for this amendment does not equate to promotion or support for toll roads per se. But what it does is it provides flexibility. I would ask my colleagues to support it.

The amendment would simply change the calculation of toll credits by basing them on the proportion of non-Federal investment in toll projects. In addition, it would provide the flexibility necessary for local communities. Support of this amendment does not equate to promotion or support of toll roads, as I indicated. However, the amendment does recognize that State legislatures that have chosen to pursue tolling should be able to have access to toll credits to invest in transportation options such as transit, bicycles, rail and pedestrian infrastructure.

I am gratified to say that we have the support of many organizations across the Nation, including Florida and States of that size, including Just Transportation Alliances, a project of Texas Citizen Fund.

Mr. Chairman, amendment No. 46 would simply change the calculation of toll credits by basing them on the proportion of non-federal investment in toll projects.

Support of this amendment does not equate to promotion or support of toll roads per se. However, the amendment does recognize that State Legislatures that have chosen to pursue tolling should be able to have access to toll credits to invest in transportation options such as transit, bicycles, rail, and pedestrian infrastructure.

Toll credits create flexibility in the federal aid program. Similar to the Programmatic Match provisions of STP, they will allow the expenditure of non-federal funds on one project to serve as the match on another project through toll credits. The benefit of having toll credits is to enable a project, highways or transit, to exchange a toll credit for non-federal share of a project's cost. This amendment does not provide any additional money—it simply uses up more of the federal funds in the State's apportionment, but it does provide greater financial flexibility in determining the best possible mix of funding sources for projects. Without this flexibility, State DOT's will have a significantly diminished reservoir of toll credits from which to draw and little choice but to focus on meeting the growing demands for road maintenance.

Support of this amendment does not mean that you promote or support toll roads per se. However, support of this amendment does recognize that State Legislatures that have chosen to pursue tolling should be able to have access to toll credits to invest in transportation options, such as transit, bicycles, rail, and pedestrian infrastructure, as well as road maintenance.

To reiterate, this amendment does not provide any additional money. It simply provides greater financial flexibility by allowing the use of federal funds in a State's apportionment. Without this flexibility, State DOT's will have a significantly diminished number of toll credits and will likely only focus on the growing demands for road maintenance.

My colleagues, if your State does tolling, you will benefit from this amendment. In my State, I have broad support from the Texas Department of Transportation, MPOs, local and State officials, and transit organizations.

Mr. Chairman, I would hope that you and Mr. OBERSTAR would work with me to see what can be developed between now and House floor action to give States that have decided to toll more flexibility with toll credits so that they can invest in all transportation options.

I have a constituent who is an independent contractor who hauls U.S. mail from Houston throughout the country. His main route takes him through the east coast, and he complains that the tolls are extremely burdensome. The increased toll prices are a testament of the shift from the States to the drivers—the customers, of the cost to invest in much needed transportation options such as transit enhancement projects, bicycle, rail, and pedestrian infrastructure, as well as road maintenance.

This constituent cited that the Delaware Watergap bridge is about $\frac{2}{10}$ of a mile in length, yet its tolls mount up to $13.75 each way. The Pennsylvania Turnpike, according to his account, cost him $150.75 in tolls since it has been increased from $98. This illustrates how the consumer, the drivers, are shouldering the burden of the States' need to raise funds that could be easily offset through toll credits.

For the reasons stated above, Mr. Chairman, I ask my colleagues to support the Jackson-Lee amendment No. 46 as made in order by the Committee on Rules. Please vote for the consumer. Vote for transit safety. Vote for reasonable toll costs. This is a bipartisan amendment that affects most toll-States.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who claims time in opposition to the amendment?

Mr. YOUNG of Alaska. Mr. Chairman, I reluctantly rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Alaska is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding me this time.

I respect the gentlewoman's good intention. As we heard on a previous amendment, there was a good intention but an unfortunate result, and there would be a similar unfortunate result here. I have never been supportive of toll roads. Current law allows toll credits only when that toll road has been built without Federal aid. This amendment would extend an already, in my view, unacceptable principle further. It would extend to roads built with Federal assistance the credit that then could be applied to other projects. I just think that that is not a good policy direction.

I do not think we ought to be encouraging more toll road developments. It is not going to expand the universe of roads. Toll roads are just kind of a one-time hit. We are establishing in this legislation a national program of continuing existence with the Highway Trust Fund.

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The only problem with it is we are not putting enough money into it for the next 6 years, and we will do that after the next year after we get through this election. So we really ought not to be moving in this direction, and I assume the chairman agrees with me on this.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I will say that to the gentleman I do think the amendment has some merit; but as the gentleman mentioned, now with the shortage of dollars, et cetera, I would suggest that we continue to work with the gentlewoman as we go through this process and see if we cannot reach a solution to it. And I think that can be achieved. But at this time I would oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I thank the gentlewoman from Texas for yielding me this time.

Mr. Chairman, I rise today in support of the Jackson-Lee amendment that would simply change the calculation of toll credits by basing them on the proportion of non-Federal investment in toll projects made by respective States. The amendment recognizes that if a State legislature has chosen to pursue tolling, then it should be able to have access to toll credits to invest in another transportation options such as transit, rail, pedestrian or cycle paths.

My State's legislature, the Texas State legislature, passed a bill that created a revolution in the way Texas funds transportation projects. I believe that States should be granted more authority to deliver corridors faster, and in exchange we will give them enhanced accountability. Texas is a leader in bringing private enterprise and local control back into the transportation funding equation. I believe this amendment would allow my State to continue that option.

The amendment concerning toll credits helps create the needed flexibility in the Federal-aid program. The amendment will allow the expenditure of non-Federal funds as to one project to serve as the local match on another project in the form of toll credits. The benefit of having toll credits is to enable a highway or transit project to exchange a toll credit for the non-Federal share of the project's cost made by that State. The Jackson-Lee amendment will not cost the Federal Government a single dollar. Currently, any highway or transit project that uses even one dollar of Federal funding is ineligible for toll credits even though the greatest majority of the funding may be non-Federal. The Jackson-Lee amendment will apply toll credits only to the non-Federal funding portion of any transit or highway project.

Costs of heavy congestion, pollution, and, in fact, safety and the loss of lives are too great in all States. We must do more to respond to our exploding transportation needs. Budgets are getting increasingly tighter. We need to find different ways to get resources necessary to respond to those transportation needs.

Mr. Chairman, I believe it is our responsibility to get in the hands of the President a bill that he can sign, and I believe this helps facilitate that process.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), a senior member of the Committee on Transportation and Infrastructure.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I know that this is an amendment that the State of Texas would like to have. I am happy to support my friend from Texas. In fact, I offered the same amendment in committee.

The amendment would change the calculation of toll credits by basing them on the proportion of non-Federal investment in toll projects. Support of this amendment does not mean that we promote or support toll roads per se, but supporting this amendment does recognize that State legislators that have chosen to pursue tolling should be able to have access to toll credits to invest in transportation options such as transit, bicycle, rail, and pedestrian infrastructure as well as road maintenance.

Toll credits create flexibility in the Federal-aid programs. Similar to the Programmatic Match provisions of the Surface Transportation Program, toll credits allow the expenditure of non-Federal funds on one project to serve as the match on another project. The benefit of having toll credits is to enable either a highway or a transit project to exchange a toll credit for non-Federal share of a project's cost.

Mr. Chairman, I include my statement for the RECORD.

Mr. Chairman, I'm happy to support my friend from Texas' amendment. In fact I offered this same amendment in Committee. The amendment would change the calculation of toll credits by basing them on the proportion of non-federal investment in toll projects.

Support of this amendment does not mean that you promote or support toll roads per se. But supporting this amendment does recognize that State Legislatures that have chosen to pursue tolling should be able to have access to toll credits to invest in transportation options, such as transit, bicycles, rail, and pedestrian infrastructure, as well as road maintenance.

Toll credits create flexibility in the federal aid program. Similar to the Programmatic Match provisions of the Surface Transportation Program, toll credits allow the expenditure of non-federal funds on one project to serve as the match on another project. The benefit of having toll credits is to enable either a highway or transit project to exchange a toll credit for non-federal share of a project's cost.

This amendment does not provide any additional money. It simply provides greater financial flexibility by allowing the use of federal funds in a state's apportionment. Without this flexibility, State DOT's will have a significantly diminished number of toll credits and will likely only focus on the growing demands for road maintenance.

My fellow members, if your state does tolling, you will benefit from this amendment. In my state, I have broad support from the Texas Department of Transportation, MPOs, local and state officials, and transit organizations.

Mr. Chairman, I urge you to support this amendment so that we can give States that have decided to toll more flexibility with toll credits so that they can invest in all transportation options.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself the balance of my time.

Let me thank the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) for her leadership on the issue. She offered this in committee. Let me again say to the ranking member and the chairman, this is not a promotion of toll roads. Toll credits are not additional money. They are what is commonly referred to as "soft match." We simply want the flexibility to allow States to be able to use these dollars for bicycle trails, pedestrian walks, rail, other transit projects. We believe this is a real commitment to transportation needs in America. We support this legislation. We ask our colleagues to support us to give wider flexibility to the many States who will benefit from having the option of using toll credits, no more Federal money, more flexibility, and more opportunity to serve the people of the United States of America.

Argument: If the toll revenues were actually used for the other projects, states wouldn't have an issue.

Response: States may earn toll credits under section 120(j) only when they spend "toll revenue" on capital expenditures on toll projects serving interstate traffic, and only in years the state meets a Maintenance of Effort test. The requirement that the "toll revenues" be spent on capital expenditures would also seem to address your concerns regarding section 129(a) of title 23.

The restrictive provisions of section 129(a) of title 23 are really nothing that wouldn't already be in the Indenture of Trust for the bonds issued to build the toll facility from FHWA's Innovative Finance: "The credit the state can earn for any Federal fiscal year is determined by the amount of toll revenue used by toll authorities for capital expenditures to build or improve public highway facilities that serve interstate travel. To qualify for the credit, the state's total non-Federal highway and transit transportation capital expenditures must equal or exceed the average of prior years. This is called the maintenance of effort (MOE) calculation. The MOE test is required at the time the credit amount is established. Expenditures for routine maintenance—e.g., snow removal, mowing—debt service, or costs of collecting tolls cannot be included."

Toll credits create flexibility in the federal aid program. Similar to the Programmatic Match provisions of Surface Transportation Program, it allows the expenditure of non-federal funds on one project to serve as the match on another project through toll credits.

The idea is to give states as much flexibility as possible to allow them to address as many transportation needs as possible with the limited financial resources available to them. The traveling public in not overly concerned if the funds spent on a project are federal or state, only that the transportation infrastructure is being improved so they can get where they're going faster and safer. Keep in mind that the federal funds, are in fact paid by citizens of every state and sent to DC and then returned to their states—and in Texas' case, we receive less than what we originally sent.

In today's environment there are not many toll road projects that can be financed 100 percent without some form of federal assistance, especially in states without mature toll systems where exess revenue from the established toll roads could be used to expand the system.

By not discouraging the use of federal assistance on toll roads, the amendment might actually allow for more projects to be built sooner—states can finance roads through a mix of toll road bonds and federal assistance, when they would not be financially viable as a 100 percent bond financed project. Then once the toll revenues are expended they can be used as match for federal funds on other projects. We believe the policy of federal/state transportation programs should be to build as many transportation projects as soon as possible to address the mobility issues.

The whole idea of required match seems to again ignore the fact that it is the citizens of the states who originally pay the tax and as in the case of Texas only receive a portion back. Average Rate of Return for Texas is 87 cents for each dollar sent in federal gas tax by Texans to the Federal Highway Trust Funds. Texas is one of the largest donor states.

WHAT IS A TOLL CREDIT?

USDOT allows the States to accumulate credits to be applied to the non-Federal share of certain highway and transit projects. The credits are based on toll revenues used to build, improve, or maintain certain highways, bridges, or tunnels.

If a toll road is built and no federal money is involved, then the State D.O.T. can be given credit for the amount of the road to use as a federal match. Toll credits are not additional money. They are what is commonly referred to as a "soft match." The state can utilize toll credits to match federal funds in place of their state match. By using toll credits to substitute for the required non-federal match on a Federal-aid project, federal funding can be effectively increased to 100 percent. State and local funds notmally used for matching may then be directed to other transportation projects.

EXAMPLES

North Texas Turnpike Authority builds a $100 million toll road in Dallas with no federal money whatsoever in it.

USDOT would give TxDOT $100 million in toll credits. TxDOT can use $100 million as matching funds for other projects.

TxDOT wants to build a road at a cost of $100 million. A federal road is usually an 80–20 match. 80 percent of the money is federal; 20 percent is state.

Instead of Texas gas tax money being used for the 20 percent match ($20 million), all $100 million comes from the federal government for the road.

You now have $80 million left in toll credits ($100 million − $20 million for the new road = $80 million) that you can apply to another project, including transit projects.

The toll credits can be used to draw down federal dollars for transit. That is new money in a more real sense of the term because it can help a county (for instance) with its local match. It can actually be leveraged to bring in new non-roadway projects.

THE PROBLEM

The project can have no federal money in it. For example, SH 130 will not qualify because federal funds have been used.

Texas is embarking on a program to build more toll roads. We believe that a better calculation would be prorated. If the state funded 20 percent of the toll roads' cost, then the state should receive that 20 percent in toll credits.

THE SOLUTION

Texas would like to see the current statutory provisions for accumulating and calculating toll credits liberalized to ensure that we are getting the most credit that we can as the state begins developing more toll projects in the next reauthorization bill. The current statutory provisions only give us toll credits for 100% non-federally funded toll projects.

The reality is that we will have a mixture of funding sources for our projects, including federal funds in nearly every project we build. We believe that we should be allowed to receive toll credits for the portion of non-federal funds spent on toll projects. For example, if 80% of the toll project cost is non-federal, then we should receive toll credits for 80% of the project cost. Currently, in this example, we would get no toll credits for this investment.

LEGISLATIVE LANGUAGE

The drafted amendment would modify the method by which toll credits are calculated. The amendment would change the calculation to make the credits based on the proportion of non-federal investment in toll projects.

TX DOT thinks that this language will provide additional flexibility in our project financing program. the benefit of having toll credits is to enable a project (highways or transit) to exchange a toll credit for non-federal share of a project's cost.

For example, a project usually requiring a 20% non-federal match could instead use toll credits and increase the federal share to 100% of the project cost. While this does not provide additional money (it simply uses up more of the federal funds in the state's apportionment), it does provide greater financial flexibility in determining the best possible mix of funding sources for our projects. The benefits of having toll credits available may be even greater for transit projects, which typically end up with a 50%/50% federal/state match.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

It is now in order to consider amendment No. 5 printed in House Report 108–456.

AMENDMENT NO. 5 OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SHADEGG:

At the end of subtitle A of title I, add the following (and conform the table of contents of the bill accordingly):

SEC. 1125. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in the matter preceding clause (i) by striking "ozone or carbon monoxide" and inserting "ozone, carbon monoxide, or particulate matter (in this paragraph referred to as 'PM–2.5 or PM–10')" ;

(B) by striking clause (i) and inserting the following:

"(i) 1.0, if at the time of apportionment, the area is a maintenance area;";

(C) in clause (vi) by striking "or" after the semicolon;

(D) in clause (vii)—

(i) by striking "area as described in section 149(b) for ozone" and inserting "area for ozone (as described in section 149(b)) or for PM–2.5 or PM–10"; and

(ii) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

"(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated as nonattainment under the PM–2.5 or PM–10 standard.";

(2) by striking subparagraph (C) and inserting the following:

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.";

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(4) by inserting after subparagraph (C) the following:

"(D) ADDITIONAL ADJUSTMENT FOR PM-2.5 OR PM-10 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both, as described in section 149(b), any county within the area was also designated under the PM–2.5 or PM–10 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Arizona (Mr. SHADEGG) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of this amendment. It is largely a technical amendment.

In our Nation we face a serious air quality problem with tiny particles of dust and chemicals. This particulate matter is a health hazard because people breathe it in, and it irritates their lungs and can cause severe respiratory problems, and we have tried to deal with it.

There are two types of particulate matter considered by the EPA. One is PM–10, which is a fairly fine particulate matter, and the second is PM–2.5, an extremely fine particulate matter. Both are produced by vehicles driving on both paved and unpaved roads. Current law allows States to obligate funds under the Congestion Management and Air Quality Improvement Act, referred to as CMAQ, to areas which are not in attainment for either, but it does not distinguish between PM–10 and PM–2.5. The other body has passed legislation which would allow funds to be allocated to achieve attainment on PM–2.5. My amendment ensures that States will be able to use these funds to achieve attainment on both, particularly PM–10, and also on PM–2.5, which is the language which the Senate has adopted.

This language is absolutely essential because areas which are not in attainment for PM–10 incur significant costs in order to clean up their air and meet the standards for them and to curb emissions, particularly emissions of these pollutants from roads. Measures which States and counties and cities have to take include purchasing specially designed streetsweepers, curbing, paving, and stabilizing the shoulders of paved roads; paving, vegetating, and chemically stabilizing access points on unpaved roads; timing traffic lights; and using reformulated gasoline.

Vehicles on both paved and unpaved roads are significant sources of PM–10. And for example, in my State of Arizona in my hometown of Phoenix, PM–10 is estimated to be produced from traffic on both paved and unpaved roads.

In addition, my amendment would strengthen the position of the House in going into conference, as the House version of the bill currently does not have any language similar to that in the provision.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who claims time in opposition to the amendment?

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

I compliment the gentleman on raising a very important issue. I also want to point out to the House that this is a complex aspect of transportation law involving Congestion Mitigation and Air Quality Improvement issues. It involves a very technical aspect of the particulate standards, the air quality standards, for coarse particulate matter or fine particulate matter, those that are 10 or 2.5.

In principle, I think I would be in favor of what the gentleman is trying to accomplish, but the language of the wording gives us some trouble yet. And if the gentleman would bear with us through the bill and into conference, I think we can get this matter worked out in a manner that is acceptable to achieve the objective he is seeking.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, as I understand from discussions with the gentleman's staff, the concern he has is, I guess, two points. One is not with PM–10, which I think the gentleman would agree with me that funds be used under CMAQ to mitigate PM–10 pollution at this point; but as I understand it, the gentleman has some concern with whether or not PM–2.5 can be mitigated with these funds as the Senate is trying to do. Is that correct?

Mr. OBERSTAR. Mr. Chairman, that is essentially, broadly stated, the issue.

Mr. SHADEGG. Mr. Chairman, will the gentleman continue to yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona, with further comment in how that issue would be interpreted and how it would be applied.

Mr. SHADEGG. Mr. Chairman, I understand that there is a second concern with an impact on the formula were the language of the current amendment, in fact, adopted. Is that also correct?

Mr. OBERSTAR. Mr. Chairman, exactly. The question is, How will the funds be allocated? And I think we need to just understand that better and have it spelled out more clearly so that we understand what is happening and we do not run into something we did not anticipate.

Mr. SHADEGG. Mr. Chairman, will the gentleman continue to yield?

Mr. OBERSTAR. I yield further to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, as I understand the offer that is being made by the ranking member, the gentleman agrees to work in conference to address the importance of being able to fund the cleanup of PM–10 particulate matter and ensure that the law continues to allow CMAQ funds to be used to clean up PM–10 materials.

Mr. OBERSTAR. Mr. Chairman, exactly. I think what we would like to do is exchange some language and refine that language and refer to the original CMAQ and look at the distribution tables, allocation of funds; and I think we will be able to find a way to accommodate the gentleman's objective.

Mr. SHADEGG. Mr. Chairman, will the gentleman continue to yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, with that understanding, and I have always had a good working relationship with the gentleman, if the majority will also commit to work on the PM–10 issue and to work with me to ensure that funds can be used to clean up PM–10, I would be amenable to withdrawing that amendment with the understanding that it will be worked on in conference so that we can ensure CMAQ funds can be used to clean up PM–10 materials, because that is an important issue to my constituents and, quite frankly, to all the States of the West.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I can state for the majority that we will work with the gentleman and with the minority leader on this matter.

Mr. OBERSTAR. Mr. Chairman, I reserve the balance of my time.

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume.

With the understanding I have just reached with the ranking member and the spokesman on behalf of the majority, it is my understanding that we will all work together to assure that CMAQ funds can be used to address PM–10 pollutants as they currently can, as they would be then in the future under the legislation. That is extremely important to me and to the States I represent and to the States of the West.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

I thank the gentleman for a very dignified discussion and outcome. I think it is in the best interest of good policy, and we will work with the gentleman in the coming weeks as we go forward.

Mr. Chairman, I yield back the balance of my time.

Mr. SHADEGG. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

It is now in order to consider amendment No. 6 printed in House report 108–456.

AMENDMENT NO. 6 OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SCHIFF:

In the matter proposed to be inserted by section 1208 of the bill as section 167(b)(4) of title 23, United States Code, strike "if the operators of such vehicles pay" in subparagraph (B) and all that follows through the period at the end of subparagraph (C) and insert the following:

if the agency—

"(i) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

"(ii) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

"(iii) continuously monitors, evaluates, and reports to the Secretary on performance; and

"(iv) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from California (Mr. SCHIFF) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I yield myself such time as I may consume.

The car pool lane has been a tremendous success at reducing air pollution and alleviating traffic jams since it was introduced 3 decades ago. The idea works because it is a simple trade-off, more choice for more responsibility. We can use this powerful trade-off to encourage more than just car pooling. Hybrid gas electric cars have doubled the gas mileage of standard cars, which means they fight air pollution as surely as car pooling does; and unlike other clean car technologies, they are also now available in meaningful numbers.

☐ 1500

This fledgling technology has great potential, but we need to help it get off the ground further. There is a small tax deduction for purchasing a hybrid car, but expanding this deduction would cost money at a time when we are tightening our fiscal belts.

Instead, we can use the incentive of the car pool lanes to encourage drivers to purchase hybrid cars without affecting the U.S. Treasury's bottom line. Both the administration and the Senate have recognized the potential of this approach. Their versions of the transportation bill permits State and local jurisdictions to allow hybrids in the car pool lane, even if the driver is alone. For cities with heavy air pollution, this could be an effective tool to coax drivers into cleaner cars. It also takes decisions about this issue out of Washington and puts them in the hands of local communities.

My amendment would accomplish the same goal by removing a mandate for a toll requirement. This lets States and local governments decide for themselves whether to allow hybrids in the car pool lane, whether to charge a toll or not.

Some say this risks overcrowding the car pool lane, but my amendment requires local governments to monitor the effect of letting in hybrids and impose restrictions, if necessary. Thus, if a toll became necessary, one could be charged.

More to the point, hybrid cars are less than ½ of 1 percent of the cars on the road today, and a car pool lane crowded with hybrids is a problem many governments would love to have.

Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California (Mr. ISSA), and thank him for his work on this issue.

Mr. ISSA. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, as you perhaps know, H.R. 243, the Hybrid Vehicle Incentive Act, which I authored in the previous Congress and again in this Congress, serves to do a similar incentive program for HOV use by hybrid vehicles. Since it is tied up in the energy bill and since the transportation language was at best vague as to whether or not charges must occur, I thank my colleague for his leadership in seeing that there was an easy remedy to ensure that municipalities and States could charge zero, thus eliminating the requirement to put a toll on these efficient vehicles that are leading the way toward ending or at least reducing our dependence on foreign oil.

Mr. SCHIFF. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. SIMPSON). Who claims time in opposition to the amendment?

Mr. YOUNG of Alaska. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, we have reviewed this amendment, and I believe, with consultation, we have agreed to the amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I want to frame this issue here carefully. The purpose of the HOV lanes is to encourage more people to ride in a car than to continue encouraging single-occupancy vehicle travel. Now, the idea of an exemption for hybrid vehicles was to encourage their development, their production, and that is happening in California, to the great credit of that State. So now we are seeing sort of the hybrid vehicle production take off. But in that process, the principle of HOV lanes seems to be falling behind, with more single-passenger vehicles traveling.

So the language of the gentleman's amendment is not perfectly clear. We would be willing to accept language that makes it clear that the State can choose to exempt a hybrid vehicle, not that they are required to exempt. Is that the intent of the gentleman's amendment, that the State will have the choice, not that they are required to exempt from paying a toll on an HOV toll lane?

Mr. SCHIFF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the intent is to give States the option, not the mandate, to charge a toll. If the States choose, they may allow hybrids; if they chose to allow hybrids under the condition of a toll, they would have that capability as well. We do not want to mandate that. Hopefully, I hope it would not be necessary.

If at some point down the road there were so many hybrids on the road that it was creating a clogging of the HOV lanes, States would be able to uninvite them to the HOV lanes or charge a toll.

So, yes, that is the intention of the amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I agree with the chairman, we could accept the amendment, with the understanding as we get into conference, this language needs to be tightened up.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will agree with that. I think it should be tightened up. It is something that both the author and, of course, the gentleman from California have spoken on; and we will continue working with you to see if we cannot make it adaptable to everybody.

Mr. Chairman, I yield back the balance of my time.

Mr. SCHIFF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I understand it, the amendment is acceptable, and in conference there will be additional language added to further clarify that the States may charge a toll if they so choose, but are not required.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. SCHIFF).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 7 printed in House Report 108–456.

AMENDMENT NO. 7 OFFERED BY MR. VITTER

Mr. VITTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. VITTER:

At the end of section 1301(b)(1), add the following:

The Interstate Route 49 Corridor shall receive priority consideration under this paragraph.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Louisiana (Mr. VITTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an amendment to officially represent a vitally important corridor, I–49, and specifically recognize it as qualifying under the new National Corridor Infrastructure Improvement program. I think everyone will agree that this is exactly the sort of crucial corridor for economic purposes, military uses, the movement of agricultural products, all sorts of key uses, that this program is about. So the purpose of the amendment would be to formally recognize in the bill, to make sure that it qualifies. There is no specific amount of money associated with I-49 through this amendment, just to ensure that it fully qualifies under that improvement program.

Again, I-49 is such a corridor of national significance because of the movement of ag products from the heartland of the country to our ports in the south and across the globe; because of defense and security issues, I–49 links so many of our military bases; because of trade, again, agriculture is perhaps the biggest example of that, but it is an enormous trade corridor into the heartland of the country; because of energy, moving energy from Louisiana and the Gulf of Mexico into the country; and because of safety concerns.

That is the reason, that is the purpose behind that amendment. I intend to withdraw the amendment in a few moments after engaging in a short colloquy with the chairman.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who claims the time in opposition?

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, very simply stated, this amendment would bypass the determination of the Secretary to make decisions on corridors and substitute judgment in this body for that of the Secretary looking at a national picture, and that is the wrong way to proceed. We should not do that.

Mr. VITTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. JOHN).

Mr. JOHN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, of course I fully support funding of I–49, which runs right through the Seventh District of Louisiana, right through the heartland of Louisiana. Completion of this very important interstate system from Canada to New Orleans is an incredibly important corridor, from the Midwest of America down to the coast and for the economics of trade, and it is an incredibly important program.

I have worked very hard over the last few years to make sure that I–49 South was given a high priority designation in TEA 21, and also I–49 North, as a high priority corridor. This amendment today I think reinstates the importance of I–49 as a priority for Congress, and I fully support it.

However, there is a larger issue at hand. I think we need more funding for this bill to accelerate funding for I–49 and other projects across the Nation. Each Member in this body believes that highways running through their district are a priority, and they are correct. Improved transportation infrastructure means economic development; it means good American jobs. But the only way that we can see these priorities met is to increase the funding for this bill in Congress.

The I–49 Congressional Caucus is working with the chairman and the ranking member on a way to complete the funding for this project, and many other projects; and I pledge to create new jobs and expand economic development for the full funding of I–49 and other high-significant and regional priorities.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I think the gentleman from Louisiana knows that this Member, at least, has met on a number of occasions both here in Washington and down in New Orleans and other places in Louisiana with groups who are supporting this high-priority project. It is an important project. But there are a lot of important projects in our country. Our committee is trying to come up with the resources to meet a variety of needs.

I would urge the gentleman to work with the committee and the process, rather than attempting to single out his particular project in this way, because it is not going to work politically here in the House, given all the other regions and their concerns.

But what the gentleman is saying is important. He does have an important project, and we are eager to work with the gentleman to try to come up with the resources necessary to help move it forward.

Mr. VITTER. Mr. Chairman, I yield 1 minute to the gentleman from Alaska (Mr. YOUNG), to have a conversation in the form of a colloquy.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to offer the gentleman from Louisiana (Mr. VITTER) my support for this route. I have had the privilege of speaking to the gentleman from Louisiana (Mr. MCCRERY), the gentleman from Louisiana (Mr. VITTER), the gentleman from Louisiana (Mr. JOHN), everybody involved in this area; and my attention as time goes by as we go to the conference, this will be one of the routes that is considered as a high priority, because it is badly needed, not only for the State of Louisiana, but for the other States in proximity too.

I would like to say that we had enough money to do everything, but I am not going to say we do. But this is one of the areas that I am very strongly in support of, and I will do everything I can to see that we achieve those goals.

Mr. VITTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman very much for that pledge of support, and I look forward to working with the gentleman proactively as the process moves along.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 8 printed in House Report 108–456.

AMENDMENT NO. 8 OFFERED BY MR. GRAVES

Mr. GRAVES. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. GRAVES:

At the end of subtitle D of title I, add the following (and conform the table of contents accordingly):

SEC. 1408. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30106. Rented or leased motor vehicle safety and responsibility

"(a) IN GENERAL.—Provided that there is no negligence or criminal wrongdoing on the part of the owner of a motor vehicle, no such owner engaged in the trade or business of renting or leasing motor vehicles may be held liable under State law for harm caused by a person to himself or herself, another person, or to property, which results or arises from that person's use, operation, or possession of a rented or leased motor vehicle, by reason of being the owner of such motor vehicle.

"(b) CONSTRUCTION.—Subsection (a) shall not apply if such owner does not maintain the required limits of financial responsibility for such vehicle, as required by State law in the State in which the vehicle is registered.

"(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' shall have the meaning given the term under section 13102(14) of this title.

"(2) OWNER.—The term 'owner' means a person who is—

"(A) a record or beneficial owner, lessor, or lessee of a motor vehicle;

"(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

"(C) a lessor, lessee, or bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession of such motor vehicle, under a lease, bailment, or otherwise.

"(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.

"(4) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 30105 the following:

"30106. Rented or leased motor vehicle safety and responsibility.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Missouri (Mr. GRAVES) and a Member opposed each will be recognized for 5 minutes.

The Chair recognizes the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am here today to correct an inequity as I see it in the car and truck renting and leasing industry. By reforming vicarious liability to establish a national standard that all but a small handful of States already follow, we will restore fair competition to the car and truck renting and leasing industry and lower costs and increase choices for all consumers.

Currently, a small number of States impose vicarious liability, or liability without fault, on companies simply because they own a vehicle involved in an accident. Whether or not the vehicle is at fault is irrelevant. These vicarious liability lawsuits cost consumers nationwide over $100 million annually.

These laws apply to where the accident occurs. It does not matter where the car or truck was rented or leased. Since companies cannot prevent their vehicles from being driven to a vicarious liability State, they cannot prevent their exposure from these laws and then raise their rates accordingly. These higher costs have driven many small companies out of business, reducing the consumer choice and competition that keeps costs down.

While this amendment seeks to level the playing field, I want to emphasize that the provisioning will not allow car and truck renting and leasing companies to escape liability if they are at fault. Accident victims will continue to be compensated according to individual State law.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who claims time in opposition to the amendment?

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Missouri has been quite persistent and thoughtful in his pursuit of this amendment and very genuine, and I think one of the adversely affected companies is located in the State of Missouri and has expressed their concerns about the effects of current law.

□ 1515

The gentleman has sought a way to provide some relief. I rise in very strong opposition to the language, with great respect for the gentleman, a member of our committee.

It would supersede State law in 15 States that have already adopted laws to apply vicarious liability to car rental companies. The reason they have done so is that if a car rental company rents to a person who has no insurance, the rental company is the one that is best suited to assume the responsibility. They have done this action in their judgment in the best interest of the consumer.

Now, we have not had hearings in depth that would explore all aspects of this issue. It is a very complex issue of State law, and it varies from one part of the country to another. But States, as far as we can ascertain, that have adopted such a policy have concluded that, without it, harm to innocent children, to bystanders would go totally uncompensated, even if the rental car company had leased, say, to an obvious drug abuser or someone with a very bad driving record.

States, including mine of Minnesota, have reached an independent policy determination on this matter. I do not think Congress should weigh in to supersede the State judgment on this matter.

Mr. Chairman, I reserve the balance of my time.

Mr. GRAVES. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. BOUCHER), the amendment cosponsor.

Mr. BOUCHER. Mr. Chairman, I thank the gentleman for yielding me this time, and today I rise to join with him in support of a common sense reform that will eliminate antiquated vicarious liability statutes, benefit consumers, and protect the victims of accidents.

Vicarious liability laws for rental cars in a handful of States drive up costs for consumers nationwide by an average of $100 million annually. These laws prevent unlimited damages against companies that rent or lease vehicles solely because they own a vehicle that is involved in an accident, not because they have done anything wrong. These companies are not negligent, not at fault, and could do nothing to have prevented the accident.

Consumers pay $100 million annually resulting from these unfair laws because companies must build the costs of arbitrary damage awards into their rental and lease rates. Regardless of where a car or truck rental company is headquartered or where the vehicle is rented or leased, the company is subject to vicarious liability, even if its vehicle is driven to a vicarious liability State and is involved in an accident. Therefore, the laws of a mere handful of States drive up rental rates nationwide for all rental consumers.

I urge approval of this common sense reform.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, my own State of New York is one of the most active car rental markets in the country. We also have a huge number of uninsured drivers who rent cars because, in New York City, a lot of people do not own cars. New York has forbidden car rental companies to ask their customers if they own automobile insurance in order to allow the largest number of people access to rent the cars.

Since New York has made the policy decision to mandate car rental companies to rent to uninsured drivers, New York needs vicarious liability to protect innocent bystanders who are injured by these uninsured drivers. Why should not New York and other States have the ability to make that policy determination? Why should we arrogate to ourselves to tell the 15 States that have chosen to have vicarious liability but not to limit car rentals to only people who can prove that they have their own personal insurance, that is the trade-off; why should we tell them that is the wrong policy decision? That should be left to the States.

There is nothing wrong with a State deciding that it is in the interests of the people of that State for uninsured drivers, who may be uninsured because they do not own their own cars, to be able to rent cars, but to be able to say to the car rental companies, you must take vicarious liability so that you do not shift the burden of paying for an accident to the pedestrian or the hospital or the taxpayers. This is a perfectly reasonable thing to do. Fifteen States have chosen to do it.

To pass this amendment is to say that we are going to obviate the policy choices that those States have made and shift the burden on to innocent victims of accidents in those States. We should not do it. Let the States decide this question, as they have.

Mr. Chairman, I urge opposition to this amendment.

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume. The amendment requires that vehicles be covered, still be covered by the State-established minimum insurance levels for vicarious liability.

The bottom line is, if we limit vicarious liabilities, they are still going to be covered by the minimum standard. There is never going to be an instance where the vehicle goes out there and is not insured.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. How much time is remaining on both sides, Mr. Chairman?

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Minnesota (Mr. OBERSTAR) has 1 minute remaining; the gentleman from Missouri (Mr. GRAVES) has 2 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I reserve the balance of my time.

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume.

I had several and, unfortunately, due to the speed in which amendments were moving this morning, we are not going to get to all of them. We have the House majority whip, the gentleman from Missouri (Mr. BLUNT) who wanted to speak on this, and also the gentleman from Georgia (Mr. BURNS).

Mr. Chairman, this amendment I think makes sense. It is a consumer amendment. It is going to save consumers $100 million annually.

The fact that a company can be liable simply because they own the vehicle even though they were not involved I think is ridiculous.

The bottom line is that this is still going to require that vehicles be covered by the State-established minimum levels for insurance. There is never going to be a situation where a vehicle goes out there or someone goes out there that there is not a lease to State minimum standard. That is still going to be in place.

What this simply says, there is unlimited liability in this situation where we have a vicarious liability law in a State. We are trying to put together some sort of a national standard. I think it makes sense. I think it is good for the consumer, and it is going to make a big difference.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I just think this is an unfortunate situation to have 5 minutes to debate this important issue.

The question is, who will take the risk? If the rental car agency is not going to provide the insurance for the drivers, who will? Are they responsible or required to have insurance? Will the victims of negligence have to pay their own bills?

This is just unfortunate. We have 50 different States, 50 different laws. They have all dealt with this situation individually. It is unconscionable to try to decide this in a 5-minute debate. I hope we defeat the amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

If I allow another person to use my car and that person has an accident, I am liable. Why should rental car companies be different? If States choose to make them liable under these circumstances, as our State of Minnesota does, then why should the Congress substitute a different judgment for that of the States?

Without extensive hearings, without a deep inquiry into this subject matter, this is an inappropriate time, inappropriate amendment, inappropriate place to do it, and the amendment preferably should be withdrawn and we could work on it, perhaps through conference, otherwise defeated.

Mr. CONYERS. Mr. Chairman, I submit the following letter for the RECORD.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, April 1, 2004.

Hon. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

Hon. NANCY PELOSI,
Minority Leader, House of Representatives, Washington, DC.

Subject: Amendment 8 to H.R. 3550.

DEAR SPEAKER HASTERT AND REPRESENTATIVE PELOSI: On behalf of the National Conference of State Legislatures, I am writing to express strong, bipartisan opposition to the passage of Amendment Number 8 to H.R. 3550, "The Transportation Equity Act: A Legacy For Users." This amendment is a blatant attempt by the U.S. Congress to preempt existing state laws regarding vicarious liability for rental car owners. This amendment has been introduced without the benefit of a hearing or debate on how this amendment would impact existing state laws.

Tort reform and liability are areas of law that have been traditionally regulated by the states. NCSL supports state efforts to reform or not to reform their own vicarious liability statutes. Perhaps even more egregious is the fact that this federal effort to preempt state laws has been orchestrated without the benefit of input from the states. At the very least, Congress should have held a hearing and discussion of this very important issue.

If you need any additional information, please contact NCSL Senior Committee Director for the Law and Criminal Justice Committee Susan Parnas Frederick at (202) 624-3566 (susan.frederick@ncsl.org).

Respectfully,
DENTON DARRINGTON,
Idaho State Senate, Chair NCSL Standing Committee on Law & Criminal Justice.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Missouri (Mr. GRAVES).

The amendment was rejected.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 9 printed in House report 108–456.

AMENDMENT NO. 9 OFFERED BY MR. CHOCOLA

Mr. CHOCOLA. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. CHOCOLA:

At the end of title I, insert the following (and conform the table of contents accordingly):

SEC. 1819. ENGINE IDLING IN HEAVY-DUTY VEHICLES.

(a) VERIFICATION.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall verify those idling reduction technologies with the potential for fuel savings and emissions reductions and publish a list of such technologies in the Federal Register.

(b) VEHICLE WEIGHT EXEMPTION.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(i) VEHICLE WEIGHT EXEMPTION RELATING TO ENGINE IDLING IN HEAVY-DUTY VEHICLES.—

"(1) IN GENERAL.—In order to promote reduction of fuel use and emissions due to engine idling, the maximum gross vehicle weight limit and the axle weight limit under subsection (a) for any motor vehicle equipped with an idling reduction technology verified by the Environmental Protection Agency shall be increased by the Secretary of Transportation by an amount necessary to compensate for the additional weight of the idling reduction system, except that the weight increase shall be no greater than 400 pounds.

"(2) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) IDLING REDUCTION TECHNOLOGY.—The term 'idling reduction technology' means a device or system of devices utilized to reduce long-duration idling of a vehicle.

"(B) HEAVY-DUTY VEHICLE.—The term 'heavy-duty vehicle' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.

"(C) LONG-DURATION IDLING.—The term 'long-duration idling' means the operation of a main drive engine, for a period greater than 15 consecutive minutes, where the main drive engine is not engaged in gear. Such term does not apply to routine stoppages associated with traffic movement or congestion.”.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Indiana (Mr. CHOCOLA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is simple, straightforward, and based on common sense. I think we have all driven down the highway and have seen trucks parked at night at rest areas and truck stops and we have seen that they are idling or running. The reason that they are doing that is because the drivers inside require electric power to run their heat or cooling or microwave or whatever other electronics they may have in their cab.

The problem with the trucks idling or running all night is that they use fuel and they emit pollutions into the environment. So my amendment simply would allow a 400-pound exemption to encourage trucks to utilize on-board independent power systems.

According to studies by the EPA and others, long-haul trucks, they idle up to 8 hours per day over 300 days per year. They consume about .8 gallons of diesel fuel each hour that they idle, and that adds up to over 1,900 gallons per year, and they emit 19 metric tons of carbon dioxide into the atmosphere while they are idling. So by reducing the unnecessary truck idling, we can save fuel, we can reduce greenhouse gases, we can cut air pollution, and we can save money.

For the past 6 years, the companies in the country that have worked on these independent, on-board power systems, they have worked with the EPA and they have worked with the Department of Transportation to come up with systems that provide the power necessary to run the heating, air-conditioning, and other electronic needs. The tests that they have run on these systems have yielded a 65.5 percent reduction in the idle time of trucks that use them and a 59.6 percent reduction in fuel consumption.

According to the EPA, we would reduce greenhouse gases, we would reduce nitrogen oxides, we would reduce particulate matter emissions, and save nearly $3,000 a year in fuel costs and lower engine maintenance costs as well.

I think my home State of Indiana is a great example. Indiana alone has 17,000 truck parking spaces; and if you drive down the highway at night, every one of them is filled.

So, Mr. Chairman, I believe that by offering this exemption we can encourage the use of this technology, resulting in reduced truck emissions, reduced fuel consumption. It would be very beneficial to the United States, and I think that everyone can agree that this is a very beneficial amendment.

The amendment is supported by the American Lung Association, the American Trucking Association, the National Association of Truck Stop Operators, and the EPA, and Schneider International, the Nation's largest trucking fleet.

Mr. Chairman, the bottom line is we are asking for a one-half of 1 percent weight exemption to implement a very common-sense solution that helps our environment, helps our energy needs, and certainly I think we should pass this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, again, this is like, as so often we will see on these amendments on the floor, an amendment that is well intentioned but has adverse consequences. I support the environmental benefits that can be achieved with clean air technologies. In the manager's amendment, the chairman and I have worked on it and our staff have worked on congestion mitigation, air quality improvement, and surface transportation program funds, the largest of the core programs, to assure that these funds may be used to support stand-alone truck electrification technologies, because we saw in testimony in hearings that there are such technologies that are very, very low-weight, with high benefits.

This issue came up in the House-Senate Energy Conference, and I addressed this issue in the Conference and raised objections. Mr. Chairman, 400 pounds may seem insignificant, but it will have serious consequences on safety of our driving public and on the roads. Bigger trucks, more road damage. If all trucks had that extra 400 pounds, $600 million a year in extra road damage. Over the life of this bill, that will add up to over $3.5 billion in road damage.

The point is, why are we picking, or why pick 400 pounds? There is a wide range of technologies that have far less weight that have very significant improvements that show idling reduction technologies do, in fact, pay for themselves and reduce costs in less than 2 years. There are other technologies that will provide the same clean air benefits as the one addressed in this amendment.

□ 1530

So I think rather than just pick out one particular technology, one that weighs 400 pounds or less, whatever, this is not the right way to approach the issue.

Mr. Chairman, I reserve the balance of my time.

Mr. CHOCOLA. Mr. Chairman, I yield myself such time as I may consume.

This is a very commonsense approach to a real problem that we have in our Nation's highways and Nation's environment; 400 pounds is one-half of 1 percent weight exemption on an 80,000 pound rig. So adding 400 pounds is a relatively lightweight solution. So I think it is very much based on common sense.

It is a simple approach to a real need we have. It is a specific solution that I think that we can implement today by passing this amendment that will not only help our environment; it will help our Nation's reliance on foreign energy.

Over $3,000 a year, as the price of fuel goes up and savings goes up, that will be beneficial to every single American. I do not think when you take the risk-reward analysis that the risk is too great when we add ½ of 1 percent to an 80,000 pound rig, as compared to the reward that really every American is going to benefit.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the chairman of the committee.

Mr. YOUNG of Alaska. Mr. Chairman, I deeply respect my good friend that has offered this amendment, but I have a couple questions.

One, I have had the privilege of visiting a private company; it has developed a truck stop process whereby the trucks do have the same thing my colleague wants. What I understand his amendment does is he wants to raise the weight of the truck 400 pounds of added equipment to the truck so they do not have to stop at a truck stop. Is that correct?

Mr. CHOCOLA. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Indiana.

Mr. CHOCOLA. Mr. Chairman, that is correct.

Mr. YOUNG of Alaska. Mr. Chairman, well, I am just concerned about that because this company called Idle Air, it has done an outstanding job, and they are trying to do the job right without any government money or support. And they are doing exactly what my colleague wants to do, but the truck does have to go and they have their waiting time that they have to rest, refuel their trucks, et cetera.

And it seems to me if we add this extra 400 pounds for additional equipment, it would be detrimental to that individual company. That concerns me somewhat. I am sort of taking sides on that issue is what I am saying. With your proposal, would that hurt the company?

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Chairman, this solution gives all options available. Certainly the Idle Air technology is still very valid. It is very beneficial. And trucks that travel routes where Idle Air technology is available, they certainly can avail themselves of that. But the technology that I am promoting is portable. It can be installed on any truck in the Nation. So it makes the benefits of the Idle Air technology available nationwide.

And so by adding this exemption, every truck has the opportunity to enjoy the reduced idling benefits even if the Idle Air technology is not available in their region.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, we do have some problems with weight limitation on these trucks. Four hundred pounds does not sound like much; but if you add all the trucks up, we do not know the ramifications of the weight factor on the roads. And I really think the gentleman is on the right track, but I think we have to consider what that would do if, in fact, we raise that limitation to 400 pounds, do we raise the limitation on other aspects of the trucks such as a new engine which adds 3,000 pounds to the truck. We have not done that yet.

So I think we need to look at the total wear and tear on the road.

Mr. CHOCOLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do think it is a commonsense approach to a problem that we have. There are different ways to approach this problem that have benefits. But the one I am suggesting makes available to every truck on the Nation's highways the opportunity to incorporate reduced idling technology anywhere in the country in that they can have the opportunity to shut their engine off at night, quit polluting our air, quit using fuel unnecessarily. And I think everyone will benefit from that.

We can continue to look for new solutions, but this is something we can do today to help our trucking industry, help our economy, create jobs, and help our environment all at the same time.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, very simply, trucks come to a truck stop. They want to use this 400-pound technology to run their Air King unit. There is better technology, does not have the weight, they can plug it in and not put that added weight on the roadway. We should not accept this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Indiana (Mr. CHOCOLA).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. CHOCOLA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN (pro tempore). Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. CHOCOLA) will be postponed.

It is now in order to consider amendment No. 10 printed in House Report 108–456.

AMENDMENT NO. 10 OFFERED BY MR. BAIRD

Mr. BAIRD. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. BAIRD:

Title I, at the end of subtitle H add the following:

SEC. 1819. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Buy America test required by Public Law 97–424 needs to be applied to an entire bridge project and not only to component parts of such project;

(2) the law clearly states that domestic materials must be used in Federal highway projects unless there is a finding that the inclusion of domestic materials will increase the cost of the overall project by more than 25 percent;

(3) uncertainty regarding how to apply Buy America laws for major bridge projects threatens the domestic bridge industry;

(4) the Nation's unemployment rate continues to hover around 5.6 percent, steps are needed to protect American workers and the domestic bridge building industry; and

(5) the Buy America Act was designed to ensure that, when taxpayer money is spent on direct Federal Government procurement and infrastructure projects, these expenditures stimulate United States production and job creation.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Washington (Mr. BAIRD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support the underlying transportation bill that will put America back to work, relieve congestion on our roadways, and streamline the permitting process.

I appreciate the opportunity to speak on behalf of my amendment that will strengthen the Buy America Act. The Nation's unemployment rate continues to hover around 5.6 percent. In a district such as mine, that number is considerably higher.

As we all know, the intent of the Buy America law was to ensure that when taxpayer money is spent on direct Federal Government procurement and infrastructure projects, those expenditures will stimulate U.S. production and U.S. job creation.

My sense of the Congress resolution is intended to reinforce that commitment. This resolution does not cost the Federal Government any money, but it will help the working men and women in my district and others around this Nation keep their steel jobs and earn a decent living.

My resolution will also strengthen our domestic steel industry, which is critical to our national security and ultimately to the future economic success of our country. Simply put, highway project managers have identified a way to circumvent the Buy America law as it applies to bridge projects that use Federal funds. My resolution is needed to clarify that law and close the loophole before it completely subverts the intent of Congress when the original Buy America provisions were enacted as part of the highway bill more than 20 years ago.

The original Buy America provision provided that domestic iron and steel would be used in Federal transportation projects unless its use increased the overall project contract by more than 25 percent. The problem that is emerging in the highway bridge industry is that project managers have begun to attempt to circumvent the Buy America Act by breaking bridge projects into component parts and applying the 25 percent test individually rather than to the entire project as required under law.

As it turns out, by breaking the project into smaller components, foreign steel providers are advantaged because it is possible to create situations where the 25 percent test is exceeded on smaller components, even though the test, if it were applied to the overall project, would be required.

The steel bridge fabricating industry increasingly is being forced to fight this misinterpretation of the law which, left unchallenged, could devastate the steel bridge industry. Most recently, on the Wilson Bridge project between Maryland and Virginia, the bridge industry argued successfully that the original bid process developed by the Maryland Department of Transportation, which initially called for dividing the project into smaller component projects, violated the Buy America Act. Maryland revised its procedures and now domestic mills and fabricators are building that bridge.

Congress needs to deliver a clear message to the Federal Highway Administration and to bridge managers across the country that Buy America provisions apply to the overall bridge project and we must, end any confusion or misinterpretation of the law.

Mr. Chairman, I urge my colleagues to support this important resolution.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Alaska is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the chairman for yielding me this time.

I appreciate the intent of the gentleman from Washington (Mr. BAIRD). It is a sense of Congress amendment to clarify that the Buy America Act applies to overall projects and not just to component parts. It is in keeping with the purpose, the thrust of our intent to keep more jobs in America, not let them go overseas, keep products that go into our highway and bridge program built in America, not built overseas.

And I can speak from personal experience. In the harbor between Duluth and Lake Superior, when a new bridge was being built 22 years ago and the bridge had been bid and the State of Wisconsin was the one responsible for building that bridge, they allowed $1 million of Japanese steel to go into the center arch span.

That is when I sprang to the defense of American steel and got the amendment that has now been in law for all these years that we have American steel in U.S. Federal-aid highway programs. So I am in accord with the purpose of the gentleman.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I am going to ask for a voice vote, and I really am not in opposition to it; but I do not have anybody else speaking on this amendment.

Mr. Chairman, I yield back my time.

Mr. BAIRD. Mr. Chairman, I yield myself such time as I may consume. I thank my distinguished chairman and ranking member for their prior leadership on this and their continuing and steadfast support of Buy America provisions.

This is not only a jobs issue, this is not only a safety issue, it is a homeland security issue. We must maintain a vibrant and strong domestic steel fabrication industry. We must not allow entities to circumvent the intent of the Buy America provision.

This resolution helps the sense of the Congress clarify that intent, and I urge its passage.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. BAIRD).

The amendment was agreed to.

It is now in order to consider amendment No. 11 printed in House Report 108–456.

AMENDMENT NO. 11 OFFERED BY MR. HOLT

Mr. HOLT. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. HOLT:

At the end of title I, insert the following (and conform the table of contents accordingly):

SEC. 1819. NEW JERSEY REGULATIONS.

Nothing in Federal law or regulation shall be construed as preventing the State of New Jersey from prohibiting large single trucks or twin-trailer combinations from using highways on the Interstate System, the New Jersey Turnpike, and the Atlantic City Expressway in the State of New Jersey, unless such trucks or combinations are traveling to a terminal or making pickups or deliveries on other roads in the State of New Jersey.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from New Jersey (Mr. HOLT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HOLT).

MODIFICATION TO AMENDMENT NO. 11 OFFERED BY MR. HOLT

Mr. HOLT. Mr. Chairman, I ask unanimous consent to modify my amendment at the desk with an amendment.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. HOLT to amendment No. 11:

(1) On line 4 of the amendment, strike "large single trucks or twin-trailer combinations" and insert "trucks that are specifically allowed by Federal law to travel on the national network".

(2) On line 5 of the amendment, strike "Interstate System" and insert "national network".

The CHAIRMAN pro tempore. Is there objection to the modification of the amendment?

Mr. OBERSTAR. Mr. Chairman, reserving the right to object, under my reservation may I inquire of our Chair whether the majority has seen the language.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, we have not seen the language yet as far as the amendment. It is my indication I do not think we are going to object, but I would like to be able to read the language first. I do not think we have any objections to it.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. Further reserving the right to object, I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, it is my understanding that the gentleman did misdraft the original amendment. We are still going to oppose the amendment as redrafted on the merits, but extend him the courtesy of correcting his drafting error.

Mr. OBERSTAR. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from New Jersey (Mr. HOLT)?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified.

The gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the courtesy so we can at least consider the perfected form of this amendment.

The need for my amendment is precipitated by a recent court decision that would lift a ban that has been in effect in the State of New Jersey since 1999 that restricts the roads on which the very wide 102-inch or wider trucks travel.

And this amendment would uphold current restrictions and current policy, maintain current policy and, thus, by extension, affirm the right of States to regulate the super-sized trucks on roads that are not part of the national network.

In 1999 the then Secretary of Transportation and his associate at the Federal Highway Administration, the administrator, in writing and in person with Members of Congress and concerned State and local officials, categorically affirmed that, quote, "nothing in Federal law or regulation would prevent New Jersey from banning large single or twin-trailer combinations from the subject routes unless they were traveling to a terminal or making pick ups or deliveries on these routes."

And with that clarification, the State of New Jersey, the former Governor, Governor Whitman, subsequently adopted new limitations on what roads large trucks may and may not use.

□ 1545

Now, undoubtedly, supersized trucks mean growing safety risks for highway drivers and pedestrians on narrow roads. According to the U.S. Department of Transportation, an estimated 5,000 Americans die each year in accidents involving large trucks, and an additional 130,000 drivers and passengers are injured. New Jersey has a proportionate number of deaths and injuries.

This amendment is not anti-truck. Of course we need trucks for our commerce. The amendment simply ensures that a State can see to it that the trucks travel on roads that are capable of handling that traffic safely.

The resulting costs from trucks must be borne by State and local taxpayers; and at a time when there already exists a huge backlog of highway and bridge maintenance projects and many States are facing their worse budget crises since before the Second World War, we must take that into consideration.

States are really in the best position to make the determination of how the roads within those States should be used. New Jersey did that 5 years ago with the authorization of the U.S. Department of Transportation. That limitation that New Jersey placed on these trucks 5 years ago has worked very well. It has resulted in, we believe, a reduction of accidents and better safety record and a better record of wear and tear on the small, generally two-lane, roads.

So my amendment simply maintains current practice. It does not make sense to enable large trucks to make a bad situation worse, to compel cash-strapped States, counties and municipalities to spend more of their limited resources on bridge and road repairs that are damaged by the supersized trucks. My amendment would address that.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I will say, though, I am usually in favor of what occurs by State action, but what this amendment does, it allows the State of New Jersey to limit large trucks and twin-trailer combination trucks to the interstate system, not intrastate, the New Jersey Turnpike and the Atlantic City Expressway, except when making local deliveries. It is amazing when you need your donors you allow a twin-trailer truck to arrive at the door but nobody else.

In 1999, the New Jersey DOT actually allowed New Jersey to ban, that is DOT of New Jersey, large trucks from certain roads. However, that was challenged in court by the trucking industry; and if I am correct, just recently, last week of this year, the U.S. District Court from New Jersey ruled that the New Jersey truck highway access regulatory system discriminated against interstate commerce and violated the commerce clause of the U.S. Constitution.

This amendment would reverse that decision; and, again, I would suggest that New Jersey use all the recourse through the law. Because to take now a case that has been won by one side of the argument in the court and now us, as a Congress, to reverse that——

Mr. HOLT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Jersey.

Mr. HOLT. Mr. Chairman, the purpose of the amendment, in fact, is to maintain current law and current policy, to make sure that this new law, should it take effect, would not change anything.

New Jersey will continue and has declared its intention of arguing this in court; and we, the State of New Jersey, expect to win in court. We just do not want to change the policy with this new legislation. So this was not to side-step the courts but, rather, to keep the law the same.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, but the industry or the plaintiff that filed the suit is now being precluded from going forth. If my colleague wants to do that, have the court or New Jersey file an injunction against the court's decision. Do not ask us to undo what a court has ruled.

Mr. HOLT. Mr. Chairman, if the gentleman will continue to yield, this would not preclude the truckers from continuing their suit or the State.

Mr. YOUNG of Alaska. Reclaiming my time, they can continue their suit, but they are not the ones now that have to pursue the suit. They are the ones that won the case, and they can drive their trucks on interstate commerce because of the clause in the interstate commerce clause under the Constitution. What the gentleman is asking us to do in the Congress is to undo what the court has ruled.

I am not a lawyer. Thank God for that. We have got enough of those around here. But I am a little concerned that what we are doing here is really not fair to the persons that filed the suit to begin with. We are saying you cannot do it. You can go back to court. As we go back to court, well, you cannot use the truck. Under the interstate clause, that is against the Constitution, as the court has ruled.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, how much time remains on both sides?

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Alaska (Mr. YOUNG) has 1½ minutes remaining. The gentleman from New Jersey (Mr. HOLT) has 1½ minutes remaining.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, this language is not well-drafted, I must say to the gentleman. He has a very good purpose but very unclear and unsure language; and as I read the language approved under unanimous consent, it makes the authority even broader.

It says trucks that are specifically allowed by Federal law to travel on the national network now can be disapproved by New Jersey. We cannot have one rule for local trucks and a different rule for through trucks.

Mr. HOLT. Mr. Chairman, I yield myself the balance of the time, and I will address those points.

The amendment simply allows the States to have the authority that the Department of Transportation determined 5 years ago that they had under that existing transportation law. We just want to make sure that in the legislation we are considering today we do not change that. If it is determined that that is in violation of the Constitution, certainly they will be the governing decision, but if it is not determined, we do not want anything in this law to preclude those States' rights.

With that, I ask support for my amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from New Jersey (Mr. HOLT).

The amendment, as modified, was rejected.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 12 printed in House report 108–456.

AMENDMENT NO. 12 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. WATERS:

At the end of subtitle H of title I, add the following (and conform the table of contents of the bill accordingly):

SEC. 1819. LIMITATION ON PROJECTS AT LOS ANGELES INTERNATIONAL AIRPORT.

No funds may be provided for surface transportation projects that are planned or required to implement Alternative D of the Master Plan for Los Angeles International Airport or any other proposal to build a remote passenger check-in facility at Los Angeles International Airport.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I yield to myself such time as I may consume.

My amendment would prohibit the use of funds for surface transportation projects that are planned or required to implement Alternative D of the Master Plan for Los Angeles International Airport or any other proposal to build a remote passenger check-in facility at LAX.

Mr. Chairman, this proposed project is mired in scandal and pay-to-play contracting schemes. The FBI and the DA are now investigating all of the alleged corruption.

Los Angeles International Airport, which is located in my congressional district, is already the third largest airport in the United States, with a capacity to serve 78 million air passengers every year. Alternative D is the latest of several proposals to make LAX even bigger, not safer.

Alternative D is a $9 billion scheme that would demolish homes, disrupt the communities of Manchester Square, Inglewood, Hawthorne, El Segundo and other communities near LAX in order to construct a remote passenger check-in facility at Manchester Square, which is several blocks away from the airport terminals.

There is a broad coalition that have already agreed that we need a regional response, that this area is landlocked, and it does not make good sense to try to expand LAX this way. The regional response to growth would be a good response. This is an ill-conceived project.

The highly respected Rand Corporation evaluated this project, and they concluded that it does not make good sense, and in the event of a terrorist attack, passengers would be at great risk because they would all be concentrated in this so-called remote facility.

Alternative D would be inconvenient for airport passengers and their families. Local families could no longer drive to the central terminals in order to drop off passengers. Instead, airport employees and passengers would have to go to this so-called remote passenger check-in facility and ride an automated people mover to the airport terminals carrying their carry-on baggage with them. This would be extremely inconvenient for most passengers, and it would present special hardships for the elderly, the handicapped, and families traveling with small children.

Alternative D would displace thousands of Manchester Square residents. In order to construct this remote passenger check-in facility, the City of Los Angeles would have to acquire and demolish 38 houses, 179 apartment buildings and a 52-year-old elementary school, in addition to the 263 structures it has already acquired. It would also have to relocate about 6,200 people, some of whom have federally subsidized housing vouchers. I strongly oppose the forced relocation of any of these residents.

Alternative D would increase traffic congestion in communities near LAX. The proposal would concentrate airport traffic on the east side of the airport near the proposed remote passenger check-in facility, causing a shift in airport traffic to the I–405 freeway near the Arbor Vitae/Manchester Avenue exits. This could cause a tremendous increase in traffic congestion which already has heavily congested this area. It also would increase traffic congestion in the surrounding communities as airport passengers and other drivers seek alternative routes to get to and from and around the airport.

Mr. Chairman, these funds are intended for surface transportation projects that will benefit local communities and alleviate traffic congestion. If we permit the funding of any projects that enable the implementation of Alternative D, the results will be a tremendous inconvenience for passengers, huge increases in traffic congestion, and massive disruptions of local communities surrounding LAX. My amendment would ensure that no funds are provided for surface transportation projects that are planned or required to implement this destructive airport expansion project.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who claims the time in opposition to the amendment?

Mr. YOUNG of Alaska. I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR) who wishes to speak on the amendment.

Mr. OBERSTAR. Mr. Chairman, I thank the Chair for yielding me the time, and I reluctantly oppose the amendment of the gentlewoman from California with whom I am in accord on most issues, and I think she makes a very good point about this remote security facility.

I raised such concerns many years ago in Paris when Charles de Gaulle Airport said, for American check-in passengers, we are going to have a separate little place called the hutch. I went over to inspect it, and I said, my goodness, this is terrific, you collect all the Americans in one place so a terrorist can throw a bomb and kill them all at once. Of course, I said it in French; and they said, oh, we had not thought about that. They backed away and said, well, we will not make Americans do that.

So the gentlewoman makes a good point, but it is the point that is part of a larger process and that is to stop the expansion of the Los Angeles Airport. The Metropolitan Planning Organization is the agency in an urbanized area with the responsibility to determine the needs for projects to be advanced to meet transportation needs for the area. We really should not be inserting ourselves into that debate, certainly not at this time; and, reluctantly, I oppose the gentlewoman's well-intentioned amendment and well-expressed amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve my time.

Ms. WATERS. Mr. Chairman, I yield myself the balance of my time.

It is unfortunate that there seems to be some agreement between my friends on the opposite side of the aisle and my own caucus in opposing my project. It is very important to my district and all of the areas in the surrounding communities that has formed a coalition, and this is simply a request to say let us not use any of this money for any selfish projects.

This has nothing to do with the building of the facility itself; and, unfortunately, since there has been an agreement, I know that it will be voted down, but I am not at all happy about it.

□ 1600

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentlewoman's time has expired.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The amendment was rejected.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 13 printed in House Report 108–486.

AMENDMENT NO. 13 OFFERED BY MR. LO BIONDO

Mr. LOBIONDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. LOBIONDO:

At the end of the matter proposed to be added by section 2003(b)(6) of the bill, strike the closing quotation marks and the final period and insert the following:

"(J) PROGRAM FOR IMPOUNDMENT OF VEHICLES.—A program to impound a vehicle operated by a person who is arrested for operating the vehicle while under the influence of alcohol.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from New Jersey (Mr. LOBIONDO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. LOBIONDO).

Mr. LOBIONDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment would make States eligible to receive section 410, Alcohol-Impaired Countermeasures grant funding to cover the cost of DWI vehicle impoundment programs.

The motivation for my amendment is the result of a very tragic death of one of my constituents. U.S. Navy Ensign John Elliott, who had just received his commission from the naval flight school in Pensacola, Florida, was struck and killed by a drunk driver on July 22 of the year 2000. The accident instantly killed Ensign Elliott and seriously injured his passenger, Kristen Hoinwarter.

Sadly, it was later discovered, and it was very sad, that the driver responsible for Ensign Elliott's death had been arrested for drunken driving earlier in the evening. He was released from custody, obviously while still being intoxicated, and returned to his car. Elliott was on his way home for his mother's birthday party when he crossed paths with the intoxicated driver.

Nearly 3 years after that tragic accident, his parents, Bill and Muriel Elliott, continue the fight to save other families from the grief they have endured. Lobbying the New Jersey State legislature, the Elliotts saw to fruition the drafting, passage, and ultimate enactment of John's Law. The law ensures that individuals who pick up an arrested driver sign a document accepting custody. Additionally, it gives State Police the authorization to impound the automobile of an arrested driver for up to 12 hours.

My amendment will encourage States to establish DWI impoundment programs for making them eligible for an existing grant program, helping them to defray costs. My amendment does not, I repeat, does not require States to enact impoundment programs, nor does it stipulate the terms of their programs, nor does it penalize States for not enacting such programs. And since funds come from an existing grant program, it will not cost the Federal Government a single penny.

We are making important strides to eliminate the senseless deaths caused by the lethal mix of alcohol and automobiles. Annual deaths from drinking and driving have decreased. However, much work remains to be done. Each death is a preventable one, and this amendment will go a long way to ensuring deaths like Elliott's are prevented, and families are saved from the pain that the Elliotts have experienced and other families have experienced across the Nation.

Mr. Chairman, I urge all Members to support my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, I believe, with further discussion, we can find a way to come to a resolution.

Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I rise in support of the concept that is being advanced by my friend from New Jersey. One of the things that I had worked on prior to coming to Congress dealt with taking away the cars of repeat drunk drivers.

I listened to the story of Ensign Elliott and, sadly, this is a pattern that is repeated time after time after time. People who commit carnage on our highways, repeat drunk drivers, too often there is a far too long history. If we had an effective program of impoundment or vehicle confiscation, I think we would make a dramatic statement towards the people who are serial abusers.

It is something that I think makes clear that the license to drive is not a license to kill; that if we had a more aggressive program to disarm people who have shown that they are repeatedly dangerous drivers, we can find some common ground.

Too often we have had people who are, for example, in the restaurant and beverage industry that are concerned about how low the blood alcohol level is going to fall. We have had concerns from our friends with the Mothers Against Drunk Driving who want to move forward. Well, this is one people can unite behind.

I appreciate the gentleman bringing it forward. I hope that we can put something in this legislation before we are through that speaks to vehicle impoundment, that encourages States to have vehicle forfeiture, and that we can take a dramatic step towards eliminating the tiny fraction of people who are repeat drunk drivers who inflict such damage on the highways.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume, and I thank the gentleman for his very cogent statement.

Section 410 of existing law gives States eligibility to receive funds for alcohol-impaired driving countermeasures. It is a good program, a good provision. New Jersey is the first and only State to enact a law to impound a vehicle operated by a person who was arrested for drunk driving.

Now, section 410 requires that States meet six of nine criteria to qualify for a grant. If the gentleman's amendment is accepted, it would expand that number to seven. If the gentleman from New Jersey, as I understand from previous discussion on this amendment, would agree that as we move further into conference, that the number of criteria necessary to qualify for a grant should be reduced to six, so we not expand the number and make it easier to evade, then I would concur in this amendment.

Mr. LoBIONDO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New Jersey.

Mr. LoBIONDO. Mr. Chairman, I thank the gentleman for yielding, and I would answer, absolutely yes, that is a commonsense approach, and I would agree to that.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, I thank the gentleman.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I simply wanted to compliment the gentleman and the gentleman from Oregon for their presentations. As I told the gentleman from New Jersey, I did support the concept of this amendment.

I also agree with my ranking member that, as we go through it, we will do it the right way and do it correctly so we can actually solve a serious problem. His story is a very telling story.

So with that, I guess we will have a voice vote; is that correct?

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, yes, we are; and I thank the chairman and the gentleman from New Jersey for a very thoughtful constructive matter that now has been resolved in, I think, a very positive way.

Mr. Chairman, I reserve the balance of my time.

Mr. LoBIONDO. Mr. Chairman, I yield myself such time as I may consume for a few closing remarks.

I would just again like to thank the gentleman from Alaska (Mr. YOUNG), the chairman of the committee. And to the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), I thank you. I know we have had extensive discussions over this issue.

I want to also thank the gentleman from Oregon (Mr. BLUMENAUER), who came to me when he first heard of my story, and he told me about situations that he had experienced and the work he had done on this. And I think he is absolutely correct, we have to find a common ground in these areas where we can avoid these senseless tragedies for families like that of Ensign Elliott. This is a commonsense measure that can move us forward.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. LoBIONDO).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 14 printed in House Report 108–456.

AMENDMENT NO. 14 OFFERED BY MR. WU

Mr. WU. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. WU:

In the matter proposed to be inserted as section 5309(e) of title 49, United States Code, by section 3010(d) of the bill after "or entered into a full funding grant agreement" insert the following:

or received an application for final design

MODIFICATION TO AMENDMENT NO. 14 OFFERED BY MR. WU

Mr. WU. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 14 offered by Mr. WU:

Insert the following in lieu of Amendment 14:

In the matter proposed to be inserted as section 5309(e) of title 49, United States Code, by section 3010(d) of the bill insert the following:

Subsection (d) does not apply to projects for which the Secretary has received an application for final design.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Oregon (Mr. WU)?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Oregon (Mr. WU) and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are projects that have undergone all aspects of FTA New Starts review and have, in fact, received recommended ratings in the FTA 2005 New Starts Report, and they are simply awaiting approval to enter final design. These projects have been through financial review, environmental review, project management review, and have fulfilled all of the prerequisites for entering into final design.

However, under our subject legislation, only projects with a full funding grant agreement or letter of intent before enactment of this bill are exempt from the provisions for major projects and small starts. This is a serious problem for smaller projects like a commuter rail project in my congressional district, which are in final design or in the process of having final design approved. I might add this also affects a rail project in the San Diego metropolitan area.

These projects will essentially have to start all over again under the small starts program and, furthermore, such projects will have to await the promulgation of small starts rules before proceeding. This process will result in a year-long delay for projects that are near the end of an already lengthy Federal approval process.

In the case of the commuter rail project in my congressional district, this long delay will seriously endanger State funding and agreed-to rail agreements.

Mr. Chairman, my amendment will exempt projects for which the Secretary of Transportation has received an application for final design from the small starts provisions of the bill. This fair and balanced amendment will allow recommended new starts which have applied for final design to move forward on their original time line and avoid unnecessary delay.

This is expressly limited to subsection (d), small start projects only. My amendment will only affect two recommended small start transit projects in the entire country, but it will save unnecessary administrative delay and also improve the commuting lives of millions of citizens in Oregon and in the San Diego metropolitan area.

Mr. Chairman, I urge adoption of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield myself such time as I may consume.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding. The language of the amendment of the gentleman from Oregon as originally drawn was way beyond the scope of what he intended, and we greatly appreciate the cooperation of the majority giving the gentleman the opportunity to have unanimous consent to correct the language to reflect exactly what he wants to do, to limit this amendment to small starts, which it does; and I think that relieves the concerns on both sides of the aisle.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, we are going to support the amendment as intended. However, there is a slight, as I think the gentleman from Minnesota mentioned, drafting error, the section that applies to both the current new starts and the new small starts process. We will take the amendment at this time with the gentleman's understanding we want to correct the language in conference so that the exemption applies only to the new small starts process.

Does the gentleman understand that?

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I believe under the unanimous consent agreement, the gentleman has already made that correction in the language pending.

Mr. YOUNG of Alaska. Reclaiming my time once again, Mr. Chairman, if he has done that, I apologize. I was talking to my staff and they did not advise me of that. If that has already been done, we do not have to worry about that.

Mr. OBERSTAR. If the gentleman will continue to yield, I would just add that the principle remains.

Mr. WU. Mr. Chairman, I yield myself such time as I may consume to assure the chairman and ranking member that as originally drafted it applied to both subsection (d) and (e), major starts and small starts. As redrafted in the modified language, this amendment applies only to subsection (d), the small starts provision.

So I want to assure the chairman and ranking member that it does only apply to small starts, what would otherwise be small starts.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Oregon (Mr. WU).

The amendment, as modified, was agreed to.

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The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). It is now in order to consider amendment No. 15 printed in House Report 108–456.

AMENDMENT NO. 15 OFFERED BY MR. LATOURETTE

Mr. LATOURETTE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. LATOURETTE:

In section 3023(g) of the bill, redesignate paragraphs (1) through (4) as paragraphs (2) through (5), respectively, and insert before paragraph (2) (as so redesignated) the following:

(1) IN GENERAL.—Section 5323(j) is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) IN GENERAL.—Funds made available to carry out this chapter may only be used if—

"(A) in the case of a construction project—

"(i) the steel or iron used shall be of United States origin;

"(ii) more than 60 percent of the cost of the components and subcomponents, in the aggregate, of all manufactured products shall be of United States origin; and

"(iii) labor costs related to on-site construction shall not be included in calculating the costs under clause (ii);

"(B) in the case of a system acquisition—

"(i) more than 60 percent of the cost of the components and subcomponents, in the aggregate, of all manufactured products shall be of United States origin; and

"(ii) labor costs related to installation and testing shall not be included in calculating the costs under clause (i);

"(C) in the case of a manufactured product—

"(i) more than 60 percent of the components and subcomponents shall be of United States origin;

"(ii) final assembly shall occur in the United States; and

"(iii) labor costs related to final assembly shall not be included in calculating the costs under clause (ii).

"(2) REGULATIONS.—The Secretary shall issue regulations to carry out this section.".

In section 3023(g)(2) (as so redesignated), strike "is amended" and all that follows through "following:" and insert "is amended by inserting after paragraph (2) the following:".

In section 3023(g)(3) (as so redesignated), strike "5323(j)(6) (as so redesignated)" and insert "5323(j)(5)".

In section 3023(g)(4) (as so redesignated), redesignate the quoted paragraph (9) as paragraph (8).

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Ohio (Mr. LATOURETTE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Chairman, I yield myself such time as I may consume.

I am proud to offer this amendment with the gentlewoman from Michigan (Ms. KILPATRICK). I offered a similar amendment in committee, and the chairman and the ranking member have been kind enough to work with us to incorporate as much as possible into the manager's amendment today.

Mr. Chairman, as Members know, we have a manufacturing crisis in this country. We have lost an estimated 3 million manufacturing jobs. While many of us may hold different views on how that came about, I think we can all agree that the Federal Government should be part of the solution to the crisis.

The problem here is that there is too much confusion currently as to what a manufactured good is. The gentleman from Washington (Mr. BAIRD) had a sense of Congress on the floor a little earlier that addressed this issue. Today, Buy America requires that a manufactured good must be made with components assembled in the United States. Subcomponents, however, do not have to be American made. This has caused a good deal of confusion.

This amendment that the gentlewoman from Michigan and I are offering will correct the problem. The amendment is a modified version of H.R. 3682, the Protecting American Manufacturing Jobs Act, which was introduced by the gentlewoman from Michigan. We were able to work this out with input from the Federal Transit Administration so they can implement it.

Under this amendment, we clarify that 60 percent of the components and subcomponents in a manufactured product must be American made. For construction projects and system acquisition, the amendment requires that 60 percent of the total cost of components and subcomponents in manufactured products must be American made. We also required that final assembly of any manufactured product must happen in the United States. By making these changes we will make sure that Federal dollars support American jobs.

This is, in my opinion, a good amendment. It helps take care of our own manufacturing jobs in this country. I urge support.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. TOM DAVIS) is recognized for 5 minutes.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the LaTourette amendment.

First, let me say to my friend from Ohio, the domestic steel industry has no stronger advocate in the Congress than the gentleman from Ohio. He has been a leader in this area, but on this particular amendment I take issue with it and disagree.

This amendment would require that more than 60 percent of the components and subcomponents of manufactured products used for construction projects be of United States origin. Of course, this means that, instead of going to the lowest bidder, the taxpayers getting their best bang for the buck, it could raise costs conceivably as much as 15 percent on a project with its components. That means that there is less money to build more roads with, to buy additional rail cars, to build intersections that are needed, and it means fewer people can become employed because we may be paying more money just to buy domestically. This would constitute a radical and in my judgment harmful expansion of the current law.

There is already in my judgment a very wrongheaded 50 percent ceiling on non-U.S. components. I have serious concerns about raising it another 10 percent. I think we ought to be going in the other direction, and I think that this amendment makes bad policy even worse.

We need to beware the law of unintended consequences. Domestic source restrictions such as this one may indeed be well intentioned, but they only serve to increase the cost of our critical transportation projects by reducing competition available for Federal contracts and raising the cost to the taxpayers. These restrictions are often self-defeating as they can well lead to reprisals from overseas trading partners. We often lose much more business than we gain.

Restrictions such as those proposed here could possibly provide some immediate short-term benefits to some American companies, but in the long run, in my judgment, they hurt the overall economy. We cannot maintain our global leadership in manufacturing by artificially propping up industries that are not able to compete in the global marketplace.

Mr. Chairman, we are here today touting the job creation potential of this reauthorization bill, so I have to ask this question: Have we considered the counterproductive, anticompetitive consequences of restrictionist amendments like this one? How many jobs could be created with the dollars firms will have to spend to comply with these government-unique restrictions? Our goal should be to ensure that we have access to open world markets so that we can get the best deal on the best goods available, regardless of their location. The American taxpayer deserves nothing less. This again allows us to spend more money from this transportation bill on transportation products, which means we can employ more people than these restrictions would otherwise give us.

I cannot overstate the potential harm posed by such economic isolationist restrictions, harm to our critical transportation infrastructure, because by paying more we end up being able to do less; harm to our Nation's place in the global economy; and harm to our job creation agenda.

We have to remember a couple of things.

First of all, the details of the certification contained in this bill in my judgment means that if there is not availability of U.S. parts then we are going to need waivers. Waivers are going to have to be obtained. In these waivers, of course, it takes more time, which delays transportation projects.

Secondly, it could have the unintended consequences of allowing by these waivers more foreign products in the U.S. than you may get otherwise in some instances.

Thirdly, and most important, this can invite retaliation from foreign countries who, as we restrict the ability of their goods to get into markets, they retaliate against us.

What does this mean? It could be retaliation against agricultural products, information technology, even other manufactured products. It is anticompetitive, and it is antijobs, in my opinion, as it is currently constructed. I rise in opposition.

Mr. Chairman, I reserve the balance of my time.

MODIFICATION TO AMENDMENT NO. 15 OFFERED BY MR. LA TOURETTE

Mr. LATOURETTE. Mr. Chairman, I ask unanimous consent to modify the amendment with the text which I have placed at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 15 offered by Mr. LATOURETTE:

In the table contained in section 1702 of the bill, as amended—

(1) strike "Conduct a project study to examine an interchange at State Route 165 and Bradbury Road, Merced County." in item 1544 and insert "Conduct a Project Study Report for new Highway 99 interchange between State Route 165 and Bradbury Road, serving Turlock/Hilmar region"; and

(2) strike "$500,000.00" in item 2844 (relating to construction of roads in Rockdale Veterans Memorial Park, Georgia) and insert "$1,000,000.00".

In item 13 of the table contained in section 3038 of the bill, as amended (relating to Burlington County, New Jersey), strike "Transit" and insert "transit".

At the end of such table after item 358, insert the following:

Project	FY 05	FY 06	FY 07
359. State of Wisconsin buses and bus facilities	$9,600,000.00	$9,900,000.00	$10,500,000.00

Mr. LATOURETTE (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. TOM DAVIS of Virginia. Mr. Chairman, reserving the right to object, could I just ask what the purpose of the modification is?

Mr. LATOURETTE. If the gentleman will yield, the committee, both minority and majority, have asked me to use this amendment as a vehicle to make technical corrections in the bill.

Mr. TOM DAVIS of Virginia. This makes a bad amendment better.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. Without objection, the modification is agreed to.

There was no objection.

Mr. LATOURETTE. Mr. Chairman, it is my pleasure to yield 2 minutes to the distinguished gentlewoman from Michigan (Ms. KILPATRICK), who, as I indicated in my other remarks, is the sponsor of the original legislation and the coauthor of this amendment.

Ms. KILPATRICK. Mr. Chairman, let me thank the gentleman from Ohio for his leadership in continuing the provision to buy America. We are in a downturn in our country. Many manufacturing jobs have been lost. This Congress has always supported Buy America in earlier years and in times past. We hope they will come together today to support our amendment.

It is important that we make sure, and a previous speaker said that we may not get the best price. We believe that American workers will have the best price, will have the best manufactured goods and that in this $275 billion bill, much of it should be spent with American manufacturers.

I was just visited by a group of bus manufacturers in my office just last week. They were complaining about how much business they are losing and how many jobs they are losing. I think it is imperative that we adopt the LaTourette-Kilpatrick amendment.

Buy America keeps Americans working, keeps families together and additionally offers revenues for cities across America. I would hope that we would support the LaTourette-Kilpatrick amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself the balance of my time.

Let me just say on this amendment, this may expand the Buy America for steel, but it shrinks Buy America in other areas, other manufactured areas, perhaps agriculture, perhaps information technology, because of this kind of action that basically invites retaliation from foreign countries.

America is only 5 percent of the world's consumers. If we want to succeed from a manufacturing standpoint and economically around the world, we need to expand those markets. This goes in the opposite way. We ought to be reducing the Buy America requirements, reducing the certification process that does nothing but invite waivers which delays transportation projects; and we ought to put our transportation dollars into getting as much road money, as much money to buy rail cars, to lay track and move America as we can. This raises the cost of doing that with this legislation. It is for that reason that I oppose this and urge opposition to this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Chairman, it is my pleasure to yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the distinguished ranking member of the committee.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding time and thank the gentleman and the gentlewoman for bringing this amendment forward.

In the 1980s, as the Chair of the Subcommittee on Investigations and Oversight, I held extensive hearings on the status of manufacturing in light rail, passenger vehicles and buses during which we demonstrated the loss of tens of thousands of jobs in America to underbid products coming in from overseas. We shipped overseas tens of thousands of jobs in the light rail, passenger rail and bus sector of our economy.

Now it is coming back. Now we are recapturing those jobs. We now are putting in the next 6 years $51.5 billion into transit systems in America. We ought to have those jobs in America as well and reclaim the technology and the jobs that go with them for America. That is what this amendment will do.

Mr. LATOURETTE. Mr. Chairman, I yield myself the balance of my time.

I want to make this observation. The Federal Government in the procurement process has no greater champion in this Congress than the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the Committee on Government Reform. The hearings that he has conducted have literally saved the country and the taxpayers billions of dollars.

This issue, however, while I appreciate every argument that he has made, it is time, not by being protectionist but it is time in the manufacturing sector that we take care of our own in the United States. It is not unreasonable to require that 60 percent, we are not asking for 100 percent, but 60 percent of these goods and projects be manufactured in the United States and there not be some shell game where they simply have to be assembled in the United States. You could have a machine with 150 parts and today's requirement is they could all be made overseas as long as we had a shop that assembled them here in this country. It is wrong, and I ask for support of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. LATOURETTE).

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 16 printed in House Report 108–456.

AMENDMENT NO. 16 OFFERED BY MR. CROWLEY

Mr. CROWLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. CROWLEY:

At the end of title III, add the following (and conform the table of contents accordingly):

SEC. 3045. AIRPORT BUS REPLACEMENT AND FLEET EXPANSION PILOT PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program for awarding grants on a competitive basis to eligible entities for facilitating the use of natural gas buses at public airports through airport bus replacement and fleet expansion programs under this section.

(b) REQUIREMENTS.—Not later than 3 months after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on management, transfer, and ultimate disposition of buses, including certification requirements to ensure compliance with this section.

(c) SOLICITATION.—Not later than 6 months after the date of enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only to a public agency responsible for bus service at a public airport.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section may be for the purposes described in paragraph (2), paragraph (3), or both.

(2) REPLACEMENT BUS GRANTS.—A grant under this section may be used for the acquisition of replacement buses pursuant to subsection (f).

(3) FLEET EXPANSION BUS GRANTS.—A grant under this section may be used for the acquisition of not more than 10 buses to expand a fleet of airport buses at any single airport.

(f) REPLACEMENT BUS GRANTS.—

(1) REPLACEMENT.—For each bus acquired under a replacement bus grant, 1 older model year bus shall be retired from active service and crushed as provided in paragraph (2).

(2) BUS ACQUISITION.—Buses acquired under a replacement bus grant shall be acquired in the following order:

(A) First, new buses will replace buses manufactured before model year 1977, and the older buses replaced shall be crushed.

(B) If all buses manufactured before model year 1977 owned or operated by the grant recipient have been replaced, additional new buses will replace diesel-powered buses manufactured before model year 1991, which shall either—

(i) be crushed; or

(ii) be exchanged by the grant recipient for buses manufactured before model year 1977 from another bus fleet, with that bus then being crushed.

Exchanges made under subparagraph (B)(ii) shall be made without profit or other economic benefit to the grant recipient.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants emphasizing the replacement of buses manufactured before model year 1977.

(g) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the airport bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new natural gas airport buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the natural gas buses acquired, for necessary natural gas infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the natural gas buses acquired, for necessary natural gas infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide—

(A) in the case of a replacement bus acquired as described in subsection (f)(2)(A) to replace a bus manufactured before model year 1977, 10 percent of the total cost of the bus, but not more than $10,000;

(B) in the case of a replacement bus acquired as described in subsection (f)(2)(B)(ii) to replace a diesel-powered bus manufactured before model year 1991 for exchange for a bus manufactured before model year 1977, 10 percent of the total cost of the bus, but not more than $10,000; and

(C) in the case of a replacement bus acquired as described in subsection (f)(2)(B)(i) to replace a diesel-powered bus manufactured before model year 1991, 25 percent of the total cost of the bus, but not more than $25,000.

(h) BUSES.—Funding under a grant made under this section may be used to acquire only new airport buses—

(1) with a gross vehicle weight of greater than 14,000 pounds;

(2) that are powered by a heavy duty engine;

(3) that emit not more than—

(A) for buses manufactured in model years 2001 and 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) that are powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume.

(i) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of natural gas airport buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(j) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRPORT BUS.—The term "airport bus" means a bus operated by a public agency to provide transportation between the facilities of a public airport.

(2) ELIGIBLE ENTITIES.—The term "eligible entities" means the owners and operators of the 25 public airports in the United States with the most passenger boardings in the prior calendar year.

(3) PUBLIC AIRPORT.—The term "public airport" has the meaning such term has under section 47102 of title 49, United States Code.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $40,000,000 for fiscal year 2004;

(2) $50,000,000 for fiscal year 2005;

(3) $60,000,000 for fiscal year 2006;

(4) $70,000,000 for fiscal year 2007; and

(5) $80,000,000 for each of fiscal years 2008 and 2009.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from New York (Mr. CROWLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I yield myself such time as I may consume.

Let me state first my admiration for both the chair and the ranking member of the Committee on Transportation and Infrastructure for the work that they have put into creating this bill before us today. I do not pretend to know all the difficulties that they have been through in trying to craft this legislation, not being a member of the committee, but having done a good bit of extensive reading through the papers have come to understand that this has not been an easy process for them. I do extend to them my congratulations on coming this far.

Mr. Chairman, I do have an amendment at the desk that I believe will enhance this bill and make it a better bill. So many of us who represent airports know the economic benefits airports bring to our communities, but we also, unfortunately, know the environmental damage that airports can cause the surrounding communities. While everyone thinks it is the airplanes themselves which bring elevated levels of pollution and ill health effects to surrounding communities, studies have shown that the more pressing concern is the emissions of shuttle buses, private cars and taxis, tarmac equipment and other vehicles which elevate local pollution levels, causing complaints and health concerns for many of our constituents.

A study in 2002 showed the emission reduction performance of natural gas transit buses versus conventional diesel counterparts, that the natural gas buses had a 53 percent lower oxides of nitrogen, 85 percent lower total particulate matter, and 89 percent lower carbon monoxide emissions. In fact, right here in Washington, D.C., officials developed a plan in 2001 to convert much of the Washington Metropolitan Area Transit Authority bus fleet from diesel to clean natural gas.

My amendment will create a pilot program that facilitates the use of natural gas buses at our Nation's top 25 busiest airports, New York's three airports, Chicago O'Hare, Los Angeles, Atlanta, Miami and others that handle millions of passengers, employees and visitors a day.

My amendment would entail buses not only shuttling passengers connecting to terminals but also buses taking passengers from the airport to the public airport parking lots and employees to and from employee parking lots. This would be done by awarding grants on a competitive basis for the use of natural gas buses at public airports through airport bus replacement and fleet expansion programs.

My amendment makes sure that the priority is given to those public airports running the oldest buses. We have to get these old polluting buses out of service and ensure we can start to reduce air pollution. As most of us know, natural gas buses are not something new. This amendment will help clean up the air around America's busiest airports by improving health and quality of life at the same time.

□ 1630

Mr. Chairman, my amendment is supported by the Natural Gas Vehicle Coalition, and I encourage all my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Although it is well merited, the Federal Public Transportation program does not provide programs for airport-based services. In addition, we understand that this amendment, according to our figures, adds $300 million to the cost of the bill, and that concerns me a great deal.

And, lastly, may I suggest respectfully, as important as natural gas is, we have some real problems getting natural gas to the United States, and we had better start looking at that problem very quickly; and under the energy bill we can do that. We have not passed the energy bill, but it is crucially important for this Nation to have a new supply of natural gas.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the chairman for yielding.

I too support the spirit of the gentleman's amendment, but not the language and not the approach and certainly not the additional cost without offsets. I do want to point out that under FAA's Airport Improvement Program and with the use of passenger facility charges, airports can accomplish this purpose. In fact, provided that the vehicle is owned by the Airport Authority, operated solely on airport property, the funds from passenger facility charges can be used to purchase such vehicles.

Where a vehicle is not AIP eligible, FAA would pay for the difference in cost between low emissions and a regular vehicle. We have addressed this matter already in the appropriate context in the FAA reauthorization bill. So there is a way of accomplishing it.

Under Congestion Mitigation and Air Quality Improvement, funds are apportioned to the States to improve their air quality in nonattainment areas. The pilot program, unfortunately, does not address nonattainment areas within States. So just as we opposed taking FAA money off airports, we are in the position of taking CMAQ money and putting it into airports. So the purpose of the gentleman is at cross purposes with public policy already in place, and reluctantly we must oppose the amendment. But we will work with the gentleman and find a way that we can accomplish this purpose.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

Mr. CROWLEY. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the comments of both gentlemen whom I respect very much on those issues. I would say that it is not an attempt on my part to take from Peter to pay Paul or vice versa. I was really trying to find a solution to the problem of congested airports and the pollution that they emit to surrounding communities. And I look forward to working with the gentleman from Minnesota (Mr. OBERSTAR), ranking member, in the future to further address this issue.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. CROWLEY).

The amendment was rejected.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 17 printed in House Report No. 108–456.

AMENDMENT NO. 17 OFFERED BY MR. BACHUS

Mr. BACHUS. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. BACHUS:

After section 4131, insert the following (and redesignate the subsequent section of subtitle A of title IV, and conform the table of contents, accordingly):

SEC. 4132. HOURS OF SERVICE RULES FOR OPERATORS PROVIDING TRANSPORTATION TO MOVIE PRODUCTION SITES.

Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily hours of service for an operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of such operator shall be those in effect under the regulations in effect under such sections on April 27, 2003.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Alabama (Mr. BACHUS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the U.S. motion picture and TV industry makes movies that are seen around the world. But, unfortunately, foreign countries are offering tax incentives to attract that production overseas, and I think most of us have seen movies lately that were set here, but filmed in Canada or Mexico.

This amendment would help stop that, and it simply will allow the motion picture industry, the TV industry, to operate under the current Hours of Service regulations. Not only the motion picture industry and the TV industry which asked me to bring this amendment, but the Teamsters Union have endorsed this amendment. It will simply allow those drivers who drive out to the location for an hour or 2 hours, then have 9 hours of rest and then have 2 hours in the evening to continue those hours of service. They have an excellent and exemplary safety record.

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise not only in opposition to this amendment, but to the many assaults upon the Federal Motor Carrier Safety Administration's hours of service rule announced just recently. But this one in particular, the FMCSA revised the hours of service pursuant to legislation that we enacted that moved out of our committee, through this body, through conference, signed into law. It has taken years for them to get this rulemaking after many hours of public discussion, debate, publishing in the Federal Register; and now people who are unhappy with the outcome are coming to the Congress to overturn a rulemaking. They have another procedure to do that. We should not by law go in and just be a congressional wrecking crew for safety.

Major change in the rules was to lengthen the required rest time after a long day on duty from 8 hours to 10 hours. An 8-hour rest is not enough. They barely get time to get home from their job, maybe get a shower, have something to eat, go to bed, and then they are going to be on duty again. A 10-hour off-duty period allows a driver reasonable time to get home, be with family, have dinner or lunch or whatever his shift allows, and then get that 7 to 8 hours of sleep.

I have heard this said many times, including the President of the Motion Picture Association say they start at seven o'clock and they may finish at eight or nine o'clock at night, and they are not doing anything all this time. I say those who only stand and wait also serve.

Mr. Chairman, I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Bachus-Tauscher amendment to clarify the hours of service rule for drivers in the motion picture and television industry.

This industry is vital to California and the Nation, and these new rules inadvertently impact their business model and encourage offshore production. The Teamsters strongly support this amendment because it will save jobs for their members who contribute so much to our economy.

I have tremendous respect for the ranking member of the committee and chairman of the committee, but the facts are that the rulemaking is about long-haul drivers, drivers who are driving many consecutive, consistent hours. This is not the situation here. This industry and the Teamsters have an unblemished record. They have a tremendous safety record. They are not driving for long hours. They are actually driving for less than 100 miles, waiting until the production is done, and then driving back.

We are all for safety, but we also want to keep jobs in this country. This is vital to California. I urge my colleagues to support the Bachus-Tauscher amendment.

Mr. OBERSTAR. Mr. Chairman, I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. COBLE), who is one of 38 Committee on Transportation and Infrastructure members who have signed a letter in support of this amendment.

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is a good amendment. Outside of industry centers such as New York and California, North Carolina, my State, leads the country in attracting film and television production to our State. This hours of service amendment would allow the motion picture industry to operate under the old hours of service rules under which they have an excellent safety record, but this will also afford them to keep production costs down.

It is imperative, Mr. Chairman, that my State and other States be able to compete for this business. Too much of it is lost to Canada and other countries. As my friend from Alabama just said and gentlewoman from California mentioned, it is a good amendment. The Teamsters support this amendment. I support this amendment. I urge my colleagues to do likewise.

Mr. BACHUS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. FOLEY) in support of this amendment.

Mr. FOLEY. Mr. Chairman, I appreciate what the ranking member and the chairman are trying to do relative to truck safety, but this is a very unique issue. As chairman of the House Entertainment Task Force, we have been working consistently to try to keep jobs in America. We are talking about jobs not only about movie stars, but for the grips, the caterers, the production folks. This is a totally different issue.

The truck arrives on the set of a production in the morning, having driven maybe 50, 75 miles, and remains on the set for the remainder of the day before it moves back to its location. This is not long-haul shipping.

Mr. Chairman, we have had enough runaway productions leaving to Canada and other locales. This is one more impediment to keeping film production in the United States. It is a jobs opportunity provision. The gentleman from Alabama (Mr. BACHUS), the gentlewoman from California (Ms. TAUSCHER), and the gentleman from North Carolina (Mr. COBLE), I appreciate their sentiments on this. So, please, as we get ready to vote for this amendment, this is not contrary nor trying to be argumentative with our great chairman and ranking member on safety. We all join in the safety of our streets and highways. But we have to be very careful and make this unique distinction to protect jobs.

Mr. BACHUS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to include in the RECORD a letter from the Teamsters in support of this amendment, and these are the very drivers that are driving these trucks. And as the gentleman from Florida said, these drivers drive and our amendment limits them to 100 miles. They drive out in the morning. They drive back at night, and that is their responsibility, and they do have 9 hours of rest. This does not include overnight. They go with the film crews. They go with the actresses. They go with the actors. They go with the camera people. And they are all out there from sunup to sundown. And the Teamsters, if the Members look at the letter that I am introducing, they will tell them that they are afraid they will either lose their job because they will continue to go out of country or they will turn these jobs into 2- or 3-hour part-time jobs and hire two crews. And instead of having a good-paying job, they will have no job.

STUDIO TRANSPORTATION DRIVERS,
TEAMSTERS LOCAL UNION NO. 399,
North Hollywood, CA, July 16, 2003.

Re: support for exemption from new hours of service regulations.

Hon. ERNEST ISTOOK, Jr.,
Chairman,
Hon. JOHN W. OLVER,
Ranking Member,
House Appropriations Subcommittee on Transportation, Treasury, and Independent Agencies, Washington, DC.

GENTLEMEN: I understand that your committee is considering amendments that would provide relief to certain industries from aspects of the new hours of service ("HOS") regulations published by the Federal Motor Carrier Safety Administration. On behalf of the Studio Transportation Drivers of the International Brotherhood of Teamsters, Local 399, I wish to express our support for a proposal to permit commercial drivers to continue to comply with current HOS regulations concerning daily, on-duty time when operating to and from a motion picture or television production site located within a 100 air-mile radius of their work reporting location.

Existing HOS duty time regulations are better suited to the unique schedules of studio transportation drivers than th new regulations that will take effect January 4, 2004. Drivers assigned to productions drive only a few hours each day; these are short haul assignments. These drivers have had an excellent safety record, and their schedules meet the current HOS limitation. To comply with the new regulations, the industry will not be able to use the same drivers for an entire production day. Thus, each driver will receive significantly less compensation than under the current system. Given our excellent safety record, and that new HOS regulations largely were designed to address the fatigue of long-haul drivers, application of new duty-time limits to our drivers will increase operating costs without a corresponding safety benefit.

I hope that you will support retaining current hours of service regulations for studio transportation drivers.

Sincerely,

LEO T. REED,
Secretary-Treasurer/Principal Officer.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. LIPINSKI).

Mr. LIPINSKI. Mr. Chairman, I thank the gentleman for yielding me this time.

There are at least three other, and perhaps four other, industries in this country that have come to me asking for an exemption from this hours of service rule, and we have looked at it very closely, and we feel very strongly that these exemptions should not be granted.

I am a long-time supporter of the Teamsters. I do not think there is an issue that has come before this House that I have not been on their side, but there are some times that we have to protect people from themselves. Consequently, I have to strongly oppose this amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself 1 minute.

I thank the gentleman for his statement.

If I may have the attention of the gentleman from Alabama, he has twice referenced that drivers have 9 hours off during the day. If he would be willing to limit his amendment to those cases where they have 9 hours off during the day, I think we could accept that.

Mr. BACHUS. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, as the gentleman knows, this amendment was first proposed last October and we have tried to work in committee. We tried to work on this issue. What we are talking about is we have restricted it to 200 miles: 100 miles in the morning, 100 miles at night. To me it is almost a joke to say that that would fatigue these drivers. The very drivers that are driving, they have been operating under these rules for years and years and years and have an exemplary safety record.

☐ 1645

Mr. OBERSTAR. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, under the language provided for us here in this amendment, a driver could start work at 8 o'clock in the morning, work until midnight with 2 hours off during the day, and be expected back at work at 8 o'clock the following morning. I do not think it is right to put drivers on the road with so little rest, so much fatigue and so great potential for fatalities.

Now, the industry argues, well, we have not had any fatalities. But I have been involved in this fatigue issue in aviation, railroading, maritime and over-the-road truck driving for 25 years, and I know that the next fatality is just around the corner from the next weakening of safety regulations.

It is inappropriate to make the change in the way in which it is proposed here. This is not the right venue, it is not the right approach, it will endanger worker safety, and we ought to oppose this amendment.

Mr. BOOZMAN. Mr. Chairman, I rise in support of the Bachus amendment. I understand the effects that the new hours of service rule is having on the trucking industry and I also understand the unique operation of the motion picture drivers.

There are a number of groups who are seeking a modification to the hours of service rule and its for a simple reason—one size doesn't fit all.

The modifications sought by individual groups are understandable and I do support the motion picture industry's efforts. However, I also want to mention that I am also a strong supporter of taking a broader approach to assist all drivers, including short-haul operators in dealing with the new rule.

Options such as providing another 16-hour day to the short-haul drivers and providing all drivers with a defined two-hour rest period are viable options. I plan to continue working on this issue because there are several matters that deserve consideration.

Again, I support the Bereuter amendment and I thank the gentleman for yielding.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). All time has expired.

The question is on the amendment offered by the gentleman from Alabama (Mr. BACHUS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Alabama (Mr. BACHUS) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider Amendment No. 18 printed in House Report number 108–456.

AMENDMENT NO. 18 OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. BEREUTER:

At the end of title IV, add the following (and conform the table of contents accordingly):

SEC. 4133. OPERATORS OF VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES.

(a) AGRICULTURAL EXEMPTION.—Sec. 345(a)(1) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended to read as follows:

"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.".

(b) DEFINITIONS.—Section 345(e) of such Act of 1995 (109 Stat. 614) is amended by adding at the end the following:

"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means products grown on and harvested from the land during the planting and harvesting seasons within each State, as determined by the State.

"(8) FARM SUPPLIES FOR AGRICULTURAL PURPOSES.—The term 'farm supplies for agricultural purposes' means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Nebraska (Mr. BEREUTER) and a Member opposed will be recognized for 5 minutes each.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

MODIFICATION TO AMENDMENT NO. 18 OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to Amendment No. 18 offered by Mr. BEREUTER:

On page 1, line 13, after the word "apply" insert the phrase "during planting and harvest periods, as determined by each state".

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Nebraska?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER) for 5 minutes.

Mr. BEREUTER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, first, I want to thank the leadership of the committee for accepting the perfecting amendment. It does track the existing regulations.

This amendment, based upon H.R. 871, which this Member offered last year, would assure that agriculture transporters would continue, that is the important part, would continue to be exempt from hours of service requirements when operating within a 100-mile radius of their point of origin during the very busy and at times short, weather-restrained planting and harvesting seasons of the year.

This is a matter of great importance to the transporters of agriculture commodities and supplies as well as consumers. However, this amendment narrows the definition of commodities and farm supplies, and I think it is appropriate.

The business of farming is driven largely by the weather and the significant demands of spring planting and fall harvest, and farmer's yields and the qualities of their crops depend, to a major extent, on timing. Planting, fertilizing, application of crop protection products and harvest all must be done at the right time, fitted in and around the ups and downs of weather.

During the 1995 National Highway System Designation Act, this Member's initiative led to regulations creating the current exemption. This relief has been threatened by proposed changes to hours of service rules. The provisions to include this amendment are needed to safeguard the continuation of this necessary exemption and to provide a clearer definition and a more restricted definition of agriculture commodities and farm supplies.

It is for this reason that I offer the amendment today. The legislation is supported by 40 cosponsors on a bipartisan basis. The chairman and the ranking member of the committee have received letters from about 35 organizations supporting the amendment.

I ask for its approval.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I will not have to claim time in opposition. The unanimous consent request includes restoring the language "during planting and harvest periods as determined by each State" is restoration of current law and is not an expansion thereof.

Mr. BEREUTER. Mr. Chairman, that is correct.

Mr. OBERSTAR. With that understanding, we can accept the amendment on this side.

Mr. BEREUTER. Mr. Chairman, reclaiming my time, I thank the gentleman very much.

Mr. Chairman, I yield such time as he may consume to the cosponsor of the legislation, the distinguished gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I thank my friend from Nebraska for yielding me time. I also thank the ranking member for his acceptance of this amendment and also the chairman of the committee.

Mr. Chairman, this is a very important amendment for agriculture, the agriculture exemption for truck drivers. Without this exemption, drivers employed by agriculture retailers and farmers during the busy planting and growing season would have to comply with the same stringent rules that apply to long-haul drivers.

U.S. agriculture depends heavily on this limited relief. We have a great opportunity with this amendment to develop a uniform set of regulations that haulers of agriculture commodities will use.

Mr. BEREUTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the distinguished chairman of the committee.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding me time and especially thank the gentleman for his perseverance and the work he has done, as well as the ranking member for accepting the amendment to the amendment.

Mr. Chairman, I think what I have said before is it is a way to have a little logic in this body. I do compliment the gentleman for bringing this amendment to the floor.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman for his support and appreciate the assistance of the staff on both sides of the aisle as we moved in this direction.

Mr. BOOZMAN. Mr. Chairman, I rise in support of the Bereuter amendment. I understand the effects that the new hours of service rule is having on the trucking industry and I also understand the unique operation of the drivers of agriculture commodities.

There are a number of groups who are seeking a modification to the hours of service rule and it's for a simple reason—one size doesn't fit all.

The modifications sought by individual groups are understandable and I do support the agriculture modification. However, I also want to mention that I am also a strong supporter of taking a broader approach to assist all drivers, including short-haul operators, in dealing with the new rule.

Options such as providing another 16-hour day to the short-haul drivers and providing all drivers with a defined 2-hour rest period are viable options. I plan to continue working on this issue because there are several matters that deserve consideration.

Again, I support the Bereuter amendment and I thank the gentleman for yielding.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Nebraska (Mr. BEREUTER).

The amendment, as modified, was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 3 offered by Mr. FLAKE of Arizona, Amendment No. 4 offered by Ms. JACKSON-LEE of Texas, Amendment No. 9 offered by Mr. CHOCOLA of Indiana and Amendment No. 17 offered by Mr. BACHUS of Alabama.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT NO. 3 OFFERED BY MR. FLAKE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on Amendment No. 3 offered by the gentleman from Arizona (Mr. FLAKE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 60, noes 367, not voting 6, as follows:

[Roll No. 106]

AYES—60

Akin
Barrett (SC)
Bartlett (MD)
Bass
Bishop (UT)
Boehner
Bradley (NH)
Brady (TX)
Cantor
Carter
Chabot
Collins
Cox
Davis (FL)
Deal (GA)
Everett
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Gingrey
Gutknecht
Harman
Harris
Hastings (WA)
Hayworth
Hensarling
Hunter
Isakson
Kennedy (MN)
King (IA)
Kingston
Kline
Kolbe
Linder
Lofgren
Majette
Miller (FL)
Musgrave
Myrick
Norwood
Otter
Paul
Pence
Putnam
Ramstad
Renzi
Rohrabacher
Royce
Rush
Sensenbrenner
Shadegg
Simpson
Smith (MI)
Stearns
Sullivan
Tancredo
Thornberry
Weldon (FL)
Wilson (SC)

NOES—367

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barton (TX)
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Hart
Hastings (FL)
Hayes
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

DeMint
Gephardt
Hulshof
Tanner
Tauzin
Waxman

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1718

Messrs. STRICKLAND, HASTINGS of Florida, SPRATT, HOYER, ACKERMAN, and Ms. KILPATRICK, Ms. GINNY BROWN-WAITE of Florida, and Mrs. JO ANN DAVIS of Virginia changed their vote from "aye" to "no."

Messrs. SIMPSON, ROHRABACHER, HAYWORTH, COLLINS, and EVERETT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1720

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). Pursuant to clause 6 of rule XVIII, the remaining votes of this series will be conducted as 5-minute votes.

AMENDMENT NO. 4 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 50, noes 376, not voting 7, as follows:

[Roll No. 107]

AYES—50

Ballance
Bell
Bonilla
Brady (TX)
Burgess
Carson (IN)
Carter
Conyers
Culberson
Cummings
Davis (AL)
Davis, Tom
DeLay
Doggett
Flake
Foley
Fossella
Frost
Gonzalez
Granger
Green (TX)
Hall
Hastings (FL)
Hensarling
Hinojosa
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Johnson, Sam
Lampson
Neugebauer
Otter
Paul
Pence
Pitts
Sandlin
Scott (VA)
Sessions
Shadegg
Stearns
Stenholm
Thornberry
Toomey
Turner (TX)
Udall (CO)
Vitter
Walden (OR)
Watson
Weldon (FL)
Wynn

NOES—376

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Graves
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez.
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wamp
Waters
Watt
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—7

DeMint
Gephardt
Hulshof
Lewis (KY)
Tanner
Tauzin
Waxman

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1726

Ms. MAJETTE changed her vote from "aye" to "no."

Messrs. DOGGETT, SHADEGG, OTTER, and FROST changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. CHOCOLA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. CHOCOLA) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 198, noes 228, not voting 7, as follows:

[Roll No. 108]

AYES—198

Aderholt
Akin
Bachus
Baird
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bishop (UT)
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Capito
Cardoza
Carson (IN)
Carter
Chabot

Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Dunn
Ehlers
Feeney
Ferguson
Flake
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Hostettler
Hunter
Isakson
Issa
John
Johnson (CT)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Majette
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)

NOES—228

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baker
Baldwin
Ballance
Ballenger
Becerra
Bell
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Boozman
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Burgess
Camp
Capps
Capuano
Cardin
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Duncan
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gillmor
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hyde
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Platts
Pomeroy
Price (NC)
Radanovich
Rahall
Reyes
Rodriguez
Rogers (MI)
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Snyder
Solis
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Wamp
Waters
Watson
Watt
Weiner
Weldon (FL)
Wexler
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—7

DeMint
Gephardt
Hulshof
Tanner
Tauzin
Waxman
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1736

Ms. DEGETTE changed her vote from “aye” to “no.”

Messrs. SMITH of Texas, OTTER, McINNIS and FORBES changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 17 OFFERED BY MR. BACHUS

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Alabama (Mr. BACHUS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 365, noes 62, not voting 6, as follows:

[Roll No. 109]

AYES—365

Abercrombie
Ackerman
Aderholt
Akin
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Houghton
Hoyer
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
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Myrick
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Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn

Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
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Wilson (SC)
Woolsey
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Dingell
Filner
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Inslee
Jackson (IL)
Johnson, Sam
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Ortiz
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Sherwood
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NOT VOTING—6

DeMint
Gephardt
Hulshof
Tanner
Tauzin
Waxman

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1744

Mr. RANGEL and Mr. RUSH changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. YOUNG of Alaska. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON SCIENCE TO HAVE UNTIL 5:00 P.M., WEDNESDAY, APRIL 14, 2004, TO FILE LEGISLATIVE REPORTS ON H.R. 3970 AND H.R. 4030

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that the Committee on Science have until Wednesday, April 14, 2004, at 5 p.m. to file legislative reports on the following measures:

H.R. 3970, Green Chemistry Research and Development Act of 2004; and

H.R. 4030, Congressional Medal for Outstanding Contributions in Math and Science Education Act of 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 898

Mr. RENZI. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 898.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore. Pursuant to House Resolution 593 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3550.

☐ 1745

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, the amendment numbered 17 printed in part B of House Report 108–456, offered by the gentleman from Alabama (Mr. BACHUS), had been disposed of.

It is now in order to consider amendment No. 20 printed in House Report 108–456.

AMENDMENT NO. 20 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

Mr. BRADLEY of New Hampshire. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. BRADLEY of New Hampshire:

Add at the end the following new section:

SECTION 1. VEHICLE WEIGHT LIMITATIONS.

(a) The next to the last sentence of section 127(a) of title 23, United States Code, is amended by striking "Interstate Route 95" and inserting "Interstate Routes 89, 93, and 95".

(b)(1) IN GENERAL.—In consultation with the Secretary of Transportation, the State of New Hampshire shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by subsection (a), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $250,000 for fiscal year 2004 to carry out the study.

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from New Hampshire (Mr. BRADLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BRADLEY).

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I propose this amendment for consideration by the Congress so that it can strictly apply to the State of New Hampshire, raising the weight limits on trucks that travel on Interstate 89 and Interstate 93. Currently, right now, Mr. Chairman, we have trucks avoiding our main highways and driving through some of the most populated towns in our State in order to avoid the weight limit.

Mr. Chairman, when I proposed this amendment to the Committee on Rules, I submitted for the record letters from many public safety people throughout our State, including the Department of Safety, the Department of Transportation, local police chiefs, as well as town councilors, and others supporting this amendment.

The reason people in New Hampshire support this amendment, Mr. Chairman, is that our trucks are riding on roads where there is no weight limit up to 99,000 pounds, presenting significant public safety issues, going by schools and other places of assembly. We need to get these trucks on our highways where they are safer and where they are designed to be operated.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition, and I yield myself 1 minute.

Mr. Chairman, Congress, some years ago, granted New Hampshire limited exemptions from the Federal truck size and weight limits. We required that the

State complete the study of the impacts upon the State's infrastructure, and even allocated $250,000 to undertake the study. The State has not completed its study. DOT, U.S. Federal DOT says that 80,000-pound six-axle trucks pay only 90 percent of their infrastructure damage through fuel taxes. Six-axle trucks operating 100,000 pounds pay only 40 percent of their costs.

These trucks have a huge adverse impact on our highways and bridges, especially our bridge infrastructure. I will return to that subject later.

Mr. Chairman, I reserve the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself such time as I may consume to respond that perhaps my esteemed colleague is not aware of the fact that New Hampshire requested this exact type of study to be done in the last transportation authorization on Route 95, which is the north-south route that goes all through New England. When a study was done by the Maine Department of Transportation, while it has not been published, all indicators are that there have been no safety impacts and negligible costs to the infrastructure from raising the weight limits from 80,000 pounds gross vehicle weight to 99,000 pounds, exactly what we are asking for Route 93 and Route 89.

So, Mr. Chairman, the money has already been appropriated in the last transportation appropriations bill. There is no impact on the budget. We will not permanently raise the weight limit in the absence of this study. We are asking for the authorization to go ahead with the weight limit increase while the study is being performed.

And as I said, all of the public safety officials in my State are supportive of this weight limit increase. Because currently, right now, we have large trucks avoiding the weight limitation station and driving through two of the most populous communities in the State, where there are schools and where there are many kids on bicycles. We need to get these trucks on the highway.

As I said, the study that was done on Route 95 will show no negligible safety or infrastructure effect.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself 15 seconds.

The gentleman referred to a study, but he is referring only to preliminary results. The study results are not final.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Chairman, I thank the gentleman for yielding me this time, and with all due respect to my colleague from New Hampshire, I rise in opposition to this amendment.

This amendment is about opening the door to allow bigger and bigger trucks on our interstate highway system. And although this amendment is drafted in a form that appears to apply only to the State of New Hampshire, its impact will reach all States, all taxpayers, and all motorists.

Allowing these superheavy trucks on the interstates in New Hampshire would cause substantial bridge damage, cost the taxpayers money, and threaten the safety of motorists, and not just impacting the people of New Hampshire but people all across this country.

Let me explain. Operating 99,000-pound trucks on New Hampshire's interstates would require replacing and strengthening interstate bridges, at a huge cost to taxpayers all over this country. Heavier single tractor trailer trucks do not pay for all the damage they do to roadways. According to the U.S. Department of Transportation, a 100,000-pound six-axle single tractor-trailer truck pays only 40 percent. Taxpayers pay the rest. Not just taxpayers in New Hampshire, but all across this country.

Heavier singles pose numerous safety risks. As weights go from 65,000 to 80,000 pounds, the risk of an accident involving a fatality goes up 50 percent. In addition, these superheavy trucks will have added braking and steering problems and the risk for rollover will increase.

Now, I believe that 80,000 pounds is enough on the interstate, on urban connectors, and all roads. So there are consequences here that go far beyond what the gentleman has outlined. So while I have great respect for him, and I understand his concern about safety, I think the debate should be about the fact that these trucks get bigger and bigger and bigger. I think that is what poses the safety risks to the people of New Hampshire and people all over the country.

Mr. OBERSTAR. Mr. Chairman, I reserve the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself such time as I may consume to respond to the criticisms of my esteemed colleague from Massachusetts, and remind my colleague from Massachusetts that I, from New Hampshire, ask only the same consideration and the same laws with regard to truck weight limit that now apply in his State of Massachusetts, which on all highways, to the best of my knowledge, allow at least 99,000 pounds gross vehicle weight, and in some instances, with a waiver, up to 120,000 pounds.

I would also remind my colleague that when we are talking about public safety with regard to New Hampshire, the commissioner of the Department of Safety, the commissioner of the Department of Transportation, local police chiefs, fire chiefs, town councilors, elected officials from the impacted communities where trucks are leaving the highway and going downtown, where there is traffic, where there are kids, where there are schools and churches, and where there are community centers, et cetera, et cetera, et cetera, we all want to try and get these trucks on our highways where the safety impact to people's lives and well-being will not be hurt.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I would like to inquire of the Chair the time remaining on both sides.

The CHAIRMAN pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) has 1¾ minutes remaining, and the gentleman from New Hampshire (Mr. BRADLEY) has 1½ minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) has the right to close.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself such time as I may consume, and in closing I would ask the consideration of the body for this request.

This applies only to the State of New Hampshire. All of the public safety officials in my State are supportive of this change. It is designed to protect the lives of people in the communities where there are, as I have mentioned before, schools, traffic, downtown crossings.

I would ask the consideration of the Congress for this sensible change. There is no impact on the budget, as the money for this study was appropriated in the last transportation authorization bill.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Chairman, I would say to my colleague from New Hampshire that the difference between Massachusetts and New Hampshire is that the trucks that he is referring to operate on toll roads, and the taxpayers of Massachusetts are paying for the damage that is done by these heavier trucks on these roads, not the taxpayers across the country. That is a major difference.

Again, I oppose this amendment for all the reasons that I stated, and I would simply remind my colleagues that this bill that we have before us today is underfunded. It does not meet all of what DOT says we need to have to be able to maintain the status quo in terms of maintaining our transportation infrastructure.

This, in my opinion, opens the door to bigger trucks, not only in New Hampshire but in other parts of the country as well.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Route 93 in New Hampshire is indeed a toll road, and we are asking for the same consideration that Massachusetts currently enjoys, which is 99,000 gross vehicle weight limit. And what is good for Massachusetts clearly should be good for New Hampshire.

The CHAIRMAN pro tempore. Time of the gentleman from New Hampshire (Mr. BRADLEY) has expired.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

It simply comes down to this: heavier trucks are more dangerous. They are more costly to the Nation's highways. As truck weights increase, fatal accident rates go up, according to the University of Michigan's transportation research study.

Heavier tractor-trailers raise the center of gravity of the vehicle and its load, increasing rollovers. Heavier vehicles mean increasing speed differentials with other traffic. Increasing truck weights result in greater brake maintenance problems. Brakes are out of adjustment, trucks take longer to stop. It is just that simple.

I have studied this issue for many years. Heavier trucks are worse on the roadway, worse still on bridges, and are involved in a highly disproportionate greater number of accidents.

Vote "no" on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY) will be postponed.

It is now in order to consider amendment No. 21 printed in House Report 108–456.

AMENDMENT NO. 21 OFFERED BY MR. KIRK

Mr. KIRK. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. KIRK:

Insert the following at the appropriate place:

SEC. . STATE AUTHORITY.

Section 20153 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(k) STATE AUTHORITY.—

"(1) IN GENERAL.—Upon application of the Governor of a State, a State may assume responsibility for determining the circumstances under which to require the sounding of a locomotive horn when a train approaches and enters upon public highway-rail grade crossings, and for enforcing such requirements.

"(2) REVIEW.—The Secretary shall review any program established by a State pursuant to paragraph (1) every 5 years, and if the Secretary determines that the State program inadequately protects rail, vehicular, and pedestrian safety the Secretary shall, after providing the State with 24 months notice of such determination, implement regulations issued by the Secretary under this section in lieu of such State program.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Illinois (Mr. KIRK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in 1994, Congress passed an unfunded mandate on most local communities in America that maintain quiet zones in their communities. When the regulations were first drafted, they would require trains entering the City of Chicago to blow their train horns on entering the city until arriving into the station. This upset the people of Chicago. It upset the Mayor of Chicago.

One university study showed that the original train whistle regulation would trigger so much noise pollution in our communities that it caused property losses to rise to $1 billion in Chicago lands alone. A redraft of this regulation offered some help, but at first glance the cost of implementing this regulation for Chicago communities rose from $4 million to at least twice that.

My amendment would not change Federal safety standards, but it would allow a State to implement this regulation.

□ 1800

Half of all quiet zones are in Illinois. This is an important issue to my constituents, to the Speaker's and to Ranking Minority Member LIPINSKI's.

Mr. Chairman, I had intended to offer this amendment today that would give governors the option of enforcing train quiet zone standards at this level. However, I will ask unanimous consent to withdraw my amendment but would ask the chairman of our subcommittee to engage me in a colloquy on this.

Mr. PETRI. If the gentleman will yield, I would be very happy to do so.

Mr. KIRK. Mr. Chairman, many of our communities have quiet zones to protect their environment from needless noise pollution by trains. The Federal Government is poised to put forward a regulation that eliminates our local community quiet zones unless new, expensive, and very complicated rules are met. Mr. Chairman, I hope we can work together to address this issue in conference so that local communities are not overburdened with unfunded Federal mandates and cumbersome Federal regulations.

Mr. PETRI. That is something that we are eager to work with the gentleman on. This is important not only in Illinois, it is important in Wisconsin, in Minnesota, and in a number of other States.

Mr. KIRK. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. LIPINSKI. I thank the gentleman for yielding. I want to say I compliment my colleague from Illinois for putting this amendment forward. It certainly is an issue that has been uppermost in my mind and in Speaker HASTERT's mind for a long period of time.

In speaking to him about this particular amendment, we came to the conclusion that it would be more prudent and wiser to work this out as we move into the conference. I am sure, based upon many conversations I have had, that we will be able to work this out satisfactorily. I simply want to give him my support.

I thank the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. KIRK) for the colloquy that they just had.

Mr. KIRK. Mr. Chairman, I renew my unanimous-consent request to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). Without objection, the amendment is withdrawn.

There was no objection.

Mr. PETRI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETRI) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, had come to no resolution thereon.

COMMUNICATION FROM LAW REVISION COUNSEL, HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following communication from John R. Miller, Law Revision Counsel, House of Representatives:

OFFICE OF THE LAW REVISION COUNSEL, HOUSE OF REPRESENTATIVES,
Washington, DC, March 29, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Last October, I completed 28 years of service with the Office of the Law Revision Counsel of the U.S. House of Representatives. During that time, I have had the pleasure of serving as Assistant Counsel, Deputy Counsel, and for the past seven years Law Revision Counsel. After almost 33 years of service to the Federal Government, it has been very difficult to make this decision and select a particular date, but with your approval, I will retire as Law Revision Counsel, effective May 3, 2004.

Over the past seven years, the Office has become self-reliant and greatly improved the procedures for preparing and publishing the United States Code. Self-reliance had been the goal of the Office since it was established in 1975. The Office continues to produce the most accurate version of the Code but no longer requires any outside assistance for its production of the Code. This is the result of developing an outstanding staff as well as new procedures for preparing and publishing the Code. The new procedures and computer programs that have been developed and implemented in the past few years will enable the Office to improve its efficiency while maintaining the accuracy of the Code, and eventually will increase the timeliness in which the Code becomes available. While many challenges remain for the Office in our rapidly changing environment, I am confident that the knowledge, experience, and professionalism of the staff will enable the Office to continue its successes and progress.

Over this period, the Office also has prepared and submitted to the Committee on the Judiciary bills to enact two titles of the Code into positive law. In addition, a bill to enact a third title should be transmitted to the Committee shortly. Also, nearing completion is a bill to complete the enactment of Title 46, Shipping.

None of this could have been accomplished without the support and expertise of the dedicated staff of the Office. I am deeply grateful for their assistance and wish them every success. Finally, I gratefully acknowledge the assistance and support that I, and the Office, have received from the many House Officers and Offices, especially the Speaker, the Chairman of the Committee on the Judiciary, the Parliamentarian, and the fine staffs of those Offices and the Committee.

Respectfully yours,

JOHN R. MILLER,
Law Revision Counsel.

APPOINTMENT OF LAW REVISION COUNSEL, HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to 2 U.S.C. 285c, and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of Mr. Peter LeFevre as Law Revision Counsel for the House of Representatives, effective May 4, 2004.

COMMUNICATION FROM STAFF MEMBER OF HON. TOM LATHAM, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from James D. Carstensen, Communications Director for the Honorable TOM LATHAM, Member of Congress:

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a criminal trial subpoena for testimony issued by the District of Columai Superior Court.

After consulting with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

JAMES D. CARSTENSEN,
Communications Director.

QUESTIONS TO ADMINISTRATION IN WAKE OF LATEST IRAQI ATROCITIES

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I do not believe any of us who believe in a civilized world and the respect for human life, respect for the rule of law and just an outright commitment, appreciation and connection to our fellow Americans could imagine the heinousness of the act yesterday in Iraq that took the lives of five of our soldiers and four civilians. We now have lost more young men and women in the United States military in postwar Iraq than we did during the declaration or the call for war by this administration.

My sympathy goes out to those families who mourn, those who mourn for their loved ones that died before yesterday and, of course, the heinous act of yesterday.

It is time now for the Bush administration to tell the American people the truth. How long and what efforts will they take to stop this reckless violence against both our troops and as well civilians, to begin to put together a collaborative effort, Mr. Speaker, so that this kind of violence is stopped and that our work is unanimous with our allies and that we can truly provide for democracy in Iraq.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 3108, PENSION FUNDING EQUITY ACT OF 2004

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider a conference report to accompany the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements, and for other purposes, that the conference report be considered as read, and that all points of order against the conference report and against its consideration be waived.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

OHIO COMPANIES CLOSE DOORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, Secretary John Snow, the President's second top economic adviser, was in Ohio this week trying to defend the administration's economic and budget policies. Secretary Snow said outsourcing is a good thing. Outsourcing creates more efficiencies in the economy.

I wish that Secretary Snow, when trying to justify the President's economic policies, had been with me in Akron, Ohio, a couple of weeks ago. I spoke to a group of business owners, small manufacturers, the Akron machine shop, group of machine shop owners and operators. They are concerned that Ohio has lost one out of six manufacturing jobs, probably permanently. They are concerned that Ohio has lost 236,000 jobs overall. That is about 1,500 jobs a week since President Bush took office. That is about 205 jobs every day since President Bush took the oath of office on January 20, 2001.

When I was talking to these machine shop operators, one gentleman presented me with a pile of brochures about twice this size. Actually, I do not have all of them with me. These are going-out-of-business sale notices, auction notices from companies all over the country, small manufacturing companies. He receives a stack of about that many every month, he said, at his place of business, companies going out of business, selling their equipment.

Let me just share some of these. A company in Cleveland, Ohio, selling all its assets; a company in Cuyahoga Falls, Ohio, absolute auction; company in Waterville, Ohio, near Toledo, live one site, selling everything; company in Springfield, Ohio, going out of business; company in Mansfield, Ohio, where I grew up, that is going out of business, selling its real estate and all its production capacity; a company in Sydney, Ohio, major equipment manufacturer, public auction; company in Dayton, Ohio, facility closing; company in Cleveland, Ohio, assets no longer required in the continuing operations of this tube mill facility; a company in Akron, Ohio, in my district going out of business; another company in Cincinnati, Ohio, I believe, public auction, going out, precision machining facility; a company in Toledo, Ohio, going out of business, don't miss this sale, everything sold; a company in Youngstown, Ohio, going out of business; a company in Painesville, Ohio, going out of business; a company in Medina, Ohio, facility closed, all must go; Marion, Ohio, complete shop closeout auction; Tipp City, Ohio, machine tool auction, selling everything; Cleveland, Ohio.

That is just the Ohio companies here that are going out of business.

I bring this up partly because the administration does not get it. They keep talking about the economy is coming back. We are not seeing jobs created, and we are not seeing jobs created because the administration's answer to this kind of bad news is more tax cuts for the most privileged people in our country with the hope that some of those tax cuts will trickle down and maybe provide some jobs and more trade agreements that hemorrhage jobs, that ship jobs overseas.

This administration needs to do two or three things immediately. We need to extend unemployment benefits. Fifty thousand Ohioans in the next couple of months will have had their unemployment benefits expire. These are people that want to have jobs, that are looking for work. It is 50,000 workers. It is 50,000 families that lose their benefits in communities all over my State, all over this country.

The second thing the administration needs to do is allow for trade adjustment assistance. They have opposed that, even though all those jobs that have gone to Mexico and China and all over the world, those workers need help.

And, third, the administration needs to pass the Crane-Rangel bill, bipartisan legislation that will give tax breaks to those corporations that hire people in the United States.

The President, on the other hand, wants to give more tax cuts to the wealthiest individuals and more tax cuts to the largest corporations and rewarding those companies that are outsourcing, that are sending their jobs overseas. We need to reward those companies and give incentives to those companies that are hiring American workers and build back our manufacturing base. My State has lost one out of six manufacturing jobs in the last 3 years. My State has lost 205 jobs every single day of the Bush administration. These pleas continue to fall on deaf ears. The President tries the same tired solutions. They have not worked for 3 years. It is time we changed course.

EXCHANGE OF SPECIAL ORDER

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to assume the time of the gentleman from Indiana (Mr. BURTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

TRADE DEFICIT AND GAS PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to speak about two separate issues but both related to the economic well-being, the pocketbooks of the American people.

First, the trade deficit. The Washington Post reported on February 16 that our trade deficit reached a record $489 billion in 2003. The story said that "while the trade report showed the robust growth in U.S. consumption, it also provided a stark reminder of problems on the economy's productive side. In particular, the lack of employment growth which is attributable in part to the loss of jobs to foreign competition."

At a hearing before the subcommittee I chair, the Subcommittee on Water Resources and Environment, the head of the World Shipping Council said ships were coming to the U.S. full but leaving empty.

□ 1815

We cannot sustain this type of deficit for many more years. By far the largest trade imbalance is with China and will probably be around $150 billion this year. With a tiny bit less than 4 percent of the world's population, we buy 25 percent of the world's goods. This means that every other country desperately wants into our markets. We have tremendous trade leverage that we have not used as we should have. It has been used mainly to help large multinational companies which have had great influence, too much influence, in our government.

However, our trade agreements have been detrimental to the majority of American small and medium-sized businesses and to our workers. I believe other countries are probably amazed that we have not been tougher in trade negotiations.

We should tell any nation with which we have a large trade imbalance, starting with China, that we want to be friends, that we want cultural and educational exchanges, tourism, and especially trade; but we want that trade to be both free and fair. We should tell the Chinese and others to start looking for products they can buy from us because if they do not start bringing down the trade deficits within a reasonable time, we will have to renegotiate some of our trade agreements.

William Hawkins, Senior Fellow, at the U.S. Business and Industry Council, summed it up best in a recent column in the Washington Times: "Commerce is driven by competition, making trade rivalry a part of the larger struggle of nations for independence, security, and prosperity."

Mr. Speaker, I am sick and tired of seeing so many millions of American jobs going to other countries, and there is tremendous concern about this all across this Nation.

Secondly, Mr. Speaker, gas prices. Gas prices have risen to some of their highest levels ever, primarily for two reasons; one, we are being robbed by foreign oil producers; and, two, extreme environmentalists oppose any oil production in the U.S. The Arctic National Wildlife Refuge is a 19.8 million acre site, 35 times the size of the Great Smokey Mountains. Yet some left-wing extremists oppose drilling on some 2,000 acres in the Arctic Nation Wildlife Refuge, about 1⁄100 of 1 percent of the refuge, in a part that is a frozen tundra with no trees or bushes for many, many miles. We have not opened a new oil refinery since 1975, and something like 36 have been forced to close since 1980 due to too many rules and regulations. If we do not, Mr. Speaker, we will become even more vulnerable to foreign nations and damage both our economy and our national security.

These environmental extremists almost always come from very wealthy or upper-income families, and perhaps they do not realize how much they are hurting the poor and the lower-income and the working people of this country, but we need to produce more U.S. oil to bring down these gas prices.

EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to take the Special Order time of the gentleman from Oregon (Mr. DEFAZIO).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

RECOGNIZING AUGUST WILSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, today I rise in tribute to August Wilson, the leading playwright of his generation and an icon of contemporary American theatre.

For more than 20 years, August Wilson's sometimes searing, but always provocative, dramas have flung theatregoers into the lives and circumstances of black Americans. Performed throughout the country, these works have amused and disquieted us. They have deepened our understanding of our history and our society.

In recognition of the unforgettable portraits he has created, Mr. Wilson has received repeatedly virtually every award bestowed by the literary community, including two Pulitzer Prizes, and five Tony Awards. He is a fellow of the American Academy of Arts and

Letters and a member of the American Academy of Arts and Sciences.

August Wilson has been a resident of Seattle since 1990. So it is quite appropriate that the Seattle's Rainier Club, one of the oldest entities in the city, has named him its laureate for 2004–2005. This occasion offers all of us a most welcome opportunity to salute Mr. Wilson for his transforming contributions to American theatre.

He joins the other laureates of Seattle, Jonathan Raban; Ernestine Anderson, the jazz artist; Dave Horsey, the Pulitzer Prize winning cartoonist. He has been a real tribute to our city and deserves the acknowledgment of the whole city. And we look forward to many more evenings in the theatre with August Wilson, gazing at America through his eyes.

ORDER OF BUSINESS

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

JOBS AND THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, just recently the economic report of the President, which was sent to Congress under the President's signature, predicted that the economy would create some 2.6 million jobs this year. Yet, Mr. Speaker, the President has yet to create a single net job since his inauguration, not one.

Meanwhile, we have lost almost 9 million people in this country that are hopelessly out of work. Many of these intelligent, educated, and able-bodied Americans have given up on looking for work because our national unemployment situation is so grim. As a result, they are unable to provide the basic necessities for their families. Instead, they are watching President Bush on television traveling the country, touting his economic record that again has yet to create a single net job.

Mr. Speaker, we have got to get the employment situation in this Nation back on track. The phrase "jobless recovery" is of no consolation to the nearly 9 million Americans who are unemployed and the millions who are underemployed in our country.

Mr. Speaker, zero represents the amount of money nearly 9 million people are bringing home bi-weekly instead of a paycheck. Zero represents a degree to which the tax cuts being promoted by my colleagues on the other side of the aisle have worked to achieve their goal. Zero also represents the amount of compassion American voters should give this administration in November since these numbers will not change without new leadership in Washington.

Today, Congress had an opportunity to enact legislation that is guaranteed to create jobs. The Committee on Transportation and Infrastructure Democrats proposed $37.8 billion of Federal highway/transit infrastructure investment. These funds would have created nearly 1.8 million jobs and about $235 billion of economic activity. However, our recommendations were disregarded because the President threatened to veto the bill.

Mr. Speaker, I want to make it crystal clear to the American people that the President of the United States has threatened to veto a bill that has proven to create jobs; yet he is in favor of unlimited amounts of tax cuts that have debatable job creation effects. Mr. Speaker, it has been found that transportation construction contractors hire employees within 3 weeks of obtaining a project contract. Yet nearly 3 years after passage of the President's first package of tax cuts, the economy has yet to create a single net job. Not one.

Mr. Speaker, the unemployment numbers from March will be released tomorrow. For the good of the American people, I sincerely hope that these numbers reflect a positive change in the Nation's unemployment situation. But it will not be because of anything this administration has done. It will be in spite of the obstacles to job creation that this administration continues to advocate.

Lastly, I continue to hear the President and the Republicans blame all of their economic woes on September 11, corporate scandals, and the drumbeat of the Iraq War. Let me remind my friends that every President and every administration has had to overcome challenges. How about World War II, the Cuban Missile Crisis, the Vietnam War, the Watergate scandal, the Iran hostage situation, the Cold War, and the first Persian Gulf War?

I could continue on, but my point is that every President has faced these types of challenges and still managed to create jobs, except one, since the Great Depression, and that is George W. Bush and this Republican House and Senate.

Mr. Speaker, we either need to change policies or change the leadership of this country. In the words of Tracy Chapman, "Either we change or we live and die this way." I say we must, we must change.

THE STATE OF ARMENIAN/ AZERBAIJAN RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to address the decline in the state of affairs between Armenia and Azerbaijan brought about by Azeri President Ilham Aliyev and the members of his ministry. Including Namik Abbasov, Minister of National Security, through their encouragement of anti-Armenian propaganda that perpetrates anti-Armenian sentiments in the region.

Mr. Speaker, a few weeks ago, I was disheartened to learn of the brutal murder of an Armenian soldier by an Azeri soldier. Both were attending a NATO Partnership for Peace English-language course in Hungary. But I am doubly concerned by additional information that has recently been reported that the Azeri government is actually providing financial awards to individuals and organizations with the "best" propaganda works towards Armenians.

Recent accounts report that the Azerbaijani Ministry of National Security, a successor to the Soviet-era KGB, has awarded monetary prizes up to $2,000 for the "best" propaganda works targeting Armenians. The Azeri Ministry, for instance, presented a prize in the books category to the Azerbaijani National Academy of Sciences' Human Rights Institute for an "encyclopedia" entitled "Crimes Against Humanity Perpetrated by Armenian Terrorists and Bandit Formations," and the minister himself was honored for funding the publication of this book. The MNS also granted a top monetary prize to two anti-Armenian propaganda films.

I mention this because I believe it is a blatant effort by the Azeri government to undermine years of efforts undertaken to encourage a peaceful resolution to the Nagorno Karabakh conflict by me and other Members of this body as well as the Minsk group and the former U.S. administration.

Three years ago, I was encouraged by developments in the Nagorno Karabakh peace process with the announcement of the Key West Agreement, reached in April 2001 by President Kocharian and former Azeri President Aliyev. I was hopeful that this agreement would lead to a peaceful resolution of the conflict and a stabilization of peace in the region. However, it was clear that any implementation of the Key West Agreement would have to wait until after the various legislative and presidential elections in the region including Armenia, Nagorno Karabakh, and Azerbaijan and when they were complete.

However, shortly after the last of these elections when President Ilham Aliyev was elected president of Azerbaijan, the Azeri government rejected all of the advancements made by the Minsk group, the former Azeri president and President Kocharian, and flatly rejected the Key West Agreement. Furthermore, President Ilham Aliyev has noted that any negotiations on resolving the Nagorno Karabakh conflict would need to start from scratch and any advancements towards peace made in the past were invalid.

So today instead of witnessing the implementation of the Key West Agreement or even a revival of negotiations of a peaceful solution to the Nagorno Karabakh conflict, we are witnessing a regression towards the type of behavior on behalf of the Azeri government that encourages the violence we saw in the early to mid-1990s. I am discouraged by President Aliyev's blatant disregard for the autonomy of Nagorno Karabakh and his country's effort to undermine any chance at a peaceful resolution to this conflict. In fact, President Aliyev has recently said that he is not in any hurry to reach a peaceful resolution to the conflict and recently cancelled a meeting between Armenian Foreign Minister Vartan Oskanian and the Azeri Foreign Minister planned by French, Russian, and U.S. mediators that was scheduled for this past Monday; and his excuse was that the agenda was not precise enough.

I am also discouraged by the current Bush administration in its failure to actively address a peaceful resolution to the Nagorno Karabakh conflict. During a recent meeting between Deputy Secretary of State Richard Armitage and Armenian President Kocharian and Foreign Minister Oskanian, Armitage noted that "our Turkish friends have had their hands full recently," as an excuse that there would be little advancement towards opening the border between Armenia and Turkey or a move towards better relations between Azerbaijan and Armenia.

Finally, Mr. Speaker, I would like to note that Armenia has been tremendously cooperative with the U.S. in its efforts in the war against terror and supportive of the stabilization of both Afghanistan and Iraq. However, rather than press President Aliyev toward considering peaceful resolutions of the Nagorno Karabakh conflict, the Bush administration perpetrates the conflict by failing to maintain military assistance parity between Armenia and Azerbaijan in its fiscal year 2005 budget request to Congress. In fact, the Bush administration proposed double the military assistance to Azerbaijan that it did to Armenia.

Today I would call on Azerbaijan President Ilham Aliyev to stop promoting propaganda against the Armenian people and make every effort to consider the peaceful resolution of the Nagorno Karabakh conflict and begin an open dialogue with Armenian President Kocharian. I also call on President Bush and the administration to maintain parity in the region and recognize that pitting these nations against each other will move us further away from long sought-after peace that is much needed in this region.

☐ 1830

REVISIONS TO THE 302(a) ALLOCATIONS AND BUDGETARY AGGREGATES ESTABLISHED BY THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 2004 AND 2008

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, in accordance with section 411 of H. Con. Res. 95, I hereby submit for printing in the CONGRESSIONAL RECORD adjustments to the section 302(a) allocation to the House Committee on Transportation, set forth in H. Rept. 108–71, to reflect $3.777 billion in additional new budget authority for the period of fiscal years 2004 through 2008.

Section 411 authorizes the chairman of the Committee on the Budget to adjust the appropriate budget aggregates and to increase the 302(a) allocation of new budget authority to the Committee on Transportation and Infrastructure for fiscal year 2004 and for the period of fiscal years 2004 through 2008 to the extent such excess is offsets by a reduction in mandatory outlays form the Highway Trust Fund or an increase in receipts appropriated to such fund for the applicable fiscal year caused by such legislation or any previously enacted legislation.

As modified by the rule, H.R. 3550 makes additional receipts available to the Highway Trust Fund. Accordingly, I am increasing the 302(a) allocation to the Committee on Transportation and Infrastructure by the above amount. With the adjustment, this bill is within the level assumed in the two periods applicable to the House; fiscal year 2004 and for the total of fiscal years 2004 through 2008 as required under section 302(f) of the Congressional Budget Act of 1974.

ANALYSIS OF HOUSE SURFACE TRANSPORTATION REAUTHORIZATION ACT (H.R. 3550)

[Mandatory BA by fiscal year in millions of dollars]

	2004	2005	2006	2007	2008	2009	2004–2008
2004 Bud Res Baseline	32,584	36,953	36,953	36,953	36,953	36,953	180,396
Bill Under Consideration	41,042	44,082	45,101	46,360	47,867	49,094	224,452
Increase in BA	8,458	7,129	8,148	9,407	10,914	12,141	44,056
Discretionary Action Available on 3–29–04[1]	9,236	5,753	6,632	8,810	9,848	10,637	40,279
Amount Over (+) or Under (−) Appropriate Level	−778	1,376	1,516	597	1,066	1,504	3,777
Adjustment	0	na	na	na	na	na	3,777
Room Under Allocation	−778	na	na	na	na	na	0

[1] Excludes impact of temporary measures, which are subsumed by the bill.

THE TIME FOR CREATION OF JOBS IS NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, today we commemorate the 10 years of the tragedy of genocide in Rwanda. Before I speak to the issue that I rose to speak to, I want to, again, as I did earlier in the tragedy in Iraq, acknowledge the importance of humanity and the respect for human life.

I ask that we have just a moment of silence in commemoration of the massive loss of life in Rwanda.

Mr. Speaker, my wish for the Rwandan people is the implementing of democracy, the protection of lives, respect for human life, and as well the opportunity for economic prosperity, educational opportunity for the children, and as well for them to take their rightful place in the world family.

Mr. Speaker, I rose today to comment on an issue that is extremely prevalent in my district, and that is the loss of 3 million jobs in the United States over the last 2 years and the failure of this administration to be able to create one single job that has had a lasting impact.

Now, that sounds rather extreme, because the government is going to report shortly its job creation in the last month, and certainly they did so in the month preceding. But as they create jobs in certain areas and certain disciplines, job loss remains strong in the manufacturing industry; and there has been no effort, no, if you will, direct effort at building a long-standing opportunity for job creation by this administration. There has been no policy announced. There has been a complete, if you will, ignoring of the large numbers of industries that are leaving our shores and going overseas.

We recognize that as the world grows smaller, we will be interrelated, and trade is an important aspect of that; and we do not discount that. But, Mr. Speaker, there is nothing more devastating than a family that has lost their source of income. First maybe the father or the spouse, and then the mother or the wife, or then an individual single parent who has lost their job.

I can assure you that no amount of patriotic statements will quash the pain of not being able to make ends meet, of providing for one's family. And those families who are on minimal income have been hurt even more, because as they have sought to lift themselves up, as they have experienced the results of welfare reform, and they have taken the jobs at the Burger Kings and McDonald'ses, how interesting it is now to compete with individuals with higher education who have lost their jobs who can find no other work than to work at Burger King, McDonald's and other fast-food establishments, which we have the greatest respect for, because they are jobs. But, frankly, when you have those at the lesser income level competing, then you know that you have a serious problem.

You have more of a serious problem when officials of the Bush administration continue to emphasize that the putting together of the hamburger is manufacturing and are completely insensitive to outsourcing that is causing more and more jobs to leave the shores of the United States of America.

So, Mr. Speaker, my thrust this evening is to again put this very crucially in the minds of this administration: it is imperative that the President give a national, a national, call to job creation, and stop the reckless giving of large tax cuts to the richest of our Nation, and begin to take those dollars and invest in this economy, to provide more job training, to provide more bridges for those who are transitioning from jobs because plants were closed, such as the plant I saw in South Carolina when traveling in that area, and the plants throughout Texas that I have seen and throughout the rest of the United States. We need a real jobs effort to secure jobs on behalf of the American people.

Mr. Speaker, it is important to note that Americans want to work, but they cannot work where there is no work. They certainly cannot work where we do not have a policy that is definitively done on behalf of job creation.

Right now we have on the floor of the House a massive job creation bill, as well as a bill to help our crumbling infrastructure. One of the issues that we have noted in homeland security, as a member of the Select Committee on Homeland Security, is we have a crumbling infrastructure.

Again, I ask the President not to veto this bill, which will help the crumbling infrastructure of this Nation and transportation needs, but also will create jobs for millions and millions of Americans.

Mr. Speaker, the time for creation of jobs is now. The President must respond to this question and to this need.

CELEBRATING NATIONAL WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, as we gather to celebrate National Women's History Month, I rise to recognize not only the contributions of all women, but most importantly, the work of my constituents that made this month possible.

Sonoma County, in my district, is the birthplace of the National Women's History Project, the nonprofit education organization that is responsible for establishing Women's History Month.

In 1978, the Education Task Force of the Sonoma County Commission on the Status of Women initiated a Women's History Week under my tutelage. I was the Chair, actually, of the commission at that time. Later, in 1987, with the help of museums, libraries, educators across the country, the National Women's History Project petitioned Congress to expand the celebration to the entire month of March. A resolution recognizing Women's History Month was quickly passed with strong bipartisan support in both the House and the Senate.

Since that time, Women's History Month has provided a perfect opportunity to discuss and honor the contributions that women have made throughout the history of our Nation, both here in our capital and in our classrooms.

There are so many remarkable accomplishments that deserve mention, from the fight for suffrage and reproductive freedom, to efforts to give women and girls equal access to education and employment opportunities. We have come so far in so very many ways; and, yet, Mr. Speaker, we seem to be losing ground on so much of the precious progress we have made.

Since we last celebrated National Women's History Month, the President has signed a bill criminalizing a safe and accepted medical procedure for the first time ever. Legislators have now inserted themselves into the difficult medical decisions that should be left to a woman, her family, and her doctor. To add insult to injury, the Justice Department is seeking permission, permission, to rifle through women's personal medical records in the State Department's attempt to uphold this intrusive law.

These violations of privacy are without precedent and are simply, simply unacceptable. Women have worked too hard. They have fought too long to be told that they are not allowed to undergo a medical procedure recommended by their doctor, and that the Justice Department and their lawyers have the right to examine women's medical records.

It is not enough to devote a month every year to celebrating the progress that women have made in the battles that we have won. If we do not stand up after these recent impositions and insist on our right to make decisions about our own bodies, when will we? How many more restrictions must be placed on us before we insist that this must stop?

Well, on April 25 of this year, this month, actually, hundreds of thousands of women, men and children will come to Washington, D.C. to do just that. We will speak out, because women deserve accurate and balanced information about their reproductive options. We will speak out, because women deserve access to contraception and prenatal care.

These services are not a luxury for women. They are truly a matter of life or death. At the march on April 25, we will clearly convey that protecting women's lives is of paramount importance for Americans from all walks of life.

I look forward to being part of this truly historic gathering and joining with my colleagues, constituents, and people from all over the world to show the United States that we care about women's lives in America.

When we gather this time next year to recognize National Women's History Month, we will be able to list the 2004 March for Women's Lives as another notable accomplishment; and even more importantly, I hope we will be able to say that we have stopped the tide of anti-choice restrictions, to say that our private medical records will remain private, and to say that we have the right to undergo medical procedures recommended by our doctors.

In honor of National Women's History Month, we must not only remember the accomplishments of the women who have come before us; we must also commit to the protection of that progress on behalf of the women who will come after us.

COMMEMORATING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 60 minutes as the designee of the minority leader.

Ms. NORTON. Mr. Speaker, as March slips away, a number of women in the House did not want to let the year go by without commemorating Women's History Month. We recognize this is April 1. This is no April fool's joke. Women are a very serious concern of the women who will come forward this evening.

We note first the progress women around the world, our sisters in solidarity, are making; and then we compare that progress to the progress of American women who serve in the legislatures of their countries.

According to the data used internationally, women are considered to be at an acceptable threshold when they are about 30 percent of their legislatures. There are only 14 countries that qualify. The United States of America is not one of them. We are pleased at the increase in women, especially in the House and in the Senate; but we are not where we should be, particularly given the ideals that our country professes.

Interestingly, women made their greatest strides in Rwanda last year, and that may well be because there is a fixed percentage of women required in their legislature. But this should be said of Rwanda: This is one of the world's most tragic nations, which suffered from violence. Perhaps having women in the leadership will help send to that country the notion that violence, most of it perpetrated by men in that country in one of the worst cases of genocide in the 20th century, is no longer acceptable.

Mr. Speaker, just a couple nights ago Women's Policy, Incorporated, celebrated its 10th anniversary. This is a privately financed organization from which many Members of the House and Senate gather the information that they need to keep track of women's issues and where women need to go as far as legislation and other progress is concerned.

It was also the 27th anniversary of the Congressional Women's Caucus. It reminded us that it was in 1916 that the first woman came to serve in this House, the famed Jeannette Rankin. That was 4 years before women even got the right to vote. I believe that says something, Mr. Speaker, about the determination of women to exercise the vote, that before the Constitution of their country even gave them the vote, as a matter of State law they sent a representative to this body.

Today, we have grown from one in 1916 to 76 in this House and 14 in the Senate, well below the 30 percent threshold that the world acknowledges as a decent percentage. We are still struggling. We are still determined to find our rightful place in this body and in our country.

□ 1845

We certainly do not suffer, as many of our sisters do around the world. For example, in Kuwait, one of our allies, women cannot even stand for election to any office.

Mr. Speaker, I was a Member of the House when the so-called "Year of the Woman" was informally proclaimed. That was the year when the confirmation of Justice Clarence Thomas brought women forward, given the controversy surrounding his nomination, that a man who had been accused of sexual harassment was nevertheless put on the bench. It sent a whole bunch of women to the House and to the Senate, more than before and more than since. Some of us, Mr. Speaker, I must say, are inclined to call 2004 the "Year of the Forgotten Woman," and we say so because we look for concrete evidence of where women are going in our country today. And for that, I think the best place to look is in the President's budget.

The budget document is the best evidence of the policy of the President in office. I think that the American people for whom women's rights, the progress of women and children means something would be absolutely astonished by what the President's 2005 proposed budget tells us about his priorities when it comes to women's concerns. So I want to start where the American people would start in evaluating where this President stands on matters affecting women and their children. They would start with where he puts his money. They would start with his budget.

As I look at that budget, it seems as if the President went on a search-and-destroy mission, focused heavily on the programs that affect women most. I looked, because I saw many programs that might tell us something about where an elected official stands on a given subject. I looked at signature issues for women, issues that are particularly identified with women and their children, although I am sure my good friends and colleagues in this body who are men would be quick to step forward and say that these issues mean just as much to them. It is simply that women have been at the front of the line advocating the issues that I am speaking about at the moment.

Let us take the child care and development block grant: frozen for the third year in a row. Children are not frozen. The numbers continue to come forward. They grow older. They need services. So that when we have a 3-year freeze, it means 3 years of cuts for child care and development. It, of course, means that we are leaving hundreds of thousands of women in line for child care, holding their kids' hands and wondering what in the world they are going to do, particularly if they are on TANF where the bill this House has passed says you have to work longer and have less child care.

Or let us take another signature issue: the Violence Against Women Act. These programs are cut for next year $22 million over what was in the budget for this year.

Mr. Speaker, I can only hope that these programs that I am going to go through get the attention of the Congress and the appropriators and that they come to their senses and put some of this money back.

Republicans have been grandstanding about an important issue that concerns all of us. I say "grandstanding" because the way to indicate that it matters to you is, of course, to put just a little money in it. I am talking about trafficking in women and children, where women and children are essentially held virtually as slaves. Well, the Bush budget simply eliminates the program altogether.

By now it is gospel that the best straight line for reducing juvenile crime is to give kids something to do after school. Well, the President's budget provides half of the promised funding for after-school programs.

What about Head Start? Here is a program that is surely not one of the favorites of the President, even though children and education has been a signature issue for him. He has begun the gutting of the Head Start program by eliminating the health and nutritional aspects that is itself a signature of the program. We bring low-income children, we combine the services they need in preschool by the time they go to school, so that they are ready to learn.

There will also be no educational services in Head Start. Just a moment. I thought this was the education President. I thought the whole point is to begin education and the most rigorous education that a child can take according to age as soon as possible, so that we meet this goal that by grade 4 every child can read. How are we going to do that if we do not begin educational services in Head Start, particularly for low-income children who, of course, are and continue to be the furthest behind?

Speaking about behind, if the President had put just a little more money in Head Start, he might have given the best and biggest boost to his own Leave No Child Behind bill. Only 60 percent of the children who are eligible for Head Start are covered by Head Start. Put all of those children in there and we will begin to see some difference for low-income children in school, and No Child Left Behind can begin to take some of the credit for it, because it will pick them up, ready to learn.

Speaking of No Child Left Behind, Mr. Speaker, once again the President has simply declined to fund the bill. This has been a huge disappointment for Democrats, because this bill was passed in a bipartisan fashion on the promise that a very difficult issue would have the prerequisite funding and, therefore, a chance to succeed. That issue is taking children who are not learning in school and somehow making it possible for them to learn; and not only that, Mr. Speaker, but indicating that they were not going to graduate unless they learned. Well, on the basis of that promise, this became a bipartisan bill. It overcame many doubts and much skepticism.

Now the promise of funding has dropped out of the President's budget. It has caused consternation in the House and in the Senate. But if we think that is all it has caused, we need only go into our own States and hear the howls and the cries about No Child Left Behind, its broken promises and the difficulties that States are having in meeting its goals, precisely because the promise of funding has not been kept.

Moving right along, Mr. Speaker, to Even Start. Now here we have not only a woman's program but a family values Congress program. Because, essentially, what the program does is to put adult literacy and childhood education and vital parental education all in the same package and say, if you put them all together, then we will get what children need to learn. They will have parents who know how to read and who have an appreciation for learning. That is the adult literacy part. They will have childhood education, which is focusing on the child itself. And, of course, the parental education is absolutely essential, because once you know how to parent, you recognize the value of education, and the rest is likely to take care of itself.

Well, this program, Mr. Speaker, is eliminated, not cut, but eliminated in the President's budget. I do not see how we can go home and leave that zero on our record, even though the President has left it on his.

Maternal and child health block grant, if ever there is funding that gets the motherhood award of agreement of everyone, it is that grant: frozen.

Some of the freezes are just plain cruel. Why would we want to cut off hearing screening for newborns? This program was started because we learned that if you catch a newborn with hard of hearing very early, the chances of correcting it soars. Hearing screening for newborns wiped out. Can you hear us, Mr. President? This is not a program to eliminate. It is not very costly. It is very vital.

Perhaps the greatest forgotten issue of the Bush administration is health care for the uninsured. Twenty million of them are women without health insurance. What does the President have to give to them? A $1,000 tax credit for individual coverage only. I hope you have a job so the tax credit can help you out. But even this $1,000 tax credit will cover only 5 percent of the uninsured.

Women, of course, we are told in this House, particularly by our Republican good friends, are the fastest-growing small business people. Indeed, they are about half of the small business people now, they have grown so fast. Why, then, would the President want to say, well done, women. Let us cut $79 million from the Small Business Administration, the chief agency you turn to for help, assistance, and funding.

We want the President to know that there are many of us in this Congress to remind him that 3.8 million women are looking for jobs and cannot find them. Nobody even talks about women's work anymore. We assume the obvious, that women must work; and indeed, Mr. Speaker, they must. And the fact that they cannot find work has a greater effect on children than any single group who cannot find work because of the disproportionate number of these women who are heads of household.

Mr. Speaker, I have more to say about women, but I see that one of my distinguished colleagues has come to the floor and, therefore, I would like to yield to the gentlewoman from Texas (Ms. JACKSON-LEE) for her comments on this vital subject.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman from the District of Columbia for her perseverance and, as well, the rightness of her words.

Let me thank the gentlewoman from the District of Columbia (Ms. NORTON) for remembering the month of March. The gentlewoman has indicated that this is not an April Fool's joke, that we have just continued that month a little longer. In fact, what better way to commemorate than to say that the issue is so important that if April 1 becomes March 31 and-a-half, or that we begin to say that it is foolish to ignore the history of women and we do it on this day, what an important tribute, and we thank the gentlewoman.

The gentlewoman has aptly laid out, and will continue to do so I know this evening, the misery that we are facing in light of the President's budget and, of course, the need to address the concerns of child care, of health care, some of the issues that women Members of the United States Congress have had very high on their agenda, and then some of the points that the gentlewoman has made, to cut out the resources needed for hard to hear children, and she mentioned child care, as I said.

What I would like to do this evening very briefly is to add a personal note to the concerns about maternal and child health block grants that have been cut and Head Start that has been cut and, particularly, child nutrition services, which I find particularly important, inasmuch as I spent some time in my district a couple of weeks ago visiting a school and participating in their school lunch program.

□ 1900

Seeing the joy of the children participating in having a nourishing meal and the equalizing of that nourishing meal by letting all the children have it. In fact, they gave me an assignment which said that we should cut out low income and literally just give free meals to all of the children who are at the schools what are targeted because all the children are in need of good meals.

And that impacts women because it clearly impacts those women who are needing supportive services as they are seeking to educate their children. We know for a fact that we are under siege as relates to choice. And I always say the choice has no respect for age or income.

When I say that, this is not a question of child-bearing years. It is so much a question of humanity and the respect we have for the dignity of women to be able to make determinations along with their physicians and as well their spiritual advisor and their family.

Yet time after time we come to the floor of the House with constant undermining of the Roe v. Wade decision, which is a clear choice. It is not one that promotes one aspect of making a decision about an abortion or not. It does not promote an abortion, does not promote an abortion. What it does is it gives women the right to choose, the right to their own human dignity.

Why, then, do we have these constant battles regarding the partial birth abortion? As we speak, right now there are massive lawsuits across the country by physicians who have felt that their whole Hippocratic oath that they have had to take has now been challenged. And the rights of women to protect their own health has been damaged because of the legislation that was, if you will, signed into law by those who believe that they must make decisions for women and take away their individual dignity.

I hope that as we make these points we will be reminded of the historic contributions of women. And I can begin to recite certainly from the early beginnings of our history the numbers of women who engaged in this process. I remember the words of Abigail Adams who said to her husband as he went on to the Constitutional Convention, "Do not forget the ladies." Unfortunately, I think in time we did.

Certainly in this country not only were women not able to vote, but certainly those of us of African American heritage know that we were two-thirds of a person receiving more than a double indignity as relates to women.

So we know what it is like to premise, if you will, our respect for this month of women's history to the fact that women have been a part of the history of this Nation for a very long time.

In doing and recognizing their history, I am going to take a moment of personal privilege just to cite some of the individuals in my community who have given of themselves. And I will start with words from Barbara Jordan: "We want to be in control of our lives whether we are jungle fighters, craftsmen, company men, gamesmen. We want to be in control. And when the government erodes that control, we are not comfortable." Those are the words of the Honorable Barbara Jordan who does not fear holding the Constitution to its most important interpretations and that is that of freedom and that of the ability to be protected by a Constitution that respects the will of the people.

And so my tribute is to Barbara Jordan who lived amongst us, served the United States Congress, one of the first to be elected from the Deep South, and, of course, the first African American since Reconstruction to serve in the Texas Senate.

Sissy Farentheld who ran for Governor in Texas more than 2 decades ago, who was a pioneering spirit and one who did not in any way diminish her fight for justice and equality.

Ninfa Laurenzo, a prominent Hispanic businesswoman who founded Ninfa's Restaurant that still bears her name, a civic leader, a philanthropist, and someone who understood the importance of women's involvement in business.

Ruby Morly. How can I speak about a community activist, 70-plus years old, I know she would not mind me saying. Whenever there is a need for a senior citizen in our community, Ruby Morly is there.

Dorothy Hubbard who works in my office, senior citizen, but takes no, if you will, denial of a senior citizen's right to Medicare and Social Security.

Ivalita Jackson, my mom, who spent most of her life as a medical professional, as a baby nurse in hospitals, who understands the importance of health care for women.

Valerie Bennett; a businesswoman and my aunt, someone who impacted my life.

Sybil Gouden, my aunt, another academic background who likewise continued to help children, young people seek education in higher education and impacted my life.

Representative Senfronia Thompson, the senior member in the State legislature in Texas who has been a champion for human rights and who helped to push into law the hate crimes legislation which is a model for this Nation.

Representative Ruth McClendon who, out of San Antonio, is a fighter for justice. And we thank her for fighting against the redistricting undermining that was going on in the Texas legislature.

Commissioner Sylvia Garcia, the first woman to be elected to the Harris County Commissioner's Court, certainly one who believes in women's rights who has been an excellence representative of the empowerment of women.

Carol Mims Galloway, council member, who has championed the rebuilding of neighborhoods.

Council Member Ada Edwards, who has fought continuously to engage young people in the political process.

Lorugene Young. What can you say about a community activist who fights not only with her words but with her actions? And she provides clothing and toys for children from Easter to Christmas to Thanksgiving. She has never taken this attitude that the holiday is for me. She has been out there in the front lines for children.

Ruby Carver, a World War II fighter, someone who was an enlisted woman in the women's division in World War II. We honored her just a week ago. I am very proud of Ruby Carver, 84 years young, very proud that she stood as a symbol of women's involvement in World War II.

Mayor pro tem Carol Alvarado, who is now serving us as the mayor pro tem in the city of Houston and someone who is not afraid of empowering Hispanics and African Americans and women and fighting also to improve the rights of working people. And we are proud of her leadership.

Dr. Edith Irby Jones, a pioneering physician, graduated from the University of Arkansas as the first African American to graduate. Has been in practice for 50 years and has never turned a patient away.

Dr. Natalie Carrol Daily, likewise a past president of the National Medical Association and someone who has fought for doctors and the support of Medicare and joined me at my Medicare hearing just a couple of weeks ago.

Dr. Wanda Mott, not only a physician but also a scientist, someone who knows and is at the cutting edge of medical procedures for women and has been one of the major doctors of the Texas Women's Hospital.

Then we cannot close without acknowledging the many, many women that get up every day to go to work and certainly those who have made our job, our education opportunities their number one priority, that is, the teachers of America, the teachers of Houston, and the teachers of Texas and the teachers represented by many of the teaching organizations. We thank them so very much.

Then as I close to be able to thank simply the workers, women who work every day in all the fields. Women who sometimes hit the glass ceiling, women who are in corporate management who have every amount of ability to be CEOs and yet have not arrived there; women who are in academia and have every reason to be tenured and yet have not arrived; women who are in the crafts and have every ability to be foremen, supervisors, but yet have not arrived; women in the United States military who we are pulling for so that their dignity can be respected and that the sexual abuse that we have heard in this past week can be corrected so that all of the military can be accepted for their talent and be respected for their talent, as we do the fine men that are serving us. And hopefully as the days go on, that they too will continue to rise in leadership responsibilities.

And all of the women that have sought political office and still intend to seek political office, might I encourage them for the special insight that they bring to leadership in government, the sensitivity, and the ability to bring peace over war and life over death.

Then finally to the international peace activists and heads of state that happen to be women. Might we encourage you, even though this month is particularly related to the history of women in America, might we encourage you to join us in this international effort of the empowerment of women so that we can join and link arms fighting for peace. Whether it is the Palestinian-Israeli conflict, whether it is in Iraq or Afghanistan, or whether it is in the conflicts of Africa, South America or Caribbean, we ask the women of the world to stand up and be counted and join us and link arms to make this place a better place.

I thank the Congresswoman for taking the time to yield to us this evening and taking the time to present to our colleagues the importance of women in the history not only of America, but of the world.

I am here tonight, joined by my colleagues in the Congressional Women's Caucus, to ask if women are indeed in control of their lives if they cannot make their own decisions regarding their bodies.

Right now we have an Administration that actively seeks to undermine a woman's right to choose. They falsely claim to be doing this in the interest of women and children, citing both the mother and child's well being as justifications for their actions. This same Administration has frozen the Title X family-planning program in each budget for the last three years. They have also cut domestic-violence prevention programs and frozen important programs for women and children, including the Maternal and Child Health Block Grant, Head Start, and child-nutrition services.

By contrast, they have proposed more than doubling funding for unproven, dangerous "abstinence-only" programs that censor health information from young people—and instead of supporting programs that help women who face violence, they have resorted instead to exploiting the issue for an anti-abortion political base. Just this afternoon, President Bush signed the so-called "Unborn Victims of Violence Act." This legislation would, for the first time in federal law, recognize an embryo or fetus as a separate "person" with rights separate from, and equal to, a pregnant woman.

Raising awareness must be a high priority, America must begin to take this threat very seriously. On April 25, I will be joined by a million people who believe that our bodies deserve our choices, and that we must be in control of our lives, not the government. Marching in front of the Capitol, we will make our voices heard that our right to choose is at its most precarious point since over 31 years ago, when Roe versus Wade was decided. Our message will be clear: we will not tolerate the persistent government attacks on women's health and reproductive rights.

I am pleased that for the first time in its 95 year history, the National Association for the Advancement of Colored People (NAACP) board of directors unanimously endorsed a pro choice march. The Black Women's Health Imperative has also signed on. These organizations are part of a growing majority that believe contraceptive education and abortion rights for black and minority women must be a priority. Unintended pregnancy rates for African American women is almost three times the rate of Caucasian women, maternal mortality is 4 times higher for African American women than Caucasians. One out of four African American women had less involvement than they would like in decisions affecting their health care, with only 73% of African American women receiving first trimester prenatal care.

By making abortion illegal, we are going to harm those who turn to back alleys and home remedies to "fix" their situation, a scenario faced disproportionately by minorities and the underprivileged. We cannot make abortion inaccessible, illegal, or shameful. We must stand up for women's rights and let them make informed choices. I hope you will join me on April 25th to speak out against these injustices.

Ms. NORTON. Mr. Speaker, I appreciate the gentlewoman from Texas (Ms. JACKSON-LEE) coming down to offer her comments on this important issue at this time, and I appreciate the quality of those comments.

I am very pleased now to be joined by the gentlewoman from Illinois (Ms. SCHAKOWSKY) for whom these issues affecting women and children have been of priority and importance since she came to Congress.

Ms. SCHAKOWSKY. Mr. Speaker, I really appreciate the opportunity to come here to speak about women's History Month and thank the gentlewoman from the District of Columbia for providing all of us with this opportunity this evening.

They do not call it "history" for nothing. In general, the history of our Nation and our world has been about "his" story, about men's story. And it is not surprising, as men have written history books and have been considered the leaders that books are written about.

And this is not meant in any way as an anti-male statement, just a fact that most of history is about the leadership of men in our world.

I wanted to just share tonight a study that was done very recently by the Center for the American Woman and Politics, about why it is that more women do not run for political office. The premise is that study after study has shown that when women run, women win in the same numbers that men do.

And, yet, if you look at this wonderful body, our august House of Representatives, we are about 14 percent women. And the same is true of the United States Senate. And so the question really is why do we not appear in greater numbers and why do more women not run since they have equal opportunity to win?

So they did this study and what they did is they created what they called an eligibility pool, 1,000 men and 1,000 women who were from the fields that produced most candidates, business, education, and law. And by definition, the thousand women and thousand men were equally qualified. These were people who were at mid- or upper-career level. They asked them a number of questions to determine the differences between them.

One of the differences that was really disturbing and chilling to me was that when asked about their own qualifications, the women in the study were twice as likely as the men to say about themselves that they were not qualified to run for office. Now, as I said, by definition these men and women were equally qualified.

And perhaps even more disturbing, that sense of being not qualified in twice the numbers as men ran across generations. The younger women were as likely to declare themselves not qualified as older women.

So clearly we have a challenge before us. What do we do to these qualified women to make them feel that they are not so?

But there was a hopeful part of that study. What it said was that the one factor that was in some ways the most responsible for someone making the decision to run for office was being asked to run for office, someone making the suggestion. And they divided those who make the suggestion into formal actors and informal actors. So, in other words, if someone is asked by a formal actor, that being an elected official, a party official or a political activist, to run for office, they are likely to think of themselves as candidates or potential candidates.

□ 1915

So to me that said, as a woman who is interested in getting more women involved in leadership positions, what we need to do is to encourage women, encourage young women and women older than that to run for office, to put that seed in their head and create really an old girl's network, if you will, that will bring women along to think of themselves as candidates.

We also need to, in this 21st century, explore what are those situations, what is the socialization process that ends up with women not feeling as qualified to run for office.

These were women who rated the activities involved in being a candidate as being something they were even more willing to do than men; and yet when it came to that final question, do you see yourself as qualified to run for office, twice as many women as men in this pool said they were not qualified.

So this is a challenge to us, to men and women alike. If we want to have the kind of diversity, if we want to have the benefit of women's leadership, then we are going to have to build in the systems that do that and the support networks that will encourage women so that we have the kind of equality as we move forward in this century.

So I wanted to share the outcome of this wonderful study. It is the Center for the American Woman and Politics. They are at Rutgers University. They are part of the Eagleton Institute, and over the years they have provided us with very useful information in moving forward to include more women in our political universe.

So I thank my colleague from the District of Columbia for focusing on this important issue and for allowing me to participate tonight.

Ms. NORTON. Mr. Speaker, may I thank the gentlewoman from Illinois for coming forward to inform the House of this intriguing study and for giving us I think some ammunition about what our responsibility is.

Women, in fact, need to be asked. It seems to me there is some asking that we all need to do; and you consider that women are increasingly better qualified, by education, to hold office because they get more education. You wonder what more do they need.

I guess it is important information for us all to have, and it is challenging information, and I thank the gentlewoman for staying this evening to come forward.

PARTIAL BIRTH ABORTION

Ms. NORTON. Mr. Speaker, a previous speaker spoke of the March for Women's Lives that is coming forward on April 25 next month. That march is being sponsored by nonpartisan organizations, tax-exempt organizations. So they come forward not under any political banner, but they do carry a banner.

They carry the banner of American women, and they fear for the right of choice that women won only in the last few decades. They fear about the Supreme Court and whether it will hold fast or whether it will overturn its own precedents quickly.

Today, Mr. Speaker, the case on the partial birth abortion ban is being argued in three separate jurisdictions at the very same time. Here we have the determination of some in the Congress and some in the country to simply go back to where we were before Roe versus Wade, and it looks like they will not stop, no matter what the Supreme Court tells them.

The Supreme Court settled this question in Stenberg versus Carhart, and when the Supreme Court speaks, we should usually respect the Supreme Court, because the Supreme Court, under the Constitution of the United States, is the final arbiter of constitutional right. That is the difference between us and many other countries, because the Constitution says you must respect certain rights even if the majority does not agree, but of course, when it comes to choice, the majority does agree.

Of course, late-term abortions are controversial, and this bill would not be controversial if it did not overstep. Under Roe versus Wade, of course, the State may regulate the third trimester, but that is not what is at issue in Stenberg versus Carhart.

This law is worded, it would seem, deliberately to trap the second trimester as well, the trimester where, of course, women are freer than they would be in the final weeks. Under the wording of this law, it is as clear as day that beginning in the 13th week procedures that are the most commonly used could not be used without risking prosecution.

The fatal flaw in the bill, of course, is that there is no health exception. So no matter how grave the risk to the health of the woman, a woman would not be allowed to have an abortion, as it turns out, under this bill, beginning with the 13th week, as it is worded and certainly not beyond.

I think that the American people are depending on a Supreme Court that will, in fact, respect the constitutional rights the Court itself has indicated are there for women. I want to quote from what the Supreme Court indeed said in the Stenberg decision to indicate why I really do not fear that the law that has just been passed, and indeed I think was signed today by the President, I do not fear that that law will be overturned by this Court. I do fear we could get a different Court, and that is something that every woman in America, when she goes to the polls in November, should bear in mind.

This Court has said the following, and I am quoting:

"Using this law some present prosecutors and future attorneys general may choose to pursue physicians who use the most commonly used method for performing previability, second trimester abortions. All those who perform abortion procedures using that method must fear prosecution, conviction and imprisonment. The result is an undue burden upon a woman's right to make an abortion decision. We must quickly find the statute unconstitutional."

The court has spoken. Trying to overturn the Supreme Court does not work in our system. Let us hope that whatever the Court says this time is, in fact, respected.

EQUAL PAY FOR WOMEN

Ms. NORTON. Mr. Speaker, I am a former chair of the Equal Employment Opportunity Commission, so I cannot let this hour go by without saying a word about perhaps the right that most women depend upon today and recognize today and that is the right to equal pay.

This Congress has not looked at the Equal Pay Act since it was passed 40 years ago in 1963, more than 40 years ago now, and yet we are in a different world, with women with different aspirations and jobs totally different from what they were at that time.

To that effect, many women and men in this body are trying to update the Equal Pay Act with a Paycheck Fairness Act. The Paycheck Fairness Act is not a very radical piece of legislation. It would add national origin and race to the Equal Pay Act. The Equal Pay Act bars unequal pay on the basis of sex alone.

It would seem that by now everybody would agree that it is time to make sure that the typical protections involving the groups that are most likely to experience discrimination would find their way into the Equal Pay Act.

A very important part of the Act would keep a person from being punished or being fired for discussing her salary or his salary in the workplace with others. This is a favorite ruse of many employers. They do not want colleagues of one another to know what they make because, if they do, women might say, I do not know why this man is being paid more than I am.

A woman should be protected. If she goes to a man who is doing a job like hers or unlike hers and says, could I ask you what is your wage, what is your salary, there is no such protection now, and a woman could be fired for discussing or inquiring of the wage of another colleague.

Along with Senator TOM HARKIN, I have introduced the Fair Pay Act. Just as the Paycheck Fairness Act updates the Equal Pay Act, our bill would update the equal employment opportunity, Title VII of the 1964 Civil Rights Act, so that jobs that have the same skill, effort and responsibility would have to be paid the same.

Today, there are women doing work of equal value to the work of men who are being paid grossly differential salaries. For example, a man and a woman both graduate from college at the same time. He becomes a probation officer. She becomes a social worker. Guess who makes the most money? It would be very difficult to make the case that his job as a probation officer is more difficult than her job as a social worker.

The reason for the discrimination is that we still have sex segregation of jobs in our society, jobs that are essentially for women and jobs that are essentially for men, and the jobs that are for women are paid often according to gender, as opposed to the job to be done.

Women work in essentially three fields: clerical, sales and factory jobs. You will find that where women are bunched together their salaries are lower than men who do comparable jobs. As a result, the society is flailing around looking for women in the traditional women's occupations: teaching, nursing, social work. Women are fleeing those occupations, for no reason other than they are going where the money is. Nurses are becoming doctors. Social workers are becoming lawyers. Heaven knows who is going into teaching today when we most need them.

People who get educated are not going to continue to join professions that do not pay them according to what they are worth. Because women have filled very vital occupations in our society, this is dangerous indeed. One has only to go into the hospitals of America to understand what pressure we are under. We cannot get enough nurses. There are strikes at hospitals. Nurses have to work on weekends, do not enjoy holidays. It cannot go on this way forever. An easy way to right that wrong is raise the pay.

I am an attorney. I have to tell you that this profession has been overpaid since it came into existence. Pay has nothing to do with the worth of lawyers. What it does have to do with is that it has been a male profession. I joke with my friends who are lawyers that as there are more women in the legal profession we are going to drive down the wage because it will be seen as a woman's occupation.

Very seriously, the occupations that concern me most are occupations that the society perhaps most depends upon: people to teach our children, nurses who in a very real sense are more vital than doctors today because of the breadth and depth of the health care tasks they perform, social workers because there are so many parts of what the society needs that have now integrated their skills.

We are in very deep trouble when people abandon these professions. We can recruit all we want to. We can preach all we want to. The way to get men and women into these professions is to pay these professions what they are worth.

Under our bill, a person could sue if, in fact, in the same workplace somebody in a comparable job was not paid for reasons of sex the same as that person. You would have to prove it. The burden would be on you. This would not change our economic system in any way.

□ 1930

It fits right into the way in which title 7 requires that you prove discrimination, and here you would have to prove that the difference in wage is based on discrimination. Because the difference in wage can be based on any number of factors, and the burden would be on the women.

In case you think this is a far-out idea, let it be known that 20 States have already done wage studies and adjusted the wages of women State workers based on those wage studies that showed that the wages of women were out of whack because they were women. In these States all over the United States, not following any particular pattern, north, south, east, and west, the wages have been raised for women who were teachers, nurses, clerical workers, and librarians simply based on looking at the skill, effort, and responsibility of the jobs they perform.

The evidence that women are continuing to be paid less is rampant in our society. The favorite I would cite is Wal-Mart, because it is the largest corporation and the most expanding corporation in our country and women there make $1.16 per hour less than men. Is that why the prices are so low? Are they saving on what we spend on the backs of their own women workers? That is worth finding out.

Mr. Speaker, finally, I want to say a word about poor women, because there is so little discussion about women who do not work and want to work. I am very concerned about the TANF bill. About the most important thing that happens to a woman who becomes pregnant before marriage is that she wakes up and understands that there is somebody she is responsible for besides herself. It is an extraordinary awakening that occurs and maturity for such a woman. And I have seen what women are willing to do after the birth of such a child that they were not willing to do before, and one of those things is to go to school.

I cannot for the life of me understand why the TANF bill that we passed would not allow a woman to work part time and go to college part time if she had the gumption and the energy to do so. I do not know what we expect. Should she go off TANF and work at a minimum-wage job, or one close to minimum wage for the rest of her natural life? How does that help the children?

The whole point of this bill was to bring greater responsibility and to encourage people to take that responsibility or we were not going to pay for them. About the best way to take greater responsibility for yourself is to educate yourself and make sure you can support yourself decently, not just support yourself. What have we done? We have increased the work hour requirements to 40 hours per week and then limited what counts as work. It is penny-wise, pound-foolish, and cruel.

And, Mr. Speaker, one thing we are not going to let this House forget is that the Republicans in this House killed the child care credit for poor women and poor families; that those families that earn between $10,000 and $26,000 a year, including military families, cannot get that child credit. That issue is not going away. We are going to carry it to the American people. We are not going to let this House forget it until we have made good for those who most need the child care credit.

Mr. Speaker, I want to close simply by paying tribute once again to Dr. Dorothy Height and thanking the Congress of the United States for conferring on Dr. Height the Congressional Medal of Honor.

Dr. Height was for many years a resident of the State of New York. It is my great good fortune that a few years ago she moved to the District of Columbia and has become my constituent.

This is an American who richly deserved the honor she got last week. She has spent her whole life doing what many leaders have found difficult to do, fighting for a particular group while bringing people together. It is easy enough to fight for your own group. To a black woman, nothing is easier than for me to get up and talk about black women and what they need and what has been their history.

As the president emeritus of the National Council of Negro Women, that of course is what Dr. Height has done for most of her life. She is now 92 years old. Why America was justified in awarding her the Congressional Medal of Honor is she has managed to fight with great strength for African American women while preaching the message of inclusion and brotherhood and sisterhood of all people at the same time. They are not contrary messages, but there are few who have been able to bring them forward and make them believable to those they reach.

I am particularly grateful as a young woman when feminism emerged that Dr. Height was one of those feminists who made black people understand that as white women came forward and demanded their equal rights, that that took nothing from black people; that their own movement for full equality was a movement that called forth universal principles; that black women had much in common with white women; and that this was not a cause for the two to be in dispute, but rather to be in coalition.

The world does not have enough leaders like Dorothy Height. That is why we extol them when we find them: the Mandrels of this world, the Martin Luther Kings of this world, and, yes, and the Dorothy Heights of this world.

Mr. Speaker, I appreciate that we have been granted this time so that American women understand that March would not go by, for those who expected women to come forward in this House and commemorate Women's History Month, that that month would not go by entirely without us remembering that this House, this Congress must never forget its women; that we must never forget the women of the world. And one way in which we indicate that women are always on our minds is to choose a month where we talk about them.

We have been talking about women throughout this House. We have been talking about their issues. It was time to talk about women on the floor of the House of Representatives this very evening.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order this evening.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

Ms. PELOSI. Mr. Speaker, in March, we celebrated Women's History Month. We remembered those who have contributed to our progress, we recognized those who are changing our communities today, and we rededicated ourselves to improving the lives of women.

Women want what men want: a fair opportunity to succeed, a safe and prosperous America, good paying jobs, better access to health care, and the best possible education for our children. Women want a secure retirement, the freedom to make the most of our lives and to make our own choices, and the chance to shape the future of our Nation.

Yet in terms of policies to assist women, we are lagging behind. Half of those currently living in poverty are single mothers. More than 3.8 million women are looking for work. Women are still paid only 80 cents to a man's dollar. And the Republican controlled Congress and the Bush administration continue to wage an assault on our reproductive rights, believing they can make better choices than women and their doctors.

To open doors of opportunity for women, I am proud to support policies in Congress that promote equality such as the FAIRNESS Act, which protects workers from discrimination on the basis of race, age, disability, or gender. I have long been a strong supporter of legislation to demand equal pay for equal work. My colleagues and I support legislation to increase the minimum wage to help single mothers and working poor women provide adequately for themselves and their families.

In every field, we must and will be equal partners in determining the future. Women represent more than half the population and are among the most knowledgeable and important thinkers in every field of policy, from science to education to health care to national security.

Women in government have made great gains but still face continued challenges. When I was first elected to Congress in 1987, there were only 16 women in the entire House of Representatives and only 2 in the Senate. Today, there are 62 women in the House and 13 in the Senate.

However, of the nearly 12,000 Members who have served in Congress throughout history, only 209—less than 2 percent—have been women. From 1916, when Jeanette Rankin of Montana became the first woman elected to Congress, until I was elected Democratic Whip in 2001, no woman had ever served in the top Congressional leadership.

In March, it was my privilege as House Democratic Leader to honor three magnificent women: journalist Mary McGrory, the late Congresswoman Mary T. Norton and civil rights leader Dr. Dorothy Height.

On March 2, I hosted a reception for Mary McGrory, the pioneering reporter for the Washington Star and Washington Post who has delighted so many readers and inspired so many women. For more than 50 years, she has walked the halls of Congress, interviewing Members, covering Congressional proceedings, and providing a voice for progressive issues. First, as a reporter for the Washington Star and then with the Washington Post, she earned a reputation for her brilliant reporting and her ability to get to the heart of any debate. She also earned a Pulitzer Prize—the first to a woman for commentary—for her coverage of Watergate.

On March 18, several women Members gathered in my office to unveil a portrait of the late Congresswoman Mary Norton of New Jersey, who in 1924 became the first Democratic woman elected to the House. She was the first person in modern times to chair three major committees. A solid supporter of President Franklin Delano Roosevelt's New Deal, her finest hour may have been passage of the Fair Labor Standards Act of 1938, while Chair of the House Labor Committee. She was instrumental in raising the minimum wage from 40 cents to 75 cents per hour.

In a marvelous ceremony in the Rotunda of the Capitol on March 24, Dr. Dorothy Height received the Congressional Gold Medal, the most distinguished award bestowed by the U.S. Congress. The struggle for equality in America in the 20th century—for civil rights, for women's rights, for voting rights, for human rights—is the story of Dr. Height's life. At age 92, she remains a beacon to her own generation and generations to follow. Countless young people have been inspired by her idealism, strengthened by her courage, and guided by her faith. She has empowered these young people to make a difference by her own passion for justice.

It is a great honor to be the first woman to lead a party in the House of Representatives. When I was first elected to that position, we made history. Now we are making progress. As we celebrate the achievements of women throughout history and work toward progress of our own, we are inspired by the words of Eleanor Roosevelt: "It's up to the women!"

Ms. SOLIS. Mr. Speaker, for over a decade, Women's History Month has celebrated the achievements and accomplishments of women nationwide. The incredible contributions women have made in politics, science, art, and activism, demonstrate some of the revolutionary advancements in American women's rights. Women today follow in the footsteps of pioneers such as Elizabeth Cady Stanton and Alice Paul, who fought for women's right to vote in 1920, or Dolores Huerta, a contemporary champion of women's rights.

We must continue to create platforms for women's voices and opinions and support a continuing momentum toward women's freedom and equality. During this month and throughout the year, women all across the United States should take a moment to recognize the gains afforded to them through their predecessors' hard work and unwavering commitment to improving the lives and rights for all women.

As a Latina, and one of 16 million Latinas nationwide, I recognize some of the unique and continuing societal obstacles for Latinas—like unequal pay, educational disadvantages, unmet health care needs, and civil rights struggles. I am certain, however, that through the work of courageous leaders in our community, our accomplishments and contributions as women of color will continue to grow well into the future.

Together, women will continue to make the difference.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

NARCOTICS IN THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SOUDER. First, Mr. Speaker, let me thank tonight's Speaker pro tempore, the gentleman from California (Mr. OSE), for his leadership in Congress on the issue that I am going to address tonight, which is our narcotics problem in the United States. He has been a valuable member of this subcommittee from the time he got here, an aggressive member. We have held several hearings in California with him.

And I want to personally thank him and tell him how much he will be missed, since he has chosen to leave Congress, because we really need people of his expertise and his commitment. Thank you very much.

Mr. Speaker, there are a number of issues on narcotics I am going to talk about tonight. We have had a busy number of days here in Washington on this subject, and I want to start first with Colombia, where we have the largest investment in the narcotics effort.

Just not that many days ago, President Uribe, the President of Colombia, was here. He met with leaders on both sides of the aisle. He met with the Speaker's Drug Task Force, which I cochair; and we had the opportunity to hear what is interestingly one of our great success stories.

In the area of narcotics, it is not possible ever to totally defeat the drug problem in America because every day new people are exposed. We are dealing with fundamental human weaknesses. But we can either make progress or we can go back. We were making progress for nearly 10, 11 straight years when Ronald Reagan implemented a policy of "just say no," articulated so ably by the First Lady.

We, in fact, made tremendous progress. It was not just a slogan, just say no, but that was the message communicated to young people and people across the country. There was an aggressive effort to cut the sources of supply, interdiction, law enforcement, along with efforts in communities around the country to just say no and then help those who fell into drug abuse.

As we backed off of that in the early to mid-1990s, and sent a different message of "I didn't inhale," and cut back interdiction efforts, cut the drug czar's office from 120 employees down to about 30 employees, we saw such a surge in drug use in the United States and narcotics in the United States that it would take a 50 percent reduction from the 1993–94 levels, at the peak of the kind of drug revival in America to get back to where we were in the 1990–91 era.

In the latter years of the Clinton administration, and since President Bush has taken office, we have had a steady reduction in drug use in junior high, sophomore year in high school, senior year in high school; and we are making steady progress. We have also had dramatic changes in the country of Colombia.

Let me briefly refer to this map of Colombia. Colombia is a large country, the oldest democracy in South America. We often hear about its civil war, but it is a civil war with thugs. It is not a civil war in the sense of a traditional type of civil war. These are people who are violently trying to overthrow their government. Any poll will show any numbers in the group, and a number smaller than our prison population in all but a few States even, let alone our country. They are people who are thugs who have not been captured, and they provide protection and are increasingly taking over the production of cocaine.

Ninety percent of our cocaine comes from Colombia; the heroin, and most of our heroin in America comes from Colombia, and they manage a lot of the networks for the marijuana distribution as well. But that was not always the way in Colombia. Colombia has been destabilized because of our use of narcotics in the United States and in Europe.

Colombia is a beautiful nation for tourism, with Cartagena and many cities along the coast. This is the Amazon basin here, feeding into the Amazon River. You have, in the darker green, beautiful areas of rain forest in that basin. These are the start of the Andes Mountains, beautiful high mountains. Up along the border with Venezuela we see Lake Maracaibo, the big piece of water coming in, and Venezuela there is one of the richest oil areas in the world, which is also true down in Colombia.

We spent, with American tax dollars, millions to try to protect that pipeline.

Colombia was our eighth largest supplier of oil. More than Kuwait. But it was stopped as narcoterrorists came in and started breaking the pipelines to try to deny the government of Colombia the ability to function. The oldest democracy.

Anybody who has seen the fiction movie "Clear and Present Danger" has at least a fiction version of the violence that took place there, and an understanding of when the Cali and Medellin cartels were dominating the country what that was like. They basically corrupted the government, killed lots of the judges, killed 30,000 policemen, which is the equivalent of an incredible number in the United States. But they had oil. They were a rich oil country.

This area in here, and in some of the other multiple other zones, is of course the richest coffee area in the world. You hear about Colombian coffee. If you have emeralds, they come from Colombia, odds are, unless they are fake. Gold. They have gold there. Most of our flowers that we buy in the United States come from there. If you fly into the beautiful city of Bogota, in the lower parts of the Andes, you will see just acres and acres and acres of places growing flowers. Many of the supermarkets, the major chains bring that in. I have heard a figure as high as 70, 80 percent of the flowers sold in America come from Colombia.

It is a stable, solid, economic country. That is not even mentioning textiles and other industries there. It is the oldest democracy that has been wrecked by us and by others. Now, as these cartels have had an impact, it has destabilized their political system.

□ 1945

What we have done is ramped up what we call the Andean Initiative to not only cover Colombia but Peru, Bolivia and Ecuador with some help over to Brazil on the far side and some to Venezuela on the top and some to Panama on the sides, but we have mostly got it concentrated in Colombia.

What we have seen as Congress appropriated additional dollars, our peak was probably $800 million a year, of which about 60 percent was for eradication efforts, 40 percent was to help rebuild their infrastructure, police forces, law enforcement, alternative development and other things like that, that coca eradication in this past year, after several years of this aggressive pressure and with the brave president of Colombia, President Uribe, when I say brave, what I mean is this:

His father was assassinated by the drug dealers in Colombia. He has had multiple threats on his life. When I was there along with the gentleman from Massachusetts (Mr. FRANK) at the swearing in and the inauguration of President Uribe, they attacked us. The two of us would have just been a footnote if we had died because there were many others there, too. But, as we left, we heard this big boom. I remember the gentleman from Massachusetts saying, "I've never heard of a one-gun salute." We were supposedly inside a perimeter of roughly 10,000 soldiers protecting us, but they had launched Howitzers from about a mile and a quarter away.

At first they went one way off, then they went in the other direction off, then they hit a housing complex and killed a bunch of people, then they hit the corner of the presidential palace, but by that time the helicopters and everybody were on them so we were spared. But they tried to kill him on his inauguration day. There is a multiple-million-dollar price on his head or his family, yet he carries on.

Vice President Santos was kidnapped by the drug traffickers. He escaped. He was a newspaper publisher-editor in Colombia. He escaped from the drug traffickers, came back and decided to run for office.

That is what you call two committed people, when they are so willing to stand up to the drug traffickers. Even when they have had their family killed and they personally have been kidnapped and have the threats on their life, they are standing there fighting.

This is not Vietnam. This is not a country where we are asking, will they help? Will they do their share? This is not, quite frankly, even what we see in Iraq right now or Afghanistan right now, where we wonder sometimes which side the Iraqi police are on. When we see that incident the other day, it is like, Why were you standing there when they were killing American contractees?

That is not the case here. They are dying because of our drug use, and what we are doing is supplying them with the training and the backup to do this.

What has happened with this, and particularly with President Uribe's aggressiveness, is that they are now not just eradicating the coca crop once, they are eradicating it three times. Because coca, and the equator is down more in this area, somewhere in this zone, it is just among the best places in the world to grow this type of crop. You have elevation for heroin poppy, you have lots of rain, it can grow and plant multiple times a year. So unless you are really committed, you can do this token stuff. We sprayed it, we eradicated, yeah, but they got two more crops in that cycle. The question is, did you hit all three?

Now, with adequate funding, we are hitting all three. We are going after them, President Uribe is going after them, and now alternative development can work.

If on a street corner of the United States you can make $400 as a lookout for a drug group, it is pretty tough to talk you into working at McDonald's for $5.50, if you can get $400 with no risk. But if there is a risk you might go to prison, if there is a risk you could get shot in a drug shoot-out or something, then maybe you will take the $5 job. We cannot pay everybody what the drug dealers can pay them, but with this pressure we are seeing alternative development start to take place.

Let me give you some of the good news from Colombia.

Coca eradication has increased 57 percent and poppy eradication 27 percent. In some areas, they eradicate crops by hand. In other areas, with the assistance of the U.S. Department of State Air Wing, a precise aerial campaign surgically targets and destroys illicit crops. The chemical used is the same available to Americans for use at home from hardware stores.

By the way, they use the same thing we spray with to put around their crops to kill weeds. So if it is a problem when we spray to kill the coca, it is a problem to go to any grocery store in any nation of the world because it is the same stuff. It is not dangerous stuff. That is one of the tremendously wrong rumors that spread, and it is not helpful for people to not tell the truth about this stuff.

In drug seizures, coca base seizures have increased 813 percent, heroin seizures have increased 296 percent, drug labs detection and seizures have increased 321 percent. In Bogota alone, 2.8 tons of drugs were confiscated. These seizure statistics are exclusively credited to the Colombian National Police and Armed Forces. Their commitment is in evidence every day.

Interestingly, even more important in one sense, it is very important that we control the coca and heroin, but long-term we have to have some stability. Quite frankly, the coca and heroin was so stockpiled that we have not seen all the results yet, and we need to start to see results on the street prices and supply in the United States.

But we have also had other successes. Roadblock-type kidnappings are down 78 percent. Bank robberies are down 69 percent. Extortion kidnappings are down 64 percent. Massacre events and victims are both down 43 percent. Homicides are down 17 percent. The 2003 homicide rate is the lowest rate recorded since 1987. The rule of law and the power of the Colombian judicial system have improved markedly. Their commitment is in evidence every day.

This is important, because for the first time in the populous areas of Colombia for decades they are getting stability. I had one meeting in my office with a Colombian-U.S. business group, and they got a phone call because at the school there where most of their children go in Bogota, there had been a kidnapping that day. I think it was in Bogota as opposed to Medellin, but whichever city it was, there had been a kidnapping where the FARC and the narcoterrorists had blocked off a bridge and got a young mother with her daughter. They all knew the person, they were all relieved that it was not their family, but can you imagine living with that every day about the kidnappings?

Three different groups, ELN, the FARC and the so-called paramilitary groups are all practicing now, managing drug trafficking and the kidnapping. They are finally meeting a government that is committed and going after them. We are supplying the assistance to do it, not boots on the ground in battle but providing the technical assistance to keep the helicopters up.

Our total investment in this battle when it is directly related to the United States and our hemisphere is 400, proposed to increase to 800. It is nothing. We have got that all over the world, and they are not on the front lines getting shot at. The ones that got captured were doing backup, and the FARC basically got them by accident, shot them, kept them and killed some. We are trying our best to get them out. But they are not out there. They are not the ones in the front lines doing the fighting or getting shot at like in Iraq because the Colombians themselves are doing it, and we have been accurately and thoroughly training their forces, that they have basically taken back their country. Seventy-four percent reduction in road attacks, 67 percent reduction in bridge attacks, 67 percent reduction in electric infrastructure attacks.

It is pretty tough, as we are seeing in Iraq. If you cannot get your electric system to work, if you cannot make sure that the bridges are working across a river, if you cannot make sure that people can drive down the highway, it is pretty tough to establish law and order in a country. It is pretty tough to make sure that alternative developments, palm heart or soybeans or bananas or whatever you are growing, can get to market if you are going to be kidnapped, the bridge is out, the electric system is knocked out. So it is really important that we have had this type of success in Colombia, and it is something we can brag about.

They now have in every single metro area now a Colombian National Police presence. That is an extraordinary jump from just a few years ago that along the Putumayo that we are finally seeing some order.

Part of our problem, what is difficult, is that as we establish order in the populated areas, they are pushing into that Amazon jungle. The biggest threat we have to the rain forests of South America are from narcotics and coca and in particular labs. Because when you fly over, you see the chemicals pouring into the rivers. It is not timber cutting that is the biggest threat. It is narcotraffickers that are the biggest threat. Furthermore, what happens is they will move these people.

There is a national park in Peru that is having a similar problem. They are worried about Ecuador. But in the national parks in Colombia, they will move out there with their labs, move farmers out there, often under forest or some with lure of high pay. They will then establish a colony out in the rain forest. Then when we say we want you to do alternative development, they will go, there is no road. Of course there is no road. They are carving landing strips in national parks and planting illegally in national parks and then they complain to us that we can't do alternative development. They cannot be there. That is not a logical market-based thing, and that is a hard thing to say when we deal with alternative development, but it is the truth.

So Colombia is a success story. It does not mean every day it is a success. It does not mean there are not attacks. It does not mean that we have eliminated coca and heroin, but Colombia is a remarkable success story.

If we remain firm and President Uribe remains firm, we are at a very, as the drug czar, the director of the Office of National Drug Control Policy, John Walters, says and all those involved, we are at a tipping point, that if we keep this pressure on, we may see successes like we have seen in Bolivia, Ecuador and Peru which, by the way, the old idea of the balloon that if you squeeze one place, it is going to pop out, we have squeezed it in and we may be at a historical tipping point if we just stay the course.

Next I want to touch on Afghanistan. Earlier today we held a hearing on Afghanistan entitled "Afghanistan: Are the British Counternarcotics Efforts Going Wobbly?"

Where did we come up with the expression "are the British counterdrug efforts becoming wobbly?" Let me say a couple of different things.

First off, the expression comes from this. When Margaret Thatcher received the Presidential Medal of Freedom from former President Bush, better known as Bush 41, he said about her:

We will never forget her courage in helping forge a great coalition against the aggression which brutalized the Gulf. Nor will I forget one special phone conversation that I had with the Prime Minister. In the early days of the Gulf crisis—I am not sure you remember this one, Margaret—in the early days of the Gulf crisis, I called her to say that though we fully intended to interdict Iraqi shipping, we were going to let a single vessel heading for Oman enter port down at Yemen, going around Oman down to Yemen—let it enter port without being stopped. And she listened to my explanation, agreed with the decision, but then added these words of caution, words that guided me through the Gulf crisis, words I'll never forget as long as I'm alive: "Remember, George," she said, "this is no time to go wobbly."

The question is, as we are reaching a very critical point in Afghanistan, have the British gone wobbly?

Let me say, as we have repeatedly said, the British are our best friends in counterterrorism; and they have been the ones who have been most aggressive about going after heroin in Afghanistan.

Let me share a couple of introductory points on this. Last year's Afghan opium production was the second highest on record. That is a sobering fact if you think about it, because that means if it is the second highest on record, it is the second highest while we were there and the British were there, opium production went to the second highest on record. According to data and maps provided to the subcommittee by a U.S. intelligence agency, Afghan opium poppy cultivation is soaring and the estimates of hectares under cultivation are now approaching the highest level of past production.

I am concerned because over 20,000 Americans die every year from drugs and 7 to 10 percent of heroin sold in the U.S. is traced to the Afghan region. We do not really know exactly how much it is. It may be higher than that. We know at one point it was 50 percent, but right now the problem in Colombia is that the heroin seems to be coming in from there and most of the Afghan heroin seems to be moving to Europe. But if this much comes to market, it will pour into the U.S. and drive prices down, so even if we succeed in Colombia, Afghanistan is going to overrun us.

The United Nations Office on Drugs and Crime, UNODC, has conducted annual opium poppy surveys in Afghanistan since 1994. The 2003 survey shows that Afghanistan again produced three-quarters of the world's illicit opium last year. In other words, Colombia is only really supplying opium to us. Afghanistan is supplying the rest of the world. That is not true of cocaine. Colombia supplies cocaine to the whole world, but in heroin we get it from Colombia, it appears, and most of Afghan heroin covers the rest of the world.

The UNODC concluded that out of this drug chest some provincial administrators and military commanders take a considerable share. Terrorists take a cut as well. The longer this happens, the greater the threat to security within the country and on its borders.

What we focused on in the hearing this morning was that the British-led effort on eradication of opium poppy is stalled just as the opium harvesting season in the south of Afghanistan is upon us.

We also took our U.S. Defense Department to task as well because they have not been going after some of the storage centers and other things and the British had complained to me in London, both in their military departments and in their intelligence areas, that we had not been committed to certain eradication efforts. At an interparliamentary conference twice in the last 2 years they have complained about American enforcement, and here we seem to have some wobbling by the British and we are trying to understand what exactly is happening here. It does not appear to be Prime Minister Blair or Mr. Straw, it does not appear to be the guys precisely on the ground, but somewhere in the middle here they have put a hold.

What do I mean by a hold? The Assistant Secretary of State for Narcotics, International Narcotics and Law Enforcement, who oversees not only Colombia but the efforts in Afghanistan and not just the anti-narcotics efforts in Afghanistan but this agency oversees all the law enforcement efforts in Afghanistan, I am going to read some of his testimony from today:

Initial reports just in from the field in Afghanistan, this is as of even yesterday, indicate that we could be in the path for a significant surge, some observers indicate perhaps as much as a 50 to 100 percent growth in the 2004 crop over the already troubling figures from last year. By these estimates, unless direct, effective and measurable action is taken immediately, we may be looking at well over 120,000 hectares of poppy cultivation this year.

□ 2000

"That would constitute a world record crop empowering traffickers and the terrorists they feed, raising the stakes for and vulnerability of Afghan democracy, and raising the supply of heroin in the world market."

Assistant Secretary Charles continued: "Even more disturbing, these reports indicate that the clock is ticking faster than many anticipated due partly to warmer than expected weather in southern and eastern Afghanistan. As a direct result, the time for action may be shorter than anyone anticipated. I," Assistant Secretary Charles, "have recently learned in the U.N. Office of Drugs and Crime that they expect the unusually warm weather in southern Afghanistan will result in an early harvest which in some provinces has already started."

What does this mean? It means that they were projecting we had several more months to complete an eradication project and they need to go now, not later, now; and that if we do not move now, the whole cycle, which normally would go into fall, is going to be moved up, and if my colleagues see Afghanistan there, the southern half roughly going up to the east side, 58 percent of opium eradication is supposed to be done by the British, 42 percent by us. Because the British are in the south in the Pashtun areas and where it is warmer and also less mountainous. The mountains are not as high. It is warmer. So the opium is flowering now. And in the north, where we are more in charge of eradication largely in Tajek areas, but other areas as well, starting May 1 we will start our operations and moving in.

Here is some of the political dilemma. The British for some reason, in kind of a bizarre position, seem to be saying, and this is literally what we heard from Secretary Charles under questioning today, is his understanding was they said, Since we did not get the heroin eradicated earlier and it is starting to flower, we really should not destroy it because it will destroy the farmers' income for this period and that would be terrible because they have worked this whole long period to bring it to market.

And we think, wait a second, this is not soy beans. First off, let us get this straight. Ninety-two percent of the agricultural land in Afghanistan is not heroin. Afghanistan does not have a heroin tradition. It has gone in and out. But as the former King told us when we met with him when he was still in exile and then when I was recently back over in Afghanistan again, during their kind of window of 30 or 40 years of a benevolent monarchy and moving towards a democracy, in their first years of democracy, they were not a heroin country. They were the breadbasket of that whole zone because where they can grow heroin and coca, it is also great for other products. But they switched over partly because of the Taliban, which got 80 percent of their income from heroin.

The question is who is going to run this country? Furthermore, a lot of the Northern Alliance groups that were aligned got their money from heroin. That was how they operated their country as they were war torn and blowing up other things in ways to make money and the regular farmers would get terrorized because they could get more money faster through heroin. It is a mess. And that as we tackle Afghanistan, if we are really going to try to restore order there and not have these terrorists and drug lords who are becoming more rapidly around the world the same people, we have to get at the heroin.

Now, the argument here is we are talking about only 8 percent; so the market has covered 92 percent but these 8 percent, mostly in politically potent highly, what we would call war lord areas, is a problem.

Let me finish my other point with the British in the flowering at the last minute. As Secretary Charles said today, this would be roughly akin to not apprehending a drug cartel person as they were bringing the money into the bank because they put up the whole network, they grow it, they distribute it, and now they are ready to deposit the money and they are nabbing them then. They should have got them at the beginning, not when they are getting ready to put the money in the bank. So why do they not just let them go? I mean, the logic of this is crazy. This would be as somebody does all the work to lay out a bank robbery, they conduct the bank robbery, they steal the money, and then we get them at the tail end, but they put all that work in. I do not know if we should stop them.

Furthermore, this is not benign. The heroin poppy where we are trying to be so generous, apparently, and not eradicate because we do not want to deprive the farmers of their income is going to kill people. It is going to leave families addicted. It is going to have women being beaten at home and children being abused by their parents because they got this heroin poppy. This is not a benign flowering marigold flower. It is a heroin poppy that is going to kill people, maim people, lead to automobile wrecks, terrorism around the world. Why in the world would anybody think that they are not going to eradicate it when it is flowering? We cannot sit there with planes on the ground, twiddling our thumbs, while the world is about to be assaulted by the biggest crop of heroin in history. It is nonsensical.

Furthermore, if we do not crack down and if the British will not be aggressive in the southern part of Afghanistan with the Pashtuns, how do we think that the Northern Alliance groups who are also growing and protecting some of the people are going to be if we go into the Tajeks and the Uzbeks and those tribal groups in the north? They are going to say we did not do it to the Pashtuns, and we are back to the tribal breakups in the country because we are discriminating between the two different groups.

We have got to get this policy together. Nobody is against alternative development. Nobody is against better roads, building better hospitals, building better schools, rebuilding their legal system, protecting people. But we cannot not eradicate if they have grown something that is going to kill people. This would be akin to not getting a stash of machine guns because somebody built the machine guns or are about to get the profit and they need the income. These poor gun traffickers just need this money and they are trying to feed their kids and take care of their family and cover their health costs. We should not take all the gun traffickers' money away by getting their guns. What kind of nonsensical argument is this? We need boldness now, not wobbliness, out of both the United States and Britain.

And as far as the American Government goes, we will soon be having a hearing with our Department of Defense because we finally got, at least it appears, at least a regional memo in Afghanistan where they finally are saying if they find drugs and drug paraphernalia on people they capture, they should seize it. But they still have an order that says that they cannot use our military to eradicate. And in response to my question to Assistant Secretary of State Charles today where I said if they see stockpiled laboratories which the British have been criticizing us for not going after, does the Department of Defense tell the Department of State or DEA or anybody that they are there so somebody else can go get them? Because if the Department of Defense has decided they are too busy trying to get bin Laden, which we all agree that we have to get the terrorists, but we also need to get the funding for terrorists, we also need to establish democracy, if they cannot do it with the military, will they please share the information because I and other Members who have been over there know they can see it? There is no point in denying to us that they do not know where it is or that they cannot see it. The problem is who is going to get it? We are putting more DEA people in. We are getting more drug eradication groups in, and we need to go after it. Because if we fail to eradicate, if we cannot get it at the laboratory area, if we cannot get it in the distribution centers, it is going to wind up harder and harder to get.

Look at these arrows coming out of Afghanistan, a similar problem with Colombia. If we do not get it at its source, then it gets harder to find the labs. Then when it starts to move up through the Stans, through Russia, through Turkey, into Europe, down around and up the Suez Canal, they cannot get it. Then it is all over our streets. Then in America, 20,000 deaths because of drug abuse. Terrorism in its worst case killed 3,000 in a year. We have to make sure that that does not escalate.

Thankfully, this President has been aggressive; and we have done a better job on our borders, and we have shut down many of the terrorists' operations in the world, and we are battling them in Afghanistan and battling them in Iraq. Finally, Libya is cooperating with us, and when we met with Colonel Kadafi the first time we went in there, and I was with the gentleman from Pennsylvania (Mr. WELDON) in that tour, he did not want to be in a spider hole like his friend Saddam. So he figured the Pakistani people was providing nuclear weapons and he is cooperating with us. Now all of a sudden Pakistan is cooperating with us. We have had some major breakthroughs, thanks to this President's efforts.

But at the same time we have to realize the nexus, the connections between narcotics and the stability of a country like Afghanistan long term. President Karsai and his leadership have been tremendous. It is a very difficult problem that he has got to try to establish order when they have this country divided up into different sections with different drug lords and warlords ruling that. But we have got to get it because he understands, in multiple meetings here on Capitol Hill and in Afghanistan, they cannot have a democracy in Afghanistan unless he can eliminate or at least greatly reduce the amount of opium poppy.

Two other hearings we did this week in Washington: on Tuesday we had a hearing on measuring the effectiveness of drug treatment. Part of any strategy, like I said, first we have got to try to get it at its source because if we can get it at its source, even though it is expensive, it is so much cheaper than if we have to go after the labs and interdict it, whether it is Colombia, Afghanistan, Burma, wherever the problem is, if we can get it at its source. Then we try to get it as it is moving through interdiction if it is coming up from Colombia in the Caribbean or in the East Pacific. Then we try to get it at the border. If we fail at the border, we try to get it coming into the communities.

I hear often on this House floor we should not lock up the poor individual user. But then many of those same people do not want to lock up the user, do not want to go after the eradication. They did not want to go after the interdiction. They do not want to do the other things. We have got to do whatever we can to try to get to the kingpins and that network of drugs coming in.

We also need to work aggressively in the schools and around the country and with the community antidrug prevention groups. But when we fail, and that is what this is, a failure, and people get addicted, we have to figure out how best to provide treatment and how to do this.

There were a number of interesting things that we heard. There are 7 million people in the U.S. who need treatment for drug addiction, and the President's new drug treatment plan has some initiatives to try to address that because many people who are not getting treated for drugs who have a drug problem are not interested in getting treatment. But when somebody says they want treatment and are committed to change, we need to work to make sure those people can be covered.

Charles Curie, a Hoosier and a longtime friend of mine, administrator of the Substance Abuse and Mental Health Services Administration for the U.S. Department of Health and Human Services, HHS, testified on the access to recovery, how they are trying to put accountability in the system, looking at co-occurring dependencies. Many people who have other problems, whether they be mental or physical, are most vulnerable to drug abuse; and those co-occurring dependencies are very difficult. He is a leader in that, like he was in Pennsylvania, in trying to look at that problem, in trying to hold an accountability of what actually works. There is not a person who has worked in this field who has not talked to people who have been through five, seven drug treatment programs. Maybe they have made a marginal commitment, and I understand drug treatment enough to know that they are not going to get them necessarily completely cured, but they can certainly make progress. And in many cases, they are not even willing to have drug testing to even make progress. Part of what Director Walters is trying to do through the new treatment program is to make sure they at least have the accountability of drug testing if they want Federal dollars. Mr. Curie has been working with this.

Another thing we heard about was coordinated action. One of the witnesses was former Judge Karen Freeman Wilson, also the former Attorney General of Indiana, who is now executive director of the National Drug Court Institute; and she pointed out why drug courts work. When we say drug courts work, we do not mean they work 100 percent. We mean they work better than anything else and that they get some people completely off drugs, they get some people mostly off, some people who very infrequently relapse, and they fail on some. That is the real world. That is why we try to prevent it before it happens. As Nancy Reagan so wonderfully said, we cannot win a war by just treating the wounded. We have to treat the wounded. Nobody is proposing in a war that we do not treat the wounded. But we do not win the war just treating the wounded.

"Each drug court is required to monitor abstinence through regular, random, and observed drug testing. This means that most participants are tested at least two to three times a week." This is Judge Karen Freeman Wilson. "Those who consistently test negatively are believed to be receiving effective treatment."

In other words, we have to have accountability in it.

"Another measure of effectiveness of treatment in the drug court context is the ability of the offender to comply with other aspects of the drug court program. Is the person actively engaged in community service? Are they actively involved in a job search, vocational training or school? Are they attending self-help meetings? Are they appearing as ordered for court review hearings and meetings with probation officers and other court staff? Are they paying their fines and fees? Is the participant attending, complying, and progressing in ancillary services, referred to community service providers, to address issues other than substance abuse such as taking their prescribed medications and otherwise addressing identified co-occurring mental health issues?"

□ 2015

Are they attending parenting classes, anger management, life skill classes and other adjuncts to substance abuse treatment? Because each drug court participant is required to engage in treatment immediately, their compliance with the other aspects of the program that follow entry into treatment also provides insight into whether the treatment is effective.

In other words, they are saying it needs to be holistic. In times when we do not have enough money for anything, this is a huge challenge.

But let us be frank: if we are going to try to tackle these kinds of issues, you have to have some sort of housing options, job options. Tough, tough political questions.

In Indiana, we are having a debate because in the bureau of motor vehicles, 10 percent of the people in Indianapolis had a former conviction. That sounds really terrible. But are they clean? Are they drug tested? Are they cured? Are they having relapses? What was the conviction they had? It is not necessarily evidence in and of itself bad.

Now, if they continue to do it while they are employed, that is another problem. But you cannot say you can never hold a job if you have committed a drug crime or we are never going to get people rehabilitated. What is the point of treatment if they cannot find housing? Congressman DAVIS has a bill that I am a cosponsor of to try to provide targeted housing to people coming out of prisons.

The reentry program in Fort Wayne that we have worked with and tried through the faith-based community and others will say, hey, one church, one offender, a really strong program. There are others in my hometown of Fort Wayne where they try to match up people coming out of the prison system, many of them with drug offenses, into the community, because if you do not get them integrated into the community, you are just going to keep perpetuating the cycle of crime and violence.

We heard from many different witnesses at this hearing, and I appreciate each one of them, because it was very important to problem drug treatment.

I want to cover briefly two more things. One, the hearing that we did this afternoon was on marijuana and medicine, the need for a science-based approach. I want to read a brief comment on this.

This particular hearing addressed a controversial topic, the use of marijuana for so-called medical purposes. In recent years, a large and well-funded pro-drug movement has succeeded in convincing many Americans that marijuana is true medicine to be used in treating a wide variety of illnesses.

Unable to change the Federal laws, these pro-drug activitists turned to the State referendum process and succeeded in passing a number of medical marijuana initiatives. This has set up a direct conflict between Federal and State law and put into sharp focus the competing scientific claims about the value of marijuana and its components as medicine.

Marijuana was once used as a folk remedy in many primitive cultures and even in the 19th century was frequently used by some American doctors, much as alcohol, cocaine and heroin were once used by doctors. By the 20th century, however, its use by legitimate medical practitioners had dwindled, while its illegitimate use as a recreational drug had risen. The drug was finally banned as a medicine in the 1930s.

Beginning in the 1970s, however, individuals began reporting anecdotal evidence that marijuana might have some medically beneficial purposes, most noticeably in suppressing the nausea associated with cancer chemotherapy.

Today, the evidence is still essentially anecdotal, but many people take it as a fact that marijuana is a proven medicine. One of the main purposes of the hearing we had this afternoon was to examine that claim.

At present, the evidence in favor of marijuana's utility as a medicine remains anecdotal and unproven. An Institute of Medicine study published in 1999 reviewed the available evidence and concluded that, at best, marijuana might be used as a last resort for those suffering from extreme conditions.

This report is repeatedly cited by the pro-marijuana movement, it was again today, as proof that marijuana is safe for medical use. In fact, the report stressed that smoking marijuana is not a safe medical delivery device, exposes patients to a significant number of harmful substances; but only in extreme conditions back in 1999, before we had additional advances, was it to be used.

In contrast to its supposed medical benefits, the negative health effects of marijuana are well-known and have been proven in scientific studies. Among other things the drug is addictive, impairs brain function, and when smoked greatly, increases the risk of lung cancer. The respiratory problems associated with smoking any substance make the use of marijuana cigarettes as medicine highly problematic. Indeed, no other modern medicine is smoked.

It is quite possible, however, that some components of marijuana may have legitimate medical uses. Indeed, the Institute of Medicine report, so often erroneously cited as supporting smoking marijuana, actually stated if there is any future of marijuana as medicine, it lies in its isolated components, the cannabinoids and their synthetic derivatives.

Interestingly, the Federal Government has already approved a marijuana derivative called Marinol, but rarely do the pro-marijuana advocates mention this. The Federal Government has also approved further studies of the potential use of marijuana or marijuana derivatives as medicine.

Moreover, in the United Kingdom, a pharmaceutical company has applied for a license to market an inhalant form of marijuana called Sativex. Thus, the real debate is not over whether marijuana could be used as medicine. The debate is over the most scientifically safe and effective way that components of marijuana may be used as medicine.

The responsibility for ensuring that any drug, whether derived from marijuana or not, is safe and effective, has been entrusted to the U.S. Food and Drug Administration, FDA. Under Federal law, the FDA must review, test, and approve each medicine and determine what conditions or diseases each drug may be used to treat and at what dosage level. The FDA continues to monitor each drug, making sure it is manufactured and marketed properly and that unforeseen side effects do not jeopardize the public health.

State laws purporting to legalize marijuana for medical purposes bypass these important safeguards. California and Oregon have adopted the most wide-reaching such laws. They allow anyone to possess, use and even grow their own marijuana, provided he obtains the written recommendation of a doctor. Few, if any, restrictions are placed on what conditions marijuana may be used to treat.

We had both California and Oregon there today, had some discussion about enforcement, and they have four cases in one State, minimal in the other. In effect, they only enforce if somebody from there complains, and the people who are using it are not complaining.

Few, if any, restrictions are placed on what restrictions marijuana may be used to treated. Virtually no restrictions are placed on the content, potency or purity of such medical marijuana.

The laws in California, Oregon and other States are extremely open-ended. California law even allows marijuana to be used for migraine headaches. One of our witnesses this afternoon also used it to treat ADD in two other indications and did not have any science whatsoever. One who just had his license taken away treated 4,000 people, and, according to the board in Oregon, had not even met with the people. So he did get a complaint.

Only a small percentage of medical marijuana users in California and Oregon have actually used the drug to treat the conditions for which it was publicly promoted, namely, the nausea associated with chemotherapy and AIDS wasting syndrome.

In Oregon, statistics kept by the State Medical Marijuana Program indicate that well over half the registered patients used the drug simply for "pain" while less than half used it for nausea, glaucoma or conditions related to cancer and multiple sclerosis. In San Mateo, California, a study of AIDS patients showed that only 28 percent of the patients who used marijuana did so even to relieve pain. Over half used it to relieve anxiety or depression, and a third for recreational purposes.

This raises one of the key questions we must address. If we are going to treat marijuana as medicine, will we subject it to the same health and safety regulations that apply to other medicines? We do not allow patients to grow their own opium poppies to make painkillers like morphine, Oxycontin and even heroin with just a doctor's recommendation. We do not allow people to manufacture their own psychiatric drugs like Prozac or Xanax to treat headaches. Why should we then authorize people to grow their own marijuana, when the potential for abuse is high and there is little or no scientific evidence that it can actually treat all of these illnesses and conditions?

Why would we abandon the regulatory process that ensures that drugs are manufactured at the right potency level and contaminant-free? Why should we stop the oversight that makes sure that drugs are being administered in the right dosage and in the safest manner?

In our follow up, FDA said on the record today there is no, none, zero, medical marijuana; and Dr. Volkow from the National Institute for Drug Abuse said clearly there are 400 components in marijuana.

Now, those of us who oppose marijuana need to do some acknowledging here too. People have real problems, particularly in treating, that there are some areas in Marinol that have not worked, although it has been improved as well. We have to look in controlled, disciplined environments to figure out how to address that. And those who advocate marijuana need to grant smoked marijuana is very dangerous, much more carcinogenic than cigarette smoke. It is a huge addiction problem in the United States.

As we look at how best to make it medical, it is not the marijuana that is medical, anymore than cocaine or heroin is medical. It is made up of 400 different components, and to try to treat and work with what we are working with here, we are already working aggressively in our government to try to figure out the sub-components and how they mix and how to do it.

We heard all kinds of different things of where they are working and making progress in trying to treat this. And, interestingly, most of the breakthroughs are likely to be synthetic or a blend of things from other drugs with what the different components are in marijuana.

It is not the marijuana. It is not the smoke certainly that helps. It is not the marijuana; it is components inside that, often blended with other things, that can help us address the problem of nausea and the problem of relieving pain for AIDS patients.

Furthermore, the dosages need to be controlled with it, or you develop another addiction. If you take out components in the marijuana, give it in tablet form, you can achieve the pain reduction. But if you are looking to get high and want to get addicted, it will not work.

So Canada, as they moved to this, in Vancouver, which I opposed but it worked with the legislators there and I talked to them about this thing; what they are learning is people do not want to take the pill. They want to get a higher dose than the pill. They wanted this "BC Bud" high-quantity level.

We have to figure out how we are going to work this through, because clearly many States are adopting this. There has been a false concept across America. Those of us who oppose drug abuse are branded then as being uncaring for the sick, which is wrong.

In fighting the whole thing we are not clarifying what we are arguing over here. We need to work together to relieve pain, but we also need to have an FDA standard, and it should not be a backdoor way to legalize a dangerous drug.

In our transportation bill we are moving through, we are making our first steps to make people aware that more people are killed apparently from drug addicted driving than from alcohol. That is a huge challenge in this country, that it is not just "I am relaxed and am using it."

Medicinal Marijuana has already challenged our transportation and drug testing laws in the State of Oregon, because it was supposedly medical. No, if you are taking a tablet form, you are not going to be at risk because you do not get that same dosage. It is a different mix. It is not marijuana. We have to figure out how to work these things through.

One last comment. Yesterday, DEA broke the largest ecstasy ring in history. U.S. and Canadian drug agents broke up a distribution ring responsible for 15 percent of all the ecstasy, that is what they estimate, smuggled into this country. It was called Operation Candy Box.

Approximately at their peak, they were doing 1 million tablets a month, approximately 5 million laundered dollars a month. It was in 18 cities in the United States and Canada.

I am grateful for the DEA's efforts and continued efforts to point out ecstasy is a dangerous drug. There is a program on tonight that I am very concerned about based on some of the statements attributed to Peter Jennings and in the news media. I do not know if it is correct. I have not seen the show. It does not air until tonight.

But the news reports are saying and suggesting that they feel the Federal Government has been inaccurate in their report of ecstasy, when we have had testimony showing the brain damage, certainly in animals, but showed us charts too of the potential and some on humans. We have heard from parents whose kids have died at ecstasy parties and have gotten addicted. We heard of people who are ecstasy addicts, and I sure hope that we continue to combat it aggressively.

I thank the DEA for their efforts to shut down this dangerous drug, and I hope that our national news media does not side with the drug dealers and the drug users of this country and continues to send a positive message.

EMPLOYMENT PROBLEMS IN AMERICA

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Massachusetts (Mr. FRANK) is recognized for 60 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, a few weeks ago I took this floor to talk about the very serious problem we have in our country today regarding jobs.

Last year, as the economy began finally to recover from the recession in a somewhat robust fashion, we expected to see a significant increase in jobs. As I noted previously, Secretary of the Treasury Snow in October said he thought we would get 200,000 jobs a month, because we had seen such vigorous growth. He said everything he knew about the way the American economy worked, meant with that level of growth, we were going to get 200,000 jobs a month.

A couple of months later, when he was drafting the President's economic report, the Chairman of the Council of Economic Advisers, Mr. Mankiw, said something similarly. In fact, he went him a little better. He said about 215,000 jobs a month. By February of this year they both had retracted those predictions.

Unfortunately, we clearly now are in a situation in which the old rules, by which we mean over the last 20 or 30 years, by which we could calculate the given number of jobs we would get for a given level of increase in our gross domestic product, do not seem to be working.

For a variety of reasons, we are not producing at a given level of economic activity the jobs we used to have. That is a serious problem. It is, first of all, of course, a terrible social problem.

The people who do not get jobs are often the most vulnerable in our society, and joblessness is a terrible plight for anyone who suffers from it. The joblessness has been prolonged.

In addition to joblessness, of course, by the working of supply and demand, when you have a larger number of people unemployed, wages do not rise at the normal level, so that we had last year a drop in real wages. Inflation outstripped real wages for people who work for pay from others.

□ 2030

We have seen the erosion in health benefits. There was some debate late last year and early this year about that. As I said, the President's economic report came out in January, and it was still under the old rules. Well, facts are stubborn things, as a number of people have said. I forget who said it first, but a lot of us have liked it and repeated it, and it is now undeniable that we have a serious lag in job creation.

We are debating the reasons. I think they are multiple. One is productivity; and that is, of course, the great paradox. The good news of increased productivity becomes the bad news because it is one of the major explanations for the lag in job creation. There is the globalization factor, outsourcing. There is the debate about how many jobs this is costing, but it is costing jobs, undeniably.

There are other factors that are involved. I think the health care system of the United States is a problem. We have one of the few societies, the only one I can think of right offhand, where your health care is so tied to your job, so that when an American company has to hire, they have to think about health care. We have a situation where the American automobile manufacturers are burdened in their competition with others because they have to factor into the cost of every Ford and every Chevrolet and every car that is built here, the health care that is not a marginal cost for their competitors.

But leave aside for a while the reasons. We have to deal with the fact. And the fact is, as I said, it is now clear that we are in a period where we are producing fewer jobs per element of gross domestic product than previously. Then the question is, well, how long is this going to be with us?

Last year, the optimists were the people who said, well, we are going to just get a lot of jobs, a couple of million jobs a year, more than that, 2½. The Bush administration said from 2.4 to 2.6 million jobs a year. No one thinks that anymore. I hope tomorrow we are going to see a very robust job figure. There are some reasons to hope that it will finally begin to show something, probably because a major strike was settled in California, other seasonable factors, weather changes, but no one thinks we are going to get to those predictions of 2.4 to 2.6 million jobs.

So there has been a kind of downscaling of expectations by the administration and others. We still have pessimists and optimists, but, sadly, the pessimists and the optimists agree that we are in a period of slow job growth, and they differ as to how permanent this is.

Now, there are really three levels here.

There are always, of course, job losses of a cyclical nature in a recession. The optimists last year said basically, look, these are cyclical job losses and as we come out of this recession, we are going to restore them. That has not happened. Clearly, there is a structural element here. So we now have this understanding that increased productivity, foreign outsourcing, and globalization are costing jobs in the near term.

But the optimists say, okay, that is true, but that is temporary. In other words, they concede, we have not just the cyclical problem of a recession, we have something of a structural problem as our workforce gets reorganized. But, they say, that is temporary, because, given the dynamism of the American economy and the inherent workings of the market, new jobs will be created. So they concede, as the facts require them to, that we are now in a position where we do not have the jobs we had expected to have but, they say, have hope. The jobs are just around the corner. The jobs are coming.

I wish I could be as optimistic. I do not think it is possible at this time to conclude for sure how deeply embedded in our economy this structural problem is. I fear that to a great extent we are going to have to cope with this on into the future. It is not simply that productivity means, I believe, a qualitative change going forward in the wealth-to-job mix, but it is also not clear that foreign trade will do what people say.

We have some of those who are the strongest proponents of trade, I think, overselling it. Foreign trade clearly has been a reason why inflation has been low. Foreign trade clearly holds down the cost of products we buy. But the notion that it will automatically produce as many jobs as it costs simply has not been borne out.

I was struck by a very interesting panel held on the question of outsourcing. One of those who spoke on the panel, a former member of the Board of Governors and Federal Reserve, a very distinguished economist, Lawrence Meyer, talking about this general subject quoted another very distinguished economist, Robert Lawrence, and he said that he had recently read a quote of Mr. Lawrence which really troubled him, and here is the quote. As he notes, Robert Lawrence has studied international competitiveness his entire career, and here is what Mr. Lawrence said, as quoted by Mr. Meyer:

"If foreign countries specialized in high-skilled areas where we have an advantage, we could be worse off. I still have faith in globalization, but it is no more than faith."

In other words, there is no guarantee that the factors that are causing this slowdown in job creation now are going to fade away.

I will talk in a further speech, however, let me reassure the Speaker, I do not plan to try to cover everything tonight and keep everyone here, about whether the optimists or the pessimists are right and what we do about it. Today I want to take the optimists at their word and hope that they are right and hope that what we are in is just a period of transition. That is the optimistic view.

The optimists concede that, as I said, it is not just a cyclical problem. What they now say is, well, it is a transitional problem. We are in a transition at this point. Of course, the economy is always undergoing transition, but there does appear to be a more significant transition now: the outsourcing of computer jobs and service jobs, that is relatively new. We have had outsourcing in effect not of jobs but of whole operations in the manufacturing area. This is new. The productivity, the integration of information technology, that seems new.

But they say, look, it is true we are in a transition, but do not worry, because the dynamism of the American economy will soon produce new jobs to replace those that are lost.

Here is what President Bush said. Now, again, President Bush was, of course, last year one of the great optimists of the old sort. President Bush was having his administration officials predict 2.5 million jobs this year. That is gone. Now here is what the President has to say. According to the New York Times of March 31, the President was in Wisconsin; and the Times says he acknowledged the economic anxiety felt by many voters, saying that the intense pressure on business and workers to produce more for less, while good for the economy in the long run, has held down the creation of jobs.

It then goes on to quote Mr. Bush directly, and here is Mr. Bush's quote: "This is called a period of transition," Mr. Bush said. "That is an economist's word for things aren't going too well for you, and I understand that. I understand people are worried about the job they have."

In other words, this is the new optimist view, which is a less optimistic view than the old optimist view, and the President says, transition means "things aren't going well for you." Well, now lexicography was never one of his claimed strengths, so we will let that pass, but it is an acknowledgment that this transition is hurting people, but, he says, in the long run, you will be better off.

That is what I want to address. I want to take those optimists at their word, and President Bush is in that camp.

The leader of the optimistic camp, because of his stature, his justifiable stature, the respect for which people have for him as an economist and a thoughtful maker of policy, is Alan Greenspan. And I commend people who want to see the optimistic view, the new down-scaled optimistic view, to read his testimony given on March 11 before the Committee on Education and the Workforce.

As an aside, Mr. Speaker, as some Members know, that used to be called the Committee on Education and Labor, but in a display of political correctness, when the Republican Party took over the House, "labor" being a word with unpleasant implications for the Republican party, I think perhaps too much social concern for people who earn their living by being paid by others, the word "labor" was banished from the official roster of committees and we now have the Committee on Education and the Workforce.

Mr. Greenspan's testimony before the Committee on Education and the Workforce is the optimist view. He says in here, as he has said before, that the stress that significant parts of our workforce are enduring reflect, and here I quote him, it is what "Joseph Schumpeter, the renowned Harvard professor, called the process of 'creative destruction,' the continuous scrapping of old technologies to make way for the new. This is the process by which wealth is created, incremental step by incremental step."

In other words, as the President said, you are suffering in the short run. Transition means things are not going well for you. But, in the long run, you will be better off. It is the process of creative destruction.

The very fact that you are losing your job is, in a perverse way, good news, because the job you are losing is a job that we no longer really find that useful, and we are going to create, out of that job loss, a freedom for you to take a new job.

Well, as I said, I hope that is the case. It has been the case historically in America that we have produced new jobs as we have lost old ones. There is a very real question in my mind about the extent to which that is still true. Of course we will produce new jobs. Certainly we will. But whether or not the rate of new job production will equal the rate of job loss, that is not to be taken for granted, and that is why Professor Meyer quoted Mr. Lawrence. He is saying, look, I have faith in globalization, but it is only faith.

It is clear that trade will help with the inflation issue. Trade helps bring us products cheaply, but there is no guarantee whatsoever to assume that it will allow us to replace the jobs that have been lost, and there is no mechanism under productivity that says that, either.

But I will take the optimists, for now, at their word. They acknowledge that, however, there is a problem. In other words, the optimist view is, okay, this is a transitional period, and in this transitional period a lot of you are losing your jobs and some of you are keeping your jobs, but you are losing your health care and you are getting cut back.

An example of that, we just saw the settlement of a strike here or a dispute in Washington, D.C., fortunately, it did not lead to a strike, I guess, of grocery workers. Grocery workers have a new contract, and here is the headline from the Washington Post yesterday: "New Workers Bear Brunt of Concessions. New people hired to work in the grocery stores in Giant and Safeway will get less in the way of compensation than the people who have been working there."

Well, that is the creative destruction, but it does seem to me in this case, for the new people, a little more destruction than creativity, because they are going to get less.

By the way, we are talking about grocery workers. We are not talking about people whose compensation will go from $150,000 to $140,000. We are talking about people working very hard for not an enormous amount of money, and they will get less of it, and their health care will cost them more.

Mr. Meyer makes that clear, by the way. Mr. Meyer, former governor of the Federal Reserve who cares about employment, here is what he said about the transition:

"We have got to keep in mind here that the costs associated with globalization and even productivity in terms of the skill bias, some of them are transitional. People will generally get jobs back, but they won't get the same jobs back. They may get jobs back with lower wages, with less benefits. There may be permanent costs. So we have to make sure this is not just transitional. There are winners and losers, and it is more than short run. It can be sort of permanent."

In other words, even for those who have some optimism, there is a recognition that the transition will be damaging to a lot of people.

So then the question is, what do we do about the transition? Again, I will deal later with the more pessimistic view in another speech. But today I am taking the optimists at their word. Mr. Greenspan, the President, they say, okay, yes, integrating into information technology, expanding foreign trade, it is a two-way street. Ultimately, you will be better off, and we recognize there is some short-term pain. Bear with us.

Well, as Mr. Meyer points out, it is not at all the case that the losers of today will be the winners. There are different losers and winners. So even if we take this optimistic view that this is just a transition, it does seem to me that society has an obligation to make the transition a lot less painful.

The President says, remember, this is George Bush's definition of transition: "things aren't going well for you," he says. "That is an economist's word for things aren't going too well for you, and I understand that."

Well, Mr. President, we need more than understanding. We need a response.

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That response has to involve a more active public sector than we have. By definition, the transition is a private sector transition. It is in the private sector that people are losing jobs and getting new jobs, as Mr. Meyer points out, that will pay less and that will have fewer benefits as the grocery workers have found out now, the new grocery workers.

Now I believe there is a very important reason to try to ease the pain of the transition and that is a matter of equity. Productivity outsourcing, cheaper products, better products, those benefit society as a whole. There is a particular benefit for those us who are fortunate enough to be earning well, above the median income, and those benefits are widely distributed. But while the benefits are widely distributed, the costs of achieving those benefits is very narrowly borne.

It seems to me morally a decent society will try to take some of the increased benefit and use that to alleviate the pain of the few who are bearing the cost that made it possible.

Mr. Greenspan acknowledges that. "Creative destruction" is the phrase he borrows from Professor Schumpeter. That means that all of us are benefiting, but some are getting hurt. The President says, transition, things are not going well for you. Okay, but do we not have some obligation to have things go better? Is it reasonable?

I guess, because of outsourcing and other things, some of the things I buy I will buy more cheaply. Because am I, then, free of any moral obligation to worry about the fact that the people who are selling me these things more cheaply are getting paid less and having trouble meeting their family's needs and do not get the health care they ought to get, have to pay too much for it and sacrifice elsewhere?

So I think there is a moral reason why we should be trying to improve things. That, of course, requires some public policies. But even for those who do not believe in the moral argument, their own self-interest ought to convince them to do more about the transition.

Given Mr. Greenspan's recognition of the pain of the transition, given Mr. Bush's recognition of the pain of the transition, they are making a great mistake in failing to alleviate the pain of the transition, if only because the people who are suffering that pain are beginning to be in sufficient numbers and have sufficient sympathy so their response to transition is going to be to block it.

Now, remember in the view of the people I am quoting, the transition is a good thing. It is the way in which we grow. It is the way in which we improve. What you have is a paradox. Given our political situation, the victims of the transition do not have the political power in some situations to get some of those benefits to alleviate their pain, but they do have the political power to stop things from going forward.

Mr. Meyers says in an economist's ideal world that these trends are producing increased globalization, productivity, they are producing winners and losers. And he said the economists believe that the total gains of the winners significantly outweigh the total loss of the losers. So what you do is you take some of the gains from the winners and you compensate the losers and then the society as a whole is better off. The winners still win; the losers break even.

But as he points out politically, and Mr. Meyer was credited, he points out, yeah, but in our current politics the winners do not do anything for the losers. While the losers do not have the political power to force the winners to share, paradoxically they have the political power to stop the whole transition process and have there be many fewer winners. We know that.

Recently in Congress Daily there was a note that the lobbyists in town who work on trade are very disappointed because they do not believe the Central American Free Trade Agreement can go through the House. I certainly do not think it can or should in its current form. I think it is very lagging, although I would like to see a better version of that come forward.

Outsourcing, we know now in this great outcry, outsourcing, we are being told, do you not understand how good the outsourcing is? Well, the people who are being outsourced do not understand that. They understand that it is good, but they know it is not good for them. As long as all the benefits of outsourcing are going to some people and none of the gains, they are not going to be too happy about this.

In other words, I say to the optimists who believe that this is simply a matter of a transition which in the end will leave all of us better off, if you do not do something to alleviate the pain that transition inflicts on the lower economic sectors of this society and into the middle economic sectors of this society, they are not going to let the transition go forward.

Now, unfortunately, under the current administration and with the current congressional leadership, not only are we not doing anything to alleviate the pain of the transition, we are making it worse through public policy. Let me give you one example where I say we are making it worse.

I talked about the grocery workers. Now, some American workers are put at risk because the things that they do can be done overseas. And they are told, listen, if you do not adopt some lower benefits we will send this work overseas. We know that that threat is made often.

People in the computer industry are being told you are going to lose your job, you are going to be outsourced. Well, yes, there are some things where there is international competition. But how does that explain the erosion in the relative position of grocery workers? We know that that is there because the new grocery workers are going to get less than the existing ones. Very few Americans will go to India to buy their groceries. There is not a problem of outsourcing of your frozen food. What we have got are public policies that are eroding their position, in particular, the assault on the role of unions.

What has happened has been a systematic dismantling of the Federal law passed under Franklin Roosevelt and generally supported by presidents since, which allow men and women to bargain collectively for their jobs. So you have a Wal-Mart which, in part because of the law and the way it is now being interpreted, is able to block collective bargaining because you have people hostile to unions administering the law that is supposed to protect people's rights to join them. So Wal-Mart then becomes the standard down to which others must repair. That is a public policy problem.

The tax system over the past few years has been made more favorable to the wealthy and less favorable to working people in relative terms. The payroll tax continues to go forward. That is another example of public policy making things worse rather than better.

And we have a number of very specific areas where the people in power in Washington are either making things worse or refusing to make things better. That is, there are some things that can be done to ease the transition.

And, again, I want to reiterate, I am not here debating whether or not these changes in job creation are going to be with us for a while or whether they are short term. Everybody admits that we now have this transition. Everyone acknowledges it, the President, Mr. Greenspan, and others, that it causes pain to people.

Let us assume they are right and within a few years the dynamism of the American economy will make this a time that we will all look back on and say, oh, were not we worried too much? Well, at least those of us who have had jobs throughout this and health care and other things. But what about the people who are not in a position to maybe even make it through there with any kind of economic integrity?

Well, there are things you can do to ease the transition. This Republican administration and Congress, sadly, are doing the reverse. Nothing could be clearer on this than the question of unemployment compensation.

Now, here Mr. Greenspan, who is the leading optimist in this, has, when pressed, agreed that we should extend unemployment benefits. I stress Mr. Greenspan, because I think he is the leading articulator of the more optimistic view. And when pressed, as he does not volunteer, he says, well, yes, you should extend unemployment. How do you, Mr. President, acknowledge that this is a time of transition in which, to use your words, things are not going well for the people who are at work and you do not use your power to get extended unemployment compensation?

Now, historically, when the recession ended we would do extended unemployment in a recession, extended unemployment benefits. When the recession ends, jobs came back, you did not need extended unemployment benefits. In this case, we have the recovery without the jobs, so you still needed unemployment compensation. The administration opposes it.

Part of the problem, we agree, is foreign trade related. That is not the whole problem. Productivity may be a bigger part of it. I think it probably is. But part of it is foreign trade related. Well, we are told we have something called trade adjustment assistance. It helps you if you lose your job to an international operation. But when it was passed it dealt only with manufacturing. We were not thinking then about computer-type jobs being outsourced indeed. The jobs now being outsourced are the jobs we used to retrain people for. We just forget to give them airplane tickets when we gave them retraining.

Where are we now? We are now in a situation in which the Republican administration and Congress is blocking efforts to extend trade adjustment assistance to service workers. So if you lose your job in a factory, you can get some trade adjustment assistance. It is not the best thing, but it is some help. But if you lose your job in a call center or in a computer programming operation, you get nothing. The administration has said no, no, we cannot help, because it says manufacturing products. It does not cover services.

Senators have said and others have said, the House of Representatives Members have said, okay, we will change the law so what this covers services; and the administration and the Republicans are blocking that.

So no to extended unemployment compensation, no to expanding trade adjustment assistance to people who need it.

Well, one of the things we could do would be to provide some public sector jobs for some of these people. Because, again, some of the people who are losing their jobs are not going to be the one who get the new ones.

And I go back to Mr. Greenspan. Mr. Greenspan's testimony is really the articulation of this view, and what it shows is the inadequacy of the conservative optimistic approach to this problem. Mr. Greenspan is their intellectual leader, and his answer essentially is community colleges and some more training.

One reads Mr. Greenspan, he says the whole problem is education. We do not have a good skill fit. We need more skilled workers, and we do not have them, and, therefore, the answer is to educate them more. That is shockingly inadequate. And Mr. Greenspan intellectually, I think, is not thinking this through.

I think that the problem is that in this case Mr. Greenspan's deeply conservative ideology, to which, obviously, he is fully entitled, his view that less government is almost always better, which is a view he has held for a very long time, is winning out over his intellectual understanding of what is going on in the world.

He grants that there is this insecurity. He did not always, but he now acknowledges it. He understands that the pain of the transition going unabated causes problems in resistance to the programs he would like to see go forward, but he cannot bring himself to let us help alleviate them.

Now, one more minute on the Bush administration. One thing we could do that would be very helpful with jobs would be highway and transit construction programs. People always said, well, public works is not a good way to respond to a job crisis in a recession because by the time you get geared up the recession is over. Yeah, but we are in a situation now where, while the recession may be over, but the joblessness is not; and this is an ideal time with slack recesses in the economy to improve our transportation system, our highways, our trains, our public transit.

A month or so ago the chairman of the Public Works and Transportation Committee here and his ranking member, bipartisan effort, correctly said we could spend usefully $375 billion over the next 6 years, not a huge amount in this whole country, improving transportation, and it would both be better for the society and it would provide jobs. And the President used his political muscle to cut that back and back and back to the point where he is now threatening to veto a bill that is $100 billion less than the original one.

Well, Mr. President, if you recognize that things are not going well in the transition, why should there be resistance to a piece of legislation that is one of the best answers we have to these problems? Because, again, to go back to Mr. Greenspan and the others, the problem with his argument about creative destruction is that, frankly, the people whose jobs are getting destroyed are not the people for whom the jobs will be created.

Even if you do job retraining, there are people in their 40s and 50s who are losing their jobs, people who had a high school education. The likelihood that they can be retrained for jobs, anything comparable to what they had, is quite slight in large numbers.

That is what Mr. Meyer correctly pointed out. Yes, some people get new jobs. They will be worse jobs than they had. They will not pay as much. They will not have the benefits, particularly since there is now a trend among American employers to cut back on health care and to cut back on defined pensions.

□ 2100

So, in any case, everything else being equal, you are likely to get a job paying less, and it is not going to be equal for all these people.

Let me say, the President's mistakes are very clearcut. No to extended unemployment benefits, no to trade adjustment assistance to the people whose jobs are being outsourced, no to a good highway program that would put people to work and also create, in some local areas, better economic conditions. So the President betrays his own recognition that this transition means things are not going well for people by denying them this kind of short-term help.

Mr. Greenspan's error is articulated more clearly, but I think it is equally grave. I have heard his and I have talked to him about this and his answer to the problem frankly is, well, let us do more with the community colleges, let us retrain people. There are a couple of problems with Mr. Greenspan's approach.

First of all, I must say, as much as I respect him in general, as much as I admire what he did when during the 1990s he refused to raise interest rates and cut back the economy, some people argued that too little unemployment was bad for the economy, Mr. Greenspan resisted that. He said, no, he was not going to inflate interest rates just because unemployment was dropping. He was going to see if we could have low inflation and low unemployment. He was right and we did.

But here again, I have to say his philosophical opposition to government is, I think, crowding out, to use a good financial term, his commitment to dealing with the problem he identifies. He understands that the transition is causing political problems, and he says in his testimony and he acknowledges that it is leading to problems, that it is leading to people being opposed to some of the policies he thinks are necessary.

He understands that outsourcing and free trade, things he like, are at risk because of the resistance, but he cannot bring himself to overcome his philosophical objection to government to the point where he will really respond to those needs.

Yes, grudgingly, when we asked him, he said, yeah, extend unemployment but it is not high on his agenda. In fact, the central tenet recently of what he has been arguing, well, there are two tenets and they are in disagreement. One, he says we have to greatly increase the skill-sets of American workers. We have to educate people more; let us have more community colleges; let us have more education. Well, Mr. Greenspan's too good an economist to think that people at community colleges will work for nothing, but some of them would have to if we are going to carry out what he wants.

Mr. Greenspan has, after all, unlike the Bush administration, argued that the serious deficits we are now encountering and the enormous debt that they are building up, that that is bad for the economy, but sadly, he tells us that the only way that we can responsibly reduce that deficit is by cutting spending.

He is generally in favor of continuing the very significant level of tax cuts, weighted towards wealthier people, and I think he agrees with that philosophically, and he says, therefore, we have to make all these reductions on the spending side. Well, I have two problems with his approach.

First of all, he puts too much of a burden on education. I am all in favor of increasing the skills of American workers, but that does not mean that you do not have to, during the transition, alleviate the economic pain being felt by people who probably are not going to be able to acquire those new skills and who are going to take some time in arguably earning while they are trying to get them. Yes, community colleges are very important, but it is too heavy a lift to put on them the burden he puts on them basically of dealing with these job problems. I do not caricature. I urge people to read this. When we asked him what should we do about it, he said it is education, community colleges, improve the skills.

One, as I said, he puts too heavy a burden on them, but two, at the same time as he urges us to do more in education to improve people's skill level, he actively argues against the revenues being made available to the public sector that would be necessary to do that.

No one thinks you can significantly increase the skill levels of workers without the public sector having a major role, and Mr. Greenspan's philosophical objection to the public sector having an expanded role comes head-on against his recognition that something ought to be done in this area.

As I said, Mr. Speaker, I have been talking about what I consider to be the optimistic view. The optimistic view is that, yes, productivity increases, outsourcing, increased trade, they represent more than the cyclical loss of jobs which you get in a recession that is overcome when the cycle turns. They acknowledge, the President acknowledges, Mr. Greenspan and others, a transition which has painful effects on many workers.

I will leave to a later speech, as I said, whether or not we may be in a period of a kind of permanent transition like this. That is, I fear that unless we do more than we are doing in public policy, even more than I have now been talking about, we are going to continue to have this problem.

Increased productivity is a wonderful thing. It is what civilization strives for in the economic sphere. Productivity means we have more recreation and more leisure. We can make more with less. That is what we are trying for. The tragedy is that we have a set of bad social arrangements that take that wonderful thing, increased productivity, and make it into a source of pain and deprivation for so many of our citizens.

But as I said, leave that one aside. Assume that Mr. Greenspan is right, the President is right, that cutting taxes and continued outsourcing and continued foreign trade, a continued $500 billion a year American trade deficit, continued increases in productivity without labor unions getting in the way, more freedom for employers to cut back on benefits and health care, let us suppose they are right and that while that is difficult for some people in the short-term, and we do not know whether the short-term is a year, two, three or four, at some point the dynamism in the American economy, as I said, will make us look back fondly on these days.

Even if you believe that, and I am, as my tone probably indicated, skeptical, it is self-defeating unless you respond to that pain which you understand is, in fact, a current reality.

So, the President, Mr. Greenspan and others are not understanding the implications of their own optimism. The increased wealth we are now creating, the benefit society as a whole is getting, the particular benefits that the very wealthy are getting, unless some of that is shared with the people whose jobs are being destroyed in the process of creative destruction, or the people who are losing jobs, or the people who are losing health care, with the new hires at the grocery stores here in Washington will be getting less than their colleagues doing exactly the same job, unless we do a better job at alleviating that pain, then the transition is going to be stopped. Arguing that free trade and outsourcing and the freedom of employers to hire and fire at-will and not be hindered by unions, the objections to any restrictions on various productivity practice, those who take this position are doing their cause some harm, some very real harm.

To go back to the phrasing of Mr. Meyer, and I think this is the best way to put it and I borrow from him and I adapt him a little. Given the political situation in our society today, given the Republican control and the view that the market will take care of things, and I believe in the market. I just do not believe in it as an absolute. I think it is clearly very valuable. I think it does not, however, do everything and there is a need for the public sector.

But the view that says the market will take it, has a lot of power today, the market will take it all by itself. What this means is that in the current situation the losers cannot politically force the winners to treat them more fairly, but because of the nature of politics, while the losers cannot make the winners treat them more fairly, they can stop the winners from winning as much as they otherwise might.

If you believe that all these things, unhindered scope for increased productivity, no restrictions on the Wal-Marts and the comparable institutions, more free trade without any restrictions, without worrying about labor rights and environmental rights, and I must say Mr. Greenspan erred. I was very sorry to see a quote from him in which he said that people were using a concern for labor and environmental rights as a shield for protectionism. That troubled me that Mr. Greenspan would not understand the sincerity of those of us who believe this. I fear he literally adds insult to injury when he impugns the motives of those who say that.

The fact is that they face a situation in which their failure to alleviate the pain has built up such opposition to what they want to see happen that it will stop happening, and they cannot believe that this is good. So they really face a choice, because the electorate faces a choice later, but we deal today with public policy choices.

Continue to block an extension of unemployment compensation, continue to deny trade adjustment assistance to people who are losing their jobs to outsourcing in the services area, continue to block the ability of organized labor to help people band together to defend themselves, continue to allow the erosion of pensions and health care, refuse to allow this Congress to pass by threatening to veto a highway bill that could put some people to work, and you will reap, unfortunately from your standpoint, and from mine, too, a degree of resistance to economic progress that may make us all worse off.

So I say, in closing, Mr. Speaker, that we have had some advance. The President in particular, his aides they are not talking about 2.5 million jobs a year or more. They are acknowledging that we are in a period of painful transition, but they stop short of helping us alleviate that pain. The transition does not have to be painful, and if the transition continues to be painful, at some point there may not be nearly as much transition as they want.

I close by saying, as I said in my previous speech and will say again, a large part of the problem is the instinctive, intense, absolutist dislike of the public sector. The notion that when civilized people come together to do some things jointly because the market does a lot but it cannot do everything, the notion that that is something that is always bad gets in their way, because unemployment compensation and the highway bill, the trade adjustment assistance and improved community colleges, et cetera, that takes a public sector that is well-funded and able to meet its responsibilities.

As long as we have the President and a Congress that regard the public sector as something to be ridiculed and diminished and hindered at every turn, who do not have any confidence in our ability to come together as a people and achieve important social purposes, as long as Mr. Greenspan, the leader of intellectual conservatism, continues to argue out of his philosophical opposition to government that, yes, we must reduce the deficit but we must do it all by reducing spending and not at all by undoing some of these tax cuts, then things will get worse and not better. The political trends Mr. Greenspan laments, the opposition to free trade, the opposition to outsourcing, it is going to get worse, and we will see this year blocking outsourcing. In the short-term I am for that because I think the way it is being done is wrong.

I would like us to be able to come together and say, let us, to go back to Mr. Meyer one last time, try to follow the pareto optimal motto he talked about in which some of what the winners get will be to alleviate the losers' loss, to the point where we will be able to go forward as a society, and there will always be some losers and some people will be hurt. We are talking about a very complex society of hundreds of millions, but we can substantially diminish the perceived, I believe, unfairness of the way in which the current increases in wealth are distributed.

Until we do that, people should not be surprised when they encounter increasing resistance to things that they will tell the American people are in their long-term best interests because, unfortunately, the people who are losing their jobs and feeling the pain and losing their health care and having their pensions jeopardized do not, in this case, feel as persuaded by Joseph Schumpeter's argument about creative destruction as they instinctively tend to understand what John Maynard Keynes said when he argued to people who said do not worry about what is happening now, it will be better in the long run. In the long run, we shall all be dead, and in the long run these people understand they will have encountered so much pain and so much difficulty in their lives that the promise of these future benefits, which may not even accrue to them but to society as a whole, do not account for much.

Mr. Speaker, in a future speech, I will talk about the pessimistic view because, unfortunately, bleak as I sounded today in some ways, I was talking about what the optimists say. I am afraid that I think things may even be worse than that, but at the very least, I just want to say in closing, maybe repetition will get me some somewhere, extend unemployment benefits, extend trade adjustment assistance to service workers. Let us do a highway bill that meets America's highway needs and puts people back to work. Stop the union busting and the resistance to working men and women being able to come together, and I can promise you that we will be able at that point to consider some of the economic policies you are talking about in what you will find to be a better atmosphere.

□ 2115

JOBS AND IMMIGRATION

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, it is with pleasure that I address the House this evening for the purpose of continuing the discussion that has been ongoing here about jobs; about what it is in this economy, in this new world economy, this new world order that is creating the dilemma for many people and creating concern on the part of many folks out there, creating fear about their own jobs, if they still have them, and certainly encouraging the depression of those folks who have lost their jobs and have not been able to find others.

This is a perplexing and challenging issue. Undeniably so. And the tendency, the desire, I think, for a lot of people is to immediately, especially in our position, any elected position in America, when we recognize there is this kind of a problem and that people are hurting, the natural response is to say, what can I do about this? How can I change the situation? What can the government do to create a better situation for those folks who are hurting? And this is enormously perplexing when we are talking about this brave new world of a global economy that we do not entirely understand.

For well over 100 years, we thought we really had this thing pegged. We thought we knew what it took to create a prosperous society and a vibrant economy, and it boiled down to two words: Free trade. And we listened to and read the works of economists that all adhered to an economist in the 18th century by the name of David Ricardo. He coined the phrase "comparative advantage." He said, look, when two countries are competing to produce a particular product, one may have an advantage over the other and we should concentrate on producing whatever it is in that country that they have the advantage to produce because of their climate, the geography, and the natural resources in that country.

He used two examples: He said, let us look at Portugal and England. Portugal could produce wine and textiles, but in fact would have to put a lot more effort into producing textiles. England could produce textiles and wine, but would have to put a lot more effort into producing wine. So, therefore, Portugal should produce wine, England should produce textiles, and, therefore, the comparative advantage would accrue to each one of those countries. Each one of them would be doing what they do best and, therefore, each one of them would prosper and they would not be wasting their resources doing things they cannot do very well.

That is the theory we have been operating under for now well over 100 years. And I believe that it had great merit and that it can work well. But we have added a new dimension to this whole discussion, and it is the dimension of labor. That was not an issue in Ricardo's day. Labor was not all that mobile. You could not move work to worker anywhere in the world. So labor was a constant in Ricardo's day and, therefore, you just dealt with what natural resources and the climate and the geography dealt you.

Today, of course, we know that because of technology we are no longer able to rely on just what nature has given us in terms of resources. We also have to deal with the fact that labor is another one of those commodities that can be traded and for which there is a competitive advantage for some countries. But today that advantage will accrue to one country over another. It is not a win-win situation any more. It is not that one country can produce X, the other Y. Each of them will do that. Today, the economy is such that if you can provide cheaper labor, you win. The country that cannot deal with that loses. It is not a win-win game. That is the situation we face.

American labor has become ever more productive, ever more efficient, and has been able to stay relatively competitive with the rest of the world, enough so that we have been able to maintain the standard of living that is far above the rest of the world for quite some time. How long this will be, we do not know. The answer to the question is that we do not know exactly what we can do to make sure that American jobs and American workers are saved.

We can erect barriers, that is true. A law can be passed tomorrow in this body and passed in the other body, signed by the President, that will erect trade barriers. Will that protect American jobs? Well, it really cannot do that any more because there is no way to actually control the flow. Technology allows us to export work to worker anywhere in the world, and there are really very few ways that you can actually, in fact we may not have any way in which we can actually stop that phenomenon. I am certainly willing to look at any proposal that is designed to slow that down, that is designed to protect American workers and American jobs. I would like to do it.

There is this, as I say, natural desire on the part of most of us here to get up and say, here is what we have to do and it will solve all of our problems. I believe the last speaker said we should stop trying to bust the unions. Well, let me tell you, Mr. Speaker, that will not solve all of our problems.

If in fact we are also talking about the creation of some sort of tariff to stop the exportation of certain commodities or to in fact increase the cost of certain commodities being brought into the United States, I do not think that will solve the problem.

We are at a comparative disadvantage because our workers make more money than workers in most other countries of the world. And I am willing to admit that this is a dilemma for which I do not have a solution, but I am also willing to state that there is something we can do that neither my friends on the other side of the aisle or even my friends and colleagues on my side of the aisle are very willing to deal with, and yet it seems to me to be the most logical way of addressing this situation of the exportation of American jobs and stagnant wages that result from the fact that we can no longer compete in that particular environment.

What I suggest, Mr. Speaker, is that we begin to enforce the law, the law that actually determines how many people can come into this country. And that if someone comes into this country without our permission, they are eligible for deportation. And if someone hires someone who has come into this country illegally, they in turn can in fact be fined. And if they do it often enough, they can go to jail.

There are estimates that range from between 9 million and 18 million people in this country who are here illegally. Most of them appear to be working, and we are told they are working in jobs no American will take. Well, I would like to test that theory, that they are coming to take jobs that no American will take. And here is one way we can test that theory, Mr. Speaker. We can look at what is happening on the border today.

Now, we all know that the job increases in this most recent recovery have been minimal. Some people refer to it as a jobless recovery. Whatever, the number of jobs we have created in the United States in the last couple of years is relatively low, relatively few. And we have an unemployment rate now of about 5.6 percent. We have a chronic unemployment that may go even higher. That is to say, that includes people who have long since ceased looking for jobs. So there are, again, estimates ranging from 8 million to 18 million people in this country unemployed.

We know, right now, that there are not many jobs available out there. I mean that is pretty much a given. Well, let me tell you what happened on our borders since October 1 of last year in only one sector, the Tucson sector. According to Rob Daniels, the border patrol public information officer of the Tucson sector of the border patrol, there have been more than 200,000 illegal aliens apprehended in that sector alone this year. This is an increase of almost 50 percent since last year, and much of it as a result of the fact the President made a speech in which he put out the hope of an amnesty. Although he would not call it that, of course that is exactly what it is, and most of the world saw it for what it is, including the people that are coming across the border illegally.

More than 60,000 people have been detained this month alone in the Tucson sector, representing a stunning increase of over 85 percent over March of 2003. Those numbers are expected to rise, as April and May are typically the peak months for intending border crossers seeking to make the trip through the desert before forbidding summer conditions set in.

Now, I present these figures because I think they are important for us to understand if we really and truly are talking about trying to do something important for the American worker. In the last 6 months, 200,000 people in one sector were detained. And let me say this, Mr. Speaker. Everyone who is involved with this issue will tell you that for every single person we detain, at least three get through. That is a very conservative figure.

So in the Tucson sector, if you use that figure of three coming through for every one we are able to catch, 600,000 people made it into the country from one sector in 6 months. Now, think about what this means for the entire border, both north and south, and our ports of entry, both land, sea and air, and it certainly could be as many as a million people came across our borders without our permission in the last 6 months.

□ 2130

But let us say for a moment that those are just simply exaggerated figures, somehow, some way, we have been able to actually stop more people from coming into the country than is the general rule and that maybe only one or two get by for every one that gets interdicted. That still means about 500,000 people came across the border illegally along with about another 500,000 who came into this country legally from our very liberal immigration policy. So in the last 6 months, the most conservative estimate possible for the number of people who came into this country both legally and illegally has got to approach a million people.

I ask you, Mr. Speaker, if a million people came in here in 6 months, what are they doing here? What jobs are they doing? Are they taking only those jobs that Americans will not take? Do you mean to tell me that in the last 6 months we have created a million jobs that have gone begging? And that employers are out there saying, oh, my goodness, I have all of these jobs and I just can't get an American citizen to take them, so I'm going to employ the million people both legal and illegal aliens who have come across the border in the last 6 months? No, Mr. Speaker. No, they are not taking jobs that are simply out there that American citizens will not take, they are taking jobs somebody else has and they are taking them because they will work for less. It is a simple proposition. These numbers are incredible. Most people cannot believe it when I tell them that these are the numbers that are actually provided by the border patrol themselves. This is not my wild guesstimation of how many people are coming into this country illegally. So if, in fact, there are already these folks in this body that are so intent on doing something to increase the number of jobs available to Americans, I suggest that they look carefully at immigration. This is something that, of course, my friends on the other side of the aisle will never, ever, ever bring up. In one hour of all of the problems that were identified by my colleague on the other side of the aisle here, you never once heard anybody talk about the fact, in particular talk about the fact that immigration may be one of the problems we face when trying to create jobs for Americans. Never said it. Why? Because, of course, the issue is incredibly political. My friends on that side of the aisle know that massive immigration into this country both legal and illegal accrues to their political benefit. It will mean voters for the Democratic Party. They know it. It is the historical truth. On my side of the aisle, you will not hear a discussion of this issue, either, because we look at it as being a source of cheap labor. So between the two of us here, between the two parties, it is very difficult to get an honest discussion of this issue and what it means for America. The President said in that speech that he gave a month and a half ago or two months ago, I want to match every willing worker with every willing employer. It is a high sounding goal. But let us think about what that really means, if it is true, if he really wants to do that. Every willing worker with every willing employer. Mr. Speaker, there are billions, with a B, there are billions of willing workers in the world anxious, desiring a job that pays them more than they are getting wherever they are but far less than is being paid to the person in this country who is doing that job. So do we really mean that we are willing to abandon the border? If so, let us say it if that is the truth of the matter. If in fact that is our purpose and our policy, to eliminate the whole complex process of immigration, erase the border and allow people to simply come here to take the jobs that some employer is willing to provide, and I assure you that every employer is looking for, and there is nothing wrong with it. This is not some nefarious purpose on the part of employers. They are looking for a way to cut their costs. That is a part of the process we call free enterprise capitalism and a process to which I adhere and a philosophy to which I adhere. So they are looking to cut their costs. Believe me when I tell you that if somebody presents themselves to you who has got all the skills necessary to do the job but they will do it for less than the person you have got working there, you are probably going to hire them. They may only be there for a short time, until the next person comes in the door and said, you know what, I'll do it for even less. This is something that has happened, of course. We know this has happened in our manufacturing economy. This is one of the things that has really and truly been problematic in the United States. It has happened to our low-skill, low-wage jobs. There is so much competition for those jobs, so many people seeking them, that it has had the effect of depressing the wage rates for all the folks who are making very little money. They have not seen an increase in their salary because there are so many people here who are willing to take those jobs, those low-skill, low-wage jobs. Something new is happening, a new dimension here, because now we are figuring out a way to export or import, either way, export the jobs to a place that will have workers who will do the job, will work for less or import the worker to come here and do the job for less. We are doing it for high tech industries. H1B is the visa category for people who have special skills and who come to the United States with a higher degree than the person who is coming here to do menial labor. These are mostly people in the high tech industry and they are skilled and they are capable and they will work for less. So we hire them or we outsource the jobs that are here. Employers have manipulated the visa category to bring these folks in even though they do not fit the requirements of H1B or even L1 visas. They are bringing them in by the hundreds of thousands. We now have probably 2 million people in this country with those two visa categories, H1B and L1, high tech workers who have displaced American workers. Why? Because, of course, we have succumbed to the siren song of cheap labor and we have agreed to essentially abandon our borders.

It is amazing to me to see what I see and hear what I hear and read what I read about what goes on every day on our borders, to read statistics like those I just gave you, with over a quarter of a million people having been interdicted at the border in one single sector, the Tucson sector, in 6 months and far more than that having made it past our border patrol and are here in the country illegally. We have, I believe it is approaching 20 million people here illegally. They are all working or at least most of them are in jobs, of course, that Americans will not take.

I do not know, Mr. Speaker, how it is in your district, but I will tell you how it is in mine. I have people who are unemployed, high tech workers who are driving cabs at night. I have people who will take jobs of any kind in order to keep a roof over their heads and who are right now unable to find those jobs. Or if they find a job, it is, of course, working for much less money than the job they had. So their standard of living is decreased. That is, of course, what we face. That is, perhaps, an inevitability. Maybe there is absolutely nothing we can do about it because of this new world economy. How harsh that sounds. But it may be the case that we cannot stop it, we cannot stop the exportation of jobs. But should we not attempt to control our own borders? Because we only have two choices: Either we do that or we eliminate the border, we can erase the border, pretend they do not exist, allow people to come in and however they get here, they are now residents of the nation. That is an option. It is one I think that many people in their heart of hearts around here accept and in fact desire. There are folks in this body who believe that borders are simply anachronisms, they really should not be there, they do not matter anymore, they are not important and they only serve to obstruct the flow of goods and services and people. And that really the whole idea of the nation state, some concept of sovereignty, is all offered up on the altar of free trade.

I do not know, Mr. Speaker. I cannot tell you that I have a magic bullet here, but I can tell you that there is no way I am going to accept this situation without railing against it and without suggesting something that we can do, and that something is to actually control our own borders. Mr. Speaker, it is fascinating. The Wall Street Journal used to write an editorial every Fourth of July that said that borders were no longer meaningful and that we should erase them. They stopped writing that editorial after 9/11 but it is not because they have changed their mind, it is just because they are afraid to say such a thing subsequent to such a national tragedy perpetrated by people, of course, all of whom were here as aliens and most of whom, by the way, in some way or another had violated our laws and could have and should have been deported. So they do not talk about it anymore but they still believe it and so do Members of our own body, believe that that is in fact the way of the world, that national boundaries will not matter, that pretty soon the United States, Mexico and Canada will all together join in some sort of grand alliance similar to the EU, kind of hold hands and sing "Cumbayah" and that the only thing that will matter at that time, the only thing that will determine how profitable it is to live where you live and how good a job you may have, the only thing that will determine that are markets.

Let me suggest that there is another reason why we should try to control the border even if you do not believe that we should get involved with trying to protect the American jobs that are sacrificed to open borders, even if for some reason that just goes against your grain and that you are willing to allow American jobs to be sacrificed to those people who are willing to come and do them for less. And, remember, I say that there are billions willing to do that. There is no job here that we can create that someone out there cannot compete for. If we import the labor on one hand to do the jobs that are necessary here from the service economy, those kinds of jobs that only can be done here, a waiter or a waitress, building homes, whatever, if those jobs we bring in people who will work for less and the other jobs that do not require you to be physically here in the United States to do, we export, then of course there has to be some sort of ramification to that. There is something that is going to happen to the United States of America as a result of this phenomenon. I suggest that at the minimum it will be stagnant wage rates but almost assuredly it will be declining wage rates. Or maybe we can live with that. Maybe it is going to have to happen. No one wants to get up in front of their constituents and say, get ready, your wage rates are going to go down, your standard of living is going to be reduced because we are committed to the concept of free trade and that includes the free trade of labor.

□ 2145

In fact, we have asked the Congressional Research Service to actually try to identify to us those countries that are actually dealing with us on a free trade basis. That is to say that we will import the products that they produce and they will import the products that we produce without any trade restrictions.

I have yet to find a country like that. We are the ultimate free traders in the world. That is for sure. We offer far more in terms of an allure to come here and bring their products than we are able to do and that any other country is willing to offer us.

China is a great example. Since we opened trade with China, our balance of trade, or the imbalance of trade, I should say, has skyrocketed.

The same thing happened with Mexico. Mr. Speaker, before NAFTA, North American Free Trade Agreement, we had an actual surplus, a trade surplus with Mexico, about $9 billion. Since NAFTA, we have gone to about $60 billion in the red, a trade deficit with Mexico. We have relatively few countries right now in the world with whom we have a positive trade balance, and most countries with which we trade do not trade on an even basis, on a level playing field. But we are committed to free trade, regardless of what it does to the American wage earner. And as I say, maybe, just maybe, we cannot do anything about that. But I think there is something. I would like to at least try because even if it is not something that the free trade adherence will go for, maybe if they are somehow concerned about the trade implications of actually controlling our own borders, think about the other implications. Think about the costs to American taxpayers of massive immigration, both legal and illegal.

Mr. Speaker, we hear all the time about the importation of cheap labor and how important it is, but I assure the Members that cheap labor is only cheap to the employer. It is not cheap to the citizen taxpayer who has to pay for the housing, the health care, the educational services, the incarceration rates. All of these things become very expensive to the taxpayers of the country, but they are passed on to them. They are not paid for by the corporation that brings them in or the business that hires that person; so what do they care, essentially?

But this concept of cheap labor has all kinds of other implications. The concept of open borders, borders that really do not matter, borders through which half a million people, minimally half a million people, could come through without our permission in one sector, called the Tucson sector, in 6 months. That kind of a border provides us with all kinds of more severe problems, even more severe than the economic catastrophe that is inherent with this concept of open borders.

As I say, it is a cost to the American taxpayer, but it is also something else, Mr. Speaker. And this gets a little more, I guess the word I am looking for is esoteric perhaps, but nonetheless I think it is a very important discussion we have to have because even if the Members disagree with everything I have said about the economy and the impact of cheap labor, the impact of open borders on the economy, even if they think it is just great to allow people to come into this country and undercut someone who is presently working here, underbid them for the job, even if they think that is okay, let me suggest to them that there are other problems that I would like them to deal with. And one of these things is the problem that I believe is enormously important for us to talk about, although uncomfortable, certainly, to discuss, and this is the problem with the effect of massive immigration, both legal and illegal, when it sort of meshes with what I call the cult of multiculturalism that permeates our society. Radical multiculturalism. Not just the philosophy or the attitude that we should appreciate our differences and the acknowledgment that those differences have made us richer in many ways as a Nation. That is not radical multiculturalism. Radical multiculturalism is the philosophy that says that in order to appreciate anybody else, one must degrade one's own culture and that one could never ever suggest that what we have here, that the product of western civilization we call the United States of America, is superior to anyplace else in the world because of course all cultures are relative to the multiculturalist radical. There is no difference. It is the ultimate "I am okay, you're okay" view of the world. And we have spent an enormous amount of time and money telling our children in our schools that this is the case, that they cannot be attached to anything that we had in our day, when I was in school, called the American experience because, of course, the multiculturalist radicals would say it is just a reflection of a society and a civilization that was nothing but greedy and degraded and corrupt, and that when Columbus came here to the New World, he began what was eventually to become the destruction of paradise.

This is what we tell children. This is in our textbooks, and this is what is rotting the core of American culture. And we are doing it to ourselves, and it is not the fact that immigrants are coming here and perpetrating it. They are simply coming into this new environment. This is dangerous, I think, to our society.

When we tell our children there is nothing of value, there is nothing worth their sacrifice, there is no set of ideas or ideals around which we can all gather, that all cultures are the same, that all is relative, when we do that, we are at great risk.

We have example after example. If the people go to our website, www.house.gov, that is g-o-v, /Tancredo, T-a-n-c-r-e-d-o, and go to a site that we call "Our Heritage, Our Hope," or our immigration site, either one, they will get a great deal of information, Mr. Speaker. And I hope that everyone would do that because there are literally hundreds of examples of this cult of multiculturalism that I am talking about. Let me give the Members just a few.

"At Los Angeles Roosevelt High School, an 11th grade teacher told a nationally syndicated radio program that she 'hates' the textbooks she's been told to use and the State-mandated history curriculum because they 'ignore students of Mexican ancestry.' Because the students don't see themselves in the curriculum,' the teacher has chosen to 'modify' the curriculum by replacing it with activities like 'mural walks,' intended to 'open the students' eyes,'" she says, "'to their 'indigenous culture.' A friend the teacher invited to help with the 'mural walk' went on to tell the students that 'Your education has been one big lie after another.'" And that essentially there is nothing they should as a student attach themselves to in terms of this American experience. It is white. It is Anglo-Saxon. It is not theirs and that they should never ever attach themselves to it.

"In the textbook called Across the Centuries that is used for seventh grade history, the book defines the word 'jihad' as 'to do one's best to resist temptation and overcome evil.'" Because, of course, we would not want to say that another interpretation of "jihad" is a holy war against Christendom because, oh, my heavens, what that sets up in the mind of the reader, even though that is exactly what the term implies: a holy war.

We try to euphemise it. We try to change the definition so as not to possibly create the impression on the part of a student that someone might hold a view like the people who hold this view actually have, and that is this: that their purpose, their reason to be, is to exterminate us. That is the truth of the matter, that for millions and millions of Muslims around the world, their one purpose is to exterminate any semblance of western civilization. It is a threat to them.

I had a book given to me not too long ago. It was an actual diary of an Imam who went on, I believe, to become a suicide bomber. In his diary he explains that is what all good faithful Muslims have to do, because, he said, We cannot live in the same world with the west. Western democracies have created a world in which people live the good life here on earth, and that is a world in which we cannot exist because in our world, the only thing to which we look forward is the afterlife. This is just a temporary status, and we are moving on to something greater, and if we allow western democracies, western civilization, to survive, it will essentially turn the heads of all of our people, turn their heads away from the joys of the afterlife to the joys of this life. So, therefore, we have to set ourselves on a path of destroying western civilization.

This is what they are committed to, many millions of Muslims are. Many millions of Muslims would not take up that particular sword, at least not physically. They may do so mentally. One wonders how many people of that faith, even though they would not themselves commit an act of violence, how many in their heart of hearts, when one of those acts of violence is committed, think it is okay, that it is good, they deserve it.

Nonetheless, in our classrooms we refuse to even tell our students about this. We refuse to actually define the word "jihad" for its real meaning.

"In a Prentice Hall textbook used by students in Palm Beach County high schools titled 'A World Conflict,' the first 5 pages of the World War II chapter cover such topics as women in the Armed Forces, racial segregation in the war, black Americans in the home front, Japanese Americans being interned, and women in the war effort." Although 292,000 Americans died in that conflict, most white male soldiers are represented far less in photos and words than all others.

"A Washington State teacher substituted the word 'Christmas' with the word 'winter' in a carol to be sung at a school program so as not to appear to be favoring one faith over another."

□ 2200

Let us see. Oh, a school in New Mexico, this is just fascinating, a school district in New Mexico introduced a textbook called "500 years of Chicano History and Pictures," and this book states that it was written "in response to the Bicentennial celebration of the 1776 American Revolution and its lies."

It stated its purpose is to "celebrate a resistance to being colonized and absorbed by racist empire builders."

The book describes defenders of the Alamo as "slave owners, land speculators and Indian killers."

Davy Crockett, they said was a cannibal, and the 1847 "War on Mexico" was an invasion.

The chapter headings include "Death to the Invader," "U.S. Conquest and

Betrayal," "We Are Now a U.S. Colony," "Occupied America," and "They Stole the Land."

Nicholas DeGenova, an assistant professor of anthropology at Columbia University, told students he wanted to see "a million Mogadishus," which is a reference to an operation in Somalia in 1993 in which U.S. Army personnel were pinned down in a fierce firefight. Eighteen Americans were killed, 84 wounded.

DeGenova added, "The only true heroes are those who find ways to help defeat the U.S. military."

He is an assistant professor of anthropology at Columbia University. Administrators at Columbia University have expressed regret, saying they were appalled by his statements, but took no action to dismiss DeGenova, who was still teaching.

Royal Oak Intermediate School in Covina, California, students in Len Cesene's 7th grade history class, fasted last week to celebrate the Muslim holy month of Ramadan. His letter to parents explained that "in an attempt to promote a greater understanding and empathy toward the Muslim religion and toward other cultures, I am encouraging students to participate in an extra credit assignment. Students may choose to fast for 1, 2 or 3 days. During those days, students may only drink water during daylight hours."

Imagine what would happen if he tried to suggest that students do something to adhere to Lent, let us say, a Christian religious holiday, not a holiday, but a time that Christians recognize for fasting. What if he tried to say that is what he wanted his children to do? What kind of an outcry would there be? Nobody said a word about the fact that he was trying to make the kids more sort of sensitive. That is okay.

A Federal judge in Brooklyn interpreted a New York City policy on holiday displays in public schools allow for the display of the Jewish Menorah and the Muslim Crescent, but not the display of the Christian Nativity Scene. The judge based his decision on the notion that the Muslim Crescent and Jewish Menorah are secular symbols, while the questioned Nativity Scene is not.

Really, we have just tons and tons of examples, and, again, I just suggest that perhaps the best thing to do, Mr. Speaker, is to have folks go to the web site, House.Gov/Tancredo. Look at "Our Heritage, Our Hope." We will have these for you.

One more I do want to bring to your attention, because this one really was intriguing to me. Remember now, I bring this up, I am talking about this particular part of our culture, this multi-culturist phenomena, this multiculturist cult that has control of a large part of our school system, certainly, and the textbook developers and the media and on and on and on.

I bring this up in the context of a discussion of immigration, because I believe that these two issues are interwoven and you cannot really discuss one without the other, and as we increase the number of people here, both legally and illegally, and as we encourage those folks who come here to be anything but part of the American experience, whatever that may be anymore in anybody's mind, as we encourage them to stay separate, as we tell them they should not learn English, that we will teach them in their language in the public schools, that they should keep that language, that they should keep their culture, and they should even keep their political affiliations and connections to the country of origin, that this cult of multiculturalism then is enhanced by this policy on the part of our government. And here is the kind of thing that does happen.

In California, Victorville, California, there was a Roy Rogers-Dale Evans Museum on Highway 15 in the High Mojave desert. I saw this clip, somebody had put it on my desk and I was thinking, why is this significant? Why did somebody give me this clip from the Los Angeles Times about the fact that the Roy Rogers Museum had been moved from Victorville, California, to Branson, Missouri.

It picked up and moved because of a transformation in the cultural nature of the region, as new immigrants who settled in California are not absorbing the cultural history of the region or the country.

The guy who was writing a newspaper story about this went into a bar and met a lady by the name of Rosalina Sondoval-Marin. She was having a beer at the El Chubasco Bar on historic Route 66, and the newspaper reporter said, "I am doing a story about the fact that the Roy Rogers and Dale Evans Museum is moving after having been here for, I don't know, decades and decades and decades. What do you think about that?"

And Ms. Sondoval-Marin said, "There is a revolution going on here, and it don't include no Roy Rogers or Bob Hope."

I thought that was a fascinating observation really, and an indication of in fact something that is going on here. It is a revolution. It is true. It is a cultural revolution, and we aid and abet those people who are desirous of separating themselves from the rest of American society, creating a balkanized America, by encouraging bilingual education in schools and encouraging the cult of multi-culturalism that permeates our society. So it is that combination. It is the combination of massive immigration with this multiculturalist cult that is the most dangerous thing we face.

Now, Mr. Speaker, this has nothing to do with race or ethnicity, it has not got anything to do with country of origin. This is something that would happen to any country, no matter where it was on the globe, if it practiced this kind of divisive sort of philosophic approach toward immigration.

I was recently in a school in my district, and it is a brand new school, it has only been there a short time, and it is in one of the wealthiest counties in the United States, by way, a county in which I do not live, I hasten to say, but it is part of my district. And a beautiful school, and very bright kids coming from parents that are well-to-do, who have given them all kinds of advantages, and they certainly have all the economic and educational advantages they could ask for.

They came into an auditorium where I was to address them for a while, and we talked for, I don't know, half an hour, maybe an hour. And then they were sending up their questions. One of them sent a question up to me and it said, "What do you think is the most serious problem that we face as the Nation here?"

I said, "Well, I am going to ask you a question, and perhaps then I will be able to answer yours." I said, "How many people in this room," by the way, there were about 200 kids, and I said, "How many people in this auditorium right now will agree with the following statement: I live in the greatest country on the face of the Earth?"

It was so interesting to see this. There was all kinds of shifting about and discomfort. You could see it. And finally maybe two dozen kids out of 200 raised their hand. Two dozen kids out of 200 said, yes, I think this is the best country on the face of the Earth.

I hasten to add, I think there were many more in that room that wanted to say that. I do not mean to suggest that people, all of these kids, disliked or hated America. I will say that it is apparent to me as a teacher, I taught for many years, I have seen that look on faces before in my classroom when you ask a question and the kid has this sort of look like, well, if I put my hand up, he might call on me. I better not do it, because I am not sure I could defend the proposition.

That is what was happening. Even though they may have felt that they were living in the best country in the world, they also knew they could not defend it if I asked them to, if I had challenged them. They were looking at the sides of the walls where their teachers were standing along the wall in this auditorium, and looking at them, and it was a very peculiar situation. It was uncomfortable for them.

I do not know how uncomfortable it was for most of the teachers, and I did not even notice whether they raised their hands. I do not think any of them did. But maybe they did not think the question was addressed to them. I am not sure.

But it was nonetheless fascinating to me. And what I believe has happened, and what I would love to test, I mean, I would love every Member, Mr. Speaker, next time they go and speak to a high school in their district, at the appropriate time, ask that question and see what happens. It is illuminating. It is illustrative. It is a fascinating thing to watch. Because what you see are people who are intellectually unarmed to defend the proposition that they live in the best country in the world, because they have been taught over and over and over again by all kinds of textbooks and all kinds of teachers that they cannot ever say a thing like that, because it would indicate some actual existence of, you know, good and evil; better and best; good and bad.

We do not have that, and we cannot have it, and we cannot think of it. We cannot think of ourselves as being special, and no matter what other cultures might do and what they might think about the human condition, we cannot condemn them, we cannot say anything bad about them, for fear of offending the multi-culturist police that haunt our schools and our lives in many ways.

I fear this is the most dangerous thing. The answer to the question those kids asked me then is this is what I believe is the most severe problem we face in America, this abandonment of the ideas and ideals of western civilization that actually came together to create this incredible country.

There are things about which we can be so proud. There are things that are uniquely western and that we have every reason to be proud of. We are the instigator. We brought the concept of the rule of law to the world. Western civilization provided that. It was an outgrowth of the Greeks, the Romans and eventually through the English, the Magna Carta and our own Constitution.

It is a wonderful, wonderful tour of history to see how that string is drawn through the pages of history and how we come to this position and how we were started as a Nation, unique among all nations of the Earth. We were started on the basis of ideas. Ideas. Not because a potentate, a king or anybody else drew some lines and called it a country. We started because of ideas, ideas of great value and ideas that we must transmit to our children and to immigrants coming to this country.

□ 2215

There must be something, some set of ideas around which we can all gather, something that means we are different and special and holds us together, because there is nothing really other than that. We are people from all kinds of different backgrounds and cultures and countries and histories and languages and all of that sort of thing.

So the one thing that we should try to have to bring all of these disparate factions together is a set of ideas. And yes, they are ideas promulgated out of western civilization, and we should never, ever, ever be ashamed of it. We should extol those ideas to ourselves, to our children, and to immigrants, because it will determine the fate of the Nation.

CONFERENCE REPORT ON H.R. 3108, PENSION FUNDING EQUITY ACT OF 2004

Mr. BOEHNER submitted the following conference report and statement on the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements, and for other purposes:

Conference Report (H. Rept. 108–457)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3108), to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

1. SHORT TITLE.

This Act may be cited as the "Pension Funding Equity Act of 2004".

TITLE I—PENSION FUNDING

SEC. 101. TEMPORARY REPLACEMENT OF 30-YEAR TREASURY RATE.

(a) Employee Retirement Income Security Act of 1974.—

(1) Determination of permissible range.—

(A) In general.—Clause (ii) of section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 is amended by redesignating subclause (II) as subclause (III) and by inserting after subclause (I) the following new subclause:

"(II) Special rule for years 2004 and 2005.—In the case of plan years beginning after December 31, 2003, and before January 1, 2006, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the rates of interest on amounts invested conservatively in long-term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year. Such rates shall be determined by the Secretary of the Treasury on the basis of 2 or more indices that are selected periodically by the Secretary of the Treasury and that are in the top 3 quality levels available. The Secretary of the Treasury shall make the permissible range, and the indices and methodology used to determine the average rate, publicly available.".

(B) Secretarial authority.—Subclause (III) of section 302(b)(5)(B)(ii) of such Act, as redesignated by subparagraph (A), is amended—

(i) by inserting "or (II)" after "subclause (I)" the first place it appears, and

(ii) by striking "subclause (I)" the second place it appears and inserting "such subclause".

(C) Conforming amendment.—Subclause (I) of section 302(b)(5)(B)(ii) of such Act is amended by inserting "or (III)" after "subclause (II)".

(2) Determination of current liability.—Clause (i) of section 302(d)(7)(C) of such Act is amended by adding at the end the following new subclause:

"(IV) Special rule for 2004 and 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).".

(3) Conforming amendment.—Paragraph (7) of section 302(e) of such Act is amended to read as follows:

"(7) Special rule for 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).".

(4) PBGC.—Clause (iii) of section 4006(a)(3)(E) of such Act is amended by adding at the end the following new subclause:

"(V) In the case of plan years beginning after December 31, 2003, and before January 1, 2006, the annual yield taken into account under subclause (II) shall be the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the month in which the plan year begins. For purposes of the preceding sentence, the Secretary of the Treasury shall determine such rate of interest on the basis of 2 or more indices that are selected periodically by the Secretary of the Treasury and that are in the top 3 quality levels available. The Secretary of the Treasury shall make the permissible range, and the indices and methodology used to determine the rate, publicly available.".

(b) Internal Revenue Code of 1986.—

(1) Determination of permissible range.—

(A) In general.—Clause (ii) of section 412(b)(5)(B) of the Internal Revenue Code of 1986 is amended by redesignating subclause (II) as subclause (III) and by inserting after subclause (I) the following new subclause:

"(II) Special rule for years 2004 and 2005.—In the case of plan years beginning after December 31, 2003, and before January 1, 2006, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the rates of interest on amounts invested conservatively in long-term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year. Such rates shall be determined by the Secretary on the basis of 2 or more indices that are selected periodically by the Secretary and that are in the top 3 quality levels available. The Secretary shall make the permissible range, and the indices and methodology used to determine the average rate, publicly available.".

(B) Secretarial authority.—Subclause (III) of section 412(b)(5)(B)(ii) of such Code, as redesignated by subparagraph (A), is amended—

(i) by inserting "or (II)" after "subclause (I)" the first place it appears, and

(ii) by striking "subclause (I)" the second place it appears and inserting "such subclause".

(C) Conforming amendment.—Subclause (I) of section 412(b)(5)(B)(ii) of such Code is amended by inserting "or (III)" after "subclause (II)".

(2) DETERMINATION OF CURRENT LIABILITY.—Clause (i) of section 412(l)(7)(C) of such Code is amended by adding at the end the following new subclause:

"(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).".

(3) CONFORMING AMENDMENT.—Paragraph (7) of section 412(m) of such Code is amended to read as follows:

"(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).".

(4) LIMITATION ON CERTAIN ASSUMPTIONS.—Section 415(b)(2)(E)(ii) of such Code is amended by inserting ", except that in the case of plan years beginning in 2004 or 2005, '5.5 percent' shall be substituted for '5 percent' in clause (i)" before the period at the end.

(5) ELECTION TO DISREGARD MODIFICATION FOR DEDUCTION PURPOSES.—Section 404(a)(1) of such Code is amended by adding at the end the following new subparagraph:

"(F) ELECTION TO DISREGARD MODIFIED INTEREST RATE.—An employer may elect to disregard subsections (b)(5)(B)(ii)(II) and (l)(7)(C)(i)(IV) of section 412 solely for purposes of determining the interest rate used in calculating the maximum amount of the deduction allowable under this paragraph.".

(c) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2006.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 2003.

(2) LOOKBACK RULES.—For purposes of applying subsections (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee Retirement Income Security Act of 1974 and subsections (l)(9)(B)(ii) and (m)(1) of section 412 of the Internal Revenue Code of 1986 to plan years beginning after December 31, 2003, the amendments made by this section may be applied as if such amendments had been in effect for all prior plan years. The Secretary of the Treasury may prescribe simplified assumptions which may be used in applying the amendments made by this section to such prior plan years.

(3) TRANSITION RULE FOR SECTION 415 LIMITATION.—In the case of any participant or beneficiary receiving a distribution after December 31, 2003 and before January 1, 2005, the amount payable under any form of benefit subject to section 417(e)(3) of the Internal Revenue Code of 1986 and subject to adjustment under section 415(b)(2)(B) of such Code shall not, solely by reason of the amendment made by subsection (b)(4), be less than the amount that would have been so payable had the amount payable been determined using the applicable interest rate in effect as of the last day of the last plan year beginning before January 1, 2004.

SEC. 102. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.

(a) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

"(12) ELECTION FOR CERTAIN PLANS.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

"(i) the plan's enrolled actuary certifies (in such form and manner prescribed by the Secretary of the Treasury) that the amendment provides for an increase in annual contributions which will exceed the increase in annual charges to the funding standard account attributable to such amendment, or

"(ii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph, the term 'applicable employer' means an employer which is—

"(i) a commercial passenger airline,

"(ii) primarily engaged in the production or manufacture of a steel mill product or the processing of iron ore pellets, or

"(iii) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

"(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

"(ii) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—The notice under clause (i) to participants and beneficiaries shall include with respect to any election—

"(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

"(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

"(iii) NOTICE TO PBGC.—The notice under clause (i) to the Pension Benefit Guaranty Corporation shall include—

"(I) the information described in clause (ii)(I),

"(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

"(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

"(F) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury may prescribe."

(b) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

"(12) ELECTION FOR CERTAIN PLANS.—

"(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

"(i) 20 percent of the increased amount under paragraph (1) determined without regard to this paragraph, or

"(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

"(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

"(i) the plan's enrolled actuary certifies (in such form and manner prescribed by the Secretary) that the amendment provides for an increase in annual contributions which will exceed the increase in annual charges to the funding standard account attributable to such amendment, or

"(ii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

"(C) APPLICABLE EMPLOYER.—For purposes of this paragraph, the term 'applicable employer' means an employer which is—

"(i) a commercial passenger airline,

"(ii) primarily engaged in the production or manufacture of a steel mill product or the processing of iron ore pellets, or

"(iii) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

"(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

"(E) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary may prescribe."

(c) EFFECT OF ELECTION.—An election under section 302(d)(12) of the Employee Retirement Income Security Act of 1974 or section 412(l)(12) of the Internal Revenue Code of 1986 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan.

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting "or who fails to meet the requirements of section 302(d)(12)(E) with respect to any person" after "101(e)(2) with respect to any person".

SEC. 103. MULTIEMPLOYER PLAN FUNDING NOTICES.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by inserting after subsection (e) the following new subsection:

"(f) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

"(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

"(2) INFORMATION CONTAINED IN NOTICES.—

"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

"(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B)) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

"(ii) a statement of the value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the notice relates;

"(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

"(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

"(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

"(4) FORM AND MANNER.—Any notice under paragraph (1)—

"(A) shall be provided in a form and manner prescribed in regulations of the Secretary,

"(B) shall be written in a manner so as to be understood by the average plan participant, and

"(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided."

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 101(f)".

(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor shall, not later than 1 year after the date of the enactment of this Act, issue regulations (including a model notice) necessary to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

SEC. 104. ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.

(a) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:

"(F) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—

"(i) IN GENERAL.—With respect to the net experience loss of an eligible multiemployer plan for the first plan year beginning after December 31, 2001, the plan sponsor may elect to defer up to 80 percent of the amount otherwise required to be charged under paragraph (2)(B)(iv) for any plan year beginning after June 30, 2003, and before July 1, 2005, to any plan year selected by the plan from either of the 2 immediately succeeding plan years.

"(ii) INTEREST.—For the plan year to which a charge is deferred pursuant to an election under clause (i), the funding standard account shall be charged with interest on the deferred charge for the period of deferral at the rate determined under section 304(a) for multiemployer plans.

"(iii) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any period for which a charge is deferred pursuant to an election under clause (i), unless—

"(I) the plan's enrolled actuary certifies (in such form and manner prescribed by the Secretary of the Treasury) that the amendment provides for an increase in annual contributions which will exceed the increase in annual charges to the funding standard account attributable to such amendment, or

"(II) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.

If a plan is amended during any such plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any such plan year ending on or after the date on which such amendment is adopted.

"(iv) ELIGIBLE MULTIEMPLOYER PLAN.—For purposes of this subparagraph, the term 'eligible multiemployer plan' means a multiemployer plan—

"(I) which had a net investment loss for the first plan year beginning after December 31, 2001, of at least 10 percent of the average fair market value of the plan assets during the plan year, and

"(II) with respect to which the plan's enrolled actuary certifies (not taking into account the application of this subparagraph), on the basis of the acutuarial assumptions used for the last plan year ending before the date of the enactment of this subparagraph, that the plan is projected to have an accumulated funding deficiency (within the meaning of subsection (a)(2)) for any plan year beginning after June 30, 2003, and before July 1, 2006.

For purposes of subclause (I), a plan's net investment loss shall be determined on the basis of the actual loss and not under any actuarial method used under subsection (c)(2).

"(v) EXCEPTION TO TREATMENT OF ELIGIBLE MULTIEMPLOYER PLAN.—In no event shall a plan be treated as an eligible multiemployer plan under clause (iv) if—

"(I) for any taxable year beginning during the 10-year period preceding the first plan year for which an election is made under clause (i), any employer required to contribute to the plan failed to timely pay any excise tax imposed under section 4971 of the Internal Revenue Code of 1986 with respect to the plan,

"(II) for any plan year beginning after June 30, 1993, and before the first plan year for which an election is made under clause (i), the average contribution required to be made by all employers to the plan does not exceed 10 cents per hour or no employer is required to make contributions to the plan, or

"(III) with respect to any of the plan years beginning after June 30, 1993, and before the first plan year for which an election is made under clause (i), a waiver was granted under section 303 of this Act or section 412(d) of the Internal Revenue Code of 1986 with respect to the plan or an extension of an amortization period was granted under section 304 of this Act or section 412(e) of such Code with respect to the plan.

"(vi) NOTICE.—If a plan sponsor makes an election under this subparagraph or section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of any charge to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

"(vii) ELECTION.—An election under this subparagraph shall be made at such time and in such manner as the Secretary of the Treasury may prescribe."

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

"(4) The Secretary may assess a civil penalty of not more than $1,000 a day for each violation by any person of section 302(b)(7)(F)(vi)."

(b) INTERNAL REVENUE CODE OF 1986.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

"(F) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—

"(i) IN GENERAL.—With respect to the net experience loss of an eligible multiemployer plan for the first plan year beginning after December 31, 2001, the plan sponsor may elect to defer up to 80 percent of the amount otherwise required to be charged under paragraph (2)(B)(iv) for any plan year beginning after June 30, 2003, and before July 1, 2005, to any plan year selected by the plan from either of the 2 immediately succeeding plan years.

"(ii) INTEREST.—For the plan year to which a charge is deferred pursuant to an election under clause (i), the funding standard account shall be charged with interest on the deferred charge for the period of deferral at the rate determined under subsection (d) for multiemployer plans.

"(iii) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any period for which a charge is deferred pursuant to an election under clause (i), unless—

"(I) the plan's enrolled actuary certifies (in such form and manner prescribed by the Secretary) that the amendment provides for an increase in annual contributions which will exceed the increase in annual charges to the funding standard account attributable to such amendment, or

"(II) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.

If a plan is amended during any such plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any such plan year ending on or after the date on which such amendment is adopted.

"(iv) ELIGIBLE MULTIEMPLOYER PLAN.—For purposes of this subparagraph, the term 'eligible multiemployer plan' means a multiemployer plan—

"(I) which had a net investment loss for the first plan year beginning after December 31, 2001, of at least 10 percent of the average fair market value of the plan assets during the plan year, and

"(II) with respect to which the plan's enrolled actuary certifies (not taking into account the application of this subparagraph), on the basis of the acutuarial assumptions used for the last plan year ending before the date of the enactment of this subparagraph, that the plan is projected to have an accumulated funding deficiency (within the meaning of subsection (a)) for any plan year beginning after June 30, 2003, and before July 1, 2006.

For purposes of subclause (I), a plan's net investment loss shall be determined on the basis of the actual loss and not under any actuarial method used under subsection (c)(2).

"(v) EXCEPTION TO TREATMENT OF ELIGIBLE MULTIEMPLOYER PLAN.—In no event shall a plan be treated as an eligible multiemployer plan under clause (iv) if—

"(I) for any taxable year beginning during the 10-year period preceding the first plan year for which an election is made under clause (i), any employer required to contribute to the plan failed to timely pay any excise tax imposed under section 4971 with respect to the plan,

"(II) for any plan year beginning after June 30, 1993, and before the first plan year for which an election is made under clause (i), the average contribution required to be made by all employers to the plan does not exceed 10 cents per hour or no employer is required to make contributions to the plan, or

"(III) with respect to any of the plan years beginning after June 30, 1993, and before the first plan year for which an election is made under clause (i), a waiver was granted under section 412(d) or section 303 of the Employee Retirement Income Security Act of 1974 with respect to the plan or an extension of an amortization period was granted under subsection (e) or section 304 of such Act with respect to the plan.

"(vi) ELECTION.—An election under this subparagraph shall be made at such time and in such manner as the Secretary may prescribe."

TITLE II—OTHER PROVISIONS

SEC. 201. 2-YEAR EXTENSION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.

(a) IN GENERAL.—Section 769(c) of the Retirement Protection Act of 1994, as added by section 1508 of the Taxpayer Relief Act of 1997, is amended—

(1) by inserting "except as provided in paragraph (3)," before "the transition rules", and

(2) by adding at the end the following:

"(3) SPECIAL RULES.—In the case of plan years beginning in 2004 and 2005, the following transition rules shall apply in lieu of the transition rules described in paragraph (2):

"(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 90 percent.

"(B) For purposes of section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 100 percent.

"(C) For purposes of determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974, the mortality table shall be the mortality table used by the plan."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

SEC. 202. PROCEDURES APPLICABLE TO DISPUTES INVOLVING PENSION PLAN WITHDRAWAL LIABILITY.

(a) IN GENERAL.—Section 4221 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401) is amended by adding at the end the following new subsection:

"(f) PROCEDURES APPLICABLE TO CERTAIN DISPUTES.—

"(1) IN GENERAL.—If—

"(A) a plan sponsor of a plan determines that—

"(i) a complete or partial withdrawal of an employer has occurred, or

"(ii) an employer is liable for withdrawal liability payments with respect to the complete or partial withdrawal of an employer from the plan,

"(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of a transaction that occurred before January 1, 1999, was to evade or avoid withdrawal liability under this subtitle, and

"(C) such transaction occurred at least 5 years before the date of the complete or partial withdrawal, then the special rules under paragraph (2) shall be used in applying subsections (a) and (d) of this section and section 4219(c) to the employer.

"(2) SPECIAL RULES.—

"(A) DETERMINATION.—Notwithstanding subsection (a)(3)—

"(i) a determination by the plan sponsor under paragraph (1)(B) shall not be presumed to be correct, and

"(ii) the plan sponsor shall have the burden to establish, by a preponderance of the evidence, the elements of the claim under section 4212(c) that a principal purpose of the transaction was to evade or avoid withdrawal liability under this subtitle.

Nothing in this subparagraph shall affect the burden of establishing any other element of a claim for withdrawal liability under this subtitle.

"(B) PROCEDURE.—Notwithstanding subsection (d) and section 4219(c), if an employer contests the plan sponsor's determination under paragraph (1) through an arbitration proceeding pursuant to subsection (a), or through a claim brought in a court of competent jurisdiction, the employer shall not be obligated to make any withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor's determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any employer that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(b)(1)) after October 31, 2003.

SEC. 203. SENSE OF CONGRESS REGARDING DEFINED BENEFIT PENSION SYSTEM REFORM.

It is the sense of the Congress that the Congress must ensure the financial health of the defined benefit pension system by working to promptly implement—

(1) a permanent replacement for the pension discount rate used for defined benefit pension plan calculations, and

(2) comprehensive funding reforms for all defined benefit pension plans aimed at achieving accurate and sound pension funding to enhance retirement security for workers who rely on defined pension plan benefits, to reduce the volatility of contributions, to provide plan sponsors with predictability for plan contributions, and to ensure adequate disclosures for plan participants in the case of underfunded pension plans.

SEC. 204. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking "December 31, 2005" and inserting "December 31, 2013".

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Funding Equity Act of 2004".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Pension Funding Equity Act of 2004".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2014", and

(B) by striking "Tax Relief Extension Act of 1999" and inserting "Pension Funding Equity Act of 2004".

SEC. 205. REPEAL OF REDUCTION OF DEDUCTIONS FOR MUTUAL LIFE INSURANCE COMPANIES.

(a) IN GENERAL.—Section 809 of the Internal Revenue Code of 1986 (relating to reductions in certain deduction of mutual life insurance companies) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsections (a)(2)(B) and (b)(1)(B) of section 807 of such Code are each amended by striking "the sum of (i)" and by striking "plus (ii) any excess described in section 809(a)(2) for the taxable year,".

(2)(A) The last sentence of section 807(d)(1) of such Code is amended by striking "section 809(b)(4)(B)" and inserting "paragraph (6)".

(B) Subsection (d) of section 807 of such Code is amended by adding at the end the following new paragraph:

"(6) STATUTORY RESERVES.—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c)."

(3) Subsection (c) of section 808 of such Code is amended to read as follows:

"(c) AMOUNT OF DEDUCTION.—The deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year."

(4) Subparagraph (A) of section 812(b)(3) of such Code is amended by striking "sections 808 and 809" and inserting "section 808".

(5) Subsection (c) of section 817 of such Code is amended by striking "(other than section 809)".

(6) Subsection (c) of section 842 of such Code is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(7) The table of sections for subpart C of part I of subchapter L of chapter 1 of such Code is amended by striking the item relating to section 809.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 206. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

"(i)(I) the gross receipts for the taxable year do not exceed $600,000, and

"(II) more than 50 percent of such gross receipts consist of premiums, or

"(ii) in the case of a mutual insurance company—

"(I) the gross receipts of which for the taxable year do not exceed $150,000, and

"(II) more than 35 percent of such gross receipts consist of premiums.

Clause (ii) shall not apply to a company if any employee of the company, or a member of the employee's family (as defined in section 2032A(e)(2)), is an employee of another company exempt from taxation by reason of this paragraph (or would be so exempt but for this sentence).".

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) of the Internal Revenue Code of 1986 is amended by inserting ", except that in applying section 831(b)(2)(B)(ii) for purposes of this subparagraph, subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) DEFINITION OF INSURANCE COMPANY FOR SECTION 831.—Section 831 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".

(d) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking "exceed $350,000 but".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) TRANSITION RULE FOR COMPANIES IN RECEIVERSHIP OR LIQUIDATION.—In the case of a company or association which—

(A) for the taxable year which includes April 1, 2004, meets the requirements of section 501(c)(15)(A) of the Internal Revenue Code of 1986, as in effect for the last taxable year beginning before January 1, 2004, and

(B) on April 1, 2004, is in a receivership, liquidation, or similar proceeding under the supervision of a State court,

the amendments made by this section shall apply to taxable years beginning after the earlier of the date such proceeding ends or December 31, 2007.

SEC. 207. CONFIRMATION OF ANTITRUST STATUS OF GRADUATE MEDICAL RESIDENT MATCHING PROGRAMS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress makes the following findings:

(A) For over 50 years, most United States medical school seniors and the large majority of graduate medical education programs (popularly known as "residency programs") have chosen to use a matching program to match medical students with residency programs to which they have applied. These matching programs have been an integral part of an educational system that has produced the finest physicians and medical researchers in the world.

(B) Before such matching programs were instituted, medical students often felt pressure, at an unreasonably early stage of their medical education, to seek admission to, and accept offers from, residency programs. As a result, medical students often made binding commitments before they were in a position to make an informed decision about a medical specialty or a residency program and before residency programs could make an informed assessment of students' qualifications. This situation was inefficient, chaotic, and unfair and it often led to placements that did not serve the interests of either medical students or residency programs.

(C) The original matching program, now operated by the independent non-profit National Resident Matching Program and popularly known as "the Match," was developed and implemented more than 50 years ago in response to widespread student complaints about the prior process. This Program includes on its board of directors individuals nominated by medical student organizations as well as by major medical education and hospital associations.

(D) The Match uses a computerized mathematical algorithm, as students had recommended, to analyze the preferences of students and residency programs and match students with their highest preferences from among the available positions in residency programs that listed them. Students thus obtain a residency position in the most highly ranked program on their list that has ranked them sufficiently high among its preferences. Each year, about 85 percent of participating United States medical students secure a place in one of their top 3 residency program choices.

(E) Antitrust lawsuits challenging the matching process, regardless of their merit or lack thereof, have the potential to undermine this highly efficient, pro-competitive, and long-standing process. The costs of defending such litigation would divert the scarce resources of our country's teaching hospitals and medical schools from their crucial missions of patient care, physician training, and medical research. In addition, such costs may lead to abandonment of the matching process, which has effectively served the interests of medical students, teaching hospitals, and patients for over half a century.

(2) PURPOSES.—It is the purpose of this section to—

(A) confirm that the antitrust laws do not prohibit sponsoring, conducting, or participating in a graduate medical education residency matching program, or agreeing to do so; and

(B) ensure that those who sponsor, conduct or participate in such matching programs are not subjected to the burden and expense of defending against litigation that challenges such matching programs under the antitrust laws.

(b) APPLICATION OF ANTITRUST LAWS TO GRADUATE MEDICAL EDUCATION RESIDENCY MATCHING PROGRAMS.—

(1) DEFINITIONS.—In this subsection:

(A) ANTITRUST LAWS.—The term "antitrust laws"—

(i) has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

(ii) includes any State law similar to the laws referred to in clause (i).

(B) GRADUATE MEDICAL EDUCATION PROGRAM.—The term "graduate medical education program" means—

(i) a residency program for the medical education and training of individuals following graduation from medical school;

(ii) a program, known as a specialty or subspecialty fellowship program, that provides more advanced training; and

(iii) an institution or organization that operates, sponsors or participates in such a program.

(C) GRADUATE MEDICAL EDUCATION RESIDENCY MATCHING PROGRAM.—The term "graduate medical education residency matching program" means a program (such as those conducted by the National Resident Matching Program) that, in connection with the admission of students to graduate medical education programs, uses an algorithm and matching rules to match students in accordance with the preferences of students and the preferences of graduate medical education programs.

(D) STUDENT.—The term "student" means any individual who seeks to be admitted to a graduate medical education program.

(2) CONFIRMATION OF ANTITRUST STATUS.—It shall not be unlawful under the antitrust laws to sponsor, conduct, or participate in a graduate medical education residency matching program, or to agree to sponsor, conduct, or participate in such a program. Evidence of any of the conduct described in the preceding sentence shall not be admissible in Federal court to support any claim or action alleging a violation of the antitrust laws.

(3) APPLICABILITY.—Nothing in this section shall be construed to exempt from the antitrust laws any agreement on the part of 2 or more graduate medical education programs to fix the amount of the stipend or other benefits received by students participating in such programs.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act, shall apply to conduct whether it occurs prior to, on, or after such date of enactment, and shall apply to all judicial and administrative actions or other proceedings pending on such date of enactment.

And the Senate agree to the same.

From the Committee on Education and the Workforce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
HOWARD "BUCK" MCKEON,
SAM JOHNSON,
PATRICK J. TIBERI,

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
ROB PORTMAN,
Managers on the Part of the House.

CHUCK GRASSLEY,
JUDD GREGG,
MITCH MCCONNELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3108), to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after "**SECTION**" (page 2, line 3) and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

A. TEMPORARY REPLACEMENT OF INTEREST RATE USED FOR CERTAIN PENSION PLAN PURPOSES AND ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION FOR CERTAIN PLANS

(Sec. 3 of the House bill, secs. 2–3 of the Senate Amendment, secs. 302 and 4006 of ERISA, and secs. 404, 412 and 415 of the Code)

PRESENT LAW

In general

Under present law, the interest rate on 30-year Treasury securities is used for several purposes related to defined benefit pension plans. Specifically, the interest rate on 30-year Treasury securities is used: (1) in determining current liability for purposes of the funding and deduction rules; (2) in determining unfunded vested benefits for purposes of Pension Benefit Guaranty Corporation ("PBGC") variable rate premiums; and (3) in determining the minimum required value of lump-sum distributions from a defined benefit pension plan and maximum lump-sum values for purposes of the limits on benefits payable under a defined benefit pension plan.

The IRS publishes the interest rate on 30-year Treasury securities on a monthly basis. The Department of the Treasury does not currently issue 30-year Treasury securities. As of March 2002, the IRS publishes the average yield on the 30-year Treasury bond maturing in February 2031 as a substitute.

Funding rules

In general

The Internal Revenue Code (the "Code") and the Employee Retirement Income Security Act of 1974 ("ERISA") impose minimum funding requirements with respect to defined benefit pension plans.[1] Under the funding rules, the amount of contributions required for a plan year is generally the plan's normal cost for the year (i.e., the cost of benefits allocated to the year under the plan's funding method) plus that year's portion of other liabilities that are amortized over a period of years, such as benefits resulting from a grant of past service credit.

Additional contributions for underfunded plans

Under special funding rules (referred to as the "deficit reduction contribution" rules),[2] an additional contribution to a plan is generally required if the plan's funded current liability percentage is less than 90 percent.[3] A plan's "funded current liability percentage" is the actuarial value of plan assets[4] as a percentage of the plan's current liability. In general, a plan's current liability means all liabilities to employees and their beneficiaries under the plan.

The amount of the additional contribution required under the deficit reduction contribution rules is the sum of two amounts: (1) the excess, if any, of (a) the deficit reduction contribution (as described below), over (b) the contribution required under the normal funding rules; and (2) the amount (if any) required with respect to unpredictable contingent event benefits.[5] The amount of the additional contribution cannot exceed the amount needed to increase the plan's funded current liability percentage to 100 percent.

The deficit reduction contribution is the sum of (1) the "unfunded old liability amount," (2) the "unfunded new liability amount," and (3) the expected increase in current liability due to benefits accruing during the plan year.[6] The "unfunded old liability amount" is the amount needed to amortize certain unfunded liabilities under 1987 and 1994 transition rules. The "unfunded new liability amount" is the applicable percentage of the plan's unfunded new liability. Unfunded new liability generally means the unfunded current liability of the plan (i.e., the amount by which the plan's current liability exceeds the actuarial value of plan assets), but determined without regard to certain liabilities (such as the plan's unfunded old liability and unpredictable contingent event benefits). The applicable percentage is generally 30 percent, but is reduced if the plan's funded current liability percentage, is greater than 60 percent.

Required interest rate and mortality table

Specific interest rate and mortality assumptions must be used in determining a plan's current liability for purposes of the special funding rule. The interest rate used to determine a plan's current liability must be within a permissible range of the weighted average[7] of the interest rates on 30-year Treasury securities for the four-year period ending on the last day before the plan year begins. The permissible range is generally from 90 percent to 105 percent.[8] The interest rate used under the plan must be consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.[9]

The Job Creation and Worker Assistance Act of 2002[10] amended the permissible range of the statutory interest rate used in calculating a plan's current liability for purposes of applying the additional contribution requirements. Under this provision, the permissible range is from 90 percent to 120 percent for plan years beginning after December 31, 2001, and before January 1, 2004.

The Secretary of the Treasury is required to prescribe mortality tables and to periodically review (at least every five years) and update such tables to reflect the actuarial experience of pension plans and projected trends in such experience.[11] The Secretary of the Treasury has required the use of the 1983 Group Annuity Mortality Table.[12]

Full funding limitation

No contributions are required under the minimum funding rules in excess of the full funding limitation. In 2004 and thereafter, the full funding limitation is the excess, if any, of (1) the accrued liability under the plan (including normal cost), over (2) the lesser of (a) the market value of plan assets or (b) the actuarial value of plan assets.[13]

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[1] Code sec. 412; ERISA sec. 302. The Code also imposes limits on deductible contributions, as discussed below.

[2] The deficit reduction contribution rules apply to single-employer plans, other than single-employer plans with no more than 100 participants on any day in the preceding plan year. Single-employer plans with more than 100 but not more than 150 participants are generally subject to lower contribution requirements under these rules.

[3] Under an alternative test, a plan is not subject to the deficit reduction contribution rules for a plan year if (1) the plan's funded current liability percentage for the plan year is at least 80 percent, and (2) the plan's funded current liability percentage was at least 90 percent for each of the two immediately preceding plan years or each of the second and third immediately preceding plan years.

[4] The actuarial value of plan assets is the value determined under an actuarial valuation method that takes into account fair market value and meets certain other requirements. The use of an actuarial valuation method allows appreciation or depreciation in the market value of plan assets to be recognized gradually over several plan years. Sec. 412(c)(2); Treas. reg. sec. 1.412(c)(2)–1.

[5] A plan may provide for unpredictable contingent event benefits, which are benefits that depend on contingencies that are not reliably and reasonably predictable, such as facility shutdowns or reductions in workforce. An additional contribution is generally not required with respect to unpredictable contingent event benefits unless the event giving rise to the benefits has occurred.

[6] If the Secretary of the Treasury prescribes a new mortality table to be used in determining current liability, as described below, the deficit reduction contribution may include an additional amount.

[7] The weighting used for this purpose is 40 percent, 30 percent, 20 percent and 10 percent, starting with the most recent year in the four-year period. Notice 88–73, 1988–2 C.B. 383.

[8] If the Secretary of the Treasury determines that the lowest permissible interest rate in this range is unreasonably high, the Secretary may prescribe a lower rate, but not less than 80 percent of the weighted average of the 30-year Treasury rate.

[9] Code sec. 412(b)(5)(B)(iii)(II); ERISA sec. 302(b)(5)(B)(iii)(II). Under Notice 90–11, 1990–1 C.B. 319, the interest rates in the permissible range are deemed to be consistent with the assumptions reflecting the purchase rates that would be used by insurance companies to satisfy the liabilities under the plan.

[10] Pub. L. No. 107–147.

[11] Code sec. 412(1)(7)(C)(ii); ERISA sec. 302(d)(7)(C)(ii).

[12] Rev. Rul. 95–28, 1995–1 C.B. 74. The IRS and the Treasury Department have announced that they are undertaking a review of the applicable mortality table and have requested comments on related issues, such as how mortality trends should be reflected. Notice 2003–62, 2003–38 I.R.B. 576; Announcement 2000–7, 2000–1 C.B. 586.

[13] For plan years beginning before 2004, the full funding limitation was generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) a

However, the full funding limitation may not be less than the excess, if any, of 90 percent of the plan's current liability (including the current liability normal cost) over the actuarial value of plan assets. In general, current liability is all liabilities to plan participants and beneficiaries accrued to date, whereas the accrued liability under the full funding limitation may be based on projected future benefits, including future salary increases.

Timing of plan contributions

In general, plan contributions required to satisfy the funding rules must be made within 8½ months after the end of the plan year. If the contribution is made by such due date, the contribution is treated as if it were made on the last day of the plan year.

In the case of a plan with a funded current liability percentage of less than 100 percent for the preceding plan year, estimated contributions for the current plan year must be made in quarterly installments during the current plan year.[14] The amount of each required installment is 25 percent of the lesser of (1) 90 percent of the amount required to be contributed for the current plan year or (2) 100 percent of the amount required to be contributed for the preceding plan year.[15]

Funding waivers

Within limits, the IRS is permitted to waive all or a portion of the contributions required under the minimum funding standard for a plan year.[16] A waiver may be granted if the employer (or employers) responsible for the contribution could not make the required contribution without temporary substantial business hardship and if requiring the contribution would be adverse to the interests of plan participants in the aggregate. Generally, no more than three waivers may be granted within any period of 15 consecutive plan years.

If a funding waiver is in effect for a plan, subject to certain exceptions, no plan amendment may be adopted that increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits vest under the plan. In addition, the IRS is authorized to require security to be granted as a condition of granting a funding waiver if the sum of the plan's accumulated funding deficiency and the balance of any outstanding waived funding deficiencies exceeds $1 million.

Excise tax

An employer is generally subject to an excise tax if it fails to make minimum required contributions and fails to obtain a waiver from the IRS. [17] The excise tax is generally 10 percent of the amount of the funding deficiency. In addition, a tax of 100 percent may be imposed if the funding deficiency is not corrected within a certain period.

Deductions for contributions

Employer contributions to qualified retirement plans are deductible, subject to certain limits. In the case of a defined benefit pension plan, the employer generally may deduct the greater of: (1) the amount necessary to satisfy the minimum funding requirement of the plan for the year; or (2) the amount of the plan's normal cost for the year plus the amount necessary to amortize certain unfunded liabilities over ten years, but limited to the full funding limitation for the year. [18] However, the maximum amount of deductible contributions is generally not less than the plan's unfunded current liability. [19]

PBGC premiums

Because benefits under a defined benefit pension plan may be funded over a period of years, plan assets may not be sufficient to provide the benefits owed under the plan to employees and their beneficiaries if the plan terminates before all benefits are paid. The PBGC generally insures the benefits owed under defined benefit pension plans (up to certain limits) in the event a plan is terminated with insufficient assets. Employers pay premiums to the PBGC for this insurance coverage.

PBGC premiums include a flat-rate premium and, in the case of an underfunded plan, a variable rate premium based on the amount of unfunded vested benefits. [20] In determining the amount of unfunded vested benefits, the interest rate used is 85 percent of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

Under the Job Creation and Worker Assistance Act of 2002, for plan years beginning after December 31, 2001, and before January 1, 2004, the interest rate used in determining the amount of unfunded vested benefits for PBGC variable rate premium purposes is increased to 100 percent of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

Lump-sum distributions

Accrued benefits under a defined benefit pension plan generally must be paid in the form of an annuity for the life of the participant unless the participant consents to a distribution in another form. Defined benefit pension plans generally provide that a participant may choose among other forms of benefit offered under the plan, such as a lump-sum distribution. These optional forms of benefit generally must be actuarially equivalent to the life annuity benefit payable to the participant.

A defined benefit pension plan must specify the actuarial assumptions that will be used in determining optional forms of benefit under the plan in a manner that precludes employer discretion in the assumptions to be used. For example, a plan may specify that a variable interest rate will be used in determining actuarial equivalent forms of benefit, but may not give the employer discretion to choose the interest rate.

Statutory assumptions must be used in determining the minimum value of certain optional forms of benefit, such as a lump sum.[21] That is, the lump sum payable under the plan may not be less than the amount of the lump sum that is actuarially equivalent to the life annuity payable to the participant, determined using the statutory assumptions. The statutory assumptions consist of an applicable mortality table (as published by the IRS) and an applicable interest rate.

The applicable interest rate is the annual interest rate on 30-year Treasury securities, determined as of the time that is permitted under regulations. The regulations provide various options for determining the interest rate to be used under the plan, such as the period for which the interest rate will remain constant ("stability period") and the use of averaging.

Limits on benefits

Annual benefits payable under a defined benefit pension plan generally may not exceed the lesser of (1) 100 percent of average compensation, or (2) $165,000 (for 2004). [22] The dollar limit generally applies to a benefit payable in the form of a straight life annuity beginning no earlier than age 62. The limit is reduced if benefits are paid before age 62. In addition, if the benefit is not in the form of a straight life annuity, the benefit generally is adjusted to an equivalent straight life annuity. In making these reductions and adjustments, the interest rate used generally must be not less than the greater of (1) five percent; or (2) the interest rate specified in the plan. However, for purposes of adjusting a benefit in a form that is subject to the minimum value rules (including the use of the interest rate on 30-year Treasury securities), such as a lump-sum benefit, the interest rate used must be not less than the greater of: (1) the interest rate on 30-year Treasury securities; or (2) the interest rate specified in the plan.

HOUSE BILL

Interest rate for determining current liability and PBGC premiums

The House bill changes the interest rate used for plan years beginning after December 31, 2003, and before January 1, 2006, in determining current liability for funding and deduction purposes and in determining PBGC variable rate premiums. For these purposes, the House bill replaces the interest rate on 30-year Treasury securities with the rate of interest on amounts conservatively invested in long-term corporate bonds.

For purposes of determining a plan's current liability for plan years beginning after December 31, 2003, and before January 1, 2006, the interest rate used must be within a permissible range of the weighted average of the rates of interest on amounts conservatively invested in long-term corporate bonds during the four-year period ending on the last day before the plan year begins, as determined by the Secretary of the Treasury on the basis of one or more indices selected periodically by the Secretary. The permissible range for these years is from 90 percent to 100 percent. The Secretary of the Treasury is directed to publish the interest rate within the permissible range.

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percentage (170 percent for 2003) of the plan's current liability (including the current liability normal cost), over (2) the lesser of (a) the market value of plan assets or (b) the actuarial value of plan assets, but in no case less than the excess, if any, of 90 percent of the plan's current liability over the actuarial value of plan assets. Under the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), the full funding limitation based on 170 percent of current liability is repealed for plan years beginning in 2004 and thereafter. The provisions of EGTRRA generally do not apply for years beginning after December 31, 2010.

[14] Code sec. 412(m); ERISA sec. 302(e).

[15] In connection with the expanded interest rate range available for 2002 and 2003, special rules apply in determining current liability for the preceding plan year for purposes of applying the quarterly contributions requirements to plan years beginning in 2002 (when the expanded range first applies) and 2004 (when the expanded range no longer applies). In each of those years ("present year"), current liability for the preceding year is redetermined, using the permissible range applicable to the present year. This redetermined current liability will be used for purposes of the plan's funded current liability percentage for the preceding year, which may affect the need to make quarterly contributions, and for purposes of determining the amount of any quarterly contributions in the present year, which is based in part on the preceding year.

[16] Code sec. 412(d); ERISA sec. 303.

[17] Code sec. 4971.

[18] Code sec. 404(a)(1).

[19] Code sec. 404(a)(1)(D). In the case of a plan that terminates during the year, the maximum deductible amount is generally not less than the amount needed to make the plan assets sufficient to fund benefit liabilities as defined for purposes of the PBGC termination insurance program (sometimes referred to as "termination liability").

[20] ERISA sec. 4006.

[21] Code sec. 417(e)(3); ERISA sec. 205(g)(3).

[22] Code sec. 415(b).

In determining the amount of unfunded vested benefits for PBGC variable rate premium purposes for plan years beginning after December 31, 2003, and before January 1, 2006, the interest rate used is 85 percent of the annual yield on amounts conservatively invested in long-term corporate bonds for the month preceding the month in which the plan year begins, as determined by the Secretary of the Treasury on the basis of one or more indices selected periodically by the Secretary. The Secretary of the Treasury is directed to publish such annual yield.

Interest rate used to apply benefit limits to lump sums

No provision.

Alternative deficit reduction contribution for certain plans

No provision.[23]

EFFECTIVE DATE

The House bill is generally effective for plan years beginning after December 31, 2003. For purposes of applying certain rules ("lookback rules") to plan years beginning after December 31, 2003, the amendments made by the provision may be applied as if they had been in effect for all years beginning before the effective date. For purposes of the provision, "lookback rules" means: (1) the rule under which a plan is not subject to the additional funding requirements for a plan year if the plan's funded current liability percentage was at least 90 percent for each of the two immediately preceding plan years or each of the second and third immediately preceding plan years; and (2) the rule under which quarterly contributions are required for a plan year if the plan's funded current liability percentage was less than 100 percent for the preceding plan year.

SENATE AMENDMENT

Interest rate for determining current liability and PBGC premiums

The Senate amendment is the same as the House bill, with the following modifications.

The Senate amendment replaces the interest rate on 30-year Treasury securities with a conservative long-term bond rate reflecting the rates of interest on amounts invested conservatively in long term corporate bonds and based on the use of two or more indices that are in the top two quality levels available reflecting average maturities of 20 years or more. The Secretary of the Treasury is directed to prescribe by regulation a method for periodically determining conservative long-term corporate bond rates.[24]

Under the Senate amendment, an employer may elect to disregard the temporary interest rate change for purposes of determining the maximum amount of deductible contributions to a defined benefit pension plan (regardless of whether the plan is subject to the deficit reduction contribution requirements). In such a case, the present-law interest rate rules apply, i.e., the interest rate used in determining current liability for that purpose must be within the permissible range (90 to 105 percent) of the weighted average of the interest rates on 30-year Treasury securities for the preceding four-year period.

Interest rate used to apply benefit limits to lump sums

Under the Senate amendment, in the case of plan years beginning in 2004 or 2005, in adjusting a form of benefit that is subject to the minimum value rules, such as a lump-sum benefit, for purposes of applying the limits on benefits payable under a defined benefit pension plan, the interest rate used must be not less than the greater of: (1) 5.5 percent; or (2) the interest rate specified in the plan.

Alternative deficit reduction contribution for certain plans

In general

The Senate amendment allows certain employers ("applicable employers") to elect a reduced amount of additional required contribution under the deficit reduction contribution rules (an "alternative deficit reduction contribution") with respect to certain plans for applicable plan years. An applicable plan year is a plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects a reduced contribution. If an employer so elects, the amount of the additional deficit reduction contribution for an applicable plan year is the greater of: (1) 20 percent (40 percent in the case of a plan year beginning after December 27, 2004) of the amount of the additional contribution that would otherwise be required; or (2) the additional contribution that would be required if the deficit reduction contribution for the plan year were determined as the expected increase in current liability due to benefits accruing during the plan year.

An election of an alternative deficit reduction contribution may be made only with respect to a plan that was not subject to the deficit reduction contribution rules for the plan year beginning in 2000. An election may not be made with respect to more than two plan years. An election is to be made at such time and in such manner as the Secretary of the Treasury prescribes. An election does not invalidate any obligation pursuant to a collective bargaining agreement in effect on the date of the election to provide benefits, to change the accrual of benefits, or to change the rate at which benefits vest under the plan.

An applicable employer is an employer that is: (1) a commercial passenger airline; (2) primarily engaged in the production or manufacture of a steel mill product, or in the mining or processing of iron ore or beneficiated iron ore products; or (3) an organization described in section 501(c)(5) that established the plan for which an alternative deficit reduction contribution is elected on June 30, 1955. In addition, an employer not described in the preceding sentence is treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary of the Treasury prescribes) to be treated as an applicable employer. However, an employer making such an application is not treated as an applicable employer if, within 90 days of the application, the Secretary determines (taking into account the application of the provision) that there is a reasonable likelihood that the employer will be unable to make required future contributions to the plan in a timely manner.

Restrictions on amendments

Certain plan amendments may not be adopted during an applicable plan year (i.e., a plan year for which an alternative deficit reduction contribution is elected). This restriction applies to an amendment that increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits vest under the plan. The restriction applies unless: (1) the plan's funded current liability percentage as of the end of the applicable plan year is projected to be at least 75 percent (taking into account the effect of the amendment); (2) the amendment provides for an increase in benefits under a formula that is not based on a participant's compensation, but only if the rate of the increase does not exceed the contemporaneous rate of increase in average wages of participants covered by the amendment; (3) the amendment is required by a collective bargaining agreement that is in effect on the date of enactment of the provision; (4) the amendment is determined by the Secretary of Labor to be reasonable and provides for only de minimis increases in plan liabilities; or (5) the amendment is required as a condition of qualified retirement plan status.

If a plan is amended during an applicable plan year in violation of the provision, an election of an alternative deficit reduction contribution does not apply to any applicable plan year ending on after the date on which the amendment is adopted.

Notice requirement

The Senate amendment amends ERISA to provide that, if an employer elects an alternative deficit reduction contribution for any applicable plan year, the employer must provide written notice of the election to participants and beneficiaries within 30 days of filing the election (120 days in the case of an employer that files an application to be treated as an applicable employer). The notice to participants must include: (1) the due date of the alternative deficit reduction contribution; (2) the amount by which the required contribution to the plan was reduced as a result of the election; (3) a description of the benefits under the plan that are eligible for guarantee by the PBGC; and (4) an explanation of the limitations on the PBGC guarantee and the circumstances in which the limitations apply, including the maximum guaranteed monthly benefits that the PBGC would pay if the plan terminated while underfunded. An employer that fails to provide the required notice to a participant or beneficiary may (in the discretion of a court) be liable to the participant or beneficiary in the amount of up to $100 a day from the date of the failure, and the court may in its discretion order such other relief as it deems proper.

The Senate amendment also amends ERISA to require that an employer electing an alternative deficit reduction contribution for any year must provide written notice of the election to the PBGC within 30 days of the election (120 days in the case of an employer that files an application to be treated as an applicable employer). The notice to the PBGC must include: (1) the due date of the alternative deficit reduction contribution; (2) the amount by which the required contribution to the plan was reduced as a result of the election; (3) the number of years it will take to restore the plan to full funding if the employer makes only the required contributions; and (4) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer.

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[23] Section 2002 of H.R. 3521, the "Tax Relief Extension Act of 2003," as passed by the House of Representatives on November 20, 2003, provides for a reduced deficit reduction contribution for plan years beginning after December 27, 2003, and before December 28, 2005, in the case of plans maintained by commercial passenger airlines. For each year of these years, the reduced contribution is 20 percent of the otherwise required additional contribution.

[24] The Senate amendment also repeals the present-law rule under which, for purposes of applying the quarterly contributions requirements to plan years beginning in 2004, current liability for the preceding year is redetermined.

Effective date

Interest rate for determining current liability and PBGC premiums

The Senate amendment is generally effective for plan years beginning after December 31, 2003. For purposes of applying certain rules ("lookback rules") to plan years beginning after December 31, 2003, the amendments made by the provision may be applied as if they had been in effect for all years beginning before the effective date. For purposes of the provision, "lookback rules" means: (1) the rule under which a plan is not subject to the additional funding requirements for a plan year if the plan's funded current liability percentage was at least 90 percent for each of the two immediately preceding plan years or each of the second and third immediately preceding plan years; and (2) the rule under which quarterly contributions are required for a plan year if the plan's funded current liability percentage was less than 100 percent for the preceding plan year.

Interest rate used to apply benefit limits to lump sums

The Senate amendment is generally effective for plan years beginning after December 31, 2003. Under a special rule, in the case of a distribution made to a participant or beneficiary after December 31, 2003, and before January 1, 2005, in a form of benefit that is subject to the minimum value rules, such as a lump-sum benefit, and that is subject to adjustment in applying the limit on benefits payable under a defined benefit pension plan, the amount payable may not, solely by reason of the Senate amendment, be less than the amount that would have been payable if the amount payable had been determined using the applicable interest rate in effect as of the last day of the last plan year beginning before January 31, 2004.

Alternative deficit reduction contribution for certain plans

The Senate amendment is effective on the date of enactment.

CONFERENCE AGREEMENT

Interest rate for determining current liability and PBGC premiums

The conference agreement follows the House bill with modifications.

Under the conference agreement, the interest rate used for plan years beginning after December 31, 2003, and before January 1, 2006, in determining current liability for funding and deduction purposes and in determining PBGC variable rate premiums is generally the rate of interest on amounts invested conservatively in long-term investment-grade corporate bonds.[25]

For purposes of determining a plan's current liability for plan years beginning after December 31, 2003, and before January 1, 2006, the interest rate used must be within a permissible range of the weighted average of the rates of interest on amounts invested conservatively in long-term investment-grade corporate bonds during the four-year period ending on the last day before the plan year begins. The permissible range for these years is from 90 percent to 100 percent. The interest rate is to be determined by the Secretary of the Treasury on the basis of two or more indices that are selected periodically by the Secretary and are in the top three quality levels available.

The interest rate on long-term corporate bonds shall be calculated pursuant to a method, prescribed by the Secretary of the Treasury, which relies on publicly available indices of high-quality bonds (i.e., the top three quality levels). The Secretary may use bonds with average maturities of 20 years or more in determining the rate. The Secretary of Treasury may prescribe that two thirds of the rate may be based on two or more indices that are in the top three quality levels, and one third of such rate may be based on two or more indices that are in the third quality level. The Secretary shall have discretion to determine which publicly available indices to use.

The Secretary is directed to make the permissible range of the interest rate, as well as the indices and methodology used to determine the average rate, publicly available. The methodology used by the Secretary to arrive at a single rate shall be publicly available (including for a subscription fee or other charge). The Secretary shall publish the rate on a monthly basis, along with an updated four-year weighted average of the rate and an updated permissible range. The Secretary shall consider and monitor the current marketplace indices to produce the specified rate to ensure that the indices continue to be appropriate for this purpose. Through regulations, the Secretary shall, as appropriate, make prospective changes in the indices used to determine the rate.

For purposes of determining the four-year weighted average of interest rates under the temporary provision, the weighting applicable under present law applies (i.e., 40 percent, 30 percent, 20 percent and 10 percent, starting with the most recent year in the four-year period). In addition, consistent with current IRS guidance, the interest rates in the permissible range under the temporary provision are deemed to be consistent with the assumptions reflecting the purchase rates that would be used by insurance companies to satisfy the liabilities under the plan. Thus, any interest rate in the permissible range may be used in determining current liability while the temporary provision is in effect.

The temporary interest rate generally applies in determining current liability for purposes of determining the maximum amount of deductible contributions to a defined benefit pension plan (regardless of whether the plan is subject to the deficit reduction contribution requirements). However, under the conference agreement, an employer may elect to disregard the temporary interest rate change for purposes of determining the maximum amount of deductible contributions (regardless of whether the plan is subject to the deficit reduction contribution requirements). In such a case, the present-law interest rate rules apply, i.e., the interest rate used in determining current liability for that purpose must be within the permissible range (90 to 105 percent) of the weighted average of the interest rates on 30-year Treasury securities for the preceding four-year period. This is intended solely as a temporary provision to ensure that, pending long-term reform of the funding and deduction rules, the deduction limit is neither increased nor decreased so that employers are not penalized for fully funding their plans. Because the 30-year Treasury rate is an obsolete rate, its use must be revisited promptly in the context of long-term funding and deduction reform. However, the use of the 30 Year Treasury rate for the purposes of determining maximum deduction limits should not be considered precedent for the determination of other pension plan calculations. Furthermore, the use of different interest rates for certain pension plan calculations in the context of this temporary bill should not be considered precedent for the use of different discount rates to measure pension plan liabilities.

Under the conference agreement, in determining the amount of unfunded vested benefits for PBGC variable rate premium purposes for plan years beginning after December 31, 2003, and before January 1, 2006, the interest rate used is 85 percent of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment-grade corporate bonds for the month preceding the month in which the plan year begins (subject to the same requirements applicable to the determination of the interest rate used in determining current liability).

Interest rate used to apply benefit limits to lump sums

The conference agreement follows the Senate amendment.

Under the conference agreement, in the case of plan years beginning in 2004 or 2005, in adjusting a form of benefit that is subject to the minimum value rules, such as a lump-sum benefit, for purposes of applying the limits on benefits payable under a defined benefit pension plan, the interest rate used must be not less than the greater of: (1) 5.5 percent; or (2) the interest rate specified in the plan.

Plan amendments

The conference agreement permits certain plan amendments made pursuant to the interest rate provision of the bill to be retroactively effective. If certain requirements are met, the plan will be treated as being operated in accordance with its terms, and the amendment will not violate the anticutback rules (except as provided by the Secretary of the Treasury).[26] In order for this treatment to apply, the plan amendment must be made on or before the last day of the first plan year beginning on or after January 1, 2006. In addition, the amendment must apply retroactively as of the date on which the interest rate provision became effective with respect to the plan and the plan must be operated in compliance with the interest rate provision until the amendment is made.

A plan amendment will not be considered to be pursuant to the interest rate provision of the bill if it has an effective date before the effective date of the interest rate provision. Similarly, relief from the anticutback rules does not apply for periods prior to the effective date of the interest rate provision or the plan amendment.

Alternative deficit reduction contribution for certain plans

In general

The conference agreement follows the Senate amendment with modifications.

The conference agreement allows certain employers ("applicable employers") to elect a reduced amount of additional required contribution under the deficit reduction contribution rules (an "alternative deficit reduction contribution") with respect to certain plans for applicable plan years. An applicable plan year is a plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects a reduced contribution. If an employer so elects, the amount of the additional deficit reduction contribution for an applicable plan year is the greater of (1) 20 percent of the amount of the additional contribution that would otherwise be required; or (2) the additional contribution that would be required if the deficit reduction contribution for the plan year were determined as the expected increase in current liability due to benefits accruing during the plan year.

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[25] The conference agreement also repeals the present-law rule under which, for purposes of applying the quarterly contributions requirements to plan years beginning in 2004, current liability for the preceding year is redetermined.

[26] Code sec. 411(d)(6); ERISA sec. 204(g).

An election of an alternative deficit reduction contribution may be made only with respect to a plan that was not subject to the deficit reduction contribution rules for the plan year beginning in 2000.[27] An election may not be made with respect to more than two plan years. An election is to be made at such time and in such manner as the Secretary of the Treasury prescribes. Guidance relating to the time and manner in which an election is made is to be issued expeditiously. An election does not invalidate any obligation pursuant to a collective bargaining agreement in effect on the date of the election to provide benefits, to change the accrual of benefits, or to change the rate at which benefits vest under the plan.

An applicable employer is an employer that is: (1) a commercial passenger airline; (2) primarily engaged in the production or manufacture of a steel mill product, or the processing of iron ore pellets; or (3) an organization described in section 501(c)(5) that established the plan for which an alternative deficit reduction contribution is elected on June 30, 1955.

Restrictions on amendments

Certain plan amendments may not be adopted during an applicable plan year (i.e., a plan year for which an alternative deficit reduction contribution is elected). This restriction applies to an amendment that increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits vest under the plan. The restriction applies unless: (1) the plan's enrolled actuary certifies (in such form and manner as prescribed by the Secretary of the Treasury) that the amendment provides for an increase in annual contributions that will exceed the increase in annual charges to the funding standard account attributable to such amendment; or (2) the amendment is required by a collective bargaining agreement that is in effect on the date of enactment of the provision.

If a plan is amended during an applicable plan year in violation of the provision, an election of an alternative deficit reduction contribution does not apply to any applicable plan year ending on after the date on which the amendment is adopted.

Notice requirement

The conference agreement amends ERISA to provide that, if an employer elects an alternative deficit reduction contribution for any applicable plan year, the employer must provide written notice of the election to participants and beneficiaries and to the PBGC within 30 days of filing the election. The notice to participants and beneficiaries must include: (1) the due date of the alternative deficit reduction contribution; (2) the amount by which the required contribution to the plan was reduced as a result of the election; (3) a description of the benefits under the plan that are eligible for guarantee by the PBGC; and (4) an explanation of the limitations on the PBGC guarantee and the circumstances in which the limitations apply, including the maximum guaranteed monthly benefits that the PBGC would pay if the plan terminated while underfunded. The notice to the PBGC must include: (1) the due date of the alternative deficit reduction contribution; (2) the amount by which the required contribution to the plan was reduced as a result of the election; (3) the number of years it will take to restore the plan to full funding if the employer makes only the required contributions; and (4) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer.

An employer that fails to provide the required notice to a participant, beneficiary, or the PBGC may (in the discretion of a court) be liable to the participant, beneficiary, or PBGC in the amount of up to $100 a day from the date of the failure, and the court may in its discretion order such other relief as it deems proper.

Effective date

Interest rate for determining current liability and PBGC premiums

The conference agreement is generally effective for plan years beginning after December 31, 2003. For purposes of applying certain rules ("lookback rules") to plan years beginning after December 31, 2003, the amendments made by the provision may be applied as if they had been in effect for all years beginning before the effective date. For purposes of the provision, "lookback rules" means: (1) the rule under which a plan is not subject to the additional funding requirements for a plan year if the plan's funded current liability percentage was at least 90 percent for each of the two immediately preceding plan years or each of the second and third immediately preceding plan years; and (2) the rule under which quarterly contributions are required for a plan year if the plan's funded current liability percentage was less than 100 percent for the preceding plan year. The amendments made by the provision may be applied for purposes of the lookback rules, regardless of the funded current liability percentage reported for the plan on the plan's annual reports (i.e., Form 5500) for preceding years.

Interest rate used to apply benefit limits to lump sums

The conference agreement is generally effective for plan years beginning after December 31, 2003. Under a special rule, in the case of a distribution made to a participant or beneficiary after December 31, 2003, and before January 1, 2005, in a form of benefit that is subject to the minimum value rules, such as a lump-sum benefit, and that is subject to adjustment in applying the limit on benefits payable under a defined benefit pension plan, the amount payable may not, solely by reason of the conference agreement, be less than the amount that would have been payable if the amount payable had been determined using the applicable interest rate in effect as of the last day of the last plan year beginning before January 31, 2004.

Alternative deficit reduction contribution for certain plans

The conference agreement is effective on the date of enactment.

B. MULTIEMPLOYER PLAN FUNDING NOTICES

(Sec. 4 of the Senate amendment and secs. 101 and 502 of ERISA)

PRESENT LAW

Under present law, defined benefit plans are generally required to meet certain minimum funding rules. These rules are designed to help ensure that such plans are adequately funded. Both single-employer plans and multiemployer plans are subject to minimum funding requirements; however, the requirements are different for each type of plan.

Similarly, the Pension Benefit Guaranty Corporation ("PBGC") insures certain benefits under both single-employer and multiemployer defined benefit plans, but the rules relating to the guarantee vary for each type of plan. In the case of multiemployer plans, the PBGC guarantees against plan insolvency. Under its multiemployer program, PBGC provides financial assistance through loans to plans that are insolvent (that is, plans that are unable to pay basic PBGC-guaranteed benefits when due).

Employers maintaining single-employer defined benefit plans are required to provide certain notices to plan participants relating to the funding status of the plan. For example, ERISA requires an employer of a single-employer defined benefit plan to notify plan participants if the employer fails to make required contributions (unless a request for a funding waiver is pending).[28] In addition, in the case of an underfunded plan for which variable rate PBGC premiums are required, the plan administrator generally must notify plan participants of the plan's funding status and the limits on the PBGC benefit guarantee if the plan terminates while underfunded.[29]

HOUSE BILL

No provision

SENATE AMENDMENT

In general

The Senate amendment requires the administrator of a defined benefit plan which is a multiemployer plan to provide an annual funding notice to: (1) each participant and beneficiary; (2) each labor organization representing such participants or beneficiaries; and (3) each employer that has an obligation to contribute under the plan.

Such a notice must include: (1) identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan identification number; (2) a statement as to whether the plan's funded current liability percentage for the plan year to which the notice relates is at least 100 percent (and if not, a statement of the percentage); (3) a statement of the value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates; (4) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); (5) a general description of the benefits under the plan which are eligible to be guaranteed by the PBGC and the limitations of the guarantee and circumstances in which such limitations apply; and (6) any additional information which the plan administrator elects to include to the extent it is not inconsistent with regulations prescribed by the Secretary of Labor.

The annual funding notice must be provided no later than two months after the deadline (including extensions) for filing the plan's annual report for the plan year to which the notice relates. The funding notice must be provided in a form and manner prescribed in regulations by the Secretary of Labor. Additionally, it must be written so as to be understood by the average plan participant and may be provided in written, electronic, or some other appropriate form to the extent that it is reasonably accessible to persons to whom the notice is required to be provided.

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[27] Whether a plan was subject to the deficit reduction contribution rules for the plan year beginning in 2000 is determined without regard to the rule that allows the temporary interest rate based on amounts invested conservatively in long-term investment-grade corporate bonds to be used for lookback rule purposes, as discussed below.

[28] ERISA sec. 101(d).

[29] ERISA sec. 4011. Multiemployer plans are not required to pay variable rate premiums.

The Secretary of Labor is directed to issue regulations (including a model notice) necessary to implement the provision no later than one year after the date of enactment.

Sanction for failure to provide notice

In the case of a failure to provide the annual multiemployer plan funding notice, the Secretary of Labor may assess a civil penalty against a plan administrator of up to $100 per day for each failure to provide a notice. For this purpose, each violation with respect to a single participant or beneficiary is treated as a separate violation.

Effective date

The Senate amendment is effective for plan years beginning after December 31, 2004.

CONFERENCE AGREEMENT

In general

The conference agreement follows the Senate amendment, with the following modification. The administrator of a defined benefit plan which is a multiemployer plan is also required to provide an annual funding notice to the PBGC.

The conference agreement requires the administrator of a defined benefit plan which is a multiemployer plan to provide an annual funding notice to: (1) each participant and beneficiary; (2) each labor organization representing such participants or beneficiaries; (3) each employer that has an obligation to contribute under the plan; and (4) the PBGC.

Such a notice must include: (1) identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan identification number; (2) a statement as to whether the plan's funded current liability percentage for the plan year to which the notice relates is at least 100 percent (and if not, a statement of the percentage); (3) a statement of the value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates; (4) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); (5) a general description of the benefits under the plan which are eligible to be guaranteed by the PBGC and the limitations of the guarantee and circumstances in which such limitations apply; and (6) any additional information which the plan administrator elects to include to the extent it is not inconsistent with regulations prescribed by the Secretary of Labor.

The annual funding notice must be provided no later than two months after the deadline (including extensions) for filing the plan's annual report for the plan year to which the notice relates. The funding notice must be provided in a form and manner prescribed in regulations by the Secretary of Labor. Additionally, it must be written so as to be understood by the average plan participant and may be provided in written, electronic, or some other appropriate form to the extent that it is reasonably accessible to persons to whom the notice is required to be provided.

The Secretary of Labor is directed to issue regulations (including a model notice) necessary to implement the provision no later than one year after the date of enactment.

Sanction for failure to provide notice

In the case of a failure to provide the annual multiemployer plan funding notice, the Secretary of Labor may assess a civil penalty against a plan administrator of up to $100 per day for each failure to provide a notice. For this purpose, each violation with respect to a single participant or beneficiary is treated as a separate violation.

Effective date

The conference agreement is effective for plan years beginning after December 31, 2004.

C. ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS OF MULTIEMPLOYER PLANS

(Sec. 5 of the Senate amendment, sec. 302(b)(7) of ERISA, and sec. 412(b)(7) of the Code)

PRESENT LAW

General funding requirements

The Code and ERISA impose minimum funding requirements with respect to defined benefit plans.[30] Under the minimum funding rules, the amount of contributions required for a plan year is generally the plan's normal cost for the year (i.e., the cost of benefits allocated to the year under the plan's funding method) plus that year's portion of other liabilities that are amortized over a period of years, such as benefits resulting from a grant of past service credit.[30] A plan's normal cost and other liabilities must be determined under an actuarial cost method permissible under the Code and ERISA.

Funding standard account

As an administrative aid in the application of the funding requirements, a defined benefit plan is required to maintain a special account called a "funding standard account" to which specified charges and credits (including credits for contributions to the plan), plus interest, are made for each plan year. If, as of the close of a plan year, the account reflects credits equal to or in excess of charges, the plan is generally treated as meeting the minimum funding standard for the year. Thus, as a general rule, the minimum contribution for a plan year is determined as the amount by which the charges to the account would exceed credits to the account if no contribution were made to the plan. If, as of the close of the plan year, charges to the funding standard account exceed credits to the account, then the excess is referred to as an "accumulated funding deficiency."[32]

Experience gains and losses

In determining plan funding under an actuarial cost method, a plan's actuary generally makes certain assumptions regarding the future experience of a plan. These assumptions typically involve rates of interest, mortality, disability, salary increases, and other factors affecting the value of assets and liabilities, such as increases or decreases in asset values. The actuarial assumptions are required to be reasonable and may be subject to other restrictions. If, on the basis of these assumptions, the contributions made to the plan result in actual unfunded liabilities that are less than those anticipated by the actuary, then the excess is an experience gain. If the actual unfunded liabilities are greater than those anticipated, then the difference is an experience loss.

If a plan has a net experience gain, the funding standard account is credited with the amount needed to amortize the net experience gain over a certain period. If a plan has a net experience loss, the funding standard account is charged with the amount needed to amortize the net experience loss over a certain period. In the case of a multiemployer plan, the amortization period for net experience gains and losses is 15 years.

Funding waivers

Within limits, the IRS is permitted to waive all or a portion of the contributions required under the minimum funding standard for a plan year.[33] A waiver may be granted if the employer (or employers) responsible for the contribution could not make the required contribution without temporary substantial business hardship and if requiring the contribution would be adverse to the interests of plan participants in the aggregate. In the case of a multiemployer plan, no more than five waivers may be granted within any period of 15 consecutive plan years.

If a funding waiver is in effect for a plan, subject to certain exceptions, no plan amendment may be adopted that increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits vest under the plan.

Excise tax

An employer is generally subject to an excise tax if it fails to make minimum required contributions and fails to obtain a waiver from the IRS.[34] The excise tax is 10 percent of the amount of the funding deficiency (five percent in the case of a multiemployer plan). In addition, a tax of 100 percent may be imposed if the funding deficiency is not corrected within a certain period.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows certain multiemployer plans to elect to defer the beginning of the amortization of certain net experience losses for up to three plan years. The period during which the amortization of a net experience loss is deferred by reason of such an election is referred to as a "hiatus period." The Senate amendment applies to a multiemployer plan that has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006. Such a plan may elect to begin the 15-year amortization period with respect to such a loss in any of the three immediately succeeding plan years as selected by the plan. A plan may elect to delay the beginning of the amortization of net experience losses with respect to net experience losses occurring for only two plan years beginning after June 30,

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[30] Code sec. 412; ERISA sec. 302.

[31] Under special funding rules (referred to as the "deficit reduction contribution" rules), an additional contribution may be required to a single-employer plan if the plan's funded current liability percentage is less than 90 percent. The deficit reduction contribution rules do not apply to multiemployer plans.

[32] In addition to the funding standard account, a reconciliation account is sometimes used to balance certain items for purposes of reporting actuarial information about the plan on the plan's annual report (Schedule B of Form 5500).

[33] Sec. 412(d).

[34] Sec. 4971.

2002, and before July 1, 2006 (regardless of the number of plan years in that period for which the plan has net experience losses). An election under the Senate amendment is to be made at such time and in such manner as the Secretary of Labor prescribes, after consultation with the Secretary of the Treasury.

If an election is made, the net experience loss is treated, for purposes of determining any charge to the funding standard account (or interest) with respect to the loss, in the same manner as if the net experience loss occurred in the year selected by the plan for the amortization period to begin (without regard to any net experience loss or gain otherwise determined for such year). Interest accrued on any net experience loss during a hiatus period is charged to a reconciliation account and not to the funding standard account.

Certain plan amendments may not take effect for any plan year in the hiatus period. This restriction applies to an amendment that increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits vest under the plan. The restriction applies unless: (1) the plan's funded current liability percentage as of the end of the plan year is projected to be at least 75 percent (taking into account the effect of the amendment); (2) the plan's actuary certifies that, due to an increase in the rates of contributions to the plan, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year in which the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the plan hiatus period of the plan; (3) the amendment is determined by the Secretary of Labor to be reasonable and provides for only de minimis increases in plan liabilities; or (4) the amendment is required as a condition of qualified retirement plan status. The restriction on amendments does not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions on their behalf. Failure to comply with this restriction is a violation of ERISA and of the qualification requirements of the Code.

If a plan elects to defer the beginning of an amortization period, the plan administrator must provide written notice of the election within 30 days to participants and beneficiaries, to each labor organization representing participants and beneficiaries, and to each employer that has an obligation to contribute under the plan. The notice must include: (1) the amount of the net experience loss to be deferred under the election and the period of the deferral; and (2) the maximum guaranteed monthly benefits that the PBGC would pay if the plan terminated while underfunded. If a plan administrator fails to comply with the notice requirement, the Secretary of Labor may assess a civil penalty of not more than $1,000 a day for each violation.

Effective date.—The Senate amendment is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement allows the plan sponsor of an eligible multiemployer plan to elect to defer certain charges to the funding standard account that would otherwise be made to the plan's funding standard account for a plan year beginning after June 30, 2003, and before July 1, 2005. The charges may be deferred to any plan year selected by the plan sponsor from either of the two plan years immediately succeeding the plan year for which the charge would otherwise be made. An election may be made with respect to up to 80 percent of the charge to the funding standard account attributable to the amortization of a net experience loss for the first plan year beginning after December 31, 2001. An election is to be made at such time and in such manner as the Secretary of the Treasury prescribes. For the plan year to which a charge is deferred under the plan sponsor's election, the funding standard account is required to be charged with interest at the short-term Federal rate on the deferred charge for the period of the deferral.

An eligible multiemployer plan is a multiemployer plan: (1) that, for the first plan year beginning after December 31, 2001, had an actual net investment loss of at least 10 percent of the average fair market value of plan assets during the plan year; and (2) with respect to which the plan's enrolled actuary certifies that (not taking into account the deferral of charges under the provision and based on the actuarial assumptions used for the last plan year before date of enactment of the provision), the plan is projected to have an accumulated funding deficiency for any plan year beginning after June 30, 2003, and before July 1, 2006. In addition, a plan is not treated as an eligible multiemployer plan if: (1) for any taxable year beginning during the ten year period preceding the first plan year for which an election is made under the provision, any employer required to contribute to the plan failed to timely pay an excise tax imposed on the plan for failure to make required contributions; (2) for any plan year beginning after June 30, 1993, and before the first plan year for which an election is made under the provision, the average contribution required to be made to the plan by all employers does not exceed 10 cents per hour, or no employer is required to make contributions to the plan; or (3) with respect to any plan year beginning after June 30, 1993, and before the first plan year for which an election is made under the provision, a funding waiver or extension of an amortization period was granted to the plan.

Certain plan amendments may not be adopted during the period for which a charge is deferred. This restriction applies to an amendment that increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits vest under the plan. The restriction applies unless: (1) the plan's enrolled actuary certifies (in such form and manner as prescribed by the Secretary of the Treasury) that the amendment provides for an increase in annual contributions that will exceed the increase in annual charges to the funding standard account attributable to such amendment; or (2) the amendment is required by a collective bargaining agreement that is in effect on the date of enactment of the provision. If a plan is amended in violation of the provision, an election under the provision does not apply to any plan year ending on after the date on which the amendment is adopted.

If a plan sponsor elects to defer charges attributable to a net experience loss, the plan administrator must provide written notice of the election within 30 days to participants and beneficiaries, to each labor organization representing participants and beneficiaries, to each employer that has an obligation to contribute under the plan, and to the PBGC. The notice must include: (1) the amount of the charges to be deferred under the election and the period of the deferral; and (2) the maximum guaranteed monthly benefits that the PBGC would pay if the plan terminated while underfunded. If a plan administrator fails to comply with the notice requirement, the Secretary of Labor may assess a civil penalty of not more than $1,000 a day for each violation.

Effective date.—The conference agreement is effective on the date of enactment.

D. TWO-YEAR EXTENSION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS FOR INTERSTATE BUS COMPANY

(Sec. 6 of the Senate amendment, and sec. 769(c) of the Retirement Protection Act of 1994 (as added by sec. 1508 of the Taxpayer Relief Act of 1997))

PRESENT LAW

Under present law, defined benefit plans are required to meet certain minimum funding rules. In some cases, additional contributions are required if a defined benefit plan is underfunded. Additional contributions generally are not required in the case of a plan with a funded current liability percentage of at least 90 percent. A plan's funded current liability percentage is the value of plan assets as a percentage of current liability. In general, a plan's current liability means all liabilities to employees and their beneficiaries under the plan. In the case of a plan with a funded current liability percentage of less than 100 percent for the preceding plan year, estimated contributions for the current plan year must be made in quarterly installments during the current plan year.

The PBGC insures benefits under most single-employer defined benefit plans in the event the plan is terminated with insufficient assets to pay for plan benefits. The PBGC is funded in part by a flat-rate premium per plan participant, and a variable rate premium based on the amount of unfunded vested benefits under the plan. A specified interest rate and a specified mortality table apply in determining unfunded vested benefits for this purpose.

Under present law, a special rule modifies the minimum funding requirements in the case of certain plans. The special rule applies in the case of plans that (1) were not required to pay a variable rate PBGC premium for the plan year beginning in 1996, (2) do not, in plan years beginning after 1995 and before 2009, merge with another plan (other than a plan sponsored by an employer that was a member of the controlled group of the employer in 1996), and (3) are sponsored by a company that is engaged primarily in interurban or interstate passenger bus service.

The special rule treats a plan to which it applies as having a funded current liability percentage of at least 90 percent for plan years beginning after 1996 and before 2005 if for such plan year the funded current liability percentage is at least 85 percent. If the funded current liability of the plan is less than 85 percent for any plan year beginning after 1996 and before 2005, the relief from the minimum funding requirements applies only if certain specified contributions are made.

For plan years beginning after 2004 and before 2010, the funded current liability percentage will be deemed to be at least 90 percent if the actual funded current liability percentage is at least at certain specified levels. The relief from the minimum funding requirements applies for a plan year beginning in 2005, 2006, 2007, or 2008 only if contributions to the plan for the plan year equal at least the expected increase in current liability due to benefits accruing during the plan year.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the special funding rules for plans sponsored by a company engaged primarily in interurban or interstate passenger bus service by providing that, for plan years beginning in 2004 and 2005, the funded current liability percentage of the plan will be treated as at least 90 percent for purposes of determining the amount of required contributions (100 percent for purposes of determining whether quarterly contributions are required). As a result, for these years, additional contributions and quarterly contributions are not required with respect to the plan. In addition, for these years, the mortality table used under the plan is used in determining the amount of unfunded vested benefits under the plan for purposes of calculating PBGC variable rate premiums.

Effective date.—The Senate amendment is effective for plan years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

The conference agreement modifies the special funding rules for plans sponsored by a company engaged primarily in interurban or interstate passenger bus service by providing that, for plan years beginning in 2004 and 2005, the funded current liability percentage of the plan will be treated as at least 90 percent for purposes of determining the amount of required contributions (100 percent for purposes of determining whether quarterly contributions are required). As a result, for these years, additional contributions and quarterly contributions are not required with respect to the plan. In addition, for these years, the mortality table used under the plan is used in determining the amount of unfunded vested benefits under the plan for purposes of calculating PBGC variable rate premiums.

Effective date.—The Senate amendment is effective for plan years beginning after December 31, 2003.

E. Procedures Applicable to Disputes Involving Pension Plan Withdrawal Liability

(Sec. 7 of the Senate amendment and sec. 4221 of ERISA)

PRESENT LAW

Under ERISA, when an employer withdraws from a multiemployer plan, the employer is generally liable for its share of unfunded vested benefits, determined as of the date of withdrawal (generally referred to as the "withdrawal liability"). Whether and when a withdrawal has occurred and the amount of the withdrawal liability is determined by the plan sponsor. The plan sponsor's assessment of withdrawal liability is presumed correct unless the employer shows by a preponderance of the evidence that the plan sponsor's determination of withdrawal liability was unreasonable or clearly erroneous. A similar standard applies in the event the amount of the plan's unfunded vested benefits is challenged.

The first payment of withdrawal liability determined by the plan sponsor is due no later than 60 days after demand, even if the employer contests the determination of liability. Disputes between an employer and plan sponsor concerning withdrawal liability are resolved through arbitration, which can be initiated by either party. Even if the employer contests the determination, payments of withdrawal liability must be made by the employer until the arbitrator issues a final decision with respect to the determination submitted for arbitration.

For purposes of withdrawal liability, all trades or businesses under common control are treated as a single employer. In addition, the plan sponsor may disregard a transaction in order to assess withdrawal liability if the sponsor determines that the principal purpose of the transaction was to avoid or evade withdrawal liability. For example, if a subsidiary of a parent company is sold and the subsidiary then withdraws from a multiemployer plan, the plan sponsor may assess withdrawal liability as if the subsidiary were still part of the parent company's controlled group if the sponsor determines that a principal purpose of the sale of the subsidiary was to evade or avoid withdrawal liability.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, a special rule may apply if a transaction is disregarded by a plan sponsor in determining that a withdrawal has occurred or that an employer is liable for withdrawal liability. If the transaction that is disregarded by the plan sponsor occurred before January 1, 1999, and at least five years before the date of the withdrawal, then (1) the determination by the plan sponsor that a principal purpose of the transaction was to evade or avoid withdrawal liability is not be presumed to be correct, (2) the plan sponsor, rather than the employer, has the burden to establish, by a preponderance of the evidence, the elements of the claim that a principal purpose of the transaction was to evade or avoid withdrawal liability, and (3) if an employer contests the plan sponsor's determination through an arbitration proceeding, or through a claim brought in a court of competent jurisdiction, the employer is not obligated to make any withdrawal liability payments until a final decision in the arbitration proceeding, or in 30 court, upholds the plan sponsor's determination. The provision does not modify the burden of establishing other elements of a claim for withdrawal liability other than whether the purpose of the transaction was to evade or avoid withdrawal liability.

Effective date.—The provision applies to an employer that receives a notification of withdrawal liability and demand for payment under ERISA section 4219(b)(1) after October 31, 2003.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Under the conference agreement, a special rule may apply if a transaction is disregarded by a plan sponsor in determining that a withdrawal has occurred or that an employer is liable for withdrawal liability. If the transaction that is disregarded by the plan sponsor occurred before January 1, 1999, and at least five years before the date of the withdrawal, then (1) the determination by the plan sponsor that a principal purpose of the transaction was to evade or avoid withdrawal liability is not be presumed to be correct, (2) the plan sponsor, rather than the employer, has the burden to establish, by a preponderance of the evidence, the elements of the claim that a principal purpose of the transaction was to evade or avoid withdrawal liability, and (3) if an employer contests the plan sponsor's determination through an arbitration proceeding, or through a claim brought in a court of competent jurisdiction, the employer is not obligated to make any withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor's determination. The provision does not modify the burden of establishing other elements of a claim for withdrawal liability other than whether the purpose of the transaction was to evade or avoid withdrawal liability.

Effective date.—The provision applies to an employer that receives a notification of withdrawal liability and demand for payment under ERISA section 4219(b)(1) after October 31, 2003.

F. Modify Qualification Rules for Tax-Exempt Property and Casualty Insurance Companies

(Sec. 10 of the Senate amendment and sees. 501 and 831 of the Code)

PRESENT LAW

A property and casualty insurance company generally is subject to tax on its taxable income (sec. 831(a)). The taxable income of a property and casualty insurance company is determined as the sum of its underwriting income and investment income (as well as gains and other income items), reduced by allowable deductions (sec. 832).

A property and casualty insurance company is eligible to be exempt from Federal income tax if its net written premiums or direct written premiums (whichever is greater) for the taxable year do not exceed $350,000 (sec. 501(c)(15)).

A property and casualty insurance company may elect to be taxed only on taxable investment income if its net written premiums or direct written premiums (whichever is greater) for the taxable year exceed $350,000, but do not exceed $1.2 million (sec. 831(b)).

For purposes of determining the amount of a company's net written premiums or direct written premiums under these rules, premiums received by all members of a controlled group of corporations of which the company is a part are taken into account. For this purpose, a more-than-50-percent threshhold applies under the vote and value requirements with respect to stock ownership for determining a controlled group, and rules treating a life insurance company as part of a separate controlled group or as an excluded member of a group do not apply (secs. 501(c)(15), 831(b)(2)(B) and 1563).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the requirements for a property and casualty insurance company to be eligible for tax-exempt status, and to elect to be taxed only on taxable investment income.

Under the Senate amendment, a property and casualty insurance company is eligible to be exempt from Federal income tax if (a) its gross receipts for the taxable year do not exceed $600,000, and (b) the premiums received for the taxable year are greater than 50 percent of its gross receipts. For purposes of determining gross receipts, the gross receipts of all members of a controlled group of corporations of which the company is a part are taken into account. The Senate amendment expands the present-law controlled group rule so that it also takes into account gross receipts of foreign and tax-exempt corporations.

A company that does not meet the definition of an insurance company is not eligible to be exempt from Federal income tax under the Senate amendment. For this purpose, the term "insurance company" means any company, more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies (sec. 816(a) and new sec. 831(c)). A company whose investment activities outweigh its insurance activities is not considered to be an insurance company for this purpose.[35] It is intended that IRS enforcement activities address the misuse of present-law section 501(c)(15).

The Senate amendment also provides that a property and casualty insurance company may elect to be taxed only on taxable investment income if its net written premiums or direct written premiums (whichever is greater) do not exceed $1.2 million (without regard to whether such premiums exceed $350,000) (sec. 831(b)). Asunder present law, for purposes of determining the amount of a company's net written premiums or direct written premiums under this rule, premiums received by all members of a controlled group of corporations (as defined in section 831(b)) of which the company is a part are taken into account.

It is intended that regulations or other Treasury guidance provide for anti-abuse rules so as to prevent improper use of the provision, including, for example, by attempts to characterize as premiums any income that is other than premium income.

Effective date.—The Senate amendment provisions are effective for taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with modifications.

Under the conference agreement, an additional special rule provides that a mutual property and casualty insurance company is eligible to be exempt from Federal income tax under the provision if (a) its gross receipts for the taxable year do not exceed $150,000, and (b) the premiums received for the taxable year are greater than 35 percent of its gross receipts, provided certain requirements are met. The requirements are that no employee of the company or member of the employee's family is an employee of another company that is exempt from tax under section 501(c)(15). The limitation to mutual companies and the limitation on employees are intended to address the conferees' concern about the inappropriate use of tax-exempt insurance companies to shelter investment income, including in the case of companies with gross receipts under $150,000. For example, it is intended that the provision not permit the use of small companies with common owners or employees to shelter investment income for the benefit of such owners or employees.

Effective date.—The provision generally is effective for taxable years beginning after December 31, 2003.

Under the conference agreement, a special transition rule applies with respect to certain companies. This transition rule applies in the case of a company that, (1) for its taxable year that includes April 1, 2004, meets the requirements of present law section 501(c)(15)(A) (as in effect for the taxable year beginning before January 1, 2004), and (2) on April 1, 2004, is in a receivership, liquidation or similar proceeding under the supervision of a State court. Under the transition rule, in the case of such a company, the general rule of the provision in the conference agreement applies to taxable years beginning after the earlier of (1) the date the proceeding ends, or (2) December 31, 2007.

For such a company, present-law limitations on the carryover of net operating losses to or from years in which the company was not subject to tax (including section 831(b)(3)) continue to apply. A company that is not otherwise eligible for tax-exempt status under present-law section 501(c)(15) (e.g., a company that is or becomes a life insurance company, or a company with net (or, if greater, direct) written premiums exceeding $350,000 for the taxable year) is not eligible for the transition rule.

G. DEFINITION OF INSURANCE COMPANY FOR PROPERTY AND CASUALTY INSURANCE COMPANY TAX RULES

(Sec. 11 of the Senate amendment and sec. 831 of the Code)

PRESENT LAW

Present law provides specific rules for taxation of the life insurance company taxable income of a life insurance company (sec. 801), and for taxation of the taxable income of an insurance company other than a life insurance company (sec. 831) (generally referred to as a property and casualty insurance company). For Federal income tax purposes, a life insurance company means an insurance company that is engaged in the business of issuing life insurance and annuity contracts, or noncancellable health and accident insurance contracts, and that meets a 50-percent test with respect to its reserves (sec. 816(a)). This statutory provision applicable to life insurance companies explicitly defines the term "insurance company" to mean any company, more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies (sec. 816(a)).

The life insurance company statutory definition of an insurance company does not explicitly apply to property and casualty insurance companies, although a long-standing Treasury regulation[36] that is applied to property and casualty companies provides a somewhat similar definition of an "insurance company" based on the company's "primary and predominant business activity."[37]

When enacting the statutory definition of an insurance company in 1984, Congress stated, "[b]y requiring [that] more than half rather than the 'primary and predominant business activity' be insurance activity, the bill adopts a stricter and more precise standard for a company to be taxed as a life insurance company than does the general regulatory definition of an insurance company applicable for both life and nonlife insurance companies. . . Whether more than half of the business activity is related to the issuing of insurance or annuity contracts will depend on the facts and circumstances and factors to be considered will include the relative distribution of the number of employees assigned to, the amount of space allocated to, and the net income derived from, the various business activities."[38]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that, for purposes of determining whether a company is a property and casualty insurance company, the term "insurance company" is defined to mean any company, more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies. Thus, the Senate amendment conforms the definition of an insurance company for purposes of the rules taxing property and casualty insurance companies to the rules taxing life insurance companies, so that the definition is uniform. The Senate amendment adopts a stricter and more precise standard than the "primary and predominant business activity" test contained in Treasury Regulations. A company whose investment activities outweigh its insurance activities is not considered to be an insurance company under the Senate amendment.[39] It is not intended that a company whose sole activity is the run-off of risks under the company's insurance contracts be treated as a company other than an insurance company, even if the company has little or no premium income.

Effective date.—The Senate amendment provision applies to taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—The Senate amendment provision applies to taxable years beginning after December 31, 2003.

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[35] *35* See, e.g., *Inter-American Life Insurance Co.* v. *Comm'r*, 56 T.C. 497, aff'd per curiam, 469 F.2d 697 (9th Cir. 1972).

[36] The Treasury regulation provides that "the term 'insurance company' means a company whose primary and predominant business activity during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies. Thus, though its name, charter powers, and subjection to State insurance laws are significant in determining the business which a company is authorized and intends to carry on, it is the character of the business actually done in the taxable year which determines whether a company is taxable as an insurance company under the Internal Revenue Code." Treas. Reg. sec. 1.801-3(a)(1).

[37] Court cases involving a determination of whether a company is an insurance company for Federal tax purposes have examined all of the business and other activities of the company. In considering whether a company is an insurance company for such purposes, courts have considered, among other factors, the amount and source of income received by the company from its different activities. See *Bowers* v. *Lawyers Mortgage Co.*, 285 U.S. 182 (1932); *United States* v. *Home Title Insurance Co.*, 285 U.S. 191 (1932). See also *Inter-American Life Insurance Co.* v. *Comm'r*, 56 T.C. 497, aff d per curiam, 469 F.2d 697 (9th Cir. 1972), in which the court concluded that the company was not an insurance company: "The. . . financial data clearly indicates that petitioner's primary and predominant source of income was from its investments and not from issuing insurance contracts or reinsuring risks underwritten by insurance companies. During each of the years in issue, petitioner's investment income far exceeded its premiums and the amounts of earned premiums were de minimis during those years. It is equally as clear that petitioner's primary and predominant efforts were not expended in issuing insurance contracts or in reinsurance. Of the relatively few policies directly written by petitioner, nearly all were issued to [family members]. Also, Investment Life, in which [family members] each owned a substantial stock interest, was the source of nearly all of the policies reinsured by petitioner. These facts, coupled with the fact that petitioner did not maintain an active sales staff soliciting or selling insurance policies . .'., indicate a lack of concentrated effort on petitioner's behalf toward its chartered purpose of engaging in the insurance business. . . For the above reasons, we hold that during the years in issue, petitioner was not 'an insurance company. . . engaged in the business of issuing life insurance' and hence, that petitioner was not a life insurance company within the meaning of section 801." 56 T.C. 497, 507–508.

[38] H.R. Rep. 98–432, part 2, at 1402–1403 (1984); S. Prt. No. 98–169, vol. I, at 525–526 (1984); see also H.R. Rep. No. 98–861 at 1043–1044 (1985) (Conference Report).

[39] See *Inter-American Life Insurance Co.* v. *Comm'r*, *supra*.

H. Repeal of Reduction of Deductions for Mutual Life Insurance Companies

(Sec. 809 of the Code)

PRIOR AND PRESENT LAW

In general, a corporation may not deduct amounts distributed to shareholders with respect to the corporation's stock. The Deficit Reduction Act of 1984 added a provision to the rules governing insurance companies that was intended to remedy the failure of prior law to distinguish between amounts returned by mutual life insurance companies to policyholders as customers, and amounts distributed to them as owners of the mutual company.

Under the provision, section 809, a mutual life insurance company is required to reduce its deduction for policyholder dividends by the company's differential earnings amount. If the company's differential earnings amount exceeds the amount of its deductible policyholder dividends, the company is required to reduce its deduction for changes in its reserves by the excess of its differential earnings amount over the amount of its deductible policyholder dividends. The differential earnings amount is the product of the differential earnings rate and the average equity base of a mutual life insurance company.

The differential earnings rate is based on the difference between the average earnings rate of the 50 largest stock life insurance companies and the earnings rate of all mutual life insurance companies. The mutual earnings rate applied under the provision is the rate for the second calendar year preceding the calendar year in which the taxable year begins. Under present law, the differential earnings rate cannot be a negative number.

A company's equity base equals the sum of: (1) Its surplus and capital increased by 50 percent of the amount of any provision for policyholder dividends payable in the following taxable year; (2) the amount of its nonadmitted financial assets; (3) the excess of its statutory reserves over its tax reserves; and (4) the amount of any mandatory security valuation reserves, deficiency reserves, and voluntary reserves. A company's average equity base is the average of the company's equity base at the end of the taxable year and its equity base at the end of the preceding taxable year.

A recomputation or "true-up" in the succeeding year is required if the differential earnings amount for the taxable year either exceeds, or is less than, the recomputed differential earnings amount. The recomputed differential earnings amount is calculated taking into account the average mutual earnings rate for the calendar year (rather than the second preceding calendar year, as above). The amount of the true-up for any taxable year is added to, or deducted from, the mutual company's income for the succeeding taxable year.

For taxable years beginning in 2001, 2002, or 2003, the differential earnings amount is treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount (true-up).

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement repeals the rule requiring reduction in certain deductions of a mutual life insurance company (section 809).

Effective date.—The provision is effective for taxable years beginning after December 31, 2004. Thus, for taxable years beginning in 2003, the differential earnings amount is treated as zero under present law; for taxable years beginning in 2004, this rule does not apply and section 809 is in effect (including the true-up applicable with respect to taxable years beginning in 2004).

I. Sense of Congress Regarding Defined Benefit Pension System Reform

(Sec. 2 of the House bill and sec. 8 of the Senate amendment)

PRESENT LAW

No provision.

HOUSE BILL

The House bill makes various findings and expresses the sense of the Congress with respect to the interest rate used to value pension plan liabilities.

Specifically, the House bill provides that the Congress finds the following:

The defined benefit pension system has recently experienced severe difficulties due to an unprecedented economic climate of low interest rates, market losses and an increased number of retirees;

The discontinuance of the issuance of 30-year Treasury securities has made the interest rate on such securities an inappropriate and inaccurate benchmark for measuring pension liabilities;

Using the current 30-year Treasury bond interest rate has artificially inflated pension liabilities and adversely affected employers offering defined benefit pension plans and working families who rely on the safe and secure benefits these plans provide;

There is consensus among pension experts that an interest rate based on long-term, conservative corporate bonds would provide a more accurate benchmark for measuring pension plan liabilities; and

A temporary replacement for the 30-year Treasury bond interest rate should be enacted while the Congress evaluates permanent and comprehensive funding reforms.

In addition, the House bill provides that it is the sense of the Congress that the Congress must ensure the financial health of the defined benefit pension system by working to promptly implement: (1) a permanent replacement for the discount rate used for defined benefit pension plan calculations; and (2) comprehensive funding reforms aimed at achieving accurate and sound pension plan funding to enhance retirement security for workers who rely on defined benefit pension plan benefits, to reduce the volatility of contributions, to provide plan sponsors with predictability for plan contributions, and to ensure adequate disclosures for plan participants in the case of underfunded plans.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment makes various findings of the Congress relating to the private pension system and the Pension Benefit Guaranty Corporation ("PBGC") and expresses the sense of the Senate with respect to future legislative action.

Specifically, the Senate amendment provides that the Congress makes the following findings:

The private pension system is integral to the retirement security of Americans, along with individual savings and Social Security.

The PBGC is responsible for insuring the nation's private pension system, and currently insures the pensions of 34,500,000 participants in 29,500 single-employer plans, and 9,700,000 participants in more than 1,600 multiemployer plans;

The PBGC announced on January 15, 2004, that it suffered a net loss in fiscal year 2003 of $7,600,000,000 for single-employer pension plans, bringing the PBGC's deficit to $11,200,000,000. This deficit is the PBGC's worst on record, three times larger than the $3,600,000,000 deficit experienced in fiscal year 2002.

The PBGC also announced that the separate insurance program for multiemployer pension plans sustained a net loss of $419,000,000 in fiscal year 2003, resulting in a fiscal year-end deficit of $261,000,000. The 2003 multiemployer plan deficit is the first deficit in more than 20 years and is the largest deficit on record.

The PBGC estimates that the total underfunding in multiemployer pension plans is roughly $100,000,000,000 and in single-employer plans is approximately $400,000,000,000. This underfunding is due in part to the recent decline in the stock market and low interest rates, but is also due to demographic changes. For example, in 1980, there were four active workers for every one retiree in a multiemployer plan, but in 2002, there was only one active worker for every one retiree.

This pension plan underfunding is concentrated in mature and often-declining industries, where plan liabilities will come due sooner.

Neither the Senate Committee on Finance nor the Senate Committee on Health, Education, Labor and Pensions ("HELP"), the committees of jurisdiction over pension matters, has held hearings this Congress nor reported legislation addressing the funding of multiemployer pension plans.

The Senate is concerned about the current funding status of the private pension system, both single and multiemployer plans.

The Senate is concerned about the potential liabilities facing the PBGC and, as a result, the potential burdens facing healthy pension plans and taxpayers.

In addition, the Senate amendment provides that it is the sense of the Senate that the Committee on Finance and the Committee on Health, Education, Labor and Pensions should conduct hearings on the status of multiemployer pension plans and should work in consultation with the Departments of Labor and Treasury on permanent measures to strengthen the integrity of the private pension system in order to protect the benefits of current and future pension plan beneficiaries.

Effective date.—The Senate amendment is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with modifications. Under the conference agreement, it is the sense of the Congress that the Congress must ensure the financial health of the defined benefit pension system by working to promptly implement: (1) a permanent replacement for the discount rate used for defined benefit pension plan calculations; and (2) comprehensive funding reforms for all defined benefit pension plans aimed at achieving accurate and sound pension plan funding to enhance retirement security for workers who rely on defined benefit pension plan benefits, to reduce the volatility of contributions, to provide plan sponsors with predictability for plan contributions, and to ensure adequate disclosures for plan participants in the case of underfunded plans.

Effective date.—The conference agreement is effective on the date of enactment.

J. Extension of Provision Permitting Qualified Transfers of Excess Pension Assets to Retiree Health Accounts

(Sec. 9 of the Senate amendment, sec. 420 of the Code, and secs. 101, 403, and 408 of ERISA)

PRESENT LAW

Defined benefit plan assets generally may not revert to an employer prior to termination of the plan and satisfaction of all plan liabilities. In addition, a reversion may occur only if the plan so provides. A reversion prior to plan termination may constitute a prohibited transaction and may result in plan disqualification. Any assets that revert to the employer upon plan termination are includible in the gross income of the employer and subject to an excise tax. The excise tax rate is 20 percent if the employer maintains a replacement plan or makes certain benefit increases in connection with the termination; if not, the excise tax rate is 50 percent. Upon plan termination, the accrued benefits of all plan participants are required to be 100-percent vested.

A pension plan may provide medical benefits to retired employees through a separate account that is part of such plan. A qualified transfer of excess assets of a defined benefit plan to such a separate account within the plan may be made in order to fund retiree health benefits.[40] A qualified transfer does not result in plan disqualification, is not a prohibited transaction, and is not treated as a reversion. Thus, transferred assets are not includible in the gross income of the employer and are not subject to the excise tax on reversions. No more than one qualified transfer may be made in any taxable year. A qualified transfer can be made only from a single-employer plan.

Excess assets generally means the excess, if any, of the value of the plan's assets[41] over the greater of (1) the accrued liability under the plan (including normal cost) or (2) 125 percent of the plan's current liability.[42] In addition, excess assets transferred in a qualified transfer may not exceed the amount reasonably estimated to be the amount that the employer will pay out of such account during the taxable year of the transfer for qualified current retiree health liabilities. No deduction is allowed to the employer for (1) a qualified transfer or (2) the payment of qualified current retiree health liabilities out of transferred funds (and any income thereon).

Transferred assets (and any income thereon) must be used to pay qualified current retiree health liabilities for the taxable year of the transfer. Transferred amounts generally must benefit pension plan participants, other than key employees, who are entitled upon retirement to receive retiree medical benefits through the separate account. Retiree health benefits of key employees may not be paid out of transferred assets.

Amounts not used to pay qualified current retiree health liabilities for the taxable year of the transfer are to be returned to the general assets of the plan. These amounts are not includible in the gross income of the employer, but are treated as an employer reversion and are subject to a 20-percent excise tax.

In order for the transfer to be qualified, accrued retirement benefits under the pension plan generally must be 100–percent vested as if the plan terminated immediately before the transfer (or in the case of a participant who separated in the one-year period ending on the date of the transfer, immediately before the separation).

In order for a transfer to be qualified, the employer generally must maintain retiree health benefits at the same level for the taxable year of the transfer and the following four years.

In addition, the ERISA provides that, at least 60 days before the date of a qualified transfer, the employer must notify the Secretary of Labor, the Secretary of the Treasury, employee representatives, and the plan administrator of the transfer, and the plan administrator must notify each plan participant and beneficiary of the transfer.[43]

No qualified transfer may be made after December 31, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows qualified transfers of excess defined benefit plan assets through December 31, 2013.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. The conference agreement allows qualified transfers of excess defined benefit plan assets through December 31, 2013.

Effective date.—The provision is effective on the date of enactment.

K. Confirmation of Antitrust Status of Graduate Medical Resident Matching Programs

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement confirms that the antitrust laws do not prohibit the sponsorship, conduct, or participation in a graduate medical education residency matching program and that evidence of that conduct shall not be admissible to support any claim or action alleging a violation of the antitrust laws.

Effective date.—The provision is effective on the date of enactment. It applies to conduct whether it occurs prior to, on, or after such date and applies to all judicial and administrative actions or other proceedings pending on such date.

L. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the "Code") and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

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[40] Sec. 420.

[41] The value of plan assets for this purpose is the lesser of fair market value or actuarial value.

[42] In the case of plan years beginning before January 1, 2004, excess assets generally means the excess, if any, of the value of the plan's assets over the greater of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 170 percent of the plan's current liability (for 2003), or (2) 125 percent of the plan's current liability. The current liability full funding limit was repealed for years beginning after 2003. Under the general sunset provision of EGTRRA, the limit is reinstated for years after 2010.

[43] ERISA sec. 101(e). ERISA also provides that a qualified transfer is not a prohibited transaction under ERISA or a prohibited reversion.

ESTIMATED REVENUE EFFECTS OF THE TAX AND PENSION PROVISIONS IN THE CONFERENCE AGREEMENT ON H.R. 3108, THE "PENSION FUNDING EQUITY ACT OF 2004" [1]

Fiscal Years 2004 - 2013

[Millions of Dollars]

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
1. Temporary replacement of interest rate used for purposes of pension funding and PBGC variable rate premiums for 2004 and 2005; employers may elect whether to use temporary replacement interest rate in applying deduction limits; allow the use of 5.5% for purposes of applying section 415 to lump sums in 2004 and 2005 [2]	pyba 12/31/03	3,299	5,563	1,247	-1,261	-1,004	-2,216	-2,737	-1,888	-1,160	-828	7,845	-985
2. Partially waive deficit reduction contributions for 2 years for plans of certain employers not subject to the deficit reduction contributions rules in 2000; additional required contribution would generally be the greater of: (1) 20 percent of the otherwise applicable additional contribution or (2) the amount of the excess, if any, of (i) the expected increase in current liability due to current year accruals, over (ii) the regular funding contribution for the year; applies to passenger airlines, steel and iron ore pellets industries, and a certain tax-exempt organization (sunset plan years beginning after 12/27/05) [2] [3]	pyba 12/27/03	14	44	32	-46	-72	-47	-31	-33	-28	-20	-29	-187
3. Multiemployer plan funding notices [4]	pyba 12/31/04	No Revenue Effect											
4. Provide deferral for up to 2 years of up to 80% of certain charges to funding standard account of eligible multiemployer plans; applies to charges attributable to net experience loss for first plan year beginning after 12/31/01, that would otherwise be made for plan years beginning after 6/30/03, and before 7/1/05	DOE	1	4	3	-5	-4	[5]	[5]	[5]	[5]	[5]	-1	-1
5. 2-year extension of transition rule to pension funding requirements	pyba 12/31/03	2	6	2	-3	-2	-2	-2	-1	-1	[6]	5	-1
6. Procedures applicable to disputes involving pension plan withdrawal liability [7]	[8]	Negligible Revenue Effect											
7. Limit 501(c)(15) to organizations with gross receipts of $600,000 and premiums at least 50% of gross receipts; and to mutual insurance companies with gross receipts less than $150,000 and premium income at least 35% of gross receipts; and modify definition of insurance company. Transition relief for insurance companies in receivership or liquidation on April 1, 2004, limited to lesser of four years or time spent in receivership	tyba 12/31/03	47	105	118	120	127	134	137	141	146	152	517	1,228
8. Repeal of section 809 related to the reduction in policyholder dividends	tyba 12/31/04	---	-25	-33	-43	-47	-43	-38	-39	-39	-39	-148	-347

Provision	Effective	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-08	2004-13
9. Sense of Congress	DOE	No Revenue Effect											
10. Allow employers to transfer excess defined benefit plan assets to a special account for health benefits of retirees (sunset 12/31/13)	DOE	---	---	18	38	40	40	40	40	40	40	97	298
NET TOTAL		**3,363**	**5,697**	**1,387**	**-1,200**	**-962**	**-2,134**	**-2,631**	**-1,780**	**-1,042**	**-695**	**8,286**	**5**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:
DOE = date of enactment
pyba = plan years beginning after
tyba = taxable years beginning after

[1] The conference agreement also contains a provision relating to the antitrust status of graduate medical resident matching programs.

[2] Estimate does not include the effects on PBGC variable rate premiums which are the responsibility of the Congressional Budget Office.

[3] Provision includes interaction with item 1.

[4] Provision provides penalty assessable by the Department of Labor for failure to provide notice.

[5] Negligible revenue effect.

[6] Loss of less than 500,000.

[7] Estimate does not include the effects on PBGC which are the responsibility of the Congressional Budget Office.

[8] Provision applies to any employer that receives a notification under Section 4219(b)(1) of ERISA after October 31, 2003.

From the Committee on Education and the Workforce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
HOWARD "BUCK" MCKEON,
SAM JOHNSON,
PATRICK J. TIBERI.

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
ROB PORTMAN,
Managers on the Part of the House.

CHUCK GRASSLEY,
JUDD GREGG,
MITCH MCCONNELL,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TANNER (at the request of Ms. PELOSI) for the week of March 29 on account of a family emergency.

Mr. HULSHOF (at the request of Mr. DELAY) for today on account of a family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

Mrs. WILSON of New Mexico, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 275. An act to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration; to the Committee on Education and the Workforce in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on April 1, 2004, he presented to the President of the United States, for his approval, the following bill.

H.R. 2584. To provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, April 2, 2004, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7397. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—6-Benzyladenine; Exemption from the Requirement of a Tolerance [OPP-2004-0013; FRL-7347-6] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7398. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Bacillus thuringiensis Cry2Ab2; Amended Exemption From Requirement of a Tolerance [OPP-2004-0029; FRL-7345-4] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7399. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Bacillus Thuringiensis CryIF Protein in Cotton; Extension of Temporary Exemption From Requirement of a Tolerance [OPP-2004-0007; FRL-7242-3] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7400. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Flumioxazin; Pesticide Tolerance [OPP-2004-0089; FRL-7351-2] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7401. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Bacillus Thuringiensis Cry3Bb1; Exemption from the Requirement of a Tolerance [OPP-2003-0415; FRL-7350-5] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7402. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Rhamnolipid Biosurfactant; Exemption from the Requirement of a Tolerance [OPP-2003-0281; FRL-7347-7] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7403. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Time-Limited Exemption from Requirement of a Tolerance; Exemption from the Requirement of a Tolerance [OPP-2004-0035; FRL-7350-8] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7404. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Zoxamide; Pesticide Tolerances for Emergency Exemptions [OPP-2004-0052; FRL-7349-3] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7405. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 03-02, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

7406. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 02-09, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

7407. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 00-06, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

7408. A letter from the Secretary of the Navy, Department of Defense, transmitting notification that the Program Acquisition Unit Cost and the Average Procurement Unit Cost for the Joint Strike Fighter (F-35) Program exceeds the Acquisition Program Baseline values by more than 15 percent, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

7409. A letter from the Acting Under Secretary, Department of Defense, transmitting the National Defense Stockpile (NDS) Annual Materials Plan (AMP) for FY 2005 along with revisions to the FY 04 Annual Materials Plan and AMPs for the succeeding four years, FY 06 through FY 09, pursuant to 50 U.S.C. 98h-5; to the Committee on Armed Services.

7410. A letter from the Inspector General, Department of Defense, transmitting the annual assessment of the DoD voting assistance program, pursuant to 10 U.S. C. 1566 Public Law 107-107, section 1602; to the Committee on Armed Services.

7411. A letter from the Principal Deputy Under Secretary, Personnel and Readiness, Department of Defense, transmitting the Department's consolidated report on the Critical Skills Retention Bonus (CSRB) Program, pursuant to 37 U.S.C. 5 Sec 323 Public Law 106-398, section 633(a); to the Committee on Armed Services.

7412. A letter from the Principal Deputy Under Secretary, Personnel and Readiness, Department of Defense, transmitting notification of the impending closure of the commissary located on Naval Station Roosevelt Roads, Puerto Rico, pursuant to Section 8132 of the Department of Defense Appropriations

Act for FY 2004; to the Committee on Armed Services.

7413. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Dennis D. Cavin, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

7414. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Albert H. Konetzni, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

7415. A letter from the Secretary, Department of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund (ESF) for fiscal year 2003, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Financial Services.

7416. A letter from the Director, Office of Management and Budget, transmitting appropriations reports containing OMB discretionary cost estimates and detail on estimating differences with CBO; to the Committee on the Budget.

7417. A letter from the Executive Secretary, Harry S. Truman Scholarship Foundation, transmitting the Foundation's annual report for 2003, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and the Workforce.

7418. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled "Medical Nutrition Therapy," pursuantto Public Law 106–554, section 105(f) (114 Stat. 2763A–472); to the Committee on Energy and Commerce.

7419. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2003 annual financial report to Congress required by the Prescription Drug User Fee Act of 1992 (PDUFA), pursuant to 21 U.S.C. 379g note; to the Committee on Energy and Commerce.

7420. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting notification that the Energy Information Administration's (EIA's), "Performance Profiles of Major Energy Producers 2002" is being released electronically on the World Wide Web; to the Committee on Energy and Commerce.

7421. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Grants to States for Operation of Qualified High Risk Pools [CMS–2179–F] (RIN: 0938–AM2) received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7422. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Medical Devices; Hermatology and Pathology Devices; Classification of the Factor V Leiden DNA Mutation Detection Systems Devices [Docket No. 2004P–0044] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7423. A letter from the Director, Regulations Polcy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Medical Devices: Cardiovascular Devices; Reclassification of the Arrhythmia Detector and Alarm; Correction [Docket Nos. 1994N–0418 and 1996P–0276] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7424. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Modification of Class E Airspace; Benton, KS [Docket FAA 2003–16756; Airspace Docket 03–ACE–94] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7425. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Application of 30-Month Stays on Approval of Abbreviated New Drug Applications and Certain New Drug Applications Containing a Certification That a Patent Claiming the Drug is Invalid or Will Not Be Infringed; Technical Amendment [Docket No. 2003N–0417] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7426. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Medical Device Reports; Reports of Corrections and Removals; Establishment Registration and Device Listing; Premarket Approval Supplements; Quality System Regulation; Importation of Electronic Products; Technical Amendments—March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7427. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; North Dakota; State Implementation Plan Corrections [SIP Nos. ND7–001–6882 and ND–001–0004; FRL–7641–8] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7428. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Delaware and Maryland: Adequacy of State Solid Waste Landfill Permit Programs Under RCRA Subtitle D [FRL–7642–8] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7429. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to Regulation 24, Section 10—Aerospace Coatings [DE 070–1043a; FRL–7639–4] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7430. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Florida; Tampa Bay Area Maintenance Plan Update [FL–90–200322(a); FRL–7640–6] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7431. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Determination of Nonattainment as of November 15, 1996 and Reclassification of the Beaumont/Port Arthur Ozone Nonattainmnent Area; State of Texas; Final Rule [TX–122–1–7612; FRL–7641–2] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7432. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations. (Saranac Lake, New York) [MB Docket No. 03–213; RM–10794] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7433. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Albany, New York) [MB Docket No. 02–92; RM–10363] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7434. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Florence, Quinby, Greeleyville, and Wedgefield, South Carolina, and Savannah, Georgia) [MB Docket No. 03–35; RM–10646; RM–10713; RM–10714] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7435. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations. (Bend, Oregon) [MM Docket No. 01–82; RM–10068] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7436. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations. (Osage Beach, Missouri) [MB Docket No. 03–207; RM–10769] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7437. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Upper Sandusky and Caledonia, Ohio) [MB Docket No. 03–7; RM–10596] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7438. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Brazil and Spencer, Indiana) [MB Docket No. 03–192; RM–10763] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7439. A letter from the Associate CHief, Competition Policy Division, Federal Communications Commission, transmitting the Commission's final rule—Sec.272(b)(1)'s "Operate Independently" Requirement for Sec.272 Affiliates [Dkt.03–228] Petition of SBC for Forbearance from the Prohibition of Sharing Operating, Installation, and Maintenance Functions under Secs.53.202(a)(2) and 53.203(a)(3) of the Rules and Modification of Operating, Installation, and Maintenance Conditions Contained in the SBC/Ameritech Merger Order [Dkts.96–149,98–141] Petition of BellSouth Corporation for Forbearance from the Prohibition of Sharing Operating, Installation, and Maintenance Functions Under Sec.53.203(a)(2)–(3) of the Rules [Dkt.96–149] Review of Regulatory to the Committee on Energy and Commerce.

7440. A letter from the Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting the Commission's final rule—Multi-Association Group (MAG) Plan for Regulation of Interstate Services on Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers [CC Docket No. 00–256]; Federal-State Joint Board on Universal Service [CC Docket No. 96–45] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7441. A letter from the Assistant Division Chief, PSCI Division, CI, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petition of City of Richardson, Texas [CC Docket No. 94–102] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7442. A letter from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended [WT Docket No. 99–87]; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies [RM–9332] received March 24, 2004; pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7443. A letter from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Concerning Maritime Communications [PR Docket No. 92–257]; Petition of Rule Making files by Regionet Wireless License, LLC [RM–9664] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7444. A letter from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule— Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications [WT Docket No. 00–48]; Petition for Rule Making Filed by Globe Wireless, Inc. [RM–9499]; Amendment of the Commission's Rules Concerning Maritime Communications [PR Docket No. 92–257] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7445. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service [WT Docket No. 01–289] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7446. A letter from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 2 of the Commission's Rules to Realign the 76–81 GHz band and the Frequency Range Above 95 GHz Consistent with the International Allocation Changes [ET Docket No. 03–102]; Amendment of Part 2 of the Commission's Rules to Allocate Additional Spectrum to the Inter-Satellite, Fixed, and Mobile Services and to Permit Unlicensed Devices to Use Certain Segments in the 50.2–50.4 GHz and 51.4–71.0 GHZ Bands [ET Docket No. 99–261] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7447. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Russia and Kazakhstan (Transmittal No. DDTC 019–04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7448. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Australia (Transmittal No. DDTC 008–04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7449. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Russia, Ukraine, and Norway (Transmittal No. DDTC 018–04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7450. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Japan and Russia (Transmittal No. DDTC 020–04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7451. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

7452. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of export of items to Iraq in the national interest of the United States pursuant to section 1504 of the Emergency Wartime Supplemental Appropriation Act, 2003 (Transmittal No. DTC 02IZ–04); to the Committee on International Relations.

7453. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Fourth Annual Report to Congress on the Inter-American Convention Against Corruption; to the Committee on International Relations.

7454. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft bill entitled, "To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes"; to the Committee on International Relations.

7455. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting the Corporation's 2003 Annual Report; to the Committee on International Relations.

7456. A letter from the White House Liaison and Executive Director, White House Commission on the National Moment of Remembrance, transmitting the second Annual Report of the White House Commission on the National Moment of Remembrance, pursuant to 36 U.S.C.116 note Public Law 106–579, section 6 (b)(1); to the Committee on Government Reform.

7457. A letter from the Director of Engineering, Maintenance and Operations, American Battle Monuments Commission, transmitting a report of its administration of the Freedom of Information Act for Fiscal Year 2003, pursuant to 5 U.S.C. 522 Public Law 99–570; to the Committee on Government Reform.

7458. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's Performance Report for FY 2003; to the Committee on Government Reform.

7459. A letter from the Director, Office of White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7460. A letter from the Chief Information Officer, Department of Education, transmitting the Department's final rule—Final Regulations—Privacy Act Regulations—received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7461. A letter from the Solicitor General, Department of Justice, transmitting Determination not to petition for a writ of certiorari in the case Foretich v. United States, No. 02–5224 (D.C. Circuit), pursuant to D.C. Code 11–925; to the Committee on Government Reform.

7462. A letter from the Secretary, Department of Transportation, transmitting the Secretary's Report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations for the period ending September 30, 2003, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

7463. A letter from the Senior Vice President and Chief Financial Officer, Export-Import Bank of the United States, transmitting the Bank's Annual Management Report for the fiscal year ended September 30, 2003, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

7464. A letter from the Chairman, Federal Communications Commission, transmitting the Commission's FY 2003 Annual Program Performance Report, as required by the Government Performance and Results Act of 1993; to the Committee on Government Reform.

7465. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Corporation's 2004 Annual Performance Plan, pursuant to Public Law 103–62; to the Committee on Government Reform.

7466. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting the Administration's 2003 Annual Report; to the Committee on Government Reform.

7467. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

7468. A letter from the Chief Judge, Superior Court of the District of Columbia, transmitting the Superior Court's Family Court Transition Plan, pursuant to Public Law 107–114; to the Committee on Government Reform.

7469. A letter from the Director, Office of Management and Budget, transmitting the second biennial report of all Federal programs related to ocean and coastal activities, pursuant to 33 U.S.C. 857–19 note Public Law 106–256, section 5; to the Committee on Resources.

7470. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft bill, the "National Heritage Partnership Act" to promote and enhance community and regional heritage conservation efforts and to establish a program of National

Heritage Areas in the United States and for other purposes; to the Committee on Resources.

7471. A letter from the Corporation Agent, Legion of Valor of the United States of America, Inc., transmitting a copy of the Legion's annual audit as of April 30, 2003, pursuant to 36 U.S.C. 1101(28) and 1103; to the Committee on the Judiciary.

7472. A letter from the Chief Financial Officer, Paralyzed Veterans of America, transmitting a copy of the annual audit report of the Paralyzed Veterans of America for the fiscal year 2003, pursuant to 36 U.S.C. 1166; to the Committee on the Judiciary.

7473. A letter from the Under Secretary, Emergency Preparedness and Response, Department of Homeland Security, transmitting notification that funding under Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, will exceed $5 million for the response to the emergency declared on January 15, 2004, for the Commonwealth of Massachusetts as a result of the record/near record snow on December 6–7, 2003, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

7474. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Neponset River, MA. [CGD01–04–016] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7475. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations. Hackensack River, NJ. [CGD01–04–020] received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7476. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operations Regulations; Delaware River, NJ [CGD05–04–040] (RIN: 1625–AA09) received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7477. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Allowing Alternatives to Incandescant Lights, and Establishing Standards for New Lights, in Private Aids to Navigation [USCG–2000–7466] (RIN: 1625–AA55) received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7478. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project; Correction [CGD13–03–025] (RIN: 1625–AA00) received March 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7479. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final ruleq—Airworthiness Directives; Aerospatiale Model ATR72 Series Airplanes [Docket No. 2001–NM–376–AD; Amendment 39–13456; AD 2004–03–12] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7480. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Learjet Model 31, 31A, 35, 35A (C–21A), 36, and 36A Airplanes [Docket No. 2001–NM–366–AD; Amendment 39–13452; AD 2004–03–08] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7481. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes; and Model A310 Series Airplanes [Docket No. 2001–NM–303–AD; Amendment 39–13454; AD 2004–03–10] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7482. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–200C and –200F Airplanes [Docket No. 2001–NM–278–AD; Amendment 39–13455; AD 2004–03–11] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7483. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. 2001–NM–355–AD; Amendment 39–13448; AD 2004–03–04] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7484. A letter from the Paralegal Specialist, FAA, Department of Transportation; transmitting the Department's final rule—Airworthiness Directives; Boeing Model 777–200 Series Airplanes [Docket No. 2002–NM–320–AD; Amendment 39–13449; AD 2004–03–05] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7485. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320–111, –211, and –231 Series Airplanes [Docket No. 2002–NM–118–AD; Amendment 39–13463; AD 2004–03–19] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7486. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes [Docket No. 2004–NM–10–AD; Amendment 39–13447; AD 2004–03–03] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7487. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company CT58 Series and T58 Series Turboshaft Engines [Docket No. 2003–NE–66–AD; Amendment 39–13487; AD 2004–04–06] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7488. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness DIrectives; Boeing Model 777–200 Series Airplanes [Docket No. 2004–NM–28–AD; Amendment 39–13489; AD 2004–04–08] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7489. A letter from the Administrator, FAA, Department of Transportation, transmitting a report on the foreign aviation authorities to which the Federal Aviation Administration provided services for Fiscal Years 2002 and 2003, pursuant to Public Law 103—305, section 202; to the Committee on Transportation and Infrastructure.

7490. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company (GE) CF6–80 Series Turbofan Engines [Docket No. 2004–NE–05–AD; Amendment 39–13488; AD 2004–04–07] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7491. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320–111, –211, –212, and –231 Series Airplanes [Docket No. 2001–NM–107–AD; Amendment 39–13451; AD 2004–03–07] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7492. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319 and A320 Series Airplanes [Docket No. 2002–NM–183–AD; Amendment 39–13450; AD 2004–03–06] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7493. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Falcon 900EX Series Airplanes [Docket No. 2001–NM–283–AD; Amendment 39–13470; AD 2004–03–26] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7494. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–200 and –300 Series Airplanes Equipped with a Main Deck Cargo Door Installed in Accordance with Supplemental Type Certificate (STC)SA2969SO [Docket No. 2003–NM–170–AD; Amendment 39–13467; AD 2004–03–23] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7495. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007 Series Turbofan Engines [Docket No. 2000–NE–29–AD; Amendment 39–13486; AD 2004–04–05] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7496. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes [Docket No. 2001–NM–275–AD; Amendment 39–13513; AD 2004–05–18] (RIN: 2120–AA64) received March

26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7497. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. 2003-NM-49-AD; Amendment 39-13511; AD 2004-05-16] (RIN: 2120-AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7498. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Johnson, KS. [Docket No.FAA-2004-17151; Airspace Docket No.04-ACE-17] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7499. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Cassville, MO. [Docket No. FAA-2004-17152; Airspace Docket No. 04-ACE-18] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7500. A letter from the National Railroad Retirement Investment Trust, Railroad Retirement Board, transmitting The National Railroad Retirement Investment Trust's FY 2003 management report on its operations and financial condition, pursuant to 45 U.S.C. 231n Public Law 107—90, section105; to the Committee on Transportation and Infrastructure.

7501. A letter from the Administrator, Small Business Administration, transmitting the Annual Report on Minority Small Business and Capital Ownership Development for Fiscal Year 2002, pursuant to 15 U.S.C. 636(j)(16)(B); to the Committee on Small Business.

7502. A letter from the Acting Administrator, Department of Health and Human Services, transmitting notification concerning an action taken by the Department, fulfilling the requirement to report to Congress on a payment system for long-term care hospitals (LTCHs), with respect to section 123 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999; to the Committee on Ways and Means.

7503. A letter from the Acting Administrator, Department of Health and Human Services, transmitting notification concerning the report mandated by section 4201(b) of the Balanced Budget Act of 1997; to the Committee on Ways and Means.

7504. A letter from the Acting Administrator, Department of Health and Human Services, transmitting a request to consider publication of the Proposed Prospective Payment System Methodology for Psychiatric Hospitals and Units published in the Federal Register on November 28, 2003 as the report to Congress required by Section 4415 of the Balanced Budget Act (BBA) of 1997; to the Committee on Ways and Means.

7505. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Pursuant to section 1511(a)(6) of the National Defense Authorization Act, 1994 (Pub. L. 103-160), certification and waiver of the application of the restriction of restoration of duty-free treatment accorded to articles of Serbia and Montenegro under the Generalized System of Preferences, and accompanying Memorandum of Justification; to the Committee on Ways and Means.

7506. A letter from the Secretary, Department of Energy, transmitting draft of proposed legislation "To improve the efficiency of the Department of Energy's Energy Employee Occupational Illness Compensation Program, and for other purposes"; jointly to the Committees on the Judiciary and Education and the Workforce.

7507. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships (Phase II) [CMS-1810-IFC] (RIN: 0938-AK67) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHNER: Committee of Conference. Conference report on H.R. 3108. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes (Rept. 108-457). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FARR (for himself, Mr. SHAYS, Mr. STUPAK, Ms. WOOLSEY, Mr. STARK, Mr. ALLEN, Mr. PALLONE, Ms. LORETTA SANCHEZ of California, Mr. HONDA, and Mrs. CAPPS):

H.R. 4101. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS (for himself, Mr. CARDIN, Mrs. MCCARTHY of New York, Mr. HINOJOSA, Mr. FROST, Mr. CROWLEY, Mr. HINCHEY, Mr. BROWN of Ohio, Mr. ENGEL, and Ms. MCCOLLUM):

H.R. 4102. A bill to amend the Higher Education Act of 1965 to provide access and equity in higher education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. THOMAS (for himself, Mr. MCDERMOTT, Mr. CRANE, Mr. RANGEL, Mr. ROYCE, Mr. HOUGHTON, Mr. NEAL of Massachusetts, Ms. DUNN, Mr. JEFFERSON, Mr. WELLER, Mr. BRADY of Texas, and Mr. PAYNE):

H.R. 4103. A bill to extend and modify the trade benefits under the African Growth and Opportunity Act; to the Committee on Ways and Means.

By Ms. HARMAN (for herself, Mr. HASTINGS of Florida, Mr. REYES, Mr. BOSWELL, Mr. PETERSON of Minnesota, Mr. CRAMER, Ms. ESHOO, Mr. HOLT, and Mr. RUPPERSBERGER):

H.R. 4104. A bill to establish the Director of National Intelligence as head of the intelligence community, to modify and enhance authorities and responsibilities relating to the administration of intelligence and the intelligence community, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. CONYERS (for himself and Ms. HART):

H.R. 4105. A bill to establish grants to improve and study the National Domestic Violence Hotline; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Ms. LOFGREN, and Mr. MCINTYRE):

H.R. 4106. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

By Mr. BOEHLERT (for himself, Mr. PASCRELL, Mr. WELDON of Pennsylvania, Mr. HOYER, Mr. SMITH of Michigan, Mr. ANDREWS, Mr. COX, Mr. TURNER of Texas, and Mrs. LOWEY):

H.R. 4107. A bill to reauthorize the Assistance to Firefighters Grant program under section 33 of the Federal Fire Prevention and Control Act of 1974, and for other purposes; to the Committee on Science.

By Mr. NETHERCUTT (for himself, Mr. NADLER, Mr. SHAYS, Mr. ENGEL, Mr. BACHUS, Mr. BERMAN, Mr. CLAY, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. GRIJALVA, Mr. HOLDEN, Mr. HOYER, Mrs. LOWEY, Mr. PENCE, Ms. SCHAKOWSKY, Mr. SHERMAN, Mr. WEINER, Mr. WEXLER, Mr. PASCRELL, Mr. RUPPERSBERGER, Mr. HOEFFEL, and Ms. KAPTUR):

H.R. 4108. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes; to the Committee on Homeland Security (Select), and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURNS:

H.R. 4109. A bill to allow seniors with Social Security and pension income to file their income tax returns on a new Form 1040SR without regard to the amount of interest or taxable income of the senior; to the Committee on Ways and Means.

By Mr. GARY G. MILLER of California (for himself and Mr. FRANK of Massachusetts):

H.R. 4110. A bill to facilitate homeownership in high-cost areas; to the Committee on Financial Services.

By Mr. DEFAZIO (for himself, Mr. GEORGE MILLER of California, Mr. OBEY, Mr. MARKEY, Mr. KUCINICH, Ms. CARSON of Indiana, Mr. CAPUANO, Mr. PASCRELL, Ms. DELAURO, Mr. SANDERS, Mr. NEAL of Massachusetts, Mr. COSTELLO, Mr. LIPINSKI, Mr. HILL, Mr. DELAHUNT, Mr. STARK, Ms. BALDWIN, Mr. WU, Mr. BOSWELL, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. BAIRD, Mr. ROSS, Mr. TURNER of Texas, Mr. BERRY, Mr. MATSUI, Mr. EMANUEL, Ms. WATERS, Mr. SCOTT of Virginia, Mr. CARDIN, Mr. LARSON of Connecticut, Ms. LEE, Mr. HINCHEY, Ms. WOOLSEY, Mr. BROWN of Ohio, Mr. SHERMAN, Ms. KAPTUR, Mr. EVANS, Mr. KIND, Mr. FARR, Mr. FILNER, Mr. WEINER, Mr. HONDA, Ms. HOOLEY of Oregon, Mr. GRIJALVA, Mr. HASTINGS of Florida, Ms. SLAUGHTER, and Mr. RAHALL):

H.R. 4111. A bill to amend title 37, United States Code, to direct the Secretary of a military department to pay a monthly bonus to members of the Armed Forces whose retirement or separation is suspended as a result of a stop-loss order, and for other purposes; to the Committee on Armed Services.

By Mr. FOLEY:

H.R. 4112. A bill to establish consumer protections, including disclosure requirements, relating to funeral service contracts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FOLEY (for himself and Mr. POMEROY):

H.R. 4113. A bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust; to the Committee on Ways and Means.

By Mr. GILCHREST (for himself, Mr. SAXTON, and Mr. KIND):

H.R. 4114. A bill to amend the Migratory Bird Treaty Act to exclude non-native migratory bird species from the application of that Act, and for other purposes; to the Committee on Resources.

By Mr. HAYWORTH (for himself and Mr. FLAKE):

H.R. 4115. A bill to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to the Committee on Resources.

By Mr. JENKINS (for himself, Mr. FORD, and Mr. GOODE):

H.R. 4116. A bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an "endangered" species under the Endangered Species Act of 1973, and for other purposes; to the Committee on Financial Services.

By Mrs. MALONEY (for herself, Mr. TOM DAVIS of Virginia, Ms. CORRINE BROWN of Florida, Ms. MILLENDER-MCDONALD, Mr. FROST, Mr. MCNULTY, Ms. DELAURO, Mr. WYNN, Ms. LOFGREN, and Mr. WEXLER):

H.R. 4117. A bill to provide assistance and security for women and children in Afghanistan, and for other purposes; to the Committee on International Relations.

By Mr. PAUL (for himself and Mrs. MUSGRAVE):

H.R. 4118. A bill to ensure that the courts interpret the Constitution in the manner that the Framers intended; to the Committee on the Judiciary.

By Mr. PORTMAN (for himself and Mr. BISHOP of Georgia):

H.R. 4119. A bill to amend the Small Business Act to reauthorize the Paul D. Coverdell Drug-Free Workplace Program, and for other purposes; to the Committee on Small Business.

By Mr. RANGEL (for himself, Mr. LEVIN, Mr. MATSUI, and Mr. MICHAUD):

H.R. 4120. A bill to amend the Trade Act of 1974 regarding identifying trade expansion priorities; to the Committee on Ways and Means.

By Mr. REHBERG (for himself and Mr. PETERSON of Minnesota):

H.R. 4121. A bill to amend the Federal Meat Inspection Act to help ensure a healthy food supply, and for other purposes; to the Committee on Agriculture.

By Mr. RODRIGUEZ (for himself, Mr. SANDLIN, Mr. TURNER of Texas, Mr. ORTIZ, Mr. FROST, Mr. GREEN of Texas, and Mr. DOGGETT):

H.R. 4122. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Resources.

By Ms. LORETTA SANCHEZ of California:

H.R. 4123. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to bring military sexual assault crimes into parallel with Federal sexual assault crimes; to the Committee on Armed Services.

By Mr. SANDLIN (for himself, Ms. KAPTUR, Mr. FROST, Mr. BELL, Mr. CROWLEY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BERKLEY, Mr. ROSS, Mr. LARSON of Connecticut, Mr. CARDOZA, Mr. STRICKLAND, Mr. GONZALEZ, Mr. BERRY, Mr. CLAY, Mr. ISRAEL, Mr. RUPPERSBERGER, Mr. MOORE, Mr. REYES, Ms. SOLIS, Mr. HONDA, Mr. LAMPSON, Mr. FORD, Mr. MEEKS of New York, Mr. EDWARDS, Mr. DOGGETT, Mr. TURNER of Texas, Mr. GREEN of Texas, Mr. BAIRD, Mr. LEWIS of Georgia, Mr. BOSWELL, and Mr. THOMPSON of California):

H.R. 4124. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for qualified expenditures for medical professional malpractice insurance; to the Committee on Ways and Means.

By Mr. WEINER (for himself and Mr. ISRAEL):

H.R. 4125. A bill to require corporations to publish what they pay to foreign governments; to the Committee on Financial Services.

By Mr. WILSON of South Carolina (for himself, Mr. PAUL, Mr. ROGERS of Alabama, Mr. ISAKSON, Mr. DEMINT, Mr. CUNNINGHAM, Mr. FRANKS of Arizona, Mr. JONES of North Carolina, Mrs. BLACKBURN, Ms. GINNY BROWN-WAITE of Florida, Mr. KLINE, and Mr. RENZI):

H.R. 4126. A bill to provide for recruiting, training, and deputizing persons for the Federal flight deck officer program; to the Committee on Transportation and Infrastructure.

By Mr. WOLF:

H. Con. Res. 403. Concurrent resolution condemning the Government of the Republic of the Sudan for its attacks against innocent civilians in the impoverished Darfur region of western Sudan; to the Committee on International Relations.

By Mr. ISAKSON:

H. Res. 594. A resolution congratulating the Kennesaw State University Owls for winning the 2004 NCAA Division II Men's Basketball National Championship, and for other purposes; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

267. The SPEAKER presented a memorial of the Legislature of the State of South Dakota, relative to House Concurrent Resolution No. 1016, supporting the administrative appeal initiated by the Nebraska National Forest Plans Revision Appeal Coalition, and memorializing the Department of Agriculture Under Secretary to conduct a personal administrative review of the ROD; to the Committee on Resources.

268. Also, a memorial of the Legislature of the State of Wyoming, relative to a Joint Resolution memorializing the United States Government to work with the State of Wyoming to eliminate brucellosis from wildlife in the Greater Yellowstone Area; jointly to the Committees on Resources and Agriculture.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 173: Mr. ALEXANDER.

H.R. 290: Mr. DAVIS of Tennessee and Mr. LEACH.

H.R. 296: Mr. ISRAEL.

H.R. 348: Ms. CORRINE BROWN of Florida and Mr. BELL.

H.R. 713: Mr. MILLER of Florida.

H.R. 742: Mrs. MUSGRAVE.

H.R. 872: Mr. PUTNAM.

H.R. 1005: Mrs. NAPOLITANO.

H.R. 1160: Mr. JACKSON of Illinois.

H.R. 1162: Ms. DEGETTE.

H.R. 1205: Mr. BROWN of Ohio.

H.R. 1231: Ms. HOOLEY of Oregon.

H.R. 1258: Mr. MEEKS of New York.

H.R. 1313: Mr. MCNULTY.

H.R. 1345: Ms. KILPATRICK and Mr. EMANUEL.

H.R. 1500: Mr. SHERMAN.

H.R. 1501: Mr. DEFAZIO, Ms. JACKSON-LEE of Texas, and Mr. HINCHEY.

H.R. 1563: Mr. DICKS, Mr. LAHOOD, and Mrs. MCCARTHY of New York.

H.R. 1736: Mr. MCDERMOTT, Mr. SNYDER, and Mr. HASTINGS of Florida.

H.R. 1811: Ms. MCCARTHY of Missouri, Mr. MCDERMOTT, Mr. DAVIS of Alabama, Mr. CONYERS, Mr. NEUGEBAUER, Mr. NUSSLE, Mr. UDALL of New Mexico, and Mr. MILLER of North Carolina.

H.R. 1824: Ms. CORRINE BROWN of Florida.

H.R. 1873: Mr. DUNCAN and Mr. SIMPSON.

H.R. 2032: Mr. BONNER and Mr. FATTAH.

H.R. 2303: Mr. SESSIONS.

H.R. 2490: Mr. MCCOTTER.

H.R. 2519: Mr. GRIJALVA.

H.R. 2619: Mr. SOUDER.

H.R. 2664: Mr. VITTER.

H.R. 2683: Mr. PETRI.

H.R. 2699: Mr. HOUGHTON, Mr. LEWIS of Georgia, Mr. PICKERING, and Mr. MICHAUD.

H.R. 2771: Mr. REYNOLDS, Ms. SLAUGHTER, and Ms. VELÁZQUEZ.

H.R. 2823: Mr. SAXTON.

H.R. 2863: Ms. LOFGREN.

H.R. 2912: Mr. COLE, Mr. CARSON of Oklahoma, Mr. KILDEE, and Mr. SULLIVAN.

H.R. 2968: Mr. CUMMINGS.

H.R. 3015: Mr. GILLMOR and Mr. JOHN.

H.R. 3193: Mr. FLAKE, Mr. LATHAM, Mr. HULSHOF, and Mr. LAMPSON.

H.R. 3213: Mr. CAMP and Mr. CANNON.

H.R. 3237: Ms. PRYCE of Ohio.

H.R. 3242: Mr. ISSA, Ms. KAPTUR, and Mr. JENKINS.

H.R. 3281: Mr. FARR.

H.R. 3307: Mrs. CUBIN.

H.R. 3308: Mr. KLECZKA, Mr. CHOCOLA, and Mr. THOMPSON of Mississippi.

H.R. 3327: Ms. WOOLSEY.

H.R. 3367: Mr. BEAUPREZ.

H.R. 3543: Mr. NEAL of Massachusetts.

H.R. 3591: Mr. TURNER of Texas and Mrs. EMERSON.

H.R. 3593: Ms. BERKLEY, Mr. OWENS, and Ms. JACKSON-LEE of Texas.

H.R. 3598: Mr. MCCOTTER, Mr. SMITH of Michigan, Mr. CAMP, and Mr. ENGLISH.

H.R. 3643: Mr. WEXLER.

H.R. 3716: Mr. BACHUS, Mr. ROGERS of Alabama, and Mr. GERLACH.

H.R. 3739: Mr. Tiahrt.

H.R. 3756: Mr. Bradley of New Hampshire.

H.R. 3776: Mr. Hoyer and Mr. Ramstad.

H.R. 3779: Mrs. McCarthy of New York, Ms. Millender-McDonald, Mr. Lewis of Georgia, Mr. Frost, Mrs. Davis of California, Mr. Pallone, Mr. Owens, Mr. Scott of Georgia, Ms. Carson of Indiana, Ms. Solis, Mr. Simmons, Mrs. Capito, and Mrs. Jones of Ohio.

H.R. 3795: Mr. Kingston.

H.R. 3796: Mr. Boucher, Mr. Murtha, Mr. Holden, Mr. Kanjorski, Mr. Doyle, and Mr. Brady of Pennsylvania.

H.R. 3798: Mr. Weiner, Mr. Filner, and Mr. McDermott.

H.R. 3799: Mr. DeMint.

H.R. 3800: Mr. Kingston and Mr. Sullivan.

H.R. 3818: Mr. Menendez, Mr. Ackerman, and Ms. Hooley of Oregon.

H.R. 3826: Mr. Session.

H.R. 3834: Mr. Gibbons.

H.R. 3847: Mr. Israel.

H.R. 3870: Mr. Weldon of Florida, Mr. Boehner, Mr. Isakson, Mr. Weldon of Pennsylvania, and Mr. Shays.

H.R. 3881: Mrs. Tauscher, Mr. Udall of Colorado, and Ms. Lee.

H.R. 3889: Mr. Hill and Mr. Pence.

H.R. 3894: Mr. Tiberi.

H.R. 3913: Mr. Duncan.

H.R. 3933: Mrs. Biggert.

H.R. 3974: Mr. Lofgren.

H.R. 3978: Mr. Leach, Mr. Sherman, Mr. Bell, and Mr. Smith of Texas.

H.R. 4003: Mr. Payne, Mr. Rangel, Ms. Woolsey, Ms. Watson, Mr. Hinojosa, and Mr. Grijalva.

H.R. 4023: Mr. Costello, Mr. Scott of Virginia, and Mr. Rogers of Alabama.

H.R. 4026: Mr. Lewis of Kentucky and Mr. Tanner.

H.R. 4033: Mr. Murtha, Mr. Clyburn, Mr. Frost, and Mr. Marshall.

H.R. 4052: Ms. Loretta Sanchez of California, Mr. Bradley of New Hampshire, and Mr. Moran of Virginia.

H.R. 4061: Mr. Payne and Mr. Lampson.

H.R. 4100: Mr. Rahall, Mr. Obey, Mr. John, and Mr. Farr.

H. Con. Res. 99: Mr. Rahall.

H. Con. Res. 261: Mr. Sanders, Mr. Towns, Mr. Markey, Mrs. Maloney, Mr. Grijalva, Ms. Carson of Indiana, Mr. Levin, Mr. Frost, and Mrs. McCarthy of New York.

H. Con. Res. 298: Mr. Putnam.

H. Con. Res. 326: Mr. Souder and Mr. Menendez.

H. Con. Res. 366: Mr. Nadler, Mr. Ford, Mr. Owens, and Mr. Cooper.

H. Con. Res. 378: Mr. Pastor, Mr. Allen, Mr. Lucas of Kentucky, Mr. Lynch, and Mr. Engel.

H. Res. 466: Mr. Ortiz.

H. Res. 485: Mr. Ross.

H. Res. 541: Ms. Lofgren.

H. Res. 576: Mr. Terry, Mr. Blumenauer, Mr. Souder, Mr. Schiff, Mr. Menendez, Mr. Stupak, and Mr. Smith of Washington.

H. Res. 582: Mrs. McCarthy of New York.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 898: Mr. Renzi.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

66. The SPEAKER presented a petition of Lithuanian-American Community, Inc., Waukegan/Lake County Chapter Waukegan, Illinois, relative to Resolution on the occasion of Lithuania's Independence Day, petitioning the United States Congress and the President of the United States to designate February 16, 2004, as "Lithuanian Independence Day," to deepen the U.S. bi-lateral relationship with Lithuania, to reverse decisions to end Radio Free Europe/Radio Liberty and the Voice of America to Lithuania, and thanking the United States Senate for its vote ratifying the accession protocols for Lithuania's membership in NATO; to the Committee on International Relations.

67. Also, a petition of the Board of Supervisors, Seneca County, Waterloo, New York, relative to Resolution No. 217-03, advising New York State Governor Pataki that Seneca County opposes the proposed settlement of the Cayuga Indian Land Claim; to the Committee on Resources.

68. Also, a petition of Raymond H. Soto, a Citizen of Missouri, relative to petitioning the United States Congress for aid in a legal matter; to the Committee on the Judiciary.

69. Also, a petition of Timothy D. Brown, a Citizen of Colorado, relative to petitioning the United States Congress for redress of grievances; to the Committee on the Judiciary.

70. Also, a petition of the City Council of Carbondale, Illinois, relative to Resolution 2004-R-14, supporting recently proposed federal legislation in HR 3713 and S 2012, which would designate the Federal Building located at 250 West Cherry Street, Carbondale, Illinois, as the "Senator Paul Simon Federal Building"; to the Committee on Transportation and Infrastructure.

71. Also, a petition of the City Council of Ocean City, New Jersey, relative to Resolution #04-41-223 opposing any reduction in federal funding or cost sharing of local beach replenishment projects; to the Committee on Transportation and Infrastructure.

72. Also, a petition of Delton O. Olson, a Citizen of Arizona, relative to petitioning the United States Congress for redress of grievances; to the Committee on Ways and Means.

73. Also, a petition of the City Council of Saint Paul, Minnesota, relative to Bill of Rights Defense Resolution, adapted from the National League of Cities Bill of Rights Defense Resolution, affirming the principles of federalism and civil liberties; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

SENATE—*Friday, April 2, 2004*

The Senate met at 9 a.m. and was called to order by the Honorable JOHN WARNER, a Senator from the State of Virginia.

PRAYER

The visiting chaplain, Rev. Bill Jeschke, The Kings Chapel, Vienna, VA, offered the following prayer:

Let us pray.

O God, our strength and our redeemer, please give these, Your servants, the wisdom to know right and the grace to do it. Apart from You, we can do nothing; but by Your empowerment, we can do all things.

Give them strength for this great adventure, the sober service of directing this Senate into Your paths and ways. Help them to be fountains of blessing to our dear people and Your beloved world.

We pray that they will be committed to their sacred duty, and trust that through them You will accomplish Your wise purposes for our country.

We pray this in Your wonderful Name.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN WARNER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant journal clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 2, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN WARNER, a Senator from the State of Virginia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. WARNER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in for a period, briefly, for morning business. As I stated last night in closing, there will be no rollcall votes during today's session.

I also mentioned in closing last night some of the important issues that need to be addressed that will be considered next week. One of those bills is the Pregnancy and Trauma Care Access Protection Act of 2004. I have repeatedly stated my concern about the current liability system and the fact that physicians are having to leave regions and States and even leave the practice of medicine altogether. That has a direct impact on care for women who are about to deliver children, as well as trauma services and specialty physicians.

We absolutely must find a way to achieve appropriate tort reform and bring common sense back into our court system. Having said that, I hope the Senate can begin the debate on this issue.

PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT OF 2004—MOTION TO PROCEED

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of Calendar No. 462, S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

CLOTURE MOTION

Mr. FRIST. Mr. President, with that objection, I now move to proceed to the consideration of S. 2207, and I will send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant journal clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 462, S. 2207, a bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such service.

Bill Frist, Orrin Hatch, Judd Gregg, John Ensign, Lamar Alexander, Peter Fitzgerald, Larry Craig, John Cornyn, Robert Bennett, Mike Enzi, Mitch McConnell, Ted Stevens, Norm Coleman, James Inhofe, Kay Bailey Hutchison, George Voinovich, Charles Grassley.

Mr. FRIST. Mr. President I now ask unanimous consent that the live quorum under rule XXII be waived, and further that notwithstanding rule XXII the vote on the motion to invoke cloture occur at 2:15 on Wednesday, April 7.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. FRIST. Mr. President, I now withdraw my motion.

The ACTING PRESIDENT pro tempore. The motion is withdrawn.

Mr. FRIST. Mr. President, over the course of the morning, we will be continuing our discussions on how best to proceed with the JOBS bill, the manufacturing tax bill on which we spent part of last week and this week. Those discussions will continue, and we will be addressing that issue, I hope, in the next week. Medical liability we will be addressing next week.

Discussions continue to go on with regard to the budget, which is in conference. Those conferees were mentioned on the floor of the Senate. We passed the budget under Senator NICKLES' leadership. It was the earliest budget ever passed in this particular body. It is now in conference. I look forward to the product of those conferees at some appropriate time.

As my colleagues know, we have, under the regular order, 10 hours of debate on that before we will be voting on the budget itself.

Next week, we will be voting—and I will talk about this later—on Wednesday and Thursday. This will allow appropriate observance for Passover in preparation for the recess, which will be the following week.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The distinguished Senator from Michigan.

Mr. LEVIN. I thank the Chair.

STRATEGIC PETROLEUM RESERVE

Mr. LEVIN. Mr. President, earlier this week the OPEC cartel announced it would reduce oil production by 1 million barrels of oil per day starting April 1. This move is designed solely for one purpose: to keep pushing up oil prices in the United States and other oil-consuming countries.

Most energy experts say that given current inventory levels in the United States and elsewhere and current consumption rates, OPEC's cuts mean that gasoline prices will likely stay high, hurting American families; jet fuel prices will stay high, hurting our airlines; and diesel fuel prices will stay high, hurting our truckers, manufacturers, and farmers.

As OPEC was planning this price hike, what was the response of the administration? Just a few days before, the Secretary of Energy stated he was not about to go begging for oil.

One step we should take immediately to counteract high prices and OPEC's action is to stop filling our Strategic Petroleum Reserve. This month, the administration is going to put about 200,000 barrels per day of oil into the Strategic Petroleum Reserve. If OPEC's cuts are distributed equally among its customers, this is about how much the OPEC cut will reduce U.S. supplies. Since the U.S. imports about 20 percent of OPEC's output and OPEC plans to cut production by about 1 million barrels per day, about 200,000 barrels per day will be the reduction in the supply to the United States.

Holding off additional deposits into the Strategic Petroleum Reserve would keep about as much oil on the U.S. oil market as OPEC is taking off our market. One way to fight back is to cancel these additional deposits which will otherwise go into the Strategic Petroleum Reserve, which is already 93-percent filled.

Mr. President, 200,000 barrels per day is a lot of oil. It is as much oil as is produced in several of our major oil-producing States. For instance, Oklahoma produces about 180,000 barrels a day. It is about as much as we import from Kuwait. Last year we imported about 205,000 barrels per day from Kuwait.

Over time, 100,000 to 200,000 barrels per day adds up to a significant amount of oil. Over the course of the next year or so, these daily fills will add up to about 50 million barrels of oil. In other words, over the next year or so, the Department of Energy, if it sticks to its plan to continue to fill the Strategic Petroleum Reserve to 100 percent, the DOE will take about 50 million barrels of oil off the market and put them into the Strategic Petroleum Reserve.

If we keep that oil in the market, in the private sector, we would get both short-term and long-term benefits. The day after the Senate passed the amendment which I offered with Senator COLLINS to cancel the planned delivery of 50 million barrels of oil into the Strategic Petroleum Reserve, prices on the New York and London crude oil exchanges fell by more than $1, just on the news that the Senate had acted, even before anyone knew whether the House would follow suit. Prices rose back to their previous levels when the Department of Energy and some key Members of Congress said that the DOE should keep putting that oil into the Strategic Petroleum Reserve.

The market's reaction to the news that the Strategic Petroleum Reserve deliveries might be canceled is good evidence of how the market will react to the cancellation of those deliveries. We should listen to what the market is telling us. Keeping 50 million barrels of oil on the market rather than putting them into the reserve will enable our private sector inventories to build back to normal levels. They have not been at normal levels for some time now. They have been well-below normal and recently fell to historic lows.

If we restore those private sector inventories, this will reduce prices substantially, and most experts agree that absent some type of additional supplies in the market, oil and gas prices are going to stay very high.

I want to make it clear that we are not proposing removing oil from the Strategic Petroleum Reserve at this time. What we are talking about is simply to stop putting even more oil into the reserve which is already 93 percent of capacity.

The administration says the daily addition is too small to make a difference in the price of oil. This is wrong for two reasons.

First, the amount the DOE is putting into the reserve each day is a lot of oil. Second, the administration's position ignores the long-term effect of putting these barrels of oil into the Strategic Petroleum Reserve—and this is the DOE's own staff I am going to quote. This is what DOE's own staff said:

> Essentially, if the reserve inventory grows, and OPEC does not accommodate that growth by exporting more oil, the increase comes at the expense of commercial inventories. Most analysts agree that oil prices are directly correlated with inventories, and a drop of 20 million barrels over a 6-month period can substantially increase prices.

In fact, commercial inventories did fall on average by 20 million barrels in each of the three successive 6-month periods following the DOE staff's warning.

The Department of Energy's own staff who operates the Strategic Petroleum Reserve recommended against buying more oil for the Strategic Petroleum Reserve in tight markets.

In the spring of 2002, as prices were rising and inventories in the private sector were falling, this is what the Department of Energy staff warned:

> Commercial petroleum inventories are low, retail product prices are high and economic growth is slow.

This is DOE staff's bottom line:

> The Government should avoid acquiring oil for the Reserve under these circumstances.
>
> Commercial petroleum inventories are low,—

They are still at an all-time low.

> retail product prices are high—

They are at an all-time high now.

> and economic growth is slow.

And it does continue to be sluggish. This is what their bottom line is:

> The Government should avoid acquiring oil for the Reserve under these circumstances.

The administration chose to ignore those warnings. The reserve deliveries proceeded, and just as the DOE staff predicted, supplies tightened and prices climbed.

The administration continues to ignore the advice of these experts at the reserve, and American consumers are paying the price.

A wide variety of experts outside the Department of Energy has stated that filling the reserve during tight oil markets increases oil prices. This January, Goldman Sachs, which is the largest crude oil trader in the world, said the following:

> Government storage builds will provide persistent support to the markets—

meaning filling the reserve pushes prices up, and

> Government increases in storage lowered commercially available petroleum supplies.

Bill Greehey, who is the chief executive of Valero Energy, the largest independent refiner in the United States, has criticized the administration for filling the reserve when commercial inventories were low, thereby preventing increases in the commercial inventories.

Last September, when oil prices were at $29 a barrel, Greehey complained the reserve program was diverting oil from the marketplace. Here is what he said:

> If that was going into inventory, instead of the reserve, you would not be having $29 oil, you'd be having $25 oil. So, I think they've completely mismanaged the strategic reserve.

Now that is the chief executive of the largest independent refiner in the United States.

One of the top energy economists in the country, Phil Verleger, estimates the reserve program has added $8 to $10 to the price of a barrel of oil.

Economist Larry Kudlow said:

> Normally, in Wall Street parlance, you're supposed to buy low and sell high, but in

> Strategic Petroleum Reserve actions, we're buying higher and higher and that has really helped keep oil prices high.

Now that is from a conservative economist.

In an article explaining why oil prices are so high, a recent issue of the Economist reported the following:

> Another factor . . . propping up oil prices may be what [a] trader calls "supply disruption risk."

Here is what the Economist went on to say:

> These worries have, in part, been fueled by a most unexpected source, the American government. Despite the high prices, American officials continue to buy oil on the open market to fill their country's strategic petroleum reserves. Why buy, you might ask, when prices are high, and thereby keep them up? The Senate has asked that question as well. It passed a nonbinding resolution this month calling on the Bush administration to stop SPR purchases, but Spencer Abraham, the Energy Secretary, has refused.

In January, the Petroleum Argus, an energy industry newsletter, stated the following:

> The act of building up strategic stocks diverts crude supplies that would otherwise have entered the open market. The natural time to do this is when supplies are ample, commercial stocks are adequate and prices low. Yet the Bush administration, contrary to this logic, is forging ahead with plans to add [more oil] to the stockpile.

After the Senate passed our amendment that said we should hold off further purchases, Todd Hultman, who is president of Dailyfutures.com, a commodity research provider, was quoted as saying the amendment:

> . . . makes good sense and is designed to make more crude oil available at a time when unleaded gasoline prices have been making new record highs.

Last summer, Dr. Leo Drollas, chief economist at the Centre for Global Energy Studies, criticized the Strategic Petroleum Reserve program:

> They've continued filling the reserve, which is crazy, putting the oil under the ground when it is needed in refineries.

Now that is why the Senate, with support from both Republicans and Democrats, recently approved an amendment, which I offered with Senator COLLINS, to stop Strategic Petroleum Reserve shipments, sell the oil that would have been placed in the reserve and use the money from those sales for important homeland security programs.

Fifty-three House Members, 39 Republicans and 14 Democrats, recently wrote the President requesting a suspension of SPR petroleum reserve shipments. The House letter states the following:

> Filling the SPR, without regard to crude oil prices and the availability of supplies, drives oil prices higher and ultimately hurts consumers.

The administration still chooses to ignore common sense and it adds oil to the Strategic Petroleum Reserve, no matter how high the price or how tight the supply of oil.

Even though this discussion is about suspending additional deposits into the Strategic Petroleum Reserve when prices are high and private and commercial inventories are low, I would like to comment on a misimpression regarding what happened the last time the Strategic Petroleum Reserve was actually used to release oil. Again, we are now shifting the discussion from talking about not putting more oil to the reserve to what happened last time we took oil out of the reserve. This is what happened during the Clinton administration when 30 million barrels were taken from the reserve and put on the private market. This was in September of the year 2000. Here is what the Washington Post recently stated:

> The last time an administration tapped the Strategic Petroleum Reserve, the impact on price was negligible. When President Bill Clinton ordered the sale of 30 million barrels of oil on September 22, 2000, the average price of regular gas had climbed to more than $1.56. By October 24, when the oil began to hit the market, prices had slipped one penny, according to the Energy Department's Energy Information Administration.

Well, that statement is highly misleading because it omits critical information. Here is the full story: On September 22, 2000, with crude oil prices at $37 a barrel, home heating oil stocks at historic lows and winter around the corner, President Clinton ordered the release of 30 million barrels from the Strategic Petroleum Reserve. Within a few days of the announcement of the release, crude oil prices had fallen by $6 a barrel. Within a week, home heating oil prices fell by 10 cents per gallon. Within 2 weeks, wholesale gasoline prices had fallen by 14 cents per gallon.

So what the statement omitted is what happened to oil and gas prices immediately after the order for the release of that 30 million barrels from the Strategic Petroleum Reserve. There was an immediate impact downward on gasoline prices, wholesale prices for home heating oil, in the amounts of 10 cents a gallon for home heating oil and 14 cents a gallon for gasoline. So the statement that gasoline prices on October 24, a month later, were only a cent lower than on September 22 omits the critical information that oil and gasoline prices fell significantly immediately after the release but then rose later due to unrelated events in the Middle East.

Two weeks after the release, crude oil prices were still $6 per barrel lower than the prerelease prices and wholesale gasoline prices were 14 cents per gallon lower. Only when a wave of violence hit the Middle East during the third week after the release did gasoline prices rise to their prerelease levels.

So the release of 30 million barrels of reserve oil during the Clinton administration did have a significant, immediate effect on oil and gas prices downward.

Just as taking oil out of the reserve can significantly affect prices, putting oil into the reserve can have a significant effect as well. That is what is going on now. The administration should listen to its energy experts and the economists and stop adding oil to the Strategic Petroleum Reserve which is already 93 percent full. The result will be lower oil and gasoline prices, a welcome relief to American consumers, manufacturers, and airlines.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

REPORT ON JOBS

Mr. McCONNELL. Mr. President, today is spin day in Washington. As the first Friday of the month, we just received a report on jobs this morning. The report shows the unemployment rate is little changed at 5.7 percent. But some 308,000 new jobs were added last month, the most in 4 years, and about 3 times more than Wall Street predicted.

Over the past year, we have added three-quarters of a million new jobs. But since this is an election year, we will hear some say this jobless rate today is a disaster. In fact, the number is irrelevant. Whatever number came out today, some are prepared to spin it as a disaster. Why? Well, I think we all know this is an election year, and one party can't win the White House if the economy is doing well. Therefore, the "sky is falling" crowd has to spin the wheel of misfortune, telling us good news is in fact bad news. They are going to try to convince us good news is really bad news. It is a sort of newspeak approach. But it is not that easy.

This town is full of people very experienced when it comes to putting lipstick on a pig. But this is different. This is like scribbling a mustache on the Mona Lisa. It is not so easy, but it can be done. For example, you can do it if you first ignore all of the facts around you—just ignore them all. Next you have to ignore your own past claims that the same fact was a good fact. Lastly, you have to search very hard to find a dark lining in the silver clouds, take that one fact and wrap some blue-in-the-face hyperbole around it, and repeat it day after day after day until anyone hearing it turns blue, too.

The reason you can keep repeating that scratched, warped record is because it may be the only sad song you can play. The simple facts, the overwhelming weight of facts, are on the President's side.

First, the U.S. has had the strongest economic growth of any modern economy over the past 12 months. Let me repeat that. The United States—our country—has had the strongest economic growth of any modern economy over the past 12 months. Our 4.3-percent economic growth rate is the best economic performance in the world. But we are told this stunning success is bad, that somehow the best is the worst.

Absolutely wrong. The U.S. economy is the best. This chart illustrates the point. It compares the U.S. growth rate over the last 12 months—this line—with Australia, Japan, Britain, Spain, Sweden, Canada, Belgium, Austria, France, euro area, Denmark, Germany, Italy, Switzerland, and Netherlands. It compares to all of the industrialized world. We had dramatically better growth than any other country. The only one close to us is Australia.

Not only did we do well over the last 12 months, but what is projected? The U.S. is projected to have the strongest economic growth among developed countries in the next year.

So let's look ahead at the projections. The consensus of international economists, as reported in the Economist, indicates the U.S. will have 4.7 percent growth this year. While far and away the best projection for growth in the industrialized world, we are told that somehow here at home the worst is yet to come. Look at the projections.

Over the next year, we are projected to have the strongest GDP growth of any country in the industrialized world. But they will continue to try to convince us that the best is not here.

The U.S. jobs record compared to other modern economies is indeed reason for optimism, in fact even pride. Not only is there reason for optimism, there is reason for pride. America has an unemployment rate almost one-third less than that of Europe's, with 5.7 percent here, 8.8 percent in Europe. We have an unemployment rate that is one-third less than Europe. Of all the European nations, only the three EU members have a local unemployment rate lower than the national unemployment rate in the U.S. So the U.S. jobs record is the best of Europe, Australia, and Canada. The U.S. jobs record is the best of any of these industrialized nations—any of them. Ours is better.

Next, let's compare America's job record today to that of our own past, because we have heard a lot of discussion about our economy today versus what it used to be like in the "good old days," as they say.

It is clear that America is on a course to have the best jobs decade in half a century, the decade we are currently in. Right now, America is poised to experience the best decade, in terms of the unemployment rate, in 50 years. The decade we are in now is likely to be the best, in terms of unemployment, in 50 years.

We are halfway to the best jobs decade in half a century. From 2000 to 2004, it was 5.2 percent. Looking at the same first 4 years in the previous decade, it was 6.6 percent. The first 4 years in the 1980s, it was 8.3 percent. Look at the first of the 4 years in the 1970s, when it was 5.4 percent. In the first 4 years in the 1960s, it was 5.7 percent. Back in 1950 to 1954, it was 4 percent.

So we are on the way to having the best jobs decade in the last 50 years. Again, some will try to convince the American people that things are not going well. If the unemployment rate for 2004 stays around 5.7 percent for the year—no improvement at all but no worsening—then the unemployment rate for the period of 2000 to 2004 will be 5.2 percent. How does that compare to the jobs performance in the first half of the previous decade? I just went over it. We are in the process of having the best first half of the decade in terms of jobs performance in the last 50 years.

But, again, we are told that somehow the best is the worst. The sky is falling crowd is wrong again. The best is still the best. It is funny how they thought the best was the best not long ago.

For example, in 1996, another election year, we had some around here who thought a 5.6-unemployment rate was something to crow about. They were happy about it. Back in 1996, when we had an incumbent President running in the other party and the unemployment rate was about what it is today, they were crowing about it.

When the unemployment rate was 5.6 percent under President Clinton in 1996, Senator KERRY said:

> Unemployment is down. The economy is doing well.

He said that in 1996 when we had essentially the same unemployment rate we have today.

Also that year, Senator KERRY was bragging about the fact that "unemployment is the lowest in the industrial world," when it was essentially what it is today. He was bragging about it then; this was terrific then but it is not so good today.

When the unemployment rate was at 5.6 percent under President Bush, Senator KERRY said:

> The fact is that Americans are worse off.

He said:

> The bottom line is, for America's workers, there is no "greater prosperity" under George Bush.

These comments were made when the unemployment rate was 5.6 percent, just recently. These other comments were made when the unemployment rate was 5.6 percent and President Clinton was running for reelection in 1996. The same individual, looking at the same unemployment figure, one time acted as if it is something to applaud, and next suggested the country is going to heck in a handbasket.

It is kind of funny how they thought the best was the best not so long ago. As I just said, in April of 1996, Senator KERRY said:

> Unemployment is down. The economy is doing well.

He praised the economy, saying unemployment was the lowest in the industrialized world. That is what he said when unemployment was at 5.6 percent in April of 1996. But now, facing the same facts in the last week or two, it is somehow not good news.

So when unemployment is 5.6 percent under a Democratic President, Bill Clinton, it is the best of times; when it is 5.6 percent under President Bush, it is the worst of times.

That is just spin: 5.6 percent is the worst of times under George Bush; 5.6 percent is the best of times under Bill Clinton. It is just Washington spin.

Does anyone not have any memory around here? Today we will hear the same debate but with a different number. The unemployment rate edged up to 5.7 percent. We will hear that a 5.7 percent unemployment rate was good back then but bad now. So why is a 5.7 percent unemployment rate good then and bad now?

They claim millions of jobs have been lost since President Bush took office, creating, as you have heard them say, the worst performance since the Great Depression. Think of that. They believe today is like the Great Depression.

In 1937, Franklin Roosevelt stated:

> I see one-third of our Nation ill housed, ill clad, and ill nourished.

Yet we are told that today, when home ownership is the highest ever recorded—home ownership is the highest ever recorded—when the poverty rate is the fourth lowest in a quarter century, and when we have the strongest economy in the developed world, we are practically in a Great Depression.

On what single fact do they hang this utterly absurd charge? Actually, they don't have a fact but, rather, they have a survey of business establishments. That survey suggests that from March 2001 to February 2004, payroll jobs are down by 2.5 million.

Of course, another survey of jobs, the household survey, says that we have more jobs now than at any time in our history, 138 million jobs—138 million jobs—the most in our history under the household survey. We have not lost jobs by this measure; we have gained jobs, half a million jobs more than at any time in American history, leading to the question: Which survey is right?

Let's look at the statistical abstract for 2003. If you look at this abstract, which is the final word on facts and statistics in America, you will not see the measure showing job loss. Instead, the statistical abstract uses the job measure that says the U.S. today has the most jobs ever in our entire history.

This is the Economic Report of the President. Whether it is the report of a Democratic President or a Republican President, this report uses the job measure that says the U.S. today has the most jobs ever.

If you look at the unemployment rate announced today by the Labor Department, the unemployment rate calculation by that Department and repeated by every newspaper, TV, and radio, uses the job measure that says the U.S. has the most jobs ever—the most jobs ever—in our history.

If you ask the farmer, if you ask the self-employed worker, the private household worker, the domestic servant, or the family-run business, they are part of the job measure that says the U.S. has the most jobs ever—the most jobs ever.

These workers, roughly some 8 million and some of the hardest working in our country, the "sky is falling crowd" does not count these workers under the measure they use. We think they work for a living. My friends across the aisle apparently do not.

So, you can make this absurd charge about job losses if you ignore the statistical abstract, if you ignore the Presidential reports, if you ignore the Department of Labor's unemployment rate, and if you ignore 8 million workers, but after all is said and done, after we have all revved up the spin machine so that we are all dizzy, after all this is over, we are going to have an election. On that day, all the spinning will stop, and the American people will decide. They will decide if America is closer to the worst of times—the "sky is falling crowd" claim—or nearer to the best of times, as the facts suggest. I look forward to the day all the spin is set aside.

The unemployment rate today is a good number. We would like for it to get even better, but it is a good number. It is the same good number as in 1996 when President Clinton was bragging on it. It is the same good number as in 1996 when Senator KERRY was bragging on it. So I can say despite our challenges, despite 9/11 and recessions, stock crashes and corporate scandals, our economy is strong, our security is rising.

Challenges remain, of course. We will not rest until everyone who wants a job can find a job. But for America, have no doubt about it, the best is yet to come. It is not behind us; it is ahead of us. I think the facts are compelling that the economy is good and getting better.

I yield the floor.

The PRESIDING OFFICER. The minority whip.

JOBS

Mr. REID. Mr. President, for 38 months, the Bush administration has had job loss. We join in the celebration that we have had jobs created, and the President during the next 7 months until the election will have to create another 2.5 million jobs to not be known as the only President since Herbert Hoover who created no private sector jobs. So he has 2.5 million more jobs to go, and we hope that he beats Herbert Hoover's record.

Let me also say, the numbers that came out today indicate the unemployment rate went up this month. It was not stable. It went up. It went up from 5.6 percent to 5.7 percent. This number is not an irrelevant number.

I will also say that when Senator KERRY spoke, of course, he was dealing with what took place in the Clinton years. When President Clinton took office from President Bush 1, the unemployment rate was 7.4 percent. During President Clinton's administration, as a result of the very difficult deficit reduction vote that took place in 1993 where not a single Republican voted in the House or the Senate for the deficit reduction plan, the deficits disappeared and unemployment dropped downward significantly, from [illegible] percent to 4 percent. That is where we were when this man, the President of the United States George Bush, took office. Senator KERRY was talking about how good things were when it was 5.4 percent because it had dropped 2 percent from Bush 1 to Clinton 1.

The number of people unemployed in America today—5.7 percent—is not irrelevant. It is not irrelevant to the millions of Americans who are out of work. So many are out of work. The unemployment rolls are around 9 million or 10 million, but there are millions no longer listed on the unemployment rolls because they are taken off after they are unemployed for such a long period of time. The average time a person is unemployed in America today is almost 1 year. I do not think we should be doing high-fives out here.

I join with my friend, the senior Senator from Kentucky, in talking about it is good we have had for the first time in a long time a significant rise in the number of employed. But we have to go forward because during this President's term of office, we will have to gain about 2.5 million more jobs for him not to be considered a President in the same category as Herbert Hoover.

Speaking of ignoring past claims, the administration, as we know, claimed there would be millions of jobs created with these tax cuts, and we have lost jobs. Let me also say this: Of course, there are more jobs now than there were because we have millions more people in this country today. That is the reason.

As happy as we are with the creation of new jobs last month, let's understand we have a long way to go. We have gas prices that are high. Nevada has the second highest gas prices in America. We have to focus on the fact that we had nine Americans killed in Iraq yesterday. We have to focus on the fact that the number of dead in Iraq is now over 600. We have to focus on the fact now that casualties in Iraq are more than 3,500, with people missing arms, legs, and being paralyzed.

So we still have lots of problems. I have no doubt, and I join with my friend from Kentucky, about the greatness of America. We believe in the greatness of America, but as legislators we also believe we have an obligation to make our country even greater. That is why we think it is wrong that 8 million Americans are not going to be able to have overtime under the Bush rule that has been promulgated. We also think it is wrong that people who are on minimum wage are not going to get an increase as other people in America are getting. We think that is important. We also believe those people who are going off the unemployment rolls every week deserve extended unemployment benefits, as was done during the Reagan administration and during the first Bush administration.

So there is a lot of work we have to do. I hope next month we can again be talking about the increased jobs. Certainly it is something we should be happy about.

CBO REPORTS

Mr. DOMENICI. Mr. President, at the time Senate Report No. 108–236 Harpers Ferry National Historical Park Boundary Revision Act of 2003 was filed, the Congressional Budget Office report was not available. I ask unanimous consent that the report which is now available be printed in the CONGRESSIONAL RECORD for the Information of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 25, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1576, the Harpers Ferry National Historical Park Boundary Revision Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,
DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1576—Harpers Ferry National Historical Park Boundary Revision Act of 2003

S. 1576 would expand the boundary of the Harpers Ferry National Historical Park in

West Virginia by about 1,240 acres. The bill would authorize the National Park Service (NPS) to acquire the added acreage by purchase, donation, or exchange, except that lands that are already owned by the federal government would be acquired by transfer. Finally, the bill would authorize the appropriation of whatever amounts are necessary for these purposes.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1576 would cost the federal government about $5 million over the next year or two. Of this amount, we estimate that $4 million would be used to purchase about 190 acres of private property, and $1 million would be used to develop that land. The remaining acreage that would be added to the park is either already owned by the federal government or would be donated by the nonprofit Civil War Preservation Trust. CBO estimates that additional costs to operate and maintain those additional lands would be less than $200,000 a year. This estimate is based on information provided by the NPS.

S. 1576 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. DOMENICI. Mr. President, at the time Senate Report No. 108–230 Fort Donelson National Battlefield Expansion Act of 2004 was filed, the Congressional Budget Office report was not available. I ask unanimous consent that the report which is now available be printed in the CONGRESSIONAL RECORD for the information of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 26, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 524, the Fort Donelson National Battlefield Expansion Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll, who can be reached at 226–2860.

Sincerely,
DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 524—Fort Donelson National Battlefield Expansion Act of 2004

S. 524 would expand the boundary of the Fort Donelson National Battlefield, a historic Civil War site located in Calloway County, Kentucky. The bill would authorize the Secretary of the Interior to acquire lands to include in the battlefield by purchase, donation, or exchange. Finally, the bill would direct the Secretary of the Interior and the Secretary of Agriculture to enter into a memorandum of understanding to protect and interpret Fort Henry, a nearby Civil War site administered by the Forest Service.

According to the National Park Service (NPS), most of the lands to be added to the battlefield would be donated by the state of Kentucky, Calloway County, and the West Kentucky Corporation. Assuming the availability of appropriated funds, we estimate that first-year costs to acquire additional lands, hire staff, and purchase equipment for the expanded battlefield would total about $1.2 million. We also estimate that future operational costs would total $1 million annually. Finally, we estimate that the NPS and the Forest Service would spend less than $100,000 annually to enhance interpretation services at Fort Henry.

S. 254 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Any costs incurred by the state of Kentucky or local governments in that state to acquire land for the park would be voluntary.

The CBO staff contact for this estimate is Megan Carroll, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

THE DANGERS OF FIFTY CALIBER SNIPER RIFLES

Mr. LEVIN. Mr. President, two weeks ago, the Violence Policy Center released a report rebutting a number of assertions made by the Fifty Caliber Institute about the civilian sale of .50 caliber anti-armor sniper rifles.

The .50 caliber sniper rifle is among the most powerful weapons legally available. According to the Violence Policy Center's report, a .50 caliber sniper rifle is capable of accurately hitting a target over 1,500 yards away, and the ammunition available for the .50 caliber includes armor-piercing, incendiary, and explosive bullets. The report also cites the U.S. Army's manual on urban combat, which states that .50 caliber sniper rifles are designed to attack bulk fuel tanks and other high-value targets from a distance, using "their ability to break through all but the thickest shielding material."

One of the most disturbing parts of the report quotes a brochure from the leading manufacturer, Barrett Firearms, advertising the .50 caliber sniper rifle.

> The Model 82A1 is designed to provide extreme accuracy at extended ranges with standard military ammunition. . . . The accuracy of the Model 82A1 makes possible the placement of the shot in the most vulnerable area of the target. The compressor sections of jet engines or the transmissions of helicopters are likely targets for the weapon, making it capable of destroying multi-million dollar aircraft with a single hit delivered to a vital area. The cost-effectiveness of the Model 82A1 cannot be overemphasized when a round of ammunition purchased for less than 10 USD [U.S. Dollars] can be used to destroy or disable a modern jet aircraft.

I believe that information detailing the potential destruction these weapons can cause should alert us to the dangers to airline safety, as well as homeland security. That is why I cosponsored Senator FEINSTEIN's Military Sniper Weapon Regulation Act, S. 429. This bill would change the way .50 caliber guns are regulated by placing them under the requirements of the National Firearms Act. This would subject these weapons to the same regimen of registration and background checks as those weapons regulated under the National Firearms Act. This is a necessary and commonsense step towards assuring the safety of all Americans.

The .50 caliber sniper rifle is among the most powerful firearms legally available. Senator FEINSTEIN's bill presents us with a simple solution to improving their regulation, and I urge my colleagues to support it.

ADDITIONAL STATEMENTS

UNIVERSITY OF MICHIGAN WINS THE 2004 NATIONAL INVITATION TOURNAMENT

• Mr. LEVIN. Mr. President, last night the University of Michigan Wolverines defeated the Rutgers University Scarlet Knights 62–55 in the final game of the 2004 Men's Basketball National Invitation Tournament to complete a 23–11 season.

The win was even sweeter for the Wolverines as they defeated Rutgers before a crowd of 16,064, largely cheering for the Scarlet Knights, at Madison Square Garden in New York City. Throughout the season and particularly during the NIT, a vocal home crowd at Crisler Arena cheered Michigan to victory. Cheering their team through the first three games of the tournament, Michigan's fans were truly the team's sixth man.

For the season, Michigan won 16 of their 19 home games. Prior to the NIT, they had only won five of their 13 road games. Winning two games in Madison Square Garden proved the mettle of this young team that has relied heavily upon its many sophomores and freshmen. I know I speak for all of Michigan in extending my heartiest congratulations to University of Michigan men's basketball team on their championship. This was a hard fought victory and one that I'm sure Wolverines fans enjoyed immensely.

Twenty years ago, Bill Frieder coached a young Wolverines team that won the NIT Championship. That team used their championship as a springboard to greater success: in each of the next two years they won the Big Ten Championship. I am sure that Michigan Coach Tommy Amaker and his players have similar hopes for a program that has not been to a postseason tournament since 2000. This banner will be raised in the rafters of Crisler Arena next to the 1989 NCAA championship and the 1984 NIT championship banners.

For 68 years, the National Invitation Tournament has showcased some of the greatest talents in college basketball and this year was no exception. Last night, players from both teams displayed their excellent training and hard work. Michigan was led by tournament Most Valuable Player Daniel Horton, who led Michigan with 14 points and Dion Harris who had 13 points.

Michigan opened a lead of 41–29, but a 15–2 Rutgers' run quickly nudged the Scarlet Knights in front, albeit briefly. The old adage "the best offense is a good defense" came true as Michigan constructed its win around a defensive strategy where defensive specialist Bernard Robinson, a senior whose leadership helped guide this young team, limited Rutgers' hot-shooting freshman to just two points.

In his third year with the Wolverines, Coach Amaker not only assembled the winning game plan, but also brought together a team that will consistently compete with any team in the nation. Last night's victory is testament to a team that worked hard to salvage its season and reputation. While individual performances by Robinson, Daniel Horton and Dion Harris played a key role in this game, Michigan's championship was a team effort that has helped restore the pride in the Michigan basketball program. I congratulate Coach Amaker and his team for their selfless efforts in putting University of Michigan basketball back on the national map.

I know my colleagues will join me in congratulating the University of Michigan men's basketball team on their victory, and I know we all look forward to next year when this team really comes of age.

Mr. President, I ask that the players and coaches names be printed in the RECORD.

The list follows:

Players: Lester Abram; John Andrews; Amadou Ba; Ashtyn Bell; Graham Brown; Colin Dill; Sherrod Harrell; Dion Harris; Daniel Horton; Chris Hunter; J.C. Mathis; Brent Petway; Bernard Robinson Jr.; Courtney Sims; Dani Wohl.

Coaches: Head Coach Tommy Amaker; Assistant Coach Charles E. Ramsey; Assistant Coach Chuck Swenson; Assistant Coach Andrew Moore.●

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DODD):

S. Res. 329. A resolution authorizing the Sergeant at Arms and Doorkeeper of the Senate to ascertain and settle claims arising out of the discovery of lethal ricin powder in the Senate Complex; considered and agreed to.

By Mr. WYDEN:

S. Res. 330. A resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ("OPEC") cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 1730

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1730, a bill to require the health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 1804

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1804, a bill to reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes.

S. 2179

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2179, a bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown.

S. 2250

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 2250, a bill to extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

S. 2267

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 329—AUTHORIZING THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE TO ASCERTAIN AND SETTLE CLAIMS ARISING OUT OF THE DISCOVERY OF LETHAL RICIN POWDER IN THE SENATE COMPLEX

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 329

Resolved,

SECTION 1. PAYMENT OF CLAIMS ARISING FROM THE RICIN DISCOVERY.

(a) SETTLEMENT AND PAYMENT.—The Sergeant at Arms and Doorkeeper of the Senate—

(1) in accordance with such regulations as the Committee on Rules and Administration may prescribe, consider, and ascertain any claim incident to service by a Member, officer, or employee of the Senate for any damage to, or loss of, personal property, for which the Member, officer, or employee has not been reimbursed, resulting from the discovery of lethal ricin powder in the Senate Complex on February 2, 2004, or the related remediation efforts undertaken as a result of that discovery; and

(2) may, with the approval of the Committee on Rules and Administration and in accordance with the provisions of section 3721 of title 31, United States Code, determine, compromise, adjust, and settle such claim in an amount not exceeding $4,000 per claimant.

(b) FILING OF CLAIMS.—Claimants shall file claims pursuant to this resolution with the Sergeant at Arms not later than July 31, 2004.

(c) USE OF CONTINGENT FUND.—Any compromise, adjustment, or settlement of any such claim pursuant to this resolution shall be paid from the contingent fund of the Senate on a voucher approved by the chairman of the Committee on Rules and Administration.

SENATE RESOLUTION 330—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD COMMUNICATE TO THE MEMBERS OF THE ORGANIZATION OF PETROLEUM EXPORTING COUNTRIES ("OPEC") CARTEL AND NON-OPEC COUNTRIES THAT PARTICIPATE IN THE CARTEL OF CRUDE OIL PRODUCING COUNTRIES THE POSITION OF THE UNITED STATES IN FAVOR OF INCREASING WORLD CRUDE OIL SUPPLIES SO AS TO ACHIEVE STABLE CRUDE OIL PRICES

Mr. WYDEN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 330

Whereas the United States currently imports the majority of its crude oil;

Whereas ensuring access to and stable prices for imported crude oil for the United States and major allies and trading partners of the United States is a continuing critical objective of United States foreign and economic policy for the foreseeable future;

Whereas the 11 countries that make up the Organization of Petroleum Exporting Countries ("OPEC") produce 40 percent of the world's crude oil and control three-quarters of proven reserves, including much of the spare production capacity;

Whereas beginning in February 2004, OPEC instituted production cuts, which reduced production by 2,000,000 barrels per day and have resulted in dramatic increases in crude oil prices;

Whereas in February 2004, crude oil prices were around $28 per barrel and have steadily risen since then, exceeding $38 per barrel in March 2004, the highest prices in 13 years;

Whereas the increase in crude oil prices has translated into higher prices for gasoline and other refined petroleum products; in the case of gasoline, the increases in crude oil prices have resulted in a pass-through of cost increases at the pump to an average national price of $1.75 per gallon;

Whereas increases in the price of crude oil result in increases in prices paid by United States consumers for refined petroleum products, including home heating oil, gasoline, and diesel fuel; and

Whereas increases in the costs of refined petroleum products have a negative effect on many Americans, including the elderly and individuals of low income (whose home heating oil costs have doubled in the last year), families who must pay higher prices at the gas station, farmers (already hurt by low commodity prices, trying to factor increased costs into their budgets in preparation for the growing season), truckers (who face an almost 13-year high in diesel fuel prices), and manufacturers and retailers (who must factor in increased production and transportation costs into the final price of their goods): Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President and Congress should take both a short-term and a long-term approach to reducing and stabilizing crude oil prices as well as reducing dependence on foreign sources of energy;

(2) to address the problem in the short-term, the President should communicate to the members of the Organization of Petroleum Exporting Countries "OPEC" cartel and non-OPEC countries that participate in the cartel of crude oil producing countries that—

(A) the United States seeks to maintain strong relations with crude oil producers around the world while promoting international efforts to remove barriers to energy trade and investment and increased access for United States energy firms around the world;

(B) the United States believes that restricting supply in a market that is in demand of additional crude oil does serious damage to the efforts that OPEC members have made to demonstrate that they represent a reliable source of crude oil supply;

(C) the United States believes that stable crude oil prices and supplies are essential for strong economic growth throughout the world; and

(D) the United States seeks an immediate increase in the OPEC crude oil production quotas;

(3) the President should be commended for sending Secretary of State Powell to personally communicate with leaders of several members of the Organization of Petroleum Exporting Countries on the need to increase the supply of crude oil;

(4) to ameliorate the long-term problem of the United States dependence on foreign oil sources, the President should—

(A) review all administrative policies, programs, and regulations that put an undue burden on domestic energy producers; and

(B) consider lifting unnecessary regulations that interfere with the ability the United States' domestic oil, gas, coal, hydroelectric, biomass, and other alternative energy industries to supply a greater percentage of the energy needs of the United States; and

(5) to ameliorate the long-term problem of United States dependence on foreign oil sources, the Senate should appropriate sufficient funds for the development of domestic energy sources, including measures to increase the use of biofuels and other renewable resources.

Mr. WYDEN. Mr. President, the Reuters news service is reporting that Saudi Arabia, and their Foreign Minister specifically, have said in the last day or so they have not been contacted by the Bush administration over OPEC's decision to cut oil production once again. As a result, today I am introducing a resolution urging the President communicate to OPEC that oil production be increased, and I intend next week to ask for its immediate consideration.

I am very troubled by the comments of the Foreign Minister of Saudi Arabia. In fact, what Reuters has reported is the Saudi Foreign Minister was asked whether the United States had expressed its disappointment over OPEC's cut in production and the Saudi Foreign Minister said at the time:

> I didn't hear from this Bush administration. I'm hearing it from you that they are disappointed.

This is very troubling. Up and down the west coast of the United States our constituents are getting mugged by high oil prices. We have to have an administration that is willing to put some heat on OPEC to step up oil production at a critical time, particularly as we move in this country to the high driving season. These high gasoline prices are devastating to consumers. They are going to be very harmful to our economy overall, particularly job production. It is consumer spending that is driving the Oregon economy, and if we continue to see our consumers shellacked with these high gasoline prices, it is going to be harder and harder for us to create family wage jobs and generate business growth.

I am hopeful my colleagues will support this resolution I am introducing today and which I am going to ask for immediate consideration of next week. The reason I am hopeful for such bipartisan support is this resolution, in terms of its substance, is identical to one introduced on February 28 of 2000, with our current Secretary of Energy, our friend Spencer Abraham, as one of the principal sponsors. Back then it was clear our colleagues thought it was important, particularly with influential Senators on the other side. Then the Senator from Michigan, Senator Abraham, also the chairman of the Finance Committee, Senator GRASSLEY, Senator SANTORUM, and a number of our distinguished colleagues were cosponsors of that legislation. The feeling was then it was important to put some heat on OPEC. It was important to make it clear it was the position of the Senate that OPEC boost production.

Of course, that is what then-candidate George W. Bush said, that it was important to boost oil production. Yet with the comments of the Saudi Foreign Minister in the last day or so, I think it is very clear at best it is not a case of getting a full court press, in terms of this administration, on Saudi Arabia and on OPEC.

I will tell you, if ever there was an administration that had some bargaining chips to play with Saudi Arabia in terms of boosting oil production, it is certainly this administration. If you look at what happened after 9/11, in terms of people being helped out of the country, various issues with respect to declassifying Government documents, it is very clear Saudi Arabia has been treated pretty darned well by this administration. If ever there was an administration that had some bargaining chips to play in terms of trying to get OPEC to increase oil production, it is certainly this administration. Yet the Saudi Foreign Minister has said, just in the last day, he wasn't even contacted by the Bush administration with respect to oil production.

Let me also say there are some other troubling signs, and why I feel so strongly about the Senate next week passing the resolution I am introducing. When Secretary Powell was in Saudi Arabia about 2 weeks ago, he also had a chance to talk about the oil crunch and how it is so harmful to American consumers. The press release that came from the U.S. Information Agency—this is again another document coming from our Government—indicated the Secretary and the Crown Prince and Foreign Minister talked about a variety of subjects, terrorism and governmental reforms, but nothing was said about oil prices. What we have, and I have said this before, is OPEC is going to stick up for OPEC. OPEC is not going to stick up for the American consumer. If you think OPEC is going to stick up for the American consumer, then you think Colonel Sanders is going to stick up for the chickens. It is not going to happen. It is the job of our administration to stick up for the consumer, and when the Saudi Foreign Minister says he hasn't even been contacted, that he heard from reporters the administration was disappointed, that is not good enough. It is not good enough for my constituents where consistently we are paying some of the highest prices for gasoline in our country, where we faced anticompetitive practices like redlining and zone pricing for years. It is not good enough where you have a situation such as we have in Bakersfield, CA, where a very large refinery has been closed. They didn't even look for a buyer. There is a lot of oil in the area.

The American people are entitled to some answers. They are certainly entitled to an administration that does what then-Governor George W. Bush said was important, and that was to fight for the consumer, to push OPEC to increase production. Instead, what we learned from the Saudi Foreign Minister is the administration has essentially just sat on its hands.

I was following the remarks of the Senator from Kentucky a bit ago. He makes the point, and it is certainly one that makes sense to me, that what is good for then-President Clinton should be good for President Bush. What I say to my friend is the same principle ought to be applied when it comes to a Senate resolution on OPEC and high oil and gasoline prices.

I hope we will have a good debate in the Senate in the days ahead with respect to our policy as it relates to OPEC and oil production. A number of our distinguished colleagues were there when this resolution was considered earlier: Senator GRASSLEY, Senator SANTORUM, our current Secretary of Energy, a good friend of mine, Senator Abraham. I also note the distinguished Presiding Officer of the Senate, Senator CHAFEE, was also a cosponsor of that resolution.

I am hopeful we will be able to do as the Senator from Kentucky said and that is apply the same principle to this administration as was applied to the Clinton administration. Every administration ought to be pushing OPEC to increase oil production. We certainly ought to take action when the Saudi oil minister was saying he wasn't even contacted.

I ask unanimous consent to have printed in the RECORD the article from the Reuters news service. The title of this article is "Saudi Says Not Heard From Bush Over OPEC Oil Cut."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Reuters News Service, Apr. 1, 2004]

SAUDI SAYS NOT HEARD FROM BUSH OVER OPEC OIL CUT

VIENNA, April 1.—Saudi Arabia's foreign minister said on Thursday he had not been contacted by the Bush administration over OPEC's decision on Wednesday to cut crude output by one million barrels per day.

U.S. Energy Secretary Spencer Abraham told a House of Representatives committee on Thursday President George W. Bush had spoken to most of the leaders of OPEC nations about global crude oil supplies and rising prices.

But Abraham declined to respond to a lawmaker's question about whether the president had specifically spoken to Saudi Arabia, the cartel's largest member which led a push this week to cut OPEC production by one million barrels per day in April.

Asked if the United States had expressed its disappointment to him over the cut, Saudi Foreign Minister Prince Saud al-Faisal told reporters:

"I didn't hear this from the Bush administration. I'm hearing it from you that they're disappointed."

The Bush administration faces growing pressure from Democrats to take action amid record-high U.S. retail gasoline prices.

In the run-up to Wednesday's OPEC meeting, the administration abandoned its so-called "quiet diplomacy" and instead said publicly that it was pressuring OPEC to delay a production cut.

Its request was supported by OPEC members Kuwait and the United Arab Emirates, but opposed by Saudi Arabia, a longtime U.S. ally.

Abraham said Bush administration officials may have spoken to Saudi officials in recent weeks.

"We are very disappointed with the decision (OPEC) made yesterday and obviously are evaluating what we might" do, Abraham added.

U.S. crude fell 50 cents to $35.26 on Thursday after losing 1.4 percent on Wednesday on news of a huge build in U.S. crude inventories and the Saudi foreign minister said earlier the fall justified the cartel's decision.

"As you have seen, since we reduced production in OPEC the price went down. This reflects the veracity of the position that Saudi Arabia has taken that there is an excess capacity on the market rather than shortages," he said.

Mr. WYDEN. Mr. President, I will be back on the floor in the days ahead to talk about this critical question. It seems to me what is coming in this country on this oil issue is a perfect storm. The combination of the fact this administration is unwilling to push OPEC over its production cuts, the fact the Federal Trade Commission is unwilling to do anything about these anticompetitive practices or even investigate this refinery closure in Bakersfield, which has great implications for the west coast, all of these factors are coming together to create what I believe is a perfect storm for the gasoline consumer in this country. Given that consumer spending is what is driving our economy right now, we cannot afford to have these high gasoline prices continue or, as I fear, escalate to $3 a gallon.

We will continue to focus on the question of the Strategic Petroleum Reserve, swiping oil out of the private sector and squirreling it away into the Strategic Petroleum Reserve at a time when it already has a very high level and national security questions are being addressed. But that is not the focus of my comments today. The focus of my comments today is every Member of the Congress ought to be very troubled when the Saudi Foreign Minister says he wasn't contacted by the administration over these production cuts.

We ought to do as was done in 2000 when the Senate, led by a number of our distinguished colleagues on the other side of the aisle who moved ahead on a resolution to boost oil production by OPEC. We ought to do the same now and stand up for the American consumer.

I yield the floor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3010. Mr. MCCONNELL (for Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL)) proposed an amendment to the bill H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

TEXT OF AMENDMENTS

SA 3010. Mr. MCCONNELL (for Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL)) proposed an amendment to the bill H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the "Standards Development Organization Advancement Act of 2003".

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103-42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A-119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles

set out in Circular Number A-119, as revised February 10, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 103. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

"(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

"(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A-119, as revised February 10, 1998. The term 'standards development organization' shall not, for purposes of this Act, include the parties participating in the standards development organization.

"(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

"(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A-119, as revised February 10, 1998."; and

(2) by adding at the end the following:

"(c) The term 'standards development activity' excludes the following activities:

"(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

"(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

"(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.".

SEC. 104. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking "of any person in making or performing a contract to carry out a joint venture shall" and inserting the following: "of—

"(1) any person in making or performing a contract to carry out a joint venture, or

"(2) a standards development organization while engaged in a standards development activity,

shall".

SEC. 105. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting ", or for a standards development activity engaged in by a standards development organization against which such claim is made" after "joint venture",

(2) in subsection (e)—

(A) by inserting ", or of a standards development activity engaged in by a standards development organization" before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

"(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

"(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 106. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting ", or of a standards development activity engaged in by a standards development organization" after "joint venture", and

(2) by adding at the end the following:

"(c) Subsections (a) and (b) shall not apply with respect to any person who—

"(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 107. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

"(A) the name and principal place of business of the standards development organization, and

"(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.",

(2) in subsection (b)—

(A) in the 1st sentence by inserting ", or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms" before the period at the end, and

(B) in the last sentence by inserting "or available to such organization, as the case may be" before the period,

(3) in subsection (d)(2) by inserting ", or the standards development activity," after "venture",

(4) in subsection (e)—

(A) by striking "person who" and inserting "person or standards development organization that", and

(B) by inserting "or any standards development organization" after "person" the last place it appears, and

(5) in subsection (g)(1) by inserting "or standards development organization" after "person".

SEC. 108. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development

organizations within the scope of this title, including the existing standard under which the conduct of the parties is reviewed, regardless of the standard under which the conduct of the standards development organizations in which they participate are reviewed, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the title.

TITLE II—ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the "Antitrust Criminal Penalty Enhancement and Reform Act of 2003".

Subtitle A—Antitrust Enforcement Enhancements and Cooperation Incentives

SEC. 211. SUNSET.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 211 through 214 shall cease to have effect 5 years after the date of enactment of this Act.

(b) EXCEPTION.—With respect to an applicant who has entered into an antitrust leniency agreement on or before the date on which the provisions of sections 211 through 214 of this subtitle shall cease to have effect, the provisions of sections 211 through 214 of this subtitle shall continue in effect.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) ANTITRUST DIVISION.—The term "Antitrust Division" means the United States Department of Justice Antitrust Division.

(2) ANTITRUST LENIENCY AGREEMENT.—The term "antitrust leniency agreement," or "agreement," means a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement.

(3) ANTITRUST LENIENCY APPLICANT.—The term "antitrust leniency applicant," or "applicant," means, with respect to an antitrust leniency agreement, the person that has entered into the agreement.

(4) CLAIMANT.—The term "claimant" means a person or class, that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of the Sherman Act or any similar State law, except that the term does not include a State or a subdivision of a State with respect to a civil action brought to recover damages sustained by the State or subdivision.

(5) COOPERATING INDIVIDUAL.—The term "cooperating individual" means, with respect to an antitrust leniency agreement, a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement.

(6) PERSON.—The term "person" has the meaning given it in subsection (a) of the first section of the Clayton Act.

SEC. 213. LIMITATION ON RECOVERY.

(a) IN GENERAL.—Subject to subsection (d), in any civil action alleging a violation of section 1 or 3 of the Sherman Act, or alleging a violation of any similar State law, based on conduct covered by a currently effective antitrust leniency agreement, the amount of damages recovered by or on behalf of a claimant from an antitrust leniency applicant who satisfies the requirements of subsection (b), together with the amounts so recovered from cooperating individuals who satisfy such requirements, shall not exceed that portion of the actual damages sustained by such claimant which is attributable to the commerce done by the applicant in the goods or services affected by the violation.

(b) REQUIREMENTS.—Subject to subsection (c), an antitrust leniency applicant or cooperating individual satisfies the requirements of this subsection with respect to a civil action described in subsection (a) if the court in which the civil action is brought determines, after considering any appropriate pleadings from the claimant, that the applicant or cooperating individual, as the case may be, has provided satisfactory cooperation to the claimant with respect to the civil action, which cooperation shall include—

(1) providing a full account to the claimant of all facts known to the applicant or cooperating individual, as the case may be, that are potentially relevant to the civil action;

(2) furnishing all documents or other items potentially relevant to the civil action that are in the possession, custody, or control of the applicant or cooperating individual, as the case may be, wherever they are located; and

(3)(A) in the case of a cooperating individual—

(i) making himself or herself available for such interviews, depositions, or testimony in connection with the civil action as the claimant may reasonably require; and

(ii) responding completely and truthfully, without making any attempt either falsely to protect or falsely to implicate any person or entity, and without intentionally withholding any potentially relevant information, to all questions asked by the claimant in interviews, depositions, trials, or any other court proceedings in connection with the civil action; or

(B) in the case of an antitrust leniency applicant, using its best efforts to secure and facilitate from cooperating individuals covered by the agreement the cooperation described in clauses (i) and (ii) and subparagraph (A).

(c) TIMELINESS.—If the initial contact by the antitrust leniency applicant with the Antitrust Division regarding conduct covered by the antitrust leniency agreement occurs after a State, or subdivision of a State, has issued compulsory process in connection with an investigation of allegations of a violation of section 1 or 3 of the Sherman Act or any similar State law based on conduct covered by the antitrust leniency agreement or after a civil action described in subsection (a) has been filed, then the court shall consider, in making the determination concerning satisfactory cooperation described in subsection (b), the timeliness of the applicant's initial cooperation with the claimant.

(d) CONTINUATION.—Nothing in this section shall be construed to modify, impair, or supersede the provisions of sections 4, 4A, and 4C of the Clayton Act relating to the recovery of costs of suit, including a reasonable attorney's fee, and interest on damages, to the extent that such recovery is authorized by such sections.

SEC. 214. RIGHTS, AUTHORITIES, AND LIABILITIES NOT AFFECTED.

Nothing in this subtitle shall be construed to—

(1) affect the rights of the Antitrust Division to seek a stay or protective order in a civil action based on conduct covered by an antitrust leniency agreement to prevent the cooperation described in section 213(b) from impairing or impeding the investigation or prosecution by the Antitrust Division of conduct covered by the agreement;

(2) create any right to challenge any decision by the Antitrust Division with respect to an antitrust leniency agreement; or

(3) affect, in any way, the joint and several liability of any party to a civil action described in section 213(a), other than that of the antitrust leniency applicant and cooperating individuals as provided in section 213(a) of this title.

SEC. 215. INCREASED PENALTIES FOR ANTITRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by—

(1) striking "$10,000,000" and inserting "$100,000,000";

(2) striking "$350,000" and inserting "$1,000,000"; and

(3) striking "three" and inserting "10".

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by—

(1) striking "$10,000,000" and inserting "$100,000,000";

(2) striking "$350,000" and inserting "$1,000,000"; and

(3) striking "three" and inserting "10".

(c) OTHER RESTRAINTS OF TRADE.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by—

(1) striking "$10,000,000" and inserting "$100,000,000";

(2) striking "$350,000" and inserting "$1,000,000"; and

(3) striking "three" and inserting "10".

Subtitle B—Tunney Act Reform

SEC. 221. PUBLIC INTEREST DETERMINATION.

(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the purpose of the Tunney Act was to ensure that the entry of antitrust consent judgments is in the public interest; and

(B) it would misconstrue the meaning and Congressional intent in enacting the Tunney Act to limit the discretion of district courts to review antitrust consent judgments solely to determining whether entry of those consent judgments would make a "mockery of the judicial function".

(2) PURPOSES.—The purpose of this section is to effectuate the original Congressional intent in enacting the Tunney Act and to ensure that United States settlements of civil antitrust suits are in the public interest.

(b) PUBLIC INTEREST DETERMINATION.—Section 5 of the Clayton Act (15 U.S.C. 16) is amended—

(1) in subsection (d), by inserting at the end the following: "Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments.";

(2) in subsection (e)—

(A) in the matter before paragraph (1), by—

(i) striking "court may" and inserting "court shall"; and

(ii) inserting "(1)" before "Before"; and

(B) striking paragraphs (1) and (2) and inserting the following:

"(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

"(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

"(2) Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene."; and

(3) in subsection (g), by inserting "by any officer, director, employee, or agent of such defendant" before ", or other person".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on April 2, 2004, at 9:30 a.m., in open and closed session to receive testimony on the Department of Defense Counter Narcotics Program in review of the Defense authorization request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE—S. 2207

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Mr. President, with respect to the previously filed cloture motion, I ask unanimous consent that the live quorum under rule XXII be waived, and further that notwithstanding rule XXII the vote on the motion to invoke cloture occur at 2:15 on Wednesday, April 7.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO SETTLE CLAIMS ARISING OUT OF DISCOVERY OF LETHAL RICIN POWDER IN SENATE COMPLEX

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 329, which was introduced by Senators LOTT and DODD earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 329) authorizing the Sergeant at Arms and Doorkeeper of the Senate to ascertain and settle claims arising out of the discovery of lethal ricin powder in the Senate Complex.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 329) was agreed to, as follows:

S. RES. 329

Resolved,

SECTION 1. PAYMENT OF CLAIMS ARISING FROM THE RICIN DISCOVERY.

(a) SETTLEMENT AND PAYMENT.—The Sergeant at Arms and Doorkeeper of the Senate—

(1) in accordance with such regulations as the Committee on Rules and Administration may prescribe, consider, and ascertain any claim incident to service by a Member, officer, or employee of the Senate for any damage to, or loss of, personal property, for which the Member, officer, or employee has not been reimbursed, resulting from the discovery of lethal ricin powder in the Senate Complex on February 2, 2004, or the related remediation efforts undertaken as a result of that discovery; and

(2) may, with the approval of the Committee on Rules and Administration and in accordance with the provisions of section 3721 of title 31, United States Code, determine, compromise, adjust, and settle such claim in an amount not exceeding $4,000 per claimant.

(b) FILING OF CLAIMS.—Claimants shall file claims pursuant to this resolution with the Sergeant at Arms not later than July 31, 2004.

(c) USE OF CONTINGENT FUND.—Any compromise, adjustment, or settlement of any such claim pursuant to this resolution shall be paid from the contingent fund of the Senate on a voucher approved by the chairman of the Committee on Rules and Administration.

STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. McCONNELL. I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 376, H.R. 1086.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1086) to encourage the development and promulgation of volunteer consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 1086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Standards Development Organization Advancement Act of 2003".

[SEC. 2. FINDINGS.

[The Congress finds the following:

[(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103-42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

[(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A-119 to reflect these changes made in law.

[(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

[(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

[(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A-119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

[(A) notice to all parties known to be affected by the particular standards development activity,

[(B) the opportunity to participate in standards development or modification,

[(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

[(D) readily available access to essential information regarding proposed and final standards,

[(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

[(F) the right to express a position, to have it considered, and to appeal an adverse decision.

[(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

[(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

[(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

[(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

[(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

[SEC. 3. DEFINITIONS.

[Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

[(1) in subsection (a) by adding at the end the following:

[“(7) The term ‘standards development activity’ means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

[“(8) The term ‘standards development organization’ means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998.

[“(9) The term ‘technical standard’ has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

[“(10) The term ‘voluntary consensus standard’ has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998.”; and

[(2) by adding at the end the following:

[“(c) The term ‘standards development activity’ excludes the following activities:

[“(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

[“(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

[“(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.”.

[SEC. 4. RULE OF REASON STANDARD.

[Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking “of any person in making or performing a contract to carry out a joint venture shall” and inserting the following: “of—

[“(1) any person in making or performing a contract to carry out a joint venture, or

[“(2) a standards development organization while engaged in a standards development activity,

[shall”.

[SEC. 5. LIMITATION ON RECOVERY.

[Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

[(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting “, or for a standards development activity engaged in by a standards development organization against which such claim is made” after “joint venture”, and

[(2) in subsection (e)—

[(A) by inserting “, or of a standards development activity engaged in by a standards development organization” before the period at the end, and

[(B) by redesignating such subsection as subsection (f), and

[(3) by inserting after subsection (d) the following:

[“(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

[“(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

[“(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

[“(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.”.

[SEC. 6. ATTORNEY FEES.

[Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

[(1) in subsection (a) by inserting “, or of a standards development activity engaged in by a standards development organization” after “joint venture”, and

[(2) by adding at the end the following:

[“(c) Subsections (a) and (b) shall not apply with respect to any person who—

[“(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

[“(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

[“(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.”.

[SEC. 7. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

[Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

[(1) in subsection (a)—

[(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

[(B) by inserting “(1)” after “(a)”, and

[(C) by adding at the end the following:

[“(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

[“(A) the name and principal place of business of the standards development organization, and

[“(B) documents showing the nature and scope of such activity.

[Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.”,

[(2) in subsection (b)—

[(A) in the 1st sentence by inserting “, or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms” before the period at the end, and

[(B) in the last sentence by inserting “or available to such organization, as the case may be” before the period,

[(3) in subsection (d)(2) by inserting “, or the standards development activity,” after “venture”,

[(4) in subsection (e)—

[(A) by striking “person who” and inserting “person or standards development organization that”, and

[(B) by inserting “or any standards development organization” after “person” the last place it appears, and

[(5) in subsection (g)(1) by inserting “or standards development organization” after “person”.

[SEC. 8. RULE OF CONSTRUCTION.

[Nothing in this Act shall be construed to alter or modify the antitrust treatment under existing law of—

[(1) parties participating in standards development activity of standards development organizations within the scope of this Act, or

[(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the Act.]

TITLE I—STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the “Standards Development Organization Advancement Act of 2003”.

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103–42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in

ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A–119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A–119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 103. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

"(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

"(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998.

"(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

"(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A-119, as revised February 10, 1998."; and

(2) by adding at the end the following:

"(c) The term 'standards development activity' excludes the following activities:

"(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

"(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

"(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.".

SEC. 104. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking "of any person in making or performing a contract to carry out a joint venture shall" and inserting the following: "of—

"(1) any person in making or performing a contract to carry out a joint venture, or

"(2) a standards development organization while engaged in a standards development activity,

shall".

SEC. 105. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting ", or for a standards development activity engaged in by a standards development organization against which such claim is made" after "joint venture", and

(2) in subsection (e)—

(A) by inserting ", or of a standards development activity engaged in by a standards development organization" before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

"(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

"(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 106. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting ", or of a standards development activity engaged in by a standards development organization" after "joint venture", and

(2) by adding at the end the following:

"(c) Subsections (a) and (b) shall not apply with respect to any person who—

"(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

"(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

"(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.".

SEC. 107. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

"(A) the name and principal place of business of the standards development organization, and

"(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.",

(2) in subsection (b)—

(A) in the 1st sentence by inserting ", or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms" before the period at the end, and

(B) in the last sentence by inserting "or available to such organization, as the case may be" before the period,

(3) in subsection (d)(2) by inserting ", or the standards development activity," after "venture",

(4) in subsection (e)—

(A) by striking "person who" and inserting "person or standards development organization that", and

(B) by inserting "or any standards development organization" after "person" the last place it appears, and

(5) in subsection (g)(1) by inserting "or standards development organization" after "person".

SEC. 108. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this title, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the title.

TITLE II—ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the "Antitrust Criminal Penalty Enhancement and Reform Act of 2003".

Subtitle A—Antitrust Enforcement Enhancements and Cooperation Incentives

SEC. 211. SUNSET.

(a) In General.—Except as provided in subsection (b), the provisions of sections 211 through 214 shall cease to have effect 5 years after the date of enactment of this Act.

(b) Exception.—With respect to an applicant who has entered into an antitrust leniency agreement on or before the date on which the provisions of sections 211 through 214 of this subtitle shall cease to have effect, the provisions of sections 211 through 214 of this subtitle shall continue in effect.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) Antitrust division.—The term "Antitrust Division" means the United States Department of Justice Antitrust Division.

(2) Antitrust leniency agreement.—The term "antitrust leniency agreement," or "agreement," means a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement.

(3) Antitrust leniency applicant.—The term "antitrust leniency applicant," or "applicant," means, with respect to an antitrust leniency agreement, the person that has entered into the agreement.

(4) Claimant.—The term "claimant" means a person or class, that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of the Sherman Act or any similar State law, except that the term does not include a State or a subdivision of a State with respect to a civil action brought to recover damages sustained by the State or subdivision.

(5) Cooperating individual.—The term "cooperating individual" means, with respect to an antitrust leniency agreement, a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement.

(6) Person.—The term "person" has the meaning given it in subsection (a) of the first section of the Clayton Act.

SEC. 213. LIMITATION ON RECOVERY.

(a) In General.—Subject to subsection (d), in any civil action alleging a violation of section 1 or 3 of the Sherman Act, or alleging a violation of any similar State law, based on conduct covered by a currently effective antitrust leniency agreement, the amount of damages recovered by or on behalf of a claimant from an antitrust leniency applicant who satisfies the requirements of subsection (b), together with the amounts so recovered from cooperating individuals who satisfy such requirements, shall not exceed that portion of the actual damages sustained by such claimant which is attributable to the commerce done by the applicant in the goods or services affected by the violation.

(b) Requirements.—Subject to subsection (c), an antitrust leniency applicant or cooperating individual satisfies the requirements of this subsection with respect to a civil action described in subsection (a) if the court in which the civil action is brought determines, after considering any appropriate pleadings from the claimant, that the applicant or cooperating individual, as the case may be, has provided satisfactory cooperation to the claimant with respect to the civil action, which cooperation shall include—

(1) providing a full account to the claimant of all facts known to the applicant or cooperating individual, as the case may be, that are potentially relevant to the civil action;

(2) furnishing all documents or other items potentially relevant to the civil action that are in the possession, custody, or control of the applicant or cooperating individual, as the case may be, wherever they are located; and

(3)(A) in the case of a cooperating individual—

(i) making himself or herself available for such interviews, depositions, or testimony in connection with the civil action as the claimant may reasonably require; and

(ii) responding completely and truthfully, without making any attempt either falsely to protect or falsely to implicate any person or entity, and without intentionally withholding any potentially relevant information, to all questions asked by the claimant in interviews, depositions, trials, or any other court proceedings in connection with the civil action; or

(B) in the case of an antitrust leniency applicant, using its best efforts to secure and facilitate from cooperating individuals covered by the agreement the cooperation described in clauses (i) and (ii) and subparagraph (A).

(c) Timelines.—If the initial contact by the antitrust leniency applicant with the Antitrust Division regarding conduct covered by the antitrust leniency agreement occurs after a civil action described in subsection (a) has been filed, then the court shall consider, in making the determination concerning satisfactory cooperation described in subsection (b), the timeliness of the applicant's initial cooperation with the claimant.

(d) Continuation.—Nothing in this section shall be construed to modify, impair, or supersede the provisions of sections 4, 4A, and 4C of the Clayton Act relating to the recovery of costs of suit, including a reasonable attorney's fee, and interest on damages, to the extent that such recovery is authorized by such sections.

SEC. 214. RIGHTS AND AUTHORITY OF ANTITRUST DIVISION NOT AFFECTED.

Nothing in this subtitle shall be construed to—

(1) affect the rights of the Antitrust Division to seek a stay or protective order in a civil action based on conduct covered by an antitrust leniency agreement to prevent the cooperation described in section 213(b) from impairing or impeding the investigation or prosecution by the Antitrust Division of conduct covered by the agreement; or

(2) create any right to challenge any decision by the Antitrust Division with respect to an antitrust leniency agreement.

SEC. 215. INCREASED PENALTIES FOR ANTITRUST VIOLATIONS.

(a) Restraint of Trade Among the States.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by—

(1) striking "$10,000,000" and inserting "$100,000,000";

(2) striking "$350,000" and inserting "$1,000,000"; and

(3) striking "three" and inserting "10".

(b) Monopolizing Trade.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by—

(1) striking "$10,000,000" and inserting "$100,000,000";

(2) striking "$350,000" and inserting "$1,000,000"; and

(3) striking "three" and inserting "10".

(c) Other Restraints of Trade.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by—

(1) striking "$10,000,000" and inserting "$100,000,000";

(2) striking "$350,000" and inserting "$1,000,000"; and

(3) striking "three" and inserting "10".

Subtitle B—Tunney Act Reform

SEC. 221. PUBLIC INTEREST DETERMINATION.

Section 5 of the Clayton Act (15 U.S.C. 16) is amended—

(1) in subsection (d), by inserting at the end the following: "Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments."; and

(2) in subsection (e)—

(A) in the matter before paragraph (1), by—

(i) inserting "independently" after "shall";

(ii) striking "court may" and inserting "court shall"; and

(iii) inserting "(1)" before "Before"; and

(B) striking paragraphs (1) and (2) and inserting the following:

"(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous and any other competitive considerations bearing upon the adequacy of such judgment necessary to a determination of whether the consent judgment is in the public interest; and

"(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

"(2) The Court shall not enter any consent judgment proposed by the United States under this section unless it finds that there is reasonable belief, based on substantial evidence and reasoned analysis, to support the United States' conclusion that the consent judgment is in the public interest. In making its determination as to whether entry of the consent judgment is in the public interest, the Court shall not be limited to examining only the factors set forth in this subsection, but may consider any other factor relevant to the competitive impact of the judgment.".

Mr. HATCH. Mr. President, I rise today to support passage of H.R. 1086, the Standards Development Organization Advancement Act of 2003. This legislation, along with provisions added to it during the Judiciary Committee markup and by the substitute amendment that I have offered along with Senators LEAHY, DEWINE, and KOHL, provides several important and significant improvements to our antitrust laws.

This legislation incorporates the limited antitrust protection for Standards Development Organizations that Senator LEAHY and I introduced as S. 1799, and that Chairman SENSENBRENNER introduced in the House as H.R. 1086. Under this provision, the civil liability for Standards Development Organizations or "SDOs" will be limited to single, rather than treble, damages for standards-setting activities about which they have informed the Department of Justice and Federal Trade

Commission using a newly-created notification procedure.

The bill also increases the maximum criminal penalties for antitrust violations so that they are more in line with other comparable white collar crimes. I will note that this provision of the legislation is substantially the same as the one included in S. 1080, a Leahy-Hatch bill.

This legislation also provides increased incentives for participants in illegal cartels to blow the whistle on their co-conspirators and cooperate with the Justice Department's Antitrust Division in prosecuting the other members of these criminal antitrust conspiracies. This is accomplished by allowing the Justice Department, in appropriate circumstances, to limit a cooperating company's civil liability to actual, rather than treble, damages in return for the company's cooperation in both the resulting criminal case as well as any subsequent civil suit based on the same conduct.

Finally, this substitute would amend the Tunney Act to end the problem of courts simply "rubber-stamping" antitrust settlements reached with the Justice Department. In my view, this amendment essentially codifies existing case law, while reemphasizing the original congressional intent that lead to passage of the Tunney Act. When this provision was added to H.R. 1086 in the Senate Judiciary Committee, I noted that, although I supported it in principal, I thought that continued modifications of the actual language might be necessary to respond to concerns that had been raised. I am pleased to be able to state that, largely through the efforts of Senator KOHL and his staff, a compromise on this language was reached that is supported—or at least not strongly objected to—by the parties involved.

With that introduction, I will briefly discuss the four principal sections of the legislation.

The section Protection of Standards Development Organizations, which comes from S. 1799, a bill that Senator LEAHY and I introduced as a Senate companion to H.R. 1086, is designed to extend limited antitrust protection to Standards Development Organizations, or "SDOs".

In the United States, most technical standards are developed and promulgated by private, not-for-profit organizations called SDOs. Numerous concerns have been raised that the threat of treble damages deters SDOs from their pro-competitive standard-setting activities. This legislation addresses those concerns by providing a notification process whereby SDOs may inform DOJ and the FTC regarding their intended standards-development activities. If the authorities do not object to the proposed activities but the SDO is subsequently sued by a private plaintiff, the SDO's civil liability is limited to single rather than treble damages. Importantly, this legislation does not in any way immunize industry participants who cooperate in the development of standards from antitrust liability for using the standards-setting process for anti-competitive purposes.

I thank Senator LEAHY and Chairman SENSENBRENNER and their staffs for their vigilant efforts toward passage of the Standards Development Organization Advancement Act of 2003.

The legislation also amends the antitrust laws to provide corporations and their executives with increased incentives to come forward and cooperate with the Department of Justice in prosecuting criminal antitrust cartels. It does so by enhancing the effectiveness of the already-successful Corporate Leniency Policy issued by the Justice Department's Antitrust Division.

In general, the leniency policy provides that a corporation and its executives will not be criminally charged if the company is not the ringleader of the conspiracy and it is the first of the conspirators to approach the division and fully cooperate with the division's criminal investigation. The program serves to destabilize cartels, and it causes the members of the cartel to turn against one another in a race to the Government. Cooperation obtained through the leniency program has led to the detection and prosecution of massive international cartels that cost businesses and consumers billions of dollars and has led to the largest fines in the Antitrust Division's history.

Though this important program has been successful, a major disincentive to self reporting still exists, the threat of exposure to a possible treble damage lawsuit by the victims of the conspiracy. Under current law, the successful leniency applicant is not criminally charged, but it still faces treble damage actions with joint and several liability. In other words, before voluntarily disclosing its criminal conduct, a potential amnesty applicant must weigh the potential ruinous consequences of subjecting itself to liability for three times the damages that the entire conspiracy caused.

This provision addresses this disincentive to self-reporting. Specifically, it amends the antitrust laws to modify the damage recovery from a corporation and its executives to actual damages. In other words, the total liability of a successful leniency applicant would be limited to single damages without joint and several liability. Thus, the applicant would only be liable for the actual damages attributable to its own conduct, rather than being liable for three times the damages caused by the entire unlawful conspiracy.

Importantly, this limitation on damages is only available to corporations and their executives if they provide adequate and timely cooperation to both the Government investigators as well as any subsequent private plaintiffs bringing a civil suit based on the covered criminal conduct. I should also note that, because all other conspirator firms would remain jointly and severably liable for three times the total damages caused by the conspiracy, the victims' potential total recovery would not be reduced by the amendments Congress is considering. And again, the legislation requires the amnesty applicant to provide full cooperation to the victims as they prepare and pursue their civil lawsuit.

With this change, more companies will disclose antitrust crimes, which will have several benefits. First, I expect that the total compensation to victims of antitrust conspiracies will be increased because of the requirement that amnesty applicants cooperate. Second, the increased self-reporting incentive will serve to further destabilize and deter the formation of criminal antitrust conspiracies. In turn, these changes will lead to more open and competitive markets.

The enhanced criminal penalties provision, which was originally part of S. 1080, which I introduced with Senator LEAHY, improves current law by increasing the maximum prison sentences and fines for criminal violations of antitrust law. This change puts the maximum prison sentences for antitrust violations more in line with other white collar crimes. By increasing these criminal penalties, we are recognizing the profoundly harmful impact that antitrust violations have on consumers and the economy.

This legislation also amends the Tunney Act to end what some have seen as courts simply "rubber-stamping" antitrust settlements reached with the Justice Department without providing meaningful review. As I have stated, while I agree with the principle behind this proposal, I had significant concerns with the specific language that was reported out of the Judiciary Committee. After several months of discussions, I am happy to say that the current language appears to have answered most, if not all, of the principal concerns that were raised regarding the amendments to the Tunney Act.

In conclusion, I would like to thank Senators LEAHY, KOHL, and DEWINE and their staffs for their efforts on this bill. In particular, I would like to thank Susan Davies of Senator LEAHY's staff, Jeff Miller and Seth Bloom of Senator KOHL's staff, and Pete Levitas and Bill Jones of Senator DEWINE's staff. I also appreciate the expert and energetic efforts of my own antitrust counsel, Dave Jones. And finally, I thank Makan Delrahim, my former chief counsel, for all of his "technical assistance."

I urge my colleagues to support this bill.

Mr. LEAHY. Mr. President, I am delighted that Senator HATCH, Senator KOHL, Senator DEWINE, and I have been able to work together to develop a version of this bill that can pass today as the Standards Development Organization Advancement Act. Technical standards help to promote safety, increase efficiency, and allow for interoperability in a variety of products Americans use every day. Despite the fact that they go largely unnoticed, we would be markedly less safe without airbags that deploy properly in serious automobile collisions, more vulnerable were there not technical standards for fire retardant materials in homes. And consumers would be less likely to make the purchases that drive our economy without the technical standards that ensure a light bulb will fit in its socket or allow DVDs to function properly regardless of the manufacturer.

In the United States, most technical standards are developed by private, not-for-profit Standards Development Organizations, which often possess superior knowledge and adaptability in highly technical matters. Rather than Government overregulation of technical standards, SDOs promulgate guidelines that frequently are then adopted by State and Federal governments. Like many conveniences we take for granted, technical standards are so deeply infused in our lives that they may attract little or no individual attention.

While standards serve this vital societal role, there exists a natural tension between the antitrust laws that prohibit businesses from colluding and the development of technical standards, which require competitors to reach agreement on basic design elements. The Standards Development Organization Advancement Act reduces this tension, providing relief for SDOs under current law while preserving the trademark features of antitrust enforcement that benefit consumers.

Without creating an antitrust exemption, the Standards Development Organization Act allows SDOs to seek review of their standards by the Department of Justice or Federal Trade Commission prior to implementation. If these agencies do not object to the standard during this "screening" phase, but the organization is later sued by a private plaintiff, the SDO would be limited to single damages, rather than the treble damages levied under existing law.

Additionally, this bill amends the National Cooperative Research and Production Act of 1993, by directing courts to apply a "rule of reason" standard to SDOs and the guidelines they produce. Under existing law, standards may be deemed anticompetitive by a court even if they have the effect of better serving consumers. Courts should be able to balance the competing interests of safety and efficiency against any anticompetitive effect, making certain that the law is doing everything possible to meet the needs of the one constituent we all share—the American consumer. The Standards Development Organization Advancement Act gives our courts the authority to do so.

We may fail to notice the technical standards that provide dependability, security, and convenience in our lives, but they serve an increasingly vital role in a country driven by technological change but devoted to safety and reliability.

Title II of the Standards Development Organization Advancement Act also addresses several areas of our antitrust laws that merit updating, as our experience with the actual practice in the world has shown. First, the act strives to eliminate the disparity between the treatment of criminal white collar offenses and antitrust criminal violations. Without this legislation, offenders who violated the criminal provisions of the antitrust laws would face much less significant penalties than would their wire fraud or mail fraud counterparts. The act increases the maximum penalty for a criminal antitrust violation from 3 years to 10 years and raises the maximum fines to corporations from $10 million to $100 million per violation. Senator HATCH and I had introduced this provision in S. 1080, the Antitrust Improvements Act of 2003, and I am pleased that this useful update to the penalties for criminal violations of the antitrust laws can be made as part of this bill.

Title II will also update the Justice Department's amnesty program in the criminal antitrust context. We have worked with the antitrust division of the Department of Justice and our States' attorneys general to give prosecutors the maximum leverage against participants in criminal antitrust activity. The Department has long had an "amnesty" or "leniency" policy that is generally available to the first conspirator involved in a criminal cartel that offers to cooperate with the authorities. But under the current policy, the Department may only agree to not bring criminal charges against a corporation, and its officers and directors, in exchange for cooperation in providing evidence and testimony against other members in the cartel. Under this bill, to qualify for amnesty, a party must provide substantial cooperation not only in any criminal case brought against the other cartel members, but also in any civil case brought by private parties that is based on the same unlawful conduct.

This bill would then give our prosecutors the authority to effectively limit a cooperating party's potential civil liability as well, and to limit that liability to single damages in any subsequent civil lawsuit brought by a private plaintiff. And while a party that receives leniency would only be liable for the portion of the damages actually caused by its own actions, the rest of its non-cooperating co-conspirators would remain jointly and severally liable for the entire amount of damages, which would then be trebled, to ensure that no injured party will fail to enjoy financial redress.

Finally, the Standards Development Organization Advancement Act makes some useful adjustments to the Tunney Act. That law provides that consent decrees in civil antitrust cases brought by the United States must be reviewed and approved by the District Court in which the case was brought. Under the Tunney Act, before entering a consent decree, the court must determine that "the entry of such judgment is in the public interest." In making this determination, the court may, but is not required to, consider a variety of enumerated factors. As currently drafted, the court has discretion in making this public interest determination, and some have expressed concerns that this lack of guidance results in courts that are overly deferential to prosecutors' judgments. Thus, this bill intends to explicitly restate the original and intended role of District courts in this process by mandating that the court make an independent judgment based on a series of enumerated factors. In addition, the legislation makes clear that this amendment to the Tunney Act will not change the law regarding whether a court may be required, in a particular instance, to permit intervention or to hold a hearing in a Tunney Act proceeding.

A final and important technical change would allow a judge to order publication of the comments received in a Tunney Act proceeding by electronic or other means. Currently, the Tunney Act requires the Antitrust Division to publish in the Federal Register the public comments received on its proposed consent judgments, along with the Division's response to those comments. This can be very expensive—it cost almost $3 million in the Microsoft case—with little benefit, because those materials are, if anything, more accessible on the Web than in a library. Of course, interested people who lack Internet access will need to go to a library, but they would have had to do that for a paper copy as well.

This is an important bill that makes necessary, well-conceived, and bipartisan reforms.

Mr. KOHL. Mr. President, I rise today in strong support of the Antitrust Criminal Penalty Enhancement and Reform Act of 2003. It passed the Judiciary Committee unanimously in November 2003. Today, along with Senators HATCH, LEAHY, and DEWINE, we offer a substitute amendment to H.R. 1086. This legislation will enhance and improve the enforcement of our nation's antitrust laws in several important respects.

In light of the importance of this legislation to the administration of our antitrust laws, as well as the infrequency with which we amend major provisions of the antitrust laws, it is essential to describe in detail the reasons we our advancing this bill. Our proposal will accomplish four important goals. First, our legislation will restore the ability of Federal courts to review the Justice Department's civil antitrust settlements to be sure that these settlements are good for competition and consumers. We will amend the Tunney Act, the law passed in 1974 in response to concerns that some of these settlements were motivated by inappropriate political pressure and failed to restore competition or protect consumers. Congress concluded then, and it is still true now, that judicial review will ensure that cases are settled in the public interest. Unfortunately, in recent years, many courts seem to have ignored this statute and do little more than "rubber stamp" antitrust settlements. This practice is contrary to the intent of the Tunney Act and effectively strips the courts of the ability to engage in meaningful review of antitrust settlements. Our bill will overturn this precedent and make clear that the courts have the authority to do this vital job.

Second, our legislation enhances criminal penalties for those who violate our antitrust laws. It will increase the maximum corporate penalty from $10 million to $100 million; it will increase the maximum individual fine from $350,000 to $1 million; and it will increase the maximum jail term for individuals who are convicted of criminal antitrust violations from 3 to 10 years. These changes will send the proper message that criminal antitrust violations, crimes such as price fixing and bid rigging, committed by business executives in a boardroom are serious offenses that steal from American consumers just as surely as does a street criminal with a gun.

Our legislation will give the Justice Department significant new tools under its antitrust leniency program. The leniency program helps the Government break up criminal cartels by encouraging wrongdoers to cooperate with the authorities. Our bill will give the Justice Department the ability to offer those applying for leniency the additional reward of only facing actual damages in antitrust civil suits, rather than treble damage liability. This will result in more antitrust wrongdoers coming forward to reveal antitrust conspiracies, and thus the detection and ending of more illegal cartels.

Finally, our bill incorporates a provision in the original House passed version of H.R. 1086. This provision limits the liability that standards setting organizations face under the antitrust laws to single damages in most circumstances. It will protect these important organizations from the threat of liability. However, it will not in any way limit the damages available to any company that is a member of such an organization for antitrust violations, nor limit damages should a standard setting organization engage in conduct that is a per se violation of antitrust law.

It is important to explain clearly and specifically why it is necessary to amend the Tunney Act and what we intend to accomplish with these changes. In recent years, courts have been reluctant to give meaningful review to antitrust consent decrees,. and have been only willing to take action with respect to most egregious decrees that make a "mockery" of the judicial function. Our bill will effectuate the legislative intent of the Tunney Act and restore the ability of courts to give real scrutiny to antitrust consent decree.

The Tunney Act was enacted in 1974 and provides that consent decrees in civil antitrust cases brought by the United States must be reviewed and approved by the district court in which the case was brought to determine if they are in the public interest. However, the text of the statute contains no standards governing how a court is to conduct this review. While the legislative history of the law is clear that it was meant to prevent "judicial rubber stamping" of consent decrees, the leading precedent of the D.C. Circuit Court of Appeals currently interprets the law in a manner which makes meaningful review of these consent decrees virtually impossible. Leading cases stand for the proposition that only consent decrees that "make a mockery of the judicial function" can be rejected by the district court. The changes in the Tunney Act incorporated in this legislation, as well as the statement of Congressional findings, will make clear that such an interpretation misconstrues the legislative intent of the statute.

The amendments to the Tunney Act found in our bill will restore the original intent of the Tunney Act, and make clear that courts should carefully review antitrust consent decrees to ensure that they are in the public interest. It will accomplish this by, No. 1, a clear statement of congressional findings and purposes expressly overruling the improper judicial standard of recent D.C. Circuit decisions; No. 2, by requiring, rather than permitting, judicial review of a list of enumerated factors to determine whether a consent decree is in the public interest; and No. 3, by enhancing the list of factors which the court now must review.

The Tunney Act was enacted in 1974 to end the practice of courts "rubber stamping" antitrust consent decrees, and to remove political influence from the Justice Department's decision as to whether to settle antitrust cases. There were several prominent decisions in the preceding years in which antitrust settlements by the Justice Department came under strong criticism as inadequate or motivated by illegitimate purposes, and which were not scrutinized by the courts. One of the leading early cases applying the Tunney Act noted that

> the legislators found that consent decrees often failed to provide appropriate relief, either because of miscalculations by the Justice Department [citation omitted] or because of the "great influence and economic power" wielded by antitrust violators [citing S. Rep. No. 93-298, 93d Cong., 1st Sess. 5 (1973)]. The [legislative] history, indeed, contains references to a number of antitrust settlements deemed "blatantly inequitable and improper" on these bases [citing 119 Cong. Rec. 24598 (1973) (Remarks of Sen. Tunney)].

U.S. v. *American Telephone and Telegraph*, 552 F.Supp. 131, 148 (D.D.C. 1982), aff'd sub nom., *Maryland* v. *U.S.*, 460 U.S. 1001 (1983).

While there were several notable cases which gave rise to the concern that the government was settling for inadequate remedies for antitrust violations, see *U.S.* v. *AT&T*, 552 F.Supp. at 148 n. 72; 119 Cong. Rec. 24598, Remarks of Sen. Tunney, the most prominent case was the Government's settlement in 1971 of an antitrust suit brought against ITT. Critics alleged that the Nixon administration had been influenced by campaign contributions to the Nixon reelection effort in 1972. The reasons for the settlement were not publicly disclosed, and the settlement was strongly criticized by consumer advocates. The settlement's critics attempted to have the settlement overturned by the district court, but the court rejected these efforts. "[T]here was no meaningful judicial scrutiny of the terms of the consent decree and no consideration of whether it was in the public interest." *Anderson*, supra, 65 Antitrust Law Journal at 8.

The legislative history of the original Tunney Act is clear that the purpose of the statute was to give courts the opportunity to engage in meaningful scrutiny of antitrust settlements, so as to deter and prevent settlements motivated either by corruption, undue corporate influence, or which were plainly inadequate. In introducing the bill, Senator Tunney highlighted his concern that antitrust settlements could result from the economic power of the companies under scrutiny. He noted that "[i]ncreasing concentration of economic power, such as occurred in the flood of conglomerate mergers, carries with it a very tangible threat of concentration of political power. Put simply, the bigger the company, the greater the leverage it has in Washington." 119 Cong. Rec. 3451, Feb. 6, 1973.

Senator Tunney also pointed with concern at the lack of scrutiny the courts were applying to antitrust settlements. He argued that "too often in the past district courts have viewed their rules [sic] as simply ministerial in nature—leaving to the Justice Department the role of determining the adequacy of the judgment from the public's view." Id. at 3542. Thus, his legislation was intended to substantially expand the role of the court in considering an antitrust consent decree. Senator Tunney described the criteria in the bill under which the courts to review the settlements, and stated that

> The thrust of those criteria is to demand that the court consider both the narrow and the broad impacts of the decree. Thus, in addition to weighing the merits of the decree from the viewpoint of the relief obtained thereby and its adequacy, the court is directed to give consideration to the relative merits of other alternatives and specifically to the effect of the entry of the decree upon private parties aggrieved by the alleged violations and upon the enforcement of antitrust laws generally.

In a later floor debate on the legislation, Senator Tunney cited the testimony of Judge J. Skelley Wright of the U.S. Court of Appeals for the D.C. Circuit, who had testified at an earlier hearing of the Senate Antitrust and Monopoly Subcommittee expressing concern as to whether antitrust settlements "might shortchange the public interest." 119 Cong. Rec. 24597, July 18, 1973. Commenting on this testimony, Senator Tunney stated that "I think Judge Wright gets to the heart of the problem—it is the excessive secrecy with which many consent decrees have been fashioned, and *the almost mechanistic manner in which some courts have been, in effect, willing to rubber stamp consent judgments.*" *Id.* at 24598 (emphasis added). The bill passed the Senate that day on a 92 to 8 vote.

The later House debate in which the bill was passed echoed Senator Tunney's concern. Congressman Seiberling of Ohio commented that, in considering antitrust consent decrees, "too often the courts have, in fact, simply rubber-stamped such agreements, and the public or competitors that might be affected have had an effective way to get their views before the court . . ." 120 Cong. Rec. 36341, Nov. 19, 1974. Similar sentiments were expressed by Congressman McClory, id., Congressman Jordan, id. at 36343, and Congressman Heinz, id. at 36341. Congressman Holtzman of New York commented that these procedures would "insure that our antitrust laws are not for sale." Id. at 36342.

The House and Senate Committee Reports on the legislation also echo the floor debate. The Report of the House Judiciary Committee states that

> [o]ne of the abuses sought to be remedied by the bill has been called "judicial rubber stamping" by district courts of proposals submitted by the Justice Department. The bill resolves this area of dispute by requiring district court judges to determine that each proposed consent judgment is in the public interest.

House Rep. No. 93-1463, 93rd Cong., 1st Sess. (1974), reprinted in 1974 U.S. Code Cong. & Admin. News 6535, 6538.

In one of the first cases to construe the statute, the Government's case to break up the AT&T phone monopoly, Judge Greene of the U.S. District Court for the District of Columbia reviewed, and then summarized, the legislative history of the Tunney Act. He concluded that:

> To remedy these problems [that led to the passage of the Tunney Act], Congress imposed two major changes in the consent decree process. First, it reduced secrecy by ordering disclosure by the Justice Department of the rationale and the terms of proposed consent decrees and by mandating an opportunity for public comment. Second, it sought to eliminate "'judicial rubber stamping' of proposals submitted to the courts by the Department," by requiring an explicit judicial determination in every case that the proposed decree was in the public interest. *It is clear that Congress wanted the courts to act as an independent check upon the terms of decrees negotiated by the Department of Justice.* . . .

U.S. v. *AT&T*, 552 F. Supp. at 148–149 (emphasis added) (citations omitted).

This conclusion is supported by a recent law journal article co-authored by John J. Flynn, who was special counsel to the Senate Antitrust Subcommittee during the period when the Tunney Act was drafted and adopted. Professor Flynn writes that, in enacting the Tunney Act, Congress rejected the "notion that courts must give deference to the DOJ when determining if a consent decree is in the public interest. Instead, Congress wanted the courts to make an independent, objective, and active determination without deference to the DOJ." Flynn and Bush, The Misuse and Abuse of the Tunney Act: The Adverse Consequences of the "Microsoft Fallacies", 34 Loyola U. Chicago L. J. 749, 758 (2003).

The early case law that followed the adoption of the Tunney Act in 1974 imposed fairly stringent requirements on courts reviewing antitrust settlements reached by the Justice Department.

The leading early case is the district court's review of the Government's proposed settlement with AT&T in the massive antitrust case that broke up the telephone monopoly, U.S. v. AT&T, supra (D.D.C. 1983). Judge Greene of the U.S. District Court for the District of Columbia rejected an argument for a highly deferential review of the proposed consent decree. The court stated that

> It does not follow . . . that courts must unquestionably accept a proffered decree as long as it somehow, and however inadequately, deals with the antitrust and other public policy problems implicated in the lawsuit. To do so would be to revert to the "rubber stamp" role which was at the crux of the congressional concerns when the Tunney Act became law.

U.S. v. *AT&T*, 552 F. Supp. at 151.

Instead the standard the court applied to determine if the public interest was served by the consent decree was rather exacting. The court stated it would only enter the proposed consent decree "if the decree meets the requirements for an antitrust remedy that is, if it effectively opens the relevant markets to competition and prevents the recurrence of anticompetitive activity, all without imposing undue and unnecessary burdens upon other aspects of the public interest." Id. at 153.

The more recent precedent under the Tunney Act have sharply retreated from Judge Green's opinion in AT&T to a much more deferential standard of review. It is this misinterpretation of the Tunney Act that our bill corrects. In describing the recent Tunney Act precedent, one commentator has called it a "retreat toward rubber stamping." Anderson, supra, 65 Antitrust Law Journal at 19. We agree. It is this overly deferential standard review which makes reform of the Tunney Act necessary so that the legislative intent can be effectuated and courts can provide an independent safeguard to prevent against improper or inadequate settlements. The changes we make to the Tunney Act today address these problems and correct the mistaken precedents.

The precedent continues to recognize that the Tunney Act is intended "to prevent "judicial rubber stamping' of the Justice Department's proposed consent decree," and for the court to "'make an independent determination as to whether or not entry of a proposed consent decree [was] in the public interest.'" *U.S.* v. *Microsoft*, 56 F.3d 1448, 1458 (D.C. Cir. 1995), quoting S. Rep. No. 298 at 5. Further, in reviewing the proposed consent decree, the court should inquire into "the purpose, meaning, and efficacy of the decree." *Microsoft*, 56 F.3d at 1463.

However, these same decisions improperly and strictly circumscribe the role of the trial court and give it little leeway to fail to approve an antitrust consent decree. The D.C. Circuit has stated that:

> [T]he district judge is not obligated to accept [an antitrust consent decree] that, on its face and even after government explanation, appears to make a mockery of judicial power. *Short of that eventuality*, the Tunney Act cannot be interpreted as an authorization for a district judge to assume the role of Attorney General.

Id., 56 F.3d at 1462 (emphasis added). In other words, under this precedent, unless the proposed decree would "make a mockery of judicial power," the consent decree must be entered by the Court. In another portion of this opinion, in language much cited by lower courts, the D.C. Circuit held that the court should not insist that the consent decree is the one that will "*best* serve society," but only confirm that the resulting settlement is "within the *reaches* of the public interest." Id. at 1460, citations omitted; emphasis in original.

In a subsequent decision, the D.C. Circuit summarized a district court's review under the Tunney Act, as follows:

> The district court must examine the decree in light of the violations charged in the complaint and should withhold approval *only* if any of the terms appear ambiguous, if the enforcement mechanism is inadequate, if third parties will be positively injured, or if the decree otherwise makes "a mockery of judicial power."

Massachusetts School of Law v. *U.S.*, 118 F.3d 776, 783 (D.C. Cir. 1997) (emphasis added) (quoting *Microsoft*, 56 F.3d at 1462). This is plainly quite a limited standard of review, which contains no admonition to review the likely effects of the consent decree on competition, and makes it very unlikely that a court would fail to enter almost any consent decree.

In the opinion of a leading academic commentator on the Tunney Act,

> the court of appeals in Microsoft made a potentially serious mistake by formulating a rule that, so long as procedural niceties are followed, all antitrust consent decrees must be approved unless they are a "mockery." Once the real threat of meaningful scrutiny is eliminated, the benefits of deterrence and mediation would be destroyed and the Tunney Act would be nullified.

Anderson, supra, 65 Antitrust Law Journal at 38. Professor Flynn, who was involved in drafting the Tunney Act, agrees with this criticism of the D.C. Circuit's approach. Professor Flynn states that "from the language of the Tunney Act and its legislative history, this is precisely the sort of deferential standard the drafters of the Tunney Act did not want. . . . [T]he D.C. Circuit chose to ignore the legislative intent and cast judicial review of consent decrees back to the days when rubber-stamping was prevalent." Flynn and Bush, supra, 34 Loyola U. Chi. L. J. at 780–781.

As originally written, the Tunney Act serves two goals deterrence and mediation. The prospect of judicial scrutiny deters the Justice Department from heeding political pressure to enter into a "sweetheart" settlement. And real Tunney Act review also provides an opportunity for a judge to act as a mediator, obtaining modifications to deficient settlements. As Professor Anderson points out, "[i]f the government and antitrust defendants come to perceive that meaningful [judicial] scrutiny is not a real threat, the door will be wide open for attempts to swing sweetheart deals and for the public to lose confidence in antitrust enforcement by the government." 65 Antitrust Law Journal at 38.

In sum, as the Tunney Act is currently interpreted, it is difficult if not impossible for courts to exercise meaningful scrutiny of antitrust consent decrees. The "mockery" standard is contrary to the intent of the Tunney Act as found in the legislative history. Our legislation will correct this misinterpretation of the statute. Our legislation will insure that the courts can undertake meaningful and measured scrutiny of antitrust settlements to insure that they are truly in the public interest, and to remind the courts of Congress' intention in passing the Tunney Act.

In an effort to explain how the revisions to the Tunney Act in H.R. 1086 correct the mistaken standard used by certain courts in applying the law, it is important to describe each of the specific provisions of section 221 of H.R. 1086. Today we have introduced, with Senators HATCH, LEAHY, and DEWINE, a Managers' Amendment to H.R. 1086. These comments address H.R. 1086 as amended.

First, section 221(a) of our bill contains Congressional Findings and Declarations of Purposes. These provisions clarify that we are determined to effectuate the original Congressional intent of the Tunney Act. In other words, after the enactment of this legislation, courts will once again independently review antitrust consent decrees to ensure that they are in the public interest. The Congressional Findings expressly state that for a court to limit its review of antitrust consent decrees to the lesser standard of determining whether entry of the consent judgments would make a "mockery of the judicial function" misconstrues the meaning and intent in enacting the Tunney Act. The language quoted paraphrases the D.C. Circuit decisions in *Massachusetts School of Law* v. *U.S.*, 118 F.3d 776, 783 (D.C. Cir. 1997) and *U.S.* v. *Microsoft*, 56 F.3d 1448, 1462 (D.C. Cir. 1995). To the extent that these precedents are contrary to section 221(a) of our bill regarding the standard of review a court should apply in reviewing consent decrees under the Tunney Act, these decisions are overruled by this legislation. While this legislation is not intended to require a trial de novo of the advisability of antitrust consent decrees or a lengthy and protracted review procedure, it is intended to assure that courts undertake meaningful review of antitrust consent decrees to assure that they are in the public interest and analytically sound.

Section 221(b)(2)(A) of our bill amends the existing subsection of Section 5 of the Clayton Act (codified at 15 U.S.C. § 16(e)) containing the requirement that courts review antitrust consent decrees to determine that these consent decrees are in the public interest. Our bill modifies the law by stating that, in making this determination, the court "shall" look at a number of enumerated factors bearing on the competitive impact of the settlement. The current statute merely states that the court "may" review these factors in making its determination. Requiring, rather than permitting, the court to examine these factors will strengthen the review that courts must undertake of consent decrees and will ensure that the court examines each of the factors listed therein. Requiring an examination of these factors is intended to preclude a court from engaging in "rubber stamping" of antitrust consent decrees, but instead to seriously and deliberately consider these factors in the course of determining whether the proposed decree is in the public interest.

Our bill, in section 221(b)(2)(B), also revises and enhances the factors which the court is now required to review in making its public interest determination. In addition to the factors enumerated under current law, the court must examine whether the terms of the proposed decree are ambiguous. While complete precision when dealing with future conduct may be impossible to achieve, an overly ambiguous decree is incapable of being enforced and is therefore ineffective. A mandate to review the impact of entry of the consent judgment upon "competition in the relevant market or markets" is also added by our bill. This will ensure that the Tunney Act review is properly focused on the likely competitive impact of the judgment, rather than extraneous factors irrelevant to the purposes of antitrust enforcement. Finally, this list is not intended to be exclusive, as the court is directed to review any other competitive consideration "that the court deems necessary to a determination of whether the consent judgment is in the public interest."

Under the existing statute, the trial court is granted broad discretion as to how to conduct Tunney Act proceedings. Our amendments make no changes to these procedures. In deciding whether to approve the consent decree, the court may, but is not required to, hold a hearing on the proposed decree. Id. § 16(f). In such a hearing, the court may take the testimony of Government officials or expert witnesses. The court may also take testimony from witnesses or other "interested persons or agencies" and examine documents relevant to the case. The court may also review the public comments filed during the sixty-day period pursuant to the Tunney Act. In addition, the court may appoint a special master or outside consultants as it deems appropriate. Finally, the court is granted the discretion to "take such other action in the public interest as the court may deem appropriate." Id. While the court may do any of the preceding, it is not required to follow any of these procedures.

Our amendments to section five of the Clayton Act add language stating that nothing in that section will be "construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." This language is not intended to make any changes to existing law, but merely to restate the current interpretation of the law. Under the statute, the court is not required to conduct an evidentiary hearing, but is permitted to do so or to take testimony if it wishes to do so. See 15 U.S.C. §16(f). This will remain the procedure, a court will be permitted, but not required, to conduct evidentiary hearings in making its Tunney Act determination. Additionally, the statute currently permits in 15 U.S.C. §16(f)(3) intervention by interested parties in the Tunney Act review proceeding. This will remain the procedure a court will be permitted, but not required, to allow parties to intervene.

Our amendments also make two other minor and technical changes to Tunney Act procedures. First, section 221(b)(1) of the bill permits the district court to authorize an alternative means of publication, rather than publication in the Federal Register, of the public comments received in response to the announcement of the proposed consent decree. A court may only authorize such alternative means of publication if it finds the expense of Federal Register publication exceeds the public interest benefits to be gained from such publication. This provision is intended to avoid unnecessary expense in publishing proposed consent decrees if alternate means are available, such as, for example, posting the proposed decrees electronically, which are sufficient to inform interested persons of the proposed consent decree.

The second technical amendment, found in section 221(b)(3) of our bill, amends the provision of the Tunney Act codified in 15 U.S.C. § 16(g) which requires that defendants notify the court of all communications with the Government relevant to the consent decree, except for communications between the defendant's counsel of record and the Justice Department. Our bill adds language which clarifies the statute's language to make clear that only communications with the defendant, or any officer, director, employee, or agent of such defendant, or other person representing the defendant must be disclosed. The defendant is not required to disclose contacts with the Government concerning the settlement by persons not affiliated with, representing, or acting on behalf of the defendant, for example, competitors of the defendant. The defendant's obligation to disclose contacts by agents or persons representing the defendant, including outside lobbyists, is unaffected by this technical change.

In sum, our bill will mandate that courts engage in meaningful review of the Justice Department's antitrust consent decrees and not merely "rubber stamp" the decrees. It will make clear that it is a misinterpretation of the Tunney Act to limit a court's review to limit judicial review of these consent decrees to whether they make a mockery of judicial function, and therefore overrule recent D.C. Circuit decisions holding to the contrary. The bill is expressly intended to effectuate the legislative intent of the Tunney Act and ensure the ability of courts to effectively review consent decrees to ensure that they are in the public interest. It will require, rather than permit, a court to review a list of enumerated factors to determine whether a consent decree is in the public interest. By restoring a robust and meaningful standard of judicial review, our bill will ensure that the Justice Department's antitrust consent decrees are in the best interests of consumers and competition.

Mr. DEWINE. Mr. President, I rise today, along with Senator HATCH, Senator LEAHY and Senator KOHL, as a sponsor of H.R. 1086, the Standards Development Organization Advancement Act of 2003. H.R. 1086 was passed unanimously by the Judiciary Committee in November 2003, and I am proud to say that H.R. 1086 encompasses many of the provisions of S. 1797, the Antitrust Criminal Penalty Enhancement and Reform Act of 2003, which Senator KOHL and I introduced in October 2003. H.R. 1086 is a comprehensive bill that will enhance and improve the enforcement of U.S. antitrust law in four key areas.

First, and perhaps most important, this bill will raise the penalties for criminal violations of antitrust law and bring those penalties more into line with penalties for other, comparable white collar offenses. Antitrust crimes such as bid rigging or cartel activity cheat consumers and distort the free market just as surely as any other type of commercial fraud, and should be strongly punished. Under current antitrust laws, the maximum criminal penalties for individuals guilty of price-fixing are three years incarceration and $350,000 in fines. For corporations, the maximum fine is $10 million. This bill will, No. 1, raise the maximum prison term to 10 years; No. 2, raise the maximum fine for individuals to $1,000,000; and No. 3, raise the maximum corporate fine to $100 million. By increasing the prison terms for individuals, this bill brings criminal antitrust penalties closer in line with the maximum penalties assessed for mail fraud and wire fraud, which are both 20 years. Executives and other antitrust offenders need to know that they face serious consequences when they collude with their competitors, and this bill will send that message to the marketplace.

Second, this bill improves on an investigative and prosecutorial tool already being employed effectively by the Justice Department. Since 1993 the Antitrust Division has successfully used a revised corporate amnesty program to help infiltrate and break-up criminal antitrust conspiracies. In short, if a corporate conspirator self-reports its illegal activity to the Antitrust Division and meets certain conditions—it must be the first conspirator to confess, it cannot be the ringleader of the conspiracy, and it must agree to cooperate fully with the investigation, among other things—it will receive a "free pass" from prosecution. This program has been extremely successful in cracking conspiracies, because it creates a strong uncertainty dynamic among co-conspirators; members of the cartel can never be sure that one of the other conspirators will not confess its illegal activity to the Antitrust Division in order to avoid criminal liability. This uncertainty decreases the likelihood of cartels forming to begin with, and makes cartels less stable when they do form.

H.R. 1086 helps to enhance the Division's corporate amnesty program by expanding its reach. The current amnesty program does not affect the civil liability of the conspirators; that is, a corporation cooperating with the Division through the amnesty program receives protection from government prosecution, but may still be sued in court by private parties for treble damages. This bill decreases that liability by limiting the damages a private plaintiff may recover from a corporation that has cooperated with the Antitrust Division. Specifically, the conspirator is not liable for the usual treble-damages; instead, it is only liable for actual damages. This modification recognizes that a corporation that has fully cooperated with the Antitrust Division is less culpable than other conspirators, and provides a far greater incentive for corporations to cooperate with the Antitrust Division.

Third, H.R. 1086 addresses a concern raised recently by a string of court opinions that appear to limit the depth of review required by the Tunney Act. In brief, the Tunney Act requires that prior to implementing an antitrust consent decree a court must review that decree to assure that it is in the public interest; historically, that requirement has been understood to require that the courts engage in more than merely "rubber-stamping" those decrees. A number of recent opinions have led some to question the depth of review required by the Tunney Act. This bill makes clear that the Tunney Act requires what it has always required, and that mere rubber-stamping is not acceptable. In addition, H.R. 1086 makes a small number of minor modifications and revisions to ensure both that the Tunney Act accurately reflects its original intent and that it effectively functions in the modern legal and economic environment.

Finally, this bill will treat Standard Development Organizations (SDOs) more favorably under the antitrust laws. SDOs are private, voluntary nonprofit organizations that set standards for industry products—e.g., one SDO sets the standard for the required depth of a swimming pool before a diving board may be installed. Under the bill, qualifying SDOs which pre-notify the Antitrust Division of their standard-setting activities will not be subject to treble damages in private suits brought against them. Moreover, SDO activities will be scrutinized for antitrust violations under the less strict "rule of reason" legal standard, and SDOs may be awarded certain costs and attorney fees if they substantially prevail in litigation which is later held to be frivolous.

In all of these ways, H.R. 1086 modernizes and enhances the enforcement of U.S. antitrust laws, and I am proud to sponsor it.

Mr. McCONNELL. I ask unanimous consent that the Hatch-Leahy amendment at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3010) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 1086), as amended, was read the third time and passed.

ORDERS FOR MONDAY, APRIL 5, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, April 5. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE

Mr. McCONNELL. I ask unanimous consent that notwithstanding the Senate's adjournment, it be in order for the Commerce Committee to file legislative matters until 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. On Monday, the Senate will be in a period for the transaction of morning business throughout the day. There will be no rollcall votes on Monday, but Senators are encouraged to come to the floor to deliver morning business statements if they have any.

As a reminder, earlier today the majority leader propounded a unanimous consent request that would have allowed us to take up and begin debate on S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004. There was an objection to that request, and the majority leader was forced to file cloture on the motion to proceed.

The cloture vote on the motion to proceed to S. 2207 will occur on Wednesday of next week at 2:15, and that vote will be the next rollcall vote.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator WYDEN for up to 15 minutes and Senator SESSIONS for up to 15 minutes.

Mr. REID. Mr. President, I ask unanimous consent to add Senator CORZINE for 10 minutes following that.

Mr. McCONNELL. Senator CORZINE for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. WYDEN pertaining to the submission of S. Res. 330 are printed in today's RECORD under "Submitted Resolutions.")

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Alabama is recognized.

INCREASE IN EMPLOYMENT

Mr. SESSIONS. Madam President, I would like to celebrate the good employment news we received today.

I think it is important for us to at least take a few moments to celebrate what was revealed today in the March employment figures released by the Department of Labor statistics.

I just left a hearing of the Joint Economic Committee, of which I am a member. It was held in the House this time. We had the Department of Labor statistician give those reports. They were good numbers indeed.

There were 308,000 new jobs added this month. Since last fall, we have added over 700,000 new jobs. These are not vague numbers. These new jobs are payroll jobs that are identified easily because these are payroll jobs where the employer is sending the money to the Federal Government for Social Security, Medicare, and income tax withholding. These are really hard numbers.

For some time, we have had a divergence between the household survey and the payroll numbers. Payroll numbers have not been as good as the household numbers. Household numbers are a survey of homes in America. Many think they are even more accurate, because they ask whether you are employed and whether you are working. The truth is a lot of people do not show up on a payroll because they are self-employed, they are consultants, or they operate a business out of their home. They help their spouse or family member with a job. They do not show up on a payroll. Also, a large number of people are working here illegally and are not counted. That is something we need to get more serious about.

It is odd to me that Members in this Senate who are most angry and most upset about unemployment seem to have no concern whatsoever about how many jobs are being taken by people coming into this country illegally. We are a nation of immigrants, and we believe in immigration. But we also want to know who is coming to make sure they are coming legally, they are not terrorists, and that they are not flooding our job market and putting Americans out of work who could have had those jobs.

So the question becomes, where did all these new jobs come from? I think we can say with some fairness and objectivity with the history of our current situation—not to try to be partisan in any way—President Bush last year said he believed this economy was not where it should be. Our unemployment rate was not where it should be. It was too high. We needed to increase employment in America, and we needed to increase growth. The way you increase employment in this country is to increase growth, so we set out to do that.

What did we do? We carried through on a plan to stimulate this economy through tax cuts for American citizens, businesses, and investment. We began to see some real change. Growth began to occur.

During the third quarter of last year, growth was 8.2 percent. That is the highest rate of growth in 20 years. The fourth quarter was over 4 percent. We expect, according to Mr. Greenspan, growth this year to be 5 percent. That is a tremendous level of growth. It is something we should be very proud of.

Economists also say that growth creates jobs. If the economy does not grow, if businesses are not expanding, then they don't hire people. You don't have jobs created. If you want to create jobs, you have to have growth. So we have created growth.

There has been some concern about the number of jobs added as we began to grow. It has not been at the rate we would like to see. It is somewhat below historical averages. You would think jobs would increase faster considering the highest level of growth we have seen, but as we heard in the hearing this morning I attended—and I think most economists would agree—the problem has been productivity. Productivity has a short-term adverse impact on employment, but it is not a problem in the long term. Increased productivity means that a plant, a factory, or a business is doing better than they have done before. They are producing more widgets at less cost and less employment, and they are more efficient. In the long run, that is good. In the short run, it could mean an increase in unemployment.

We have had incredible increases in productivity and this has made us competitive in the world market. If you do not have productivity increases, how can a high-wage country like the United States compete with other countries around the world that pay less wages?

Productivity is the key to our being competitive in the world market. Everybody who is honest and who understands the situation would agree with that. But it has caused us to lag in jobs.

Growth is occurring. Now we see a 308,000-person increase in employment this month. It is really good news. I think it is something we should celebrate.

There has been so much political rhetoric going on. President Bush is a strong leader. He takes responsibility. He says he is not satisfied right now with the employment level in our country, although this unemployment rate we have today is below the 20-year average for unemployment in America. It is an unemployment rate that existed when President Clinton ran for reelection last time. The unemployment rate of 5.7 percent is not an extreme situation when viewed in historical terms. In fact, today's unemployment rate is less than the average rate for the decade of the 1980s and its less than the average rate for the decade of the 1990s.

Let me show you this chart that I think is pretty dramatic. It is entitled, "Best Is Yet To Come, U.S. Picked to Have the Strongest Gross Domestic Product Growth Over Next Year."

These were economists picking which countries have the greatest economic growth this year. The United States is almost 5 percent. All the rest of the countries—Australia, Canada, Britain, Spain, Japan, Sweden, Denmark, France, Euro Area, Belgium, Austria, Switzerland, Italy, Germany, and the Netherlands—all have lower growth.

Whose economy is doing well? Our economy is doing well. Why? We are doing better for several reasons. One is we have lower taxes than those countries. Another is that we have fewer regulations than those countries. We are committed to a more free market economy. That produces growth. That is the engine for American prosperity. It always has been, and we should never abandon that and move to the Socialist state economies in these other countries.

This is tremendous. How people can come around and whine and complain and grumble about the kind of situation we are in now is beyond me.

This chart shows the gross domestic product growth in the past 12 months. The United States has the highest growth in gross domestic product of all of these nations: Australia, Japan, Britain, Spain, Sweden, Canada, Belgium, Austria, France, Euro Area, Denmark, Germany, Italy, Switzerland, and the Netherlands. All of those countries have lower growth rates than we do. The European Union unemployment rate is 8.8. Ours is 5.7. Canada's is 7.4.

Something is being done right here. We are not quite as bad as people would like to moan and groan about.

We just added 300,000 new payroll jobs last month. These are not survey jobs. These are people who are on the payroll and who are paying withholding taxes—Social Security and Medicare taxes. These are substantially payroll and employment taxes. Things are moving along pretty well. I have been concerned. I don't think it is fair that many on the other side have blamed President Bush because the economy has not done as well as we would like and it slipped into recession.

I will take a moment to explain some things. Back when former President Bush was President, he had been in office a year or so, the Reagan boom had been going on, and all of a sudden we got into a slowdown. A lot of economists know why it occurred, but we got into a slowdown. We had negative growth a couple of quarters when former President Bush was in office, about his second year in office. President Clinton ran for office and said: It's the economy, stupid. He said the economy was bad and President Bush would be removed from office and he won, to a large degree, on that issue.

The truth was, by the time President Clinton took office, the economy had grown during the fourth year of President Bush's Presidency and President Clinton inherited a growing economy. The fourth quarter of President Bush's last year in office showed significant growth. So it is clear: President Clinton inherited a growing economy when he took office. And for most of his two terms in office, the economy performed well. I guess he gets credit for that, although I am not sure how much any President deserves credit for these things, but they think they do. So they get the credit and the blame, whether they deserve it or not.

So President Clinton enters office and the economy goes along well for a while. But it was in trouble his last year in office. And during the 2000 campaign President Clinton and Vice President Gore spent a lot of time saying how wonderful the economy was and how much his Vice President, Mr. Gore, deserved credit for it, but, this just wasn't so. In fact, the economy had already begun to sink dramatically during President Clinton's last year in office.

For example, the NASDAQ exchange lost one-half of its value during the last year of President Clinton's tenure and before President Bush took office. When President Clinton was President, the economy was in trouble. Another fact is that during the third quarter of President Clinton's last year in office the economy experienced negative growth.

To compound the problem further, the first quarter President Bush inherited also experienced negative growth, even though the President hadn't been in office long enough to have this slowdown occur as the result of any of his policies. The fact is, President Bush inherited an economy from President Clinton that was already in trouble. There was no doubt about it. The numbers I have given are indisputable. President Bush's opponents want to ignore them and pretend that these facts did not happen. They want to promote the myth that President Bush is responsible for this economy, for the economic troubles we had, not that he inherited them.

But to his credit, President Bush has not whined or complained about the economic problems he inherited. Instead, he set about on a program to get our economy moving again by empowering the American people. He did this by allowing people to keep more of the money they earn instead of sending it to Washington to be spent by this gaggle in the Senate and the House. This President trusts the American people. In a nutshell his program is based on the premise that our economy functions best when we put more money into the hands of the people who earned it in the first place.

And the President's approach has created this growth we are now seeing. It resulted in 8.20-percent growth the third quarter of last year. It resulted in significant growth in the fourth quarter of last year. It is an approach that leads many people, such as Alan Greenspan, to predict the economy many sustain GDP growth of 5% this year. And it is an approach that has helped create the 300,000 new jobs we celebrate today.

Things are moving well. We want to see it continue. We want to see the unemployment numbers fall, and we want to see continued growth in productivity and jobs. In the long run, growth will determine whether we are successful as an economy and whether people will have jobs.

We hear all these things about China and Mexico being a threat to us, outsourcing and all these problems, and we need to look at every single one of them and be very protective of jobs in America.

The President of the United States understands this. He understands that he is not president of the European Union. He is not president of the world. President Bush understands that he represents the United States of America. He is working every day to help our interests.

We have a lot to celebrate with these numbers today. They are really good. If we could maintain something close to that for the next 4, 5, or 6 months, we will feel a difference in income and revenue to the Government. We have 300,000 people now paying money to the Federal Government in taxes. One reason we have had a revenue shortage is because we have had less employment, so they are paying less taxes. If businesses are in a recession, they do not make a profit; the corporation does not pay a tax unless they make a profit.

Maybe we are back in the mood of growth and profitability and hiring that will make a difference not only in jobs for American citizens but maybe it will also make a difference for revenue to our Government and help us get this budget balanced again, which is something I feel very strongly about.

These tax reductions have been mischaracterized. Right now, we are dealing with it, as part of our budget process that we need to complete. We need to extend the child tax credit of $1,000 per child for a working family in America today. The marriage penalty falls on working families and the expansion of the 10-percent bracket—in other words, people who are used to paying 15 percent income taxes—the lower income taxpayers, some pay 10 percent, the middle group pays 15 percent—more people will be paying at a lower rate. All of those are in doubt right now. We need to make that happen, allow the American people to keep more of their money, follow the great American tradition—not the European Socialist tradition—the American tradition of individual responsibility, lower taxes, free markets, less regulation, and we will continue to beat the world in economic growth and productivity.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized for 10 minutes.

ECONOMIC INDICATORS

Mr. CORZINE. Madam President, it is good news to have an increase in employment in America today. Everyone is pleased to see more jobs are coming into our economy and Democrats, as well as Republicans, are pleased to see more Americans are going to work.

But that said, working men and women, and everyone, has to understand numbers of 1 month do not indicate a change in whether one assesses economic policy working for average Americans, for middle-class Americans, for moderate-income Americans, for those who are trying to make ends meet in our economy.

These good numbers we would like to see continued. We would like to see more Americans going to work, but the American people need to understand this number, this 1-month number, in the context of a whole 38 months of development of economic policy in this country, is a record that I believe, and I think many people would believe, has put enormous stress on the American people.

We are pleased with the job growth, but the fact is, we saw growth in the unemployed this month of about 184,000. We now have 8.4 million Americans unemployed in this economy. That is up substantially this month.

We have also seen the unemployment rate tick up about one-tenth of a percent. I heard some spinning about Senator KERRY saying 5.6 was pretty good in 1996. There is a difference when you come from 7.2 percent, which is where President Clinton's unemployment rate was when he came to office, going to 5.6—on the way, by the way, to 3.8 percent—than when we have a 5.6 or 5.7 percent rate, coming up from 4.2 percent, which is what the current administration inherited.

We have rising unemployment in this country, not declining. One month is a good thing to have happen, even a good quarter is a good thing to happen, but let's put it into the context of the 38 months of the stewardship of this administration's economic policies.

The fact is, we have had the worst record in 70 years, and it still stands. It has not been substantially altered by a 1-month performance in job growth in private sector jobs that we have seen since the Herbert Hoover years in the late 1920s and early 1930s.

The fact is, every other President from that point in time on—Roosevelt right through Clinton; including George Bush 1, Ronald Reagan, Carter—produced private sector jobs. And we have about a .7-percent decline in jobs under this administration in the private sector. We have lost about 2.6 million of those jobs, even after these numbers.

In fact, we have been producing more jobs in Government during the Presidency of someone who said they did not believe in Government—which is quite strange—relative to an emphasis on the private sector.

Again, I repeat, you have to look at this in the overall context. One month is good, and we are all pleased about that, but the fact is we have lost private sector jobs in this economy. It is a fact of which I think the American people have a real understanding.

Economic policy is something to analyze over a period of time, in context. It is not just a month. Remember, in the Clinton years, there were roughly 21 million jobs created—21 million jobs created—over that 8-year period. Right now, we have lost something in the neighborhood of 2.5 to 2.6 million jobs over the term of this stewardship of the economy.

It is the context you have to think about, what kind of economic policy leads to sustained economic growth and sustained economic job creation, which is the end result that I think people will measure in their own lives—whether they have a job, whether they are working, whether they are actually able to take care of their families.

By the way, it is not just jobs; it is actually the earnings one gets on those jobs. One of the things that has been happening in our job market is, as people lose a job, and then they take another job, we have seen a 21-percent decline in the average wages of people who get reemployed.

So those factory workers in Edison, NJ, where our last Ford factory was closed—they go from a Ford manufacturing job to a service sector job that is, on average, 21 percent lower in real earnings than the job they had before. So they may be working but going into a Wal-Mart or going into hamburger flipping, which is not as good a job as the ones we are losing.

That is the problem in this economy, even though we might be seeing job growth. By the way, if you look at the actual numbers in this month's job creation, so many of them are in the service sector, where you are seeing this phenomenon happening, where there is a decline in the earnings of families and their purchasing power. They are losing their ability to go into the economy and have the strength to participate in the way they were before.

So it is not just the jobs; it is the quality of jobs that is at stake in the debate we have with regard to economic policy. So not only do we have a poor performance with regard to job creation, we have poor performance with regard to the quality and the earnings power that is associated with those jobs.

I think it is hard to hear some of the celebration and spinning that I have heard this morning on some of the television stations and from others who are focusing only on the good news of the 308,000 jobs created. That is great. How about the 184,000 people who lost their jobs? How about the 8.4 million people who are unemployed? How about the 2 million people who are on long-term unemployment in this country, who are detached or who have dropped out and are not looking for jobs? It is the highest number we have ever seen.

By the way, if you added that into the unemployment rate—the people who have stopped looking because they have given up hope looking for a job—the unemployment rate would be 7.2 percent. This is not just a single number. I know there is going to be a lot of focus on it, and that is a good thing. I hope it sustains itself over a long period of time so we can start correcting this malaise we have in our jobs market around this country. And it is serious.

People know about outsourcing. They know about offshoring. They know about the fact that the minimum wage has not increased so that real earnings can grow for working men and women in America. There is a real problem.

In January 2001, we had about 700,000 long-term unemployed. Today, we have 2 million. You tell me whether that is a good stewardship of our economic policy and our jobs policy in this country. Where I come from that does not sound like a good performance.

I saw one of my esteemed colleagues from the other side of the aisle—I know he was trying to make a positive case—saying we have record employment at 138.4 million jobs in this country. That may be true, but last time I checked the population just keeps growing every month. Every month, the population keeps growing. If the employment rate does not go up, do you know what. What happens this week or what happened in this month's numbers is exactly what is taking place. We get rising unemployment, particularly when you add in all those people who have dropped out of the workforce. It is not that hard to do fractions. If you keep the base the same, and the numbers go up, you are going to get a changed number. And that is what is happening. It is hard for me to understand why we want to take victory laps when there are 8.4 million Americans without jobs.

Now, this is something we all hope turns and continues along the path. By the way, it is sure coming at a fairly serious price. The last time I checked, the President's own OMB Director was projecting we are going to have a $540 billion budget deficit. I guess if you go out with a credit card and spend up a storm, you can get some activity going on in the marketplace. If you go to the malls and spend until you are in debt to the point where you cannot sustain it over a long period of time, you can get some economic stimulus, but that does not mean that is good economic policy. In fact, that means we are mortgaging our children's future so we can get results now. Funny, we want results about 6 months in front of an election, but we are spending in an uncontrolled manner, and almost everyone, on both sides of the aisle, is troubled. Spending and tax cuts and borrowing just make no sense, but they are getting some results in stimulating the economy. I do think we have a good thing going on with regard to the Federal Reserve. We have had the lowest interest rates now for 15, 16, 17 months—the lowest interest rates in 45 years. That actually does put some stimulus in the economy.

We could not do any more with regard to trying to stimulate. The problem is, we did not do it very efficiently. We put it in all at the top income brackets, and it sort of trickles down.

And that may create jobs. But I want to go back to what I think maybe is as important as anything that needs to be analyzed in the job market. When we trade manufacturing jobs, white collar technology jobs, for service sector jobs, what happens to the American people? Their standard of income goes down.

Madam President, $44,570 is the average wage for a job that was lost in 2001. And the average wage today, when you get a new job, is $35,410, according to this calculation. That is a decline of 21 percent. When you go from manufacturing and high-technology jobs to service jobs, you see a deterioration in the real earnings of the American people. That is happening. And we still have a major unemployment problem in this country: 8.4 million people, 2 million of whom are unemployed on a long-term basis. We have the longest average tenure on unemployment we have had in 20 years.

So, yes, it is a good thing that we saw 308,000 jobs created this month. It is a good thing that we are starting to see some pickup. But by my calculation—and by anyone's calculation—we still have the worst job performance record of any President since Herbert Hoover. Those are the facts. People can talk about the facts however they want. We have not performed for the American people in creating jobs and creating real earnings that will make a difference in their lives.

So I hope we do not start celebrating and spinning so much that we lose track of what the reality is for people in their own lives—certainly what is the reality for those people in Edison, NJ, who just had their Ford plant closed. I can tell you, it is happening all across my State. We have seen the elimination of high-quality jobs, and people are replacing them with those lower earning ones. I think we have serious issues to debate as we go through this campaign season. We ought to stay focused on the facts—both the number of jobs created and the quality of those jobs. I look forward to having greater discussion about these issues in the weeks and months ahead.

Thank you, Madam President.

ADJOURNMENT UNTIL MONDAY, APRIL 5, 2004, AT 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 1 p.m., on Monday, April 5.

Thereupon, the Senate, at 11:24 a.m., adjourned until Monday, April 5, 2004, at 1 p.m.

HOUSE OF REPRESENTATIVES—*Friday, April 2, 2004*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. NETHERCUTT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 2, 2004.

I hereby appoint the Honorable GEORGE R. NETHERCUTT, Jr. to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, our Redeemer and our Guide, take this country and make it truly Your own. May Your spirit animate our Nation's aspirations and bring about equal justice and a quality of the good life for all its citizens. May virtue abound in the character of the American people, and may our bonds of union be strengthened.

Bring the work of the House of Representatives to a just and blessed closure. As Members and staff begin to enjoy a spring break, we pray that You keep everyone safe and healthy.

May the religious holy days, which Jews and Christians celebrate in coming days, fortify people of faith and bring them joy, for You are the Lord our God, living and true, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. BROWN) come forward and lead the House in the Pledge of Allegiance.

Mr. BROWN of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4062. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

The message also announced that the Senate has passed a joint resolution of the following title in which the concurrence of the House is requested:

S.J. Res. 28. Joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive five 1-minute speeches from each side.

IN MEMORY OF ANDREW J. COMBS

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. Mr. Speaker, this week my friend, Andrew J. Combs, passed away. Andy was from my hometown, Hanahan, South Carolina, and our friendship spans many decades.

Mr. Speaker, many of my colleagues know his wife, Roberta Combs, President of the National Christian Coalition, whose work is widely known and appreciated by families across this Nation.

Andy was a great man, a World War II and Korean War veteran, a successful businessman and a Republican leader, and someone who devoted countless hours trying to make this world a better place. He triumphed in all of these areas while overcoming the ravages of polio contracted as an adult.

It is difficult to measure the impact that he has had on the many lives he touched. His commitment to serving others and to serving his community leaves a wonderful legacy.

Andy, my friend, you will be sorely missed, but we know that heaven has welcomed you with open arms.

Mr. Speaker, please join me in a moment of silence honoring this great American.

MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT MEANS QUALITY HEALTH CARE AT LOWER PRICES

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, the Medicare Prescription Drug and Modernization Act not only modernizes the benefits seniors receive under Medicare by adding prescription drugs, but, for the first time provides seniors, with chronic illnesses, access to state-of-the-art, cutting-edge, preventive health care.

With seniors living longer, with one-third of our seniors living with five or more chronic illnesses and using 80 percent of Medicare's dollars, access to chronic disease management programs is necessary, fair, and right.

By offering such preventive care, made possible by modern technology, our seniors can stay healthier, out of the hospital and emergency rooms and, while living better through modern medicine, reduce Medicare spending. Add this preventive care program to the fact that under this bill, one-half of all senior women will receive their prescription drugs with no premium, no deductible, and no gap in coverage, and $1 to $5 in copayments for generics or brand-name drugs, and our seniors will be able to see that the Medicare Modernization Act we passed offers them much higher quality health care at lower personal cost.

MAKING IN ORDER CONSIDERATION OF PETRI AMENDMENT DURING FURTHER CONSIDERATION OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. PETRI. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3550, pursuant to House Resolution 593, it shall be in order to consider, prior to any other amendment, the amendment that I have placed at the desk as though printed as an amendment printed in part B of House Report 108-456, to be debatable for not to exceed 10 minutes, equally divided and controlled between myself and the gentleman from Minnesota (Mr. OBERSTAR).

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

AMENDMENT TO H.R. 3350, OFFERED BY MR. PETRI

Page 548, lines 6 and 7, strike "Jefferson Davis Transitway (Columbia Pike to Pentagon)" and insert 'Crystal City Potomac Yards Transit".

Page 548, after line 7, insert the following (and redesignate subsequent paragraphs accordingly):

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(99) Northern Virginia—Columbia Pike Rapid Transit Project.

In the table contained in section 3038 of the bill, in item number 25—

(1) strike “$240,000.00” and insert “$912,000.00”;

(2) strike “$247,500.00” and insert “$940,500.00”; and

(3) strike “$262,500.00” and insert “$997,500.00”.

In the table contained in section 3038 of the bill, in item number 26—

(1) strike “$240,000.00” and insert “$912,000.00”;

(2) strike “$247,500.00” and insert “$940,500.00”; and

(3) strike “$262,500.00” and insert “$997,500.00”.

Mr. PETRI (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Wisconsin?

There was no objection.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore (Mr. BROWN of South Carolina). Pursuant to House Resolution 593 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3550.

□ 0913

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. NETHERCUTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, April 1, 2004, a request for a recorded vote on amendment No. 20 printed in part B of House Report 108-456 by the gentleman from New Hampshire (Mr. BRADLEY) had been postponed.

Pursuant to the order of the House of today, it is now in order to consider the amendment at the desk offered by the gentleman from Wisconsin (Mr. PETRI).

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PETRI:

Page 548, lines 6 and 7, strike “Jefferson Davis Transitway (Columbia Pike to Pentagon)” and insert ‘Crystal City Potomac Yards Transit”.

Page 548, after line 7, insert the following (and redesignate subsequent paragraphs accordingly):

(99) Northern Virginia—Columbia Pike Rapid Transit Project.

In the table contained in section 3038 of the bill, in item number 25—

(1) strike “$240,000.00” and insert “$912,000.00”;

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(1) strike “$240,000.00” and insert “$912,000.00”;

(2) strike “$247,500.00” and insert “$940,500.00”; and

(3) strike “$262,500.00” and insert “$997,500.00”.

The CHAIRMAN pro tempore. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI) each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not believe there is any objection to this technical amendment. It has been reviewed by people on both sides.

Mr. Chairman, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

This side has looked over the amendment. We have no problem with it whatsoever. We are happy to accept it.

Mr. Chairman, I yield back the balance of my time.

Mr. PETRI. Mr. Chairman, I thank the gentleman from Illinois, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. PETRI).

The amendment was agreed to.

□ 0915

The CHAIRMAN pro tempore (Mr. NETHERCUTT). It is now in order to consider amendment No. 22 printed in House Report 108-456.

AMENDMENT NO. 22 OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. KENNEDY of Minnesota:

Title I, amend section 1209 to read as follows (and conform the table of contents accordingly):

SEC. 1209. REPEAL.

Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is repealed.

Title I, strike sections 1603 and 1604 and insert the following (and conform the table of contents of the bill accordingly):

SEC. 1603. FAST FEES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, as amended by section 1208 of the bill, is amended by adding at the end the following:

“§ 168. FAST fees

“(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System FAST Lanes program under which the Secretary, notwithstanding sections 129 and 301, shall permit a State, or a public or private entity designated by a State, to collect fees to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, support, and other structures necessary for that construction) on the Interstate System.

“(b) ELIGIBILITY.—To be eligible to participate in the program, a State shall submit to the Secretary for approval an application that contains—

“(1) an identification of the additional lanes (including any necessary bridge, support, and other structures) to be constructed on the Interstate System under the program;

“(2) in the case of 1 or more additional lanes that affect a metropolitan area, an assurance that the metropolitan planning organization established under section 134 for the area has been consulted during the planning process concerning the placement and amount of fees on the additional lanes; and

“(3) a facility management plan that includes—

“(A) a plan for implementing the imposition of fees on the additional lanes;

“(B) a schedule and finance plan for construction, operation, and maintenance of the additional lanes using revenues from fees (and, as necessary to supplement those revenues, revenues from other sources); and

“(C) a description of the public or private entities that will be responsible for implementation and administration of the program.

“(c) REQUIREMENTS.—The Secretary shall approve the application of a State for participation in the program after the Secretary determines that, in addition to meeting the requirements of subsection (b), the State has entered into an agreement with the Secretary that provides that—

“(1) fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology;

“(2) all revenues from fees received from operation of FAST lanes shall be used only for—

“(A) debt service relating to the investment in FAST lanes;

“(B) reasonable return on investment of any private entity financing the project, as determined by the State;

“(C) any costs necessary for the improvement, and proper operation and maintenance (including reconstruction, resurfacing, restoration, and rehabilitation), of FAST lanes and existing lanes, if the improvement—

“(i) is necessary to integrate existing lanes with the FAST lanes;

“(ii) is necessary for the construction of an interchange (including an on- or off-ramp) from the FAST lane to connect the FAST lane to—

“(I) an existing FAST lane;

“(II) the Interstate System; or

“(III) a highway; and

“(iii) is carried out before the date on which fees for use of FAST lanes cease to be collected in accordance with paragraph (6); or

“(D) the establishment by the State of a reserve account to be used only for long-term maintenance and operation of the FAST lanes;

"(3) fees may be collected only on and for the use of FAST lanes, and may not be collected on or for the use of existing lanes;

"(4) use of FAST lanes shall be voluntary;

"(5) revenues from fees received from operation of FAST lanes may not be used for any other project (except for establishment of a reserve account described in paragraph (2)(D) or as otherwise provided in this section);

"(6) on completion of the project, and on completion of the use of fees to satisfy the requirements for use of revenue described in paragraph (2), no additional fees shall be collected; and

"(7)(A) to ensure compliance with paragraphs (1) through (5), annual audits shall be conducted for each year during which fees are collected on FAST lanes; and

"(B) the results of each audit shall be submitted to the Secretary.

"(d) APPORTIONMENT.—

"(1) IN GENERAL.—Revenues collected from FAST lanes shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

"(2) NO EFFECT ON STATE EXPENDITURE OF FUNDS.—Nothing in this section affects the expenditure by any State of funds apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 167, as added by section 1208 of the bill, the following:

"168. FAST fees.".

(2) Section 301 of title 23, United States Code, is amended by inserting after "tunnels," the following: "and except as provided in section 168,".

SEC. 1604. TOLL FEASIBILITY.

Section 106 of title 23, United States Code, as amended by section 1605 of this bill, is further amended by adding at the end the following:

"(j) TOLL FEASIBILITY.—The Secretary shall select and conduct a study on a project under this title that is intended to increase capacity, and that has an estimated total cost of at least $50,000,000, to determine whether—

"(1) a toll facility for the project is feasible; and

"(2) privatizing the construction, operation, and maintenance of the toll facility is financially advisable (while retaining legal and administrative control of the portion of the applicable Interstate route).".

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Minnesota (Mr. KENNEDY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself 2 minutes.

The amendment today addresses the big issues surrounding this year's road bill: how to expand capacity, how to do so without increasing taxes or expanding the deficit, and how do we address our overreliance on the gas tax.

The degree to which the FAST Act, introduced by myself and the gentleman from Washington (Mr. SMITH), has attracted strong bipartisan support reflects the success in addressing these issues by expanding capacity by removing an outdated prohibition again fee-based lanes on the interstate but preserving the trust of the driving public, by doing so only if the fees are charged on new lanes so we have new tar or concrete, charged electronically so there are no toll booths, the fees go away when construction and maintenance costs are provided for, and use of the lanes are optional to drivers and optional for States to use.

It has a broad base of support, and I do believe that this could add $50 billion in capacity to our roads over the road bill period.

I appreciate the chairman's efforts to reflect FAST concepts in the bill and have been very open with him about my intent to offer this amendment, but my concerns are this in TEA LU: that it limits the ability to increase capacity by limiting its FAST-like sections to only three projects; it allows tolls to be charged on existing lanes; it allows tolls to be charged indefinitely; it allows funds raised under these toll programs to be diverted to other uses.

Long term, FAST-style fee lanes can be major solutions to relieving congestion but only if we preserve the trust of the driving public. The types of provisions included in TEA LU could lead to the same distrust and resistance that has resulted in every State referendum on increases in gas tax being defeated. When used with FAST-style protections, it has been accepted by drivers, as witnessed by a recent Minneapolis Star Tribune poll that shows 69 percent in support of FAST-style provisions.

I urge my colleagues to join those that are supporting us, because this is increasing capacity, like the Associated General Contractors, the National Ready Mixed Concrete Association, and the American Association of State Highway Officials, those who are users like the American Trucking Association, Owner-Operator Individual Drivers, NFIB, Food Marketing Institute, and taxpayer groups like the National Taxpayers Union, Americans for Tax Reform, and Citizens for Sound Economy to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. LIPINSKI) is recognized for 10 minutes.

Mr. LIPINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I commend my colleague from Minnesota for advancing a concept of how we are going to increase capacity. We have deep concerns, I think all of us, that we are in an ultimate downward spiral in terms of the revenue from user fees that provide the resources we need for funding America's transportation future.

While we have refused to index these fees for inflation, we find that there are increasing demands and stresses that are being placed. Ultimately, we are going to have more fuel-efficient vehicles, and that means that we are not going to reduce at all the wear and tear on our highways, we are not going to reduce the demands of congestion, but we will over time reduce revenues.

Now, I appreciate what my colleague from Minnesota and my friend from the State of Washington are doing in terms of helping expand this window. This is an approach that we should explore. However, the approach that they bring to us today is unnecessarily narrow. It would restrict it exclusively to highway projects. That is why you have opposition from the Surface Transportation Policy Project. That is why, in January of this year, there was an extensive correspondence from APTA that was shared with our ranking members and the committee chair that deal with the problems inherent in this.

It is inconceivable that we would not want to have a balanced approach to solving transportation issues. As we have seen in State after State, people want balance.

In Phoenix, one the second highest per capita usage of automobiles in the country, they had problems with road-only initiatives. It was not until they came forward with a balanced transportation initiative that allowed use for transit as well as roads that it had the public support.

The proposal here would preclude what is going on right now in San Diego, a perfect example of how we can use tolling. In San Diego, there are currently 22,000 daily fast track automobile customers generating $2 million a year to pay for the program's operating costs, and they provide $1 million in support of commuter bus service in the I–15 corridor.

Now, I am not here to say that we do not need to expand road capacity. In many cases, we do. I am working to do that with some of the bottlenecks between our States of Oregon and Washington. But to say, as this amendment does, that if you are going to move in the area of other alternatives dealing with tolling, that you cannot use proven, successful initiatives that would add transit, that would add bus rapid transit, it is unnecessarily narrow, restrictive. It is not the best solution.

I tried to have this conversation with the gentleman and his staff, to have a comprehensive solution like we have under ISTEA, like we have under TEA LU, where communities are given the choice to design the best possible solution. I think we could move forward, but if we are going to have something that is narrow, restrictive and turning back to the past, which is actually going to reduce public support as well as reduce effectiveness, I do not think it is worthy of our support at this point. I very reluctantly oppose.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. SMITH), my cosponsor in the FAST Act which had 73 co-sponsors and a perfect partner for bus rapid transit.

Mr. SMITH of Washington. Mr. Chairman, I want to thank the gentleman from Minnesota (Mr. KENNEDY) for bringing this issue up.

What we are trying to do is expand options to fund transportation solutions. As both gentlemen have pointed out, there are many limitations on that, and States throughout the country are struggling with their efforts to find the resources to fund the transportation solutions they want. This is one idea to basically make tolls an option for State projects so that they could receive Federal funds if they wanted to use those tolls to fund it and maintenance of that new construction. The amendment expands this to allow for whatever projects want to apply.

It is my opinion that the bill itself is actually narrower. It only allows an isolated number of projects to have these toll roads. It is not my understanding that this amendment in any way changes the current structure on mass transit. I am not certain that we currently allow Federal funds to go for tolling to fund that. But this amendment, to my understanding, and the gentleman from Minnesota (Mr. KENNEDY) can perhaps correct me, does not speak to what the gentleman from Oregon (Mr. BLUMENAUER) just talked about. It does not further restrict funds for transit. If it did, I would not be supportive of it. It expands what is available for roads.

Toll roads, by definition, are for roads. If there was some way to expand further to deal with mass transit, I would be in favor of it. It was my understanding that this amendment does not further restrict what the law already does. It targets one area and expands the opportunities, whereas the current bill only allows for an isolated number of projects to take advantage of this opportunity. As the gentleman from Minnesota (Mr. KENNEDY) pointed out, it is like three projects throughout the country that could get this, and obviously there are more than that.

So this is an opportunity to expand access to transportation opportunities, and that is why I support the amendment. My State and just about every other State I can think of desperately needs more funds for transportation. This opens up an avenue, a way for them to get those funds and build new roads and opens it up in a way that the public is likely to be supportive of. It funds specifically the road that they would be paying tolls on until it is paid for and the maintenance and care of it.

Getting public support for these issues has long been a challenge. We voted down the gas tax in the State of Washington on several occasions. This would be an opportunity to get people something that they want and expand transportation funds.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I reluctantly rise in opposition to the amendment. It is offered by a very valued and hard-working member of our committee. We have been working with the members of the committee on both sides of the aisle on the FAST proposal. Elements of it are contained in the bill before us. But the amendment as drafted would be disruptive to a number of aspects of the legislation that is currently on the books.

There is a three-State pilot program that would be repealed by the amendment, and there are also several new tolling proposals that are in this legislation that would be repealed by the proposal. We are not opposed to working with the Member and trying to perfect what is in the legislation as it goes forward, but as things stand at this point we oppose the amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I rise today in strong support of this amendment. I disagree with my good friend from Oregon. This does not restrict but expands the options to expand our highway and interstate system.

We do not have to stray very far from the Capitol here to see the congestion that plagues our Nation's roads. Try to drive out of here on a Friday afternoon, which I will, and we will see rush hour traffic that will slow and almost stop the movement of automobiles out of this city.

DOT reports that the average rush hour has increased 18 minutes between 1997 and 2000. Additionally, congestion costs our nation $65 billion annually in lost productivity and wasted motor fuel. The idle time spent in traffic increases transportation costs for U.S. businesses and robs drivers of time they could spend at home with their families.

We must find workable solutions. I believe we have one in this amendment. It is an innovative method of combating this problem. The amendment allows for voluntary collection of fees for construction of additional lanes on the interstate highway system. Specifically, the amendment will allow States to create high-speed toll lanes to be used by motorists willing to pay a toll. Under the FAST lanes provision, the fees are collected electronically; thus, no toll booths. There will be no back-up. The fees collected are then used to pay off the newly constructed lanes. When enough revenue is obtained, they pay off the cost of the expansion. The fees are eliminated.

Mr. Chairman, this amendment is a common-sense approach to dealing with our Nation's increasing congestion problems. The Kennedy amendment provides States with a voluntary means of raising revenues for expanding their highways as much as $50 billion over the 6-year life of this bill, and this approach will free up dollars for other essential transportation projects throughout our States.

Mr. Chairman, this amendment is a win-win for both States and drivers. So I urge passage of the Kennedy amendment.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to say that, in regards to this amendment, we have received word from the United States Department of Transportation that they have very serious concerns about this amendment; and I think that we should take that into consideration when we are weighing supporting it or opposing it.

I would also like to say at this time that in the existing legislation we have two different programs pertaining to tolling. One has to do with new toll ways; one has to do with rehabilitation.

□ 0930

A similar approach was taken 6 years ago to tolling where we had one program where three States could come into a program with tolling. We are far beyond that piece of legislation; and today, we still have no one that has involved themselves in the option of tolling underneath the old program.

So I really believe that rather than disrupt our bill and disrupt several significant sections of our bill, we should stick with what we have. There is actually an opportunity for six different States to participate in a tolling program for new tollways, for rehabilitation, and I think that that is the way to go.

I can appreciate what the gentleman is trying to do, but I really think it is too disruptive and there will be very few takers for it.

Mr. Chairman, I reserve the balance of my time.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Chairman, I rise today to support the amendment offered by my colleague, the gentleman from Minnesota (Mr. KENNEDY).

This amendment is about financial accountability, projects that are funded by our tolling. Tolling can be an effective method of financing critical road improvements, but it must be done fairly. Tolling should be reasonable. They should not be allowed to go on indefinitely as a tax on road users.

This amendment allows tolls on only new, voluntary-use lanes, and ensures that revenues are dedicated specifically to new highway capacity. It will reduce construction times and cut congestion in high-density areas.

I believe in giving States and local governments the maximum flexibility in dealing with traffic problems. This amendment provides that flexibility without sticking motorists with a permanent toll or travel tax.

I urge my colleagues to support the amendment.

Mr. LIPINSKI. Mr. Chairman, how much time do I have?

The CHAIRMAN pro tempore (Mr. NETHERCUTT). The gentleman from Illinois (Mr. LIPINSKI) has 3½ minutes remaining. The gentleman from Minnesota (Mr. KENNEDY) has 3 minutes remaining.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy, and I wanted to follow up on what my colleagues have said.

I agree with the sentiment of what my friend from Georgia said; but, in fact, the amendment that he was supporting does not provide that balance and that flexibility. That is why this amendment is opposed by the Surface Transportation Policy Project, by STPP, by ASSHTO, by APTA, because it does not provide maximum flexibility.

If you have a congested corridor, like we have in the Portland metropolitan area, you need a balanced approach. We are exploring, and discussing, the potential use of tolling. I think tolling is something that should be studied; but if we approve the approach of the gentleman from Minnesota, it would not permit the use of the tolling for any transit-related alternative, buses or rail.

It would not allow the use of these revenues to deal with reconstruction. In many of our areas, we have problems of congestion and mobility because there are some facilities that are falling apart; but under this amendment, the toll revenues would not be available for the reconstruction of projects, just new lanes.

It is not just a case of providing new transit lanes. Every community that is dealing with congestion knows that you have to deal with how you get on and off the connections, the interchanges, the bridges, and this amendment would not permit that. It is just those lanes.

In many cases, if you increase capacity and you do not have resources around it, I will tell my colleagues, as 10 years as a public works commissioner and having worked in over 100 communities around this country, that is a prescription for disaster.

So I strongly suggest that the concept be refined so that it can have a balanced approach, and then it would be worthy of the support of this body.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself the balance of my time.

I appreciate the comments from my fellow colleagues from Illinois and Oregon and just want to clear up a couple of possible misconceptions.

Our FAST Act does provide for those connections. It does provide for maintenance, and it is a perfect complement to some of the most efficient transit options that are out there in the form of bus rapid transit. If you use congestion pricing on a fast lane, which is provided for, you can make sure that everybody's going 50 miles an hour or above, make it a very attractive option for bus rapid transit. Bus rapid transit is allowed to use these lanes, paid for by the users, free. You can combine it with car pools.

So this is not something that takes away any of the funding for transit that is currently available, can be meshed with bus rapid transit in a very complementary fashion; and when we talk about capacity, six States were mentioned by my friend from Illinois, but it is only six projects in six States.

If we are concerned that this road bill does not provide enough capacity to end the congestion around the country that is keeping people stuck in their traffic too long and away from families and work, why are we not letting fully bloom the FAST Act which could be $50 billion or more if we then try to nitpick it around the six projects in six different States.

Furthermore, the tolling sections that have been put in prior bills and in this bill have so many caveats that they will likely never be allowed to be used. We need a new source of funding. This provides a new source of funding, allows projects like the Katy Freeway in Houston to get done quicker, therefore, cheaper, frees up resources from other projects where the FAST Act would not apply.

If there is a market for the road, the road can be built there. It embraces public/private partnerships. It would encourage us to address the needs that are affecting our economic competitiveness, and this is ultimately about a user choice.

Yes, this amendment would take away the ability to put fees on existing lanes. This is an amendment that does take away the ability to put tolls in existing lanes. We will lose the trust of the driving public if we do so, but it does provide a price-value relationship. You only do FAST if it is on new lanes; therefore, they are getting something in return for it. They are paid for.

If you are stuck in traffic at 10 o'clock in the morning, you should have a choice. Use crosses demographic background. It benefits everyone.

This is the pro-capacity vote. This is the pro-taxpayer vote. That is why it will be scored by the Americans for Tax Reform and the National Taxpayers Union.

I encourage my fellow Members to stand up for drivers around the country and support the Kennedy-Smith amendment.

Mr. LIPINSKI. Mr. Chairman, I yield myself the balance of my time.

In closing, I first of all want to say that the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee, strongly opposes this amendment. I have a statement by him which I will insert into the RECORD when we get back into the House.

The gentleman from Minnesota (Mr. KENNEDY) mentioned that there are numerous lanes that can be funded on an existing road. According to the legislation and the way I read the legislation, it is only possible to toll new lanes. You cannot toll existing lanes and improve them, bring them up to a higher standard.

Consequently, once again, I say we have to oppose this amendment because I think in the existing piece of legislation we have very good opportunities, carefully laid out, where if people wish to toll they can do so to build a new toll highway or they can do it to rehabilitate an existing highway.

So I think that this is an amendment that we really have done a better job with in the bill than this amendment would take care of. Consequently, once again, I say we oppose this amendment, and we would like to have everyone in this body join us in opposition to it.

Mr. OBERSTAR. Mr. Chairman, I am in strong opposition to this amendment.

The Kennedy amendment proposes to allow States to charge a toll on ever Interstate Highway across the country. Under the Kennedy amendment, the word "toll" should be spelled "T–A–X." That is because, under the Kennedy amendment, American drivers are taxed twice: first when they pay at the pump and again when they pay the toll on the highway.

The Kennedy amendment proposes to eliminate three programs included in H.R. 3550, the Transportation Equity Act: A Legacy for Users (TEA–LU), that are dedicated to reducing congestion and testing the introduction of tolls on the Interstate: the Congestion Pricing Program and two tolling pilot programs.

Instead of addressing congestion in a comprehensive, multifaceted way, this amendment takes the reckless, single-minded approach of authorizing the use of Federal funds to support adding toll lanes to existing Interstate highways. Essentially, it proposes a permanent, nationwide program of imposing tolls on new Interstate lanes.

Mr. Chairman, the two pilot programs in TEA–LU take a measured, smart approach to tolling. First, TEA–LU authorizes an existing program for reconstructing and rehabilitating existing Interstates, and establishes a similar program to cover construction of new Interstate highways. Each pilot program is limited to three States, and each toll facility is to be chosen by the Secretary of Transportation.

These steps will provide us with the opportunity to learn how effective Interstate tolling programs are at easing congestion and what we can do to improve their effectiveness.

Importantly, the programs in TEA–LU provide important protections against inequity and ensure that States are able to maintain their local roads adjacent to toll facilities in a condition sufficient to meet the traffic demands.

When an Interstate highway is tolled, inevitably some drivers will choose to use local, toll-free roads instead of paying the Interstate toll. When that happens, the local roads will likely see an increase in wear and tear and an increase in the number of accidents and injuries. TEA–LU would ensure that States can continue to maintain these local roads as they see fit. In contrast, the Kennedy amendment contains none of these important protections.

For these reasons, I urge a "no" vote on the amendment.

Mr. LIPINSKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KENNEDY of Minnesota. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) will be postponed.

It is now in order to consider amendment No. 23 printed in House Report 108–456.

AMENDMENT NO. 23 OFFERED BY MR. ISAKSON

Mr. ISAKSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. ISAKSON:

In section 1101(a) of the bill, strike paragraphs (1) through (3) and insert the following:

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,478,227,346 for fiscal year 2004, $4,551,839,370 for fiscal year 2005, $4,644,155,590 for fiscal year, 2006, $4,742,741,342 for fiscal year 2007, $4,859,076,291 for fiscal year 2008, and $4,966,297,676 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title, $5,373,872,608 for fiscal year 2004, $5,462,206,628 for fiscal year 2005, $5,572,986,299 for fiscal year 2006, $5,691,289,610 for fiscal year 2007, $5,830,891,142 for fiscal year 2008, and $5,959,556,398 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title, $3,842,568,497 for fiscal year 2004, $3,905,731,625 for fiscal year 2005, $3,984,944,542 for fiscal year 2006, $4,069,536,089 for fiscal year 2007, $4,169,358,435 for fiscal year 2008, and $4,261,359,876 for fiscal year 2009.

In section 1101(a) of the bill, strike paragraphs (5) and (6) and insert the following:

(5) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $6,269,517,870 for fiscal year 2004, $6,372,574,913 for fiscal year 2005, $6,501,817,007 for fiscal year 2006, $6,639,837,878 for fiscal year 2007, $6,802,707,011 for fiscal year 2008, and $6,952,816,137 for fiscal year 2009.

(6) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title, $1,522,597,463 for fiscal year 2004, $1,547,652,365 for fiscal year 2005, $1,579,013,023 for fiscal year 2006, $1,612,531,852 for fiscal year 2007, $1,652,086,163 for fiscal year 2008, and $1,688,541,453 for fiscal year 2009.

In section 1104(a) of the bill, insert "and" at the end of paragraph (1).

In section 1104(a) of the bill, strike paragraph (2).

In section 1104(a)(3) of the bill, in the matter proposed to be inserted, insert "projects of national and regional significance," after "highway safety improvement,".

In section 1104(b) of the bill, insert "and" at the end of paragraph (1).

In section 1104(b) of the bill, strike paragraph (2).

In section 1104(b)(3) of the bill, in the matter proposed to be inserted, insert "projects of national and regional significance," after "highway safety improvement,".

At the end of subtitle G of title I, add the following (and conform the table of contents accordingly):

SEC. 1703. SPECIAL RULE.

For purposes of calculating the minimum guarantee allocation of a State for a fiscal year under section 105 of title 23, United States Code, the Secretary shall not include any amounts received by the State for the project numbered 911 in the table contained in section 1702 and $17,000,000 of the amount received by the State for the project numbered 1061 in such table.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Georgia (Mr. ISAKSON) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Georgia. (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman from Alaska (Mr. YOUNG), the committee chairman, and the ranking member for their cooperation in allowing this amendment to come to the floor today.

My colleagues are getting ready to hear a lot of numbers. They are getting ready to see a lot of charts; but in the end, facts are stubborn things.

The current base bill, as presented, if passing the way it does, will reduce the minimum guarantee in the States from 90.5 percent to a scope of 84 percent. The amendment presented today by me and a bipartisan group ensures that the minimum guarantee will remain at 90.5 percent of 93 percent, as it was allocated on scope under TEA 21. Those are the facts. That is what everybody needs to understand.

Do not let any chart with any separate group of assumptions lead my colleagues astray. They cannot make 90.5 percent of 84 percent more than 90.5 percent of 93 percent.

Secondly, some will say it is a donor/donee issue, and to an extent it is; but if the base bill passes as it is, it exacerbates the donor States. All the donor States are asking in this is to maintain where they were under the last highway reauthorization bill.

I hope my colleagues keep those facts in mind. Facts are stubborn things. This is about equity to our States.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who seeks time in opposition?

Mr. LIPINSKI. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. LIPINSKI) is recognized for 20 minutes.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to this amendment; but for right now, I reserve the balance of my time until we get organized.

Mr. ISAKSON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, I join the gentleman from Georgia (Mr. ISAKSON) and other colleagues in supporting this very important bipartisan amendment.

Without our amendment, highway users in Georgia and other States would lose billions of dollars. Already, right now, highway users in Georgia and other States, like California and Texas and Florida, are contributing billions of dollars to other States to help with their transportation needs. For example, in the previous transportation bill, Georgia contributed $1 billion to highway improvements to other States, at a time when we have growing unmet needs for congestion relief and access improvements of our own.

In my own district, for example, I represent five of the fastest growing counties in this country, with untold transportation needs. All of the interstate systems intersect in my district, and yet we gave $1 billion in highway improvements to other States.

We are not asking to change any of this. We do not mind helping other States. We just do not want to take a step backwards. We want to maintain the status quo, hold on to what we have, and this bipartisan amendment would do just that. It will prevent a loss of $500 million just for Georgia and similar large losses for other States.

Our amendment simply prevents a 93 percent to 84 percent reduction in scope of number of programs that fall under the minimum guarantee, the provision in the reauthorization bill that guarantees that each State receives at least 90.5 cents for every dollar its motorists send to Congress through their gas and other taxes. Governors in California and Texas and Florida are not wrong. We must not take a step backwards.

I urge my colleagues to please pass this important bipartisan amendment.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Chairman, I thank the gentleman from Illinois (Mr. LIPINSKI) for yielding me time.

I have been here 10 years, Mr. Chairman, and I want to say that the other day in our Republican Conference, where this was discussed, the most eloquent talk on behalf of a State was given by the gentleman from Georgia (Mr. ISAKSON) on behalf of the citizens of the State of Georgia, and Georgians should be proud of his representation as well as the other Members who are sponsoring this amendment.

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Having said that, I think he is wrong, however. I am glad he brought up charts because I have three charts that have been given to me over the last couple of days. One chart prepared by the gentleman from Georgia's group shows that Ohio is getting $359 million more over the life of the bill, the 6-year bill; I have a chart that was prepared by the gentleman from Illinois that shows we are getting $225,000 more; and I have a chart prepared by the U.S. Department of Transportation that shows that we are losing $128 million.

Facts are stubborn things. Charts each make different assumptions in this particular debate. That is why the committee has always had the position that, look, the problem with this bill is we need more money. We need more money so we can fix the donor/donee State problem. We need more money so we can fix the distribution problem. But it cannot be fixed with this amendment. I would respectfully ask the sponsors who come from donor States, if the assumptions made under the DOT chart are right, Florida is losing $187 million and Georgia 28. If they happen to be right at the end of the day, then this is not going to be a good thing.

I would hope that the Members that are sponsoring this amendment standing up so valiantly for their States would let us try and work this out in a conference with the other body so we do come to a fair resolution and continue the growth that we had from ISTEA to TEA 21 and make TEA LU a bill that everybody can be proud of.

Mr. ISAKSON. Mr. Chairman, I yield myself 15 seconds. The difference in the charts are the assumptions. In the chart in question, we met with FHWA this morning. They assume the same basis in allocating the charts. Therefore, the numbers change. Numbers are moving all around but 90.5 percent of 93 percent still beats the basis in TEA LU.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. KELLER).

Mr. KELLER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of the Isakson amendment. It is going to benefit all States, donor States and donee states; but I am going to limit my remarks right now to the donor States. Who are the donor States? The 25 donor States are shown here in blue, the largest of which happen to be Florida, Texas, and California. If you are from any one of these 25 donor States, you would be smart to vote for the Isakson amendment.

It would be absolutely crazy for you to vote "no" on this amendment. I will tell you why. If you vote for this amendment, your State will do just as good as it did under the old transportation bill. If you vote "no" on this amendment, your State, on average, will get 10 cents on the dollar less. For example, Florida goes from 86 cents down to 76 cents.

Some of you have said to me, I am going to make up the difference by getting one of these projects of national significance. Here is the flaw. The Transportation Committee does not even have a complete list of the projects of national significance. They do not know what they are. Miss Cleo does not know what they are. Nostradamus does not know what they are. You do not know what they are.

You might get one. Well, I might win an Academy Award. I might win a gold medal. I might actually keep my New Year's resolution and lose 30 pounds. It might happen. It probably will not happen. The one thing I know for sure is if you vote for Isakson, your State is going to get more.

You came here to represent your people. You came here to fight for your State. Do the right thing and vote "yes" on Isakson.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I have great respect for the gentleman from Georgia, as well as my colleague from Florida, the gentleman who just spoke. But I think the key issue on this amendment is the uncertainty of it. They have an analysis by the Federal Highway Administration. We have seen an analysis by the Federal Highway Administration and it is unclear. The Federal Highway Administration says that this amendment is going to cut funding in this bill by $3.7 billion, which means that many States would lose money. I think because of the uncertainty of it, as the gentleman from Ohio said, let us work in conference to fix this problem. There is not enough money in this bill. I think all of us are disappointed that we could not get more money into this bill to fix the donor/donee State problem. But, as I said, the uncertainty, the numbers that I show here, a State like California is going to lose $550 million; Illinois, $346 million; Texas, $275 million over the life of this bill.

Again, I come back to the uncertainty of this. Let the committee get into conference, let us try to work out our problems, but I would urge a "no" vote on this bill today because of that uncertainty. We are going to pass this thing and who knows what happens.

Let us work towards getting into conference, and I believe the chairman and the conferees will make the proper adjustments on this bill.

Mr. ISAKSON. Mr. Chairman, I am very pleased to yield 1½ minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, it is unfortunate that we have a piece of legislation here that seems to divide our States and our Representatives from those States, but frankly this really is not a fair bill to many of our States.

When we bring appropriations bills to the floor, we do our very best, and I think people on both sides would agree, we do our best to make sure that we play fair with everybody in this Chamber. I have looked at the original bill, I have looked at the proposed amendments, I have looked at the manager's amendment; and all I can see is that taxpayers and the highway users in my State of Florida are not being treated fairly.

I understand that there are some very nice incentives in this bill for Florida and for other States that are supporting the gentleman from Georgia. My vote is not going to be bought off because there are some very nice projects in this bill for Florida. I am still going to vote for the amendment offered by Mr. ISAKSON. If we cannot pass Mr. ISAKSON's amendment, I will vote against the bill because it is not a fair piece of legislation for a large part of this country.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, some Members have argued that we should include portions of regional or national significance under minimum guarantee. These projects by definition are vital to the Nation as a whole and should not impact formula distribution to the States.

Let me give you a classic example. Whether you are on the west coast in Oregon or the east coast in the Port of New York-New Jersey, we have a problem. It is called the congestion in the hub in Chicago. You have got to do something. I want to put a lot of money in Chicago to solve that problem. Does that mean because we are dealing with a problem of national significance we should penalize Illinois and have it taken from its allocation? Of course not. This is a Nation. We are dealing as a Nation. We are not just dealing in little individual States.

When I look at this Isakson amendment, it is almost like a roll call of a who's-who of States. State after State would lose under this. Alabama, Alaska, California, Connecticut, it goes on and on and on.

Mr. Chairman, this does not make sense. We are a national legislative body, not a State legislative body. Let me tell the gentleman from Florida about fairness. I have the highest regard for him, but New Yorkers are not treated fair in so many different categories. I could make a persuasive argument. The gentleman treats us fair, I know it; but we send more than $20 billion to Washington than we get back. Do we complain? Of course we try to jimmy and work some things out to get a better distribution of funds, but the fact of the matter is we recognize we are part of a Federal system and we look at the Federal approach. This is one of the few programs that treats us well.

Let me praise the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) for the outstanding manner in which they have handled this. But when all is said and done, this amendment, while well-intended, does damage to the national system; and I urge its opposition.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 1½ minutes to the distinguished gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Chairman, I thank my colleague from Georgia (Mr. ISAKSON) for bringing this amendment. When Congress passed TEA 21, the folks in Georgia and the Nation breathed a sigh of relief. We all felt we were making progress toward receiving an equitable share of highway funding and the jobs that followed. The Congress at that time adopted a minimum guarantee of 90.5 percent of Federal fuel tax dollars. Unfortunately, this guarantee was applied to only about 93 percent of available funds, making our effective return somewhere between 84 and 87 percent. Not good, but we could live with it.

Unfortunately, it now appears that we are moving in the wrong direction. The current bill will drive the effective minimum rate down substantially because the rate of return is 90.5 percent, but it only applies to about 84 percent of highway dollars. Mr. Chairman, this is unacceptable. I represent one of the most neglected States and districts in the country. We must have a reasonable return on the taxes that we pay in motor fuel tax dollars.

I commend Chairman YOUNG for working with us to achieve fairness and equity. I am sure that he will in conference continue to support fairness; but with all due respect, we cannot regress. I urge that you all vote for transportation fairness and the Isakson amendment.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

The committee has worked a long, long time on this bill. Everyone would like to have more money, but because of the administration, we do not have more money. This bill is a very fair bill to every single State in the Union. It is really beyond my comprehension that there allegedly are people in States that are going to support this amendment whose States would lose tremendous amounts of money. I hear that there are people in California going to do it. That State would lose over $282 million if they supported that amendment. I hear people from Florida talking about supporting this amendment. That State is going to lose $35 million if this amendment passes. My own State of Illinois, a donor State, would lose $140 million underneath this amendment passing. Iowa, $61 million; Kansas, $21 million; Louisiana, $31 million; Maine, $25 million; Maryland, $84 million; Massachusetts, $34 million; Minnesota, $36 million; Mississippi, $14 million; Missouri, $27 million; Nebraska, $25 million; Nevada, $41 million. These are hundreds of millions of dollars.

The list goes on and on: New Jersey, New York, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin. All those States would be deprived of valuable transportation and infrastructure funds if this amendment passes. Conversely, the program we have set forth here is as fair as possible considering we wanted a bill at $375 billion and thanks to the White House we could only come in at $275 billion.

Mr. Chairman, I reserve the balance of my time.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. I thank the gentleman for yielding me this time.

Mr. Chairman, this is an amendment simply about fairness. We can try to complicate this issue with all kinds of charts, all kinds of numbers, and all kinds of formulas; and we can all find a chart or a formula that is going to serve our particular opinion. But the bottom line is this: every State in the Nation sends money to the Federal gas tax trust fund and every State, for every dollar they send, they may get a little bit more or a little bit less back. But under TEA LU as it currently stands, every single State in this Union gets less of a minimum guarantee. As an example, the State of Indiana currently gets about 88 cents for every dollar we send in. Under TEA LU, we will get 76 cents back. But this is not about Indiana going backwards. This is about every single State in the Union going backwards with their minimum guarantee. There is no chart that can dispute that. There is no formula that can dispute that.

This amendment is simply about fairness, about no State going backwards and about staying where we are, so every State can get the minimum guarantee that they currently enjoy and not go backwards. That is why we need to pass this amendment, because it is about fairness for every single State in this Union.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I rise in opposition to this amendment. It is quite clear with the dueling charts that are going on, there are very few, if any, Members of the assembly here who will actually know the impact on their States if this amendment is passed in terms of dollars and cents. But there are things that are very clear: one is that this has the effect of pulling the rug out from underneath the broadest coalition we have ever had developing infrastructure needs in this country. That would be tragic if all of a sudden we are going to be pitting the truckers versus the Sierra Club versus the bikers and the providers of concrete and asphalt and the historic preservationists. That would be wrong and it would have long-term, serious negative consequences for people that want a comprehensive approach to infrastructure.

I find no small amount of irony that for the people who are standing up in protest, the problem is it is self-inflicted. If we had before us the bill that the Senate passed overwhelmingly, that dedicates the trust fund balances, that does not rob money from transportation to deal with international corporate issues, we would have the resources available to put $3 billion for California, $2.5 billion for Texas, $1.6 billion for New York, $1.5 billion for the State of Florida and $1.1 billion for Georgia.

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What we have done is place impossible demands on the committee leadership to parse this out in ways that are unrealistic. And approving this amendment is illusory. It is not going to make it any simpler. It is going to make it harder. They are not going to know what they end up with, and they are going to be fraying this coalition.

But if the Members are really concerned about imbalance, look at metropolitan areas most of us serve, and look at how little they get back on the dollar. It is far less than the State donor-donee. It is more serious, and our constituents back home ought to hold us accountable for that.

Mr. ISAKSON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, my dad used to tell me life is not fair, but we almost always get out of things what we put into them. Sadly, that is not true for the highway bill, but really it has never been. But in the last highway bill, Congress actually made States like my home State of Indiana get at least 90½ cents back on every dollar we paid at the pump in gasoline taxes. But this highway bill that we will consider today actually reduces that amount by about 10 cents on the dollar, for every State in the Union, as my friend from Indiana just said.

The Isakson amendment asks only this: Keep the 90½ cent minimum guarantee for every State in the union just the way it is. We are asking to keep the status quo. Let us keep things the way they are.

Life is not fair, but the way we use taxpayer dollars in the highway bill should be.

Mr. LIPINSKI. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I rise in opposition to the Isakson amendment, which would include high-priority projects as well as projects of national regional Significance within the minimum guarantee program.

Supporters of the amendment claim that by including these projects, which are really Member earmarks, in the minimum guarantee program, funding to States' core programs will be increased. The amendment, however, will actually hurt many States' core programs because Member projects are earmarked and thus not available for States to use on their existing capital plans. Under the existing legislation, California, for example, without the amendment will get its apportioned funds for use in its existing core programs plus the $1 billion it currently has in earmarks. Therefore, it makes no sense for Californians, for example, to vote for this amendment.

The amendment is also dangerous because to include projects of national significance in the minimum guarantee is to negate the entire program of projects for national significance. This category was established to fund projects that have a national significance and impact and that require a significant amount of funding. Eligible projects must be at least $500 million or 75 percent of the State's entire annual highway apportionment. If a project this size were counted against a State's allocation, the State would have virtually no money for its regular core program or existing capital plan. As a practical matter, no State would seek funding under this program.

The purpose of the program is to fund projects of national significance that normally would not get funded because of their multi-State nature or their size. These projects may be necessary because of our national trade policy or to improve national security. It makes no sense to count these projects against a State's formula allocation.

The reality, of course, is that this amendment is offered because its supporters are upset about the minimum guarantee, that it does not rise from 90.5 percent immediately. This amendment will do nothing to address that concern and will in fact punish many States in the process.

I disagree with that position. I believe the minimum guarantee should stay where it is. But if they are upset that funds are allocated 90.5 percent, why would they want to put more programs under this formula? Why not allow all States to receive funds in addition to those allocated by formula? Including projects of national significance in the minimum guarantee certainly does not help them as it has nothing to do with the donor/donee issue. Under this amendment, neither the country as a whole nor any State would be able to benefit from this program, and the whole initiative which is of national significance would be rendered useless. The money would go to waste.

This amendment undercuts much of the progress made in the underlying TEA LU bill, and I urge my colleagues to vote against it.

Mr. ISAKSON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

There are a lot of figures that are running around this floor, but I can tell the Members that what comes to my mind is that figures do not lie, but liars can figure. I am not saying people are lying here, but I think this body is totally confused about what is going on.

Only ask yourself this one question: Is getting back 93 percent or applying the formula to 93 percent worse than applying it to 84 percent? Is 93 percent more than 84 percent? Under the Isakson amendment, every State would be guaranteed a higher level.

In Florida, we plugged these figures in. Florida will send $12 billion in Federal gas tax to Washington under this bill but receive back only $8.5 billion. That is not fair, and I can tell the Members right now, a lot of people who are listening to this debate are totally confused. But the fact is that the States of Florida, California, Georgia, Indiana, Michigan, North Carolina, Oklahoma, South Carolina, Texas, and Missouri are taking a whipping under this bill, and it is not fair.

All we are asking for is equity. We are not asking to get all our dollars back. We wish we could. We are not asking to get them all back. All we are saying is, do not hurt us more than we are already hurt under existing law.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, there has been a lot of discussion about this amendment and whether it is fair or unfair. I oppose the amendment because I believe the amendment is unfair to Connecticut.

The issue is, what do we get back from the Federal Government? If we look at the aggregate number of dollars that Connecticut gets back from the Federal Government, for every dollar submitted it is 65 cents, 65 cents. That is the second lowest return in the Nation. Florida gets a buck plus. Georgia gets a buck plus. So if we look at the aggregate dollars, there is a whole new picture here.

Why does Connecticut get more transportation dollars than some of the other States? It is very simple. Because if we look at the interstate highway system, the roads converge on New England; and if we look at Connecticut, the New England roads converge on Connecticut. It is a tiny State with six interstates. We need those dollars to support those roads. They are bumper to bumper, not just every weekend or in the summer. They are bumper to bumper every day. And that is why we get more transportation dollars.

The committee compromise is fair. It is a compromise. People do not like compromises. Nobody likes a compromise. But the committee compromise is fair. Vote against the Isakson amendment.

Mr. Chairman, I submit the following document for the RECORD.

CONEG,
Washington, DC, March 30, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House prepares to act on H.R. 3550, the Transportation Equity Act: A Legacy for Users (TEA-LU), the Coalition of Northeastern Governors (CONEG) urges the House to maintain its support for the proven needs-based structure of highway and transit programs that have resulted in improved conditions and safety of the nation's highways, bridges and public transit systems.

The Governors appreciate the work of the Transportation and Infrastructure Committee to provide the House with a bill that maintains the effective and proven program and funding structure of the Transportation Equity Act for the 21st Century (TEA-21). In an environment of severe fiscal constraints, the Committee faced difficult choices, and in H.R. 3550, seeks to balance the many diverse interests and demands placed upon the program and available funding. We recognize that addressing all these interests will require more robust funding for federal surface transportation programs.

As the House now takes up H.R. 3550, we urge you to:

Hold firm against any additional changes in highway formulas or transit funding that could adversely impact the core highway programs and transit funding. Additional reductions in core highway programs could undermine flexibility and impede states' efforts to maintain and improve their transportation infrastructure, address congestion and respond to the particular needs of the communities they serve. Equally important, a loss of core highway program funds could hinder a state's ability to move forward with plans and projects already underway in our states, and lessens the immediate job creation and economic development benefits of the pending transportation investment. At the same time, we strongly urge you to keep high-priority projects and projects of national and regional significance out of the "minimum guarantee" calculation.

Protect the transit program: We urge you to maintain the Committee's actions to protect and increase public transit funding and largely maintain the current transit program structure, including the traditional 80/20 split of Highway Trust Fund revenues between the Highway Account and the Mass Transit Account. We welcome the increased investment you have placed in our nation's rural transit systems, and urge you to continue to invest in the grwoth of our nation's urban and most heavily used transit systems. Continued growth to support the critical, existing fixed-guideway modernization program (Rail-Mod) and the bus and bus facilities programs, as well as support for the rural, elderly and disabled transit programs are vital to providing essential mobility for individuals in communities large and small across the nation.

Maintain the firewalls and funding guarantees for highways and public transit. We appreciate the Committee's strong commitment to preserving the firewalls and General Fund guarantees for highways and public transit, and we urge the House to continue this commitment. Over the years, these mechanisms have proven successful in providing the funding predictability that all states need to meet their transportation needs. It is essential that both the firewalls and the General Fund guarantees for transit be maintained.

We stand ready to work with you to advance a surface transportation program that addresses these important programs and allows all the states to work together to address the critical transportation needs of the nation.

Sincerely,

MITT ROMNEY,
GONEG Chairman, Governor of Massachusetts.
JOHN BALDACCI,
CONEG Vice-Chairman, Governor of Maine.

Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. MARIO DIAZ-BALART), a real leader on this amendment.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, under today's law, every State, every single State, is guaranteed 90.5 percent of 93 percent of the transportation budget. And the distinguished chairman of the Committee on Transportation and Infrastructure who, by the way, has been wonderful to work with, has said that he would like to work to improve that number, that he believes that the donor States should be a little bit improved. But the problem is that the bill that is in front of us today does not improve it. It makes it worse. It is no longer like current law that every State will get 93 percent of the transportation budget. No. Every State goes down to 90 percent of 84 percent of the entire budget.

I am not the smartest guy in the world, but nobody can tell me that 90 percent of 93 is worse than 90 percent of 84. Not even in Washington can we make those numbers make sense. So this is a reality. If we believe that the donor States are paying too much, we should not hurt them worse.

Let us be very clear about what the amendment does. The amendment does not do what all of us want it to do, make it better for the donor States. All the amendment does is keep it to current law so that every single State has exactly the same formula that we are living under today. Is that good enough? I do not think so. But, please, what makes no sense is to hurt every single donor State to provide projects that we keep hearing about of national significance that are not in the bill. It is a theory. It is not real. Those projects are not in the bill. So we do not know what we are buying, but every single donor State knows what it is losing. That is not fair.

Mr. LIPINSKI. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, the last speaker was talking about the current law. Just a little history for the body. Up until the Senate managed to overrule the House 6 years ago and took the Members' high-priority projects and placed them inside the formula funding, the House of Representatives, and the Senate up until last time, has always kept the Members' projects outside of the bill.

It was easy enough to accept that the last time around, because underneath the gentleman from Pennsylvania (Mr. SHUSTER) we raised the amount of money going into the Highway Trust Fund, the amount of money available for highways and transit, very significantly so those Members' projects could be included within the formula. Unfortunately, we are not in that kind of position today.

Secondly, the gentleman mentioned the projects of national significance. I know it is very true that it is not a delineation of what is going to be in there, but there has been $6.6 billion set aside for these projects.

We on the committee have talked to a number of people who have very significant projects they would like to put in there, but we decided not to make that decision until we get to conference so that in the event the Senate would like to add some additional money to the projects of national significance or if we can get the administration, along with the Senate, to increase the amount of money going into this bill, we will be able to address more needs of this Chamber.

I have been in this body for 22 years. So often discussions such as this on the floor are simply discussions of people wanting to get more into the bill because they are unhappy with the bill. But in most cases the committee position has been sustained, and I certainly hope and I believe it will be sustained today because this bill is the best bill for the country.

Mr. ISAKSON. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time and for bringing forth this crucial amendment.

We learned overnight that more than $1 billion was added in earmarks to this project. This bill is out of control, and unless we have the Isakson amendment, there is simply no semblance of equity to this bill.

If this amendment fails, we have only one recourse and that is to ask the President, Mr. President, please veto this bill. Please veto this bill. This Congress is out of control, and it is in desperate needs of some adult supervision.

With that, I ask for support for the Isakson amendment.

☐ 1015

Mr. ISAKSON. Mr. Chairman, I yield 30 seconds to the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Chairman, I thank the distinguished gentleman from Georgia for yielding me time and for his leadership on this amendment.

Mr. Chairman, this amendment is an important step toward restoring equity to this process. The growth in America, the demands on our infrastructure and the demands on our roads have moved to the South and Southwest, and this formula does not reflect that.

There is $50 billion in new money in this bill for highways over the last one, and yet the growth States move backwards in funding. That is simple math that is indisputable and cannot be explained but can be corrected with the Isakson amendment.

If the projects were so nationally significant, why will you not tell us where they are? If they are so nationally significant, why are they not in the bill?

Mr. LIPINSKI. Mr. Chairman, I reserve the balance of my time.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 30 seconds to the distinguished gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I commend the chairman of the committee for his hard work on this bill. It is very difficult to allocate these funds. He has tried to allocate them as fairly as possible. The difficulty is the donor States such as my State want a guarantee that they will get a certain amount of money back, and that is precisely what this amendment does.

The State of Michigan over the years has contributed $1.71 billion more to the Federal highway funds than it has received back. They are 48th in the list of 50 States as to how much we get back from the Federal Government compared to the amount of money we send there. This is a very sore point in Michigan.

Mr. Chairman, this amendment will guarantee a rate of return for my State, and that is extremely important for my State, to receive that guarantee.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Chairman, I rise in support of the Isakson amendment, which would seek to simply elevate the scope of the minimum guarantee from 84 percent in TEA LU up to 93 percent, the level in TEA 21. Basically, for the State of Georgia this means instead of getting 76 cents back on every dollar, the citizens of Georgia would get 84 cents back on every dollar. That is our money, and it is only fair.

I strongly support the Isakson amendment.

Mr. LIPINSKI. Mr. Chairman, I reserve the balance of my time.

Mr. ISAKSON. Mr. Chairman, it is a privilege to yield 2 minutes to the gentleman from Florida (Mr. MICA), a distinguished member of the committee and a good friend on this issue.

Mr. MICA. Mr. Chairman, I am privileged to serve with some great people on the Committee on Transportation and Infrastructure, led by the gentleman from Alaska (Mr. YOUNG). I want to take this opportunity to thank him, the gentleman from Minnesota (Mr. OBERSTAR) and others who have worked on this bill.

Mr. Chairman, this is a very difficult issue, because this decides how we divide our transportation dollars that come to Washington.

There are certain facts in this debate, and you just heard one of them. There is a substantial increase in the amount of highway money, in fact, some 25 percent increase in this bill. We have been asked to really leave the final decision of division of the funds up to the conference.

I have great faith in the chairman, I have great faith in the ranking member, the Speaker, the majority leader and others who have expressed their commitment to resolve this fairness issue, and that is what it is, in conference. But this amendment goes to the core of the problem, and that is the distribution. Rather than to leave it to chance, this Isakson amendment does in fact guarantee a substantial and fair increase to every State.

Now I know that we need projects of national significance, but I will tell you, I come from a State that has many projects of State and community significance, and they will be left out if we do not address this from a fairness standpoint and address it in the bill now, so every State, every State, benefits.

Look at the calculations. I know figures have been floating out there, but every State will benefit by the Isakson amendment. When we go to conference, we will be in a better position to address this fairness issue.

Mr. Chairman, I know the leadership has done their best to resolve this, I know they have committed to solve it in conference, but, again, the fact is in dollars and cents to each and every State, and particularly those States that have suffered, we need to resolve this and adopt this amendment. That will do the job.

Mr. Chairman, I ask for the consideration of Members.

Mr. LIPINSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I reluctantly urge a no vote on the gentleman's amendment.

Every State in the Union gets an increase in Federal dollars in this bill. The distribution of all these Federal dollars depends on highway traffic on Federal highways. When one State says they gave $12 billion through the Federal gasoline tax and excise tax, that is true, but all that money did not come from that particular State. That money comes from people that transit all over the Nation.

The gentleman from Connecticut talked about several interstate highways intersecting in the small State of Connecticut, so their proportion needs to be dependent on the Federal highway traffic on Federal highways.

Mr. Chairman, I urge a no vote.

Mr. ISAKSON. Mr. Chairman, it is a pleasure to yield 30 seconds to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I just wish to address the two concerns that have been raised by those who are critical of this amendment. Those issues are time and money.

They raise the suggestion that all we need now is more time and more money. I simply remind them of the fact that this committee has had, quite honestly, literally months, over a year, to work on it. I would ask for a show of hands. Who would ever expect we would get a better bill out of committee on this? I do not think time will solve the issue.

The other portion is money. Those on the other side also object, all we need is more money. I would remind them of the fact, if we could get more money, where will that money come from? All those people who are donor States please raise your hand, because it will be coming from us, the donor States.

Time and money is not the solution.

Mr. ISAKSON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). The gentleman is recognized for 2½ minutes.

Mr. ISAKSON. Mr. Chairman, the gentleman from Alaska (Chairman YOUNG) is a good man with a difficult job, the gentleman from Minnesota (Mr. OBERSTAR) is a good man with a difficult job, and there are 433 other Members of this House who are good men and women with a difficult job. But fair is fair, and facts are facts.

The money that flows in that we are talking about spending today is a user fee based on the use of roads in each of the States. It is only right that States get back at least a semi-equitable portion of the use of their roads that generated the revenue that this Congress has dedicated.

There are no losers in the base bill or in this bill in aggregate dollars, because there is more money being spent, but there are big losers in terms of States in this country who already are donor States and are being reduced to a lower percentage.

I do not have the luxury of promising designated projects, and I do not know where ultimately they will or will not go, and I am not complaining about that. I am not a chairman, and I am not senior. But I will tell you one thing: The people of Georgia elected me, and they sent me here to represent them, and they should understand and expect a basic minimum guarantee that is at least the same as they have been used to.

Fair is fair, and facts are facts. There are a lot of loose numbers floating around, because, very frankly, we do not know where all the numbers are. But there is one irrefutable fact: 90.5 percent of 93 percent beats 90.5 percent of 84 percent, no matter whether you use new math, old math or trigonometry.

This is about equity, this is about fairness, this is about representing the people who sent us to this Congress.

I am grateful for the opportunities that have been afforded all these Members, from Indiana, Florida, Georgia, New Jersey, Arizona, all over the country. This is not a provincial issue. This is a people's issue. This is about doing what is right.

We have great leadership on our committee. They have done a good job. But this bill needs improvement. The legacy for users in America should not be an inequitable distribution of the money they sent to Washington because of the use of their roads.

Fair is fair, and facts are facts. I urge a yes vote on the Isakson amendment.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. LIPINSKI) has 4¼ minutes remaining.

Mr. LIPINSKI. Mr. Chairman, I yield 4¼ minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me time and for his management on our side. It is splendid work.

Again, I express my great appreciation and admiration for our chairman of the full committee, the gentleman from Alaska (Mr. YOUNG).

Mr. Chairman, we had a very thoughtful debate here, and it is maybe one of the better hours of this body. There has been no haranguing and no questioning of motives or of spirit, and that is good.

But last night I received this Dear Colleague from the gentleman from Georgia, which does make rather a amazing claim, that the Isakson amendment would keep the TEA LU highway program at $207 billion and adjust the formulas, with a claim that if the adjustments are made, every State would get more money.

Well, the gentleman from Alaska has produced a chart that shows that every State loses under that formulation.

I will say it again: The claim is TEA LU has $207 billion for the highway program. The Isakson amendment has $207 billion of grants and claims that every State gets more money.

Well, that is pretty slick math. I just heard a reference to trigonometry. I do not know if you go into algebraic formulations, but it does not work. Trying to make it work has resulted in an apples-to-oranges claim.

I have been at this highway transit issue for about 40 years, since I started up here as a staff person. My predecessor was one of the five coauthors of the Interstate Highway Program and the Highway Trust Fund.

Not every State gets everything back that it puts into the Highway Trust Fund. The idea is that we are a mobile society. People travel from one coast to the other, from the North to the South, as the gentleman from Maryland just referenced a little bit ago, and the idea is we all help each other.

The problem with the Dear Colleague and with the claim of benefiting everybody is that it does not credit the States with any portion of the $6.6 billion mega-project program, and that is not right. Mega-project funding will go to the States. We are not specifying which States, who will get it, how it goes out. That will be done under a distribution that will be made by a fair and equitable process to determine net regional and net national benefits from projects that unlock congestion knots in this country. So when you add the $6 billion, every State gets more.

Now, who gets what? Under the highway funding of TEA LU, Florida gets $751,632,870 more. Georgia gets $450,800,700 more. Texas gets $1,728,467,545 more. Every State gets more under TEA LU. Every State would get vastly more if we had this bill at the $375 billion level which we introduced.

□ 1030

The issue is not percentages; do not tinker around with that. Look at the net national benefits.

Mr. Chairman, I just want to say, our national motto, e pluribus unum, "out of many, one," it is not e pluribus pluribus, "out of many, many." We are a Nation, an inclusive Nation. Those dollars that Georgia and Florida claim make them donor States come from States all along the eastern seaboard and from the Midwest. That is what we are about, one Nation, benefiting everybody. Vote for TEA LU, vote down Isakson.

Mr. BILIRAKIS. Mr. Chairman, I rise today to express my support for the Isakson amendment because it attempts to maintain the status quo for all the donor States by including earmarks and Projects of National and Regional Significance in the SCOPE of programs covered in the Minimum Guarantee program.

In TEA–21, 93 percent of the programs were included in the Minimum Guarantee, including the High Priority Projects. In TEA–LU, as written, the SCOPE is reduced to 84 percent of the programs. For Florida, that means $860 million in lost guaranteed funds over 6 years. This would be a huge step backwards.

Mr. Chairman, it's simple math. H.R. 3550 keeps the equity guarantee at 90.5 percent, but reduces the coverage of the guarantee to a smaller piece of the total pie. This will cause Florida and other States to lose hundreds of millions of dollars.

The Isakson amendment requires no additional funding. This amendment simply asks that we keep things the way they were in TEA–21. I urge my donor States colleagues to support this amendment, for the sake of their State.

Mr. NORWOOD. Mr. Chairman, I rise today in strong support of the amendments offered by my good friend Mr. ISAKSON to address the backwards slide in minimum guarantee that this transportation reauthorization bill would impose on a number of States—including my home State of Georgia.

Simply put, previous transportation bills have asked the hard-working folks in Northeast Georgia's 9th District to send more money to Washington . . . and see less money find its way back.

But this bill (H.R. 3550, TEA–LU), asks those same hard-working folks to send even more money to Washington . . . and see even fewer of their tax dollars make their way back to Northeast Georgia to improve the roads and conduct essential transportation improvements . . . and that's just as wrong as the day is long.

Consider the numbers. Under current law, every State is guaranteed a 90.5 percent return on each dollar of gas taxes it submits to the Federal government. And when the 1998 TEA–21 language became the law of the land, 93 percent of programs were included in the minimum guarantee, including high priority projects and projects of national and regional significance that are important to Georgians and others from States who pay so much more than ever comes back.

But under this bill, under TEA–LU, States' core funding programs would be decreased from a 90.5 percent share to only 84 percent of the programs. Don't forget, this includes "High Priority Projects and Projects of Regional Significance."

For the average State, this reduction in scope will result in the loss of $300 million over the lifespan of the six-year legislation. In fact, the State of Georgia could stand to lose between $500 and $600 million.

Mr. Chairman, I have stood on this floor time and time again to preach the need for this Congress, and this Federal government, to exercise fiscal responsibility and live within our means—much like Georgians and all Americans do every single day. I also clearly recognize the need to meet this Nation's critical transportation infrastructure funding needs. Taking money from Peter to pay Paul, accomplishes neither objective . . . and in fact, only seriously jeopardizes the future infrastructure needs for millions of Americans.

Mr. Chairman, it is absolutely imperative to include high priority projects as well as projects of regional and national significance in the Scope formula for H.R. 3550. Make no mistake, we can do better . . . but by at least returning to a 90.5 percent minimum guarantee on 93 percent of the programs addressed in the Transportation Reauthorization Act, this Congress rights a major wrong contained in TEA–LU.

I urge my colleagues to do just that by supporting the Isakson amendment.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). All time has expired.

The question is on the amendment offered by the gentleman from Georgia (Mr. ISAKSON).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ISAKSON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

Mr. YOUNG of Alaska. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHAW) having assumed the chair, Mr. NETHERCUTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER BEFORE CONCLUSION OF AMENDMENTS PERIOD OF FURTHER GENERAL DEBATE IN COMMITTEE OF THE WHOLE DURING FURTHER CONSIDERATION OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3550 in the Committee of the Whole, a period of further general debate contemplated in a previous order of the House of March 30, 2004, may be in order before the conclusion of the consideration of the bill for amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. OBERSTAR. Mr. Speaker, reserving the right to object, is that the full extent of the agreement, just general debate on each side?

Mr. YOUNG of Alaska. Mr. Speaker, if the gentleman will yield, yes, that is correct.

Mr. OBERSTAR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore (Mr. SHAW). Pursuant to House Resolution 593 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3550.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. NETHERCUTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 23 by the gentleman from Georgia. (Mr. ISAKSON) had been postponed.

Pursuant to the order of the House of today, it is now in order for a period of final debate on the bill. The gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 5 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I hope everybody that is standing around will listen for a few moments as a matter of courtesy, because I have to refer back to one of the former speakers from New Jersey who said we had plenty of time on this bill, and we should have done better. I can tell my colleagues, we have done everything we could possibly do, because we had to really write three different bills, which is very difficult to do, because the numbers kept changing and kept floating. But every time we had to change, the staffs on both sides, on this side and that side, majority and minority, had to go back and rewrite most of the legislation each time.

So at this time I would like to acknowledge not just the work of the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) and the gentleman from Wisconsin (Mr. PETRI), but those who really did the work: Levon Boyagian, Graham Hill, Jim Tyman, Joyce Rose, Mike Lamm, Sharon Barkeloo, Melissa Theriault, and Ryan Young. He is not my son, either; he is no relation.

Also, Debbie Gephardt, not the daughter of the gentleman from Missouri (Mr. GEPHARDT), either; Patrick Mullane on the gentleman from Wisconsin's (Mr. PETRI) staff. They were the real behind-the-organization workers.

Also my chief of staff, Lloyd Jones; Liz Megginson; Charlie Ziegler; Mark Zachares; and Fraser Verrusio, Debbie Callis and John Bressler.

I would also like to thank the minority staff. I can tell my colleagues with sincerity that the minority staff, because the majority staff would come to me and say, the minority staff is not working with us; and the minority would say the majority staff is not working with us but, in the long run, we all got together and solved, I think, a lot of very serious, contentious problems and philosophies and where this bill was headed.

I also want to thank David Heymsfeld, Ward McCarrager, Clyde Woodall, Ken House, Katherine Donnelly, and Art Chan. On the staff of the gentleman from Illinois (Mr. LIPINSKI), Jason Tai.

There are many others, and would I like to thank all of the members of this committee that worked with me and have stood by me; and those that object to provisions in this bill, they have my assurance that I am going to try to make sure that we solve those problems in conference. I have been one that does not weaken very easily when it comes to working with the other body. And if we stand shoulder to shoulder, I think we can solve those problems that have been brought to the floor. We hope to do so. I am confident we can.

Again, I am extremely grateful for those who put all the time in, 4 o'clock in the morning, 5 o'clock in the morning, and back here, like today, at 9 o'clock in the morning. This is a large legislative package, and we could not have done it without the hard work and dedication of professional people, I want to stress that, professional people; and for that, I extend my sincerest thanks.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself 1 minute to join with the chairman in complimenting the staff on both sides and expressing deep gratitude. As a former staff member myself, I am well sensitive to the long hours that staff put in.

On our side, Davis Heymsfeld, Ward McCarrager, Kathie Donnelly, Clyde Woodle, Ken House, Art Chan, John Upchurch, Eric Van Scandle, and Jason Tai, all have worked those long hours the chairman talked about. While we were recharging our batteries, they were running theirs sometimes on practically empty. But we also must express our appreciation to the legislative counsels from the House Legislative Counsel's Office who have provided such skilled draftsmanship for both sides, to David Mendelsohn, Curt Haensel, and Rosemary Gallagher.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. PETRI), the chairman of the subcommittee, who has done an outstanding job traveling across this country explaining our bill.

Mr. PETRI. Mr. Chairman, I would just like to concur in the commendation that our chairman extended to the working staff on both sides of the aisle, and to say to my colleagues that this is a work in progress.

This is an important milestone, but this is not the end of the process by any means. We will be working on this and voting on it over the coming months, and then we will be back under the terms of this bill in about 18 months to readdress the needs of our Nation in the transportation area.

So this is not a one-time snapshot that is set. This is a work in progress; and I hope that, as we continue with this work in progress, we will work together to meet the transportation needs of our country, which are enormous.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, while we are decompressing for a moment and in a congratulatory mode, I would add my congratulations as well, but I would have just one little footnote.

Before we are through today, there will be an opportunity for Members of this Chamber to make a vote towards the level that was crafted by our distinguished chairman and ranking member. We are not going to get the $375 billion yet; some day we will, but we will have a motion by the gentleman from Tennessee (Mr. DAVIS) that will permit us to at least vote on the $318 billion that was approved by the other body. It has no new user fees or taxes on gas; it is fully paid for, and it includes money that Americans are already paying for transportation.

I sincerely hope that we will be able to have an "aye" vote for this motion to recommit to keep faith with the broadest coalition that we have seen supporting American transportation, allow not just an empty gesture, but a House standing up for the future of America's communities.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Surface Transportation.

Mr. LIPINSKI. Mr. Chairman, I want to take this opportunity to thank the gentleman from Wisconsin (Mr. PETRI), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Alaska (Mr. YOUNG) for involving me in this process very thoroughly, very completely. This truly has been a bipartisan effort. I have been astonished by the willingness of the gentleman from Alaska (Chairman YOUNG) to involve this side of the aisle in the deliberations, the planning, the execution of what we have in this bill.

This is a bill that was approved unanimously by the very large Committee on Transportation and Infrastructure. Not one single negative vote was cast against this bill in committee. And that is a testament to the leadership of the gentleman from Alaska (Mr. YOUNG) of involving everyone. But it was not only the big four that was involved in this bill; every single member of this committee, every single Member of this House had the opportunity to participate in this bill. That is a tribute to the gentleman from Alaska (Chairman YOUNG), and I thank him for it.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Again, we are about to close this very long 2 days. We will have a series of three votes: the Bradley amendment vote, the Kennedy amendment vote, the Isakson amendment vote, and motion to recommit, and then final passage. Again, I can suggest to most of the Members of this House that this has been a long, trying time, but one which I take great pride in.

Regardless of what my colleagues read in the two rag sheets in this body, and they are constantly reporting and trying to divide this House, to try to pit one against the other in different fashions, we have overcome that and I think have come out with a very good piece of bipartisan legislation.

Yes, there are some that do not agree with it, and I understand that. But overall, if we believe in the national transportation system, and I want to stress, the national transportation system, H.R. 3550, the $275 billion does not completely do the job, but it is the nearest thing we can do at this time.

I will say right up front, a motion to recommit is very attractive, but it should not be done because it does break the budget against the budget resolution that passed the House; and it does, in fact, send a message to the Senate, but it does not accomplish the goals that I am trying to achieve, and that is to pass legislation so we can make a step forward, a step forward to the progress that is necessary to get our country moving, to keep this country moving, to make sure our people and our products move.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, we will soon be voting on one amendment held over from last night. I want to remind Members that that is a heavy-trucks amendment. The position of our committee is no on heavy trucks. Vote "no" on the Bradley amendment. Vote "no" on this misguided Kennedy amendment dealing with tolls on existing highways, expanding that authority, and vote "no" on the Isakson amendment.

Let me restate, under TEA LU, every State gains. Look at your revenues, not at some arcane formula, a percentage of this and a percentage of that, and some percentage that is missing, like missing matter from the universe. There is no missing money; it is all there. It all goes to the States, and all States grow in their revenues under this bill.

Let me just point out, however, that under the introduced bill of last year, which the gentleman from Alaska and I and all, virtually all of the other, all but one other member of the committee supported, we have vastly increased funding. That is the direction we need to go. That is where we ought to be making the investment. That bill will put 475,000 jobs on the work sites of America by Labor Day. We would have $80 billion of additional economic activity in the workplace by Labor Day. We would have an economy rising instead of one that is stagnating. But we are not there.

□ 1045

We have done a fair job with this legislation, taking every State from the level of 90.5 percent return of their contribution of the trust fund to 95 percent over the 6 years of this bill. That was the goal. That is where we started. Everybody wanted to do that. We checked with Members on both sides of the aisle. That is what we do with this bill.

Let us not get bogged down into "I get a little more percentage of this and my State gets a little more percentage of that." Remember, we are one Nation, one highway system, one sense of mobility. Let us move America together ahead with TEA LU, not backwards with these destructive amendments.

Mr. MICHAUD. Mr. Chairman, it is vitally important that we continue our efforts to fund the Nation's highway and transit systems, and that we find new ways to invest in these systems. I think we are seeing a consensus within the transportation committee, and an impressive unity in our committee's fine leaders, on the need to increase the level of highway and transit investments.

These are extremely worthwhile investments. According to the Federal Highway Administration, each $1 billion of Federal funds invested in infrastructure creates approximately 47,500 jobs and $6.1 billion in economic activity.

Today, America finds itself in a struggling economy. Maine is suffering as badly as anyone, with unemployment in my hometown soaring. People are looking for answers. Well—here is an answer, loud and clear. We need new investment, we need new jobs, and we need the highway and transit program to reach new levels of funding.

Many transportation committee members, including myself, had supported a bill with even more robust funding, and we will be voting during today for a version of the bill with an additional $100 billion in funding over 6 years. The fact that this is not the version that will be on the floor is disappointing.

Despite wide-ranging support from construction, engineering, trade, and labor groups for its job-creating impact, this $375 billion version of the bill has been blocked by a veto threat from the administration. This leads me to ask—what is it about jobs and economic growth that they object to?

Still, while today's bill is less than we would want, it does represent the best we could do given the constraints, and it is a testament to bipartisan cooperation and commitment to moving our economy forward. Many would have preferred a bill with greater investment in transportation, because this country needs jobs, and transportation investment is the best way to do it. But given the choice of stalling the process or supporting a bill with lower investment levels, I suspect the most members will vote in favor of the bill today, because of all the good things it does achieve. It increases overall funding, creates vital new programs to improve walking and biking routes, fund projects of regional and national security, and increase border safety. It is good for the country, and it is great for Maine.

I am particularly pleased with some of the project funding that will be included in this bill for Maine. Among the most important is the "Wood Composite Materials Demonstration Project" that is aimed at the University of Maine and its Advanced Wood Composites Laboratory. This vital funding to demonstrate the durability and effectiveness of wood composite materials in multimodal transportation facilities promises to increase the efficiency and value of our transportation infrastructure and find valuable new uses for our natural resources.

I believe that we will all work together in the coming months to make the good start we are getting today into an even better final bill.

Mr. SMITH of Michigan. Mr. Chairman, this bill has several problems. The people of Michigan get even less money for their dollar than they did before. Currently, Michigan taxpayers get 88 cents back for every gas tax dollar that we pay to Washington for highway funding. Under this new bill, that falls to 79 cents. That's unacceptable. Today, people in Michigan pay 18.4 cents in federal gas taxes and 20 cents in state gas taxes. All of the state gas taxes stay in Michigan, but only 79 percent of the federal gas taxes will be returned to Michigan.

President Bush's budget requested $256 billion over 6 years for a transportation bill. H.R. 3550 has been estimated to cost $284 billion. That's a 30 percent increase above the previous transportation bill of $218 billion. And the reopener provision is going to force us to increase spending in the future.

Much of this money is not even spent on transportation projects. There is $3 million for a park in Alabama and $1.5 million for "streetscape improvements" in Long Beach, California. There are $1.2 billion for bike paths and more set asides for hiking trails, nature centers, obesity programs for children and battlefield preservation. There are 2,800 earmarks in this bill, 1,000 more than in the last transportation bill. And the Manager's amendment added $1 billion in projects to encourage people to support the bill.

Mr. ISTOOK. Mr. Chairman, I oppose the TEA–LU highway authorization bill today, which will significantly reduce Oklahoma and many other states' share of highway funds over the next 6 years.

For years, I've been fighting to reverse Oklahoma's donor state status. Instead of helping, this bill will cause Oklahoma to slide backwards, becoming more of a donor state than we already are.

Under the formula adopted by TEA–LU, Oklahoma will receive $2.8 billion over the next 6 years—which is about $250 million less than it would have under the formula provided in the TEA–21 6-year authorization that it replaces. People should not be confused by talk that this bill "preserves" any state at a 90.5 percent funding guarantee. It applies that guarantee against a significantly-lowered base number, which has now been set at 90.5 percent of 84 percent, rather than 90.5 percent of 93 percent of highway funding provided in TEA–21.

The House of Representatives had a chance today to ensure fairness for all states in this bill when my good friend JOHNNY ISAKSON of Georgia introduced his amendment that would restore the base number to the 93 percent level. I strongly supported that amendment and encouraged others, especially in the Oklahoma delegation, to do so as well. Unfortunately, it was not the will of the House to support Mr. ISAKSON's amendment and provide the funding fairness that mine, and other states, deserve.

Consequently, I cannot support a bill that takes one step forward and two steps back. I worked to make sure the bill funds important projects for my district, like $34 million for the Oklahoma City Crosstown Expressway. But I also worked toward fair treatment for all of Oklahoma. In the long run this bill hurts Oklahoma more than it helps us by changing the formula and costing Oklahoma hundreds of millions over the next 6 years.

Mr. YOUNG of Alaska. Mr. Chairman, I want to assure my colleagues from Hawaii that pertaining to section 1812, I continue to be willing to work with them to find an alternative resolution of the issues addressed in that section.

We worked on legislative language last fall that would have transferred the dry-dock back to the Federal Government and compensated TDX for its costs and that would have ended all lawsuits. I am still interested in this framework for a legislative solution to these debilitating lawsuits.

Once again, I remain committed to working out a mutually acceptable solution to this problem with my friends from Hawaii and others, in conference or elsewhere.

Mr. LEVIN. Mr. Chairman, it is unfortunate that the House does not have a better transportation bill before it today. As it is currently written, the bill has a number of genuine shortcomings which are inequitable to my home state of Michigan and a large number of other donor states. Let me make it clear that these shortcomings will have to be addressed.

I also want to underscore that this transportation reauthorization is seriously behind schedule. Renewal of the highway bill was supposed to be completed last year. The states need Congress to complete our work and pass a long-term transportation bill in order to plan and implement their road and transit projects. The inability of the House to effectively deal with this legislation is negatively affecting the economy and jobs.

The House is in this unenviable position because the Republican Leadership and the White House cannot agree on the size and shape of the highway bill. The White House has indicated the President may well veto the bill that the Majority has brought to the Floor today. The President's "my way or the highway" approach to this bill is the single largest obstacle to providing equity to donor states in this legislation.

But we simply cannot keep putting this off and passing short-term extensions. We have got to break the impasse. Our country's roads and transit are too important to maintain the status quo. It is time to approve a multi-year reauthorization, move it to conference with the Senate, and have all parties sit down and work through the difficult issues that need to be addressed.

Primary among those issues is the need to address donor state equity. By maintaining the current 90.5 percent minimum guaranteed return on Federal highway dollars, this bill does nothing to improve the status of donor states like Michigan. I worked with other concerned Members in each of the past few highway funding reauthorization bills to increase Michigan's rate of return. Along with so many of my colleagues, I have cosponsored legislation in this session of Congress to increase this return once more by requiring a minimum return of 95 percent. The House Leadership has agreed to address this concern when this bill goes to conference.

The bill before the House today simply does not provide an adequate level of funding to meet the needs of our states' transportation infrastructure. The Senate has approved legislation providing $318 billion over 6 years, while we are considering a $275 billion measure. I very much support the Senate-passed funding level, which would provide $1.65 billion more for Michigan. I hope that we can move closer to the Senate-passed funding level in conference.

I will vote for this legislation today to get the bill to conference so that these shortcomings can be negotiated and addressed. Let me be clear: My vote on the final version of this legislation will depend on how these matters are addressed by the conferees.

Mr. STUPAK. Mr. Chairman, I have decided to vote in support for H.R. 3550 or the TEA–LU highway/transit reauthorization bill, but with reservations and with the hope that it will be addressed during the House-Senate conference.

I am pleased that this highway and transit reauthorization contains my requests on the may critically needed transportation projects for the First District.

However, this $275 billion bill still shortchanges Michigan in overall funding. It fails to include enough funding to ensure my state receives its fair share of highway funding.

Under the current highway authorization law, TEA–21, Michigan is a "donor" state. That means for every dollar Michigan taxpayers pay into the federal highway/transit fund—the state gets back only 90.5 cents in federal highway funding. The new reauthorization bill, TEA–LU, does not narrow this gap. Instead, it actually makes it worse by making the pot of money where this formula applies even smaller.

The $318 billion Senate bill, however, would gradually increase Michigan's rate of return on the dollar up to 95 cents by the end of FY 2009. That would be a vast improvement from the House version and I urge the joint House-Senate conference committee to accept the Senate version.

Congress needs to address this inequity to ensure Michigan receives a more equitable share of funding so it can better address and upgrade its highway and transit system as well as create much needed jobs in Michigan. For every $1 billion in highway and transit funding, that creates 47,500 new jobs and $6.2 billion in economic activity, according to the House Budget Committee Minority Office.

Mr. CARSON of Oklahoma. Mr. Chairman, as a member of the Transportation and Infrastructure Committee, I would like to thank the Chairman and the Ranking Member for their leadership and tireless efforts to bring this important bill to the House floor today.

This bill makes significant improvements over the previous legislation and I strongly support it. Though there is much work behind us, there is still more that can be done to continue to improve our nation's transportation systems. As a representative of the state that leads the nation in the highest percentage of bridges considered structurally deficient, we must recognize the importance of investing in our nation's infrastructure both for our economic well being, as well as public safety.

This bill makes valuable improvements in programs of importance to many Oklahomans. The Indian Reservation Roads program has a significant impact in Oklahoma and allows tribal governments to partner with local communities to improve roads for all Oklahomans. Bridge improvement money will hopefully take Oklahoma out of the top position in this perilous category by providing funds for the state to improve our many deficient bridges. These improvements and repairs will then allow commerce, such as our state's wheat harvest, to again use the most direct routes to get their products to market. There are transit programs, which take rural Oklahomans to jobs and healthcare, that they would otherwise have no access to without this legislation. This bill is truly good government at work.

This legislation will put Americans to work like no other legislation brought to the floor during my time in Congress. For every $1 billion invested in federal highway and transit programs, 47,500 jobs are created here in the United States. These are jobs in small businesses, in rural communities and cities alike. Investing in our Nation's infrastructure is one of the best investments we can make, both for the economic benefits as well as our transportation safety on roads and transit systems all Americans use everyday.

Again I thank the Chairman and Ranking Member, as well as Mr. PETRI and Mr. LIPINSKI for their dedication to this legislation. I urge my colleagues to support this important bill.

Mr. BACA. Mr. Chairman. I rise in opposition to the Graves amendment to H.R. 3550. Don't be fooled by this amendment. This amendment is bad for my district and bad for California.

My State is a destination State. Tourists come to visit and see the sights and cities of Southern California. Sometimes these tourists rent cars. And sometimes they get into accidents. California passed a vicarious liability law that protects innocent bystanders from rental car companies that rent to uninsured drivers. When people get hurt by these uninsured drivers, there is no place to turn for compensation. This law allows those that get hurt to ask for compensation from the rental car companies. The State saw a need for such a law, so they passed one.

The Graves amendment attempts to tell California what type of law it needs. It will cancel California's law and hurt their citizens. What makes Washington Congressmen think they know what's best for my district and for California? California, 14 other States and the District of Columbia know that vicarious liability laws are good for their citizens. They know that when push comes to shove this will help keep their citizens safe. That is why I oppose the Graves amendment and support California's right to determine what best serves the interests of its citizens.

Mr. RUSH. Mr. Chairman, I am pleased that we are voting on H.R. 3550, "The Transportation Equity Act: A Legacy For Users" (TEA–LU), a much needed legislation that will fund our Nation's critical transportation infrastructure. H.R. 3550 would not only repair our roads and alleviate traffic congestion but it would also create and sustain 1.7 million new jobs throughout all 50 states over the next 6 years. This bill addresses many problems that plague our Nation's transportation infrastructure. For example, TEA–LU creates a congestion relief program which requires states to focus on the congestion resources that affect their roadways. TEA–LU provides 28 percent increase in funding for NHTSA highway safety formula grants that supports state safety programs. This is extremely important because it is well known that 42,000 Americans are killed and 3.3 million die from our Nation's highways due to substandard road conditions and roadside hazards. More importantly, H.R. 3550 recognizes that transportation in the 21st century cannot exist without adequate resources for public transportation. I am also pleased that TEA–LU provides $51 billion for public transportation infrastructure programs. However, I am disappointed that the funding level for this bill is well below the Senate highway bill. Originally, this bill was to be funded at $318 billion but because of pressures from the White House it was scaled back to $275 billion. This is quite unfortunate. H.R. 3550 may be the only job creating measure considered by Congress this year, as every $1 billion invested in federal highway and transit creates 47,500 jobs. These well paying jobs would go a long way in my district.

Mr. RODRIGUEZ. Mr. Chairman, I rise in support of H.R. 3550, the Transportation Equity Act: A Legacy for Users. Today, we have a historic opportunity to reinvest in our Nation's infrastructure and promote sound economic development policy.

Highways make traveling the distances of our great State of Texas feasible and affordable. These roads traverse our lands, connect people together, and allow them to travel quickly and efficiently. They facilitate the transfer of commerce and enable the delivery of goods across state lines, and the construction and maintenance of these roads are an important source of employment for Texas residents.

While highways perform valuable services, they are merely an afterthought for the average person. However without timely maintenance and construction, highways may become unsafe and overly congested. Current economic problems have delayed critical maintenance and expansion projects causing increased congestion, air pollution, and accidents. The U.S. Department of Transportation reports that $375 billion is needed for highway and transit improvements.

NAFTA has brought numerous new economic and trade benefits to South Texas and the Nation; however, this increased trade is straining our current transportation infrastructure and causing an increase in air pollution and chemical runoff. Funds for transportation projects are urgently needed to offset and improve the many longstanding transportation and infrastructure needs of San Antonio and South Texas. I firmly believe that South Texas should not have to bear the burden of increased international trade traffic alone. If we do not invest in the region now, the flow of international trade will be negatively impacted in the future.

Last April, I had the opportunity to speak before the House Transportation and Infrastructure Committee and testified on the pressing transportation needs in South Texas. I would like to take a moment to thank the Chairman and Ranking Member and their staff for their leadership and understanding of the complexity of our Nation's transportation problems. As I mentioned a moment ago, South Texas has many outstanding needs that will impact the Nation if not addressed in the very near future.

I am pleased that the Committee included six projects for which I had submitted requests. The legislation authorizes $4 million for Mission Trails Packages 4 and 5, which would complete a project that is vital to the revitalization of the South Side of San Antonio. The Mission Trails project is a transportation enhancement project that upon completion will be approximately 12 miles of picturesque, tree lined hike and bike trails, improved well-lit roadways, and rest areas for people to enjoy.

An additional $4 million authorization level was included for the Anzalduas Bridge Connector Road in Hidalgo County and $3 million for the Hidalgo County Loop. These projects are integral towards improving our Nation's gateway to trade and alleviating congestion in the Lower Rio Grande Valley. I would like to thank Congressman LLOYD DOGGETT for his steadfast support and work on these projects.

A $6 million authorization level was also included for construction of KellyUSA's 36th Street Extension Road. I would like to thank Congressman CHARLIE GONZALEZ for his role in supporting this project. The 36th Street Extension Road is a critical component of the KellyUSA base conversion plan which includes new gateways and an expanded road access system. As a former military base, Kelly was originally built as a closed access facility. The 36th Street Extension Road will provide a new southern access point and expand community and commercial truck access to the facility.

I am pleased that the bill contained a $4 million authorization level for planning, design and engineering along the I–35 corridor in central Texas. These funds will support an ongoing multi-modal transportation project to improve the Austin-San Antonio corridor.

Lastly, I would like to thank the Committee for including language to authorize $4.5 million for the Arkansas Avenue railroad grade separation project in Laredo to improve public safety and overall mobility by connecting north and south Laredo. The project will also alleviate congestion along major trade corridors and allow traffic to flow in the event of an emergency or evacuation.

I also strongly support critical funding for the VIA Metropolitan Transit Authority that was championed by Congressman GONZALEZ. A $7 million authorization level was included for VIA to purchase new buses to replace the aging bus fleet and paratransit vans as well as upgrade their bus maintenance facility. VIA provides critical services to the greater San Antonio area and I thank them for all that they do.

As you know, funding for the Transportation Equity Act for the 21st Century (TEA–21) expired in 2003. I fully supported the House Transportation Committee's original reauthorization bill, which authorized a $375 billion level, and I'm disappointed that the President's veto threat of this jobs bill ultimately reduced the amount to $275 billion. I hope that Americans understand that this means fewer jobs in an already stagnant job market. For every $1 billion invested in federal highway and transit spending, 47,500 jobs—over half of which are in the construction industry—are created or sustained. This is a jobs bill—it is about investment in our communities and our economy.

Mr. Chairman, while I believe we should continue to push for additional funds, we must also face the harsh economic reality that recent tax cuts and a skyrocketing deficit have left us with less money to invest in our infrastructure. This bill that we have before us today is a start, and I urge my colleagues to vote in favor of H.R. 3550. Let's start reinvesting in our Nation.

Mr. KIND. Mr. Chairman, I rise in support of H.R. 3550, the Transportation Equity Act. I want to acknowledge the work of the Transportation Committee on this complex bill and especially thank my friend and colleague from Wisconsin, Mr. PETRI, for his leadership on the legislation; the Wisconsin delegation is lucky to have such a strong advocate for our citizens.

We all know that transportation bills are job bills, and now is certainly the time that we need more jobs throughout the country. Over 8 million Americans are looking for jobs, and last month only 21,000 new jobs were created, none of which was a private-sector job. I consistently hear from constituents who are searching for work; who have sent out dozens of resumes and updated their skills but remain unemployed. Each billion dollars spent on highway funding creates not only safer and better roads: It also creates an estimated 47,500 new jobs. An investment in highway funding is an investment for steady work for those in Wisconsin and around the Nation.

Furthermore, I am pleased that the bill recognizes the importance of funding crucial highways, transit centers, and bridges in Wisconsin's Third Congressional District. Specifically, the inclusion of funding for the Stillwater Bridge, which connects Houlton, Wisconsin and Stillwater, Minnesota is great news for those of us who have been working on this project for years. The bridge is only one example of an important project that will provide the Nation with safer roads, shorter commutes, and better jobs. I urge my colleagues to support the bill.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore (Mr. NETHERCUTT). Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment number 20 by Mr. BRADLEY of New Hampshire, amendment number 22 by Mr. KENNEDY of Minnesota, amendment number 23 by Mr. ISAKSON of Georgia.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT NO. 20 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. BRADLEY of New Hampshire:

Add at the end the following new section:

SECTION . VEHICLE WEIGHT LIMITATIONS.

(a) The next to the last sentence of section 127(a) of title 23, United States Code, is amended by striking "Interstate Route 95" and inserting "Interstate Routes 89, 93, and 95".

(b)(1) IN GENERAL.—In consultation with the Secretary of Transportation, the State of New Hampshire shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by subsection (a), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $250,000 for fiscal year 2004 to carry out the study.

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 90, noes 334, not voting 10, as follows:

[Roll No. 110]

AYES—90

Aderholt
Akin
Allen
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bradley (NH)
Burns
Burr
Buyer
Calvert
Cannon
Cantor
Castle
Chocola
Cox
Deal (GA)
DeLay
Diaz-Balart, M.
Dreier
Everett
Feeney
Flake
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gingrey
Goode
Granger
Greenwood
Hall
Harris
Hastert
Hayes
Hayworth
Hensarling
Herger
Hostettler
Houghton
Hunter
Johnson (CT)
Keller
Kennedy (MN)
King (IA)
Kline
Latham
Lewis (KY)
Manzullo
McIntyre
Michaud
Miller (FL)
Musgrave
Myrick
Nethercutt
Neugebauer
Norwood
Nunes
Paul
Pearce
Pence
Pitts
Pryce (OH)
Rehberg
Rogers (AL)
Ryun (KS)
Sessions
Shadegg
Sherwood
Shimkus
Simmons
Simpson
Smith (MI)
Souder
Stenholm
Sweeney
Tancredo
Taylor (NC)
Terry
Thornberry
Walsh
Whitfield
Wilson (SC)

NOES—334

Abercrombie
Ackerman
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barton (TX)
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Frank (MA)
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Hart
Hastings (FL)
Hastings (WA)
Hefley
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Renzi
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shuster
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Culberson
DeMint
Gephardt
Hulshof
Miller, George
Reyes
Tanner
Tauzin
Waxman
Weldon (FL)

☐ 1109

Ms. CARSON of Indiana, and Messrs. GERLACH, LUCAS of Kentucky, McHUGH, DICKS, HILL, VITTER, LEVIN and MATSUI changed their vote from "aye" to "no."

Mr. PENCE and Mrs. MYRICK changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. NETHERCUTT). Pursuant to clause 6 of rule XVIII, the remaining votes in this series will be conducted as 5-minute votes.

AMENDMENT NO. 22 OFFERED BY MR. KENNEDY OF MINNESOTA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 231, noes 193, not voting 10, as follows:

[Roll No. 111]

AYES—231

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bereuter
Berkley
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Manzullo
McCotter
McHugh
McIntyre
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Barton (TX)
Becerra
Bell
Berman
Berry
Biggert
Bishop (NY)
Blumenauer
Bonilla
Boswell
Boucher
Brady (PA)
Brown, Corrine
Burgess
Capps
Capuano
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Goodlatte
Gordon
Goss
Granger
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kirk
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (CA)
Lipinski
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns

NOT VOTING—10

Culberson
DeMint
Gephardt
Hulshof
Miller, George
Reyes
Tanner
Tauzin
Waxman
Weldon (FL)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1118

Ms. BERKLEY changed her vote from "no" to "aye."

Mr. MEEKS of New York and Mr. FORD changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 23 OFFERED BY MR. ISAKSON

The CHAIRMAN pro tempore (Mr. NETHERCUTT). The pending business is the demand for a recorded vote on amendment No. 23 offered by the gentleman from Georgia (Mr. ISAKSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 254, not voting 9, as follows:

[Roll No. 112]

AYES—170

Akin
Bachus
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bell
Bilirakis
Bishop (GA)
Blackburn
Blunt
Boehner
Bonilla
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cantor
Carson (IN)
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Collins
Conyers
Crenshaw
Cunningham
Davis (AL)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Duncan
Edwards
Ehlers
Emerson
Etheridge
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Green (TX)
Gutknecht
Hall
Harris
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hoekstra
Hunter
Isakson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kildee
Kilpatrick
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Lampson
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lucas (KY)

Lucas (OK)
Majette
Marshall
McCotter
McInnis
McIntyre
Meek (FL)
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nussle
Otter
Paul
Pence
Portman
Price (NC)
Putnam
Ramstad
Renzi
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Sandlin
Schrock
Scott (GA)
Scott (VA)
Sessions
Shadegg
Shaw
Simpson
Smith (MI)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner (TX)
Udall (CO)
Upton
Visclosky
Wamp
Watt
Weldon (FL)
Wexler
Whitfield
Wilson (SC)
Wolf
Young (FL)
Schiff
Sensenbrenner
Serrano
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Stark
Sweeney
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Toomey
Towns
Turner (OH)
Udall (NM)
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Waters
Watson
Weiner
Weldon (PA)
Weller
Wicker
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

NOES—254

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Bass
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (NY)
Bishop (UT)
Blumenauer
Boehlert
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Calvert
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Case
Castle
Clay
Clyburn
Cooper
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Emanuel
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Filner
Ford
Fossella
Frank (MA)
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gordon
Graves
Green (WI)
Greenwood
Grijalva
Gutierrez
Harman
Hart
Hastings (WA)
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
John
Johnson (CT)
Johnson (IL)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kind
King (NY)
Kirk
Kleczka
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Lewis (CA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reynolds
Rogers (AL)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky

NOT VOTING—9

Culberson
DeMint
Gephardt
Hulshof
Miller, George
Reyes
Tanner
Tauzin
Waxman

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1126

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. NETHERCUTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, pursuant to House Resolution 593, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The committee amendment in the nature of a substitute, modified by the amendments printed in part A of House Report 108–456, is adopted.

Is a separate vote demanded on any further amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DAVIS OF TENNESSEE

Mr. DAVIS of Tennessee. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DAVIS of Tennessee. Yes, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DAVIS of Tennessee moves to recommit the bill H.R. 3550 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House forthwith with the following amendments:

In section 1101(a)(1) of the bill, strike "$4,323,076,000" and all that follows through "$4,891,164,000" and insert "$5,076,187,293 for fiscal year 2004, $4,953,445,477 for fiscal year 2005, $5,171,212,959 for fiscal year 2006, $5,263,571,478 for fiscal year 2007, $5,556,536,840 for fiscal year 2008, and $6,654,739,293".

In section 1101(a)(2) of the bill, strike "$5,187,691,000" and all that follows through "$5,869,396,000" and insert "$6,091,424,517 for fiscal year 2004, $5,944,133,902 for fiscal year 2005, $6,205,455,095 for fiscal year 2006, $6,316,285,773 for fiscal year 2007, $6,667,843,743 for fiscal year 2008, and $7,985,686,064".

In section 1101(a)(3) of the bill, strike "$3,709,440,000" and all that follows through "$4,196,891,000" and insert "$4,355,651,438 for fiscal year 2004, $4,250,332,027 for fiscal year 2005, $4,437,189,163 for fiscal year 2006, $4,516,437,339 for fiscal year 2007, $4,767,818,482 for fiscal year 2008, and $5,710,136,779".

In section 1101(a)(5) of the bill, strike "$6,052,306,000" and all that follows through "$6,847,629,000" and insert "$7,106,661,741 for fiscal year 2004, $6,934,823,445 for fiscal year 2005, $7,239,697,231 for fiscal year 2006, $7,369,000,069 for fiscal year 2007, $7,779,151,809 for fiscal year 2008, and $9,316,634,194".

In section 1101(a)(6) of the bill, strike "$1,469,846,000" and all that follows through "$1,662,996,000" and insert "$1,725,903,868 for fiscal year 2004, $1,684,171,440 for fiscal year 2005, $1,758,212,543 for fiscal year 2006, $1,789,614,076 for fiscal year 2007, $1,889,222,762 for fiscal year 2008, and $2,262,611,686".

In section 1102(a) of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $37,900,000,000 for fiscal year 2005;
(3) $39,100,000,000 for fiscal year 2006;
(4) $39,100,000,000 for fiscal year 2007;
(5) $39,400,000,000 for fiscal year 2008; and
(6) $44,400,000,000 for fiscal year 2009.

In the matter proposed to be inserted as section 5338(a)(2)(A) of title 49, United States Code, by section 3034 of the bill, strike clauses (i) through (vi) and insert the following:

"(i) $5,081,125,000 for fiscal year 2005;
"(ii) $5,283,418,000 for fiscal year 2006;
"(iii) $5,550,420,000 for fiscal year 2007;
"(iv) $6,176,172,500 for fiscal year 2008; and
"(v) $6,834,667,500 for fiscal year 2009.

In section 3043 of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $8,650,000,000 for fiscal year 2005;
(3) $9,085,123,000 for fiscal year 2006;
(4) $9,600,000,000 for fiscal year 2007;
(5) $10,490,000,000 for fiscal year 2008; and
(6) $11,430,000,000 for fiscal year 2009.

Add at the end the following new title:

TITLE IX—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 9000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway reauthorization and excise tax simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 9001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking "May 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (F),

(C) by striking the period at the end of subparagraph (G) and inserting ", or",

(D) by inserting after subparagraph (G), the following new subparagraph:

"(H) authorized to be paid out of the Highway Trust Fund under the Highway reauthorization and excise tax simplification Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2004" and inserting "Highway reauthorization and excise tax simplification Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking "May 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (D),

(C) by striking the period at the end of subparagraph (E) and inserting ", or",

(D) by inserting after subparagraph (E), the following new subparagraph:

"(F) the Highway reauthorization and excise tax simplification Act of 2004,", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2004" and inserting "Highway reauthorization and excise tax simplification Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking "May 1, 2004" and inserting "October 1, 2009".

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2004" each place it appears and inserting "Highway reauthorization and excise tax simplification Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "May 1, 2004" and inserting "October 1, 2009", and

(B) by striking "Surface Transportation Extension Act of 2004" and inserting "Highway reauthorization and excise tax simplification Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "May 1, 2004" and inserting "October 1, 2009".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2009":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2009":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(A) by striking "2003" and inserting "2007", and

(B) by striking "2004" each place it appears and inserting "2008".

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking "2007" in subparagraph (C)(ii) and inserting "2010", and

(2) by striking "October 1, 2007" in subparagraph (D) and inserting "January 1, 2011".

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.".

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

"(7) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

"(A) for each fiscal year after 2003 to the Internal Revenue Service—

"(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

"(ii) $10,000,000 for Xstars, and

"(iii) $10,000,000 for xfirs, and

"(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.".

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 9002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 9001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking "paragraph (4)(D) or (5)(B)" and inserting "paragraph (3)(D) or (4)(B)".

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: "The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.".

(3) Section 9504(a)(2) is amended by striking "section 9503(c)(4), section 9503(c)(5)" and inserting "section 9503(c)(3), section 9503(c)(4)".

(4) Paragraph (2) of section 9504(b), as amended by section 9001 of this Act, is amended by striking "section 9503(c)(5)" and inserting "section 9503(c)(4)".

(5) Section 9504(e) is amended by striking "section 9503(c)(4)" and inserting "section 9503(c)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 years'" in the heading for paragraph (3) and inserting "4 years'".

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) Measurement of net highway receipts.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 9101. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 9102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) In General.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) Allowance of Credits.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) Alcohol Fuel Mixture Credit.—

"(1) In general.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) Applicable amount.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) Mixtures not containing ethanol.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) Alcohol fuel mixture.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) Other definitions.—For purposes of this subsection—

"(A) Alcohol.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) Taxable fuel.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) Termination.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) Biodiesel Mixture Credit.—

"(1) In general.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) Applicable amount.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) Amount for agri-biodiesel.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) Biodiesel mixture.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) Other definitions.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) Termination.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) Mixture not Used as a Fuel, Etc.—

"(1) Imposition of tax.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) Coordination With Exemption From Excise Tax.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) Registration Requirement.—Section 4101(a)(1) (relating to registration), as amended by sections 9211 and 9242 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) Additional Amendments.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) Volume of alcohol.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) Gasoline.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) Alcohol or Biodiesel Used to Produce Alcohol Fuel and Biodiesel Mixtures or Used as Fuels.—Except as provided in subsection (k)—

"(1) Used to produce a mixture.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) Used as fuel.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) Termination.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence: "In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "alcohol mixture" in the heading and inserting "alcohol fuel and biodiesel mixture".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4), as amended by section 9101 of this Act, is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) Tariff schedule.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) Registration requirement.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) Extension of alcohol fuels credit.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) Repeal of general fund retention of certain alcohol fuels taxes.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) Format for Filing.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 9103. BIODIESEL INCOME TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) Qualified biodiesel mixture.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) Biodiesel credit.—

"(A) In general.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) User credit not to apply to biodiesel sold at retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) Credit for agri-biodiesel.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) Coordination With Credit Against Excise Tax.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) Agri-biodiesel.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) Mixture or biodiesel not used as a fuel, etc.—

"(A) Mixtures.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) Biodiesel.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any sale or use after December 31, 2006.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) Conforming Amendments.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) No carryback of biodiesel fuels credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 9200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 9211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "and kerosene" after "diesel fuel".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows: "There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''SUBPART A. MOTOR AND AVIATION FUELS

''SUBPART B. SPECIAL PROVISIONS APPLICABLE TO FUELS TAX''.

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) Effective Date.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) Floor Stocks Tax.—

(1) In general.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) Liability for tax and method of payment.—

(A) Liability for tax.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) Method and time for payment.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) Transfer of floor stock tax revenues to trust funds.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) Held by a person.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) Other laws applicable.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 9212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) In General.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) Transfers from the trust fund to the highway trust fund.—

''(A) In general.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

''(B) Amounts transferred to mass transit account.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) Conforming Amendments.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 9221. DYE INJECTION EQUIPMENT.

(a) In General.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) Dye Injector Security.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) Penalty for Tampering With or Failing to Maintain Security Requirements for Mechanical Dye Injection Systems.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) Imposition of Penalty.—

''(1) Tampering.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) Failure to maintain security requirements.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) Joint and Several Liability.—

''(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) Effective Date.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 9222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) In General.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) No Administrative Appeal for Third and Subsequent Violations.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) Effective Date.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 9223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) In General.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) Conforming Amendment.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) Refunds for use of diesel fuel in certain intercity buses.—

"(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by section 9211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 9231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 9211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) In General.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) Conforming Amendments.—

(1) Section 4083(d)(3), as amended by section 9211 of this Act, is amended—

(A) by striking "entry.—The penalty" and inserting: "entry.—

"(A) Forfeiture.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) Assessable penalty.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 9221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 9241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) In General.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) Civil Penalty for Carrying Taxable Fuels by Nonregistered Pipelines or Vessels.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) Imposition of Penalty.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) Multiple violations.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) Publication of Registered Persons.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 9242. DISPLAY OF REGISTRATION.

(a) In General.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) In general.—Every", and

(2) by adding at the end the following new paragraph:

"(2) Display of registration.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) Civil Penalty for Failure to Display Registration.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) Failure to Display Registration.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) Multiple Violations.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) In General.—Section 4101(a), as amended by section 9242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) Registration of persons within foreign trade zones, etc.—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 9245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 9273 of this Act, is amended by adding at the end the following new sentence: "Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

PART V—IMPORTS

SEC. 9251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 9245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 9245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 9261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 9103 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

"(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) Payment to ultimate vendor.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Filing of claims.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) Special rule for vendor refunds with respect to farmers.—

"(A) In general.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) Conforming amendments.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) In general.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "farmers and".

(b) Effective Date.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 9263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) In General.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) Registered ultimate vendor to administer credits and refunds of gasoline tax.—

"(A) In general.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) Timing of claims.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) Credit Card Purchases of Diesel Fuel or Kerosene by State and Local Governments.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 9252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9264. TWO-PARTY EXCHANGES.

(a) In General.—Subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) In General.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) Two-Party Exchange.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 9265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) No Proration of Tax Unless Vehicle Is Destroyed or Stolen.—

(1) In general.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) Proration of Tax Where Vehicle Sold, Destroyed, or Stolen.—

"(1) In general.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) Destroyed.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) Conforming amendments.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) Display of Tax Certificate.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) Display of tax certificate.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) Electronic Filing.—Section 4481, as amended by section 9001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Electronic Filing.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) Repeal of Reduction in Tax for Certain Trucks.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 9266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) In General.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) Certain penalties.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) Conforming Amendments.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "and Penalties" after "Taxes".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "In general" and inserting "Certain taxes".

(c) Effective Date.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 9267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) In General.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) Conforming Amendments.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is

amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) Effective Date.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 9271. TOTAL ACCOUNTABILITY.

(a) Taxation of Reportable Liquids.—

(1) In general.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) Rate of tax.—Subparagraph (A) of section 4081(a)(2), as amended by section 9211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) Exemption.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) Exemption for registered transfers of reportable liquids.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) Reportable liquids.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) Reportable Liquid.—For purposes of this subpart—

"(1) In general.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) Taxation.—

"(A) Gasoline blend stocks and additives.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) Other reportable liquids.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) Conforming amendments.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) Gasoline Blend Stocks or Additives and Reportable Liquids.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 9252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) Dyed Diesel.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) Effective Date.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 9272. EXCISE TAX REPORTING.

(a) In General.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"Subpart E—Excise Tax Reporting

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) In General.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) Information Included With Return.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) Conforming Amendment.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) Effective Date.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 9273. INFORMATION REPORTING.

(a) In General.—Section 4101(d) is amended by adding at the end the following new flush sentence: "The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) Effective Date.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 9301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) Exemption From Tax on Heavy Trucks and Trailers Sold at Retail.—

(1) In general.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) Mobile machinery.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) Effective date.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) Exemption From Tax on Use of Certain Vehicles.—

(1) In general.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Exemption for Mobile Machinery.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) Effective date.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) Exemption From Fuel Taxes.—

(1) In general.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) Uses in mobile machinery.—

"(i) In general.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) OFF-HIGHWAY VEHICLES.—

"(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Miscellaneous Provisions

SEC. 9401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9402. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.'

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 9403. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and

a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) Enforcement Activities.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 9404. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) Study.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) Report.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 9405. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) In General.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) Inflation Adjustment Conforming Amendments.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 9406. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) Study.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle F—Provisions Designed to Curtail Tax Shelters

SEC. 9501. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) In General.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Clarification of Economic Substance Doctrine; Etc.—

"(1) General rules.—

"(A) In general.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) Definition of economic substance.—For purposes of subparagraph (A)—

"(i) In general.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) Special rule where taxpayer relies on profit potential.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Substantial nontax purpose.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(D) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(E) Treatment of lessors.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection."

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9502. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) Increase in penalty for large entities and high net worth individuals.—

"(A) In general.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) Large entity.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) High net worth individual.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) Definitions.—For purposes of this section—

"(1) Reportable transaction.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) Listed transaction.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority to Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 9503. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

"(1) In general.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) Rules applicable to compromise of penalty.—

"(A) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e)."

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence: "The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B."

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe."

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax."

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS."

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 9504. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e)."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9505. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000."

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9506. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 9507. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions."

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction."

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees."

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS."

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 9508. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction, such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Rescission Authority.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 9509. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause."

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 9510. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority to Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708."

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS."

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions."

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 9511. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 9512. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 9513. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law."

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-In-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions."

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 9514. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence: "The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure."

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, Etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion."

SEC. 9515. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed."

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 9516. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

"(C) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011."

(b) Effective Date.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 9517. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable to Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c))."

(b) Effective Date.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle G—Other Provisions

SEC. 9601. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) Limitations on Built-In Losses.—

"(1) Limitation on importation of built-in losses.—

"(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) Property described.—For purposes of subparagraph (A), property is described in this paragraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph

(B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction."

"(2) Limitation on transfer of built-in losses in section 351 transactions.—

"(A) In general.—If—

"(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer."

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation."

(c) Effective Date.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 9602. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) Treatment of Contributed Property With Built-In Loss.—Paragraph (1) of section 704(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following:

"(C) if any property so contributed has a built-in loss—

"(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

"(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution."

(b) Adjustment to Basis of Partnership Property on Transfer of Partnership Interest if There Is Substantial Built-In Loss.—

(1) Adjustment required.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period "or unless the partnership has a substantial built-in loss immediately after such transfer".

(2) Adjustment.—Subsection (b) of section 743 is amended by inserting "or with respect to which there is a substantial built-in loss immediately after such transfer" after "section 754 is in effect".

(3) Substantial built-in loss.—Section 743 is amended by adding at the end the following new subsection:

"(d) Substantial Built-In Loss.—

"(1) In general.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

"(2) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes."

(4) Clerical amendments.—

(A) The section heading for section 743 is amended to read as follows:

"SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS."

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

"Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss."

(c) Adjustment to Basis of Undistributed Partnership Property if There Is Substantial Basis Reduction.—

(1) Adjustment required.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period "or unless there is a substantial basis reduction".

(2) Adjustment.—Subsection (b) of section 734 is amended by inserting "or unless there is a substantial basis reduction" after "section 754 is in effect".

(3) Substantial basis reduction.—Section 734 is amended by adding at the end the following new subsection:

"(d) Substantial Basis Reduction.—

"(1) In general.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

"(2) Regulations.—For regulations to carry out this subsection, see section 743(d)(2)."

(4) Clerical amendments.—

(A) The section heading for section 734 is amended to read as follows:

"SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION."

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

"Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction."

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) Subsection (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 9603. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 is amended by adding at the end the following new subsection:

"(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2)."

(b) Effective Date.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 9604. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end

of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding "and" at the end of clause (ix), by striking ", and" at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) Exception for existing FASITs.—

(A) In general.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) Transfer of additional assets not permitted.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 9605. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) Conforming Amendment.—Paragraph (3) of section 163(l) is amended by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person".

(c) Effective Date.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 9606. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person acquires stock in a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance."

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 9607. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence: "Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period."

(b) Determination of Pro Rata Share of Subpart F Income.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

"(4) Special rules for determining pro rata share of subpart F income.—The pro rata share under paragraph (2) shall be determined by disregarding—

"(A) any rights lacking substantial economic effect, and

"(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation."

(c) Effective Date.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 9608. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) In General.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Basis for Determining Loss Always Reduced by Nontaxed Portion of Dividends.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend."

(b) Effective Date.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 9609. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns."

(b) Result not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation section 1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 9610. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 1, 2005" and inserting "March 31, 2010".

Subtitle H—Prevention of Corporate Expatriation to Avoid United States Income Tax

SEC. 9701. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) In General.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) Domestic.—

"(A) In general.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) Certain corporations treated as domestic.—

"(i) In general.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) Corporate expatriation transaction.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) Lower stock ownership requirement in certain cases.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) Partnership transactions.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) Special rules.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) Other definitions.—For purposes of this subparagraph—

"(I) Nominally foreign corporation.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

"(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

Mr. DAVIS of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. NUSSLE. Mr. Speaker, I reserve a point of order against the gentleman's motion to recommit.

The SPEAKER pro tempore. The gentleman reserves a point of order. The gentleman from Tennessee (Mr. DAVIS) will be recognized for 5 minutes on his motion to recommit.

Mr. DAVIS of Tennessee. Mr. Speaker, do we have opposition on the point of order? On the point of order, may I continue with my motion to recommit?

The SPEAKER pro tempore. The Chair will entertain a point of order after the gentleman's debate on his motion to recommit. At this point, the point of order is reserved.

Mr. DAVIS of Tennessee. Mr. Speaker, I would ask the gentleman to reconsider his point of order on my offering of this amendment. My amendment increases the funds in the bill to the Senate-passed level of $318 billion, and I believe that the House should be allowed to vote on this amendment.

The SPEAKER pro tempore. If the gentleman will suspend. The gentleman is recognized for 5 minutes to debate his motion to recommit.

Mr. DAVIS of Tennessee. Mr. Speaker, today I rise with the gentleman from New Jersey (Mr. MENENDEZ), the gentleman from Oregon (Mr. BLUMENAUER), and the gentleman from Washington (Mr. BAIRD) to offer this motion to recommit.

The amendment increases highway and transit investment by $37.8 billion, a level of funding equal to the Senate/House-passed TEA 21 reauthorization bill, includes the Senate-passed Highway Trust Fund financing mechanisms, which includes no tax increases, and fully offsets these investments by cracking down on abusive corporate tax shelters, such as those enjoyed by Enron, and prevents American corporations from avoiding paying U.S. taxes by moving to a foreign country, and by extending customs user fees.

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The amendment is paid for by drawing down from the highway trust fund and eliminating subsidies such as ethanol. We should continue to promote the use of ethanol, but we should keep the highway trust fund for truly highway-related activities.

A recent national survey found that transportation construction contractors hire employees within 3 weeks of obtaining a contract. Employees begin receiving paychecks within 2 weeks of hiring. In addition, this infrastructure investment will increase business productivity by reducing the costs of producing goods in virtually every industrial sector of our economy, which results in increased demand for labor, capital and raw materials and generally leads to lower product prices and increased sales.

Mr. Speaker, this investment will help create jobs for almost 3 million Americans who have lost their jobs in the last 3 years and will specifically help the more than 1 million unemployed construction workers. The number of unemployed private sector construction workers in 2003 averaged 810,000. The unemployment rate for these workers averaged 9.3 percent. We can invest in a future that our children and grandchildren will benefit from rather than continue to create debt for the future for our children.

Mr. Speaker, I yield back the balance of my time.

POINT OF ORDER

The SPEAKER pro tempore (Mr. THORNBERRY). Does the gentleman from Iowa wish to make his point of order?

Mr. NUSSLE. I do, Mr. Speaker.

I make a point of order against the motion to recommit because it is in violation of section 302(f) of the Congressional Budget Act of 1974. A motion that would cause any increase in new budget authority will breach the allocation made under section 302(a) to the applicable committee and is not permitted under 302(f) of the act. This motion causes such an increase in new budget authority and, therefore, is not in order.

I insist on my point of order.

The SPEAKER pro tempore. Does the gentleman from Tennessee wish to be heard on the point of order?

Mr. DAVIS of Tennessee. No.

The SPEAKER pro tempore. Does the gentleman concede the point of order?

Mr. DAVIS of Tennessee. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore. The point of order is therefore sustained.

MOTION TO RECOMMIT OFFERED BY MR. DAVIS OF TENNESSEE

Mr. DAVIS of Tennessee. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DAVIS of Tennessee moves to recommit the bill H.R. 3550 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House promptly with the following amendments:

In section 1101(a)(1) of the bill, strike "$4,323,076,000" and all that follows through "$4,891,164,000" and insert "$5,076,187,293 for fiscal year 2004, $4,953,445,477 for fiscal year 2005, $5,171,212,959 for fiscal year 2006, $5,263,571,478 for fiscal year 2007, $5,556,536,840 for fiscal year 2008, and $6,654,739,293".

In section 1101(a)(2) of the bill, strike "$5,187,691,000" and all that follows through "$5,869,396,000" and insert "$6,091,424,517 for fiscal year 2004, $5,944,133,902 for fiscal year 2005, $6,205,455,095 for fiscal year 2006, $6,316,285,773 for fiscal year 2007, $6,667,843,743 for fiscal year 2008, and $7,985,686,064".

In section 1101(a)(3) of the bill, strike "$3,709,440,000" and all that follows through "$4,196,891,000" and insert "$4,355,651,438 for fiscal year 2004, $4,250,332,027 for fiscal year 2005, $4,437,189,163 for fiscal year 2006, $4,516,437,339 for fiscal year 2007, $4,767,818,482 for fiscal year 2008, and $5,710,136,779".

In section 1101(a)(5) of the bill, strike "$6,052,306,000" and all that follows through "$6,847,629,000" and insert "$7,106,661,741 for fiscal year 2004, $6,934,823,445 for fiscal year 2005, $7,239,697,231 for fiscal year 2006, $7,369,000,069 for fiscal year 2007, $7,779,151,809 for fiscal year 2008, and $9,316,634,194".

In section 1101(a)(6) of the bill, strike "$1,469,846,000" and all that follows through "$1,662,996,000" and insert "$1,725,903,868 for fiscal year 2004, $1,684,171,440 for fiscal year 2005, $1,758,212,543 for fiscal year 2006, $1,789,614,076 for fiscal year 2007, $1,889,222,762 for fiscal year 2008, and $2,262,611,686".

In section 1102(a) of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $37,900,000,000 for fiscal year 2005;
(3) $39,100,000,000 for fiscal year 2006;
(4) $39,100,000,000 for fiscal year 2007;
(5) $39,400,000,000 for fiscal year 2008; and
(6) $44,400,000,000 for fiscal year 2009.

In the matter proposed to be inserted as section 5338(a)(2)(A) of title 49, United States Code, by section 3034 of the bill, strike clauses (i) through (vi) and insert the following:

"(i) $5,081,125,000 for fiscal year 2005;
"(ii) $5,283,418,000 for fiscal year 2006;
"(iii) $5,550,420,000 for fiscal year 2007;
"(iv) $6,176,172,500 for fiscal year 2008; and
"(v) $6,834,667,500 for fiscal year 2009.

In section 3043 of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $8,650,000,000 for fiscal year 2005;
(3) $9,085,123,000 for fiscal year 2006;
(4) $9,600,000,000 for fiscal year 2007;
(5) $10,490,000,000 for fiscal year 2008; and
(6) $11,430,000,000 for fiscal year 2009.

Strike the revenue title (other than the small business benefits) and insert the following:

TITLE IX—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SECTION 9000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 9001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) Highway Trust Fund Expenditure Authority.—

(1) Highway account.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking “May 1, 2004” and inserting “October 1, 2009”,

(B) by striking “or” at the end of subparagraph (F),

(C) by striking the period at the end of subparagraph (G) and inserting “, or”,

(D) by inserting after subparagraph (G), the following new subparagraph:

“(H) authorized to be paid out of the Highway Trust Fund under the Highway Reauthorization and Excise Tax Simplification Act of 2004.”, and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking “Surface Transportation Extension Act of 2004” and inserting “Highway Reauthorization and Excise Tax Simplification Act of 2004”.

(2) Mass transit account.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking “May 1, 2004” and inserting “October 1, 2009”,

(B) by striking “or” at the end of subparagraph (D),

(C) by striking the period at the end of subparagraph (E) and inserting “, or”,

(D) by inserting after subparagraph (E), the following new subparagraph:

“(F) the Highway Reauthorization and Excise Tax Simplification Act of 2004,”, and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking “Surface Transportation Extension Act of 2004” and inserting “Highway Reauthorization and Excise Tax Simplification Act of 2004”.

(3) Exception to limitation on transfers.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking “May 1, 2004” and inserting “October 1, 2009”.

(b) Aquatic Resources Trust Fund Expenditure Authority.—

(1) Sport fish restoration account.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking “Surface Transportation Extension Act of 2004” each place it appears and inserting “Highway Reauthorization and Excise Tax Simplification Act of 2004”.

(2) Boat safety account.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking “May 1, 2004” and inserting “October 1, 2009”, and

(B) by striking “Surface Transportation Extension Act of 2004” and inserting “Highway Reauthorization and Excise Tax Simplification Act of 2004”.

(3) Exception to limitation on transfers.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking “May 1, 2004” and inserting “October 1, 2009”.

(4) Technical correction.—The last sentence of paragraph (2) of section 9504(b) is amended by striking “subparagraph (B)”, and inserting “subparagraph (C)”.

(c) Extension of Taxes.—

(1) In general.—The following provisions are each amended by striking “2005” each place it appears and inserting “2009”:

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) Floor stocks refunds.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking “2005” each place it appears and inserting “2009”, and

(B) by striking “2006” each place it appears and inserting “2010”.

(d) Extension of Certain Exemptions.—The following provisions are each amended by striking “2005” and inserting “2009”:

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) Extension of Deposits Into, and Certain Transfers From, Trust Fund.—

(1) In general.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking “2005” each place it appears and inserting “2009”, and

(B) by striking “2006” each place it appears and inserting “2010”.

(2) Conforming amendments to land and water conservation fund.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(A) by striking “2003” and inserting “2007”, and

(B) by striking “2004” each place it appears and inserting “2008”.

(f) Extension of Tax Benefits for Qualified Methanol and Ethanol Fuel Produced From Coal.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking “2007” in subparagraph (C)(ii) and inserting “2010”, and

(2) by striking “October 1, 2007” in subparagraph (D) and inserting “January 1, 2011”.

(g) Prohibition on Use of Highway Account for Rail Projects.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

“(6) Prohibition on use of highway account for certain rail projects.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.”.

(h) Highway Trust Fund Expenditures for Highway Use Tax Evasion Projects.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

“(7) Highway use tax evasion projects.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

“(A) for each fiscal year after 2003 to the Internal Revenue Service—

“(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

“(ii) $10,000,000 for Xstars, and

“(iii) $10,000,000 for xfirs, and

“(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.”.

(i) Effective Date.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 9002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) In General.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 9001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively:

(b) Interest on Unexpended Balances Credited to Trust Fund.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) Conforming Amendments.—

(1) Section 9503(b)(4)(D) is amended by striking “paragraph (4)(D) or (5)(B)” and inserting “paragraph (3)(D) or (4)(B)”.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: “The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.”.

(3) Section 9504(a)(2) is amended by striking “section 9503(c)(4), section 9503(c)(5)” and inserting “section 9503(c)(3), section 9503(c)(4)”.

(4) Paragraph (2) of section 9504(b), as amended by section 9001 of this Act, is amended by striking “section 9503(c)(5)” and inserting “section 9503(c)(4)”.

(5) Section 9504(e) is amended by striking “section 9503(c)(4)” and inserting “section 9503(c)(3)”.

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) Interest credited.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) In General.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking “24-month” in paragraph (1)(B) and inserting “48-month”, and

(2) by striking “2 years’” in the heading for paragraph (3) and inserting “4 years’”.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 9101. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 9102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 9211 and 9242 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

'"(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) GASOLINE.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

"(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) Termination.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence: "In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "alcohol mixture" in the heading and inserting "alcohol fuel and biodiesel mixture".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4), as amended by section 9101 of this Act, is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) Registration requirement.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) Extension of alcohol fuels credit.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) Repeal of general fund retention of certain alcohol fuels taxes.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) Format for Filing.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 9103. BIODIESEL INCOME TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) Qualified biodiesel mixture.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) Biodiesel credit.—

"(A) In general.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) User credit not to apply to biodiesel sold at retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) Credit for agri-biodiesel.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) Coordination With Credit Against Excise Tax.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) Agri-biodiesel.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) Mixture or biodiesel not used as a fuel, etc.—

"(A) Mixtures.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) Biodiesel.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any sale or use after December 31, 2006.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) Conforming Amendments.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) No carryback of biodiesel fuels credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 9200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 9211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "and kerosene" after "diesel fuel".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows: "There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"SUBPART A. MOTOR AND AVIATION FUELS

"SUBPART B. SPECIAL PROVISIONS APPLICABLE TO FUELS TAX".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 9212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 9221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY.—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 9222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 9223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) Refunds for use of diesel fuel in certain intercity buses.—

"(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by section 9211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 9231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 9211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) In General.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) Conforming Amendments.—

(1) Section 4083(d)(3), as amended by section 9211 of this Act, is amended—

(A) by striking "entry.—The penalty" and inserting: "entry.—

"(A) Forfeiture.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) Assessable penalty.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 9221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 9241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) In General.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) Civil Penalty for Carrying Taxable Fuels by Nonregistered Pipelines or Vessels.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) Imposition of Penalty.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) Multiple violations.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) Publication of Registered Persons.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 9242. DISPLAY OF REGISTRATION.

(a) In General.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) In general.—Every", and

(2) by adding at the end the following new paragraph:

"(2) Display of registration.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) Civil Penalty for Failure to Display Registration.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) Failure to Display Registration.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) Multiple Violations.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) In General.—Section 4101(a), as amended by section 9242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) Registration of persons within foreign trade zones, etc.—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) Increased Penalty.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) Increased Criminal Penalty.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) Assessable Penalty for Failure to Register.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) Failure to Register.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) Assessable Penalty for Failure to Report.—

(1) In general.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) In General.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) Failures Subject to Penalty.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) Effective Date.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 9245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) In General.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) In General.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) Contents of Return.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) Enforcement.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9246. ELECTRONIC REPORTING.

(a) In General.—Section 4101(d), as amended by section 9273 of this Act, is amended by adding at the end the following new sentence: "Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) Effective Date.—The amendments made by this section shall apply on October 1, 2004.

PART V—IMPORTS

SEC. 9251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) Tax at Point of Entry Where Importer not Registered.—

(1) In general.—Subpart C of part III of subchapter A of chapter 31, as amended by section 9245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) In General.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) Enforcement of Assessment.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) Levy of Fuel.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) Conforming amendment.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 9245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) Denial of Entry Where Tax not Paid.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 9261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) In General.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) In general.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) Liquid sold as diesel fuel.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) Conforming Amendments.—

(1) Section 40A(b)(1)(B), as amended by section 9103 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—

(1) Refunds.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) Registered vendors permitted to administer certain claims for refund of diesel fuel and kerosene sold to farmers.—

"(A) In general.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) Payment to ultimate vendor.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Filing of claims.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) Special rule for vendor refunds with respect to farmers.—

"(A) In general.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6), "(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "farmers and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 9263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 9252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 9265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) ELECTRONIC FILING.—Section 4481, as amended by section 9001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (B).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 9266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "and Penalties" after "Taxes".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "In general" and inserting "Certain taxes".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 9267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 9271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 9211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 9272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"Subpart E—Excise Tax Reporting

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"SUBPART E—EXCISE TAX REPORTING".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 9273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence: "The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 9301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) Use-based test.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) Special rule for use by certain tax-exempt organizations.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) Annual refund of tax paid.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) Nonapplication of paragraph.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) In General.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) Off-highway vehicles.—

"(A) Off-highway transportation vehicles.—

"(i) In general.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) Determination of vehicle's design.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) Determination of substantial limitation or impairment.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) Nontransportation trailers and semitrailers.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) Fuel taxes.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Miscellaneous Provisions

SEC. 9401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) In General.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) Uniform Application of Tax.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 9402. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) Establishment.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) Function.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) Terms.—Members shall be appointed for the life of the Commission.

(3) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Travel expenses.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) Chairman.—The Chairman of the Commission shall be elected by the members.

(d) Funding.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) Consultation.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) Obtaining Data.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) Termination.—The Commission shall terminate after September 30, 2009.

SEC. 9403. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) In General.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) Audits.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) Enforcement Activities.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 9404. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 9405. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 9406. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle F—Provisions Designed to Curtail Tax Shelters

SEC. 9501. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) SUBSTANTIAL NONTAX PURPOSE.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(D) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(E) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9502. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 9503. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e)."

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence: "The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B."

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe."

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax."

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS."

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 9504. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e)."

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc."

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9505. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000."

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9506. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section not to Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C))."

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 9507. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions."

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction."

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees."

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS."

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions."

(c) Effective Date.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 9508. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Rescission Authority.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

“(d) Reportable and Listed Transactions.—The terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).”.

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking “tax shelters” and inserting “reportable transactions”.

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 9509. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

“(a) Imposition of Penalty.—

“(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

“(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.”

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 9510. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

“(a) Authority to Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

“(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

“(1) that the person has engaged in any specified conduct, and

“(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

“(c) Specified Conduct.—For purposes of this section, the term ‘specified conduct’ means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.”

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.”

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.”

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 9511. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking “realistic possibility of being sustained on its merits” in paragraph (1) and inserting “reasonable belief that the tax treatment in such position was more likely than not the proper treatment”,

(2) by striking “or was frivolous” in paragraph (3) and inserting “or there was no reasonable basis for the tax treatment of such position”, and

(3) by striking “Unrealistic” in the heading and inserting “Improper”.

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking “$250” in subsection (a) and inserting “$1,000”, and

(2) by striking “$1,000” in subsection (b) and inserting “$5,000”.

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 9512. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

“(5) Foreign financial agency transaction violation.—

“(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

“(B) Amount of penalty.—

“(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

“(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

“(I) such violation was due to reasonable cause, and

“(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

“(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

“(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

“(I) $25,000, or

“(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

“(ii) subparagraph (B)(ii) shall not apply.

“(D) Amount.—The amount determined under this subparagraph is—

“(i) in the case of a violation involving a transaction, the amount of the transaction, or

“(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.”

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 9513. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

“(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

“(1) such person files what purports to be a return of a tax imposed by this title but which—

“(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

“(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

“(2) the conduct referred to in paragraph (1)—

“(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

“(B) reflects a desire to delay or impede the administration of Federal tax laws.

“(b) Civil Penalty for Specified Frivolous Submissions.—

“(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

“(2) Specified frivolous submission.—For purposes of this section—

“(A) Specified frivolous submission.—The term ‘specified frivolous submission’ means a specified submission if any portion of such submission—

“(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

“(ii) reflects a desire to delay or impede the administration of Federal tax laws.

“(B) Specified submission.—The term ‘specified submission’ means—

“(i) a request for a hearing under—

“(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

“(II) section 6330 (relating to notice and opportunity for hearing before levy), and

“(ii) an application under—

“(I) section 6159 (relating to agreements for payment of tax liability in installments),

“(II) section 7122 (relating to compromises), or

“(III) section 7811 (relating to taxpayer assistance orders).

“(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

“(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

“(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

“(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.”

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 9514. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence: "The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion."

SEC. 9515. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 9516. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

"(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 9517. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c))."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle G—Other Provisions

SEC. 9601. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this paragraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction."

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 9602. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—

''(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

''(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

''(2) REGULATIONS.—For regulations to carry out this subsection, see section 743(d)(2).''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 9603. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 9604. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ''and'' at the end of clause (ix), by striking '', and'' at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 9605. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) Conforming Amendment.—Paragraph (3) of section 163(l) is amended by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person".

(c) Effective Date.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 9606. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person acquires stock in a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance."

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 9607. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence: "Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period."

(b) Determination of Pro Rata Share of Subpart F Income.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

"(4) Special rules for determining pro rata share of subpart F income.—The pro rata share under paragraph (2) shall be determined by disregarding—

"(A) any rights lacking substantial economic effect, and

"(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation."

(c) Effective Date.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 9608. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) In General.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Basis for Determining Loss Always Reduced by Nontaxed Portion of Dividends.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend."

(b) Effective Date.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 9609. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns."

(b) Result not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation section 1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 9610. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) In General.—Subtitle A of the Internal Revenue Code of 1986 is amended by inserting after chapter 55 the following new chapter:

"CHAPTER 56—FEES FOR CERTAIN CUSTOMS SERVICES

"Sec. 5896. Imposition of fees.

"SEC. 5896. IMPOSITION OF FEES.

"(a) In General.—The Secretary shall charge and collect fees under this title which are equivalent to the fees which would be imposed by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) were such section in effect after March 1, 2005.

"(b) Collection and Disposition of Fees, Etc.—References in such section 13031 to fees thereunder shall be treated as including references to the fees charged under this section."

(b) Clerical Amendment.—The table of chapters for subtitle A of such Code is amended by adding at the end the following new item:

"Chapter 56. Fees for certain customs services."

(c) Effective date.—The amendments made by this section shall take effect on March 1, 2005.

Subtitle H—Prevention of Corporate Expatriation to Avoid United States Income Tax

SEC. 9701. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) In General.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) Domestic.—

"(A) In general.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

"(B) Certain corporations treated as domestic.—

"(i) In general.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

"(ii) Corporate expatriation transaction.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

"(iii) Lower stock ownership requirement in certain cases.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

"(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

"(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

"(iv) Partnership transactions.—The term 'corporate expatriation transaction' includes any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

"(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

"(v) Special rules.—For purposes of this subparagraph—

"(I) a series of related transactions shall be treated as 1 transaction, and

"(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

"(vi) Other definitions.—For purposes of this subparagraph—

"(I) Nominally foreign corporation.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

"(II) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

"(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

Mr. DAVIS of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. NUSSLE. Mr. Speaker, reserving the right to object, my understanding is that the only difference between the motion to recommit that the gentleman just offered and we struck with a point of order and the one that he is now offering is the difference between the words "forthwith" and "promptly." Is that the gentleman's understanding?

Mr. DAVIS of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Tennessee.

Mr. DAVIS of Tennessee. No, there are other changes and they have been cleared by the Parliamentarian.

Mr. NUSSLE. Mr. Speaker, then, continuing to reserve the right to object, I would ask what the gentleman's changes are. Because my understanding is that the only difference is between "forthwith" and "promptly." The first four pages are increases in spending to the level purported to be the level of the Senate, and then from page 4, 5, 6, 7, 8, 9, 10, 11 and on and on and on and on are increases in taxes, on and on from page 4 all the way, increasing taxes, not gas taxes, but all the way to page 174 are increases in taxes.

I would ask the gentleman, did he strike the tax increases from page 4 all the way to 174 in the motion to recommit?

Mr. DAVIS of Tennessee. One of the differences in this bill is that it changes the part where we would report back promptly changes in this bill.

Mr. NUSSLE. Mr. Speaker, I will not object to the dispensing of the reading, but at this point I would like certainly to hear from the gentleman why it is that there are four pages of spending and then 170 pages of tax increases in this motion to recommit.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. The gentleman from Tennessee is recognized for 5 minutes in support of his motion to recommit.

Mr. DAVIS of Tennessee. Mr. Speaker, I include for the RECORD a State by State chart of the total highway/transit investment increases and new jobs that would be created under this new motion to recommit.

TOTAL HIGHWAY/TRANSIT INVESTMENT INCREASES AND NEW JOBS CREATED UNDER DAVIS MOTION TO RECOMMIT

[6-Year Comparison of Funding Levels H.R. 3550 vs. Davis Motion—April 2, 2004]

State	Highway	Transit	Total Increase	New Jobs Created
Alabama	641,930,651	32,286,503	674,217,154	32,025
Alaska	377,354,764	7,453,434	384,808,198	18,278
Arizona	546,862,745	66,315,929	613,178,674	29,126
Arkansas	418,494,826	19,120,008	437,614,834	20,787
California	2,983,161,532	790,817,798	3,773,979,330	179,264
Colorado	453,677,165	68,286,399	521,963,564	24,793
Connecticut	480,949,177	62,125,892	543,075,069	25,796
Delaware	140,110,573	9,373,749	149,484,322	7,101
Dist. of Col.	125,288,749	89,914,881	215,203,630	10,222
Florida	1,496,429,489	234,032,310	1,730,461,799	82,197
Georgia	1,111,763,461	103,762,256	1,215,525,717	57,737
Hawaii	163,958,507	36,371,827	200,330,334	9,516
Idaho	224,433,409	12,426,693	256,860,102	12,201
Illinois	1,243,912,775	300,674,181	1,544,586,956	73,368
Indiana	811,474,429	59,165,463	870,639,892	41,355
Iowa	390,912,140	25,359,777	416,271,917	19,773
Kansas	371,083,992	20,121,040	391,205,032	18,582
Kentucky	549,959,335	36,390,607	586,349,942	27,852
Louisiana	503,561,959	48,157,903	551,719,862	26,207
Maine	166,682,176	8,575,838	175,258,014	8,325
Maryland	508,890,726	95,994,478	604,885,204	28,732
Massachusetts	590,275,962	168,290,084	758,566,046	36,032
Michigan	1,033,958,948	105,045,881	1,139,004,829	54,103
Minnesota	627,515,527	66,401,515	693,917,042	32,961
Mississippi	385,937,487	16,939,799	402,877,286	19,137
Missouri	747,900,357	61,777,797	809,678,154	38,460
Montana	314,457,025	8,659,265	323,116,290	15,348
Nebraska	246,016,937	16,462,238	262,479,175	12,468
Nevada	229,548,244	34,397,627	263,945,871	12,537
New Hampshire	163,515,119	9,350,337	172,865,456	8,211
New Jersey	834,127,766	285,310,078	1,119,437,844	53,173
New Mexico	313,031,850	18,897,469	331,929,319	15,767
New York	1,635,087,852	730,759,129	2,365,846,981	112,378
North Carolina	909,717,121	69,621,070	979,338,191	46,519
North Dakota	207,537,203	7,340,286	214,877,489	10,207
Ohio	1,251,348,467	134,180,702	1,385,529,169	65,813
Oklahoma	488,328,418	28,477,592	516,806,010	24,548
Oregon	385,842,475	54,595,630	440,438,195	20,921
Pennsylvania	1,579,949,401	217,311,252	1,797,260,653	85,370
Rhode Island	188,693,217	12,832,952	201,526,169	9,572
South Carolina	515,224,483	28,955,485	544,179,968	25,849
South Dakota	226,412,858	7,484,682	233,897,540	11,110
Tennessee	717,211,581	50,666,878	767,878,459	36,474
Texas	2,507,570,916	287,128,089	2,794,699,005	132,748
Utah	248,012,183	41,168,296	289,180,479	13,736
Vermont	144,829,487	3,704,577	148,534,064	7,055
Virginia	817,694,519	81,898,909	899,593,428	42,731
Washington	569,305,588	131,298,248	700,603,836	33,279
West Virginia	358,479,108	12,771,895	371,251,003	17,634
Wisconsin	630,750,942	63,268,811	694,019,753	32,966
Wyoming	220,142,087	4,665,881	224,807,968	10,678
All States	32,177,385,058	4,854,102,917	37,031,487,975	1,758,996

Total funding levels calculated by the Federal Highway Administration and the Federal Transit Administration, U.S. Department of Transportation.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, the Davis motion to recommit increases the funding in this bill to the Senate level of $318 billion, and it does something about donor-donee issues which we have heard a lot about here. Unlike the previous objection that was originally heard, the Senate bill, which is in essence the way in which the gentleman from Tennessee has constructed this, is a fiscally responsible bill. There is no new gas tax in it, so let us not be deceived.

That increase to rise to the 318 is fully offset by what? By cracking down on abusive tax shelters and by preventing American companies from avoiding paying U.S. taxes by moving to a foreign country. It is not only fiscally responsible; it is responsible national economic development policy. It is going to create 1.8 million more additional jobs, and God knows we need those jobs in this country. And it is about national security policy.

The bill is supposed to be about a legacy. Do we want it to be a legacy of congestion and deteriorating infrastructure? Or do we want it to be about increased productivity and more good-paying jobs? About a Nation that has the redundancy and multiplicity of transportation infrastructure to respond to national emergencies on the scale of what happened on September 11 where after so many different modes of transportation were shut down, there is still one available to get people out of downtown Manhattan over to New Jersey into hospitals?

If you want more money to go to your State, if you do not want just to stop the decay of the Nation's infrastructure, but dramatically improve it; if you want to help create good-paying jobs, 1.8 million more jobs for the people of this country; if you want to have multiple avenues to evacuate people and for first responders to reach the site, God forbid, of the next national emergency, then you will vote for the Davis motion to recommit. It is fiscally responsible. It is about creating jobs. It is about the national security of the United States.

Mr. DAVIS of Tennessee. Mr. Speaker, as a graduate from my hometown school, I traveled on an interstate called Interstate 40. It was about one-third finished. My grandchildren travel that today. With this bill, with this increase with this motion to recommit and the suggestion of increasing it to $318 billion, all of our children and grandchildren to come will have an infrastructure that will be the seed that is needed for economic growth and investment for the future.

Mr. Speaker, I yield the balance of my time to the gentleman from Oregon (Mr. BLUMENAUER).

The SPEAKER pro tempore. The gentleman from Oregon is recognized for 1½ minutes.

Mr. BLUMENAUER. Mr. Speaker, we have extolled the leadership of our committee chair and ranking member and the subcommittee chair and ranking member. I think that is appropriate because they have taken a difficult task and have given us a good bill. But it falls far short of the needs that have been identified by our own Department of Transportation.

One of the reasons we have had the trauma about the donor-donee over the course of the last 2 weeks is simply because we are not right-sizing this bill. Every day we are losing the battle to congestion, pollution, and bridges that are crumbling faster than we can fix them. This motion will get us one-third of the way that was envisioned by our committee leadership. It is, in fact, paid for and it will provide extra money for States large like California, Texas and New York, small States; and more important than the money in this time of economic concern are the jobs.

We have seen the good work by the committee leadership and we have not really acknowledged the leadership of Speaker HASTERT and Leader PELOSI who understand that the President is wrong to draw the line here for the first time in his administration to exercise fiscal responsibility, so to speak, at the needs of our infrastructure.

Now it is time for the leadership here. We on this floor have the opportunity to do our part as Members of Congress. We can vote for this motion to recommit. We can vote to make sure that the Federal Government is a better partner with our communities to make them more livable, to make our families safe, healthy and more economically secure.

I strongly urge support for the Davis motion.

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. YOUNG of Alaska. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Alaska is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, we have spent 2 good days of very legitimate debate. I was hoping we could avoid some of the things being said now. Although it may sound clear and true, I can say we face reality. This bill came out of our committee unanimously with the gentleman from Minnesota (Mr. OBERSTAR) supporting it. We want to go forth. The 318 figure coming from the Senate side, very frankly, I do not think is true. What we have to do is try to find the real dollars, and we are going to attempt to do that in conference.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. I thank the gentleman for yielding me this time.

Mr. Speaker, we really do have to decide whether we want to try to make law or score political points. The first motion that was offered was obviously a ruse because it would have killed the bill. You then say changing "forthwith" to "promptly" makes this a serious offer. You need to know that the reason they dropped "forthwith" to "promptly" and dropped various portions of the bill was to make it germane under the rules. In dropping those portions to make it germane, we have no idea what the revenue consequences of this bill are. There is no score available.

I will tell you this, that the old provision was $38 billion in revenue. If anyone knows how the Senate works, it is very simple. The way you get the votes to pass anything is to ask whoever would possibly vote for something, what do they want. It is an additive process. What we have here is the sum and substance of a bill that passed the Senate, which means there is no rationale to anything in the revenue portion.

Let me give you one brief example. Turn to page 108 and to raise the revenue that is in this bill, which is not directly applicable to the highway bill in about two-thirds of it, the effective date of the provisions ending on page 108 shall apply to transactions entered into after February 13, 2003.

□ 1145

What was good law on February 13 last year, retroactively, will not be good law if you vote for this measure. And if you think there is nothing worse than the government's saying one can do something and then, after they did it when it was legal, saying, no, now it is not, then understand that is the way the Senate legislates. If you want to make law, let us stick with the dollar amounts we have.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair would first remind all Members that it is inappropriate to characterize actions in the other body, and all Members should remember that admonishment in making their comments on the floor.

Mr. THOMAS. Mr. Speaker, I accept that admonition. The other body has no problem changing the law after the fact. We should not.

POINT OF ORDER

Mr. FRANK of Massachusetts. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Massachusetts will state his point of order.

Mr. FRANK of Massachusetts. Mr. Speaker, simply not using the word "Senate" does not alter the impact of the rule. The gentleman is in violation of the rule.

The SPEAKER pro tempore. The Chair will repeat that it is inappropriate to characterize actions in the other body, regardless of what one calls them.

The gentleman from Alaska (Mr. YOUNG) has 2 minutes remaining.

Mr. YOUNG of Alaska. Mr. Speaker, I yield the other body 1 minute.

Mr. THOMAS. Mr. Speaker, in referring to those that I cannot refer to, in examining the legislation offered as a motion to recommit, simply look at page 108. What was legal will not be legal. Someone who took actions by virtue of something that if it were criminal would be unconstitutional is in this legislation.

Let us make law. Let us not make political points. Vote down this motion to recommit, and together let us move solid legislation that we can turn into law, much-needed law, as soon as possible.

I thank the gentleman for yielding me this time.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his remarks.

Let us move forward. Let us try to legislate. Let us do our job.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DAVIS of Tennessee. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by a 5-minute vote, if ordered, on passage and, without objection, by a 5-minute vote, if ordered, on a nondebatable concurrent resolution to adjourn.

There was no objection.

The vote was taken by electronic device, and there were—ayes 198, noes 225, not voting 10, as follows:

[Roll No. 113]

AYES—198

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sànchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—225

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Culberson
DeMint
Hulshof
Issa
Miller, George
Reyes
Serrano
Tanner
Tauzin
Waxman

☐ 1207

Mr. GUTIERREZ changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote, to be followed by a 5-minute vote on H. Con. Res. 404, if ordered.

The vote was taken by electronic device, and there were—yeas 357, nays 65, not voting 11, as follows:

[Roll No. 114]

YEAS—357

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cummings

Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Sweeney
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—65

Akin
Barrett (SC)
Barton (TX)
Bilirakis
Blunt
Boehner
Boyd
Brady (TX)
Brown-Waite, Ginny
Burns
Cantor
Castle
Cole
Crenshaw
Davis (FL)
Deal (GA)
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Feeney
Flake
Foley
Franks (AZ)
Gingrey
Goss
Green (WI)
Gutknecht
Harris
Hastings (FL)
Hensarling
Hill
Isakson
Istook
Johnson, Sam
Jones (NC)
Keller
Kingston
Kline
Kolbe
Linder
Lucas (OK)
Miller (FL)
Myrick
Norwood
Otter
Paul
Pence
Putnam
Rogers (MI)
Ros-Lehtinen
Ryan (WI)
Sensenbrenner
Shadegg
Shaw
Simpson
Smith (MI)
Souder
Stearns
Sullivan
Tancredo
Thornberry
Toomey
Weldon (FL)
Wexler
Young (FL)

NOT VOTING—11

Culberson
DeMint
Hulshof
Hunter
Miller, George
Reyes
Saxton
Stark
Tanner
Tauzin
Waxman

□ 1215

Mr. DAVIS of Florida changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. STARK. Mr. Speaker, earlier today during the vote on final passage of H.R. 3550, I was called off the floor to receive a phone call from my office. In my distraction, I thought I had voted in favor of H.R. 3550 when in actual fact I had not cast my vote. Had I not been distracted, I would have voted "Aye" on final passage of H.R. 3550.

PERSONAL EXPLANATION

Mr. HUNTER (during the Special Order of Mr. KING of Iowa). Mr. Speaker, I want to place in the RECORD on the Transportation bill that the gentleman from New Jersey (Mr. SAXTON) was going to vote on that bill, and I pulled him into a meeting that I thought was pretty important since he is the chairman of the Subcommittee on Terrorism, Unconventional Threats and Capabilities on the Committee on Armed Services.

I was in charge of watching the clock, and I did not do that; and the gentleman from New Jersey (Mr. SAXTON) missed that vote, and I just want to apologize for that, and if it is any consolation, I missed it, too.

So I apologize to the gentleman from New Jersey (Mr. SAXTON) for that occurring.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3550, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other necessary technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. DELAY. Mr Speaker, I offer a privileged concurrent resolution (H. Con. Res. 404) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 404

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, April 2, 2004, it stand adjourned until 2 p.m. on Tuesday, April 20, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Wednesday, April 7, 2004, Thursday, April 8, 2004, or Friday, April 9, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 19, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The concurrent resolution is not debatable.

□ 1215

PARLIAMENTARY INQUIRY

Mr. CARDIN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman will state it.

Mr. CARDIN. Mr. Speaker, we had a hard time hearing the resolution, but am I correct that this is the resolution that will allow the House to go into recess for 2 weeks at the completion of our business today? Is that what is being voted on?

The SPEAKER pro tempore. The gentleman is correct.

Mr. CARDIN. Mr. Speaker, part of my parliamentary inquiry is, am I correct in understanding that if this resolution passes, we will not be able to consider the extension of unemployment benefits, and another 160,000 people will exhaust their benefits during this recess?

If I am correct, Mr. Speaker, I would urge my colleagues to vote against the resolution.

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARDIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 211, noes 201, not voting 21, as follows:

[Roll No. 115]

AYES—211

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Ballenger
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—21

Culberson
Cummings
DeMint
Foley
Goss
Granger
Gutierrez
Hulshof
LaHood
Majette
Miller (FL)
Miller, George
Osborne
Paul
Pryce (OH)
Reyes
Ros-Lehtinen
Sullivan
Tanner
Tauzin
Waxman

☐ 1227

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3108, PENSION FUNDING EQUITY ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to the order of the House of April 1, 2004, I call up the conference report on the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, April 1, 2004, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 1, 2004 at page H 1997.)

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New Jersey (Mr. ANDREWS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3108.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that 15 minutes of this time be controlled by the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time, and I yield myself such time as I may consume.

I want to thank everyone for bringing to fruition a modest bill which has a limited life, but which is extremely critical in today's economic environment. Twice the House has passed a short-term substitute for a financial structure that assists in pensions. Thirty-year Treasury bonds had been the standard. When the Treasury decided not to issue 30-year bonds anymore, we did not have a surrogate.

This surrogate is absolutely essential in the short term while we work out a long-term replacement for the 30-year Treasuries. As I said, twice the House passed this legislation, once in October of 2003 and then again in November of 2003. Neither time in passing this legislation did the House include multi-employer provisions.

Multi-employers tend to basically be the representatives for the unions.

Multi-employers determine their pension liabilities differently than other companies. It is important to make sure that there are provisions available for multi-employers, and what the conference did was work out a solution which we believe addresses those multi-employers in need and can be signed into law.

We are going to hear a lot of comments about what we did or did not do. It seems to me that when we look at those people who are willing to write letters in support and we get one letter from the United Auto Workers and the other from Ford, Daimler Chrysler, and General Motors, both management and labor in support of what we did in the short-term solution, we begin to think maybe we have it about right.

So as we look at this, this is not permanent legislation; it is legislation that needs to go to the President to be enacted, hopefully no later than next week; and we will then sit down and look at long-term, formal changes to the pensions in this country in a number of different ways, in the Tax Code and in the jurisdiction of the gentleman from Ohio's Committee on Education and the Workforce.

I want to compliment the gentleman from Ohio (Chairman BOEHNER) on the way in which he has conducted himself while working on this legislation in the House and especially his leadership in conference. It is a pleasure to work with my colleagues where, notwithstanding the jurisdictional differences in committee, we are able to work together to solve problems, because it is the problem that needs to be addressed and not the particular concerns or interests of any committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SIMMONS) for purposes of a colloquy.

Mr. SIMMONS. Mr. Speaker, the chairman is aware that some stock life insurance companies are facing taxes on their policyholder surplus accounts due to corporate reorganizations.

Is the chairman examining ways to prevent this tax from hitting companies in the process of reorganizing to be more competitive?

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, I will tell the gentleman we have, and we are. I know the gentleman's interest in this issue based upon his State and one of the things his State is famous for.

We are working with a number of individuals on Joint Tax, in industry, to gather the information needed to craft an equitable proposal. Once the committee receives this information, I will tell the gentleman, we intend to seriously pursue relief options because of the current unfair relationships, as the gentleman described.

Mr. SIMMONS. Mr. Speaker, I thank the chairman for his insightful and reassuring response.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. PORTMAN) control the remainder of the time of the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1230

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from New Jersey (Mr. ANDREWS) is recognized for 30 minutes.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to begin by thanking the gentleman from Ohio (Mr. BOEHNER) who very ably and fairly chaired this conference and for all the participants and staff who worked very hard in the conference and did yeomen's work on both sides of the Capitol and both sides of the aisle.

As the chair of the Committee on Ways and Means said a minute ago, this bill solves a problem. I think he is correct, that there is a problem. I think he is correct that it solves the problem for some people who suffer that problem, but I would respectfully say he is most decidedly incorrect when he says it solves the entire problem.

The problem here is that people running pension plans, defined benefit plans, have suffered an unusual series of economic circumstances, declining stock prices, very low interest rates, which have given them great fiscal distress in their plans.

Under the existing law, it is necessary for the employers who pay into those plans to make huge increases in their contributions in the very near future. This translates, in my view, into lost jobs, slower growth, and significant economic problems for many industries. Commendably, this conference tried to address that problem and has, in fact, done so for many of our employers, but the conference report fails miserably to help a number of employers who need this help, and those are the employers in what is called the multi-employer plans.

Now multi-employer plan is a very antiseptic term. Who are we talking about? We are talking about air conditioning contracting companies. We are talking about people who build houses. We are talking about people that do plumbing repairs and heating repairs, that do sheet metal contracting. We are talking about 60,000 small businesses across this country affected by this change.

Now, the experts in the field have told us that about one in five of those small businesses is going to experience a significant problem in their pension plan within the next 5 years. Twenty percent of these air conditioning repair companies and plumbing companies and home builders are going to experience a problem in the next 5 years. So about 20 percent of these small businesses and their employees need help right now.

This bill helps about 3 or 4 percent of these small businesses in the country. Think about this. The experts tell us that 20 percent of these small businesses and their employees need help. This bill steps forward and helps 3 or 4 percent.

Now one might be inclined, Mr. Speaker, to think that this is a technical oversight or it is a problem that cannot be fixed because of some fiscal or budgetary reason. Nothing could be further from the truth. This bill represents a deliberate choice to exclude thousands of small businesses and their employees from the relief that they need to continue creating jobs, and I believe that deliberate choice is made because these plans are all affiliated with organized labor. That is what this is about.

There are a bunch of people that fell off the boat and they are drowning and need a life preserver and we are standing on the deck of the rescue ship throwing out life preservers so people can survive. And that is commendable. But we will not throw the life preservers for union plans and union workers. That is wrong. There is no substantive basis for that judgment. There is no fair basis for that judgment. And it is wrong.

We will have an opportunity to fix this injustice in the motion to recommit to conference that I will be offering. Under the rules of the House, there will be no debate on that motion, so I want to bring it up now.

What the motion will permit us to do is to reconvene the conference with the instructions that the small businesses adversely affected by this bill will have the chance to be included. We will go back to the bargaining table and say, as the experts have told us, that the 20 percent of small businesses who are drowning out there in the sea will also get thrown a life preserver.

To make a judgment based on dollars is reasonable. To make a judgment based upon technical disagreement is reasonable. But to make a judgment based upon ideological opposition to a certain segment of the American business community, those who employ unionized workers and against a segment of American workers, those who happen to exercise their right to collectively bargain, is wrong.

That is why the motion that I will submit is supported by, and final passage is opposed by, the Teamsters, the IBEW, the building and construction trades of the AFL/CIO, the bricklayers, the boilermakers, the roofers, the asbestos workers, the carpenters, the iron workers, the operating engineers, the laborers, the sheet metal workers, the plasterers, the plumbers and pipe fitters, the elevator trades and the painters.

The small businesses that employ these Americans should not be excluded from this bill, irrespective of who they support in the election, irrespective of how they view things politically. It is wrong to throw a life preserver only to the favored few.

I would urge my colleagues to support the motion to recommit that will be offered and oppose final passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from New Jersey (Mr. ANDREWS) for his comments. I have enjoyed working with him over the years. He works closely with the gentleman from Ohio (Chairman BOEHNER) who we will hear from in a moment on pension issues.

I would say I cannot agree exactly with his analysis of this bill. This is a very strong bill that I strongly support. I commend those who played a role in putting it together, and the gentleman from New Jersey (Mr. ANDREWS) was there in the conference helping put it together.

The bill that came through the House, as my colleagues will recall, had no help from multi-employers because it was a 30-year bill. That was the issue that we started with, and that is the source of the legislation, also the reason for the legislation, and that legislation then got added to. But it is interesting that all but I think two Members of this House voted for the bill last go-around without any multi-employer relief and now somehow the bill is not good enough because it does not have enough multi-employer relief.

It does solve the 30-year problem, and that is extremely important to 34 million American workers. It is only a 2-year short term bill, as the gentleman knows; and in those 2 years the idea is that we will reform all of the pension rules and regulations, including the funding rules, the accounting rules, the disclosure rules, something that is long overdue, and including within that, of course, the multi-employer rules, which I believe do need to be altered. But this was never meant to be the bill to do that.

My colleague talked about problems that might come up in the next 5 or 10 years for these plans. We will have time to deal with that in the next 2 years. That is the whole idea. The critical thing here is, before April 15 when these quarterly payments are going to be made or not made, that we make a decision to save millions of employees from having their benefits frozen, from perhaps losing their benefits altogether, new entrants into the workforce. We know we had 300,000 new jobs last month. Let us be sure those people have an opportunity to get into a pension.

What is happening out there, as we know, is we not only have seen a precipitous drop in the number of plans that are insured by PBGC, meaning these traditional guaranteed, defined benefit plans, we have gone from roughly 114,000 plans to 32,000 plans just in the last 18 years.

More disturbing to me is that recently we have seen a lot of these plans freeze benefits for existing participants and not allow new participants in. The best study we have got shows that we have about 27 percent of plans that are not offering benefits to new hires as they do to existing hires. We have about 21 percent of plans, that is more than one in five, who are scaling back benefits through a freeze or other similar mechanisms.

We have got a crisis, and we need to deal with it. We have spent 2 years talking about it. I am delighted this bill is before us to finally correct the major reason that plans are freezing and cutting benefits and that is the fact that the interest rate they have to use, called the 30-year rate, is not accurate.

My colleague, the gentleman from Maryland (Mr. CARDIN), who I see is on the floor, and I introduced legislation to correct this problem. It is bipartisan legislation, strongly supported in this House. It provides for a long-term, conservative corporate bond rate to be used instead of this 30-year Treasury, as the gentleman from California (Chairman THOMAS) said earlier, which is now defunct and no longer a good interest rate. It provides a slightly higher interest rate, which allows companies to make the adequate and accurate contribution but not overcontribute. And this will help, again, 34 million American workers.

I am pleased to see the conference report we have before us incorporates that model. It only does it for 2 years. I wish we could have gotten 3 or 4. I would have loved it to be permanent. It would give the plans the predictability they need. We were not able to do that. But to have the 2-year change in the 30-year is extremely important to those 34 million workers, including, by the way, 12 million union workers.

To my friend, the gentleman from New Jersey (Mr. ANDREWS), he talked earlier about the fact that this somehow does not take care of union workers but it takes care of non-union workers. I would just remind him there are 9 million union workers in multi-employer plans, but there are 12 million union workers who get a very direct benefit from the 30-year Treasury fix in this bill.

I would also say that, for those folks who are concerned about who this covers and does not cover in terms of the multi-employer plans, we really do not know. It may be three 3 or 4 percent. It may be more than that. That is not what we intended to do, was to choose a percentage. We tried to put in place some screens to be sure that the benefits that were added to, again, the 30-year Treasury bill that went through this House with all but two votes, to be sure that those plans that were added to that were those plans most in need. That was the only criteria.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. HOUGHTON), my colleague on the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, there are a lot of good things in this bill, a lot of things you can argue about. The two things that I think are important, one is the section 809, which we all know about. It is a conference report and permanently extends the suspension of section 809 on an antiquated tax on mutual life insurance companies. That is very important. But the most important thing for me is the temporary replacement of the 30-year Treasury bond.

Now, people have talked about that. A lot of people are going to discuss this. But, having been in business, this is very, very important. They are out now. They are gone. There is nothing to base a pension plan formula on. Something has to take its place, and what we want to do is to try to have something which is timely and can be voted on by April 15 when many of these companies have to make their decision.

So to protect the money that goes into the pension plans for employees, you must have a guideline. It is very important. It is very critical timewise. This is not an intellectual issue. This is not something we can have bandied about forever. People's very retirement depends on this. It is not so much the money, but it is the guideline. I hope very much we will support this.

Mr. ANDREWS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), who is really one of our leading voices on pension reform in this country.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from New Jersey (Mr. ANDREWS) for his leadership on pension issues and protecting working people. I agree completely with what he has said with regards to multi-employer. I am very happy that my friend, the gentleman from Ohio (Mr. PORTMAN), is on the floor. I want to thank the gentleman from Ohio (Chairman BOEHNER) for all of his help on dealing with particularly the ERISA provisions as it affects pension rules.

It is interesting, in regards to the multi-employers, it was included in legislation that the gentleman from Ohio (Mr. PORTMAN) and I authored to try to deal with the current problems of funding a pension plan. I regret it is not included in this legislation.

Mr. Speaker, let me point out that when this bill passed this body I urged my colleagues to support the bill, but I pointed out that it is not going to correct the problem. It is a temporary Band-Aid, that we should have done more. We should have had a longer than 2-year replacement of the 30-year Treasury.

☐ 1245

We should have had a permanent correction. We know what we should be doing. Using the formula that is in this bill, we should have had it for more than just 2 years.

I also pointed out that there are many other provisions in funding of pension plans, defined benefit plans that need to be addressed. I know there is an attempt here to deal with the mortality schedules, but we should deal with it broader. There are a lot of blue collar workers that today their pension plans are overfunded in regards to the mortality schedules.

We had the issue of smoothing contributions to allow employers to make more predictable contributions to the defined benefit plans. All that needs to be dealt with.

So, Mr. Speaker, I hope that my colleagues will support this bill because it is important that we get this relief in effect before April 15, but I hope that we will do a lot more in protecting the defined benefits because, if we do not, if we do not take this issue up, next year when we talk about it or 2 years from now, we are going to find there are less defined benefit plans that are out there.

The well-funded plans are going to freeze or convert, but they are not going to do the current roles that are out there. We need to reform and make sure that plans are accurately funded, fully funded so that employees are protected, but we also have to make sure that there are incentives for companies to continue their defined benefit plans.

So I urge my colleagues to support this legislation, support my colleague's, the gentleman from New Jersey (Mr. ANDREWS), motion to recommit so we can then deal with the multi-employer issue, but let us get this bill to the President's desk as quickly as possible.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

First of all, I want to thank my colleague from Maryland for all of his hard work and his support today and make that commitment with him and the gentleman from Ohio (Chairman BOEHNER), the gentleman from California (Chairman THOMAS), and the gentleman from New Jersey (Mr. ANDREWS) and others. We will work together on this issue for the next couple of years. We do need to reform our entire defined benefit pension system.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), my distinguished colleague on the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman; and I want to congratulate my colleagues, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. CARDIN), who have long been leaders on complicated pension issues, and to the whole conference committee for bringing a bill back that we can get to the President's desk to sign because there is literally nothing more important to working Americans than retirement security.

They have the right to know. We have the obligation to assure them that, when they retire, their retirement plans will come to reality and they will receive the benefits that they have long counted on.

When the rate on the 30-year Treasury bond plummeted after the bonds were discontinued, companies found themselves forced to make artificially high contributions to defined benefit pension plans. That is all this does. This just eliminates that requirement for companies with defined benefit pension plans, which we all know are extremely valuable to working people. It protects those companies from having to make artificially high contributions.

With the economy just coming back, this is about as important a jobs bill as we could pass right now because if we do not give these companies relief, they will be forced to divert funds from paying for current employees or hiring new employees because they will have to make sizeable, significant, new, higher contributions to their pension funds.

So this will free up $80 billion over the next 2 years to help grow this economy, and that is about jobs now. It is about retirement security later. So this is a must-pass bill. Is it everything? No, it is not everything. We need a permanent fix to this problem, and we have a permanent fix that needs to go to everyone; but this is a must-must-pass bill, and I urge the body to vote "yes."

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume, and I would just point out that the argument from the other side, we keep hearing the bill is not everything, that we cannot do everything all at once.

It seems like the things that we never quite get around to are the ones that most benefit the working people of the country. We never quite get around to extending unemployment benefits. We never quite get around to consideration of raising the minimum wage. We never quite get around to including pension relief for employees of small businesses, 60,000 small businesses across the country. We never quite get around to debating legislation that would help the 45 million people without health insurance in the country. We never quite get around to that.

We always do get around to helping very powerful players in our economy and our political system who, in fact, deserve help in this circumstance. I do not dispute that; but I hope one of these days, Mr. Speaker, we get around to helping the rest.

Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Speaker, I too want to thank the gentleman from New Jersey (Mr. ANDREWS) and also the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Ohio (Mr. PORTMAN) for their work on this bill.

Mr. Speaker, I rise today to express my concerns about the conference report for H.R. 3108, the Pension Funding Equity Act. Mr. Speaker, I am extremely disappointed that this conference report fails to address the real dangers facing multi-employer pension plans.

When we considered this bill last October, I supported the temporary extension of using a composite of corporate bond index to replace the 30-year Treasury. I think that is a good move. It is good to, I think, adjust in the current climate the funding obligation calculations that we include in this bill. Few of us doubt that this country's retirement system is in desperate need of reform. However, today we are missing an opportunity to meaningfully address the funding struggles that are crippling many of the multi-employer plans in this country.

When the Senate considered H.R. 3108, they recognized this growing crisis, and they included protections for multi-employer plans by an overwhelming vote. Sadly, this good work was undone yesterday by Republican conferees who gutted multi-employer pension relief with a so-called compromise that was strictly conducted on a party-line vote.

Mr. Speaker, the real losers today are our Nation's workers. Multi-employer pension plans cover 9.5 million workers and retirees who have put their faith in the retirement security system. Hardworking families should not be forced to pay the price of partisan politics. They deserve this body to comprehensively address this problem facing multi-employer plans. Congress should be taking a fair look at this issue and making a good faith effort to provide meaningful pension reform. The Senate tried to do just that; but sadly, the conference report failed in its similar attempt.

There is a pattern here, Mr. Speaker, of conduct that the gentleman from New Jersey (Mr. ANDREWS) has addressed in part; and I, too, find it troubling that unemployment benefits are blocked by the Republican leadership; that overtime pay for our workers is blocked by the Republican leadership; that minimum wage increases are blocked by the Republican leadership. And now, Mr. Speaker, again, because of the obstructions created by the Republican leadership, we are missing an opportunity here to provide real multiemployer pension relief.

I urge my colleagues to support the gentleman from New Jersey's (Mr. ANDREWS) motion to recommit and oppose this conference report.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Just briefly, I say to my colleague who just spoke, I appreciate his support. Last time through he said he did support the legislation without any multi-employer provisions. He should know that no one who has spoken on the floor today mentioned the multi-employer issue when it came to the floor last time. In fact, when we look through the debate, not one Member of Congress on either side of the aisle mentioned the multi-employer issue or suggested that it be added.

I would also say with regard to all these small businesses, 23 million small businesses in America, let us assume all the multi-employer employers are small businesses which, of course, they are not. Let us assume they were, that would be .2 percent of our small businesses in America. So let us be careful about saying we are talking about 20 percent of the small businesses here.

We are talking about at the most .2 percent and of course, not all multi-employer employers are defined as small businesses.

Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. CAMP), a distinguished member of the Committee on Ways and Means.

Mr. CAMP. Mr. Speaker, I rise in support of this conference report, and I want to thank the gentleman from California (Chairman THOMAS) and the gentleman from Ohio (Mr. BOEHNER) for all their hard work on this important legislation.

This does make important, commonsense changes to help keep workers' pensions intact, and replacing the 30-year Treasury bond rate is one step in addressing the crisis companies with pensions face, especially the airline and steel industries. These companies are facing massive mandatory payments because of the simultaneous collapse of the stock market and record low interest rates.

Many defined pension plans have gone from an overfunded surplus to an underfunded deficit in just 3 years. Since these plans are now less than 90 percent funded, companies will be required to pay hefty surcharges, known as deficit reduction contributions. These payments are no less than a government-mandated surcharge requiring companies to make enormous additional payments in an unreasonable period.

This bill would provide relief to those affected employers without sticking taxpayers with the bill. More importantly, this legislation protects employee pensions and the ability of companies to keep the doors open for business. It is both pro-worker and pro-employer.

Under the bill, companies would continue to make their normal pension payments, but be allowed partial 2-year deferral for contribution payments.

In no way does this plan relieve any company from their pension liabilities. They must continue to make their normal pension contributions. This bipartisan plan is supported by both unions and management. This legislation is essential to maintaining healthy and viable employers and to protecting the pensions of thousands of workers, including the 305,000 new jobs and new pensions that were created last month.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I consume, and I know that there are elements of the union movement who support this bill. I understand that, but I want to reiterate, the Teamsters, the IBEW, the building trades, the bricklayers, the boilermakers, the roofers, the asbestos workers, the carpenters, the iron workers, the operating engineers, the laborers, the sheet metal workers, the plasterers and cement masons, the plumbers and the pipefitters, the elevator trades and the painters all oppose this bill.

Mr. Speaker, I yield 3 minutes to my friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank, in particular, the gentleman from New Jersey (Mr. ANDREWS) for his leadership, courage, in fact, on a bill that looked like it was already ready to make the last mile and cross the finish line.

Many might wonder why we would come to the floor and allegedly interfere with a bipartisan legislative initiative that has the support of employers and unions. Well, I tell my colleagues why he has come to the floor, because he is absolutely right; and not only is he absolutely right, it is shameful that we would allow ideology to interfere with the rightness of making whole all of the pension funds.

Mr. Speaker, I come from Houston, Texas. I saw 4,500 employees laid off from Enron. I heard the stories of individuals who had lost their entire life's savings and ability to provide for their family. I am still being confronted by those families who lost homes and are not able to provide for the college education of their children.

Today, we have an opportunity to make better and to make whole prospectively thousands upon thousands of workers who are having a funding deficiency, but the actual insult of this motion to recommit, the actual insult and the actual, I think, outrage that caused the gentleman from New Jersey (Mr. ANDREWS) to come to the floor is that this was in the legislation, working on funding a deficiency, helping the neediest of needy who really did not suffer this loss through any fault of their own.

In fact, this is not an indictment of the companies or the unions. This is an indictment of the marketplace, the investments that were made that show that this underfunding came about, this funding deficiency, and this is clearly pointed to the marketplace, and why we had such a condition.

Why would we not today support helping 9 million workers and their families? Why would we yield to the White House that asked this language to be taken out?

Mr. Speaker, let me equate to a situation in our community right now in Houston. We are abandoning municipal employees, fire fighters and police employees by refusing to cast a positive vote to protect their public funds, not through any fault of the unions or the pension boards, because their moneys were also deficient because of investment; but because of their plight, they are now looking to suffer the loss by having the question raised as to opt-out of the State law that protects them from having their pension interfered with or changed, and so they are being attacked on an earned benefit right.

This motion to instruct is a motion that will provide an opportunity to protect the 9 million of those who are losing moneys now and to help their families and to make this bill, Mr. Speaker, whole and to help those who are needed to be whole. I ask for full support on the motion to recommit.

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Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the pension security measure that we have before us is of great urgency for American workers and their employers, and that is because the 30-year Treasury bond that is used to calculate the contributions and obligations for employers for single-employer defined benefit systems are so low that it is causing companies to have to take money that they would invest in their business, that they would invest in more jobs, and put it into their pension plans when, in reality, they do not need to put that money there.

Mr. Speaker, this issue of what we do with defined benefit pension plans is a very difficult path that we must follow. On one hand, we want to protect the obligations and the rights of employees who have been offered these plans and to maintain the retirement security that they have been promised and that they are expecting. At the same time, we need to find a way to make these plans work more smoothly so that employers do not continue to leave these plans in droves, as they have over the last 15 years.

That is why the bill we have before us today was intended to fix this discount rate for single-employer defined benefit plans, and we go from a 30-year Treasury bond to a blend of corporate bond indexes that we believe more appropriately reflects the marketplace in terms of what the discount rate should be as they calculate these obligations.

Yesterday, the House and Senate reached an agreement on a short-term bill that is good for the economy, it is good for American workers and the overall health of the Nation's pension system. I should say temporary. This is a 2-year bill. As the gentleman from New Jersey pointed out, the people who are opposed to this bill do not have funding obligation problems for 5, 6, 7 years; and for those multi-employer plans who do have problems here in the short term, over the next 3 years they will in fact, by and large, get the relief that they need.

The measure that was adopted by the conferees yesterday, I think, is a fair and responsible proposal that meets all of the goals that the conferees started with when we had the conference. The most critical urgent measure is the 30-year Treasury bond fix. It also includes limited relief from deficit reduction contributions for airlines and integrated steel companies, and it targets funding relief for multi-employer pension plans that we believe are most in need. It is also a bill that the President of the United States has agreed he will sign into law.

It is important to note that the interest rate provision really is the sole reason that we are here. Last fall, when we passed this measure on a 397 to 2 vote, everyone voted for this bill except two Members from the other side of the aisle. There was never any discussion about multi-employer relief, and we worked with our Senate and Republican colleagues on both sides of the aisle, both sides of the Capitol.

Mr. Speaker, I want to thank the gentleman from California (Mr. THOMAS), Chairman of the Committee on Ways and Means, for his willingness to work closely with us, and the gentleman from Ohio (Mr. PORTMAN) on our side, along with the gentleman from Ohio (Mr. TIBERI), the gentleman from Texas (Mr. SAM JOHNSON), and the gentleman from California (Mr. MCKEON), and I guess that would be it on our side; along with the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL). We worked together very closely in an open and bipartisan process that I think speaks well of how we should legislate here in the House.

I think we have come an awful long way, and we need to get this bill finished, and we need to get it finished today. These funding obligations for employers are due on April 15, and if this conference report is not passed by the House and Senate and signed into law before then, companies will be making contributions that they really are not required, we believe, to make.

Beyond thanking all of the Members who have worked on this, I want to take a moment to thank all of our staff. As we all know, Members are only as good as the staff we have around us, and we have staff on both sides of the aisle who have done really an awful lot of hard work to get us here today.

From my own staff, I want to thank Paula Nowakowski, Ed Gilroy, Stacey Dion, Jo-Marie St. Martin, David Connolly, Jeff Dobrozsi, Kevin Smith, Greg Maurer, Dave Schnittger, Linda Stevens, Kevin Frank, and Deborah Samantar.

I would also like to thank Shahira Knight and Lisa Schultz from the staff of the gentleman from California (Mr. THOMAS); Kathleen Black from the staff of the gentleman from Texas (Mr. SAM JOHNSON); Kurt Courtney from the staff of the gentleman from California (Mr. MCKEON); Angela Klemack from the staff of the gentleman from Ohio (Mr. TIBERI); and Barbara Pate from the staff of the gentleman from Ohio (Mr. PORTMAN) for all her work on this as well.

I would also like to thank John Lawrence, Michelle Varnhagen and Mark Zuckerman from the staff of the gentleman from California (Mr. GEORGE MILLER), and Jody Calemine from the staff of the gentleman from New Jersey (Mr. ANDREWS), and Mildeen Worrell from the staff of the gentleman from New York (Mr. RANGEL) for an awful lot of really long, long nights in getting us here.

I also want to thank Wade Ballou and Larry Johnston of the House Office of Legislative Counsel. They were under a great deal of pressure yesterday to get this bill drafted so we could get it filed.

Now there are some groups out there opposing the bill we have before us today, but there are also a lot of people supporting the bill we have before us today: the Airline Pilots Association, the International Association of Machinists and Aerospace Workers, the United Auto Workers, the U.S. Chamber of Commerce, the Motor Freight Carriers Association, Delta Airlines, the Business Round Table, New York Life, United Parcel Service, Northwest Airlines, Ford Motor Company, Daimler Chrysler, General Motors, and the Financial Services Roundtable.

If you want to see a broad bipartisan nonideological coalition of people supporting the bill, I think the list I have just read does in fact do that.

I would urge all of my colleagues today to reject the motion to commit and to vote "yes" on final passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I yield 2½ minutes to the gentleman from North Dakota (Mr. POMEROY), who is a leading voice on pension issues.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend him and the gentleman from Ohio (Mr. BOEHNER), Chairman of the Committee on Education and the Workforce, for their very hard work in trying to move this through conference committee. I also see my friend, the gentleman from Ohio (Mr. PORTMAN), in the Chamber. He has been a tireless advocate of moving in place this much-needed pension fix. I admire very much his leadership and work in this effort.

The bill before us must pass. It is estimated by Watson Wyatt, the consulting firm, that 20 percent of defined benefit pension plans, one in five, have been frozen or canceled within the last 3 years alone.

We are seeing a wholesale rout in the marketplace of defined benefit plans, and what is so sad about this is this is the old traditional pension. This is the thing that provides that guaranteed monthly payment upon retirement based upon a calculation of earnings and years served that really does provide secure retirement income in retirement.

We have some work ahead of us, Mr. Speaker, in trying to fix the underlying funding requirements of pension plans in this country. Because when times are good, we prohibit additional funding flowing into the plans. When times are bad, and we are asking these businesses to do everything they can to grow and hire more workers, we also require, under the formula, disproportionate funding of the pension program. At a time when they can least afford it, we make them fund it the most.

There are many industries hard hit with this, but the airline industry has been particularly hard hit. They have encountered the perfect storm of unfortunate circumstances. No need to go into them here. We are all aware of them. But we literally are going to be pushing airlines into bankruptcy if this legislation does not move. Now we need to again look longer term at addressing their pension funding issues and doing so in a way that comports with reason.

So I support the bill. Everything in it is good, but something is missing: support for the multi-employer pension plans.

I specifically asked the Secretary of Labor when she was before the Ways and Means if the administration opposed helping multi-employer plans. She refused to answer. She said she would get back to us. I am still waiting. But we know what is clear is the role they played in the conference committee in terms of trying to stop the conference from providing assistance to the multi-employer plans as well.

Our motion to recommit will fix that, which is why I will be voting for the motion to recommit and then for the underlying bill.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

I also want to echo the comments of the chairman regarding the staff on both sides, here in the House and the other body. Staff put in innumerable hours, did very high-quality work on both sides, and we are very grateful to each of these ladies and gentlemen.

I have listened to the arguments from the other side, and I certainly respect their intent, but I want to clarify the record.

We have heard that the bill that is in front of us really does help the multi-employer plans, the small business plans who need help, and that it only excludes those who do not. I again state that The Segal Company, which is widely recognized as an objective and authoritative source in this field, has concluded that over the course of the next 5 years 20 percent of the multi-employer plans will experience grave trouble. As I understand their analysis of this bill, this bill will help fewer than 4 percent of those plans. So a lot of plans in distress are going to have further distress.

Another argument we hear is that not that many people are really left out. My friend from Ohio talked about the relatively tiny percentage of small businesses affected by this. But it is important that we understand that these businesses employ nine and a half million people. Now, not all those nine and a half million people are in plans that are in distress, but a significant portion of them are. So it is nine and a half million workers who are affected and, I believe, left out of this important consideration.

We hear that this is only a temporary fix and we will come back and fix it later in 2 years. I hope that is true, and I have no doubt that is the intention of the majority. But we sometimes do not move very quickly in these areas. If someone is in trouble, and again I think the record shows about a fifth of these plans are in trouble, telling them they have to tread water for another 2 years until the life preserver comes is a rather unhelpful answer.

We have heard that no one in the House brought up multi-employer relief the first time this came through. That is true. The bill was brought up under a unanimous consent agreement in which no amendments were permitted, by agreement of both sides. Frankly, our side entered that agreement because we wanted the bill to move quickly and because I think we made a rather reasonable forecast, based upon our experience, that Democratic amendments that alter decisions by the majority are very often not considered under the rules passed by this House.

So the idea we could have come to the floor and offered an amendment that would have included the multi plans is rather at variance with the record.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, when H.R. 3108 was brought to the floor, it was brought to the floor and developed in total agreement between myself, the chairman of the Committee on Ways and Means, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL). We came to an agreement on what the bill would be, and that is why it was brought up the way it was.

Mr. ANDREWS. Reclaiming my time, Mr. Speaker, I certainly appreciate that. I also appreciate the fact that the record of this House is that Democratic amendments to bills very often do not get fairly considered.

Finally, we are told the President will not go any further than what is in this bill. Well, I certainly respect the Office of the Presidency and the man who holds it now, but we are a coequal branch of government. Our job here is not to limit our expression of what we think the right answer is to what the people at the other end of Pennsylvania Avenue think. We have both the right and the responsibility to stand up and be counted for what we think.

Mr. Speaker, I reserve the balance of my time.

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Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I just wanted to say again that I have enjoyed working with the gentleman from New Jersey. I look forward to working with him on multi-employer relief over the next 2 years. This is a short-term bill.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS).

Mr. BOEHNER. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. THOMAS).

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from California is recognized for 1½ minutes.

Mr. THOMAS. I thank the gentlemen for yielding me this time.

Mr. Speaker, the record really needs to be absolutely crystal clear. We are not talking about the minority offering amendments and amendments being rejected. We are talking about in consultation with the chairmen and the ranking members of the committees of jurisdiction, what is it that we want to do in terms of legislation. It was completely agreed upon, evidenced by the fact that in October we passed nothing but a short-term 2-year extension with two "no" votes. In November when we expanded it to cover airlines, an absolute opportunity to include multi-employers, it was never mentioned, it was never offered, never considered, never presented by the minority; and that measure passed on a voice vote.

So when we analyze what goes on around here, the record really needs to reflect that the House in a bipartisan fashion acted, the Senate in a bipartisan fashion acted, and the conference came together and melded two significantly different bills. It is incontrovertible, the House twice sent out bills with no multi-employer provisions in it. We have before us in the conference report a conference report that includes multi-employer. That is the way this place is supposed to work.

If you vote on the motion to recommit, understand that recommitting conference reports kills the conference report. Do not look at what they want to do. Understand what the action does. It kills the conference report.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

I again would like to express my appreciation to the majority for the fair and evenhanded way in which the conference was handled. I dispute its result and disagree with its result. I do look forward to our cooperation over the next number of years in addressing the long-term problems.

I would urge my colleagues to vote in favor of the motion to recommit because I do not believe, as the distinguished chairman just said, it kills the chance for relief. I think it improves relief. I think this is a legislative body that is capable of producing a better product. I think that indisputably we have a situation here in which a number of small businesses who contribute to multi-employer pension plans are going to not receive the relief that they need in order to continue to generate and create jobs.

One of the ritualistic things that we say around here is that everyone loves small business, that they create three-quarters of the jobs created in the private sector in America, and we regularly have contests between each other to see who can be most in love with small business. The issue in front of us is 60,000 small businesses who pay into multi-employer pension plans. The record reflects that the best judgment of objective analysts concludes that 20 percent of the plans are at risk of being in financial jeopardy in the next 5 years. The bill in front of us helps only a tiny fraction of that group that is going to be in such trouble. It subjects thousands of those employers to difficult situations where they are going to have to steeply increase their contributions to their pension plans and thereby jeopardize their ability to keep handing out paychecks, which is so very, very important.

I would urge my colleagues to join the very broad and strong coalition of working men and women in supporting the motion to recommit and opposing final passage of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

As we said before, this is a short-term, 2-year temporary effort to help with the Nation's ailing pension system. There is not an issue that is in the bill that any of the conferees disagreed with. There are more things that people would like to add to the bill; but the bill that is before us, everybody agrees to, other than some people have been disappointed because they want more. We all want more, but the gentleman himself said that the multi-employer relief that is not included in the bill is for firms and plans that have a problem 5 or 6 years from now. Trust me, we will be back here within the next 2 years with a broad overhaul of our Nation's pension laws, which is greatly needed. This is a broad bipartisan bill. I think it will be supported in a broad bipartisan way here today. The motion to recommit is nothing more than a way to kill the bill. We do not want that to happen. It would be bad for American workers and their employers.

I urge my colleagues to vote against the motion to recommit and to vote for final passage.

Mr. FLAKE. Mr. Speaker, in voting against the conference report on H.R. 3108, the Pension Funding Equity Act of 2003, I want to be clear that I voted for the original House version of the bill. When we considered this bill in the House of Representatives, it simply contained a replacement rate for the defunct 30-year Treasury rate used for calculating pension liabilities. Using a rate based on a blend of high-quality corporate bonds, companies with pension plans are expected to realize about $80 billion in appropriate funding relief.

When the other Chamber produced its version of the bill, however, the merits of the House bill were more than offset by special interest favors for a few airline and steel companies. This version would give automatic waivers to airlines by law, but the relief would only benefit a few companies in these industries. The companies that would not benefit would then be at a competitive disadvantage. Such legislation puts Congress in the position of picking winners and losers.

I was joined by some of my colleagues in communicating to the House leadership and the conferees our concern over the direction the pension legislation was headed. We urged that, at the very least, companies that would benefit by the special provisions should be subject to an application and review process before being approved for relief. We also suggested that if any relief was granted, then it should be reduced in order to leave taxpayers less exposed.

What came out of conference, however, was even worse. The few companies who will benefit from the special provisions included in the legislation will be allowed to forego more of the payments to their pension plans than had been proposed prior to the conference.

These narrow waivers are expected to amount to about $1.6 billion in relief for these few companies. If this measure is necessary to keep these companies going, they must be dangerously close to failure as it is. Forgiving their deficit reduction contributions may only grow the size of their liabilities and delay inevitable failure. I am concerned that there we may be setting taxpayers up for a bailout like that of the savings and loan industry in the 1980s.

I am aware of the need for a replacement for the 30-year Treasury rate, and I support such a replacement. I understand that the broader business community supports this legislation. But I cannot support this conference report because of the special interest provisions included in it. While providing short-term relief for a few companies, this legislation may result in a taxpayer bailout that will hurt all taxpayers and result in much more long-term damage.

Mr. NORWOOD. Mr. Speaker, I rise today in order to voice my strong and unwavering support for the conference report on H.R. 3018, the Pension Funding Equity Act, and also to express my sincere appreciation for the hard work and dedication of Chairman BOEHNER in bringing this important legislation to the floor this afternoon.

Mr. Speaker, protecting and strengthening the retirement security of American workers is a top priority for my Republican colleagues and I. Indeed, since coming to Congress in 1995 I have sought a solution to the pension-funding shortfall that will soon face countless American workers.

The Pension Funding Equity Act Conference Report before the floor today is critical to protecting the pension benefits of millions of workers and their families. I strongly believe it will provide an effective and temporary replacement to the current 30-year Treasury interest rate, while at the same time allowing Congress the opportunity to craft a long-term solution to this issue in the weeks and months to come.

I was pleased to support the Pension Funding Equity Act of 2003 upon its original introduction and passage in the House of Representatives last year, and look forward to working alongside my colleagues on both sides of the aisle to develop permanent solutions to this issue that effects millions of American workers.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 3108. This bill passed both the House and the other body in a bipartisan manner, and I had hoped that we could conclude this process in a bipartisan manner. However, I must say that I am disappointed that the conference report is actually quite partisan.

The conference report would jeopardize the retirement security of millions of hard-working middle-class families who work for small businesses. Though it provides needed reform for some pensions, it ignores the need to provide relief to the more than 60,000 mainly small businesses that join together to pool resources and reduce risk for their employees' pensions. Without relief, these small businesses face excise taxes and mandatory additional contributions, putting the companies and the family-supporting jobs they produce at risk. The conferees have chosen to forget the retirement security of approximately 9½ million workers who rely on these jobs.

Mr. Speaker, I am pleased with the conference report's changes to pension plans that are sponsored by large, individual companies. The people who work for these companies deserve to have their pensions strengthened and improved. For example, replacing the current 30-year Treasury bond interest rate that employers use to determine their defined benefit pension contribution with an index based on corporate bonds will add stability to long-term pension growth. It is critical, however, that we provide the same pension security to people who work for small businesses. Congress should not pick and choose which pension plans can get relief—we should provide relief for all defined benefit plans regardless of the size of the company offering them. I ask my colleagues to oppose this bill so that we can come back with new legislation that would provide proper pension security for all employees.

Mr. KUCINICH. Mr. Speaker, I rise today in opposition to the conference report on H.R. 3108, the "Pension Funding Equity Act" and in strong support of the motion to recommit.

While the conference agreement contains needed assistance for single-employer pension plans, it is crafted to provide no assistance to multiemployer pension plans, which cover over 9½ million workers and retirees and some 600,000 small businesses.

Rather than enacting a reasonable and equitable package to offset the severe investment losses experienced by nearly all pension plans in the last few years, the effect of this conference report is to cynically distinguish between classes of business. It grants an estimated $80 billion in relief to large corporate sponsors of single employer plans, while rejecting real relief for multiemployer plans, which are jointly administered by small employers and unions. Even though multiemployer plans have a long history of sound funding and stability since their fortunes are not tied to the fate of a single corporation, only 4 percent of these plans are eligible for help under this bill. This is unacceptable.

Perhaps even worse, however, this conference report sets a dangerous precedent that could severely injure the integrity of the collective bargaining process for years to come. Employers that seek either Deficit Reduction Contribution or multiemployer relief would be precluded from increasing worker benefits during the relief period. Thus, under this agreement, employers could seek minimal relief not to further secure workers' retirement security, but as a way to prevent unionized employees from bargaining over benefit increases.

I urge my colleagues to vote for the Andrews motion to recommit, which would provide fair relief to multiemployer plans, and against final passage of this stilted and discriminatory conference report.

Mr. GEORGE MILLER of California. Mr. Speaker, I wish to begin by thanking the chairman, Mr. BOEHNER from Ohio, for trying to conduct a fair conference committee on this bill, H.R. 3108, the Pension Funding Stability Act.

Regrettably, however, I must oppose the conference report before the House today. However, I strongly urge support for the Andrews motion to recommit because it provides urgently needed relief for multi-employer plans.

The conference agreement was significantly weakened after intense lobbying by the Bush administration to strike provisions that would have protected the long-term stability of multiemployer pension plans.

While this conference report provides significant relief to many single-employer pension plans, it is outrageous that it does not provide relief to the many multiemployer plans across the country that need relief, plans that include many small businesses and others that need short-term relief. As a result of this deficiency, I oppose this bill.

Last week, House and Senate Democrats and Republicans on the conference committee had an agreement that the final bill would include pension funding relief for the 20 percent of multiemployer pension plans hardest hit by the recent economic and financial market downturn.

But then, 2 days later, the White House started to make clear to the Republicans that it did not want any help for multiemployer pension plans included in the agreement.

Not for any substantive reason—just political reasons, plain and simple.

The White House's opposition stemmed from the fact that multiemployer plans are administered jointly by employers and unions. And the Bush political appointees did not want any agreement that would help those unions.

Even if it meant they would hurt the tens of thousands of small and large employers that are unionized and contribute to these plans.

Even if it meant they would hurt the hundreds of thousands of working men and women and their families whose retirement security depends on the financial viability of these plans.

This is pure and simple hardball politics of punishing unions and undermining workers who earn decent wages and benefits. The Bush administration is doing everything it can to destroy middle-class America.

This is the same administration that is about to promulgate regulations that would take away overtime pay from millions of workers.

Let us remember that this administration has done nothing to protect workers' pensions.

I wrote the administration in July 2002 to take action when pension deficits skyrocketed from $26 billion to over $100 billion. It failed to act.

Now, over a year and a half later, the problem is substantially worse. The Pension Benefit Guaranty Corporation says that pension plans are $400 billion in the red nationally, the largest liability in history, and the PBGC itself is reporting an $11.2 billion deficit as of December 31.

The General Accounting Office is so concerned that it has placed PBGC on its list of Federal programs that are at high risk of failure.

The Bush administration and Congress' failure to take decisive action on pensions, their failed economic policies and neglect of our manufacturing industries and the failure of some companies to honestly estimate their pension liabilities have together precipitated one of the largest underfunding of private pensions in history.

The conference agreement before us today is a short-term fix. Everyone recognizes that. And I agreed at the outset of this process that given the absence of any viable alternative at the moment, a short-term fix was better than nothing. But this conference report does nothing to reform defined benefit plans to ensure their future soundness. And as I have said, the final report fails to provide relief to the broader universe of plans that need it.

The conference agreement provides $80 billion in short-term funding relief for the largest corporations by letting them use higher interest rate assumption to value their pension plan liabilities. And it permits a handful of struggling airlines and steel firms to delay for 2 years their underfunded pension plan contributions.

But the conference agreement does almost nothing to help multiemployer pension plans that do not benefit from the other two provisions. The conference agreement only provides temporary funding relief to multiemployer pension plans that can meet five conditions. According to the respected Segal consulting company, almost no multiemployer plan could meet all of these five conditions.

The Republicans will claim that the conference agreement does provide some limited relief to multiemployer plans. But, they cannot cite a single plan or company that will be covered.

Once again, the Republican majority is exercising its political muscle at the expense of hard working Americans.

Mr. Speaker, the administration must get serious about pension reform. The retirement security of millions of Americans depends upon timely actions by this Government. What we do here today is important to provide this relief. Companies need to shore up their pension obligations. But the American people's anxiety about the future of the retirement security is highly justified in light of this administration's and this Congress' failure to seriously address the problems in our pension system.

Once again, I appreciate the hard work of Chairman BOEHNER to try to accommodate the many interests in this bill and to try to conduct a fair conference meeting. But the final product does not fairly address the many pension plans left without any relief here today and for that reason I regrettably oppose the conference agreement.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. ANDREWS. I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ANDREWS of New Jersey moves to recommit the conference report on the bill (H.R. 3108) to the committee of conference with instructions to the managers on the part of the House to disagree to section 104 (relating to election for deferral of charge for portion of net experience loss) in the conference substitute and amend, within the scope of conference, the conference substitute with a provision that provides an amortization hiatus for the 20 percent of multiemployer pension plans with the largest net investment losses.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ANDREWS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption of the conference report.

The vote was taken by electronic device, and there were—yeas 195, nays 217, not voting 22, as follows:

[Roll No. 116]

YEAS—195

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez

Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—217

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—22

Bishop (UT)
Brady (TX)
Culberson
Deal (GA)
DeMint
Diaz-Balart, L.
Fossella
Gephardt
Gutierrez
Hulshof
LaHood
McGovern
Miller, George
Moran (VA)
Norwood
Paul
Reyes
Ros-Lehtinen
Sanchez, Loretta
Tanner
Tauzin
Waxman

□ 1345

Messrs. SIMPSON, BOYD, BACHUS, and SMITH of Michigan changed their vote from "yea" to "nay."

Mr. KUCINICH and Mr. OWENS changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. McGOVERN. I was unavoidably detained and did not vote on rollcall vote No. 116. Were I present, I would have voted "yea" on rollcall vote No. 116.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 336, noes 69, not voting 28, as follows:

[Roll No. 117]

AYES—336

Ackerman
Aderholt
Akin
Alexander
Allen
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Marshall
Matheson
Matsui
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Oxley
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stupak
Sullivan
Tancredo
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Upton
Van Hollen
Walden (OR)
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—69

Abercrombie
Andrews
Baca
Ballance
Becerra
Berman
Brady (PA)
Brown (OH)
Brown, Corrine
Capuano
Clyburn
Costello
Engel
Eshoo
Fattah
Filner
Flake
Frank (MA)
Gephardt
Green (TX)
Grijalva
Hastings (FL)
Holt
Kaptur
Kennedy (RI)
Kucinich
Langevin
Lee
Lewis (GA)
LoBiondo
Lofgren
Lynch
Majette
Markey
McCarthy (MO)
McCarthy (NY)
McNulty
Meehan
Menendez
Miller (NC)
Myrick
Napolitano
Olver
Ose
Owens
Pallone
Pascrell
Payne

Rothman
Roybal-Allard
Ryan (OH)
Sánchez, Linda T.
Sanders
Saxton
Solis
Stark
Strickland
Sweeney
Taylor (MS)
Thompson (MS)
Tierney
Udall (NM)
Visclosky
Walsh
Waters
Watson
Watt
Wexler
Woolsey

NOT VOTING—28

Bilirakis
Bishop (UT)
Burr
Culberson
Deal (GA)
DeMint
Diaz-Balart, L.
Fossella
Gallegly
Gutierrez
Houghton
Hulshof
LaHood
Miller, George
Norwood
Otter
Paul
Portman
Rehberg
Reyes
Ros-Lehtinen
Sanchez, Loretta
Tanner
Tauzin
Velázquez
Vitter
Waxman
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1352

Mr. SWEENEY changed his vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PORTMAN. Mr. Speaker, because of a previous commitment I missed the recorded vote today on rollcall No. 117, final passage of the conference report on H.R. 3108, the Pension Funding Equity Act. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Ms. LORETTA SANCHEZ of California. Mr. Speaker, on Friday, April 2, 2004, I was unavoidably detained due to a prior obligation. I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows: Rollcall No. 116: "yea" (On Motion to Recommit Conference Report with Instructions for H.R. 3108); Rollcall No. 117: "aye" (On Final Passage of H.R. 3108).

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1086. An act to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

CONDITIONAL ADJOURNMENT OF THE HOUSE TO TUESDAY, APRIL 6, 2004

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 4 p.m. on Tuesday, April 6, 2004, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 404, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 7, 2004

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 7, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE A REPORT ON H.R. 3866, ANABOLIC STEROID CONTROL ACT OF 2004

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight tonight to file a report on the bill H.R. 3866.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

APPOINTMENT OF HON. FRANK R. WOLF OR HON. TOM DAVIS OF VIRGINIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH APRIL 20, 2004

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 2, 2004.

I hereby appoint the Honorable FRANK R. WOLF or, if not available to perform this duty, the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through April 20, 2004.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is accepted.

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 21, 2004

Ms. HARRIS. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 21, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

JOB PICTURE IMPROVING THANKS TO TAX CUTS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, we are going on an Easter break and spending time back in our districts, and before I head back to the Seventh District of Tennessee I wanted to take just a couple of moments and talk just a little bit about the headlines that are out there today.

"U.S. job growth soars." That is from CNN Money. "308,000 jobs: Far better than Wall Street's forecast." I have got other copies of articles here, Bloomberg, My Way, talking about jobs growth.

There are reasons for this, Mr. Speaker, and it is the Bush tax cuts that this body passed last year, the third largest tax cut in history. This check, $1,133, this is what the average family, 91 million American taxpayers, saw last year. Over 25 million small businesses are seeing about $2,800 in tax cuts. That is why the economy is growing.

The tax cuts are working, 308,000 new jobs.

THANKING MEL GIBSON AND WISHING A HAPPY EASTER BREAK

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I want to address a "thank you" to Mel Gibson and his movie "The Passion of the Christ."

I think it is appropriate during this Easter break that we understand that no greater love is this, than one lays down their life for someone else.

As we go back to our districts and work and try to address the concerns and problems of our constituents and the Nation, I think it is just appropriate to remember that we are all one family and we need to work together to solve our problems.

Mr. Speaker, I wish all my colleagues a happy Easter break.

MANUFACTURING JOBS NEEDED TO PUT AMERICANS BACK TO WORK

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very dramatic to come to the floor of the House to show the possibility of 300,000 jobs being created and provide a sense of relief. But, Mr.

Speaker, we have lost 3 million jobs, and I can assure you that if you go to States like Texas, Ohio, Michigan, Indiana and States in the deep South, you still have individuals in some of our congressional districts that are more disadvantaged than others.

We have family members who are supporting their families by putting together hamburgers. I do not disrespect good, hard work for a good day's pay, but when the administration cites putting hamburgers together as "manufacturing," you know we still have a problem.

Mr. Speaker, we still have a problem when you give a tax cut to the 1 percent richest of Americans who do not invest in job creation. You still have a problem when corporations are outsourcing and taking jobs overseas.

We have not answered the real question of job creation in America. Until we get back the manufacturing jobs that have been lost, 3 million of them, this celebration over 300,000 begs the question.

We need jobs in America, and it is time to put Americans back to work.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IGNORING CONSEQUENCES OF INCREASING BUDGET DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, we have had a great day today. It is really historic. The average American family could teach Congress a lot about budgets, and it appears that at least four Members of the other body may be listening, despite the roar out of the White House.

Today, some Republicans still do not want to face the consequences of their actions. The budget deficit under the Republicans is growing so fast and so high you cannot even see a "debt ceiling" any more. We are facing trillions of dollars of debt that will be shouldered by Americans not yet born. That is how bad it is.

It does not have to be that way. Years ago, the Congress established the pay-as-you-go rule. That is a shorthand way of saying what every ordinary American already knows: You look at both sides of the ledger, how much money you have, what are your expenses, before you do anything.

Instead of pay-as-you-go, the Republicans and the President have said they are going to give America a new policy. It is called "pray-as-you-go." Pray. If you say things are fine long enough, somebody might believe it. Pray that something, anything, good happens somewhere in America. Pray that Americans are so consumed with the economic crisis caused by this President and the Republican leadership that they will not have to time to vote in November.

We are not voting on a budget today because the Republicans are rolling in the street fighting amongst themselves. Why?

□ 1400

Some of them are beginning to figure out there are consequences.

We cannot slash taxes and give millionaires $112,925 without paying for them. We are paying for these massive tax cuts for the rich with massive deficits for America. The economy has produced 300,000 jobs this month, and none last month, not a single one. This month they say they have 300,000. I do not know, maybe they saved last month's to build up this month's; or whatever they did, 250,000 jobs are required every month to simply maintain. They have not added anything to the economy; they are maintaining.

The administration remains in denial, but some Republicans are beginning to see the truth, and I hope the light, about extending unemployment benefits. Unemployment is getting worse in State after State. My State ranks fourth in the Nation, yet the administration refuses to extend unemployment benefits.

To every American I say this: the money is there in a trust fund to provide for this lifeline program. Not a single dollar in new taxes is needed to extend a helping hand to people who cannot find a job because this administration cannot create one. Not one job, remember, last month.

Now, the other day, Myra, a lady from Washington State who is part of the "Show Me the Jobs" bus trip across America, came here. Fifty-one people representing every State and the District of Columbia went from town to town telling their personal stories of grief and hardship as a result of economic policies of the administration. They ended their trip here the other day because they came to the place where you can actually do something. We tried in December, Scrooge said no from the White House. We tried after the first of the year, the President said no. We tried in February, and the President said no.

The money is there, set aside for this very purpose, paid for by the very people who are out of work, and the President continues to say no.

We have tried over and over again. Just the other day the Democrats tried to get the President and the Republican leadership to extend those benefits on a bill that was before us. Once again, the President, with his warm, compassionate conservative heart said, no.

Now, Myra, you do not have to feel bad. You can hold up your head. You have nothing to be ashamed of, but we do. Because this administration knows the truth of what is happening across America, but will not act.

You have to believe, folks. They want you to pray that there will be a job. People young and old are losing jobs and losing hope. People are graduating from college, they studied hard, they worked hard, they did everything they were supposed to do to get the American dream. Under this President and this Republican leadership, the American dream is turning into a nightmare for millions of Americans. Instead of pay-as-you-go and work-and-you-get, you get from these people, pray-as-you-go. Let us hope our prayers are answered on November 2.

In the meantime, the Congress on this day should pass extended benefits. The money is there, Mr. Speaker. Please tell the President the money is there. I told Myra the money is there. I hope some Republicans finally have the courage to do the right thing and extend benefits now.

OUR GROWING ECONOMY IS CREATING JOBS

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, as we have all seen by now, the Department of Labor released its payroll survey dated today showing that in the month of March the economy created 308,000 new jobs. Mr. Speaker, 308,000 new jobs created in the month of March. It also revised its new jobs data for January and February with sharp increases in both months.

Now, these strong numbers, Mr. Speaker, clearly demonstrate the vitality of our 21st-century economy. They are a reflection of what other indicators like the strength of the stock market, the level of homeownership, and the growth in gross domestic product have shown. They have been telling us for months that we have a growing economy that is creating jobs.

But the real significance of the job creation numbers is what it tells us about the best way to ensure job growth in this country. We would all like a job creation number like 308,000 every single month. It is a strong number that Americans would like to see more of; and everyone here would, of course, like to see that continue. The question is, How can we ensure that those kinds of job numbers continue?

There are always lots of ideas and proposals being touted as the best way to grow the number of American jobs, but they all boil down to essentially two fundamental approaches.

The first is to try, try very hard to keep any existing job that we have from being lost. We have seen this in proposals such as the one included in the presumptive Democratic Presidential candidate, JOHN KERRY's, economic plan. He proposes a tax increase for companies that invest in growing overseas markets in an attempt to prevent any American job from being lost.

Now, many of our colleagues have proposed different approaches like preventing globally engaged companies from bidding for Federal contracts or saddling them with further regulation. But the ultimate goal is always the same: to prevent any job from being lost.

These job-preservation proposals may be new here in the United States; but they are old news, they are old news in Western Europe. For years, countries like France and Germany have imposed strict regulations in an attempt to prevent any company from ever making an employment decision that would possibly eliminate a single job.

For example, both countries, France and Germany, require a significant notification period before a company can reduce its workforce. France guarantees all workers a hearing; and in Germany, a worker can go to court and get a preliminary injunction to stay on the job until the issue is resolved in the courts.

Now, at first glance, these "job security" measures may seem like a good idea. After all, they are clearly intended to save jobs and prevent hardship for workers. But have they worked? Are the French and German people better off than the American people are?

Well, let us look at the jobs data. It clearly shows that they are not. In France, the unemployment rate has been stuck around 10 percent, more than double the unemployment rate that we have here. In Germany, the job situation is almost as bleak, with a long-term average of over 8 percent unemployment.

Growth in GDP has been at a near standstill for many years in both of those countries as well. Neither country has seen an annual growth rate of over 2 percent in a long time. Remember, we had an 8.1 percent growth rate a couple of months ago, and we are going along now at an excess of 4 percent growth that is double what France and Germany have seen. New business start-ups, venture capital, research and development, by virtually every possible measure, the French and German economies and job markets are very, very weak in all of those areas.

Now, Mr. Speaker, these attempts at job preservation clearly failed the workers in France and in Germany. They will not help American workers, either. What will help Americans is encouraging greater job creation.

Fortunately, this is where Americans excel. While the French and Germans have cornered the market on stifling regulation, Americans have long been the global leader in innovation and entrepreneurship. We are the world leader in venture capital, new business start-ups, research and development, and new patents. Our emphasis on creativity, productivity, and free thinking has made our economy the most dynamic in the world. It has allowed Americans to constantly develop new ideas and create new jobs.

In fact, fully 25 percent of all Americans are working in fields that did not even exist in the Department of Labor's job codes 25 years ago; and today, a third of all job creation is in the entrepreneurship categories of self-employment and independent contracting.

If we continue to encourage the innovation that leads to new opportunities, we should be looking at the barriers to productivity and job creation. We should be looking at ways to minimize the damaging effects of frivolous lawsuits, excessive regulation and taxation, and rising health care costs, just to name a few.

The critical part is that our job growth agenda has got to be a job-creation agenda. We need to recognize that we are on the right track and we can do even better.

THE MONEY IS THERE FOR EXTENDING UNEMPLOYMENT BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, we are going to be leaving Washington, D.C. this afternoon and going back to our home districts, and it saddens me that we are leaving Washington without extending the unemployment benefits that are so desperately needed by so many unemployed Americans.

Just in Ohio alone, since George W. Bush became President of our country, we have lost 236,000 jobs, and 170,000 of those jobs have been high-wage jobs with good benefits. Across the Nation, some 3 million jobs have been lost under the President's watch, making him the first President since Herbert Hoover to actually have a net loss of jobs during his tenure as President. That makes it all the more troubling to me that with so much job loss in our country and so many unemployed workers in my State of Ohio, that we would leave Washington, D.C. for this extended vacation without extending unemployment benefits to our unemployed constituents.

The fact is that in Ohio alone, already, 31,300 workers have exhausted their benefits; and between now and June, this will be 2,200 workers per week who will have exhausted their unemployment benefits.

In my region of eastern Ohio in the Steubenville area, 380 workers have already exhausted their benefits; and by the end of June, that number will swell to 700 workers.

Mr. Speaker, these statistics are not merely numbers; they represent workers. They represent the heads of households. They represent parents who need to provide for themselves and their children, to be able to contribute to their communities and their churches.

That is what we are facing in Ohio. It just is amazing to me that in light of these circumstances, the President's Treasury Secretary, Mr. John Snow, came to Ohio last week and he verbally defended the outsourcing, the sending of American jobs to other countries, indicating that it strengthens our economy to do so. How can Treasury Secretary Snow or President Bush come to Ohio and look unemployed people in the eye and tell them that they care about them when they deny them these needed resources?

The money is there, Mr. Speaker. What I am suggesting and calling for will not result in an increase in taxes. There are multiple billions of dollars in the unemployment fund, money that has been placed there by workers and employees for just such a time as this. Yet it seems to me that perhaps out of an insensitivity to what is really happening, and unawareness of the tragedy of unemployment, or maybe a hardness of heart, this House and this administration will not support the extension of these benefits. I assume it is because if we extended the benefits it would be an admission that we have not solved the problem of joblessness in this country. Maybe we do not want to add to the accounting that would increase the amount of the deficit. But I want to tell my colleagues, the leadership of this House and the President of the United States have no hesitancy in increasing the deficit if it is necessary in order to give tax breaks to the richest people in this country.

Think of this: here we are leaving Washington, D.C. today, going home and knowing that there are thousands and thousands of unemployed workers who are, on a weekly basis, exhausting their benefits, and who, through no fault of their own, they have lost their jobs.

□ 1415

But through the resources of this government we can help them. We could lessen the pain that they feel. We could make it possible for them to continue to provide the needed resources for their families. And, yet, we are turning our back on them in their hour of need.

I hope that when President Bush comes to Ohio for his next visit the constituents in Ohio will ask him, Mr. President, why were you unwilling to support an extension of unemployment benefits to those who are out of work?

UNEMPLOYMENT BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, it is always a pleasure to follow my fine colleague, the gentleman from Ohio (Mr. STRICKLAND), who I think touched on some very important points that we need to address in this Congress and we should not be leaving.

Many of us to go back to our districts, some of us to go on Easter vacation, before we address this issue of unemployment benefits; and I think this issue illustrates for the country exactly how removed the United States Congress actually is from the problems that we are dealing with in middle America.

It is easy for politicians to mouth words that somehow we are supposed to address the problems that we have in this country. But the American people are beginning to realize that the rhetoric that has been coming from the Nation's Capitol, the rhetoric that has been coming from this administration, has not been addressing the issues that face average working families in the State of Ohio. The unemployment rate actually crept up to 5.7 percent.

Do we want jobs to be created in this country? Absolutely. You will never hear me, or I think any other Member of this body, somehow downplay job growth as if it is a bad thing. Because we want the American people to go back to work.

But there is so much that needs to be done with this economy. Let us look for a second at the issue of the minimum wage. I want to talk about a couple of other issues, but for now we want to talk about the minimum wage.

During most of the 1960s and 1970s, working at the minimum wage kept a family of three out of poverty. Today, that same family is 24 percent below the poverty level.

The purchasing power of the current $5.15 per hour minimum wage is well below that of the 1960s and 1970s level. From its peak in 1968, the purchasing power of the minimum wage has declined over 36 percent.

If you are wealthy in the United States of America, you are doing pretty well, and you get all the benefits and all the energy of this legislative body to help you in any way necessary. You need tax cuts? We are for tax cuts. You need subsidies? We are for subsidies. Whatever it is that corporate America, the top 1 and 2 percent of the people living in this country need, they get.

But people living in the United States of America who want unemployment benefits, they are not working, their unemployment benefits are going to run out, this legislative body has no time for you. If you are making the minimum wage and you are 36 percent below the purchasing power the same wage of 1968, we do not have time for you.

I think it is a shame that this Congress dictates its policies by who is contributing to the campaigns and who is making the biggest donations, and that is the problem. That is what the American people are going to have to decide in this next election that is coming up, is are the money people going to win out or the people who need help in this country?

Look at the kind of future we are leaving to our kids. Almost a $600 billion deficit. We give tax cuts now, we borrow money to pay for them, and we put the burden on our kids who are going to be left to foot the bill for this thing. It is wrong. It is a tax for our kids that they are eventually going to have to pay.

We talk about outsourcing jobs and competing on a global economy. We are underfunding No Child Left Behind by $1.5 billion a year in the State of Ohio, $1.5 billion a year. We say we want everyone to participate in the global economy, we say we want to move the last 25 percent of the kids in this country over the finish line, make them proficient, let them be happy, have the education they need to be able to compete in this country, but we are not willing to put the money up because we have to give tax cuts to the top 1 percent. That is the priority of this legislative body.

If we are going to outsource and if we are going to compete on a global level, which everyone has seemed to have agreed that we need to do, then we better put the resources in educating our kids. We better make sure we have an adequate, livable wage for people. Because there is going to be displacement. We better make sure everybody has health care in this country.

The American people are beginning to recognize that the rhetoric from this body and the rhetoric from this administration doesn't match the reality that needs to be addressed in middle America. It is time that we start addressing it.

OUR DEPENDENCE ON OPEC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, it is very interesting to listen to some of the remarks on the floor this evening. We had a gentleman, one of our Members from California, say how good the economy looks to him. And yet if you read the newspaper today, U.S.A. Today indicates Gateway is going to be closing all of its stores around our country, the struggling PC computer maker, and laying off 2,500 more workers.

In the same newspaper we see a headline, "No Shortage of Oil, Saudi Arabia Says." Saudi Arabia sought to quiet critics of OPEC's decision this week to cut oil production, arguing there are ample supplies, despite decade-high gasoline prices. Their foreign affairs advisor to the Crown Prince said there is no shortage of crude oil.

I would like to draw my colleagues' attention to this chart, which shows that the United States since the mid-1980s and every succeeding year has amassed more job loss and greater trade deficit than ever before in the history of our Nation. This year, the trade deficit is going to go over $580 billion. This is an unbelievable number. That means more imports coming into our country than our exports going out. We are exporting jobs and we are importing products from every other place in the world.

Someone ought to really pay attention in the executive branch, and the Members of Congress who brag how great this is better pay attention to the fundamentals that are driving us in the wrong direction. One of those fundamentals involves rising gasoline prices and rising petroleum prices because we are not energy independent here at home. We need a President and we need a Congress that will make America energy independent again.

Here is another chart. This chart shows over a period of 25 years every single year the amount of petroleum that we consume and how much every year comes from abroad. The Middle East, OPEC, controls half of what flows into this economy. Every time a U.S. consumer goes to the gas pump, at least 7 or 8 cents of what you spend per dollar for every gallon you buy goes to Saudi Arabia, a very undemocratic place, one of the worst dictatorships in the world, no matter how much sweetener they try to put on it; 2 or 3 cents goes to Kuwait and Iraq, all places without democratic governments in place.

It has been happening for a long time. It just did not start. But it has been getting worse, and the job loss in our country has really been getting worse. Good jobs with benefits that people can depend upon, retirement programs that cannot be taken away, and a chance for children to go on to college without becoming debtors, the hole we have been digging has been getting deeper every year.

A gentleman writes a letter to the editor today to U.S.A. Today. He is from out in Michigan. He says that everybody wants free trade, but it seems strange to me that the most powerful Nation on this earth can do nothing to stop the collusion, he says, among the organization of petroleum-exporting countries and our own oil companies to drive up the price of oil.

Here in Washington last night I was watching the television, and ChevronTexaco had this big ad about how great they were except for one thing, all that oil comes from someplace else and contributes to this rising share of imported petroleum and to the amassing trade deficit that is a damper, a huge damper on creating wealth inside this economy because we are siphoning it out of our own pockets and giving it to someone else.

Imagine if we put those dollars to work to create a new industry across rural America, the biofuels industry, where we ripen ethanol production, soy diesel production, at a level where our farmers could be earning money from the marketplace, not from the Federal Government subsidy that goes to them. Imagine if we really were serious about fuel cell production, imagine if we really tried to bring modern hydrogen production to this country and push our photovoltaic production from the sun, energy from the sun to the limit, to the limit.

NASA has done a great job of helping us move the technology to where it is today, but that is where America needs to move. We do not have to have more job loss. We do not have to have rising trade deficits. We need a government in this country that is going to make us energy independent again and begin creating jobs here at home for the future.

Mr. Speaker, I include for the RECORD additional extraneous material.

PRESSURE OPEC TO LOWER GAS PRICES

Everybody wants free trade. But it seems strange to me that the most powerful nation on this earth can do nothing to stop the collusion I see among the Organization of Petroleum Exporting Countries and our own oil companies to drive up the price of oil ("OPEC votes to cut oil output, starting today," News, Thursday).

Why can't the U.S. work with our non-OPEC industrialized allies and other nations that also need a steady supply of cheap petroleum and take retaliatory economic action by withholding essential goods and services, or even military action? We need to give the OPEC cartel a taste of its own medicine.

DONALD SEAGLE,
Ishpeming, Mich.

GATEWAY TO CLOSE ALL STORES, FIRE 2,500

(By Michelle Kessler)

Struggling PC maker Gateway said Thursday that it plans to close all 188 of its retail stores and lay off 2,500 workers.

The stores will close April 9, Gateway says. Its computers will still be sold on Gateway's Web site and via phone.

NO SHORTAGE OF OIL, SAUDI ARABIA SAYS

Saudi Arabia sought Thursday to quiet critics of OPEC's decision to cut oil production, arguing there are ample supplies despite decade-high prices. "There is no shortage of crude oil," said Adel Al-Jubeir, foreign affairs adviser to the Crown Prince of Saudi Arabia. "High oil prices are not good for consumers, and low oil prices are not good for producers." The country also said it remains in contact with President Bush. The 11-member Organization of Petroleum Exporting Countries voted Wednesday to cut production 1 million barrels a day, angering U.S. lawmakers who partly blame OPEC for record gasoline prices in the USA.

[From the Times of Oman, Apr. 3, 2004]

HIGHER OIL PRICE TO TAKE ECONOMY TO NEW HIGHS

(By K. Mohammed)

The Sultanate's economy is poised for better performance this year if the spiralling oil prices are any indication. Omani crude price, the single most important factor which drives the Omani economy, is currently staying at $31.44 per barrel and the market expects crude prices to stay at the current level in the rest of the year. According to statistics, the Omani crude prices realised $29.91 per barrel in January 2004, which is significantly higher compared to prices realised last year. Last year, the government had budgeted oil price at a conservative $20 per barrel but the actual realisation was much higher at $27.84. This had resulted in a substantial rise in government revenue with all sectors of the economy witnessing significant growth in 2003.

The government has budgeted Omani crude price at $21 for the current fiscal (2004) but the actual realisation may be much higher than the prices realised last year, considering the present buoyancy in the international oil market. The most heartening fact about AGCC economies, and Oman in particular, is that international oil prices have been staying above the Opec basket price band of $22–$28 per barrel in the new year, significantly higher than the prices achieved last year, and Opec is expecting a steady market this year. International oil prices are currently staying at around $34 a barrel.

Considering that the oil production will be maintained at the present level the prospects at the oil price front remains brighter for the country.

Government's revenue receipts and public spending are other indicators of the economic growth. Last year, the corporate sector fared well on account of increased public spending. The government's actual public spending has increased from RO2,367.9 million in 2002 to 2,638.5 million as at the end of November 2003, an increase of 11.4 per cent. The budget for the year 2004 has estimated total spending at RO3,425 million. The actual public finance deficit for the year 2002 had come down drastically to RO124 million from the budgeted RO380 million. When government spending goes up the gross domestic product (GDP) will expand, triggering increased economic activity and generating more job opportunities and more revenue for the government. The increased spending coupled with the prevailing low interest rate scenario is expected to give the much-needed impetus to economic growth this year.

Figures on the revenue receipt side looks rosier. As of November-end 2003, the government's total revenue stood 8.7 per cent higher at RO2,942.5 million compared with RO2,705.9 million mainly on account of increased oil price realisation. As the average price for Oman crude stood $29.16 a barrel in December 2003, the government is expected to report a lower actual deficit for the year 2003 as against the projected RO470 million.

The country saw inflation remaining below 1 per cent last year. This year too, the inflation is expected to remain below 1 per cent level. However, the weakening of the dollar is a cause for concern as it may put downward pressure on the local currency triggering a mild flare up in the prices of euro-denominated goods and services. Like other AGCC countries, Oman too imports from European countries and euro-denominated goods are bound to become costlier with the weakening of the dollar.

The increased activities in the non-oil sector, especially a significant rise in LNG production will also contribute much to the strengthening of the economy.

Reflecting the pulse of the economy the local stock market has scaled new highs. The Muscat Securities Market General Price Index rose from 272.67 points as at the end of December 31, 2003 to 296.10 points on April 1, 2004, scoring 23.43 points. This shows a handsome gain of 8.59 per cent. The buoyancy is also reflected in the various sector indices.

On the economic reform front, a lot of action will be seen in the rest of the year. As part of its commitments to the WTO, the government is expected to divest a significant stake in Omantel. Last month, the much-publicized initial public offering of Al Maha Petroleum opened. The opening up of the telecom sector will see a second GSM licensee entering the market soon, paving the way for competition in the telecom market with consumers ultimately emerging as the winner with better and cheaper services.

[From Reuters News Service, Apr. 2, 2004]

BUSH IN TOUCH WITH SAUDIS, NON-OPEC ON OIL—W. HOUSE

HUNTINGTON, WV. (Reuters).—President Bush and the Saudi crown prince have been discussing oil prices for some time, and the administration is also talking with other OPEC and non-OPEC oil producers, a White House spokesman said Friday.

"We remain actively engaged with our friends in OPEC and other producers around the world to address these issues," White House spokesman Scott McClellan told reporters. "Bush and the (Saudi) crown prince have been in touch on this subject for a while now."

Earlier this week, OPEC agreed to a production cut of 1 million barrels per day despite Bush administration requests to delay it.

HONORING THE LIFE OF ARMY PRIVATE BRANDON LEE DAVIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise today to pay tribute to a true American hero who made the ultimate sacrifice while serving his country with honor and courage. 20-year old Army Private Brandon Lee Davis of Cresaptown in Garret County, Maryland, was among five soldiers killed when a bomb exploded under their vehicle in the Al Anbar province of Iraq.

The soldiers were conducting security and stability operations in the region just north of Fallujah. They were from the 1st Infantry Division's 1st Brigade, based in Fort Riley, Kansas.

I offer my deepest condolences to the family of Private Davis during this difficult time. I, along with the other Members of the Maryland federal delegation, mourn their loss. Our prayers are with Private Davis' mother, Jackie Weatherholt; his father, Jeffrey Davis; and his two siblings. Words cannot express the sense of loss felt by the Maryland community when one of our own, a young man who offered such promise and hope for the future, is taken from us. This tragedy makes the war in Iraq more personal for all of us.

Private Davis joined the Army shortly after graduating from Fort Hill High School in Cumberland, Maryland. Like many young men and women who seek direction in life after high school, Private Davis hoped to learn a trade while serving his country. His dedication to service to others would not have rested with his duty in the Army.

Private Davis dreamed of using his life to protect men and women by becoming a police officer. Sadly, that dream will never come true. The deadly consequences of war are a reality that all of us must face. However, the knowledge of what may happen in war does little to diminish the pain and anguish when that reality reaches your front door.

Mrs. Weatherholt will never have the opportunity to feel the joy of a mother who watches her youngest son experience all of the milestones in life. Mr. Davis will never get to see his son teach the lessons he learned about how to be a man. All this Maryland family now has are memories. Mrs. Weatherholt must hold on to the memory of that last telephone conversation on March 20th, when she gave her son these words of caution, "Watch your back, Brandon."

These parents have the memories of their son making others laugh with his outgoing and upbeat personality. They have the memories of their son going out of his way to show kindness to strangers and make his friends and family feel happy. There were no limits to Brandon's loving generosity. He gave up the opportunity to come home to his family for a two-week break in February, and, instead, donated his leave time to an Army buddy who wanted to return to the United States to get married. I am sure Private Davis longed to be with his family during this time, but he gave his priority to his desire to help a friend.

The Army deployed Private Davis to Iraq nearly six months ago. He never discussed his fear or worry with his family, although he was stationed thousands of miles from home in a foreign land with death and destruction as his bedfellows.

This brave young American knew of the dangers of the high-risk areas into which he was being sent, but he was proud to be a soldier. He was proud that, by serving in the United States Army, he was not only making a better for himself, but he was trying to make a better, safer life for us all.

Mr. Speaker, I must say that I opposed President Bush's decision to go to war with Iraq before exhausting every diplomatic measure and without clearly demonstrating an imminent threat of attack on the United States. But I will do everything within my power to support our men and women in uniform. I stand behind our troops in Iraq and pray for their safe return home.

Although I did not know Private Brandon L. Davis personally, I consider it a privilege to honor his life and to pay tribute to the sacrifice that this young man made for all Americans. This country has lost a true leader. Private Davis gave his life to set the Iraqi people free. I pray to God that we succeed.

God Bless you, Private Davis.

ENERGY AND JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the majority leader.

Mr. KING of Iowa. Mr. Speaker, first, I would like to thank my colleague on my left, the gentleman from New Mexico (Mr. PEARCE), who has pointed out quite accurately and correctly that if one side of the aisle is down here carrying a message to the American people relentlessly, if not logically, day by day by day, that is the only subject matter that Americans have to discuss.

As I sat in here for the last hour preparing, apparently, for this Special Order hour, and I have considered that I really did not have to do that, it was great preparation to sit and listen to the rhetoric that came from the string of Members, I think probably not coincidentally, from Ohio. So I am just going to start up working backwards through the list of things that were raised here while they are freshest in the minds of the people that are listening, the Members of the other body, and those in this Chamber and the people that are listening around the country.

The first is with regard to OPEC and the criticism of OPEC for the position that they have taken to limit the supply of hydrocarbons to the United States. Certainly that has been a factor in the 1970s. It was a factor in our Presidential elections after that, and we came out of that.

Our dependency has increased on foreign oil, and I regret that. But OPEC has taken a position that is going to be reflected by the Saudi Arabians who ruled more of the OPEC oil than anyone else.

I have with me a document that I will just read some quotes.

Prince Bandar has made some remarks speaking for the increase in supplies because he says the President and the Crown Prince have been in touch on this subject for a while now. Both leaders feel strongly that higher energy prices have a negative impact on world economy.

So I happen to know that there is a delegation on its way over to Saudi Arabia right now to thank the leadership in Saudi Arabia for their efforts to increase supplies as a way of holding down increases in costs of gasoline in the United States and thank them for the efforts that they have gone through to help us in the war on terror.

There have been significant improvements in that country over the last couple of months.

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So these remarks that are made on the floor of Congress are not conducive to us solving the oil supply problem and I think are not conducive either for us solving this problem of worldwide terror.

Mr. PEARCE. Mr. Speaker, will the gentleman yield?

Mr. KING of Iowa. I yield to the gentleman from New Mexico.

Mr. PEARCE. Mr. Speaker, I heard the lady that preceded us on the floor say that we needed to do something about OPEC. I am sorry, what are we going to do? It is a free nation.

We did something about Iraq, and the accusation from their side of the aisle was that we went in to take the oil. When that was not proved correct, when it was absolutely proved false, now then they are here saying we should do something about OPEC. I am so sorry. What about the free nations? They can produce what oil they would like to.

I would continue to point out that the reason that the production in this country is decreasing is exactly the policies that our friends on the other side of the aisle insist on, that is, the lack of access to the public lands in this country. It is going to drive the cost of gasoline and electricity up throughout this country because of their restrictionist policies that they have put into place, and those policies live today from the Clinton administration on through this administration from the field level.

It is a question that I recently took to the BLM head, and have asked her what is she going to do to increase access to public lands so that we are not so dependent, she said, frankly, some of the extremists in our country will block every single attempt to drill more on American soil. Even the debates on this floor regarding ANWR say that we do not need that energy, that we do not need the oil; and the other side has persistently blocked every effort to try to drill in ANWR.

Mr. Speaker, also, the energy policy that currently resides in Washington, but unfulfilled, is not something that the administration is blocking. It is not Republicans who are blocking the energy bill in this town.

Mr. Speaker, the energy bill would not only create access to more domestic oil and gas, but it would begin to encourage the alternative sources of solar, wind, hydrogen, biomass, nuclear. If we will begin, Mr. Speaker, to deal with some of the pressures on the demand cycle for our energy with some of our alternative resources, then we can begin to see the prices of gasoline and electricity go down; but I will guarantee my colleagues, the headlines that I cut out from the Denver Post of last year telling the people in August of 2003 that they would be facing 70 percent increases in electrical costs because of the price of natural gas, those are things that we are going to continue to experience in this country until we pass an energy bill.

The energy bill by itself will create 100,000 jobs, and we have been treated by our friends across the aisle to continued talk about the lack of American jobs. We have seen the dramatic report from March where 300,000 new jobs were created. That is 600,000 now in the last 6 months since we passed the jobs and tax bill.

Mr. Speaker, the policies that the administration is submitting to us and that we are carrying out into actual votes and into bills are dramatically changing the environment for investment in this country.

EDUCATION IN AMERICA

Mr. PEARCE. Mr. Speaker, when we begin to look at the growth of jobs, we have to understand the importance of education in this country. No Child Left Behind is one of the dramatic things, dramatic policies that have been issued. It is a reform into the education system which literally says we are not going to leave any child behind. The President has dramatically increased funding, regardless of what our friends across the aisle say.

Under President Clinton, the spending on education through the Federal Education Department was about $27 billion. Under President Bush, the funding has increased to $60 billion, over a 100 percent increase, and yet somehow we get on the floor day after day that we are underfunding education.

Our friends especially like to talk about the way that we are not funding IDEA, our individuals with disabilities; and that has such a dramatic difference in previous funding levels under this President, that it is important to talk about funding levels.

The bill was passed in the 1970s, and historically throughout its tenure has had about $1 billion funding. It could never get up, and keep in mind, that was under 40 years of Democrats ruling in this House. It stayed at the $1 billion level. Finally, under President Clinton, it went up to $2 billion.

Now, what would my colleagues estimate that the actual spending on IDEA, the individuals with disabilities, is actually today under President Bush? If you were to listen to the rhetoric that is thrown out day after day, you would say, well, obviously it is much, much less. Actually, it is much, much greater.

The funding this year under IDEA will exceed $10 billion. That is a five-time, a 500 percent increase in the 3 years under President Bush; and yet we hear the shibboleth on the floor of the House that tries to put a truth out, put a falsehood out in the guise of truth.

The truth is that President Bush understands that if we are going to have careers for our young people, if our young people are to have expectations and hope into the future, they need more than jobs. They need educations. They need careers. They need a progression of learning throughout their lives.

No Child Left Behind is guaranteed to put those young people in a position to where they can continue the lifelong learning process.

We have moved from a time in our history when we could just learn one single task and do that our whole lives. For us to access the technology, the innovations, the creativity that is at move in the world today, our young people absolutely must be given every tool during their 12 years of public schools on into the junior college and college years; but then throughout their entire life, we must continue to have on-the-job training. We must continue to have training when people are displaced.

Recently, this last week, I went into my district into Belen, New Mexico, and met with a group of employers there. We met at Cisneros Machine Shop. The Cisneros brothers really are one of the small businesses that characterize the desire on the part of our employers right now to be training their employees every day to a higher level, understanding that they cannot produce the same things yesterday that they produce tomorrow. Otherwise they will not continue to fight off the tremendous international competition that faces us.

I think the recognition of people like the Cisneros brothers will bring us all, in this Nation, if we will continue these training programs, no matter what stage of development our employees are in, if we will recognize that and continue to train, then we are going to be in good shape. But we have to ask the question, when jobs are moving offshore, when jobs are moving overseas, we have to ask ourselves why; and the education system is, at base, a root cause of the problem.

Under No Child Left Behind, one of the most important things we are striving to do is to put a competent teacher in every single classroom and especially those classrooms that teach math and reading. Those two basic skills are the foundations for the education process; and without them, our students simply do not have the tools to compete when they graduate.

We have seen dramatic changes even in my district in the education process. About 2 weeks ago, I recognized Roswell High School on this floor as being one of the 12 breakthrough schools in the Nation. That principal believes in No Child Left Behind. He has seen it work in his classrooms, turning around a population in his high school that is both high minority and then also lower-income status students, and he has turned that around into one of the 12 breakthrough schools in the Nation. It is the kind of example that No Child Left Behind is supposed to be creating in our schools.

I see the gentleman from Iowa standing.

Mr. KING of Iowa. Mr. Speaker, I would like to give a perspective of No Child Left Behind that is a little bit different perspective for some of the other States, those States that may not believe there is a significant advantage to them.

I have the privilege of being from the State of Iowa, and we rank in the top three every year in ACT tests; and we have for years put out Iowa basic skills and Iowa tests of educational development, that analysis that we do of students every year, comparing them against their growth from year to year, in a number of different subjects and a composite score that we do, something that goes back to the time that I was at least in grade school, and that is some years ago, and before that actually, and those tests have been given around the world, places as far away as China.

So the credibility that the Iowa public school system has worldwide is high, and our competitiveness in our graduates, particularly measured by ACT test scores and also the success of our young students as they go off and go on to higher education, is also high.

Arguably, the public school education in K–12 in the State of Iowa ranks in the top three, maybe as the best in the country; and so because of that long-standing tradition to education that we have, we have those kinds of results and standards, and yet we are faced with a No Child Left Behind policy that is a one-size-fits-all.

Those States that have high excellence in education may not see a significant marginal improvement, but we really do need to help those students in those States like Mississippi and Arkansas. We really need to lift them up and get them back into this educational stream.

I yield to my colleague from New Mexico.

THE SHOCKS TO OUR ECONOMY

Mr. PEARCE. Mr. Speaker, I thank the gentleman for yielding.

In addition to our energy bill, which would create jobs, we begin to defuse the increasing price of natural gas and fuel at the pump for our cars. In addition to those two important elements of the legislative agenda that we have passed in this House last year, this transportation bill that just was passed out of the House today is poised to create another 700,000 jobs.

Mr. Speaker, when I look at the continued bills that we are passing out of the House, I see responsibility. I see a patient attempt to cure the many problems that we are facing in this country; and keep in mind that we are facing the problems through no fault of our own, but 9/11 changed everything.

The first thing that happened in our economy that cost us jobs was the collapse of the dot-com industry. You all remember in the late 1990s that dot-com ramp-up where stocks were selling at an inflated price, sometimes $200 per share of a stock that really had no product, had no cash flow, had no sales, no revenue, no net profit; and yet enthusiasm was that these stocks are going to be great value. Well, that enthusiasm eventually will have to come home. A corporation either had to build a product or create a revenue of some sort; and when they did not and could not, the dot-com stock market price of those stocks collapsed down, and we found that it shocked our economy pretty drastically.

The second thing that shocked our economy, of course, was 9/11. The estimates are as high as a $2 trillion shock in one day, over 2,000 lives lost. I will tell you that businesses are still paying the cost for 9/11 today, and we cannot forget that the economy and the culture in this Nation changed so dramatically on that day when the unprovoked attack of terrorists, who would kill innocent lives in order to destabilize an economy, in order to destabilize a political system, after they made their attack, we in this country have got to deal with the results.

Now, the President has been very patient. He has worked very hard at going and taking away the root causes of terrorism. He has taken the Taliban out of Afghanistan. Al Qaeda is on the run. The training camp that used to crank out terrorists every month, who would spew hatred and anger toward the United States and try to sow destruction throughout our economy and throughout our Nation, that training camp has been closed down and the terrorists are on the run.

We continue to capture and to kill the terrorists who are here to kill us. This is not a police action. This is not something we can take into the courts and deal with there. This is an action where it is either their ideology or ours.

The insistence of terrorists to destabilize the entire world is one of the most looming threats that any of us face here.

□ 1445

It affects our ability to raise our children safely on the streets. It affects our ability to conduct just everyday commerce throughout our land. Terrorism seeks to destabilize. The paradigms of security and stability cannot exist coincidentally with terrorism and instability. The world is going to make a choice, and the United States is making a tremendous decision here to take on the fight.

It is like the Prime Minister of Britain said when he spoke on this House floor: You, as Americans, should ask, why us? Why would we be in this role? It is a fair question. His answer to us on the floor of this House, Mr. Speaker, I will remind you, was simply that destiny has placed the United States in a position where it can act and it must. That means that we have the resources, we have the will, we have the leadership, and if we do not respond, the world will suffer for it.

Mr. Speaker, I appreciate the leadership of our President as he pushes forward the concept of No Child Left Behind, as he pushes forward the idea of the tax cuts that are creating this economy which is growing at a tremendous pace, and the job growth is exactly what we were hoping for.

Mr. Speaker, as he has encouraged us to pass the energy bill, I would simply say to our friends, do your part to see that the energy bill is passed, because it is not the Republican side which is holding it hostage.

Mr. Speaker, I now yield back to the gentleman from Iowa.

Mr. KING of Iowa. Mr. Speaker, I yield now to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for yielding to me. It is good to join my colleagues, and I thank the gentleman from Iowa for taking this special order on a very timely topic.

My colleagues, today in this city, in this Chamber, there are a whole lot of people saying hallelujah and holy cow, because we have created some jobs, and there is news out saying just exactly that. Just a short while ago in this Chamber, we passed a transportation bill, and that transportation bill is going to put Americans to work, and it is going to put Americans to work building infrastructure that is critical to this Nation. Transportation is a jobs bill.

But there are also numbers out from the Department of Labor that are really encouraging. We have heard that 308,000 jobs were added in the United States in the month of March. That is 308,000 new payroll jobs. Now, everybody has a right to say, well, what does that mean? Compared to what? That is the strongest number in 4 years, the strongest in 4 years.

We have been through a bit of a tough cycle. Four years ago right now, we were in a recession. So 308,000 new jobs in the month of March and, in addition to that, numbers that we thought were a little softer than we expected in January and February have now been revised upward. So we are increasingly in better and better shape.

Now, that is good news. That is good news. And here is how I characterize it. Almost anybody can hang onto the wheel of a ship going through calm waters. But it takes a pretty good captain to guide a ship through a stormy sea. If we go back to late 2000, we were slipping into some rough waters. We now know that the recession was upon us in late 2000 when this President was sworn in. He grabbed ahold of a ship that was going into troubled waters. Then it really got rough, with 9/11 happening and SARS happening and on and on and on. We all know the litany.

Where are we today? We are in an expanding economy, with job creation now under way, which, as everybody knows, every economist will tell you, that is the lagging economic indicator.

So I will say it again, because it is happy news. We have 308,000 new jobs in the month of March alone. It is astounding. The policies of the captain of the ship, the Republican leadership in this House, the Republicans in this Congress, have set us on the right path and are calming the waters. It is not the time to change captains nor change course.

I was listening a moment ago to my colleague from New Mexico as he was talking about energy policy, and I could not agree more. Everybody is saying jobs, jobs, jobs; and that is why I am so happy right now, is because we have evidence we have jobs coming back. That is really good news.

But if you want to know where the jobs went, ask the people who have got a different policy. Ask the people who have got a different policy than the one that righted the ship, calmed the waters and set us on this course, the people that have been talking about raising taxes.

What did this House and this President do to set us on this course? We provided some tax cuts. We invested right back in the people in the United States of America who create jobs and who increase consumer demand. That is how an economy works. We understand that on our side of the aisle, and the President certainly understands that. So he set us on the right course. We passed the jobs and growth bill, and here we are, and it is good news.

Now there are some out there saying, no, we need to rescind those tax cuts, we need to increase the strong hand of regulation, and, worse yet, they have fought us on an energy bill, and they are still fighting us on an energy bill.

Now what have we got? Our own Department of Commerce tells us that for every $1 billion spent on imported oil that means 12,389 jobs. Maybe somebody does not think 12,389 jobs is all that much, but I submit, Mr. Speaker, when taken in the context of the billions that we are spending on imported oil, it adds up in a big hurry. How big a hurry? Well, by today's dollars, the amounts we are spending on imported oil equates to 1.7 million jobs, American jobs that are now somewhere else.

The very people who fought us on that energy bill are the ones screaming about outsourcing of jobs. They not only got outsourced, they got outforced, and they were forced out by the very people who fought us on the energy bill and now are raising their hands in wonder saying, where did our jobs go? Where did our jobs go?

What has happened since we have not had an energy bill? Gasoline prices have increased 30 percent; U.S. imports of oil increased another 10 percent. We are about two-thirds import, one-third domestic production. The price of crude oil has increased 65 percent. Natural gas has increased 92 percent.

That is especially sensitive for people like my colleague from New Mexico and me, from Colorado, from the Rocky Mountain States, and my friend from Iowa. You bet. Because we know where it is. It is right there underneath our ground, a lot of it Federal ground. And in places like Iowa, being an old farmer myself, I know how important energy is. It is not just gas and diesel, it is our commercial fertilizer that is produced from those same petroleum products.

Mr. Speaker, I have a potato farmer back home who told me that 35 percent of his operating overhead, 35 percent of his entire cost of production, is energy related, 35 percent. Fire up the electric motors to run his sprinklers to irrigate the potatoes; the commercial fertilizers, the diesel and the gasoline he puts in his vehicles, 35 percent.

Now when you have inflation of energy costs like I just cited, you know what that does to that potato farmer who is operating on a margin that thin already? Where did the jobs go? They were outforced. That is where they go when we have wrong-headed Federal policy like we have right now.

It is not a case of us needing to improve an energy policy that is already out there. We have none. We are just trying to establish one that is so woefully needed. Well, it is time. It is time we act. We need to pass not only an energy bill but continue on this course that has been charted that has got us finally into some calmer waters and headed on the right path. We need to continue that course, not alter that course. We need to stay the course on tax cuts, on deregulation, on sound policy, and bring American jobs home to Americans.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Colorado (Mr. BEAUPREZ) for his comments.

Picking up on that theme, I appreciate the gentleman's remarks about how sensitive natural gas prices are to the Corn Belt and the fact that the gentleman's background and experience as a dairy farmer and a banker and someone who has been all involved in this economy understands that the very foundation for all economies is that all new wealth comes from the land.

In our State, it is corn and beans and oats and hay and grass in our pastures, and we value add to that as close to the cornstalk as we can, as many times as we can; and we need the energy from the gentleman's State and from the State of New Mexico because we are extraordinarily susceptible to natural gas. We use it to dry grain with, we use it for anhydrous ammonia, our nitrogen supply, and we use it for all the other uses that the rest of the world does as well.

So I am extraordinarily sensitive to that and the significant point that the natural gas pipeline in the energy bill brings gas down now that is already discovered and already tapped into from the North Slope down to the lower 48 States.

The other tax is the outforcing, but I will also declare there is an "E" tax on everything we buy. That means there is an energy component. But the "E" does not stand for energy, it stands for environmental tax. It has become a cult in this Congress, a religion in this Congress to the extent that we cannot pass drilling in ANWR, as the gentleman from New Mexico (Mr. PEARCE) said earlier, which is the most logical place in the world to go get oil. It is up there and identical to deposits on the North Slope.

There has not been a single environmental problem on the North Slope since 1972 when they finally lifted the environmental embargo, which, by the way, kept me from going up there and actually actively participating in real jobs up there. So now today that oil sits under ANWR and we have gas on the North Slope that we cannot get here to the United States. We cannot get gas out of the State of Colorado.

Mr. BEAUPREZ. Mr. Speaker, if the gentleman would yield for just a moment.

Mr. KING of Iowa. I would be glad to.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman. It is estimated that if we could construct that gas pipeline that my colleague referred to from ANWR, 400,000 new jobs, direct and indirect jobs, would be created from that one action alone, including increasing dramatically the supply of natural gas to the lower 48. I repeat, 400,000 new jobs and lower gas prices.

Now, the gas my colleague referred to, and I referred to as well under the Rocky Mountain States, I held a hearing in my district recently on this subject, and I learned a lot. I learned, for example, that under nonpark, nonwilderness Federal land, I repeat, nonpark, nonwilderness Federal lands, we have enough natural gas to take care of the demands of 100 million homes for 157 years.

Now what I cited earlier here, natural gas prices up 92 percent, this is akin to the old biblical tale of the people going through a famine, the granaries being full and the pharaoh being unwilling to unlock the doors.

We have natural gas. It is those crazy, environmentally overly-sensitive policies that have restricted us from going to get it; and the same people who now restrict us from going to get it were the very people who told us a few years ago that we need to convert to natural gas. Why? Because it is affordable, it is clean, and it is abundantly available.

Well, now they are telling us we ought to go get it somewhere else, from abroad, and ship it here in tankers as liquified natural gas. We do not have the storage for it. Somebody says we have a storage problem. Well, we have a storage problem: The natural gas is stored under Federal land. That is the storage problem.

The people that are in the way are us, the Federal Government. We need to change that with an energy policy.

I yield back to the gentleman and thank him.

Mr. KING of Iowa. An environmental tax.

Mr. Speaker, I would now like to yield to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, some of our friends on the other side of the aisle really do, when we are talking off the floor, ask us, can we do this in an environmentally sensitive manner, this drilling for oil on American soil? The case on the North Slope of Alaska is a really good case example.

When we first went there, we were building pads out of gravel or rock or stone. But we have stopped that now, and we build paths to put the equipment on out of ice. We build the roads into the pads out of ice, so that the equipment that goes into the location and then when it sits there to drill the hole in the ground, they are on ice roads and on ice paths.

□ 1500

When spring comes, the ice thaws and there is actually just the pipe sticking out of the hole that is causing the production to come to the surface. We have showed that we can dramatically change the way that we do our drilling and our exploration. We have the necessity in this country to find the balance, to balance our environmental concerns with our need for jobs and with the need for affordable electricity, with the need for affordable gasoline to put into our cars.

I think as we see gasoline approaching $3, we are going to find that the consumers in this Nation demand that we begin to produce in some of the areas where we can do so without destroying the environment. My friend from Colorado adequately pointed out that we have got a trillion cubic feet of natural gas available under his State. That gas, as he said, is not under national parks. It is not under environmentally sensitive areas. In fact, much of the gas is located in fields that have already been drilled. It is not like it is a pristine area there.

Yet we have extremists in this society who are willing to bring lawsuits. Every time an application for a permit to drill is issued by the BLM, they bring a lawsuit to stop that production. We must decide if we are going to have affordable energy in this country, keeping in mind that affordable energy is what drives this economy. We see that it is used in the production of fertilizers. Fertilizers are used in agriculture. Natural gas is used in the production of electricity because it is the cleanest fuel. We must begin to drill for more fuel, or we must begin to accept the fact that our utility bills are going to be double and triple, that our gasoline is going to actually cost three or more dollars per gallon.

Again on the subject of jobs, I have got friends on the other side of the aisle who maybe have not run a business. The gentleman from Iowa and myself and the gentleman from Colorado all come here as previous business owners. My friends on the other side of the field who maybe have not had a business, they really do have a curiosity. Why do we have this growth in our economy, why do we have an economy pushing upward at 8.2 percent in the third quarter, at 4 percent in the first quarter of this year? Alan Greenspan said it looks like we are on a sustained growth period for 4 percent through this year, probably next year. Why are the jobs not coming around?

If you will simply think about it, Mr. Speaker, in terms of when you had your first job, many companies are afraid to add people on for fear that they will have to lay them back off if the economy is still dipping up and down. We find that, as business owners, we do not hire immediately when we have a need. We begin to expand our capacity by increasing overtime hours. Maybe we just stay late and work every evening and have everybody work on the weekends. But you cannot sustain that, you cannot wear your people out, you cannot treat people like a commodity. You cannot do that indefinitely. In my perception, I have never expected to see the jobs react immediately when the growth in the economy came because I, as a businessperson, would not hire people right away.

But now we are seeing that our businesses are sustaining this growth, they are sustaining increased demand, they cannot continue to take care of the demand for labor with overtime hours, with temporary workers; and so it is not surprising that this job growth has lagged behind the growth in the economy. I would expect, Mr. Speaker, that we have such a volatility in the world economy that we will probably peak out and we will stabilize and level off here on job creation, and then we will see another ramp-up a couple of months down the road. It is just the way that I think businesses are very careful in these times to not hire too soon.

When we talk about the number of jobs being created and the number of jobs lost, a lot of times our friends on the other side of the aisle are talking about the number of jobs lost in the last couple of years and they make the numbers sound very good. It is important to remember, Mr. Speaker, that America has about 138 million jobs. While we hate to see any worker displaced, we have to keep it in perspective. We have to understand the balance that is there between 138 million jobs and even the creation of these 300,000 jobs, no matter how important it is, is still just a very small change, that most Americans are finding great stability and they are seeing in their daily lives the stability that this economy is bringing in.

We have to understand that the changes that occurred on 9/11 really were systemic changes. For a narrow period of time, people began to stay home. They did not travel. They did not go to the bowling alley at night. They did not go out to eat quite as much. The spending in this economy after 9/11 changed dramatically and shocked our economy into a recession that we are just now coming out of. It is not possible for an economy just to change itself and to grow out of its recession.

I think the stimulating effect of the President's tax cut is one of the most important things that we did. When people on the other side of the aisle are saying that we should give tax increases back to a certain piece of the population, we have to keep an element in mind, that when government spending increases beyond a certain level, and in general economists think that within the 20 to 24 percent level, if government spending increases beyond that, then the economy does not have the capital to reinvest in growth, to reinvest in new jobs and in new factories and in new equipment. What a tax cut does is it lowers the amount that the government is actually spending as a piece of the gross domestic product.

If we want a good example of what high government spending will do to an economy, we look at Europe and especially we look at our friends in Germany. Their government spends approximately 40 to 44 percent of every dollar spent in Germany. Because of that, they have a sluggish economy that cannot create jobs, and they have been wrestling with that for some time. I visited in Germany on my way back from Iraq in early November. The Germans were telling us that maybe if you get your economy going in America that we can get our economy going here. They are unwilling, though, to give the tax cuts or to cut spending. Either one would cause a lessening of the percent of gross domestic product. Because of their unwillingness, their economy stays mired and stagnant.

Mr. Speaker, I am proud to be a part of the Republican Party, which has cast a pro-growth initiative in this entire 2 years that I have been in Congress. I am proud as a freshman to have participated in creating policies that will educate our young people, creating the opportunities for them for a lifetime, giving them hope and access to the potential that this great Nation has. I am proud that the President has created an initiative to continue that lifetime training for those young people as they prepare for technical careers. I am proud to have passed this transportation bill which will create many, many new jobs. I am proud to have voted for an energy bill that will create more domestic sources of energy, less dependence on international sources of energy. That bill needs to be passed. There are people in this town who are blocking it from being passed and it needs to be passed.

Mr. KING of Iowa. I thank the gentleman from New Mexico, and I would address some of the cleanup issues here. I would like to point out, also, that as Republicans, we stand here in this Congress together and we work toward a common goal. Those who have been listening here will hear a consistent voice about the progress that we have made, the Jobs and Growth Act, the transportation bill that just passed here in this Congress this afternoon, a number of other initiatives that have been good on balance for all of America. That is not to imply that we think our work is done. It is not to imply that we think our work is perfect. In fact, one of the approaches I have to life is I am always looking back and seeing what should we have done better, the lament I have about how we had an opportunity that could have been better capitalized on than the opportunities that we have had; and those are the things that motivate many of us to go forward into the future and try to perfect a policy that we always recognize is imperfect.

Some of the pieces hanging around out here that do need to be addressed is the regulation burden that is on the backs of American businesses. How do we move to another level? We have the strongest growth of any industrialized country in the world right now. We heard that in the President's speech in this city last night. We have the strongest growth, but that is not good enough. Those who rest on their laurels will soon be swallowed up by those who do not. It puts me in mind of a quotation that I recall, I cannot attribute it to an individual, but someone will know and, that is, that history is the sound of hobnail boots storming up the stairs and silver slippers coming down. That is what we are in danger of, is moving into these silver slippers and being complacent and settling into our easy chairs while those folks that are a little more hungry and a little more aggressive, those folks that will get out of bed and go to work a little earlier, work a little later and will maybe work for a little bit less are putting pressure on this economy. We need to do a number of things to improve our economy in the direction we are going.

We talked about energy. I am pleased with the animation that comes out of my colleagues on energy. It animates me. I was able to go to Alaska with the gentleman from New Mexico to ANWR. I recall flying over that 19.5 million acres of ANWR. Of that 19.5 million, 1.5 million is the area that has oil underneath it. It is the coastal plain. It is an arctic desert coastal plain. The elevations vary just a little bit from sea level across there. We flew over 1.5 million acres of that coastal plain looking for wildlife. ANWR stands for Arctic National Wildlife Refuge. One would think that place would be teeming with wildlife. In fact, they told us that the caribou come for about 4 to 6 weeks in the spring, have their calves and go back to Canada. The rest of the time they are gone. We looked around for wildlife from that plane ride over and back along that coastal plain, two different routes, all of us searching. I saw two white birds and four musk oxen. I did the math on that. I divided the 4 musk oxen into 1.5 million acres of coastal plain. It comes out to 375,000 acres per ox. I did not see them all. There were some more there, but there is plenty of room for people and for musk oxen and for caribou. In fact, the caribou herd on the north slope, a different herd that has lived now with the pipeline since 1972 when it began, that herd was 7,000 in 1972, and today it is 28,000. Caribou do very well in that kind of an environment.

But aside from energy and the policies that we need to promote ethanol, promote biodiesel. I have got wind in my district. Some of that wind is getting cost competitive. It is not just some States like New Mexico or Colorado that are energy States. Iowa and the Fifth Congressional District of Iowa is an energy export center. All of those policies we need to do to move forward with our domestic production puts me in mind of a commercial that I watched on television. I have to phrase it this way. The apparent Democrat nominee for President of the United States has a commercial that ran in Iowa for months and months. It made three points. It said, I blocked the oil drilling in ANWR, and I will never send your sons and daughters over to the Middle East to fight for foreign oil, and I will create 500,000 new jobs. That was the equation.

There are some smart people in this Congress, but I have yet to find anybody that can put that equation together and reconcile those three points. Stop domestic production and be proud of that and why, I have no idea. I want to promote domestic production consistent with sound environmental science, not religion, but science. And so blocking that production does not help new jobs except exports them overseas. And then never sending sons and daughters over to the Middle East to fight for foreign oil. If you declare it to be a police action, then you can fight on this country and you will turn this Nation into one huge Israel where we can only then guard every theater, guard every bus stop, guard every school and every hospital and every church and still see our women and children blown to bits. This is not a police action. This is not a law enforcement problem. This is a war on terror, and we are not in Iraq fighting for foreign oil. We are in Iraq having freed 25 million people in Iraq. And so that equation does not work.

And creating 500,000 new jobs, well, at the rate this economy is going, in another couple of weeks, we will have that done within the last 6 weeks. I can do the math on that. I did the math. 308,000 new jobs in the last month, times 12, that is just one month of growth, that comes out to be 3,696,000 jobs. That is an annual rate of job growth. I maybe would take issue with a couple of the gentlemen that spoke ahead of me. We do want job growth to go on. If it goes on at this pace, we will soon run out of people willing to do the work at any price. We will not have enough bodies to do it. This is excellent, extraordinary economic growth. I do not know that it is sustainable, but it is awfully good news.

One of the things we need to do to sustain our economy is to reduce this burden of litigation and regulation that is on us. I sat in on a presentation by some business executives, it has been about a year ago now, up in New York City. The presentation came down to this final number: 3 percent of our gross domestic product is being consumed by the litigation process, class action lawsuits. If you eat too many French fries, sue McDonald's, those kinds of ideas. The tobacco lawsuits which put a price on the cigarettes that goes regressively against the people that are the greatest users, Mr. Speaker.

And so as you add up the cost of the litigation in this country, and it adds up to 3 percent of our GDP, and you think in terms of about 3.5 percent GDP is required in order for us to move forward and grow with our economy and sustain the necessities for the infrastructure that we need to build out, 3.5 percent required for that, but the trial lawyers get 3 percent off the top.

□ 1515

That means we have got to grow at 6.5 percent to sustain that, and I think we need to do some things with regard to tort reform. In the Committee on the Judiciary, we have passed a number of them. Nothing broad enough. Nothing broad enough that may have a real impact on this 3 percent.

Plus the burden of regulation in this country, just Federal regulations that are on the backs of all those businesses, the gentleman from New Mexico's (Mr. PEARCE) business and my construction business before I sold it to my oldest son, actually less than a year ago, and the gentleman from Colorado's (Mr. BEAUPREZ) business as well, the burden of those Federal regulations adding up across this country to over $850 billion a year. That is wasted money. That is not productive. It is not things in the productive sector of the economy where jobs are created.

Where we have jobs created in the productive sector of the economy, there are contributions that come from taxes that help to fund government, and when that happens then there is a little money left over for No Child Left Behind, and that is some cleanup.

The gentleman from Ohio made a statement that they are underfunded on No Child Left Behind by $1.5 billion. Well, I hope he is sitting over in his office listening to this, because he needs to take a look at the real process here, and America needs to understand it as well.

There is authorization, and then there is appropriation. Those two numbers do not match. Authorization says we can go ahead and appropriate maybe up to this amount, cap it there, no more, but use judgment to hold this into fiscal restraint. This number that is being claimed by the gentleman from Ohio on No Child Left Behind, this $1½ billion, I can only assume, if it is anchored on anything, it is anchored on authorization, not appropriation. There is not a way that one can calculate that and make that allegation that we owe $1½ billion to Ohio unless it has been appropriated, and if it is appropriated the money would be there, and the difference needs to be understood.

This claim, by the way, if we look back through the records, the last time the Democrats had a majority in the House and the Senate and the Presidency and they got a chance to fund education to their will, they had an authorization number and then they had an appropriation number, and they did not match. But the folks on the other side of the aisle were not here saying, "We are underfunded, Mr. President." That is the issue here, is the credibility aspect between authorization, appropriation.

I yield to the gentleman from north New Mexico.

Mr. PEARCE. Southern New Mexico, Mr. Speaker, I border on the Mexico border, and my district is about as large as the State of Iowa.

I would like to go back to the cost of lawsuits to American business and what it costs each individual. Basically, the frivolous lawsuits in America cost each one of us 5 percent off of our wages. That is an approximate cost of $807 per U.S. citizen. That is across the board. Litigation costs increase insurance premiums, create higher medical costs. They cause less disposable income in our homes. They raise prices on goods and services. Businesses have to charge a higher price in order to cover the cost of litigation. This slows job growth and expansion of the economy.

The U.S. Chamber last year in my district ran ads. They were telling the

New Mexico citizens that for every new car they buy, they pay over $500 for the costs of litigation that are acquiring on that car manufacturer somewhere.

One of my friends from Ohio said that we must stop making policy based on the contributions to campaigns. I would like to hold him to that statement. The single largest contributor to our friends on the other side of the aisle are the personal injury lawyers. They are the ones who are buying influence, and they are the ones who are blocking the reforms of lawsuit litigation abuses in this country.

This House has passed medical liability reform, it has passed asbestos liability reform, it has passed class action lawsuit reform, and they sit stalled out because of the special interests who are buying influence here exactly like my friend from Ohio from the other side of the aisle was talking about. I hope that he will join me with as much enthusiasm as he was displaying on the floor of the House to talk about the special interests purchasing the system here in Washington, and that special interest group being the personal injury lawyers of America.

Mr. Speaker, if we are going to consider the environmental cost, the environmental tax on each product in America, we also need to consider the lawsuit cost, the litigation cost, on every product in America. Because it comes from each one of us every time a lawsuit is filed. No one of us would block access to the courts for people who have a serious, legitimate legal claim, but the frivolous lawsuits are designed never to go to court but instead to extract a payment from a company without going to court for a perceived injustice.

Very rarely do the members of the class, those people, the class of the class action, the hundreds and hundreds of thousands of people who are put on the class action lawsuit by the lawyers, very rarely do they get anything. I have heard payments as low as 25 cents for each claimant in a class action lawsuit, while the lawyers get millions and sometimes billions of dollars.

If we are going to improve the business climate in America, if we are going to stop the outflow of jobs from this country, we will deal with the frivolous lawsuits that really affect the ability of any company in this country to continue to produce goods and services and produce jobs for the people who want to live here and to raise their children in just a peaceful, quiet neighborhood, knowing that they have the security of a job for tomorrow. Lawsuit abuse is one of the greatest penalties in our system, both personal and corporate, that we face.

I yield back to the gentleman to conclude. This is all of my statement, and I do thank the gentleman for bringing this conversation to the floor of the House on this day when it is announced that, under the President's policies, under President Bush's policies, 308,000 new jobs have been created in March. I thank the gentleman for his leadership on this issue.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for his comments.

Mr. Speaker, another subject matter I would like to raise is in rebuttal to the remarks made by the previous speakers from the Ohio delegation, and that would be with regard to unemployment and the very strong statements made on why we need to extend and expand unemployment benefits. We have done that in this Congress, and it has been up for a vote twice in a little more than a year that I have been here, and I will tell the Members that I come to the table with a little bit different viewpoint on that.

That is, first of all, the demand on a minimum wage increase and possibly the discussion that has to do with a living wage; and I want to argue that there is hardly a legitimate minimum wage in this country at all. Most people are working for more than the minimum wage. Our economy has grown past that, and the minimum wage itself sometimes keeps people from getting in entry level.

I pointed out that it used to be one could drive into a gas station anywhere and some young person would come out there, entry-level job, and wash the windshield, check the oil, check the air in the tires, and fill the gas tank up and bring them their change and send them along their way. That was kind of a nice service, and they learned a work ethic. We do not do that anymore, and one of the reasons is because of minimum wage.

But labor is an equation just like any other commodity. Labor is a commodity, and it is like corn and beans or oil, as we talked about earlier, or gold or shares in the marketplace. The value of labor is predicated upon two things: the supply and the demand of labor, just like the supply and demand of gold or oil, controls the price. So when we start to interfere with that cost and we raise that cost of entry level labor up, then we are going to have some people who lose out on jobs.

If we can legislate, by the way, a minimum wage, then I would challenge then the next step is legislating a living wage. As I hear about living wages, then I say, well, if we can raise that price up, and living wage used to be claimed to be something like $8.56 an hour. So if we could legislate a living wage, then why in the world could we not just go ahead and legislate prosperity? If it does not cost jobs, if people are not going to get unemployed because of raising a minimum wage or moving up to a living wage, then let us all just be rich and let us set that level someplace at $20 or $25 or $30 an hour, and then we can all just share in this prosperity that would be legislated by the wise people from over here on the other side of the aisle.

That does not work, because it is supply and demand. It is working. That is why the real minimum wage is substantially higher than the legislative statutory minimum wage.

Transportation, we passed that today. That puts dollars and jobs out there. Transportation is the fundamental, foundational first building block in economic development. Transportation, education, high-speed telecommunications are those components today. Transportation was the first component. It is the most essential component. We have now started down the path of providing for those jobs and building the American economy, but it can be stronger, and the bill could have been better.

I cannot leave this closed without addressing some things that need to be better, and that is the environmental burden on the transportation cost. Eighteen point four cents of every American's gas, when they put the nozzle in their tank, goes into this highway fund. But of that 18.4 cents out of every gallon comes about 28 percent just to feed the E-tax, the environmental monster, the cult, a religious type of environmental cultism, rather than a responsible way of dealing with our environment. We cannot even inventory the offshore natural gas reserves off the coast of Florida because of the barrier here in this Congress because of the E-tax that is on us. So there is an environmental piece to this.

Then there is a wage scale piece to this, the Davis-Bacon wage scale. That will increase the cost of wages from 8 to 38 percent and actually some statistics show 5 to 35 percent. But I will just say average that all out and that comes to about 23 percent of this; this is higher than it needs to be because of federally mandated wage scales. So we add the 28 percent for environmental, let us say 20 percent for the wage scale. So we are at 48 percent, and we have not even dealt yet with mass transit, bike trails, money for scrubbing the graffiti off the walls. Come on. Do we not have some people in our prisons that we could give them a wire brush and send them out there? Why are we imposing that upon the taxpayers of America to clean off the graffiti? Is that not a local issue?

So when we add all these pieces up, I will argue that we can come to 68 percent, maybe 71 percent of this can go somewhere else to be funded if, in fact, we believe it should be a priority whatsoever. I want every dime possible out of those transportation dollars to go into concrete and earth moving and pipe work and transportation that can be used to grow our economy, and I pledge here and now to move forward with this over the next 6 years if they send me back to do so in order to try to turn those dollars in a more responsible fashion for transportation.

We are doing a lot of the right things, Mr. Speaker. We need to continue improving on every single component where we claim credit. We will get better, and we have got a lot to claim credit for, including 308,000 new jobs just in this past month alone.

OUR POROUS BORDERS

The SPEAKER pro tempore (Mr. BURGESS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, we have a couple of towns in Colorado that are approaching 500,000. I believe a town in my district, Aurora, Colorado, would be in that area somewhere. Just the last 6 months this Nation has added at least one more, Aurora, Colorado, and not by the fact that a group of American citizens or anybody presently living in the country had a number of children that all of a sudden would create a whole new city. We got this because we have porous borders and because, from October 1 last year to the end of March, approximately half a million people came through just one sector of our southern border, just one sector, the Tucson sector. We can be sure that it was at least that many because we know from experience, by how many we catch coming into this country, that there are at least two to three that get by us.

So from the first of October to the end of March to the first of April, about a quarter of a million people were interdicted in that southern border in one sector, just the Tucson sector.

This is astronomical. The numbers are unbelievable. They are up like 50 percent. For every single person that we stop at the border, remember, two or three get by us, get by the Border Patrol. So that is why we know that in that 6-month period of time, a half million people came into this country illegally; and they did so in just one sector. We are not talking about the entire border of the United States of America, north and south.

What does this mean? And, by the way, why do my colleagues think they are doing that, Mr. Speaker? Why, I wonder, are we having so many people right now coming into this country illegally? Every year we have literally hundreds of thousands of people who sneak into the country. We take in a million and a half people approximately every year legally. We are one of the most generous nations in the world.

□ 1530

It is certainly the most liberal policy when it comes to immigration. But beyond that, beyond the people that we bring into this country every year legally, another 1 million or so come in through the back door, another 1 million or so we do not know who they are, we do not know where they are, we do not know what they are doing here. We trust most of them are "doing these jobs," I hear this constantly, "that no one else wants." They are only coming to do jobs that no other American will do.

I tell you, Mr. Speaker, with between 10 and 18 million Americans out of work today, I will bet you anything that there are millions of Americans who are willing to do the jobs, but they have been underbid, if you will, by people who have come here illegally. Their jobs have been taken by people who have said, I will do it for less.

Then the next wave of immigration comes, and they do the same thing. They take jobs from the people who just came in. So that over the last 10 years, our wage rates in this country have stayed flat; and wage rates, especially for low income people, have stayed very, very flat, because it is a depressing effect on wage rates when you have millions of people coming into the country illegally, especially people who are low-skilled and therefore low-wage people.

But half a million through just one sector over the last 6 months. And why? I will tell you why, because the President of the United States made a speech, and in this speech he said that he wants a program of amnesty. And there is no other way to put it.

He connected it with his plan for a guest worker program; but, in fact, because he allows people to stay in this country even if they are here illegally, it is an amnesty plan.

Every time I go to the border, and I go down to the border quite often, Mr. Speaker, and up to our northern border, and every time I do I talk to someone who is Border Patrol, and they will say to you every single time, they will say, whatever you do, do not even use the word "amnesty" when you start talking up there in the Congress, because every time you do that, then the flood that I am trying to stop down here turns into a tidal wave.

That is exactly what happened. The numbers went up dramatically right after the President gave his speech, and they continue to go up. On the border, our Border Patrol people are even asking the people they interdict, why are you coming? They will tell them, to get the amnesty they think they are going to get. So now literally millions of people have come into this country illegally already to obtain this goal of amnesty, which we should never give to anyone.

No one ever should get rewarded for breaking the law, and that is exactly what any amnesty plan is. And no one, no one as an employer, should be exempt from the law, simply because they hire a lot of people who are here illegally. In fact, they should be fined; they should face the full force of the law of the land here, because it is against the law, as you know, Mr. Speaker. It is against the law to hire people who are here illegally, although we do it. We do it quite consistently, and we do it by the millions, and we ignore it. It is because we have learned with immigration policy. We have learned that the law is like a Chinese menu in a Chinese restaurant. We will accept this, we will take that, we will not take this or will not take that. So we do not enforce the law against people who are hiring people who are here illegally, and we should.

There are consequences to massive immigration, consequences that nobody wants to talk about, I know. Many people are concerned about this discussion.

I am a Republican, Mr. Speaker, and I recognize that I many times rile my colleagues and even certainly the White House, because I do talk about this issue as often as I can. And I talk about it because I believe it is one of the most important public policy issues we can deal with here.

It is something to live in Washington, D.C., or in Chicago, or in Billings, Montana, or Omaha, Nebraska. You will see the effects of illegal immigration, certainly. But you do not see them like you see them on the border, where in your backyard every night people are coming across by the thousands, and it is happening on our southern border especially. There are consequences to that.

I want to read a letter I got from a constituent, not of mine, a lady that lives in Arizona. I will condense it. She says: "This is my story."

This puts a face on this issue of illegal immigration, because it is not just numbers. When I come here and talk about the fact that a quarter of a million people were interdicted in just one sector in 6 months' time coming in here, that is just a number to most of us. But to this lady and to the thousands of people who live on that border, it is far more than just numbers. It is a way of life that is being destroyed down there. And, believe me, what is happening on the border is going to be happening farther and farther north as time goes on.

She says, "I live in a world," she called this "My Story." She says, "I live in a world where I do not count. I am not a minority. I am poor, I do not have coalitions rallying for what I feel is important. I do not have news reporters writing about poor me. But I have views, I vote, I pay taxes, and I know there are millions of people in America just like me.

"I live next to a shelter built by politicians who are afraid to have an opinion about closing the border. Daily, 1,500 illegal aliens visit that shelter. It was supposed to keep those poor people from urinating and defecating on the streets. It did not. Now, if I were to defecate on the streets," she said, "I would be fined.

"My home and vehicles have been broken into 22 times in 5 years. I stopped calling the police each time they do now, because they do not come anyway. Instead, we bought a gun. We scared off the last illegal alien trying to steal our truck. He knew enough English to say 'sorry' as we pointed the gun at him. Three months later, we still have a towel over the smashed driver's side window.

"Not too long ago a car ran into the rear end of my car. The policeman came and said I would have to wait while he called for a back-up. My baby was screaming. The police had no film in the camera. The backup policeman had no fingerprinting ink or film. The illegal alien who hit me had an ID, but the police said there was nothing that could be done. The illegal would just get another fake ID and would never show up for court. He did not have insurance.

"The illegal alien who hit me said 'sorry,' as he walked away. He was free to go. I was free to pay the deductible on my car and the chiropractor bills for my children and myself. If I drove without insurance and hurt someone or their possessions, I would be forced to pay for the damages.

"My husband works 6 days a week as a framing contractor. He pays FICA, Social Security, State taxes, Federal taxes, general liability insurance, workman's comp insurance, and probably others I do not even know about. His workman's comp just skyrocketed from $5,000 to $28,000 a year. Now, I ask you, where am I going to come up with the extra $23,000? We had no claims. Should I take it from my food budget? My home insurance costs me $100 more annually because I live in a border State." She says, "How long before Kansas becomes a border State?

"I have no medical insurance and have had no medical insurance for years. I cannot afford it. At 33, I got cancer. My doctor told me to go to the hospital, ACCHS. I do not remember how to spell the State's medical system, since they declined me anyway. My husband's company had no profits for 6 months due to theft. Without studying my receipts, I was declined. Interestingly, hundreds of illegal aliens standing in line were being given food stamps and medical care. They did not have Social Security numbers; they did not speak English.

"My son cries nightly because his arms and legs hurt. He has cried for almost 7 years. They do not know what is wrong with him."

They do not have insurance, and therefore are hesitant to just take him to the doctor, because they cannot afford to pay. But she goes on to say that when she has gone eventually to the emergency room, they cannot even take them, because there are so many people there ahead of them who are here in this country illegally.

"Two years ago," she says, "I announced to my family there would be no turkey for Thanksgiving. We would eat pasta and be thankful we are a family. My Catholic friend made arrangements for me to get a box of food from her church. I went reluctantly. I drove up in my broken old van. I saw a lot of new stickers on new Suburbans. My van was the worst vehicle there, and it hit me that I really was poor.

"I stood in line for 20 minutes, amazed by the number of illegal aliens who could not show an ID when they were asked. When it was my turn to show an ID, I was told to leave. There was not enough food for me to take a box. I looked around, there were boxes of food everywhere. For a minute, I forgot: I did not count.

"Our church, our pastor, reminds us to stay hopeful. I struggle to make sense out of a system that has taken from me and given to those who have more than I do. Who will be my voice? Where is my coalition? I thought it was the leaders of America. I was wrong. They have sold me out, and millions like me. What is worse, I do not know why." Rhonda Rose is her name.

We get literally hundreds in my office, hundreds of e-mails. When I come on the floor here, as I try to do often, to speak on this issue, we go back and the e-mails start. And I want to hear from these people, because, you know, they all tell stories like this, and they ask us to continue to work and try to do something about this illegal immigration problem. I feel like I am overwhelmed by their cries for help.

I know that there are other colleagues who care about this issue, Mr. Speaker, but I do not see it translating in any sort of way into help for these people. We are fearful of doing anything that would actually secure those borders. We are fearful of doing anything that would actually enforce the law in this country.

Why are we fearful? What are we afraid of in this Congress? Why will we ignore the laws on the books? Why will we tell people like her that we will abandon them? Because, Mr. Speaker, as you and I both know, on that side of the aisle they will do nothing about immigration, legal or illegal. They want to encourage it, because they know it turns into votes for them. On our side of the aisle, we do nothing to stop it because we believe that it is cheap labor. And those two powerful interests have stopped us from doing anything significant about this issue.

It is the fear of the political ramification. What would happen? You know, we have been on this floor for days talking about jobs, about how we cannot possibly go on outsourcing jobs, how many jobs Americans have lost in every industry and what each candidate for President is going to do about it, and candidates for the House of Representatives, what they are going to do.

We discuss how we are going to change this. Should we put on tariffs? Should we try somehow to be protectionist and stop allowing imports? Should we actually pass laws saying corporations cannot offshore, as if we could actually stop it, considering the Internet and the movement of jobs-to-jobs to workers all over the world in an instant?

But we say those things. We are thinking. We are pulling our hair out trying to think about how to create more jobs in this country, how to stop the offshoring of jobs, because we know it is going to be a political issue. But we cannot seem to come up with a real plan, because no one will want to address this issue.

Mr. Speaker, where do you think those 500,000 people are today that came in in the last 6 months through the Tucson sector? Do you think they all just simply went on welfare? Many of them, of course, most of them, are working somewhere in this Nation. And where did they get this job? Was it a job no American wanted? Was it a job that happened to be posted in a newspaper, or was it a job that somebody else had that they have now displaced?

I am told every day that there are not enough jobs available for Americans who want to work, and we are trying to think of ways to create jobs. Yet, we refuse to secure the border; we refuse to do anything about the people who are already working here illegally.

We can create 10 million jobs tomorrow if we just enforce our own laws against illegal immigration. We would not have to do anything. We would not even have to get involved with the World Court because we introduced a concept, an idea, that could be seen as being protectionist.

This would only be enforcing the laws that America actually has on the books, and we will not do that. We do not have the political will.

How are we going to answer these people, or the hundreds of others that call our office, and, I know, other offices of other Members? Not too long, after the President's speech, we had almost 1,000 calls into our office in 2 days. I came on this floor and I talked to other people; and they told me the same thing, that there in fact had been hundreds of thousands of calls coming in to all the offices for all the Members.

□ 1545

So I know people did respond. And we know what that means, Mr. Speaker, because so many people called their Congressmen and Congresswomen in their districts: that plan that the President proposed is dead on arrival. It is not going to pass, my colleagues and I all know it. I am glad that it is not going to pass, and he is a President of my party, and I respect him and admire him and I will support him in many ways, but he is as wrong as he can be on this issue, Mr. President, and Mr. Speaker, and Mr. President, if you are listening.

I see a colleague of mine has joined me. I am going to make an assumption that he has joined me because he wants to join in this debate. I say that because I know him and I know his heart, and I know where he is on this issue.

We are now going to confuse a lot of people, because we are told often that we look very similar, and we are confused often as we go around the House here. I am sorry for him if that is the case, if he does look like me. He is much more handsome than I. But my colleague, the gentleman from Iowa (Mr. KING), has joined me; and I will be glad to yield to him.

Mr. KING of Iowa. Mr. Speaker, I appreciate the gentleman's assumption that I came here asking for you to yield and saying that that is where my heart is and my head is. Without preparation, I did want to also listen to your presentation, which I did last night on C-SPAN, by the way, and I know millions of Americans were listening as well. I thank the gentleman for the leadership he has provided on this issue.

In this Congress and in politics around the country, whether it is State legislatures or city councils or county supervisors, there is a thing that has to happen in the dynamics in order for good public policy to be formed, and that is that there are always two sides to an issue, or it would not be an issue. As those issues get pulled and tugged and massaged and people in the middle start to weigh in for and against the increments of that policy, over time, that policy is shaped in such a way where you finally get to the point where there is enough agreement where we can pass such a policy. We are a long, long ways from that in this immigration policy in the United States today.

I look back to the years when Pat Buchanan was running for President and he insisted that we have a nationwide debate on immigration. I regret that we were not able to move that debate forward at that time, shape this policy before we got to this critical situation that we are in today, with massive numbers flowing over the border and not a policy to deal with it.

I understand the President's motivation. I think his head and his heart want to go down that path to help 10 or 12 or 14 million people. The other side of this equation is one the gentleman from Colorado and I agree on, and many, many members of this Congress and even a greater percentage of people across the country that intuitively understand, that an immigration policy which by Constitution is vested within the responsibility of the United States Congress, an immigration policy must be designed to enhance the economic, the social, and the cultural well-being of the United States of America. What other purpose would we have?

I look at some things that happened in my State. We have an affirmative action program within our universities that has been approved by the board of regents. It is an 8.5 percent, we cannot call it a quota, it is an 8.5 percent minority "goal." Well, this minority goal almost moved some State legislation that would have imposed the equivalent of a high burden on the taxpayers of the State to try to reach this 8.5 percent. In Iowa, we have about a 3 percent minority, but we would do an 8.5 percent minority goal.

Well, in an effort to reach that goal, within one of our regents' institutions, that institution set up a recruitment center down in San Antonio, Texas. I would like to be recruiting those folks of the same ethnicity if we need to do that from Iowa. We have sufficient numbers that are not accessing education, but yet the recruitment office in San Antonio was recruiting Hispanics to meet part of this 8.5 percent goal for minorities, and then they got overzealous and they went across the border and they brought in Mexican nationals from Mexico City to meet a goal for a minority set-aside in Iowa.

What is going on, America? I cannot connect my logic with this.

I will go back to affirmative action. If we take it back to its inception, it was designed to correct the institutionalization of segregation of American blacks in the South. That was the specific, narrow goal of affirmative action, and it is preferential treatment in jobs and educational opportunities. I do not know how we would have fixed that. That is a sin against this Nation. And maybe there was a better way, but I am not wise enough to tell what we should have done. So I am going to let that one pass for a moment and just say we needed to fix that. And we have, to a large degree, repaired the institutionalization of segregation of American blacks in the South. Now they are coming up in job opportunities.

But that affirmative action program that was instituted then, for what arguably was a good cause, now has grown into this monstrosity of a policy that decides that every family reunion has to take place in the United States; it cannot take place in any other country. So we have a repatriation policy that allows someone to reach out and bring their family members into the United States, and that does not fit that equation of what is good for the economic, social, and cultural well-being of the United States.

Mr. TANCREDO. Mr. Speaker, if the gentleman will yield, the economic, social, and cultural well-being of the United States, now that is an interesting phrase; and it is an important one. Because it is important to understand that massive immigration into the country, both legal and illegal, that phenomenon has, in fact, huge, huge implications for America, for who we are, where we are going, and what we are going to be. And this is an even more dangerous situation than what we were talking about earlier in terms of just the numbers and how they affect us.

Mr. Speaker, there is an assault. People ask me all the time, I am sure they ask the gentleman from Iowa also, they ask, why is this different now? Why are you arguing this issue? What makes immigration today different than when your grandparents, and it was my grandparents, by the way, who came? My folks did not come over on the Mayflower. I am a relatively new American. What is the difference? Why was it okay then and not okay now?

I said, well, there are two main reasons, as far as I am concerned, two things. First of all, it is a different country. We are a different country than the country to which my grandparents came in many ways. One, of course, is that when my grandparents came, and I will bet the gentleman from Iowa's too, there were either of two choices for them: they either worked or they starved. That was it. There was nothing else. There was no such thing as a welfare plan. And there was also no such thing as a radical multiculturalism that permeated our society.

Now, what do I mean by that? I am talking about a philosophy, an idea that has seeped into the absolute soul of our society, and it is what we teach our children in schools, that there is nothing of value in America.

Example: Los Angeles, I heard this on radio just the other day. A Los Angeles school, Roosevelt High School, where an eleventh grade teacher told a nationally syndicated radio program that she "hates the textbooks she has been told to use and the state-mandated history curriculum" because they "ignore students of Mexican ancestry," because the students do not see themselves in the curriculum. The teacher has chosen to modify the curriculum by replacing it with activities like mural walks that are intended to open the eyes of the students to their indigenous culture.

Another person who actually created one of these murals was on the radio talking to the students; and he said to them, this is not your country. You should have absolutely no allegiance to this country. Your education has been a big lie, he told them, one big lie after another. And we know that this is one tiny example of something that happens in schools all over this Nation, where children are told that they, in fact, should not attach themselves to what we called the American dream when my grandparents came here; that they should stay separate; that they should keep their separate language and cultural and even political affiliation with the country from which they came. This is what we tell them today. That is why it is a different country. And it may be also that we have a different type of immigration policy.

I met recently with the bishop of Denver, Bishop Gomez; and he said something I will never forget. This was at a breakfast and we were discussing this issue, and he said to me, Congressman, I do not know why you are so worried about immigration from Mexico. And by the way, it is not just Mexico; he happened to be talking about Mexico. He said, I do not know why you are so worried about immigration from Mexico. He said, The Mexicans that are coming here do not want to be Americans. Those were his exact words.

I said, well, Bishop, to the extent that that is true, if what you said is true, then that is the problem. That is what I am worried about. It is not them coming here; it is them coming here not wanting to be Americans on one side and us on the other side telling them we do not want you to either, we want you to stay separate, Balkanized and divided. This is a serious problem for America. I yield to my friend.

Mr. KING of Iowa. Mr. Speaker, I would add to that there is a different philosophy today than there was when your grandparents came here or when mine came here. My grandmother came over from Germany.

I remember her advice to my father who went off to kindergarten on his first day speaking German only and when he came home from the first day, walked into the house and said hello to his mother in German, and she turned to him and said, speaking German in this household is for you from now on verboten, because we came here to be Americans, and you are going to learn English in school and bring it home and teach to it me.

I wish I could say that in German today, but it conveys a philosophy of buying into this culture and this civilization. Yes, there are many immigrants that come into this country who do buy into the philosophy; but sadly, millions of them are met at the border with radical multiculturalists, the cult of multiculturalism with, I used to say hundreds of millions of dollars funding, and now today I say it is in the billions of dollars, funding this multiculturalism that is infused into every level of our curriculum, every level of our lives, and it rejects a greater American civilization. It rejects the very concept that America is a great Nation or that we have the lead culture, economy, and military in the world, or that we are the unchallenged superpower in the world. They focus on the things that they can be critical of, what they call America's failures.

Mr. Speaker, multiculturalism draws a new line. This new line is, everybody belongs to a group, except for the gentleman from Colorado (Mr. TANCREDO) and myself and other folks who fit in our category.

I went to a college campus, and before I went there to speak, I went to their little search engine on their home page and I typed in "multiculturalism" and I hit search. What came back was 59 different multicultural groups registered on campus, starting with Asians, ends with Zeitgeists, and in between, and every one, virtually, a victim's group. As I talked to those young people and I said, look at this. When you arrive here as a freshman on the first day, there might as well be 59 card tables set up out here in the parking lot and you can go down through here and choose your victims group. Start with Asians, ends with Zeitgeists, you will belong to 5, 6, 7, 8, or 10 of them before you get down through this line, and everyone will tell you why you ought to have the sweat off of somebody else's brow, everyone will tell you that you are a victim and you deserve special rights and group rights by virtue of this merit of being a victim.

But if I might conclude, then, so your grandparents and my grandparents that came here did not see themselves as victims. They saw themselves as being extraordinarily fortunate individuals that had the opportunity to pull themselves up by their bootstraps. I yield back to my colleague.

Mr. TANCREDO. Mr. Speaker, let me give some more examples of exactly what the gentleman is saying here and the problems we face. A school district in New Mexico, the introduction of a textbook called "500 Years of Chicano History in Pictures," and it was written, now listen to this, it states that it was written in response to the bicentennial celebration of the 1776 American Revolution and its lies. That is why this textbook was produced, because of the lies of the bicentennial. Its stated purpose is to celebrate our resistance to being colonized and absorbed by racist empire builders. The book describes defenders of the Alamo as slave owners, land speculators and Indian killers, Davy Crockett as a cannibal, and the 1847 war on Mexico is an unprovoked U.S. invasion.

The chapter headings include Death to the Invader, U.S. Conquest and Betrayal, We are Now a U.S. Colony in Occupied America, and They Stole the Land. This is a textbook, mind you, that was introduced into classrooms in New Mexico.

This, by the way, this is a quote by a gentleman who is the president of La Raza. La Raza is probably one of the most significant of the Hispanic organizations and it means the people, La Raza. Many would suggest that the positions that they take are antithetical to true democratic principles and that they are part of the problem of dividing people up into these victimized groups. Here is what the president of La Raza said, By the way, this is traditionally supported mass immigration, but today sees a more pressing issue for Hispanics. This is his quote: "I think the biggest problem we have is a culture clash, a clash between our values and the values in American society." That is what he told the Fort Worth Star.

This is a clash of values, he said, that they are not our values. Well, of course, I believe to a large extent they are common values. But if we do not teach children in our public school system to believe and understand who they are and what their heritage really is, the value of a Western Civilization that they can share, if we do not do that and we are not doing it, we are afraid of doing it, then how can we ever expect them to in fact support and defend that concept?

I went into a school in my district not too long ago, brand-new school, built in Douglas County, Colorado, which is one of the fastest growing and also one of the counties with the highest per capita income in the country. Needless to say, I do not live in that particular county, but it is a county of fairly wealthy people.

□ 1600

These kids were great kids and bright, and they had all the advantages of having a school in that area and all the accoutrements of a beautiful school. They came in and talked. We were in an auditorium. There were about 200 kids. They were good kids. I do not mean for a moment to suggest that they were not. But they got to the end, and one of them sent a note up to the thing and said, "What do you think is the most significant problem facing the country?"

I said, "Well, I am going to ask you a question and maybe it can help me make that decision." I said, "How many people in this auditorium right now will agree with the following statement: You live and we live in the greatest country on earth?"

Two hundred people, 200 kids, brightest, best educated, healthiest, the product of Western civilization that has created that we have today, and maybe 2 dozen raised their hands out of 200.

I stood there in shock in a way. I have been a teacher. When I looked out at those kids, I saw on a lot of faces something I had seen it before, a lot of kids wanted to say yes to the issue. They did not hate America. They wanted to say yes. But I have seen that look where they said, if I put my hand up, he might actually call on me. So they did not.

They were afraid to put their hand up to say yes to that question because they were intellectually disarmed. They could not possibly have made the case. They were afraid if they said yes, yes, I believe I live in the best country in the world, what if I would have said, "Okay. Prove it. Why?" And that is what they were fearful of. Because they had not been taught why they should.

As a teacher, kids come into schools, some have an innate knowledge and love of music. Very few. Some have just an innate knowledge and love of great art or great literature. Very few. Our task as teachers is to teach them why they should appreciate it.

It is exactly the same thing with our society. They do not come in with an innate knowledge and appreciation of Western civilization. They need to be taught. If we do not do so, then it is to our peril.

The children around the room, I could tell, they even looked at the teachers who were standing along the aisles leading down to the stage, and there was some degree of hesitancy that made them very uncomfortable to be placed in this position of having to try to defend this concept.

I suggest that this is because we have become so captivated by the cult of multiculturalism that we are afraid to say the obvious, that we are in the greatest Nation, we do live in the greatest Nation of the world. If we do not tell our children that and if we tell immigrants that that is not the truth and they should never connect us to that kind of a country, will we have a country at all? What will it look like? I do not mean by color, I just mean by division. Is it Balkanized America or is it united America?

Mr. KING. Mr. Speaker, I think I have an anecdote on this scenario that I painted here. That is, some years ago I drafted some legislation, and I began to identify these same things. What is great about this Nation and what are the weaknesses that we have within our educational system that does not infuse this into the minds of young people anymore like it was infused into our mind as we grew up? It was part of our family and educational system, something we learned in church as well.

I drafted legislation, and I called it the God and Country Bill. It simply states that each child in America shall be taught that the United States of America is the unchallenged greatest Nation in the world, and we derive our strength from biblical values, free enterprise capitalism, and Western civilization.

Now, unless you have been there you cannot imagine how many names I got called, how many nasty letters and e-mails and phone calls came my way for stating something that I believe ought to be obvious to the vast majority of Americans. One particular e-mail came, and I noticed it had an educational e-mail address. It said, "We get plenty of Western civilization. You are trying to impose something on America, and we do not really believe we are the greatest nation in the world." It gave a whole list of these things.

By the way, it was not friendly toward Christopher Columbus. I point that out particularly.

But, nonetheless, "We get 2 years of American history. We get enough Western civilization. We do not need to teach anymore."

I thought, okay, I am going to help this student out. I did not know how to explain it, so I just typed back an e-mail response that said, go see your teacher about Western civilization. Your teacher will explain to you what Western civilization is.

The answer I got back was, "I am the teacher."

There is the problem, at least one of the problems.

Mr. TANCREDO. Mr. Speaker, we will be wrapping this up. I want to thank my colleague very much for joining me for this special order.

About 2 weeks ago, 3 weeks ago now, I introduced a resolution; and it is a very, very simple resolution. It is a Sense of Congress that all children graduating from any school in this country should be able to articulate an appreciation for Western civilization, and I was astounded by the reaction I got.

I mean, first of all, the NEA, the National Education Association, of course, they came unglued. How dare I suggest such a thing? How dare I?

We get e-mails from people who have seen it, and it is the same thing. In fact, an article that was in a newspaper, a Houston Chronicle article written by two individuals co-authored it, they were vilifying me and also an author by the name of Samuel Huntington for writing a book in which he brings this issue out.

They said, "What is so good about assimilation any way?" That was their way of addressing it. "Why should we assimilate into your society?"

These are supposedly Americans. These are people writing in a newspaper that they were regular columnists and they were suggesting that there was some separation there between their America and mine.

Well, I suggest and I would really and truly like for people to go to the Web site. I always get a lot of calls when I do this, people asking how can we get more information about this. I tell them all the time, Mr. Speaker, they should go to the web site www.house.gov/Tancredo. On there you will see a page to go to called "Our Heritage, Our Hope."

There is a resolution that we have in front of this Congress. I have another resolution that we have given to State legislators; and I believe in Iowa, if I am not mistaken, we were able to get a State legislator there to introduce it into Iowa. Same exact resolution, that is all we are asking for, is to have children be able to articulate an appreciation for Western civilization.

That does not mean they should demean any other. It does not mean they cannot be critical of our own. It just means they have to have the ability to understand where we came from, who we are, and where we are going.

It does not matter if you come here from Azerbaijan or Albania. It does not matter. It does not matter because, once you get here, there has got to be a canon, a set of standards or ideas that we all will buy into no matter whether we came from and no matter all the other cultural distinctions we have; and we can all appreciate the fact that there are these differences, but something has to hold us together.

It is a set of ideas, because this Nation is the only nation on earth that was actually started on ideas. It is the only thing. We have enormous pride in that, and we should be able to take pride in it. We should be able to take pride in the fact that there are these tenets of the Western civilization like the rule of law and the value of the individual and the freedom of religion. These things are Western. We should be proud of it, no matter where one comes from, because they are coming to take advantage of it and should be willing to say, look, even in my culture we did not have that, and that is why I am coming here. I want to be part of it.

We need to have things that hold us together. We have to stop doing things that keep tearing us apart and keep telling our own and we have to begin teaching it in schools and we have to tell immigrants that that is exactly what is expected of them.

We have to secure our borders. Because no State can call itself a State if it does not control its own borders. The kind of thing we hear all the time, I know my colleague hears it and I do, racist, racist, racist. That is the word they want to throw at you and other epithets. But, in fact, of course, this has nothing to do with race. Nothing. And a significant number of the e-mails and letters I get are from Hispanic Americans who say, "Right on. You are absolutely right."

I say, God bless those people and God bless them for being here and God bless them that they are Americans, Americans first, before anything else. Some of them in my State have been here for generations, far longer in the United States of America and in Colorado than me or my family; and they see exactly the problem that exists.

So it has got nothing to do with race. It has nothing to do with ethnicity. It has nothing to do with country of origin. It has everything to do with this country and whether or not we will still be a country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CULBERSON (at the request of Mr. DELAY) for today on account of medical reasons.

Mr. HULSHOF (at the request of Mr. DELAY) for today on account of a family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. ANDREWS) to revise and extend their remarks and include extraneous material:

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

The following Members (at the request of Ms. HARRIS) to revise and extend their remarks and include extraneous material:

Mr. DREIER, for 5 minutes, today.

SENATE BILL REFERRED

A joint resolution of the Senate of the following titles was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 28. Joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II; to the Committee on Armed Services.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4062. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 4 p.m. on Tuesday, April 6, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 404, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at 4 o'clock and 11 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until 4 p.m. on Tuesday, April 6, 2004, unless it sooner has received a message from the Senate transmitting its adoption of the House Concurrent Resolution 404, in which case the House shall stand adjourned pursuant to that concurrent resolution.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7508. A letter from the Secretary, Department of Agriculture, transmitting a draft of proposed legislation, "To authorize the Secretary of Agriculture to prescribe, adjust, and collect fees to cover the costs incurred by the Secretary for activities related to the review and maintenance of licenses and registration under the Animal Welfare Act"; to the Committee on Agriculture.

7509. A letter from the Administrator, Environmental Protection Agency, transmitting a report of a violation of the Antideficiency Act by the EPA's response to oil spills in inland waters under the Clean Water Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

7510. A letter from the Administrator, Environmental Protection Agency, transmitting a report of a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

7511. A letter from the Acting Under Secretary, Department of Defense, transmitting a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of funds that were expended during the preceding two fiscal years for performance of depot-level maintenance and repair workloads by the public and private sectors, pursuant to 10 U.S.C. 2466(d)(1); to the Committee on Armed Services.

7512. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Mexico, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

7513. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Change of Name; Technical Amendment—received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7514. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was declared in Executive Order 13224 of September 23, 2001; to the Committee on International Relations.

7515. A letter from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department's final rule—Removal of "National Security" controls from, and imposition of "Regional Stability" controls on, certain items on the Commerce Control List [Docket No. 031201299-3299-01] (RIN: 0694-AC54) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

7516. A letter from the Senior Vice President, Potomac Electric Power Company, transmitting a copy of the Balance Sheet of Potomac Electric Power Company as of December 31, 2003, pursuant to D.C. Code section 43—513; to the Committee on Government Reform.

7517. A letter from the Director, Office of Human Resources Management, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7518. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 031125292-4061-02; I.D. 031504C] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7519. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 M) Length Overall and Longer Using Hook-and-line Gear in the Bering Sea and Aleutian Islands [Docket No. 031124287-4060-02; I.D. 031704C] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7520. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery [Docket No. 031229327-4073-02; I.D. 121603B] (RIN: 0648-AR58) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7521. A letter from the Deputy Director, Office of Protected Resources, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Test Flight Activities from Vandenberg Air Force Base (VAFB), CA [Docket No. 031112277-4018-02; I.D. 080603B] (RIN: 0648-AR70) received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7522. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2004 Harvest Specifications for Groundfish [Docket No. 031125292-4061-02; I.D. 111703E] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7523. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/

Flatehead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031126295–3295–01; I.D. 022304D] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7524. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2004 Harvest Specifications for Groundfish [Docket No. 031124287–4060–02; I.D. 111703C] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7525. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fisheries; Catch Sharing Plan [Docket No. 040217059–4059–01; I.D. 021004A] (RIN: 0648–AR95) received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7526. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 031125292–4061–02; I.D. 031204A] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7527. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of th Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031124287–4060–02; I.D. 031204B] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7528. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Hook-and-line Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031124287–4060–02; I.D. 031104A] received March March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7529. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Ft. (18.3 m) LOA Using Jig or Hook-and-Line Gear in the Bogoslof Pacifc Cod Exemption Area in the Bering Sea and Aleutian Islands Area [Docket No. 020718172–2303–02; I.D. 030804B] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7530. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 031125292–4061–02; I.D.0504] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7531. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder; 2004 Specifications [Docket No. 021122284–2323–02; I.D. 030304B] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7532. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Mackeral, Squid, and Butterfish Fisheries; Closure of the Quater I Fishery for Loligo Squid [Docket No. 031104274–4011–02; I.D. 022604C] received March 25, 2004. pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7533. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specification [Docket No. 031125290–4058–02; I.D. 111003D] (RIN: 0648–AQ97) received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7534. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Coral Reef Ecosystems Fishery Management Plan for the Western Pacific [Docket No. 020508114–3291–02; I.D. 030702C] (RIN: 0648–AM97) received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7535. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031124287–4060–02; I.D. 032204H] received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7536. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 13A [Docket No. 031107275–4082–02; I.D. 102803A] (RIN: 0648–AP03) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7537. A letter from the Director, NMFS, National Oceanic and Atmospheric Administration, transmitting the 2004 Annual Report Regarding Atlantic Highly Migratory Species, pursuant to 16 U.S.C. 971 et. seq.; to the Committee on Resources.

7538. A letter from the Attorney, TSA, Department of Homeland Security, transmitting the Department's final rule—Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License; Final Rule [Docket No. TSA–2003–14610; Amendment No. 1572–3] (RIN: 1652–AA17) received April 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7539. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Gideon, MO. [Docket No. FAA–2004–17150; Airspace Docket No. 04–ACE–16] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7540. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2004–NM–17–AD; Amendment 39–13505; AD 2004–05–10] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7541. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–400, –401, and –402 Airplanes [Docket No. 2002–NM–311–AD; Amendment 39–13440; AD 2004–02–05] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7542. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F Airplanes; and Model MD–11 and MD–11F Airplanes [Docket No. 2003–NM–43–AD; Amendment 39–13441; AD 2004–02–06] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7543. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes [Docket No. 2001–NM–88–AD; Amendment 39–13443; AD 2004–02–08] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7544. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes [Docket No. 2002–NM–82–AD; Amendment 39–13444; AD 2004–02–09] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7545. A letter from the FMCSA Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting the Department's final rule—Safety Performance History of New Drivers [Docket No. FMCSA–97–2277] (RIN: 2126–AA17) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7546. A letter from the FMCSA Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting the Department's final rule—Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements [Docket No. FMCSA–97–2176] (RIN: 2126–AA08) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7547. A letter from the FMCSA Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting the Department's final rule—Transportation of Household Goods; Consumer Protection Regulations [Docket No. FMCSA-97-2979] (RIN: 2126-AA32) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7548. A letter from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule— Railroad Locomotive Safety Standards: Clarifying Amendments; Headlights and Auxiliary Lights [Docket No. FRA-2003-14217; Notice No. 2] (RIN: 2130-AB58) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7549. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines); Correction [Docket No. RSPA-00-7666; Amendment 192-95] (RIN: 2137-AD54) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7550. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule—Federal Lands Highway Program; Management Systems Pertaining to the National Park Service and the Park Roads and Parkways Program [FHWA-99-4967] (RIN: 2125-AE52) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7551. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Fourteenth Annual Report describing the Board's health and safety activities relating to the Department of Energy's defense nuclear facilities during the calendar year 2003; jointly to the Committees on Armed Services and Energy and Commerce.

7552. A letter from the Chairman, Christopher Columbus Fellowship Foundation, transmitting the FY 2003 Annual Report of the Christopher Columbus Fellowship Foundation, pursuant to Public Law 102—281, section 429(b) (106 Stat. 145); jointly to the Committees on Financial Services and Science.

7553. A letter from the Secretary, Department of Energy, transmitting the Annual Report for calendar year 2003, entitled "Department of Energy Activities Relating to the Defense Nuclear Facilities Safety Board, as required by Section 316(b) of the Atomic Energy Act of 1954, pursuant to 42 U.S.C. 2286e(b); jointly to the Committees on Energy and Commerce and Armed Services.

7554. A letter from the Administrator, Agency for International Development, transmitting a report required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, for the funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, as enacted in Public Law 108-199, for Development Assistance and Child Survival and Health Programs; jointly to the Committees on International Relations and Appropriations.

7555. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of completed negotiations with the Republic of the Marshall Islands (RMI) to bring two of the amended subsidiary agreements to the amended Compact of Free Association, as negotiated and signed with the RMI, into conformity with sections 104(j) and 105(f) and (i) of the Compact of Free Association Amendments Act of 2003 (Pub. L. 108-188); jointly to the Committees on International Relations and Resources.

7556. A letter from the Secretary, Council of the District of Columbia, transmitting a copy of Council Resolution 15-468, "Sense of the Council in Support of Protection of Civil Liberties Resolution of 2004," pursuant to D.C. Code section 1-233(c)(1); jointly to the Committees on Government Reform and the Judiciary.

7557. A letter from the Secretary and Commissioner, Department of Health and Human Services and Social Security Administration, transmitting the Plan For The Transfer of Responsibility for Medicare Appeals, in response to the requirements of Section 931 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 27. A bill to amend the United States Housing Act of 1937 to exempt small public housing agencies from the requirement of preparing an annual public housing agency plan; with an amendment (Rept. 108-458). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 3818. A bill to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes; with an amendment (Rept. 108-459). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3866. A bill to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes; with an amendment (Rept. 108-461 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Transportation and Infrastructure, Resources, and House Administration discharged from further consideration. H.R. 1081 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Resources and Transportation and Infrastructure discharged from further consideration. H.R. 1856 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Science discharged from further consideration of H.R. 3266.

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. S. 1233 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. COX: Select Committee on Homeland Security. H.R. 3266. A bill to authorize the Secretary of Homeland Security to make grants to first responders, and for other purposes, with an amendment; referred to the Committee on Science for a period ending not later than April 2, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause (n), rule X (Rept. 108-460, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3266. Referral to the Committees on Transportation and Infrastructure, the Judiciary, and Energy and Commerce extended for a period ending not later than June 7, 2004.

H.R. 3866. Referral to the Committee on Energy and Commerce extended for a period ending not later than April 27, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KIND (for himself and Mr. UPTON):

H.R. 4127. A bill to amend the Public Health Service Act to authorize grants to hospitals for measurement-based strategies to improve the quality and efficiency of health care; to the Committee on Energy and Commerce.

By Mr. WELLER (for himself, Mr. NEAL of Massachusetts, Mr. UPTON, Mr. TIAHRT, and Mr. ENGLISH):

H.R. 4128. A bill to amend the Internal Revenue Code of 1986 to permanently extend the 50-percent bonus depreciation added by the Jobs and Growth Tax Relief Reconciliation Act of 2003, and for other purposes; to the Committee on Ways and Means.

By Mr. PICKERING:

H.R. 4129. A bill to provide a clear and unambiguous structure for the jurisdictional and regulatory treatment for the offering or provision of voice-over-Internet-protocol applications, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUPPERSBERGER (for himself, Mr. LEWIS of California, Mr. MURTHA, Mr. HUNTER, and Mr. SKELTON):

H.R. 4130. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to accept the donation of frequent traveler miles, credits, and tickets for the purpose of facilitating the travel of members of the Armed Forces who are deployed away from their permanent duty station and are granted, during such deployment, rest and recuperative leave and certain other forms of leave and the travel of family members to be reunited with such a member, and for other purposes; to the Committee on Armed Services.

By Mr. HOUGHTON:

H.R. 4131. A bill to amend the Internal Revenue Code of 1986 to limit the increase in the number of individuals affected by the alternative minimum tax and to repeal the alternative minimum tax for individuals in 2014; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4132. A bill to amend the Internal Revenue Code of 1986 to provide a uniform definition of child for purposes of the personal exemption, the dependent care credit, the child tax credit, the earned income credit, and the health insurance refundable credit, and for other purposes.; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4133. A bill to change the name of the head of household filing status to single parent or guardian to describe better those individuals who qualify for the status; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4134. A bill to amend the Internal Revenue Code of 1986 to simplify the deduction for points paid with respect to home mortgages; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4135. A bill to amend the Internal Revenue Code of 1986 to simplify the taxation of minor children; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4136. A bill to amend the Internal Revenue Code of 1986 to combine the Hope and Lifetime Learning credits and to provide a uniform definition of qualifying higher education expenses; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4137. A bill to amend the Internal Revenue Code of 1986 to provide for unified income taxation with respect to pass-thru entities; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4138. A bill to amend the Internal Revenue Code of 1986 to repeal the tax on personal holding companies; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4139. A bill to amend the Internal Revenue Code of 1986 to simplify the taxation of partnerships; to the Committee on Ways and Means.

By Mr. LANGEVIN (for himself, Mr. SHAYS, Mr. MATSUI, Mr. SIMMONS, Mr. PASCRELL, Mrs. MCCARTHY of New York, Mr. VAN HOLLEN, Mr. KENNEDY of Rhode Island, Mr. LARSON of Connecticut, Mrs. DAVIS of California, Ms. MCCOLLUM, Mr. TIERNEY, Ms. SCHAKOWSKY, Mr. KUCINICH, and Mr. NEY):

H.R. 4140. A bill to amend title 5, United States Code, to provide for a corporate responsibility investment option under the Thrift Savings Plan; to the Committee on Government Reform.

By Mr. KOLBE (for himself, Mr. MCHUGH, Mr. FLAKE, Mr. HAYWORTH, Mr. SHADEGG, Mr. RENZI, and Mr. HINOJOSA):

H.R. 4141. A bill to authorize appropriations for the Homeland Security Department's Directorate of Science and Technology, establish a program for the use of advanced technology to meet homeland security needs, and for other purposes; to the Committee on Science, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS (for himself, Mr. NEUGEBAUER, Mr. CARTER, Mr. AKIN, Mr. HENSARLING, and Mr. FEENEY):

H.R. 4142. A bill to amend title XXI of the Social Security Act to prohibit the approval of section 1115 waivers to provide coverage of childless adults under the State Children's Health Insurance Program; to the Committee on Energy and Commerce.

By Mrs. CAPITO:

H.R. 4143. A bill to amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes; to the Committee on the Judiciary.

By Mr. CARDIN:

H.R. 4144. A bill to amend the Internal Revenue Code of 1986 to provide for the exclusion from gross income of certain wages of a certified master teacher, and for other purposes; to the Committee on Ways and Means.

By Mr. CRAMER:

H.R. 4145. A bill to establish the President's Council of Advisors on Manufacturing; to the Committee on Energy and Commerce.

By Mr. CRAMER:

H.R. 4146. A bill to establish a comprehensive research program aimed at understanding and predicting the natural processes that lead to the formation of tornadoes; to the Committee on Science.

By Mr. CUMMINGS (for himself, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLYBURN, Mr. CLAY, Mr. CONYERS, Mr. FATTAH, Mr. FORD, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Ms. KILPATRICK, Mr. MEEK of Florida, Mr. OWENS, Mr. PAYNE, Mr. RUSH, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mrs. JONES of Ohio, and Ms. WATERS):

H.R. 4147. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Government Reform.

By Mr. FEENEY:

H.R. 4148. A bill to designate the information center at Canaveral National Seashore as the "T.C. Wilder, Jr., Canaveral National Seashore Information Center"; to the Committee on Resources.

By Mr. GRAVES (for himself, Mr. HONDA, Mr. INSLEE, and Mrs. KELLY):

H.R. 4149. A bill to amend the Internal Revenue Code of 1986 to permit business concerns that are owned by veture capital operating companies or pension plans to participate in the Small Business Innovation Research Program; to the Committee on Small Business, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS (for herself, Mr. LAMPSON, Mrs. BLACKBURN, Mr. HAYES, Mr. GOSS, Ms. PRYCE of Ohio, Mr. REGULA, Mr. KIRK, Mr. CARTER, Mr. KELLER, Ms. HART, Mr. CANTOR, Mr. BURNS, Mr. GOODE, Mr. STEARNS, Mr. MILLER of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. SHAW, Ms. GINNY BROWN-WAITE of Florida, Mr. CULBERSON, Mr. PEARCE, Mr. KING of Iowa, Mr. MANZULLO, Mr. MCCOTTER, Mr. SMITH of Texas, and Mr. PUTNAM):

H.R. 4150. A bill to amend title 18, United States Code, and other laws to protect children from criminal recidivists, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLINE (for himself, Mr. KENNEDY of Minnesota, Ms. MCCOLLUM, Mr. RAMSTAD, Mr. PETERSON of Minnesota, Mr. GUTKNECHT, Mr. SABO, Mr. OBERSTAR, Mrs. MUSGRAVE, Mr. MCINNIS, Mr. HEFLEY, and Mr. BEAUPREZ):

H.R. 4151. A bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products; to the Committee on Energy and Commerce.

By Mr. LEVIN (for himself and Mr. CAMP):

H.R. 4152. A bill to amend section 337 of the Tariff Act of 1930 to make unlawful the importation, sale for importation, or sale within the United States after importation, of articles falsely labeled or advertised as meeting a United States Government or industry standard for performance or safety; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Mr. RAHALL, Mrs. MCCARTHY of New York, Mr. GRIJALVA, Mrs. MALONEY, Mr. LEWIS of Georgia, Mr. OWENS, Mr. PALLONE, Mr. CASE, Mr. CROWLEY, Mr. CARDOZA, Ms. LEE, and Mr. WEINER):

H.R. 4153. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow the Attorney General to award grants under a homeland security overtime program to reimburse law enforcement agencies for past overtime expenditures and to require the Attorney General to waive the matching funds requirement for such grants; to the Committee on the Judiciary.

By Mrs. MALONEY (for herself and Ms. HART):

H.R. 4154. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY (for himself, Mr. KING of New York, Mr. WELDON of Pennsylvania, Mr. WAXMAN, Mr. LYNCH, Mr. TOWNS, Mr. MEEHAN, Mrs. CHRISTENSEN, Mr. MCGOVERN, Mr. OLVER, Mr. FRANK of Massachusetts, Mr. MCNULTY, Ms. SLAUGHTER, Mr. DELAHUNT, Mr. CONYERS, Mr. HOLT, Ms. SCHAKOWSKY, Mr. KENNEDY of Rhode Island, Mr. MORAN of Virginia, Ms. LOFGREN, Mr. NEAL of Massachusetts, Mr. PALLONE, Mr. RANGEL, Mr. BOEHLERT, Mr. WEINER, Mr. WYNN, Mr. LIPINSKI, Mr. CAPUANO, Mr. SHERMAN, Ms. NORTON, Mrs. JONES of Ohio, Mr. ACKERMAN, Ms. JACKSON-LEE of Texas, Mr. STUPAK, Mr. SERRANO, Ms. DELAURO, Mr. VAN HOLLEN, Mr. BLUMENAUER, and Mr. ROTHMAN):

H.R. 4155. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas (for himself, Mr. TOWNS, Mr. OSBORNE, Mr. STENHOLM, and Mr. DOGGETT):

H.R. 4156. A bill to improve access to physicians in medically underserved areas; to the Committee on the Judiciary.

By Mr. NEAL of Massachusetts (for himself and Mr. ISRAEL):

H.R. 4157. A bill to amend the Internal Revenue Code of 1986 to prevent the alternative minimum tax from effectively repealing the Federal tax exemption for interest on State and local private activity bonds; to the Committee on Ways and Means.

By Mr. ORTIZ (for himself, Mr. GONZALEZ, Mr. HINOJOSA, Mr. REYES, Mr. RODRIGUEZ, and Mr. GREEN of Texas):

H.R. 4158. A bill to provide for the conveyance to the Government of Mexico of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes; to the Committee on Resources.

By Mr. PORTMAN (for himself, Mr. LEVIN, Mr. PORTER, Mr. SOUDER, Mr. COSTELLO, Mr. LATOURETTE, Mr. RAMSTAD, and Mr. HOBSON):

H.R. 4159. A bill to amend title 23, United States Code, to research and prevent drug impaired driving; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RENZI:

H.R. 4160. A bill to authorize the Secretary of Energy and the Secretary of the Interior to jointly establish a program, in partnership with the private sector, to support research, development, demonstration, and commercial application activities related to advanced hydrogen-based motorboat propulsion technologies suitable for operations in sensitive resource areas such as national parks, and for other purposes; to the Committee on Science.

By Mr. RUSH:

H.R. 4161. A bill to amend the Public Health Service Act to revise and expand the section 340B program to improve the provision of discounts on drug purchases for certain safety net providers; to the Committee on Energy and Commerce.

By Mr. RYUN of Kansas (for himself, Mr. FATTAH, Mrs. JONES of Ohio, Ms. DELAURO, Mr. MCDERMOTT, Ms. LEE, Mr. CRANE, Mr. GRIJALVA, Ms. KILPATRICK, Mr. CUMMINGS, Mr. JEFFERSON, Mr. OWENS, Mr. THOMPSON of Mississippi, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Mr. MEEK of Florida, Mrs. CHRISTENSEN, Mr. TOWNS, Ms. CARSON of Indiana, Ms. WATERS, Mr. PAYNE, Mr. GREEN of Texas, Mr. TIAHRT, Mr. WAMP, Mr. HAYWORTH, Mr. TERRY, Mr. WILSON of South Carolina, Mr. FOLEY, Mr. KELLER, Mr. KINGSTON, and Mr. DAVIS of Illinois):

H.R. 4162. A bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown; to the Committee on Financial Services.

By Mr. SHUSTER (for himself and Mr. HOLDEN):

H.R. 4163. A bill to provide for a greater number of members on certain combined Farm Service Agency county committees; to the Committee on Agriculture.

By Mr. SHUSTER:

H.R. 4164. A bill to amend the Internal Revenue Code of 1986 to index for inflation the exemption amount for individuals under the alternative minimum tax and to repeal the alternative minimum tax on individuals in 2010; to the Committee on Ways and Means.

By Mr. SMITH of Michigan:

H.R. 4165. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the use of biodiesel as fuel; to the Committee on Ways and Means.

By Mr. SMITH of Texas (for himself, Mr. CARTER, Mr. FLAKE, Mr. CHABOT, Mr. GOODLATTE, and Mr. MCKEON):

H.R. 4166. A bill to amend the Immigration and Nationality Act with respect to nonimmigrants described in subparagraphs (H)(i)(b) and (L) of section 101(a)(15) of such Act, and for other purposes; to the Committee on the Judiciary.

By Mr. STEARNS (by request):

H.R. 4167. A bill to authorize appropriations for the motor vehicle safety and information and cost savings programs of the National Highway Traffic Safety Administration for fiscal years 2005 through 2007, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TAUZIN (for himself, Mr. BURTON of Indiana, Mr. DEMINT, and Mr. NORWOOD):

H.R. 4168. A bill to promote freedom, fairness, and economic opportunity for families by repealing the income tax, abolishing the Internal Revenue Service, and enacting a national retail sales tax to be administered primarily by the States; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida (for himself and Mrs. MALONEY):

H.R. 4169. A bill to amend the Federal Food, Drug, and Cosmetic Act to reduce human exposure to mercury through vaccines; to the Committee on Energy and Commerce.

By Mr. ROHRABACHER:

H.J. Res. 92. A joint resolution proposing an amendment to the Constitution of the United States relating to Congressional succession; to the Committee on the Judiciary.

By Mr. DELAY:

H. Con. Res. 404. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. DEAL of Georgia (for himself, Mr. TOWNS, Mr. BURR, Mr. NORWOOD, Mr. RAHALL, Mr. WAMP, and Mr. WHITFIELD):

H. Con. Res. 405. Concurrent resolution expressing the sense of Congress with respect to the need to provide prostate cancer patients with meaningful access to information on treatment options, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PAYNE (for himself, Mr. CUMMINGS, Mr. CONYERS, Mr. RANGEL, Mr. OWENS, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. JEFFERSON, Ms. NORTON, Ms. WATERS, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Mr. CLYBURN, Mr. HASTINGS of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Ms. MILLENDER-MCDONALD, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. DAVIS of Illinois, Ms. KILPATRICK, Ms. LEE, Mr. MEEKS of New York, Mrs. JONES of Ohio, Ms. WATSON, Ms. MAJETTE, Mr. MEEK of Florida, Mr. RUSH, Mr. WATT, Mr. WYNN, Mr. FATTAH, Mr. JACKSON of Illinois, Mr. BALLANCE, Mr. TANCREDO, Mr. DAVIS of Alabama, and Mr. CLAY):

H. Con. Res. 406. Concurrent resolution remembering the victims of the genocide that occurred in 1994 in Rwanda and pledging to work to ensure that such an atrocity does not take place again; to the Committee on International Relations.

By Mr. HOUGHTON:

H. Res. 595. A resolution amending the Rules of the House of Representatives to prevent the consideration of any tax measure unless it contains a title simplifying the Internal Revenue Code of 1986; to the Committee on Rules.

By Mr. BURTON of Indiana (for himself, Mr. BELL, Mr. CHABOT, Mr. TANCREDO, Mr. LEACH, and Mr. EMANUEL):

H. Res. 596. A resolution condemning ethnic violence in Kosovo; to the Committee on International Relations.

By Mr. OWENS:

H. Res. 597. A resolution congratulating the American Library Association (ALA) as it celebrates its first annual National Library Workers Day on April 20, 2004; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

269. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 215 supporting President George W. Bush's Healthy Marriage Initiative; to the Committee on Education and the Workforce.

270. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 113 memorializing the United States Congress to support the Lifespan Respite Care Act of 2003; to the Committee on Energy and Commerce.

271. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 167 memorializing the United States Congress and the Michigan Department of Community Health to develop collaborative relationships with pregnanccy care centers in Michigan; to the Committee on Energy and Commerce.

272. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 3 memorializing the United States Congress to dissolve the membership of the United States in the United Nations; to the Committee on International Relations.

273. Also, a memorial of the Senate of the State of Ohio, relative to Senate Resolution No. 1550 memorializing the United States Congress to direct the Election Assistance Commission to develop standards and security accreditation guidelines for all electronic voting devices, to establish standards for the design and use of reasonably affordable voter-verifiable paper ballots for electronic voting systems, and to expedite its efforts to provide for the testing and certification of voting system hardware and software and to adopt voluntary voting system guidelines, and to reaffirm the Ohio Senate's commitment to make electronic voting as safe and secure to the Committee on House Administration.

274. Also, a memorial of the Legislature of the State of South Dakota, relative to House Concurrent Resolution No. 1002, memorializing the Secretary of Agriculture and the

Secretary of Game, Fish, and Parks immediately institute a program to control prairie dogs on private land that are encroaching from public lands, and, as part of that program, establish a buffer zone within the public lands affected wherein the prairie dog population is controlled so that they are not migrating to the adjacent private lands; to the Committee on Resources.

275. Also, a memorial of the General Assembly of the State of Ohio, relative to House Concurrent Resolution No. 31 memorializing the United States Congress to reauthorize the abandoned mine land fee collection authority, to disperse shares of that fee without an appropriation, to release the unappropriated balance in the Abandoned Mine Land Fund, and to consider reevaluating the administration of the Abandoned Mine Land Reclamation Program and the Fund; to the Committee on Resources.

276. Also, a memorial of the Legislature of the Commonwealth of The Mariana Islands, relative to House Joint Resolution No. 14-3 memorializing the United States Congress to provide for a nonvoting delegate in the House of Representatives to represent the Commonwealth of the Northern Mariana Islands (CNMI); to the Committee on Resources.

277. Also, a memorial of the House of Representatives of the Commonwealth of The Mariana Islands, relative to House Resolution No. 14-9, memorializing the United State Congress to provide for a nonvoting delegate in the House of Representatives to represent the Commonwealth of the Northern Mariana Islands (CNMI); to the Committee on Resources.

278. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Concurrent Resolution No. 24 memorializing the United States Congressto enact legislation to grant a federal charter to the Korean War Veterans Association; to the Committee on the Judiciary.

279. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 168 memorializing the United States Congress and the United States Department of Transportation to permit the use of 75-foot crib carrier log hauling equipment; to the Committee on Transportation and Infrastructure.

280. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 128 memorializing the United States Congress to enact the Great Lakes Controlled Data Collection and Monitoring Act; to the Committee on Transportation and Infrastructure.

281. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Concurrent Resolution No. 198 memorializing the United States Congress to establish a minimum return rate of 95 percent of Michigan's federal transportation funding for highway and transit programs; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 302: Mr. Duncan.

H.R. 327: Mr. Evans.

H.R. 348: Mr. Tanner.

H.R. 525: Mr. Burton of Indiana, Mr. Camp, Mr. Carter, Mr. Chabot, Mr. Collins, Mr. Cox, Mrs. Cubin, Mrs. Jo Ann Davis of Virginia, Mr. Crane, Mr. Deal of Georgia, Ms. Dunn, Mr. Ehlers, Mr. Everett, Mr. Gingrey, Ms. Granger, Ms. Hart, Mr. Hensarling, Mr. Istook, Mr. Jenkins, Mrs. Johnson of Connecticut, Mr. Lewis of Kentucky, Mr. Lucas of Oklahoma, Mrs. Miller of Michigan, Mr. Miller of Florida, Mrs. Myrick, Mr. Ney, Mr. Osborne, Mr. Peterson of Pennsylvania, Mr. Ramstad, Mr. Rogers of Michigan, Mr. Tiberi, Mr. Whitfield, Mrs. Wilson of New Mexico, Mr. Young of Florida, and Mr. LaTourette.

H.R. 548: Mr. Jackson of Illinois and Mr. Stark.

H.R. 785: Mr. Bradley of New Hampshire.

H.R. 847: Mr. Green of Texas.

H.R. 857: Mr. Foley, Mr. King of New York, and Ms. Velázquez.

H.R. 918: Mr. Sessions, Mr. Bass, and Mr. Johnson of Illinois.

H.R. 1068: Mr. King of New York.

H.R. 1206: Mr. Feeney and Mr. Tiberi.

H.R. 1214: Mr. Moran of Virginia and Mr. Ryan of Wisconsin.

H.R. 1258: Mr. Honda.

H.R. 1264: Mr. Neal of Massachusetts.

H.R. 1310: Mr. Rehberg.

H.R. 1311: Mr. Ford, Mr. Berry, Mr. McGovern, Mr. Frank of Massachusetts, Mr. Johnson of Illinois, Mr. Oberstar, and Mr. Rehberg.

H.R. 1313: Mr. Clyburn.

H.R. 1336: Mr. Issa and Mr. Rehberg.

H.R. 1406: Mr. Doolittle.

H.R. 1448: Mr. Wolf.

H.R. 1480: Ms. Schakowsky.

H.R. 1684: Ms. Slaughter and Mr. Neal of Massachusetts.

H.R. 1886: Mr. Rangel.

H.R. 2042: Mr. Sherman and Mr. Evans.

H.R. 2157: Mr. Becerra and Mr. Green of Texas.

H.R. 2176: Mr. Filner and Mr. DeFazio.

H.R. 2238: Mr. Hoyer.

H.R. 2262: Mr. Lipinski.

H.R. 2277: Mr. Nadler.

H.R. 2284: Mr. Grijalva.

H.R. 2442: Mr. Moore, Mr. LoBiondo, Mr. Hefley, Mr. Costello, Mr. Delahunt, Mr. Cramer, Mrs. Johnson of Connecticut, Mr. Serrano, Mr. Pascrell, Mr. George Miller of California, Mr. Wexler, Ms. McCarthy of Missouri, Mr. Udall of New Mexico, and Mr. Boswell.

H.R. 2585: Mr. Olver.

H.R. 2635: Mr. Shuster, Mr. Vitter, Mr. Goode, Mr. Miller of Florida, and Mr. Herger.

H.R. 2735: Mr. Gingrey and Mr. Capuano.

H.R. 2747: Mr. Green of Wisconsin.

H.R. 2811: Mr. Stenholm.

H.R. 2814: Mr. Herger and Mr. Linder.

H.R. 2824: Mr. McInnis.

H.R. 2832: Mr. Platts.

H.R. 2890: Mr. Hunter and Mr. Cunningham.

H.R. 2932: Mr. Rahall.

H.R. 2944: Mr. Brown of Ohio.

H.R. 2959: Mr. Green of Wisconsin, Mr. Bonner, Mr. Baker, Mr. Engel, Mr. Putnam, Mr. Carson of Oklahoma, Mr. Stenholm, Mr. Berry, Mr. Norwood, and Mr. Cardin.

H.R. 2978: Mr. Kind.

H.R. 2983: Ms. Jackson-Lee of Texas and Mr. Hastings of Florida.

H.R. 3015: Mr. Sullivan.

H.R. 3085: Mr. Payne.

H.R. 3142: Mr. Camp, Mr. Blumenauer, Ms. DeLauro, Mr. Hinchey, Ms. Jackson-Lee of Texas, Mr. Larsen of Washington, Ms. Millender-McDonald, Mr. Pascrell, and Mr. Rangel.

H.R. 3184: Mr. Sabo.

H.R. 3191: Mr. Cannon.

H.R. 3204: Mr. Duncan, Mr. Payne, Mr. McHugh, Mrs. Northup, Mr. Sweeney, Mr. Holt, Mr. Lincoln Diaz-Balart of Florida, and Mr. Hostettler.

H.R. 3215: Ms. Ginny Brown-Waite of Florida, Mr. Sweeney, Mr. Beauprez, Mr. Chocola, and Mr. Renzi.

H.R. 3270: Mr. Hastings of Washington.

H.R. 3360: Mr. Lewis of Georgia.

H.R. 3361: Mr. Bell, Mr. Spratt, and Mr. Rangel.

H.R. 3386: Ms. Woolsey.

H.R. 3412: Mr. Murphy.

H.R. 3436: Mr. Hastings of Florida and Mr. Bishop of New York.

H.R. 3441: Mr. Kind, Mr. Matsui, Mr. Holt, and Ms. Majette.

H.R. 3444: Ms. Jackson-Lee of Texas, Ms. Lofgren, and Ms. Millender-McDonald.

H.R. 3446: Mr. Filner, Mr. Ackerman, and Mr. Brown of Ohio.

H.R. 3447: Mr. Owens, Mr. Rangel, and Mr. Honda.

H.R. 3474: Mr. Collins.

H.R. 3482: Ms. McCollum.

H.R. 3513: Mr. Pastor.

H.R. 3519: Ms. McCarthy of Missouri.

H.R, 3539: Mr. Costello.

H.R. 3545: Mr. Frank of Massachusetts.

H.R. 3558: Mr. Payne and Mr. Bass.

H.R. 3574: Mr. Cooper, Mrs. Musgrave, Mr. Bell, Mr. Boehlert, Mr. Dicks, Mr. Hensarling, and Mr. Cannon.

H.R. 3596: Mr. Bonner, Mr. Duncan, Mr. McHugh, Mrs. Northup, Mr. Murphy, and Mr. Bishop of Utah.

H.R. 3602: Mr. Ford, Mr. Stenholm, Mrs. Davis of California, and Mr. Hall.

H.R. 3660: Mr. Gutierrez, Ms. Millender-McDonald, and Mr. Fattah.

H.R. 3707: Mr. Kind, Ms. Gutknecht, and Mr. Gutierrez.

H.R. 3719: Ms. Solis, Mr. Weiner, Ms. McCollum, Mr. Pastor, Ms. DeLauro, Ms. Baldwin, Mr. Shays, Ms. Millender-McDonald, Mr. Menendez, and Mr. Cummings.

H.R. 3729: Mr. Lantos, Mr. Boswell, Mr. Bishop of New York, Mr. DeFazio, Ms. Woolsey, Mr. Paul, Mrs. Maloney, and Mr. Inslee.

H.R. 3736: Mr. Davis of Tennessee and Mr. Otter.

H.R. 3758: Mr. Snyder.

H.R. 3773: Mr. McCotter.

H.R. 3779: Mrs. Biggert and Ms. DeLauro.

H.R. 3800: Mr. Rohrabacher, Mr. Shuster, Mr. Boehner, Mr. Murphy, Mr. Lucas of Oklahoma, Mr. Deal of Georgia, Mr. Cannon, Mr. Radanovich, Mr. Hefley, Mr. Tiahrt, Mr. McCrery, Mr. Shimkus, and Ms. Harris.

H.R. 3802: Mr. Smith of Michigan.

H.R. 3803: Mr. Baca.

H.R. 3818: Mr. Hastings of Florida, Mr. Frank of Massachusetts, and Mr. Tom Davis of Virginia.

H.R. 3858: Mr. Smith of New Jersey, Mr. Lincoln Diaz-Balart of Florida, Mr. Ford, Mr. LaHood, Mr. Bell, Mr. Osborne, Ms. Norton, Mr. Boswell, Mr. Gutknecht, Mr. English, Ms. Carson of Indiana, Mr. Chocola, Mr. Murtha, Mr. Saxton, Mr. Schrock, and Mr. Porter.

H.R. 3867: Mr. Frank of Massachusetts.

H.R. 3881: Ms. Carson of Indiana, Mr. Lucas of Kentucky, Mr. Carson of Oklahoma, Ms. McCollum, Ms. Millender-McDonald, and Mr. Brady of Pennsylvania.

H.R. 3888: Mr. Doyle and Mrs. Napolitano.

H.R. 3914: Mr. Pomeroy and Mr. Miller of Florida.

H.R. 3922: Mr. Costello and Mr. Hobson.

H.R. 3927: Mr. Brown of Ohio.

H.R. 3953: Mr. Gary G. Miller of California.

H.R. 3963: Mr. Thompson of Mississippi.

H.R. 3968: Ms. Lofgren, Mrs. Davis of California, and Mr. Bishop of New York.

H.R. 3991: Mr. LEWIS of Georgia, Mrs. MCCARTHY of New York, Mrs. MALONEY, Mr. THOMPSON of Mississippi, and Mr. EMANUEL.

H.R. 4006: Mr. BOSWELL.

H.R. 4016: Mr. FORD.

H.R. 4020: Mr. FILNER.

H.R. 4023: Mr. WICKER.

H.R. 4032: Mrs. CHRISTENSEN, Mr. ACEVEDO-VILÁ, Ms. JACKSON-LEE of Texas, and Ms. LOFGREN.

H.R. 4041: Mrs. CUBIN, Ms. BORDALLO, and Mr. BRADLEY of New Hampshire.

H.R. 4053: Mr. SCHIFF, Mr. ACKERMAN, Mr. BERMAN, and Mr. BLUMENAUER.

H.R. 4061: Mr. KILDEE and Mr. MCDERMOTT.

H.R. 4067: Mr. DOGGETT and Mr. FRANK of Massachusetts.

H.R. 4069: Ms. WATSON.

H.R. 4101: Mr. GEORGE MILLER of California and Mr. GRIJALVA.

H.R. 4102: Mr. HASTINGS of Florida and Mr. CONYERS.

H.R. 4103: Mr. LEVIN.

H.R. 4116: Mr. EVERETT, Mr. COOPER, Mr. WAMP, Mr. DAVIS of Tennessee, Mrs. BLACKBURN, Mr. TANNER, Mr. CHABOT, Mr. BACHUS, Mr. LEWIS of Kentucky, Mr. DUNCAN, Mr. ROGERS of Kentucky, Mr. SHAW, Mr. WHITFIELD, Mr. ADERHOLT, Mr. PICKERING, Mr. SHIMKUS, Mr. MCKEON, Ms. JACKSON-LEE of Texas, Mr. MICA, Mr. FOLEY, Mr. WELDON of Florida, Mr. STEARNS, Mrs. EMERSON, Mr. MCINNIS, Mr. CRENSHAW, Mr. SIMPSON, Mr. LINCOLN DIAZ-BALART of Florida, Mr. SWEENEY, Mr. MCHUGH, Mrs. MUSGRAVE, Ms. HARRIS, Mr. BALLENGER, Mr. KENNEDY of Minnesota, Mr. PORTMAN, Mr. CHOCOLA, Mr. GILLMOR, Mr. BURR, Ms. DUNN, Mr. MANZULLO, Mr. GIBBONS, Mr. NETHERCUTT, Mr. NEUGEBAUER, Mr. MORAN of Kansas, Mr. HOEKSTRA, Mr. RYAN of Wisconsin, Mr. BLUNT, Mr. BOOZMAN, Mr. COBLE, Mr. GREEN of Wisconsin, Ms. GRANGER, Mr. TIAHRT, and Mr. GUTKNECHT.

H.R. 4120: Mr. GEORGE MILLER of California.

H.J. Res. 72: Mr. STARK, Mr. MILLER of North Carolina, and Mr. OWENS.

H.J. Res. 83: Mr. NADLER.

H. Con. Res. 111: Mr. RANGEL and Ms. LORETTA SANCHEZ of California.

H. Con. Res. 200: Mr. SNYDER.

H. Con. Res. 314: Ms. BORDALLO.

H. Con. Res. 321: Mr. BISHOP of New York.

H. Con. Res. 332: Mr. CAMP and Mr. YOUNG of Alaska.

H. Con. Res. 336: Mr. WOLF and Mr. MCCOTTER.

H. Con. Res. 360: Mrs. CHRISTENSEN, Mr. THOMPSON of Mississippi, Ms. LEE, Mr. RANGEL, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. OWENS, Mrs. JONES of Ohio, Ms. WATERS, Mr. SCOTT of Virginia, Ms. CORRINE BROWN of Florida, Ms. NORTON, Ms. CARSON of Indiana, Mr. FRANK of Massachusetts, Mr. FORD, Mr. FATTAH, Ms. JACKSON-LEE of Texas, Mr. DAVIS of Illinois, Ms. KAPTUR, and Mr. CONYERS.

H. Con. Res. 366: Mr. UDALL of New Mexico, Mr. HOYER, Ms. WOOLSEY, Mr. VAN HOLLEN, Ms. MCCOLLUM, Mr. BOUCHER, and Ms. LORETTA SANCHEZ of California.

H. Con. Res. 367: Mr. HAYWORTH.

H. Con. Res. 371: Mr. GORDON and Mr. YOUNG of Alaska.

H. Con. Res. 375: Mr. BELL, Mr. BISHOP of New York, and Mr. VAN HOLLEN.

H. Con. Res. 384: Mr. ACKERMAN, Mr. MCDERMOTT, Mr. BROWN of Ohio, Mr. PAYNE, Mr. EMANUEL, Mr. OWENS, Mr. WEXLER, and Mr. BRADY of Pennsylvania.

H. Con. Res. 390: Mr. WEXLER and Mrs. MCCARTHY of New York.

H. Con. Res. 392: Mr. MCGOVERN and Mr. THOMPSON of Mississippi.

H. Con. Res. 396: Mr. BLUMENAUER and Mr. NADLER.

H. Res. 112: Mr. GREEN of Texas, Mr. FROST, Mr. KENNEDY of Rhode Island, and Mr. OWENS.

H. Res. 387: Mr. ANDREWS.

H. Res. 466: Ms. ROS-LEHTINEN, Mr. VAN HOLLEN, and Ms. LINDA T. SÁNCHEZ of California.

H. Res. 543: Mr. VAN HOLLEN.

H. Res. 550: Mr. FILNER.

H. Res. 556: Mr. ACEVEDO-VILÁ and Mr. FROST.

H. Res. 570: Mr. RUSH, Ms. LOFGREN, and Mr. TOWNS.

H. Res. 572: Mr. NADLER.

H. Res. 575: Mr. RAMSTAD and Ms. LOFGREN.

H. Res. 579: Mr. COSTELLO.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 5 by Mr. HILL on House Resolution 534: ADAM SMITH.

Petition 6 by Mr. TURNER of Texas on House Resolution 523: DENNIS A. CARDOZA and DENNIS J. KUCINICH.

EXTENSIONS OF REMARKS

HONORING OFFICER NICHOLAS K. SLOAN: A MAN OF COURAGE

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Nicholas K. Sloan for exhibiting tremendous courage while serving with the St. Louis Metropolitan Police Department. During his tenure with the St. Louis Metropolitan Police Department, Officer Sloan's energy, commitment and dedication to his job made him an extraordinary benefit to the entire St. Louis community.

Officer Sloan knew at an early age that he wanted to become a police officer, just like his father. After graduating from the Police Academy, he honorably requested to be placed with the Eighth District so that he could make a difference in the inner city. Officer Sloan later earned a spot on the Eighth District Weed & Seed Unit which is a Department of Justice Initiative that assigns officers to help designated neighborhoods work on some of their worst problems, mainly centered on narcotics and firearm violations.

Quickly becoming "streetwise" and impressing his supervisors, he knew first hand who the "players" were in the community. He was instrumental in helping the unit compile a substantial amount of arrests and seizures. During his time, the unit was credited with 396 total arrests, recovering 123 firearms, seizing 31 vehicles and collecting $35,901 under Asset Forfeiture guidelines.

Mr. Speaker, Officer Sloan was just 24 years old when he was killed in the line of duty while proudly and heroically serving the St. Louis community. His immense contribution to reducing crime in St. Louis, his bravery and his kindness will never be forgotten. It is with great privilege that I recognize Officer Nicholas K. Sloan today before Congress.

HONORING JOSEPH BOMMARITO

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCCOTTER. Mr. Speaker, I rise today in honor of Joseph Bommarito upon his retirement after 32 years of service to our community.

Since his family moved to Redford when he was just 10 years old, Joe has been a staple in our community. Before accepting the appointment as Deputy Supervisor in January of 1997, Joe served the Redford Township Police Department for 25 years in the capacities of patrolman, sergeant, lieutenant and inspector. Joe's impact was immediately felt as he successfully negotiated cost saving contracts and gave the Townhall a new look.

His wife, Carol, and his sons, Joseph, Tony, Michael and Bryan, should be extremely proud of the undeniable mark he has left on the community. We at home will sorely miss and always benefit from his dedication and leadership.

Mr. Speaker, I extend my sincere appreciation to Mr. Joseph Bommarito, upon his retirement as Deputy Supervisor of Redford Township, for his fine service to our community and our country.

A PROCLAMATION HONORING CHARLES DAVIS PALMER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. NEY. Mr. Speaker, whereas, Brett and Emily Palmer are celebrating the arrival of their son, Charles Davis Palmer; and

Whereas, Charles Davis Palmer was born on the twenty-fourth Day of March, 2004 and weighed eight pounds and fifteen ounces; and

Whereas, Mr. And Mrs. Palmer are proud to welcome their new son into their home; and

Whereas, Charles Davis Palmer will be a blessed addition to his family, bringing love, joy and happiness for many years to come;

Therefore, I join with Members of Congress and Congressional Staff in celebrating with Brett and Emily Palmer and wishing Charles Davis Palmer a very Happy Birthday.

HONORING OFFICER GABRIEL KEITHLEY: DEDICATED TO SERVICE

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Officer Gabriel Keithley for being extremely courageous and dedicated while serving with the. St. Louis Metropolitan Police Department. Officer Keithley's strong work ethic and commitment to his job make him an extraordinary benefit to the entire St. Louis community.

Officer Keithley fulfilled his life's ambition when he was hired by the St. Louis Metropolitan Police Department in 2001. After graduating from the Police Academy, Officer Keithley was placed with the Eighth District where he gained the reputation of being a hard working and devoted officer. His endeavors have not gone unnoticed by his colleagues; in January of 2003 they voted Gabriel Keithley Officer of the Month. His supervisors later recommended him to the Eighth District Weed & Seed Unit. This is a Department of Justice Initiative that assigns officers to help designated neighborhoods work on some of their worst problems, mainly centered on narcotics and firearm violations.

Officer Keithley has been an immense asset to the Weed & Seed Unit. He has been instrumental in helping the unit compile a substantial amount of arrests and seizures. During his time, the unit was credited with 396 total arrests, recovering 123 firearms, seizing 31 vehicles and collecting $35,901 under Asset Forfeiture guidelines.

Mr. Speaker, Officer Keithley recently exhibited exceptional bravery while in the line of fire. Having been critically wounded, he courageously fought back and forced an armed criminal to flee the scene. I am honored to recognize Officer Gabriel Keithley today before Congress.

PRESIDENT'S DAY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. SMITH of Texas. Mr. Speaker, last month America celebrated President's Day. In recognizing a generic holiday, though, perhaps we didn't take the time to focus on our first President, George Washington. A friend, advisor, constituent and cousin, Frates Seeligson of San Antonio, wrote an article for the San Antonio Express-News that conveys the greatness of the individual called, "First in war, first in peace and first in the hearts of his countrymen." I hope my colleagues and others will enjoy Mr. Seeligson's trenchant observations.

[From the San Antonio Express-News, Feb. 22, 2004]

OLYMPIAN IN WAR, SAGACIOUS IN PEACE

(By Frates Seeligson)

During the past three decades, knowledge and appreciation of George Washington have declined to an all-time low.

One survey has revealed that Washington's coverage in history textbooks has declined by 90 percent since the 1960s. One high school textbook has only a paragraph on George Washington but more than two pages on Marilyn Monroe.

For that reason, his birthday today is an appropriate time to remind ourselves about his wonderful contributions to America, which resulted in his being known as the "Father of his Country." It is even more appropriate at a time when we constantly are looking for role models.

Consider Washington's greatest services in the creation of our country:

For 8½ years, he commanded the Continental forces, which won our independence.

He presided over the constitutional convention that produced the document under which we live, and without his support it would not have been ratified.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

He became the first president of the United States.

Washington was a magnificent horseman and looked every inch a general. He was one of the wealthiest men in America, yet he pledged his life, his future, his beloved Mount Vernon and his sacred honor to win our freedom. At one battle he stopped his retreating army, turned them around and fought the British to a draw.

The Marquis de Lafayette described the effect of Washington's arrival on the tired, discouraged, beaten men: "His presence stopped the retreat. His fine appearance on horse, his calm courage, roused to animation by the vexations of the morning, gave him the air best calculated to excite enthusiasm."

Lafayette also recalled how later he "rode all along the lines amid the shouts of the soldiers cheering them by his voice and example and restoring to our standard the fortunes of the fight. I thought then, as now, that never had I beheld so superb a man."

After the war, no one knew whether the 13 states would separate into different countries or become one nation. The government under which they lived was basically a league of states absorbed in their own concerns.

The country found it impossible to operate under this type of government, and a constitutional convention was called.

Washington was already a legend.

As John Adams said: "He made every crowned head in Europe look like a valet. Noble, incorruptible, Olympian in war, sagacious in peace, he was the ideal man to preside over the convention."

The Constitution that the founding fathers created was absolutely new and revolutionary for its time. To create it was one thing; to get it ratified by the states was another. Washington's support was essential to its passage.

As he said: "It is too probable that no plan we propose will be adopted, perhaps another dreadful conflict is to be sustained.

"If to please the people, we offer what we ourselves disprove, how can we afterwards defend our work. Let us raise a standard to which the wise and the honest can repair."

Once the Constitution was ratified, most of the European powers felt there was no question it would be a failure.

They underestimated the first president. He guided the nation through its first eight years and set it on a course that has lasted to this day.

Washington's last service to his nation was to retire after two presidential terms.

To paraphrase what has been written before, there are two roads: one to absolutism and another road to democracy. On the first we see Napoleon and emperors, perpetual presidents, Mussolinis, Hitlers, Maos and directors of the proletariat advancing to band music to the death of political freedom.

On the other road, to democracy, there is a solitary figure in a rusty blue and buff uniform hasting to the happy halls of Mount Vernon.

All hail to Washington. First in war, first in peace and first in the hearts of his countrymen.

FREEDOM FOR MARIO ENRIQUE MAYO HERNÁNDEZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Mario Enrique Mayo Hernández, a prisoner of conscience in totalitarian Cuba.

Mr. Mayo Hernández is a lawyer by profession who was fired by the Castro dictatorship from his job as a lawyer because he believes in freedom and democracy. After being terminated for his democratic opinions, Mr. Mayo Hernández began working as an independent journalist so the world could understand the reality of Castro's hideous oppression. Using the limited tools of independent journalism in a totalitarian state, Mr. Mayo Hernández courageously wrote about the bleak, broken, society that is the result of the tyrannical policies of the Cuban totalitarian dictatorship. In order to better disseminate the truth about totalitarian Cuba, Mr. Mayo Hernández eventually became the director of the press agency "Félix Varela."

On March 18, 2003, as part of Castro's brutal March 2003 crackdown on peaceful pro-democracy activists, Mr. Mayo Hernández was arrested by the tyrant's police thugs. According to Amnesty International, he was accused of "creating conditions" that would allow the UN Commission on Human Rights to condemn the totalitarian regime for its gross human rights violations. In the sham trial that sentenced him to 20 years in the totalitarian gulag, Mr. Mayo Hernández was convicted because of "counterrevolutionary" articles on the abhorrent prison conditions and the situation of families of political prisoners.

Mr. Mayo Hernández is currently languishing in the oppressive conditions of the totalitarian gulag. According to Reporters Without Borders, Mr. Mayo Hernández has been held in conditions of "maximum harshness" that include being locked in solitary confinement, having to wait four months between family visits, and being transferred to a cell with common law criminals. Let there be no doubt, Mr. Mayo Hernández is being tortured in the totalitarian gulag. Because of his belief in freedom and democracy, because of his truthful depictions of the decrepit reality of the Castro regime, Mr. Mayo Hernández has been "sentenced" to 20 years in Castro's violent, corrupt, inhumane, totalitarian gulag.

Mr. Speaker, it is categorically unacceptable that peaceful pro-democracy activists languish in the gulags of tyrannical regimes. My Colleagues, we must demand the immediate release of Mario Enrique Mayo Hernández and every prisoner of conscience in totalitarian Cuba.

HONORING JULIE AND JIM TURNER

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. FROST. Mr. Speaker, earlier this year, I attended the 10th Annual Awards Luncheon of the Senior Source, formerly known as Senior Citizens of Greater Dallas. At that event, the Senior Source presented its Spirit of Generations Award to Julie and Jim Turner, two highly respected citizens of Dallas.

Jim Turner, an internationally recognized leader in the soft drink industry, is CEO/President of the Dr. Pepper/Seven Up Bottling Group in Dallas. Over the years, Jim Turner and his company have been good corporate citizens and have made many contributions to the betterment of Dallas.

I would like to insert in the RECORD at this point the description of Julie and Jim Turner that appeared in the program marking the occasion of the presentation of the Generations Award.

JULIE AND JIM TURNER

Julie and Jim Turner work tirelessly to improve the well being of the community in which they live and conduct business. Throughout their 35 years of marriage, they have given and received their energy from family, faith, and friends. And they have generously extended that strength to others. They have taken an active part in numerous nonprofit and corporate boards and are the force behind Dr Pepper/Seven Up Bottling Group's outstanding role as a corporate citizen. In recognition of Julie and Jim Turner's contributions to the greater Dallas community, The Senior Source is pleased to honor them with the 10th Annual Spirit of Generations Award.

Jim Turner, an internationally recognized leader in the soft drink industry, is part owner and CEO/President of the Dr Pepper/Seven Up Bottling Group. He has been recognized with the two most coveted awards in the beverage industry: Man of the Year from Beverage Industry and Beverage World's Hall of Fame. He has also received the nationally prestigious Horatio Alger Award, as well as the Russell H. Perry Free Enterprise Award, the Baylor University Distinguished Alumni Award, and has been inducted into the Baylor Sports Hall of Fame. He serves on the board of Baylor Health Care System, Boy Scouts of America Circle Ten Council, and Alzheimer's Association, among other local and national organizations.

Like her husband, Julie Turner is involved in the business affairs of the company and actively supports many local organizations. She serves on the boards of the Baylor Health Care System Foundation, Dallas Historical Society, is Chairman of the Board of Trustees of Dallas Baptist University, and is a member of the Crystal Charity Ball Committee. A former teacher, she has served as PTA President and was awarded Life-time Membership in the Texas PTA She is committed to a number of local causes including, among others, American Heart Association, Kidney Texas, Inc., AWARE, and Dallas Symphony Association.

The Turners are members of Park Cities Baptist Church and enjoy family time with their daughters, Jenna and Amy, Amy's husband, Brent, and their new pride and joy, grandson Turner.

With the Spirit of Generations Award, The Senior Source is honoring this extraordinary couple for their selfless work throughout the greater Dallas area.

HONORING STEPPENWOLF THEATRE COMPANY

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. EMANUEL. Mr. Speaker, I rise to congratulate Steppenwolf Theatre Company for three decades of excellence in Chicago's fine arts community for producing highly popular and consistently first-rate theatre.

Steppenwolf Theatre Company began performing plays in a church basement of Highland Park, Illinois back in 1974. With the leadership of Terry Kinney, Jeff Perry and Gary Sinise, the group incorporated in 1975 and has now grown to include thirty-five premier theater artists with wide-ranging and nationally recognized talent.

In that time, Steppenwolf Theatre has made Chicago proud time and again by making tremendous advancements in the vitality and diversity of American Theatre—both for its actors and its audience. Today, the city demonstrates its appreciation and continued patronage with a subscription base of 25,000 members and growing.

The Steppenwolf Theatre Company has evolved effortlessly with changing times, while maintaining relationships with established playwrights such as Sam Shepard, Lanford Wilson and Alan Ayckbourn. They have reinvented classics like John Steinbeck's The Grapes of Wrath, and more recently produced and developed the world premiere of Man from Nebraska by ensemble member Tracy Letts.

With their original principals of ensemble collaboration and artistic risk still flourishing, Steppenwolf now approaches its 30th anniversary as a professional theater company. The Company has been lavished with high praise from national and international media, art critics and audiences alike.

This persistent effort has earned Steppenwolf several prestigious awards. Most recently, they include the Joseph Jefferson Award for Chicago Theatre Excellence and the 2003 Equity Special Award for leadership in national and international acclaim for Chicago Theatre, and for excellent training and outreach programs, partnership and support of theatres, playwrights and artists new to the scene.

Mr. Speaker, I join with all proud residents of the Fifth District and the City of Chicago in congratulating the Steppenwolf Theatre Company on its many achievements in thirty years, and wish it continued success as it further solidifies its unique and landmark status in our great City.

HONORING THE LIFE AND CAREER OF GEORGE R. TUCKER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. KAPTUR. Mr. Speaker, I rise today to honor the life's work of George R. Tucker, retiring as the Regional Director and Executive Secretary of the American Federation of State, County, and Municipal Employees (AFSCME) Ohio Council 8, AFL–CIO. Mr. Tucker has spent his career furthering the goals of organized labor in the struggle to improve the lives and livelihoods of the brothers and sisters and thus, make our Nation stronger.

AFL Founder Samuel Gompers explained in an 1898 speech, "To protect the workers in their inalienable rights to a higher and better life; to protect them, not only as equals before the law, but also in their health, their homes, their firesides, their liberties as men, as workers, as citizens; to overcome and conquer prejudices and antagonism; to secure to them the right to life, and the opportunity to maintain that life; the right to be full sharers in the abundance which is the result of their brain and brawn, and the civilization of which they are the founders and the mainstay. . . . The attainment of these is the glorious mission of the trade unions." His words ring as eloquently true in the dawn of the 21st century as they did in the waning of the 19th century. His words provide the blueprint by which labor leaders like George Tucker have always led, setting the economic and social achievements of the membership as a whole as their primary goal.

George Tucker completed high school at Toledo's Woodward High School and followed that with service in the United States Navy. After more than two decades "in the trenches," he became the staff representative for AFSCME's Ohio Council 8 in 1984. In 1987 he took on the responsibilities of Regional Director, adding Executive Secretary in 2002. Other offices Mr. Tucker has held during his tenure with AFSCME Ohio Council 8 are Secretary-Treasurer and Regional Vice President. At the same time, he has served the Toledo Area AFL–CIO on its steering committee and executive board and as President. He also holds a position on the national AFL–CIO's advisory board. Mr. Tucker gives of his time and talents to the United Labor Committee, Northwest Ohio Center for Labor Management Cooperation, Toledo Labor Management Citizens Committee, and the Coalition of Black Trade Unionists. In all these pursuits, he has championed the causes of better wages, benefits, and working conditions for the thousands of workers whose lives he has touched.

Mr. Tucker has not limited his service to the union movement; he is also a community leader. He has ably and actively served on the boards of the local EMS, Toledo Lucas County Public Library, Ohio Public Employers Lawyers Association, the Private Industry Council, United Way, Lucas County Democratic Party, Toledo Port Council, and the Down River Inter-City Hockey Club in Detroit and the Greater Toledo Amateur Hockey Association. He is a member of American Legion Post 110, Destroyer Escort Sailors Association, Augsburg Lutheran Church, and the Placers Car Club.

Reviewing the exhaustive list of George Tucker's civic activities, it is clear his retirement is most deserved and maybe a little bit welcome. We wish him a most enjoyable journey on this new path in his life. We hope he is able to spend time with his wife and their children and grandchildren, and pursue golfing and the hobby of antique cars with the same vigor with which he has pursued his public life. Even though he may be officially retiring, we know we can continue to count on George Tucker's learned wisdom and personal counsel. Our community has been bettered immeasurably as a result of his dedication and good cheer. Onward, friend.

RECOGNIZING THE DEDICATION OF EPOCH BY THE DISTRICT OF COLUMBIA

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. NORTON. Mr. Speaker, I rise today to share with Congress that on Monday, April 19, 2004, District of Columbia Mayor Anthony A. Williams will publicly dedicate Epoch, a permanent monumental abstract steel sculpture by artist Albert Paley, which was recently installed in front of the PEPCO Headquarters at 9th and G Streets, NW. A poem by Dolores Kendrick, Poet Laureate of Washington, DC, is stamped into the metal structure of the sculpture. The genesis and placement of the text were determined through collaborative efforts between Ms. Kendrick and Mr. Paley. This project represents the second instance in which an African American woman has been honored by being prominently represented in a public artwork in the District of Columbia. The first African American woman was Mary McLeod Bethune, whose sculpture is in Lincoln Park.

Epoch will serve as a major landmark in the heart of newly re-developed and revitalized downtown Washington, DC. Its location marks a major intersection for pedestrian and vehicular travel within the dynamic 7th Street Arts District, an area that is emerging as a hot and stylish destination for entertainment, retail, and culture. Epoch is installed across the street from the Smithsonian Museum of American Art/Portrait Gallery, the Gallery Place Metro Station, and the Martin Luther King, Jr. Memorial Library, the main branch of the DC Public Library. This area also features the MCI Center Arena, the new Washington Convention Center, the City Museum of Washington, DC, the Washington Shakespeare Theatre, the Spy Museum, the National Mall, and a significant number of prominent art galleries, shops, and restaurants.

Epoch measures 25 feet high by 12 feet wide by 10 feet deep, approximately one and a half stories tall, and is painted in a vibrant multicolored palette featuring blue, yellow, purple and red-orange. The design of the sculpture was recommended by a special selection committee for the project that included community representatives and was approved by Commissioners of the D.C. Commission on the Arts and Humanities (appointed by the Mayor of the District of Columbia) and the Commission of Fine Arts (appointed by the President of the U.S.A.).

TRIBUTE TO CHARLES MARSHALL

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. HINOJOSA. Mr. Speaker, I rise today to honor a friend and constituent, a beloved citizen of Aransas Pass, Texas, an established entrepreneur, and a compassionate neighbor—Mr. Charles Marshall. He has served his town, its needy and especially, its children, for nearly half of a century.

I can think of no one more deserving of recognition for empowering a community with the best educational opportunities that can be bestowed upon its youngest citizens. It is the personal values he has held throughout his years of public service which enhance the contributions and unshakeable faith he has for the people of Aransas Pass.

Charlie Marshall was born July 7, 1923 in Skidmore, Texas. He attended public school in Raymondville and later graduated from Southwest Texas State University in San Marcos. He served his country in the Navy during World War II, serving for 3 years on a backup troop transport in an operating room. After returning from the war, he threw himself into civilian life and enrolled in Landig Mortuary College in Houston, Texas—eventually rising to valedictorian and class president.

He moved to Aransas Pass in 1949 and went to work for Cage Funeral Home. In 1953, it became Cage-Marshall Funeral Homes. Thirty-five years later, in 1998, the Charlie Marshall Funeral Home and Crematory of Aransas Pass was officially dedicated. Charlie's professional commitment was recognized by the State of Texas. He was appointed to the Texas State Board of Morticians by Governors Price Daniels, John Connally, Preston Smith and Dolph Briscoe.

Charlie knew Aransas Pass was a great place to live and that the area would flourish if it had a solid educational hub. So in May 1959, he ran and was elected to the school board. This position enabled him to use his ability to inspire, attract and engage students and parents to work together to support academic excellence, and enhance pride in their community. Mr. Marshall continues today to visit the school campuses and talk to the students. He attends the Panther Sports events and supports many school activities that provide young people a chance to represent their school and community.

In addition to his exemplary service to his profession and the local educational community, Charlie has also served in civic, charitable and social organizations which propel the community and its citizens to prosperity.

These organizations include the Veterans of Foreign Wars, where he received the Good Citizenship Award, and the Aransas Pass Chamber of Commerce, where he has served for many years as an officer. He is credited as the founder and early organizer of the Shrimporee Festival, which continues to benefit San Patricio County. He was a distinguished director of the Overbid Property Trust, whose proceeds built the Aransas Pass Public Library. He was awarded the Aransas Pass Citizen of the Year Award 1972, and the coveted Murl Smith Award in 1981. Mr. Marshall was one of the founders of the Aransas Pass Associated Charities, which later grew into the Christian Service Center, serving thousands of needy families and children.

The citizens of Aransas Pass honored Mr. Marshall by naming an elementary school in recognition of his many community and educational contributions. It is my pleasure to pay homage to Charlie Marshall on the House Floor for his tireless efforts and 45 years of stellar leadership in education. I must also commend Charlie's late wife Gayle, his daughter, Marty, and son, Bill, who not only supported his service to Aransas Pass, but have shared his compassion and commitment.

I ask my Congressional Colleagues to join me in commending Mr. Charles Marshall for his exceptional career and contributions to the great State of Texas and our Nation.

INTRODUCTION OF THE INTELLIGENCE TRANSFORMATION ACT OF 2004

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. HARMAN. Mr. Speaker, today my colleagues and I on the House Permanent Select Committee on Intelligence are initiating a call to action.

The problems plaguing American intelligence are too grave, and the potential damage to U.S. national security, force protection in Iraq, Afghanistan and elsewhere, too important to justify delay.

These problems require urgent attention from the President—who has the power to fix some identified problems with our intelligence now—and from Congress, which built our Intelligence Community five decades ago to fight an enemy that no longer exists.

But those of us in Congress must also do our part.

That is why we are introducing a major legislative proposal—the Intelligence Transformation Act of 2004 (H.R. 4104)—a set of critical and urgent reforms for the Intelligence Community.

The highlight of this proposal is the creation of a Director of National Intelligence (a "DNI"), who has budgetary and statutory authority over the entire Intelligence Community. This is not a new idea. And it is not a Democratic idea. It was one of reforms recommended by the bipartisan, bicameral 9/11 Joint Congressional Inquiry.

But our legislation does more. We are also proposing "jointness" in collection, analysis and dissemination of intelligence. We believe that one of the major deficiencies in our Intelligence Community is the fact that there are fifteen intelligence agencies—operating with different rules, cultures, and databases—that do not work as one, integrated Intelligence Community.

We also believe that our Intelligence Community must leverage the power of information technology to help our intelligence professionals share data in real-time. The United States has the best IT capabilities in the world, but we have scarcely touched that potential to help the IC do its job.

Finally, the Act would create a new WMD Proliferation Threat Integration Center (PROTIC) to provide integrated tasking of collection and analysis on the WMD proliferation threat.

At a time when much of Washington is fingerpointing, we hope this legislation today will add some light to the heat surrounding the subject of intelligence failures.

We had hoped to produce a bipartisan bill—and we believe that it will ultimately be a bipartisan bill because it is good policy and because of its bipartisan parentage. We shared our legislative ideas with the majority on our Committee, but we did not want the legislative year to pass while awaiting their response.

The terrorists and the enemies of the United States will not wait until after November to plot their attacks—nor will they check our party registration before they launch those attacks against us. We cannot afford to wait. This task is urgent. We must act now.

HONORING LARRY LATTMAN, NAPA COUNTY, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize my good friend Larry Lattman. Mr. Lattman's outstanding contributions and dedication to our country are truly appreciated.

A highly regarded member of the community, Larry Lattman was born in Los Angeles, California. After graduating from high school he enlisted in the U.S. Marine Corps where he served with tremendous honor and valiance in the Korean War.

Larry Lattman is a member of the Marine Corps League, AMVETS, Jewish War Veterans, the Veterans of Foreign Wars; he has a seat on the California Veterans Board and is a member of the National Legislative Committee of the American Legion. He served two terms with distinction as Chairperson of the Allied Council of the Veterans Home in Yountville. As Chair of the Allied Council Mr. Lattman appeared before California State Senate and Assembly Committees, speaking on the behalf of veterans more than 100 times.

Mr. Lattman's many trips to the legislature helped the Home receive needed funds for projects such as construction of new water and electric systems, improving the recreation building, cemetery renovations, and the purchase of a new x-ray machine as well as a whole host of other improvements.

In spite of severe physical limitations and major disabilities, he has distinguished himself as a selfless crusader on behalf of other veterans. He has demonstrated with distinction the creed, "Veterans Helping Veterans."

Larry Lattman is being recognized this year for his outstanding contributions as a veteran's advocate by the Veterans Home during Yountville's Founders Day Celebration. He is being inducted into the Yountville Veteran Home's hall of fame, their highest honor.

Mr. Speaker, it is appropriate at this time that we recognize Larry Lattman for his contributions and service to the people of our country.

A TRIBUTE TO SOUTH MOUNTAIN HIGH SCHOOL

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. PASTOR. Mr. Speaker, I rise before you today to proudly pay tribute to South Mountain High School, in Phoenix, Arizona, which celebrates its 50th anniversary this year.

This distinguished school in the Phoenix Unified High School District first opened its doors in February of 1954. For the last five decades it has proudly served the educational needs of the students in south Phoenix and has become one of the most dynamic schools in the district, offering five magnet programs: aviation and aerospace education, law-related studies, performing arts (drama, music, and dance), visual arts (drawing, painting, ceramics, sculpture, computer art and photography), and communication art (print, radio, television and film).

From its student body to its administrative team, SMHS's history of success is lengthy. Accommodating up to 3,000 students at times, the school has been able to maintain one of the highest graduation and attendance rates in the district. In addition, throughout the years students at SMHS have consistently improved their test scores in every category.

The administrative staff at SMHS is also a reason to boast. Of the seven National Board Certified Teachers in the district, four teach at South Mountain. The school has produced the District Teacher of the Year for the past two years, and Assistant Principal Robert Estrada was named 2002 Arizona Class 5–A Athletic Director of the Year. Furthermore, the Administrative team at South Mountain has the longest tenure of any team in the district. Patricia Tobin, in her sixth year, has the second longest tenure as a current principle at a Phoenix Union school.

South Mountain High School's mission is "to create a community of learners." I am proud to say that SMHS has more than accomplished this mission and continues to produce tomorrow's leaders who proudly represent the home of the Jaguars.

Mr. Speaker, as you can surmise, South Mountain is a landmark in Phoenix with a successful past and a promising future that has served the needs of its diverse, dynamic and growing community. It has improved student achievement as well as effectively used human and fiscal resources. It continues to raise academic achievement and serves as a model high school for the nation. Therefore, I am pleased to pay tribute to South Mountain High School in Phoenix, Arizona, and I know my colleagues will join me in congratulating the student body, faculty, staff, administrators and alumni.

TRIBUTE TO HAZARD BULLDOGS BASKETBALL TEAM

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, I rise today to pay tribute to the players and coaches of the 2004 Hazard Bulldogs basketball team.

On February 8, 2004, the Hazard High School Bulldogs defeated Bishop Brossart High School by a score of 43–38 to win the Kentucky All "A" State Tournament. Under the leadership of Coach Kevin Spurlock, the Bulldogs finished the season with a record of 20–4. This is a remarkable accomplishment that merits recognition.

With 49 years since their last championship title, the Bulldogs' recent victory has been a long time in coming, and one that was attained through hard work and determination. During the entire championship game the Bulldogs fought ferociously, tying at the half and gaining a four-point lead after the third quarter. Smart, calculated plays during the final minutes pushed the Bulldogs over Bishop Brossart and secured a safe five-point win.

In Kentucky, basketball is something of an institution. It embodies a tremendous spirit of teamwork and dedication, and the Bulldogs have shown that they possess both characteristics. The Bluegrass State is widely known for producing great basketball teams, and the Hazard Bulldogs are no exception. Winning the state tournament marks a tremendous milestone in their journey for excellence, and I am proud of their accomplishment.

Mr. Speaker, I want to congratulate the Bulldogs for their tremendous success, not only in tournament play but also throughout the entire season. Through their hard work, determination, and skill they have made Eastern Kentucky very proud. I ask each of my colleagues to join me in honoring Hazard High School, Coach Kevin Spurlock, all of the assistant coaches, and each and every talented player on the 2004 Championship Bulldog team: Hank Gabbard, Stephen Sizemore, Parker Carter, Eric Mullins, Robert Lyttle, J.J. Hously, Lamar Williams, Jon Francis, Chase Patrick, Durell Olinger, Justin Wallace, Chuckie Osteen, Jon Walker, Tyler Bailey, and Justin Hicks.

REMEMBERING MELINDA MONTGOMERY STRONG

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. HALL. Mr. Speaker, earlier this month, Dr. Barbara Montgomery, noted educator, world traveler and lecturer, and leader in the local, State, and national Democratic Party, suffered the loss of her second child, Melinda Montgomery Strong. Melinda passed away in Watsonville, California on February 4th. Melinda's twin, Melody Montgomery Law, and her father, James Kenneth Montgomery, predeceased her.

As a special tribute, and following a traditional Indian farewell, Chief Tecumseh of the Shawnee Nation was quoted at Melinda's final rites. It is a beautiful and appropriate guideline for all of us—and especially for the beautiful Melinda Montgomery Strong:

> So live your life that the fear of death can never enter your heart. Trouble no one about their religion; respect others in their view, and demand that they respect yours. Love your life, perfect your life, beautify all things in your life. Seek to make your life long and its purpose in the service of your people. Prepare a noble death song for the day when you go over the great divide. Always give a word or a sign of salute when meeting or passing a friend, even a stranger, when in a lonely place. Show respect to all people and grovel to none. When you arise in the morning give thanks for the food and for the joy of living. Sing your death song and die like a hero going home.

As a longtime friend and admirer of Dr. Montgomery, I ask that Congress adjourn today in memory of this beautiful life—and that we collectively send our condolences and our prayers to Dr. Barbara Montgomery.

HONORING THE MEMORY OF MRS. FANNIE BELLE CALLAHAN

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BONNER. Mr. Speaker, Mobile County, Alabama, and indeed the entire First Congressional District recently lost a dear friend, and I rise today to honor her and pay tribute to her memory.

Fannie Belle Callahan was a devoted mother, grandmother, and friend to the Mobile community throughout her entire life. At the time of her passing on March 15, 2004, she had devoted 94 years to the care of her children, her family, and her city.

Raised with her three siblings in the small community of Crichton, Alabama, Mrs. Callahan was required at an early age to go to work to help support her family following the death of her father. By the age of 17, she had already worked as a telephone operator, a cashier at Mobile's Saenger Theater, and a night clerk at the Battle House Hotel. Following her marriage to Herbert Callahan, she moved to East St. Louis, Illinois, but returned to Mobile 3 years later when he obtained a job with the GM&O Railroad.

Widowed at the time of her husband's death in 1950, Mrs. Callahan was once again required to go to work to support her large family of nine children. Although she retired in 1965 after many years of employment with the Mobile District Office of the U.S. Army Corps of Engineers, she was not one to sit idly by and watch life go on in the world around her. She became actively involved in the political campaigns of her sons Sonny and George, and following Sonny's election to the U.S. House of Representatives in 1984 volunteered her time as the receptionist in his Mobile district office. Mrs. Callahan quickly became the center of her son's office "family," and for the remainder of her life was always referred to affectionately as "Mom Callahan."

Throughout her 94 years, Fannie Belle Callahan taught many valuable lessons to her family and friends, and everyone who came in contact with her took away very fond memories of a charming southern lady who could make anyone to whom she was speaking feel they were the most important person at that time. In an article which appeared in the Mobile Register in 2000, Mrs. Callahan reflected on her long and rewarding life and spoke about how her years of hard work were rewarded with the successes her children enjoyed.

Many of her children were also interviewed and offered their perspectives on the lessons they had learned from the matriarch of a family made up of 94 men, women, and children. Perhaps her son, former Rep. Sonny Callahan, best summed up her long life and what she passed on to her children when he said, "She taught us responsibility. With nine kids, there had to be some degree of responsibility. She taught us to respect people and work hard."

Mr. Speaker, I ask my colleagues to join me in remembering a lovely woman who deeply loved, encouraged, and respected her many family and friends and the entire Mobile community. "Mom Callahan" will be deeply missed by her family—her sons, Sonny Callahan, George Callahan, Charles Callahan, and Terrance Callahan; her daughters, Patsy Dempster, Madeline Martin, Margaret Ann Athey, Mary Jane Emick, and Rose Callahan; and her 32 grandchildren, 56 great-grandchildren, and 13 great-greatgrandchildren—as well as the countless friends she leaves behind. Our thoughts and prayers are with them all at this difficult time.

CONGRATULATING MS. PAULINE MORGAN AND MS. VANESSA DATES

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. VISCLOSKY. Mr. Speaker, is my distinguished honor and privilege to congratulate two residents of Northwest Indiana who have committed their careers to serving the United Steelworkers of America (USWA). Combined, Ms. Pauline Morgan and Ms. Vanessa Dates served the hard-working men and women of Northwest Indiana for over 71 years. Their efforts will be celebrated at a retirement reception on Friday, April 2, 2004.

Pauline Morgan began her career November 1, 1963, as a secretary in the District 31 office in East Chicago, Indiana. In 1973, she became secretary to the Assistant Director of District 31 and became the Executive Secretary to the former District Director Jack Parton from 1986 to 1989. Pauline ended her career working out of the Gary, Indiana District 7 office from 1998 until the present. She ends her career with over 40 years of service to the USWA membership.

Outside of her duties at work, Pauline remains committed to improving her community through service. She serves the Tabernacle Missionary Baptist Church as a greeter and anniversary chairperson, is a member of USWA Local 3657; the Steelworkers of Active Retirees, the Foundation of East Chicago Board and the Twin City Education Foundation Parental subcommittee. She has also served as a public relations representative for the East Chicago National Association for the Advancement of Colored People and the United Citizens Organization.

Ventress Dates, who is retiring from the District 7 office after over 31 years of service began her career on June 16, 1972, in the former District 31 office in Harvey, Illinois. From there she worked in the Sub District 3 office in Chicago, Illinois for several years before transferring to the former District 31 office in East Chicago, Indiana. The office later relocated to its present location in Gary, Indiana. Ventress also held the position as the Executive Secretary to the former District 7 Director Jack Parton.

Ventress is affiliated with the Bethlehem Temple Missionary Baptist Church in Harvey, Illinois. She currently serves in the capacity of choir director, member and vocal instructor, a praise and worship team leader and an adult Sunday school instructor. She is a soloist, an evangelist, seminar, and workshop facilitator. Ventress is experienced in nursing home and youth ministry and belongs to the Wayman AME church ministry in Chicago, Illinois. She is affiliated with various women's groups, as well as her local Poet's Society. She is also an author and songwriter.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in congratulating Pauline Morgan and Ventress Dates for their combined seven decades of service to the USWA. Their commitment to the hard-working men and women of Northwest Indiana helped the steel industry form the backbone of our economy for many years. Their efforts will surely be missed, and I am proud to represent them in Congress.

CONGRATULATING THE BOROUGH OF HUGHESTOWN ON ITS 125TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. KANJORSKI. Mr. Speaker, I rise today and ask you to join me in congratulating the Borough of Hughestown in Luzerne County, PA on its 125th anniversary. The community will celebrate on Saturday evening with an anniversary celebration at Convention Hall in Pittston Township.

Hughestown was organized as a Borough on April 8, 1879. The Borough became well-known throughout the Commonwealth as part of the Pennsylvania Coal Company's famous #9 Mines and Breaker, which employed most of the Borough's residents.

Hughestown residents suffered several major tragedies in and around the mines. The Borough also lost its firehouse, elementary school and high school to fire.

Despite the adversity, the Borough flourished. The past 125 years have brought many changes to the Borough community, and today Hughestown is home to about 30 small businesses and is looking forward to the development of new townhouses.

In addition, Hughestown is proud to have its native son State Rep. Thomas N. Tigue residing in the Borough.

Avoca, Dupont, Duryea, Pittston and Pittston Township border Hughestown. The Borough's geographic size—four square miles—makes it one of the smallest municipalities in the county. The population of the Borough is now 1,560. The Borough definitely represents the old adage that "Good things come in small packages."

I would like to congratulate the leadership of the Borough, including Mayor Paul Hindmarsh and Council Members Jerry Chilipko, Barbara Gatto, Vince Mammarella, Paul Murphy, Wayne Quick Jr., Sam Sanguedolce and Ed Strubeck. I would also like to recognize Police Chief Steve Golya, Fire Chief Jamie Merlino and Leonard Copp and Chris Ribaudo of the Street Department.

I would also take this opportunity to pay tribute to the leadership of the very first Borough Officers: Jacob B. Shmaltz, Charles Matthewson, John W. Williams, John B. Clark, George Gill, Cuthbert Snowden, Thomas Snowden, D.D. Moser, John Tishler, Aaron Oliver, John M. Mosier, Ernest Shmaltz and James Delaney.

Mr. Speaker, today I ask you and my esteemed colleagues to please join me in congratulating the Borough on their very special anniversary.

WELCOMING THE ACCESSION OF BULGARIA, ESTONIA, LATVIA, LITHUANIA, ROMANIA, SLOVAKIA, AND SLOVENIA TO THE NORTH ATLANTIC TREATY ORGANIZATION

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. HASTINGS of Florida. Madam Speaker, I rise today to welcome the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization. This is a truly historic occasion which transforms the strategic map of Europe, and strengthens the Atlantic Alliance.

In my first term in Congress, I cosponsored H. R. 4210, the NATO Participation Act of 1994. I believed then, as I continue to believe now, that NATO should be inclusive to all European nations that share our belief in democracy and the rule of law. Therefore, I am delighted to welcome the new member states to NATO.

NATO was established in 1949 for the purpose of countering the threat of Communist expansion. While that threat is now securely in the history books, the world has been forced to face new, and different dangers. Throughout the myriad of changes in international relations since NATO was first founded, the salience of a strong alliance among friendly nations remains.

As is necessary with all longstanding organizations, NATO is changing with the times. It remains the world's most powerful regional defense alliance precisely because of its ability to adapt to new conditions. NATO continues to safeguard its member states through political and military means. However, over the past 15 years, the Organization has come to play a growing role in peacekeeping and crisis management.

Originally, NATO consisted of 12 member countries. Over the years the Organization has expanded twice. Once in 1952, to include Greece and Turkey, and a second time in 1955 to include West Germany. The simultaneous accession of seven states is the largest expansion in the history of the Organization. I, for one, hope that it will not take another 50 years before we see another round of NATO expansion.

The accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to NATO cements the increasingly strong relationship between the United States and those countries. The strengthening of the Atlantic Alliance is of benefit to all parties. Moreover, Congress looks forward to the opportunity to work closely together with the new countries for shared goals.

As the Vice-President of the Organization for Security and Cooperation in Europe's Parliamentary Assembly, I have followed closely the progress of the new NATO member states. In the past, I have had the pleasure of visiting Romania and Slovakia. Later this month, I plan to visit the Baltic region and learn more about our newest alliance partners.

In conclusion, let me again state my wholehearted support for H. Res. 558, welcoming the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization. I reiterate my hope that we will soon have occasion to celebrate the accession of more states into the Atlantic Alliance.

REGARDING VIOLENCE AGAINST WOMEN IN COMMEMORATION OF INTERNATIONAL WOMEN'S DAY MARCH 15, 2004

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, as we commemorate Women's History Month, it is of critical importance to note that the incidence of violence against women is still too high around the globe. Many women in the United States and in other nations live in terror, are afraid to speak up to protect their health and well-being, and are unable to shield their children from the effects of domestic violence.

The impact of violence against women of all social and economic classes worldwide is chilling. According to Amnesty International, 120 million women and girls are subjected to female circumcision annually, and over 700,000 women in the United States are raped each year. Further, the World Bank reports that at least one in five women and girls have been sexually violated or beaten at some point in their lives. Violence against women is one of the world's most pervasive and yet least addressed human rights abuse issues. Women worldwide expend their energy, compromise their health and sacrifice their self-esteem due to the impact of domestic violence on their lives.

In 1993, the United Nations Declaration on the Elimination of Violence Against Women, Article 1 defined violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life." Given this definition, and the evidence that women are more likely than men to be attacked by an intimate partner or family member to whom they are emotionally tied and economically dependent upon, it is incumbent upon those of us who are elected leaders to ensure the physical, emotional and financial stability of women everywhere.

The threat of violence extends to pregnant women, and is compounded in the treatment of mother-to-child transmission of HIV. As reported by the Center for Health and Gender Equity, a study of pregnant women in six African nations showed that the women's fear of rejection and domestic violence was responsible for their refusal to take AZT to prevent mother-to-child transmission of HIV. The women surveyed declined to inform their families and friends about their HIV status because they feared being assaulted.

Around the world, too few women fail to seek adequate medical care, nor are they willing to share pertinent information about their experiences of domestic violence with healthcare providers for fear of retaliation from male partners or family members. We must work together on behalf of women everywhere to create an atmosphere free of the threat of violence where women can seek the care they need to safeguard their health and that of their children.

COMMEMORATING THE STEINBRENNER INSTITUTE FOR ENVIRONMENTAL EDUCATION AND RESEARCH

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. HART. Mr. Speaker, it is my distinct privilege to take this time to commemorate the Steinbrenner Institute for Environmental Education and Research, a recently formulated institute at Carnegie Mellon University, which aims to improve the lives of Western Pennsylvanians through an ambitious long-term strategic plan to change the way society views environmental education. I am honored to extend my praise on behalf of this innovative and widely respected institute.

The Steinbrenner Institute for Environmental Education and Research initial focus will center itself around two environmental themes—the creation of energy and the preservation of the environment. Their efforts will be directed towards improvements in electricity and energy for transportation and urban infrastructure in both developed and developing regions. The Institute will use non-traditional education and traditional research methods and results, to change the way society perceives and responds to environmental concerns.

The Steinbrenner Institute for Environmental Education and Research was made possible by a generous donation from Carnegie Mellon University Trustee, W. Lowell Steinbrenner. Mr. Steinbrenner and his wife, Jan, have pledged $4 million last year for the creation of the Steinbrenner Institute. Along with continued support from within Carnegie Mellon University, the Steinbrenner Institute for Environmental Education and Research should prove to be one of the most valuable environmental institutions throughout all of Pennsylvania.

I ask that all of my colleagues to join me in honoring this innovative and valuable institution. Through meaningful education and research the Steinbrenner Institute for Environmental Education and Research will aid in the solution of countless environmental concerns in Western Pennsylvania for years to come.

INTRODUCING THE CLEAN CRUISE SHIP ACT OF 2004

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. FARR. Mr. Speaker, many Americans enjoy taking cruises, in large part because they get to see some of the nation's most beautiful marine ecosystems. Because I want to see these beautiful marine ecosystems protected for future generations to enjoy, I am introducing The Clean Cruise Ship Act of 2004.

The Cruise Ship Industry has experienced much success over the past few years. In fact, the industry has grown at about an average of 10 percent over the past seven years, including an almost 17 percent increase in 2000. Unfortunately, as it grows, its potential to negatively affect the marine environment grows as well. Over a week's time, a single 3,000 passenger cruise ship, according to EPA and industry data, generates a tremendous amount of waste: Over 200,000 gallons of black water (raw sewage) are created. Approximately 1 million gallons of gray water (runoff from showers, sinks and dishwashers) are produced. More than 35,000 gallons of oily bilge water (oil and chemicals from engine maintenance that collect in the bottom of ships and are toxic to marine life) are generated. Isn't it reasonable to think that these ships should be subject to the same wastewater regulations as those governing municipalities of comparable size? I think so.

While many cruise ship companies have environmental policies in place, many are voluntary with no monitoring or enforcement provisions. Unfortunately, I am all too familiar with the down-side to voluntary agreements, as a cruise ship illegally discharged—breaking its voluntary agreement—into the Monterey Bay National Marine Sanctuary in 2002. Simply put, voluntary agreements between cruise lines and states aren't enough to ensure protection of our oceans. The public deserves more than industry's claims of environmental performance. We need a federal law and we need it now. It's time we strengthen the environmental regulations and in so doing, bring these floating cities in line with current pollution treatment standards. The Clean Cruise Ship Act of 2004 is the answer.

The legislation that I am introducing today, which has bipartisan support and is endorsed by over 30 local and national groups, plugs existing loopholes in federal laws, requires ships to treat their wastewater wherever they operate, and authorizes broadened enforcement authority. Several states including California, Alaska, Hawaii, Maine, and Washington are currently considering legislation to better regulate various cruise ship wastes—similar to the legislation I am introducing today. In fact, I am proud to report that California is leading the country in protecting its coastal waters from cruise ship pollution. Introduction of the Clean Cruise Ship Act of 2004 is one of the ways that I am working to provide all states the kinds of ocean and coastal protections that Californians benefit from. Enactment of this bill will protect California's tourism industry by making sure that the beaches and oceans, two of the attractions that make California the most visited state in our country, will be protected from cruise ship pollution. Simply put, this legislation ensures two things: (1) a sustainable future for our oceans, and (2) a sustainable future for the cruise and tourism industry.

This legislation promotes the public interest for all Americans. The public deserves clean water—both in our inland waterways and in our oceans. The Clean Cruise Ship Act of 2004, through its discharge standards, will give the public what it deserves.

In closing, Mr. Speaker, I urge all of my colleagues to support this critically important legislation.

PAYING TRIBUTE TO ALLEN LEE BELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute today to the life and memory of Allen Bell of Glenwood Springs, Colorado, who passed away recently at the age of sixty-one. A well-known radio broadcaster in Glenwood Springs, Allen touched the lives of many in his community. As his family and Glenwood Springs community mourn his passing, I believe it is appropriate to recognize the life of this colorful man, and his many contributions to his community and state.

Allen grew up in California, and served in the Air Force where he developed a love for radio and aviation. For thirty-five years Allen enjoyed a professional broadcasting career, spending twenty-six of those years in Glenwood Springs as president and general manager of KMTS/KGLN radio stations. He built and maintained the microwave station on Red Mountain, was a member of the Ham Radio Club of Glenwood Springs, and enjoyed building model planes and rockets. An active member in the community, Allen always was willing to volunteer his time to community service projects.

Mr. Speaker, we are all terribly saddened by Allen Bell's passing, but can be comforted in knowing that he brought much joy to his Glenwood Springs community. I would like to extend my heartfelt sorrow to his wife Connie, his mother Nella and stepfather Hal, his son Christopher, and his brother Mark during this difficult time of bereavement.

TRIBUTE TO CLAUD CASH

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BERRY. Mr. Speaker, public officials are held to a higher standard. We are held to a higher standard because we have been selected by our neighbors and our communities to serve their interests.

Claud Cash was an elected official who exceeded the high standards his constituents laid before him. His death took a pillar of the community from us; he was a leader in the state of Arkansas and an example of how to serve those we represent.

Mr. Cash served as past presidents of the Trumann Lions Club and the MidSouth Farm Equipment Dealers Association and on the Boards of Directors for Liberty Bank and St. Bernard's Foundation Board. He was a member of the First Baptist Church in Jonesboro, AR, the University Heights Lions Club and Trumann Masonic Lodge #693.

As a public servant, Mr. Cash served two terms in the Arkansas House of Representatives where he became the first freshman representative to be elected to the Joint Budget Committee. He later served one term in the Arkansas Senate. Throughout his public service, Mr. Cash had a reputation for bipartisan leadership, an unwavering dedication to his constituents and a sharp, legislative mind.

His business dealings were honorable and he was trusted by friends and competitors alike. His word was his bond as was the golden rule.

As we recall Mr. Cash's exceptional career, we find his accomplishments as an elected official pale only in comparison to his strong devotion to his family and his community. On behalf of the Congress, I extend sympathies to his family, and gratitude for all he did to make the world a better place.

INTRODUCTION OF THE NO OIL PRODUCING AND EXPORTING CARTELS ("NOPEC") ACT OF 2004

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CONYERS. Mr. Speaker, today I am introducing the "No Oil Producing and Exporting Cartels (NOPEC)" Act of 2004, legislation that subjects a group of competing oil producers, like the OPEC nations, to U.S. antitrust law when they act together to restrict supply or set prices. I am joined by Representatives LOFGREN and McINTYRE.

In recent days, American consumers have paid exorbitant prices at the pump, as gas prices have hit their highest levels since the first Gulf War. Since January, oil prices have climbed more than fifteen percent, driving gasoline prices in the United States to record levels while producing budget surpluses in nations like Saudi Arabia.

The group of eleven nations comprising OPEC are a classic definition of a cartel, and they hold all the cards when it comes to oil and gas prices. OPEC accounts for more than a third of global oil production, and OPEC's oil exports represent about 55 percent of the oil traded internationally. This makes OPEC's influence on the oil market dominant, especially when it decides to reduce or increase its levels of production.

And this is exactly what OPEC has decided to do again. Just today OPEC announced that it will cut its production target by 4 percent—or by 1 million barrels per day—starting in April. This move will undoubtedly drive our oil and gasoline prices through the roof.

The OPEC nations have for years conspired to drive up prices of imported crude oil, gouging American consumers. Their price-fixing and supply-limiting conspiracy is a clear violation of U.S. antitrust laws, yet we have no recourse for action against these nations. The international oil cartel continues to avoid accountability, shielding itself behind the veil of sovereign immunity by claiming that its actions are "governmental activity"—which is protected under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. § 1602 et seq.—rather than "commercial activity."

This legislation, the "No Oil Producing and Exporting Cartels Act" ("NOPEC"), is simple and effective. It exempts OPEC and other nations from the provisions of FSIA to the extent those governments are engaged in price-fixing and other anticompetitive activities with regard to pricing, production and distribution of petroleum products. It makes clear that the so-called "Act of State" doctrine does not prevent courts from ruling on antitrust charges brought against foreign governments and that foreign governments are "persons" subject to suit under the antitrust laws. It authorizes lawsuits in U.S. Federal court against oil cartel members by the Justice Department and the Federal Trade Commission.

We do not have to stand by and watch OPEC dictate the price of our gas without any recourse; we can do something to combat this conspiracy among oil-rich nations. I am hopeful that Congress can move quickly to enact this worthwhile and timely legislation.

PAYING TRIBUTE TO ALAMOSA HIGH SCHOOL ADVANCED PLACEMENT AMERICAN GOVERNMENT STUDENTS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a truly talented class of students from Alamosa, Colorado. The students from teacher Buckley Bangert's Advanced Placement American Government class recently competed in an annual competition that teaches high school students about the Constitution. These motivated students have taken an active interest in our country's political process, and I would like to join my colleagues here today in recognizing their tremendous achievements before this body of Congress.

Alamosa High School Advanced Placement Government students studied for months to prepare for their roles as constitutional expert witnesses in simulated congressional hearings. Students addressed issues such as the development and expansion of the Bill of Rights, and the historical and philosophical ideas that underlie the Constitution. The students placed first in the district competition, and tied for fourth place at the State competition. The Alamosa students' prowess and extensive knowledge attracted the attention of the State judges, who extolled the team for achieving one of the highest scores for a first time attempt at the State level.

Mr. Speaker, it is a privilege to honor the students from Alamosa High School for their remarkable achievements in the constitutional competition. The dedication of the students and their teacher, Buckley Bangert, are certainly commendable, and it is with great pleasure I recognize them today before this body of Congress and this nation. I wish them all the best in their future endeavors.

TRIBUTE TO DOYLE AND RAYE ROGERS

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BERRY. Mr. Speaker, today more than ever, we must recognize commitments made by Americans who realize the best way to grow an economy is through continued investment infrastructure. I rise today to pay tribute to a great business and civic leader and a great Arkansan; I am honored to recognize Doyle Rogers in the Congress.

In a day and age when the presiding belief is in order to grow up and succeed you must escape Rural America, Doyle Rogers and his family lived in Batesville, Arkansas for more than 50 years, proving success comes with hard work, not a change of zip code.

His commitment to local business development is unparalleled. Mr. Rogers has started many businesses in Batesville—including the one which bares his name, the Doyle Rogers Company, a commercial real estate development firm. It was with that company in 1982 he developed and opened the Excelsior Hotel, now the Peabody Hotel, and the adjoining Statehouse Convention Center in Little Rock.

The opening of the Peabody—one of the finest hotels in the country—would suffice as anyone's crowning achievement, but Mr. Rogers did so much more. He bought Metropolitan National Bank, headquartered in Little Rock, in 1983. Today, it is Central Arkansas' largest independently-owned bank employing more than 350 people. In 1985, he developed the 25-story Rogers Building, now the Stephens Building, in downtown Little Rock.

He holds honorary doctorates from Lyon College in Batesville and Philander Smith College in Little Rock. He is a former member of the Board of Trustees of Hendrix College and has served on the Advisory Board of the School of Business at the University of Arkansas. He has served as the President of the Batesville Chamber of Commerce.

In 2001, he was named Business and Professional Person of the Year by the Rotary Club in Little Rock and was presented the William F. Rector Memorial Award by Fifty For the Future, a group of business and professional leaders in Greater Little Rock.

Doyle Rogers and his wife Josephine Raye Rogers have proved like-minded people tend to attract each other. In 2001, the White River Medical Center in Batesville received a unique Valentine's Day gift when Doyle Rogers and his wife Raye announced a gift of $1 million to the hospital. It is the largest gift in the hospital's 25-year history. The gift was used as seed money for the Josephine Raye Rogers Center for Women and Imaging.

Raye, as she's known to her friends, complements Doyle well, proving her commitment to the community is as strong as her love for her husband. The Rogers' are truly a perfect match—and a shining example of the compassion our country occasionally lacks.

Mr. Rogers knows the people of Rural America will move this country ahead. He is a great business man, an impassioned community leader and a devoted family man. On behalf of the Congress, I extend a deep sense of appreciation for all he did to drive Arkansas and this nation forward.

INTRODUCING THE DOMESTIC VIOLENCE CONNECTIONS CAMPAIGN ACT OF 2004

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CONYERS. Mr. Speaker, today I am introducing the "Domestic Violence Connections Campaign Act" of 2004, legislation that ensures that the National Domestic Violence Hotline continues to provide the essential services it has been providing since it was created in 1996. I am joined by Representative HART.

The Hotline was created by the Violence Against Women Act and answered its first call on February 21, 1996. By August 2003 it answered its one millionth call, an increase of approximately 133 percent. This is due in large part to public awareness of domestic violence and public promotion of the Hotline. Today, on average the Hotline receives almost 16,000 calls a month.

The Hotline is primarily funded by federal dollars that come from annual federal spending bills. However, as the Hotline's call volume continues to increase exponentially, funding has failed to keep pace. To keep up, the Hotline needs new equipment, new connection capability, and new data protection technology. Because its system is so outdated, over 26,000 calls last year went unanswered due to long hold times or busy signals.

The Connection Campaign is a combination of public and private efforts to bring the Hotline up to speed. It teams up private telecommunication and technology companies with the federal government to solve the Hotline's crisis and guarantee that the Hotline can answer every call. Under the Connection Campaign, companies like Microsoft, Sony, BellSouth, Verizon Wireless, IBM, Dell and others, may donate hardware and software such as cell phones, home computers, mapping software, flat-screened monitors, and telephone airtime to the Hotline.

On the public side of the partnership, Representative HART and I are joining Senator BIDEN in introducing legislation to bridge the digital divide. Our bill, the Domestic Violence Connections Campaign Act of 2004, has three components:

It mandates that federal appropriations to the Hotline include technology training for Hotline advocates so that every new telephone, computer, and database will be used to its fullest capacity.

It provides a new research grant program to be used to review and analyze data generated by the Hotline. Administered by the Attorney General, the grant program will study trends, gaps in service and geographical areas of need. The findings of this research will be reported to Congress within 3 years of its enactment.

It provides a grant program for the Hotline to increase public awareness about the Hotline's services and domestic violence generally.

The Connections Campaign and this legislation are important next steps in our fight to defeat domestic violence and assist victims. I am hopeful that Congress can move quickly to enact this worthwhile and timely legislation.

PAYING TRIBUTE TO PHYLLIS TAYLOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute and thank Phyllis Taylor for her leadership and contributions to Aspen, Colorado, as principal of Aspen Middle School. I would also like to pay tribute to her excellent 40-year career in education and service to her Aspen community. As Phyllis celebrates her retirement, let it be known that the citizens of Colorado and I are eternally grateful for the outstanding work she has done in her 40-year career as an educator in Aspen.

Phyllis Taylor will leave Aspen Middle School at the end of this school year after a 2-year tenure, in which she helped to maintain the high level of achievement of the Aspen School District. The school routinely ranks in the top tier of Colorado school systems for academic performance. In fact, last fall Aspen Middle School was awarded the John Irwin Schools of Excellence Award, which is issued to schools that perform in the top 8 percent of Colorado public schools. This was the first time the school had received this award. As she retires to spend more time with her family, Phyllis Taylor's skills as an educator will surely be missed.

Mr. Speaker, I am honored to bring the service of Phyllis Taylor to the attention of this body of Congress and this Nation, and to congratulate her on an outstanding career as an educator in Colorado. I would like to wish her the best in retirement and sincerely thank her for her service.

PFC LEROY SANDOVAL JR.

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GREEN of Texas. Mr. Speaker, I rise today to extend my deepest sympathies to the family and friends of Pfc. Leroy Sandoval Jr., who died while bravely serving our country in Iraq.

Pfc. Sandoval was from Houston, Texas and graduated in 2000 from Harvest Christian Academy. He joined the Marines on May 19, 2003 and attended basic training at the Marine Corps Recruit Depot, San Diego. Pfc. Sandoval was assigned to the 2nd Battalion, 1st Marine Regiment, 1st Marine Division, 1st Marine Expeditionary Force, in Camp Pendleton, California.

On March 26, 2004, less than 2 weeks after arriving in Iraq, Pfc. Sandoval suffered a fatal bullet wound in a gunfight between the 600 Marines stationed in Fallujah, Iraq, and rebel insurgents.

I know his parents, family and friends are devastated by this loss, but Pfc. Sandoval's family can be proud knowing that he died a hero while serving his country.

His loss will be felt by all of Houston, our state, and our Nation, and I ask that you remember the family in your thoughts and prayers.

TRIBUTE TO MR. CHESTER MILAM

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. KNOLLENBERG. Mr. Speaker, I rise today to pay tribute to Mr. Chester Milam, a notable citizen of Knoxville, Tennessee as well as a distinguished man in my home area of Oakland County, Michigan. Mr. Milam has owned and maintained Wendell's Barber Shop in Lathrup Village for the past 47 years and has recently announced he's retiring.

Mr. Milam has committed professionally to serve a loyal group of Oakland county customers, including me, for 37 years. He has played a significant role in our community, serving politicians, civic leaders, sports figures from the Detroit Red Wings, the Lions, and the Tigers, and not to mention people from every level of the community.

For the last nine years, Mr. Milam has driven 1,200 miles round trip, returning to Michigan from his home in Tennessee, one week per month to continue the loyal service to his community. Not only has he taken great pride in his business, he has taken great pride in his customers, providing his own personal touch and great stories.

Mr. Speaker, I want to congratulate Mr. Chester Milam on his retirement and his many years of dedication to serving the people of Oakland County, Michigan and extend our best wishes.

PAYING TRIBUTE TO JANET IRVINE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Grand Junction, Colorado resident Janet Irvine for her tireless efforts to maintain the morale of our troops overseas, and to better her Grand Junction community. Through the volunteer organization AdoptaPlatoon, she sends her homemade cookies to soldiers overseas, and keeps a regular correspondence with many of them.

Janet began her efforts to help our troops in 1999, when she joined AdoptaPlatoon, a volunteer group that links citizens to soldiers and platoons in need of support, and began sending her homemade cookies to small groups of soldiers. Over time, more and more troops from different platoons heard about Janet's delicious cookies, and now she regularly keeps seventy-five to one hundred-fifty troops supplied with cookies.

Recently, the availability of email to troops has increased the frequency with which Janet can correspond with them. In response to her dedication, a platoon stationed in Kandahar, Afghanistan flew the flag over Fort Apache in her honor on March 12, 2003. Janet works to encourage others to serve the troops by talking to classes at area schools.

Mr. Speaker, I am honored to pay tribute to the selfless dedication and commitment Janet Irvine has demonstrated to our troops before this body of Congress and this nation. Her efforts to brighten the lives of our troops overseas are truly remarkable. I sincerely thank her for her efforts and wish her the best in her future endeavors.

RECOGNITION OF THE DAVILA FAMILY

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GONZALEZ. Mr. Speaker, I rise today in recognition of the Davila Family, a family that has contributed to the San Antonio community for 100 years. I would like to take this opportunity to acknowledge the significant impact that this family has made on San Antonio for a century.

In 1904, the Davila Family opened its first business, a small grocery store, in San Antonio's Westside. This laid the foundation for a long and fruitful relationship with the community. Frank Davila Sr. and his wife, Mary Louise, opened this store at the corner of El Paso and Colorado Streets, the heart of the Westside.

Over time, this little community grocery store grew and evolved with the city. The family-owned operation grew into four grocery stores and the very popular Davila's and The Derby Drive-Ins. This expansion blossomed under the skillful guidance of Rodolfo Davila Sr. and his wife Delia.

With each new generation of Davilas, the family enterprise has continued to find new ways to serve the community. In 1955, Rodolfo Davila Jr. opened the Davila Pharmacy four blocks from the original Davila Food Store. Now, the pharmacy is run by the fourth generation of the Davila Family, Rudy III and Rosette. They have become a vital component of the Westside by providing important healthcare services to their neighbors.

I am proud to celebrate the on-going tradition of the Davila Family and I value the impact that they have had on individual San Antonians' lives for a century. I wish them many blessings for continued success and strength as our beautiful city continues to grow and change. There is no doubt that the Davila Family will continue to thrive and evolve along with San Antonio, maintaining a legacy that will be remembered and appreciated for generations.

INTRODUCTION OF THE MIGRATORY BIRD TREATY REFORM ACT OF 2004: MARCH 31, 2004

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GILCHREST. Mr. Speaker, today I am introducing legislation to reform the Migratory Bird Treaty Act (MBTA) to clarify that human introduced exotic avian species are not covered by the provisions of this landmark law.

The United States is currently a party to four international treaties to protect and conserve populations of migratory birds. Two years after the signing of the first treaty with Great Britain, Congress enacted the Migratory Bird Treaty Act of 1918. This act is our domestic implementing law and it statutorily commits this Nation to the proper management of certain families and species of birds.

After reviewing these treaties, it is clear that the list of covered species is not exhaustive, there is an inconsistency between migratory and nonmigratory birds and no distinction is made between exotic and native species.

Despite this fact, for over 80 years, there has never been a debate over whether exotic species should be protected under this act. Federal wildlife authorities have consistently treated exotic birds as falling outside of the provisions of the MBTA.

However, three years ago, a U.S. District Court of Appeals Judge, in the Hill v. Norton case turned this policy on its head by ruling that exotic mute swans, which are native to Europe and Asia, are covered because they are in the same avian family as native tundra and trumpeter swans.

As a result, neither the States nor the U.S. Fish and Wildlife Service can effectively manage mute swans. This species contributes to the degradation of Chesapeake Bay habitats by consuming large amounts of submerged aquatic vegetation and has destroyed nests and young of Maryland-stated listed native colonial waterbirds: least terns and black skimmers. The population of exotic mute swans has dramatically increased in the Chesapeake Bay from five birds that escaped captivity in 1962 to more than 3,600 today. There are more than 14,000 mute swans living in the Atlantic flyway.

As a result of this Federal court decision, an argument can now be made to apply the MBTA provisions to other introduced, feral populations of exotic birds, such as, Eurasian collared doves, house sparrows, English starlings, Muscovy ducks, pigeons and a host of other species. These species were introduced by humans after the enactment of the 1918 Act and to varying degrees they are extremely destructive to the ecosystems in which they reside. Pigeons, or rock doves, are alone responsible for up to $1.1 billion annually in damages to private and public property. They are the single most destructive bird in the United States.

On December 16th of last year, my Subcommittee on Fisheries Conservation, Wildlife and Oceans conducted an oversight hearing on exotic bird species and the Migratory Bird Treaty Act. At that hearing, a diverse group of witnesses testified that Congress must reform the 1918 statute. For instance, the U.S. Fish and Wildlife Service testified that "affording the protection of the MBTA to introduced birds that are not native to the United States is ecologically unsound, contrary to the stated purposes of the MBTA and contrary to efforts by the Federal government to control invasive species".

It is my firm belief that it makes absolutely no sense to spend millions of dollars trying to control nonnative invasive species like the snakehead, brown tree snake, nutria, mitten crab, asian carp and zebra mussels, while at the same time expending precious resources to achieve the same conservation standards afforded native species under the MBTA for introduced avian species. States are ready to work with Federal and local governments to control populations of exotic birds. Following this hearing, the International Association of Fish and Wildlife Agencies, which represents all 50 States, submitted a statement indicating that "The Association would strongly support congressional intervention to clarify that certain exotic species of birds are not covered under the Migratory Bird Treaty Act".

Exotic, invasive species are having a huge impact on this Nation's native wildlife and fisheries, economic interests, infrastructure and human health. In fact, it has been estimated they are costing our economy about $100 billion each year.

Mr. Speaker, I have carefully read the testimony and concluded that we can not idly sit by and allow exotic species to undermine the fundamental core of the Migratory Bird Treaty Act which is to conserve native species. My bill is a simple common sense solution. It will restore a nearly century-old policy that reserves the application of the MBTA to native species. It will again allow Federal and State wildlife biologists to effectively manage exotic species at levels that do not conflict with the Federal and State obligations to conserve native species and habitats.

My bill has been endorsed by a number of governmental, conservation and environmental groups including the International Association of Fish and Wildlife Agencies, the American Bird Conservancy, the Izaak Walton League, the Maryland Ornithological Society, Environmental Defense, the Nature Conservancy and the National Wildlife Federation. I urge my colleagues to join with me in support of the Migratory Bird Treaty Reform Act of 2004.

PAYING TRIBUTE TO JOHN BURRITT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to John Burritt of Redlands Mesa, Colorado for his remarkable achievements as an American pioneer in the biathlon and his work with the youth in his community. His 14th place finish in the 20-kilometer biathlon at the 1960 Winter Olympics was the highest American finish to that date in the typically European dominated sport, and has since been matched only twice. It is John's commitment to excellence which enabled him to compete in his sport at the international level, and to help shape the history of American athletics.

John came to the sport of biathlon, a sport that combines cross-country skiing and shooting over often rugged, grueling terrain, through a somewhat unorthodox path. Although he grew up enjoying cross-country skiing and hunting on his family's Redlands Mesa farm, he did not come to the biathlon until his days at Western State College in Gunnison, Colorado. John began practicing with the cross-country skiing team to improve his conditioning, and in 1956, at the invitation of a US Army colonel, he competed in the first biathlon race ever staged in the United States at Camp Hale.

John continued his training after college while he served his country in the U.S. Army, which allowed him to compete at the international level, specifically on the US team at the 1959 World Championships in Courmayem, Italy. After finishing his military career, John qualified for a place on the 1960 Olympic team, where he finished 14th in the 20 kilometer biathlon at Squaw Valley. Since his retirement from competition in 1964, John has continued to stay active in cross-country skiing, spending this past winter teaching the sport to local children.

Mr. Speaker, I am honored to pay tribute to the achievements of John Burritt in front of this body of Congress and this nation, and to thank him for his contributions to the great tradition of athletics in Colorado and the United States. His efforts to instill the love of cross-country skiing in the youth of his community are commendable, and I sincerely thank him for his contributions to the sport. I wish him the best in his future endeavors.

IN RECOGNITION OF KEVIN BAKER

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BLUNT. Mr. Speaker, I rise today to honor a man who has distinguished himself as a dedicated and dynamic educator. Kevin Baker of Springfield, Missouri, is not only an eighth grade social studies teacher and basketball coach, but an innovator and motivator. For the past 20 years, Baker has found ingenious ways to recreate American history for his students at Pershing Middle School while motivating them to become responsible, caring individuals. Baker's tireless efforts to help his students meet their full potential helps build active and responsible citizens with unwavering values and discipline.

Kevin Baker is perceived by the students and staff of Pershing Middle School as the most patriotic person they have ever met. Everyday he arrives at school adorned in red, white and blue attire and drives a vehicle covered with U.S. flags. But Baker's patriotism is not simply for show. His love for this country is demonstrated each day as he shares his passion for American history. Baker pushes his students to excel academically and socially, and commands respect by his unfailing integrity and enthusiasm. His positive attitude is contagious.

Learning social studies is "fun" in Kevin Baker's classroom. Every year Baker takes the eighth grade students at Pershing on a field trip to Wilson's Creek National Battlefield. For weeks beforehand, Baker drills his students, transforming them into a well-trained army that marches with wooden muskets to noted battlefield locations. In addition to his efforts to bring the Civil War to life, Baker also organizes and chaperones over 150 students on a trip to Washington, D.C. during Spring Break. This annual trip, which Baker initiated during his first year at Pershing, has long since become an institution. This year will mark his 20th student trip to our Nation's Capital.

Kevin Baker not only encourages his students, but also other teachers. His professionalism and expertise as a master educator in social studies is regarded highly by his community. Baker spends his summers planning and writing new Power Point presentations to complement the district's social studies curriculum, and his peers often ask him to share these presentations, as well as other classroom teaching techniques and tools, at district professional development meetings.

Kim Finch, the principal at Pershing Middle School, praises Kevin Baker as a bright, inquisitive and multi-talented teacher who enables his students to blossom academically. Finch also commends Baker as a positive role model for both students and staff, practicing daily in his own life what he teaches in the classroom.

Springfield and Pershing Middle School are lucky to call Kevin Baker one of their own. He is a valuable and cherished member of our community and nation.

TRIBUTE TO GEORGE GUYANTE, CITY MANAGER, CITY OF CORONA

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Corona, California are exceptional. Corona has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. George Guyante is one of these individuals. On Wednesday, April 1, 2004, he will be honored at a retirement reception.

George has called many places "home" during his life, having grown up in a military family. He followed in his father's footsteps and joined the Army and later attended Cal Poly San Luis Obispo. After receiving his degree in city and regional planning he obtained a job as a planning technician for the City of Corona in 1976.

In 1978, George started the city's Redevelopment Agency which later encompassed an economic development division as well. During his time he helped create Team Corona, a marketing and retention program designed to attract businesses and create jobs through the agency. Under his leadership Corona experienced and managed a period of high growth. The city grew from 27,000 to 140,000 during his tenure and continues to experience booming housing and commercial markets.

In May 2001, after serving as the interim city manager since November 2000, the City Council appointed George city manager after considering 44 other applicants. Under his guidance the city has worked to improve transportation, provide ample park areas for residents, provide affordable housing to low-income residents, and help the homeless.

George's tireless passion for community service has contributed immensely to the betterment of the community of Corona, California. He has been the heart and soul of many community projects and events and I am proud to call him a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he retires.

PAYING TRIBUTE TO DAVID McDONNALL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the life and memory of David McDonnall, an extraordinary American who was one of four Baptist missionaries killed in Iraq on March 15 by unknown assailants. His wife of less than one year, Carrie Taylor McDonnall, was also seriously wounded in the attack. While we mourn the loss of David and his fellow missionaries, I think it is appropriate to call the attention of this body of Congress and this nation the sacrifices David made for his country and the people of Iraq.

David grew up in Lamar, Colorado, and graduated from Lamar High School in 1993. Motivated by a desire to serve those in need and help rebuild the country, David and Carrie traveled to Iraq this last November, even though they knew there was a possibility they could be harmed. Their selfless efforts while in Iraq included distributing food, organizing relief projects, and renovating schools. When David and his group were attacked, they were searching for a suitable sight for a water purification project for the Iraqi people in Mosul.

Mr. Speaker, it is an honor to rise before this body of Congress and pay tribute to the life and memory of David McDonnall. His personal sacrifice is a testament to the love he had for his fellow man, and will not go in vain as others continue his noble work in Iraq. My thoughts are with his loved ones during this difficult time of bereavement.

PERSONAL EXPLANATION

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. OSE. Mr. Speaker, on Monday, March 29, 2004, I missed Rollcall votes 94 and 95. Had I been here, I would have voted "aye" on Rollcall 94; and "aye" on Rollcall 95.

INTRODUCING THE "AFGHAN WOMEN SECURITY AND FREEDOM ACT OF 2004"

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mrs. MALONEY. Mr. Speaker, today I, along with my colleagues Representative TOM DAVIS (R–VA) and Representative CORRINE BROWN (D–FL), introduce the "Afghan Women Security and Freedom Act of 2004" which would authorize $300 million each year from FY2005 through FY2007 for programs in Afghanistan that benefit women and girls. The funding would be directed toward legal assistance for women, enforcing provisions of the Afghan constitution pertaining to women's rights, encouraging the registration of women voters, and providing equipment to reduce infant and maternal mortality, among other provisions. This legislation was introduced earlier this year in the Senate by Senator BARBARA BOXER (D–CA).

Women's rights in Afghanistan have fluctuated greatly over the years. Women have bravely fought the forces of extremism at various points in the country's turbulent history. At one time, women were scientists and university professors. They led corporations and nonprofit organizations in local communities.

While the new Afghan constitution guarantees equality for Afghan women, throughout Afghanistan, women continue to face intimidation, discrimination, and violence. The United States has an obligation to ensure that women and girls have the opportunities that they were denied under the Taliban and that the gains that have been made are not lost in the coming months and years. It is imperative that we provide the support needed to ensure that the rights of women are protected in the new Afghanistan.

PAYING TRIBUTE TO THELMA STARNER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, it is my pleasure to rise today to honor Thelma Starner for her selfless dedication to the community of Delta, Colorado, and congratulate her on being recognized by the Delta City Chamber as their Humanitarian of the Year. The award is presented to an individual who has shown an outstanding commitment to the Delta community, and Thelma could not be a more worthy recipient. It is a privilege to pay tribute to Thelma for her well-deserved award, and her ongoing efforts to better her community today.

Thelma owned and operated Delta Sand & Gravel for twenty-five years. As an active member in her community, she dedicates her time to a vast array of civic functions. Thelma has served as president of the Delta Chamber, Western Colorado Community Foundation, and Altrusa International of Delta; and is current president of the hospital's board of directors and of the board of Tri-County Resource Center. Thelma also was a founding board member of West Central Housing Development Organization and Delta Area Development Inc. Her enthusiasm for taking part in these organizations comes from the joy she receives in giving back to the community she loves.

Mr. Speaker, it is my privilege to recognize Thelma before this body of Congress and this nation for the recognition she received by the Delta City Chamber as their Humanitarian of the Year. She has done much to improve her community, and I wish her all the best in her future endeavors.

INTRODUCING THE AMERICAN JUSTICE FOR AMERICAN CITIZENS ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. PAUL. Mr. Speaker, I rise to introduce the American Justice for American Citizens Act, which exercises Congress's Constitutional authority to regulate the federal judiciary to ensure that federal judges base their decisions solely on American Constitutional, statutory, and traditional common law. Federal judges increasing practice of "transjudicialism" makes this act necessary. Transjudicialism is a new legal theory that encourages judges to disregard American law, including the United States Constitution, and base their decisions on foreign law. For example, Supreme Court justices recently used international law to justify upholding race-based college admissions and overturning all state sodomy laws.

In an October 28, 2003 speech before the Southern Center for International Studies in Atlanta, Georgia, Justice O'Connor stated: "[i]n ruling that consensual homosexual activity in one's home is constitutionally protected, the Supreme Court relied in part on a series of decisions from the European Court of Human Rights. I suspect that with time, we will rely increasingly on international and foreign law in resolving what now appear to be domestic issues, as we both appreciate more fully the ways in which domestic issues have an international dimension, and recognize the rich resources available to us in the decisions of foreign courts."

This statement should send chills down the back of every supporter of Constitutional government. After all, the legal systems of many of the foreign countries that provide Justice O'Connor with "rich resources" for her decisions do not respect the same concepts of due process, federalism, and even the presumption of innocence that are fundamental to the American legal system. Thus, harmonizing American law with foreign law could undermine individual rights and limited, decentralized government.

There has also been speculation that transjudicialism could be used to conform American law to treaties, such as the UN Convention on the Rights of the Child, that the Senate has not ratified. Mr. Speaker, some of these treaties have not been ratified because of concerns regarding their effects on traditional American legal, political, and social institutions. Judges should not be allowed to implement what could be major changes in American society, short-circuit the democratic process, and usurp the Constitutional role of the Senate to approve treaties, by using unratifed treaties as the bases of their decisions.

All federal judges, including Supreme Court justices, take an oath to obey and uphold the Constitution. The Constitution was ordained and ratified by the people of the United States to provide a charter of governance in accord with fixed and enduring principles, not to empower federal judges to impose the transnational legal elites' latest theories on the American people.

Mr. Speaker, the drafters of the Constitution gave Congress the power to regulate the jurisdiction of federal courts precisely so we could intervene when the federal judiciary betrays its responsibility to uphold the Constitution and American law. Congress has a duty to use this power to ensure that judges base their decisions solely on American law.

Therefore, Mr. Speaker, I urge my colleagues to do their Constitutional duty to ensure that American citizens have American justice by cosponsoring the American Justice for American Citizens Act.

SENATOR BYRD CASTS HIS 17,000TH VOTE IN CONGRESS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. RAHALL. Mr. Speaker, on January 8, 1959, ROBERT C. BYRD, my friend and mentor, cast his first vote in the U.S. House of Representatives. Today, he cast his 17,000th vote in the U.S. Senate. I was with him on the Senate floor for this historic occasion.

This is a singular achievement. One that reveals not only the dedication of the Senior Senator from my home State of West Virginia, but also his willingness to put into action the words he so eloquently articulates on the floor on the U.S. Senate.

Though many will say, and I agree, that there is not a better speaker today than Senator BYRD, he is not a man of talk, he is a man of action, as this milestone indicates.

With each vote, Senator BYRD sets a new mark of public service achievement, but as Senator BYRD said himself, "It isn't necessarily the quantity of the votes that count. It is the quality of the vote."

And, if a Senator were to cast but a lone vote in a senatorial tenure as short as a moment, the words of ROBERT C. BYRD on the floor of the U.S. Senate will still ring out loudly, clearly, and forthrightly to generations with time, "(w)e are, at one and the same time, the sons of sires who sleep in calm assurance that we will not betray the trust that they confided to our hands; and the sires of sons who wait confident, in the beyond, that we will not cheat them of their birthright."

Indeed, we honor, cherish and learn from those generations before us and we must always live, work, and strive on behalf of those generations yet unborn.

I agree with Senator BYRD. It is the quality of the vote, and I would also add another. With Senator BYRD, it is the quality of the man.

With his steadfast service to the people of West Virginia, and his dogged defense of the U.S. Constitution, Senator BYRD's quality shines through like the brightest of beacons on the darkest of nights.

They say that records are made to be broken, but I believe this record will never be broken, just as nothing will ever break Senator BYRD's spirit and his love for his State.

Senator BYRD continues to be my mentor and most importantly my friend, and I would like to offer my heart felt congratulations to Senator BYRD for this remarkable achievement.

PAYING TRIBUTE TO CHRIS JOUFLAS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, it is a privilege to rise today and pay tribute to Chris Jouflas of Grand Junction, Colorado, for his dedication to his community, state, and nation. Chris has spent his life as a sheep rancher in the mountains and valleys of Colorado and Utah, and has done much to better his Colorado community.

Chris' father immigrated to the United States in 1907, and was one of the first Greek immigrants to arrive on the Western Slope. He started the family ranching business in 1910, and it soon grew to thousands of acres for ranching and grazing in Colorado and Utah. Soon after marrying his wife Connie in 1953, Chris took over the family ranching business and successfully guided it until 1992. The family still owns a 2000-acre ranch near Wolcott, Colorado, where Chris' oldest daughter and family live, and Chris stays actively involved with the ranching community.

For anyone who has skied the beautiful slopes in Vail, Colorado, they probably have Chris, and the Greek liqueur Ouzo, to thank in part. In the 1960s, and then again in the 1970s, Chris sold parts of his sheep herding land to Vail Associates in deals brokered by Chris's favorite bargaining tool, Ouzo. These legendary deals allowed for some of Vail's most well known runs to be created, and a ski run has since been named after the Greek liqueur.

Mr. Speaker, it is with a great deal of satisfaction that I rise and pay tribute to Chris Jouflas before this body of Congress and this nation today. It is clear that he has spent his life dedicated to the Colorado ranching community and the State of Colorado. It is my pleasure to honor Chris here today, and wish him the best in his future endeavors.

TRIBUTE TO CESAR CHAVEZ

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to pay tribute to Cesar Chavez, a man who bravely fought against labor injustices and paved the way for the many rights enjoyed by this nation's workers.

Mr. Chavez grew up on the fruit and vegetable fields and learned first hand the plight of labor workers and the terrible conditions they endured.

Chavez rose from those fields and became the head of the United Farm Workers of America. When the UFW began their strikes in the 1960's in protest of the treatment of farm workers, Chavez led the successful cause with support from unions, church groups and students.

After the strikes were over, Chavez maintained the fight to ensure greater minority rights by fighting for greater educational and political opportunities.

One cannot deny the great impact Chavez had on the millions of labor workers in this country. His bravery and determination proved that blue-collar workers are an invaluable part of the American economy.

MEDICAL MALPRACTICE RELIEF ACT OF 2004

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. SANDLIN. Mr. Speaker, the root causes of the crisis in our Nation's medical malpractice insurance system are numerous and complex. Unfortunately, while Congress debates the various approaches to reform, doctors, hospitals, and other healthcare providers face the harsh reality of skyrocketing premiums today.

Ensuring that Americans continue to have access to doctors of all specialties while Congress finds a comprehensive solution to this crisis is crucial. A temporary, but immediate malpractice premium tax credit would provide much-needed relief to healthcare providers who want to continue offering care, but are struggling to pay their malpractice premiums.

Therefore, Mr. Speaker, I am pleased to join today with 30 of my colleagues in introducing the Medical Malpractice Relief Act of 2004, which would allow doctors, hospitals and nursing homes to claim a tax credit for a percentage of the malpractice premiums they are paying and will pay during tax years 2004 and 2005.

Doctors who specialize in an area with increased risk of complications would be eligible for a tax credit equivalent to 20 percent of their total malpractice premium. The credit could be taken for premiums up to twice the average for a similarly situated doctor, i.e. same specialty and geographic area.

High-risk doctors include those in all surgical specialties and subspecialties, emergency medicine, obstetrics or anesthesiology; or who do interventional work that is reflected in their malpractice premiums.

Doctors who practice in lower risk specialties, such as general medicine, allergy, dermatology and pathology would be eligible for a tax credit equivalent to 10 percent of their total malpractice premium. The credit could be taken for premiums up to twice the average for a similarly situated doctor, i.e. same specialty and geographic area.

For-profit hospitals and nursing homes would be eligible for a tax credit equivalent to 15 percent of their total malpractice premium. The credit could be taken for premiums up to twice the average for a similarly situated hospital.

As many American hospitals and nursing homes are nonprofit institutions that do not pay taxes, this legislation would establish a 2-year grant program in the Health Resources Services Administration at the Department of Health and Human Services.

Nonprofit hospitals would be eligible for grants up to 15 percent of their malpractice premiums. The maximum allowable grant would be for premiums up to twice the average malpractice premium among similarly situated hospitals.

Mr. Speaker, medical providers across the country are facing a crisis, and they need our help now. Accordingly, I urge my colleagues in the People's House to act now to provide physicians, hospitals, and nursing homes the relief they need, so that they can turn their full attention to their genuine calling—caring for our Nation's health. I hope the House will take up this carefully targeted piece of legislation soon and provide our Nation's health care providers the relief they need.

RECOGNIZING RICHARD F. FURIA

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GERLACH. Mr. Speaker, I rise today to recognize Richard F. Furia, the 2004 Man of the Year of the Ivy Ridge Lodge 251, Grand Lodge of Pennsylvania, of the Order of Sons of Italy in America, for his dedication to the people of the greater Philadelphia area and for his work in the Italian-American community.

A resident of Lower Merion Township, Montgomery County, Rick Furia has practiced as an attorney in Southeastern Pennsylvania since 1971. He succeeded his father, the late U.S. Magistrate Edward W. Furia, Sr., into the profession and has served as a leader in many professional, fraternal and community organizations. Currently, he serves on the Philadelphia Bar Association's Board of Governors, Executive Board of Volunteers for the Indigent Program (VIP) and is Co-Chair of their Solo and Small Firm Committee. Rick is also a member of the Philadelphia Bar Foundation's Hamilton Circle, the charitable wing of the Association. He is an active member of the Philadelphia, Pennsylvania and American Trial Lawyers Associations and the American Bar Association. He is also a member of several other local organizations and institutions, including the Executive Board of the Lawyers Club of Philadelphia, the Pennsylvania Defense Institute, Russell Conwell Society of Temple University School of Law, the Amici Society—Center for Italian Studies of the University of Pennsylvania and the Opera Company of Philadelphia's Bravi Circle Advisory Board.

As a proud member of the Italian-American community, Mr. Furia has served on many committees and organizations to which he has so tirelessly volunteered time and support. He has not only played an active part in the rejuvenation of Ivy Ridge Lodge 251, but he has held national and state offices within the Order of Sons of Italy in America, including President of the Pennsylvania Commission for Social Justice (CSJ), the anti-defamation arm of the OSIA. The CSJ was founded to fight the stereotyping of Italian-Americans by the entertainment, advertising, and news industries. Rick is past Chancellor of the Justinian Society of Italian-American Lawyers and has served as a board member since 1984; and as board member of the Justinian Foundation since 1996. Additionally, with the Order of Sons of Italy in America, Rick served as National Orator, Chairman of the By-Law Committee, National Secretary for the Commission for Social Justice, and Ivy Ridge Orator for more than a decade. He is also a member of the National-Italian American Foundation, Counsel of 1000.

Richard Furia is an active member of the community in supporting the arts, education and culture. He is an active member of The Pennsylvania Society, Barnes Society of the Barnes Foundation, Free Library of Philadelphia, Pennsylvania Horticultural Society, Philadelphia Museum of Art, and the Union League. He was honored with the Millay Club Alumni Achiever Award from the Southeast Catholic/Bishop Neumann/Saint John Neumann High School Alumni Association in 2000.

Mr. Speaker, I ask my colleagues to join me today in recognizing Richard F. Furia for all his years of exemplary service to the Order of Sons of Italy in America, his community and the Commonwealth of Pennsylvania.

TRIBUTE TO WILLIAM "TOM" WISEMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise today to pay tribute to the life of William Thomas "Tom" Wiseman of Ignacio, Colorado; an extraordinary American who recently passed away at the age of seventy-three. Tom was an active member of the Ignacio community as the owner of Wiseman Hardware and Lumber Company, and was involved in numerous community organizations.

Tom graduated from Durango High School in 1948, and subsequently from Denver University in 1952. Upon returning to Ignacio, he joined his father at Wiseman Hardware and Lumber Company. In 1968, Tom purchased the hardware business from his father, which he operated until his retirement in 1992.

Tom generously gave his time and energy to his community, serving on the Ignacio Town Board, the Ignacio School Improvement Committee, and the Presbyterian Church Session. In addition, he was active with the La Plata County Republican Party, worked with the Ignacio Community Historical Society, and was a member of the Durango Masonic Lodge. Above all Tom loved spending time with his devoted family, including his wife Paula, whom he leaves behind.

Mr. Speaker, it is an honor to rise before this body of Congress and pay tribute to the life and memory of William Thomas Wiseman. He dedicated his life to his family and toward the betterment of his Ignacio community. My thoughts are with his loved ones during this difficult time of bereavement.

CELEBRATING CESAR CHAVEZ'S BIRTHDAY: A CHAMPION FOR WORKERS RIGHTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. RANGEL. Mr. Speaker, I rise today to celebrate Cesar Chavez's birthday. I would like to ask the members of the House to join in paying respect to a man who brought awareness of labor injustices perpetrated upon migrant workers to national light. Cesar Chavez worked tirelessly to improve the lives of America's farm workers by securing their rights to recognize and bargain collectively for fair working conditions. Chavez grew up in the fruit and vegetable fields and knew what it meant to work them from dawn to dusk. He knew the injustices that faced labor workers on a daily basis, and knew there had to be a change.

From those fields, Chavez rose to the head of the United Farm Workers of America, UFW, instilling in the UFW the principals of non-violence practiced by Gandhi and Dr. Martin Luther King, Jr. When the UFW began striking in the 1960s, to protest the treatment of farm workers, the strikers took a pledge of non-violence, determined not to detract from the message of improved labor conditions. Chavez led a successful 5-year strike-boycott. Through this boycott, Chavez was able to forge a national support coalition of unions, church groups, students, minorities, and consumers. By the end of the boycott everyone knew the chant that unified all groups, "Sí se puede!"—yes we can. It was a chant of encouragement, pride and dignity.

Throughout his lifetime Mr. Chavez continued to speak out and helped communities to mobilize by assisting them with voter registration drives and insisting that minority communities had just as much a right to have equitable access to educational opportunities.

My constituents of the 15th Congressional District join millions of Americans in celebrating and recognizing Chavez's legacy on today his 70th birthday. This celebration should not be limited to today, it should continue and we, as members of Congress should ensure that in today's world, the rights of workers are still protected.

CARL LAMM, DISTINGUISHED NORTH CAROLINIAN

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. ETHERIDGE. Mr. Speaker, Carl Edward Lamm—a legendary pioneer in radio broadcasting will be honored on April 20 at the 2004 Distinguished Citizen Banquet of the Johnston Community College Foundation. Lamm is president and general manager of Radio Station WMPM in Smithfield, North Carolina.

Lamm, now in his 56th consecutive year as a full-time broadcaster, is sometimes referred to as the "Voice of Eastern Carolina." His many awards have included induction into the North Carolina Broadcasters Hall of Fame and the awarding of the Order of the Long Leaf Pine, North Carolina's top citizen award, by Governor James B. Hunt. He is one of the finest examples of North Carolina values in action.

Lamm, born in Spring Hope, North Carolina, dreamed early on of a career in radio. As a 17-year-old, he did his first broadcasting on Radio Station WEED in Rocky Mount, North Carolina, took time out to join the Navy for World War II service, and returned in 1946 to finish high school. He then enrolled in the National Academy of Broadcasting in Washington, DC to pursue his dream of becoming a broadcaster. Within a year, he was hired at Radio Station WCEC in Rocky Mount. He followed that with a position at WCKB in Dunn, North Carolina. In 1958, he became a co-owner of and full-time broadcaster for WMPM in Smithfield, a career that continues to this day.

It has been a labor of love for his adopted community. A national expert on country music, Lamm has one of the most extensive collections of historic country music in the United States. His station is considered a leader in the presentation of old time country music, bluegrass, and southern gospel music. During his long career, he also emceed a program for Radio Station WSM in Nashville, TN, interviewing Hank Snow, a member of the County Music Hall of Fame.

On his Smithfield station, Lamm's interests have ranged far and wide. He was the 1971 Sportscaster of the Year for the Raleigh Hot Stove League. For 25 years, he hosted a program about North Carolina lawmakers, "Legislative Report to the People." He covered the Smithfield tobacco market for 54 years and from 1993 to 2000 was the sales supervisor of the market. Lamm has interviewed more than 500 major league baseball players and country music entertainers. Those interviews include Ted Williams, Joe DiMaggio, Yogi Berra, Casey Stengel, Mickey Mantle, and Whitey Ford. Interviews with entertainers have included Hank Williams, Red Foley, Ernest Tubb, Roy Acuff, and Kitty Wells.

Lamm, is a former president of the Smithfield Rotary Club. He initiated the annual "Rotary Radio Day" in 1971 that continues to this day. That event, it is estimated, has raised more than $100,000 for the Smithfield Rotary Club's community projects. The club honored him with one of its first Paul Harris Fellowship Awards. In 2003, the club established the Carl and Margie Lamm Scholarship, which will be awarded annually to a graduating senior at Smithfield-Selma High School.

Lamm was the first to broadcast the death of legendary Johnson County movie star, Ava Gardner, and was the natural voice to emcee the opening of the Ava Gardner Museum when it opened its new quarters in October, 2000.

Lamm taught a Sunday School Class at Beulah Baptist Church in Four Oaks for 48 consecutive years and now occasionally teaches the Evander Simpson Sunday School Class at First Baptist Church in Smithfield where he and his family are members.

Truly, Carl Lamm has been a unique man in a unique time in Johnson County. Through the radio, he has recorded the county's comings and goings, the births and deaths, the struggles and the triumphs, and the dreams of tomorrow.

CONGRATULATIONS TO THE PEOPLE OF TAIWAN

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. HINCHEY. Mr. Speaker, with 80.2% of voters participating in Taiwan's recent Presidential election, I congratulate the country's 23 million citizens for once again demonstrating the strength and vibrancy of their democracy.

The very close margin of victory calls for a recount, and impassioned protests are not unfamiliar to voters in our own country who experienced the aftermath of the 2000 Presidential election. We know that protection of free expression and other personal freedoms are signs of a healthy democracy.

As Taiwan's democratic society has grown strong, its citizens have prospered. The transformation of Taiwan from an impoverished backwater into an industrial powerhouse, and from a one party dictatorship into a multiparty democracy is among the most impressive economic and political accomplishments of our time.

I send my congratulations to the people of Taiwan on the completion of their third direct presidential election.

HONORING THE MEMORY OF MRS. FANNIE BELLE CALLAHAN

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BONNER. Mr. Speaker, Mobile County, Alabama, and indeed the entire First Congressional District recently lost a dear friend, and I rise today to honor her and pay tribute to her memory.

Fannie Belle Callahan was a devoted mother, grandmother, and friend to the Mobile community throughout her entire life. At the time of her passing on March 15, 2004, she had devoted 94 years to the care of her children, her family, and her city.

Raised with her three siblings in the small community of Crichton, Alabama, Mrs. Callahan was required at an early age to go to work to help support her family following the death of her father. By the age of 17, she had already worked as a telephone operator, a cashier at Mobile's Saenger Theater, and a night clerk at the Battle House Hotel. Following her marriage to Herbert Callahan, she moved to East St. Louis, Illinois, but returned to Mobile three years later when he obtained a job with the GM&O Railroad.

Widowed at the time of her husband's death in 1950, Mrs. Callahan was once again required to go to work to support her large family of nine children. Although she retired in 1965 after many years of employment with the Mobile District Office of the U.S. Army Corps of Engineers, she was not one to sit idly by and watch life go on in the world around her. She became actively involved in the political campaigns of her sons Sonny and George, and following Sonny's election to the U.S. House of Representatives in 1984 volunteered her time as the receptionist in his Mobile district office. Mrs. Callahan quickly became the center of her son's office "family," and for the remainder of her life was always referred to affectionately as "Mom Callahan."

Throughout her 94 years, Fannie Belle Callahan taught many valuable lessons to her family and friends, and everyone who came in contact with her took away very fond memories of a charming southern lady who could make anyone to whom she was speaking feel they were the most important person at that time. In an article which appeared in the Mobile Register in 2000, Mrs. Callahan reflected on her long and rewarding life and spoke about how her years of hard work were rewarded with the successes her children enjoyed.

Many of her children were also interviewed and offered their perspectives on the lessons they had learned from the matriarch of a family made up of 94 men, women, and children. Perhaps her son, former Rep. Sonny Callahan, best summed up her long life and what she passed on to her children when he said, "She taught us responsibility. With nine kids, there had to be some degree of responsibility. She taught us to respect people and work hard."

Mr. Speaker, I ask my colleagues to join me in remembering a lovely woman who deeply loved, encouraged, and respected her many family and friends and the entire Mobile community. "Mom Callahan" will be deeply missed by her family—her sons, Sonny Callahan, George Callahan, Charles Callahan, and Terrance Callahan; her daughters, Patsy Dempster, Madeline Martin, Margaret Ann Athey, Mary Jane Emick, and Rose Callahan; and her 32 grandchildren, 56 great-grandchildren, and 13 great-great-grandchildren—as well as the countless friends she leaves behind. Our thoughts and prayers are with them all at this difficult time.

A RESOLUTION OF THE HOUSE TO REQUIRE A SIMPLIFICATION TITLE IN ANY TAX MEASURE

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. HOUGHTON. Mr. Speaker, today I am introducing a resolution to amend the rules of the House regarding legislative measures changing our tax laws. The proposed change would prevent the consideration of any tax measure unless it contained a title simplifying the Internal Revenue Code of 1986.

We are at a state where, I believe, tax simplification should be a top priority of our legislative efforts. In a word, the Code is a mess. The current size amounts to an incredible 9,490 pages. The Code has become too complex. Over the years it has become a destination for provisions that may be admirable, but should belong elsewhere. The inclusion of these provisions in the Code puts an extra burden on the Internal Revenue Service—one that it may not be particularly adept at handling. Many tax provisions simply are mind-numbing in their detail and burdensome in their compliance requirements. It is not a simple task, for more than a few citizens do their own returns. The tax preparation service has ballooned. Many are either disinclined or unable to deal with the tax process.

As you know, I'm not a tax lawyer. I'm merely an old glass man from Corning, New York. In talking to a member of the Ways and Means tax staff on April 15th several years ago, he told me he had just dropped his tax return in the mail, and was clearly sweating bullets. "I just hope I got it right," he said. Strange. Here was a bright young tax lawyer—a government employee with what I would have guessed was a fairly straightforward tax return: deductions for mortgage interest, charitable contributions, and student loan interest. Even so, he was worried whether he had filled out his return correctly. My reaction at the time was: "If he's nervous, what about the rest of us?"

Until we overhaul the system in a major way, whether that be a flat tax, VAT or some other approach, we should make it a priority to attack the present Code, reduce the complexity, and make it simpler for as many citizens as possible.

In recent years, I have introduced several tax simplification proposals (the current bill is H.R. 22) covering a variety of areas. We are currently reviewing those proposals to refine them, and then will reintroduce some of the proposals as stand-alone bills to focus better on the specific issues.

So, Mr. Speaker, in order to call attention to the simplification issue, the resolution I am introducing, as stated above, would require that tax legislation include a tax title in any tax measure for it to be considered by the House. The purpose is to focus attention on simplification each and every time we consider a tax measure, with the result that we accomplish some measure of simplification to the Internal Revenue Code.

I urge your support of this measure. It cannot hurt. It may just help in ways we are unable now to contemplate.

BRING CHARLES TAYLOR BEFORE THE SPECIAL COURT IN SIERRA LEONE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. WOLF. Mr. Speaker, I want to share with our colleagues a letter to Secretary of State Colin Powell that 28 members of Congress have signed asking that the United States act swiftly to ensure that Charles Taylor, former president of Liberia and now a fugitive from justice, is held accountable for his heinous crimes and brought before the Special Court for Sierra Leone. There should be no safe harbor for tyrants like Charles Taylor.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 1, 2004.

Hon. COLIN POWELL,
Secretary of State,
Washington DC.

DEAR SECRETARY POWELL: We are writing to express deep concern that Charles Taylor, former president of Liberia and now a fugitive from justice, has not been brought before the Special Court for Sierra Leone. Charles Taylor faces 17 counts of war crimes, crimes against humanity, and violations of international humanitarian law. Charles Taylor's time is up. We are asking that you make a concerted effort to see that he is brought before the Special Court.

The despotic rule of Charles Taylor in Sierra Leone, while president of Liberia, represents his tyrannical influence in fueling Sierra Leone's ten-year civil war. He is accused of providing financial support, military training, and other support and encouragement to the Revolutionary United Front (RUF) to destabilize Sierra Leone in order to gain access to her diamond wealth.

Charles Taylor also organized and ordered widespread and systematic attacks to terrorize the civilian population in Sierra Leone. Disturbing examples include abductions, sexual slavery of women, and children, large scale physical violence and unlawful killings, notably hacking off of limbs, facial and bodily mutilations, body carvings, gang rapes, and hacking and burning to death those whom he felt did not sufficiently support the RUF.

As you know, the three-year mandate of the Special Court for Sierra Leone expires June 30, 2005. Since its inception, the Special Court has been collecting and analyzing evidence against Charles Taylor. Just last week, the Special Court courthouse officially opened its doors.

Time is of the essence. Charles Taylor needs to be brought to justice before the three-year mandate expires. It is intolerable that Charles Taylor is living with impunity in the lap of luxury in Nigeria, with just about anything he needs at his disposal, including a cell phone. There is growing evidence that Charles Taylor continues to meddle in the political affairs of Liberia. He has expressed a desire to return to Liberia. We must not be blind to the fact that he has not lost his thirst for the political power he once had before his exile.

We have no doubt that you find Charles Taylor's brutal cycle of violence as abhorrent as we do. We urge you to act swiftly to ensure that Charles Taylor is held accountable for his actions. There should be no safe harbor for tyrants like Charles Taylor. We must act now.

Sincerely,

Frank R. Wolf; Edward R. Royce; Joe Baca; Howard L. Berman; Robert A. Brady; John A. Culberson; Peter A. DeFazio; Jim DeMint; Vernon J. Ehlers; Lane Evans; Sam Farr; Trent Franks; Virgil H. Goode, Jr.; Michael M. Honda.

Patrick J. Kennedy; James R. Langevin; James P. McGovern; Bobby L. Rush; John Shimkus; Christopher H. Smith; Vic Snyder; Thomas G. Tancredo; Ellen O. Tauscher; Patrick J. Tiberi; James T. Walsh; Jerry Weller; Curt Weldon; Albert R. Wynn.

TRIBUTE TO VELMA M. WEBBER BOUCHARD ON HER INDUCTION INTO THE UPPER PENINSULA LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. STUPAK. Mr. Speaker, I rise today to celebrate the achievements of Velma M. Webber Bouchard, who will be honored for her service to the cause of American working men and women with induction into the Upper Peninsula Labor Hall of Fame at a ceremony in Marquette, Michigan on April 17th.

Velma, who grew up in Luce County, began her outstanding service to workers of the U.P. and the Democratic Party in 1975. That was the year when she started her job at the

Newberry Board of Water and Light and joined Local 2530, Council 55 (now Council 25) of the American Federation of State, County and Municipal Employees (AFSCME).

Her service in AFSCME includes a long list of leadership positions. She served as Local President for two years; Secretary-Treasurer for four years; Recording Secretary for three years; Delegate to the Eastern U.P. Central Labor Council, AFL–CIO for seven years and Vice-Chair of the U.P. AFSCME Political Action Committee.

Velma also traveled extensively through the region teaching Labor History and representation skills to AFSCME members. She served her local union in AFSCME Council level governance functions, periodically serving as a delegate from her local to the Council 55, 11 and 25 Annual Conventions, as well as being a delegate to the Michigan State AFL–CIO Conventions.

As a trade union leader, Velma spent time working to make her union even more effective by serving on the U.P. AFSCME Community Services Committee and by serving on the Union Women/Minorities Leadership Training Program Board during the 1980s.

Beyond her union, Velma's involvement in political activities is also a reflection of her nonstop efforts to protect and represent Michigan workers. Since 1988, she has served as Chair of the Luce County Democratic Party and served as its Vice-Chair before then. Velma has also been an Officer-At-Large of the Michigan Democratic Party for four years; was elected as a delegate to the Democratic National Convention in 1992; and has served as an alternate delegate to the Michigan Democratic State Central Committee. During the Blanchard Administration, Governor Blanchard called upon Velma to take several appointments, including the Controlled Substance Advisory Committee and the International Trade Board.

Despite all of the time devoted to organized labor and politics, Velma still found time for civic duty. She is a lifetime member of American Legion Auxiliary Unit 74, serving as its President and District President. She has served as a member of the Michigan Selective Service Board No. 17 since 1985.

Velma retired from the Newberry Board of Water and Light in 1993 after 18 years. We cannot thank her enough for her endless energy and dedication fighting for the rights of Michigan workers.

I also want to acknowledge Joe King, Velma's good friend of many years.

Mr. Speaker, I ask you and my House colleagues to join me in acknowledging Velma Webber Bouchard's lifetime of contributions to organized labor and her community, and in celebrating the accomplishments that have earned her the distinction of becoming an honored member of the Upper Peninsula Labor Hall of Fame.

THANKING JAMES JOYCE OF CHICAGO

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to thank outgoing Chicago Fire Commissioner James Joyce for his 39 years of noble service to the department and to wish him well in his retirement.

Commissioner Joyce enjoyed a remarkable rise through the ranks of the Chicago Fire Department before being appointed to the top post by Mayor Richard M. Daley in 1999. During his more than four years as commissioner, Commissioner Joyce spearheaded important changes to the department, including building new firehouses, replacing and updating firehouse equipment, and improving coordination with suburban fire departments. His tenure as Commissioner was also noteworthy for the respect he garnered from rank and file firefighters throughout the department.

His steady leadership also was apparent after the Sept. 11 attacks, when Commissioner Joyce committed the department to aiding disaster prevention efforts and oversaw changes in policies and procedures to protect the people of Chicago.

Commissioner Joyce was born in 1942 and was educated at Chicago State University. He received his master's degree in public administration from Governor's State University.

Commissioner Joyce began his career within the Chicago Fire Department as a firefighter assigned to Truck 4 in Chinatown in 1965. After serving as engineer, lieutenant and captain he was promoted to battalion chief in 1979. Later his administrative posts included District Chief and Deputy Fire Commissioner.

The Joyce family's commitment to firefighting and to protecting the lives of Chicago's citizens began long before the Commissioner joined the force. Commissioner Joyce is a third-generation Chicago firefighter, whose maternal grandfather, father and brother all served. His grandfather gave the ultimate sacrifice, dying as a result of battling a 1934 blaze at the old Chicago Stockyards.

Commissioner Joyce and his wife Janet reside in St. John Fisher Parish on Chicago's South Side and are the parents of four children. I wish Commissioner Joyce the best as he begins his well-deserved retirement

Mr. Speaker, I join in all of Chicago in thanking James Joyce for his long record of achievement in serving our city. His dedication and passion will be missed.

TRIBUTE TO TOM CATLETT

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BERRY. Mr. Speaker, our county courts are a key component of the example America sets for the rest of the world; but it is only as admirable as the men and women who serve within it. I am honored to rise today to pay tribute to a proud servant of the Monroe County Court, Tom Catlett, for the positive mark he has left on Monroe County and the courthouse he has dedicated his life to serving.

Mr. Catlett has served Monroe County for nearly 40 years, making him the longest serving county judge in Arkansas. Unfortunately for us, he has recently announced his intent to retire at the end of this year. This will end a journey which began on July 26, 1966 when Judge Catlett won the Democratic primary and was sworn in later the same year—he was 40 years old.

Since then, Judge Catlett has served 19 terms as county judge and has always called Monroe County home. He has shown the courthouse unmatched respect, specifically through a major renovation which raised the standard for beautifying county courthouses in Arkansas and across this country. It cannot be debated: Tom Catlett was a citizen who worked tirelessly for the growth and prosperity of Monroe County.

Perhaps his service is best summarized by a statement he recently made when he announced his retirement, "I am sure that when I look back on my life, I will see the last 38 years as the happiest times of all." Judge Catlett is a man who took pride in his work and is honored to be in a position to help his county excel. Judge Catlett's thirst for improving his community remains unquenched and I expect even after his retirement this year, the name Tom Catlett will permeate the accomplishments of Monroe County for years to come.

On behalf of the Congress, I extend the utmost respect and deference for a man befitting such titles as county judge, community leader and example to us all. Tom Catlett is a roll model and I am honored to recognize him in this Congress.

IN RECOGNITION OF THE COMMUNITY OF STOCKTON, MISSOURI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SKELTON. Mr. Speaker, let me take this means to recognize the citizens of Stockton, Missouri, for their efforts in recovering from a tragedy. On the evening of Sunday, May 4, 2003, this small Missouri community was struck by a powerful tornado. It has taken months to restore what took minutes to destroy, but this community has shown strength and resolve in the face of great challenges.

The utter destruction visited upon Stockton is difficult to grasp unless seen. It is measured in terms of what is no longer there. The absence of businesses, homes, churches, even 100 year-old trees, act as a daily reminder of what happened. The Stockton town square was particularly hard hit. Like most town squares in small communities throughout Missouri, Stockton's was an important center of economic activity. Most of the buildings leveled in the downtown area were businesses. The local business owners took it upon themselves to form the Downtown Business District Committee. This committee, open to all business-owners, created a means of mutual support and a forum for discussion of common problems and issues. One important task was to set up guidelines for reconstruction of the town square. The first building on the square to reopen was the pharmacy of Ray Zumwalt. The rebuilding of the pharmacy, along with all of the other buildings in Stockton, did not happen overnight. It was a gradual process. But as bricks were laid and roofs repaired, the mending of the spirit of this town could be seen, not just in the buildings, but in the people as well. The return of hope to a community that has lost so much is a very important thing.

Today, the community of Stockton is busy preparing for a four-day event commemorating the one-year anniversary of the tornado. This event will serve as a reminder of that day, and as a celebration of all that has been accomplished in such a short period of time. Some questioned whether the town could survive. With this city-wide event, scheduled to take place May 1 through May 4, the people of Stockton will answer with a resounding "yes".

The following individuals deserve special recognition for their efforts to help the people of Stockton: Jerry Uhlmann, Charles May, Gayla Weber, Dick Hainje, Dennis Moffett, Dan Best, Brad Gair, Jonathan Hoyes, Fred May, Jeff Wall, Peggy Kenney, R. Bruce Martin, Kristi Perrin, Richard Barnes, Sheila Johnson, Cynthia Davies and Gale Roberts. These individuals from the Federal Emergency Management Agency, the State Emergency Management Agency and the Department of Natural Resources provided direction and support in the community's efforts to rebuild.

Mr. Speaker, there are days such as the May 4, 2003, when we are reminded of the awesome and unforgiving power of nature. In minutes, lives, families, and whole communities can be uprooted. The people of Stockton made the decision to rebuild, not retreat. It takes strength and courage to face the challenges posed by such a disaster. They have faced this time of trying with such great resolve, have overcome setbacks with such perseverance, they serve as an example to us all of what can be accomplished when the people of a community based on strong traditions of support, compassion, and dedication come together to help their neighbors. Stockton has a lesson to teach us all: the values of family, community, and helping those in need are still alive and well in this country. I am sure my fellow Members will join me in honoring the citizens of this outstanding community and thanking those who have done so much to help.

COMMENDING MIKE PACINI

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I rise today to honor Mike Pacini. Mike Pacini is currently a Boulder City Council Member and has sat on the council since 1997, when he was the youngest candidate elected to that position. In 2003 Mike Pacini was elected President of the Nevada League of Cities and received the Honor of Nevada's 2003–2004 Public Official of the Year. I urge the House to join with me in congratulating him on his recent honors.

CONGRATULATING PETTY OFFICER THIRD CLASS DAVID L. BROWN, UNITED STATES NAVY, ON THE OCCASION OF HIS RECEIPT OF THE PURPLE HEART

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to pay tribute to Petty Officer Third Class David L. Brown, former member of the United States Navy, on the occasion of his receipt of the Purple Heart.

This recognition—long overdue—was made last week as the result of injuries Petty Officer Brown received during the Vietnam Conflict in 1968.

On January 3, 1968, Petty Officer Brown, who served as an equipment operator in country for a total of 13 months, and his unit were involved in action with enemy combatants near Hue City during the Tet Offensive. During the engagement, a lieutenant positioned nearby was wounded by enemy fire. Petty Officer Brown rushed to his aid and while trying to drag this officer out of the line of fire to safety, he was hit in his hands by an enemy mortar round. He immediately received aid from a corpsman, but he and his unit continued to be pinned down by enemy fire for eight days. Petty Officer Brown was eventually evacuated from Hue City and continued his naval service, serving for a period of ten months aboard the *USS Ranger*.

Following his return to the United States, he served as a ship superintendent at Northrop Grumman Ship Systems' Ingalls Operation in Pascagoula, Mississippi, until his retirement. However, he never received the recognition he was due as a result of heroic services rendered during the Tet Offensive.

In an effort to determine his eligibility for the Purple Heart and other medals and decorations associated with the injuries he sustained in Hue City, Petty Officer Brown contacted my predecessor, former Congressman Sonny Callahan, and requested his assistance in contacting the appropriate officials on his behalf.

Over the next two years, Mrs. Kay Williams, a member of Congressman Callahan's district staff and now a member of my district staff, worked diligently with officials with the National Personnel Records Center, the Department of the Navy, and the National Archives and Records Administration on this issue.

Without question, Mrs. Williams tirelessly pursued every possible avenue in an attempt to secure this recognition for Petty Officer Brown, and in recent weeks was able to contact Mr. Glenn Morichika. Mr. Morichika, a resident of Honolulu, Hawaii, is the only surviving witness to the events of January 3, 1968. Thankfully, Mr. Morichika was able to provide an eyewitness testimony as to Petty Officer Brown's actions.

As a result of this testimony, and the tremendous efforts of Mrs. Williams, Petty Officer Brown was finally awarded the Purple Heart, the Combat Action Ribbon, and the Meritorious Unit Commendation. This recognition, while long overdue, is certainly well-deserved and is a testament to the dedication to duty and concern for his fellow troops that marked Petty Officer Brown's exemplary service in the United States Navy.

Mr. Speaker, sadly far too many veterans returned home from Vietnam without the recognition they were due. Unfortunately, in Petty Officer Brown's case, he not only demonstrated his willingness to fight for his country, but he returned home only to fight the bureaucracy of his country to get that to which he was always entitled. This is a sad but often-repeated story that thousands of veterans know all-too-well.

Fortunately, in this particular instance, there was a happy ending to this story. Therefore, today, I ask my colleagues on both sides of the aisle to join with me in recognizing David L. Brown for this accomplishment and for his many years of devoted service to his country. I know I join with his many family and friends in congratulating him on this achievement and in extending our heartfelt thanks for his outstanding service to the United States of America.

INTRODUCTION OF TAX SIMPLIFICATION LEGISLATIVE PROPOSALS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. HOUGHTON. Mr. Speaker, today I am introducing a package of nine separate proposals on tax simplification. Also, today I introduced a resolution of the House to require a simplification title in any tax measure under consideration.

As we approach the deadline of April 15, taxpayers once again come face-to-face with the task of voluntarily—and I emphasize voluntarily—complying with filing their individual tax returns. If our system becomes too complex for the ordinary citizen, then noncompliance will no doubt accelerate. Many Members, and taxpayers, believe that Congress will overhaul the entire system. I'm all for overhauling the tax system, but it will be a long process. In the meantime, I believe the ongoing simplification of the tax system should be a top priority of Congress.

This package of simplification bills highlights some of the areas of the Internal Revenue Code that cry out for change in order to reduce complexity and make our citizens' task of voluntarily complying with our tax laws a less daunting challenge. Some have a cost attached, such as the AMT repeal, while others are revenue neutral. The proposals are as follows:

Alternative Minimum Tax Repeal Act of 2004. The repeal of AMT for individuals is at the top of about everybody's list of must-do tax legislation. However, the revenue lost is substantial. The bill would substantially slow the growth in the number of taxpayers subject to AMT over the next 10 years, by adjusting the AMT exemption, and finally repealing the provision effective after 2013.

Child Definition Simplification Act of 2004. The proposal would address a challenging problem that faces taxpayers every year—the multiple definitions of a qualifying child for different tax purposes. The proposal would provide a uniform definition of a child based on residence, relationship and age of the child.

Filing Status Simplification Act of 2004. The Head of Household filing status has long been a leading source of taxpayer confusion and mistakes during the filing season. To address this problem, the proposal would change "Head of Household" to "Single Parent or Guardian" filing status, a term that is less likely to cause a mistake in filing status.

Home Mortgage Tax Simplification Act of 2004. Under the proposal, points paid on a home mortgaging refinancing would be fully deductible in the year in which the expense is incurred. The current law generally requires that the refinancing points be amortized over the stated life of the loan.

Taxation of Minor Children Simplification Act of 2004. The proposal would eliminate the current restrictions on adding a minor child's income to the parent's return. A parent could freely elect to include the income of a child under 14 on his or her own tax return. This does not change the ability of the child to file a separate return, if that is preferable.

Education Tax Credit Simplification Act of 2004. The proposal would merge the HOPE and Lifetime Learning Credits, which serve nearly identical purposes but have different rules. The proposal would provide a credit for one-half of the first $3,000 of post-secondary education expenses. The credit would apply on a per-child basis and would not be limited to the first two years of post-secondary education.

Small Business Tax Modernization Act of 2004. The proposal would combine the benefits of Subchapter S (S corporations) and Subchapter K (Partnerships) of the Internal Revenue Code in a single, unified passthrough entity regime based on Subchapter K. There are presently two separate, fully-articulated passthrough entity regimes—an expensive and unnecessarily complicated system. The goal of the legislation is to establish a single passthrough entity regime that preserves the major benefits of Subchapters S and K.

Personal Holding Company Tax Repeal Act of 2004. The proposal would repeal the Personal Holding Company tax, which is outdated and has been eclipsed by subsequent changes to the tax code.

Small Business Law Tax Conformity Act of 2004. The proposal would make technical changes necessary to update the Internal Revenue Code to take into account changes that have occurred in state business law. The proposal would define earnings from selfemployment to exclude the portion of a partner's distributive share that is attributable to capital.

If these simplification proposals—which affect millions of taxpayers—are enacted this year, filing tax returns next year will be simpler and less time consuming. I urge my colleagues to support these provisions.

STOP THE KILLING IN SUDAN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. WOLF. Mr. Speaker, Raphaél Lemkin in his book Axis Rule in Occupied Europe coined the word "genocide." Greek word "genos" (race), Latin word "cide" (killing). Genocide means "the deliberate and systematic destruction of a racial, political, or cultural group."

It has been said the way we behave is really an indicator of what we truly believe, and belief drives behavior. It will be 59 years this April that Dietrich Bonhoeffer was marched from his prison cell at the Flossenburg concentration camp in Germany and was hung. Bonhoeffer was a Protestant minister who opposed Hitler. He refused to keep silent about the discrimination and persecution of Jews. He spoke out repeatedly and fearlessly until the Nazis executed him.

"Never again"—words that were uttered, beliefs that were expressed by many in the West after the full-scale horror of the Holocaust became known. And yet, genocide has happened again and again this century, while world leaders and governments have been slow or hesitant to respond.

This is the theme of the excellent book on genocide in the 20th century—A Problem from Hell, by Harvard University instructor Samantha Power. More than ever, Ms. Power's book reminds all of us, especially those in public service, of the unique power and responsibility of our voice in confronting evil and our moral responsibility to speak out.

Is genocide happening again? As the world waits and watches, the people of the Darfur region in Sudan are being wiped out. This crisis began in February 2003 when two rebel groups in Darfur state began to fight government security forces. In early February 2004, the government launched a major military offensive against the rebel forces. The result has been brutal attacks by ground and air forces against innocent civilians and undefended villages. Thousands have been killed. Millions more remain beyond the reach of aid.

The United Nations resident coordinator to Sudan recently described the situation in Darfur as the world's greatest humanitarian crisis and possibly its greatest humanitarian catastrophe. Richard S. Williamson, the U.S. representative to the Commission on Human Rights, said on March 25: "the U.S. views with grave concern the deepening crisis in the Darfur region of western Sudan. A lack of civil order and the refusal of local as well as national authorities to permit unrestricted access for humanitarian workers have put as many as one million people at imminent risk of life and livelihood."

Below is the text of H. Con. Res. 403, a sense of Congress resolution I introduced April 1, condemning the Government of the Republic of the Sudan for its reported involvement in the attacks against innocent civilians and calls on the president to direct the United States representative to the United Nations to seek an official investigation by the UN to determine if crimes against humanity have been committed. I fear it is happening again and it is only going to get worse.

I urge the House to pass this resolution and go on the record to speak out against what is happening in Darfur.

HOUSE CONCURRENT RESOLUTION 403

Whereas, since early 2003 a conflict between forces of the Government of the Republic of the Sudan and rebel forces in the impoverished Darfur region of western Sudan has resulted in attacks by Sudanese Government ground and air forces against innocent civilians and undefended villages in the region;

Whereas, Sudanese Government forces have also engaged in the use of rape as a weapon of war, the abduction of children, the destruction of food and water sources, and the deliberate and systematic manipulation and denial of humanitarian assistance for the people of the Darfur region;

Whereas, United Nations officials and nongovernmental organizations have indicated that the humanitarian situation in the Darfur region is extremely urgent, particularly in light of restrictions by the Government of Sudan on the delivery of humanitarian assistance for the people of the region;

Whereas, on December 18, 2003, United Nations Undersecretary General for Humanitarian Affairs, Jan Egeland, declared that the Darfur region was probably "the world's worst humanitarian catastrophe";

Whereas, on February 17, 2004, Amnesty International reported that the organization "continues to receive details of horrifying attacks against civilians in villages by government warplanes, soldiers and pro-government militia";

Whereas, on February 18, 2004, United Nations Special Envoy for Humanitarian Affairs in Sudan, Tom Eric Vraalsen, declared following a trip to the Darfur region that "aid workers are unable to reach the vast majority [of the displaced]";

Whereas, Doctors Without Borders, the Nobel Peace Prizewinning medical humanitarian relief organization and one of the few aid groups on the ground in the Darfur region, reported that the region is the scene of "catastrophic mortality rates"; and

Whereas, nearly 3,000,000 people affected by the conflict in the Darfur region have remained beyond the reach of aid agencies trying to provide essential humanitarian assistance and United Nations aid agencies estimate that they have been able to reach only 15 percent of people in need and that more than 700,000 people have been internally displaced in the past year: Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring: That Congress—

(1) strongly condemns the Government of the Republic of the Sudan for its attacks against innocent civilians in the impoverished Darfur region of western Sudan and demands that the Government of Sudan immediately cease these attacks;

(2) calls on the international community to strongly condemn the Government of Sudan for these attacks and to demand that they cease;

(3) urges the Government of Sudan to allow the delivery of humanitarian assistance for the people in the Darfur region; and

(4) urges the President to direct the United States representative to the United Nations to seek an official investigation by the United Nations to determine if crimes against humanity have been committed by the Government of Sudan in the Darfur region.

TRIBUTE TO JON G. "JACK" LASALLE ON HIS INDUCTION INTO THE UPPER PENINSULA LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. STUPAK. Mr. Speaker, I rise today to honor the lifetime of achievements of my longtime friend Jon G. "Jack" LaSalle, who will be inducted into the Upper Peninsula Labor Hall of Fame at a ceremony in Marquette, Michigan on April 17th, 2004. Jack's decades of service to further the best interests of Michigan workers have more than earned him this great honor.

A native of Nahma Michigan, Jack is a 1971 graduate of Northern Michigan University. In June of that year, Jack began his apprenticeship as an Ironworker and became indentured and an apprentice member of Local 783, International Association of Bridge, Structural, Reinforcing and Ornamental Iron Workers, AFL–CIO. In 1975, he graduated from Apprentice School and became a Journeyman Iron Worker.

In 1973, with his local and International Union's support, Jack studied Industrial Relations at the University of Minnesota. During that time, Jack was the first and only apprentice of Local 783 to serve the local union as a member of the Bargaining Committee. After returning to the U.P. in 1974, Jack worked his trade until taking a Staff Representative position in 1975 with Council 55 (now Council 25), of the American Federation of State, County and Municipal Employees (AFSCME). In 1978, Jack took a position with the Michigan State AFL–CIO's Labor Employment and Development Program servicing the U.P. During his time at the state AFL–CIO, Jack took the lead in organizing the Eastern U.P. Central Labor Council and the Dickinson-Iron Counties Central Labor Council.

Jack was elected to office in the Marquette County Labor Council, AFL–CIO as Financial Secretary-Treasurer in 1976 and served for several terms. He also served seven years as President of the Labor Council and is currently its Recording Secretary.

Since the mid-1970's, Jack has also been very active in politics and worked on many campaigns, including being elected as a Morris Udall delegate to the 1976 Democratic National Convention and serving several terms on the Michigan Democratic Party's State Central Committee. He served 4 years as Chair of the 11th District Democratic Party and 3 years as Officer-At-Large of the Michigan Democratic Party. He also served as the Marquette County Field Coordinator for the Blanchard for Governor Campaign in 1982. Jack has been the Chair of the Marquette County Democratic Party since 2001.

Jack and Jeanne LaSalle have been active in every political campaign for the past 30 years. I am pleased and honored to have earned the support of the LaSalles in my own congressional campaigns.

In 1983, Jack was appointed by Governor James Blanchard to serve as Deputy Director of the newly opened Governor's Office for Job Training. In 1987, he was again appointed by Governor Blanchard to the Mackinac Bridge Authority and later became its Vice-Chair, serving on the Authority until 1994. Jack was also a State Board of Education appointee to the Michigan Occupational Information System (MOIS) Advisory Board in 1978, where he served for 13 years and as Chair for five years.

Instead of taking a much deserved break, Jack is currently serving his 19th year as a Field Representative for the Michigan State Building and Construction Trades Council, representing the U.P. and the Northern Lower Peninsula. In addition to being an active member of Ironworkers Local 8, Jack maintains memberships with the Industrial Workers of the World, the American Civil Liberties Union (since 1981) and many other political and progressive organizations championing the cause of workers.

I also want to recognize Jack's wife and partner, Jeanne, and all her sacrifice that allowed Jack to serve so many workers over the years.

Mr. Speaker, I ask you and my House colleagues to join me in acknowledging Jack LaSalle's lifetime of contributions to organized labor and his community, and in celebrating the accomplishments that have earned him the distinction of becoming an honored member of the Upper Peninsula Labor Hall of Fame.

CONGRATULATING WINONA ONGEMACH OF CHICAGO

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. EMANUEL. Mr. Speaker, I would like to extend my warmest birthday wishes to Mrs. Winona Ongemach of Chicago on the occasion of her 100th birthday on April 3.

Born in Cedar Rapids, Iowa as one of ten children, Mrs. Ongemach has lived in Chicago for the past 80 years. She has been an active and influential member of the Ravenswood community, faithfully attending Ravenswood Fellowship United Methodist Church for 60 years.

At a time in her life when many might expect her to slow down, Mrs. Ongemach remains a fixture at her church. She brings smiles to the faces of churchgoers by running pancake breakfasts, collecting soup can labels, and leaning on members who have missed Sunday church.

Mrs. Ongemach has brought her same spirit of community involvement to the Bethany Retirement Community, where she currently resides. There she reads novels, organizes monthly card parties and teaches residents card games.

Mrs. Ongemach was married in 1928 to her late husband, Rudolf. She worked for many years at Time, Inc. where she operated one of the first ever IBM computers. She also spent 27 years volunteering at Ravenswood Hospital where she knitted hats for newborn babies. An avid bowler, she participated in the Time, Inc. bowling league until she turned 90. Mrs. Ongemach also loves to travel and has visited many different islands on cruise ships.

I hope Mrs. Ongemash's many friends and acquaintances will use this milestone birthday as an opportunity to celebrate her life, her friendship and all she has meant to her community.

Mr. Speaker, I join with the residents of the Ravenswood community and the members of the Ravenswood Fellowship United Methodist Church in congratulating Mrs. Winona Ongemach on her 100th birthday. She has truly made a difference in her community and her life serves as a model that we should all strive to emulate.

TRIBUTE TO DONALD DUNN

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BERRY. Mr. Speaker, I rise today to honor an American hero. Donald Dunn, chief of Engineering and Construction Division with the Army Corps of Engineer in Little Rock, is currently in Iraq where he is helping bring oil production systems back online for the people of Iraq.

Mr. Dunn is currently serving as the Deputy for Program Management for Task Force Restore Iraqi Oil (RIO). Established in May 2003, RIO was staffed with personnel originally targeted for other positions in engineering and most had little or no background as project managers. Mr. Dunn is responsible for establishing, training and leading the Programs and Project Management team and developing a group of motivated men and women who are now getting the job done.

His dedication to this task, attention to the training and developmental needs of his staff, and his leadership have been exceptional. In addition, he gave considerable time and attention to locating and selecting the replacement program and project management personnel for future rotations.

Further, Mr. Dunn displayed ample flexibility and imagination when he retooled his staff to respond to unforeseen challenges, such as the requirement to provide approximately 400 megawatts of stand-alone power to critical oil infrastructure locations throughout Iraq. He worked tirelessly to build and improve vital relationships with contractor partners including the Coalition Provisional Authority.

Perhaps most significantly, Mr. Dunn has nurtured new relationships with Iraqi Ministry of Oil officials and local oil and gas company engineers and technicians. He has helped the people of Iraq in all his endeavors and contributed significantly to our ability to build lasting and effective relationships in the Middle East.

Recently, Mr. Dunn won an award from the Federal Executive Association for his hard work and dedication to service. His response was, "I believe that no one exists in a vacuum, and that it takes the contributions of everyone to have a successful team." On behalf of the Congress, I commend Mr. Dunn for his commitment, for his intelligence and for his unwavering dedication to seeing our efforts in Iraq end in success.

CONGRATULATIONS TO THE STOCKTON LADY TIGERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate the Stockton Lady Tigers basketball team. For the third time in 4 years, the Lady Tigers have taken state championship honors in their division.

The Lady Tigers won their first state championship 4 years ago when the current seniors were freshmen. The team has returned to the Missouri State High School Activities Association final four in Columbia, Missouri, every year since.

This year's championship game was particularly meaningful. It was the last time the team's seniors would play together. It also marked the end to an outstanding season in which the team lost only one game in a particularly challenging schedule. The team exceeded all expectations; a challenge not easily met when there is such a history of success.

Mr. Speaker, the Stockton Lady Tigers basketball team has proven itself to be worthy state champions. The young women have offered excitement and pride to the fans in their community and have earned respect and garnered praise from their opponents. I am sure my fellow Members will join me in congratulating them on their outstanding accomplishments and wish them continued success.

HONORING BILL FERRENCE

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I rise today with great pleasure to pay tribute to Bill Ferrence as he celebrates his 30th Anniversary as manager of Boulder Dam Credit Union in Boulder City, Nevada. Bill came to Boulder City in 1974 and has been contributing to his local community ever since. When Bill first started at the Credit Union in 1974, he saw a challenge and tackled it. Using his ingenuity and his true belief in the "Golden Rule," he was able to turn the small 3,000 member Credit Union into a thriving 20,000 member Credit Union with almost 90 percent of all residents located within the Boulder City limits holding a membership. He treats his customers and employees like he does his family; in fact, many of those that live and work with him consider him to be a member of their family.

I applaud him in his example to others of what hard work and dedication can achieve. He is an example to all as he has demonstrated that it requires caring and a desire to better oneself and one's surroundings to achieve true successes in life.

Mr. Speaker, I congratulate Bill Ferrence in his dedication and efforts. I wish him another thirty years of successes in his life and career and congratulate him on his wonderful achievements and dedication to the Boulder City residents and his example to fellow Nevadans.

REMEMBERING AND HONORING PFC SEAN SCHNEIDER OF JANESVILLE, WISCONSIN

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. RYAN of Wisconsin. Mr. Speaker, this week our nation lost a man of honor, courage and kindness. Private First Class Sean Schneider was killed in Iraq on Monday when a bomb hit his convoy.

Sean grew up in Janesville, Wisconsin, and graduated from Craig High School—the same school I graduated from. Sean liked to hunt, canoe, and tinker with cars and motorcycles. His high school teachers talk about what a caring individual he was and how he was the kind of student you respected. At the same time, he was an independent young man who knew what he wanted to do with his life.

Sean joined the Army in 2002 with a strong desire to serve and protect his country. In doing so, he made that incredible commitment that our military men and women and our veterans throughout history have made: he was willing to make the ultimate sacrifice and put his life on the line to preserve our rights and freedoms.

It is because of Sean and people like him that our country remains free today. America owes him and his family a tremendous debt that can never be repaid. What we must do is commit to always remembering his life and the sacrifice he made on our behalf. And we must be grateful for every one of our veterans who has stood up, like Sean did, for our country and the cause of freedom.

Sean Schneider led an inspiring life and touched so many people's lives along the way. Our thoughts and prayers are with his many loved ones—especially his wife, his parents and his siblings—during this most difficult of times.

A TRIBUTE TO EMIL MARZULLO, SAN BERNARDINO COUNTY DIRECTOR OF SPECIAL DISTRICTS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. LEWIS of California. Mr. Speaker, I would like today to pay tribute to Emil Marzullo, who is retiring as Director of the Special Districts Department for the County of San Bernardino, California, after 25 years of dedicated service to the people of California's Inland Empire.

The County of San Bernardino Special Districts Department manages dozens of local entities charged with providing a variety of vital public services ranging from fire protection and drinking water to parks and roadways. Mr. Marzullo took the helm of Special Districts in 1994 during very difficult economic times, when funding for these important services were increasingly scarce. Under his expert leadership the Department took on the responsibility of the County Franchise Authority and the restructuring of all water and sanitation districts and operations. These visionary reforms would come to be Mr. Marzullo's greatest accomplishments.

Mr. Marzullo was born in New Jersey and moved to California in 1965. He graduated from San Bernardino High School in 1971, received his B.A. in Geography and Environmental Studies from the University of California at Riverside in 1978, and a M.S. in Environmental Studies and Public Administration from California State University, Fullerton, in 1986. He began his county employment in January 1979 as an Environmental Specialist.

As an employee and later deputy director of the County Office of Community Development, Mr. Marzullo participated in or led the creation of more than 200 capital projects such as senior and community centers, playgrounds and parks, as well as water systems and fire safety facilities.

Serving as assistant director of special districts, he was instrumental in restructuring the Special Districts Department as well as the San Bernardino County Fire Department. In this capacity he trained the Board-governed commissions in the conduct of public meetings under the California Open Meetings Law and authored many of the related policies and board actions.

An esteemed member of the community, Mr. Marzullo served as a visiting professor at the Graduate School of Public Administration at California State University, San Bernardino, where he has lectured and led graduate seminars in Land Use Planning, Public Policy Analysis and Economic Development, and Local Development Finance. He also became a member of the Board of Directors and later the President of the Board for the Bethlehem House, a shelter and program for victims of domestic violence.

Mr. Speaker, for more than two decades, Emil Marzullo has served the people of San Bernardino County well in a variety of important capacities, and the county will benefit from his accomplishments for many generations to come. Please join me in thanking him for his dedicated public service, and wishing him well as he takes a well-deserved retirement.

TRIBUTE TO LARRY McCOOL

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to an outstanding citizen; I am proud to recognize Larry Allen McCool in the Congress. His recent death was a great loss to his community, his family, his state and this nation.

Larry McCool was born in Kosciusko, Mississippi. He earned an education degree and taught history in a Jackson, MS, high school. When he wasn't teaching, he traveled around the country buying and selling unusual antiques and collectibles. Mr. McCool ended his teaching career in the early 1970s to pursue his own dreams and opened a shop in Jackson where he realized his potential in appraising antiques.

A four-time president of the Mississippi Auctioneers Association and president of the National Auctioneer's Association (NAA), Mr. McCool was a self-taught auctioneer who became one of the industry's foremost authorities on the appraisal and sale of antiques, fine arts and antebellum real estate. He continually pushed NAA to improve educational programs, increase its membership and revenues, and, most importantly, widen the charities NAA supported.

Despite his drive and dedication to auctioneering, Mr. McCool will be most remembered for his passion for charity auctions. On the day of his passing, he had planned to conduct an auction for a children's cancer fund, one of the many charities for which he raised hundreds of thousands of dollars for more than 25 years. Mr. McCool was named honorary chairman for the Hinds County chapter of the American Cancer Society, worked for the American Heart Association and volunteered his time to numerous charitable groups over the years.

On behalf of Congress, I extend my deepest sympathies to Mr. McCool's family and gratitude for the countless hours he spent serving others. He leaves a legacy of accomplishment in the industry as well as inspiring memories for those who knew him.

HONORING THE DEPARTMENT OF MISSOURI VETERANS OF FOREIGN WARS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SKELTON. Mr. Speaker, let me take this means to honor the efforts of the Department of Missouri Veterans of Foreign Wars. In March 2003, this group launched the "Hidden Heroes" project to provide direct support to the families of deployed Missouri National Guardsmen and Reservists.

The "Hidden Heroes" program has made a real difference. In the first year of the program, families have been guests at dinners, banquets, and picnics. At the Christmas parties for the Air Force Reserve 442nd Whiteman Air Force Base and the Army National Guard 1139th MPs, hundreds of toys were provided to the children of those serving. The Department of Missouri Veterans of Foreign Wars has also provided concert and sporting event tickets to family members. The efforts have helped to lift the spirits of these families.

The "Hidden Heroes" program has also helped to provide these families with food and other household products. When National Guard and Reserve members are deployed, their family incomes often fall by fifty percent or more. The Armories across Missouri participating in this pantry program are alleviating some of the financial strain experienced by these families that have already given so much.

Mr. Speaker, the Department of Missouri Veterans of Foreign Wars have identified a need and are rallying resources to address it. I am sure my fellow Members will join me in thanking them for the service they continue to offer to this country.

INTRODUCTION OF THE SERVITUDE AND EMANCIPATION ARCHIVAL RESEARCH CLEARING HOUSE (SEARCH) ACT OF 2004

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. CUMMINGS. Mr. Speaker, I rise to introduce the Servitude and Emancipation Archival Research Clearing House (SEARCH) Act of 2004, companion legislation to S. 1292 sponsored by Senator LANDRIEU. This bill would authorize the creation of a national database of servitude and emancipation records within the National Archives.

For most Americans, researching their genealogical history involves searching through municipal birth, death, and marriage records—most of which have been properly archived as public historical documents. However, African Americans in the United States face a unique challenge when conducting genealogical research.

Current records of emancipation and slavery are frequently inaccessible, poorly catalogued, and inadequately preserved from decay. Instead of looking up wills, land deeds, birth and death certificates, and other traditional genealogical research documents, African Americans must often try to identify the name of former slave owners, hoping that the owners kept records of pertinent information such as births and deaths.

Although some states and localities have undertaken efforts to collect these documents with varying degrees of success, there is no national effort to preserve these pieces of public and personal history or to make them readily and easily accessible to all Americans. While entities like Howard University and the Schomburg Center for Research in Black Culture Library have extensive African American archives, the SEARCH Act would create a centralized database for these historic records. This database would be administered by the Archivist of the United States as part of the National Archives.

Finally, the SEARCH Act would also authorize funding for States, colleges, and universities, to preserve, catalogue, as well as index servitude and emancipation records locally. It would make available up to $5 million for the National Historical Publications and Records Commission to establish and maintain the national database, as well as $5 million in grants for States and academic institutions to conserve local records of servitude and emancipation.

I believe that this legislation will be a very important step in resurrecting the rich history of African Americans and the vital role that they played in building America. I urge my colleagues to cosponsor the SEARCH Act as not only a means by which their constituents can trace their lineage, but also as a means by which we can preserve historically comprehensive and accurate information for generations to come.

IN MEMORY OF ELIEZER SCHWARTZ

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mrs. McCARTHY of New York. Mr. Speaker, I rise in memory of Eliezer Schwartz, and in anticipation of the Elie Schwartz Memorial Baldwin Classic Basketball game being held in his honor on Sunday, April 11.

I never had the opportunity to meet Elie, but the number of relatives, friends, and community members who will attend the basketball game represent a testament to the special young man he was. The son of Rabbi Gershon Schwartz and Dr. Shuly Rubin Schwartz, Elie was raised with a strong, unequivocal connection to the Jewish community. From his involvement in United Synagogue Youth, to his dedication to Israel, to his education at Brandeis University, Elie was a favorite among both his peers and adults.

Ten years ago, Elie was the driving force behind the Baldwin Classic, a 3–on–3 basketball tournament that became an annual event. It is quite appropriate that this year's game, the first since Elie's passing in November, be held in his honor, and the proceeds benefit the newly established Eliezer Schwartz Memorial Scholarship Fund of the METNY Region of USY.

Mr. Speaker, the contributions Elie made to our community in his short lifetime will not be forgotten. I know this year's Baldwin Classic will be a very special day, and I applaud those working hard to keep Elie's ideals and goals instilled in their minds and hearts.

IN HONOR OF TOM ADAMS' FORTY YEARS OF TEACHING AT ST. MARK'S SCHOOL OF TEXAS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SESSIONS. Mr. Speaker, I rise today to honor a teaching legend at St. Mark's School of Texas. I am proud to represent St. Mark's in Congress. I am very familiar with the high excellence of education that St. Mark's provides to young men as my oldest son currently attends St. Mark's, and one of my staffers is also an alumnus of the school.

St. Mark's would not be nearly as successful an institution if it weren't for the scholarly teaching of Thomas S. Adams. Tom Adams is celebrating his 40th year of teaching at St. Mark's, and I honor him for his four decades of service to the school and the countless young men that have benefited from his teaching and insight.

Tom Adams currently serves as the Cecil and Ida Green Master Teaching Chair in History. He has held this position since 1980, and he has served as the Senior Master of the faculty from 1997–2002. Tom currently teaches U.S. History, Art History, and Modern World History.

In addition to his distinguished teaching in the classroom, Tom has coached the St.

Mark's baseball team to twelve Southwest Preparatory Conference (SPC) Championships. In addition to his success with the baseball team, Coach Adams led the St. Mark's basketball team to six SPC Championships.

Tom Adams was appointed to the St. Mark's faculty on July 1, 1961 after receiving his B.A. from Princeton University and his M.A. from Harvard University. Adams is a lasting icon at St. Mark's, and I admire him for continuing to teach even after reaching his 40-year milestone. I wish Tom Adams, and the St. Mark's community all the best.

LEGISLATION TO MAKE BONUS DEPRECIATION A PERMANENT PART OF OUR TAX CODE

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. WELLER. Mr. Speaker, today, Congressmen NEAL, UPTON, ENGLISH, TIAHRT and I have introduced legislation to make bonus depreciation a permanent part of our tax code. I appreciate the opportunity to make a statement on this important legislation.

As you know, the issue of bonus depreciation has been an important one over the past 2 years. On March 9, 2002, President Bush signed the Job Creation and Worker Assistance Act of 2002 into law. This law allows businesses to accelerate the depreciation of equipment they purchase between September 11, 2001 and December 31, 2004. All equipment with a depreciable life of 20 years and under qualifies for the bonus depreciation treatment. Originally they were entitled to get a bonus of 30 percent in the first year. Before this law, a $1000 computer would be depreciated equally over 5 years. $200 each year. With this change, businesses get $175 in the first year, plus a 30 percent bonus. So, they depreciate $475 in the first year and the remaining $520 over the next 4 years ($175 each year for 4 years).

H.R. 2, the 2003 tax cut law, included a provision to increase bonus depreciation to 50 percent through December 31, 2004. This provision became law in June 2003. This has helped stimulate the economy and create new jobs for Americans that are out of work.

Just today, the U.S. Department of Labor released statistics that prove that bonus depreciation and other tax cuts are working. Bonus depreciation is helping to bring jobs back to the U.S. economy and put American workers back to work. The Labor Department announcement indicates that the U.S. economy created 308,000 new jobs in March, this is the fastest monthly job growth since April 2000. The latest data show that more than 500,000 new jobs have been created in the first three months of 2004.

In another example, the General Aviation Manufacturers Association recently told me that in the first 5 months after enactment of the bonus depreciation provision sales of general aviation airplanes increased 45 percent.

Mr. Speaker, bonus depreciation and the other tax cuts are working. Our economy is rebounding. We need to make bonus depreciation and the other tax cuts permanent in our tax code. When making business decisions, companies need to know for sure that they can rely on these tax provisions.

I ask my colleagues to join me in cosponsoring this important legislation.

COMMENDING SEAN BUTLER

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I rise today to acknowledge the achievement of an outstanding young man, Sean Butler. Through hard work and dedication he has achieved his goal, a goal that few young men have the courage, dedication, and character to achieve.

Sean's dedication has given him the title of Eagle Scout within the Boy Scouts of America. This program has long been recognized as a program that builds strong minds upon sound morals. Achieving an Eagle Scout status shows that this young man has participated in projects and activities that will help him become a strong man in life. It has shown him how to set reasonable and accomplishable goals, a value that will put him considerably ahead of his peers.

The Boy Scouts of America is a great building block for our youth and it is quite an achievement, with so many other activities available, for young men to receive their Eagle Scout Award. It is my hope that he will hold this award as a special honor; to always remember the principles and teachings he has learned, and to use this award as a tool in his future.

THE GREATER TEXARKANA PEOPLES' CLINIC

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. ROSS. Mr. Speaker, it is with great pleasure that I congratulate The Greater Texarkana Peoples' Clinic on its grand opening. The clinic, whose motto is Good Health for All, was established to provide free, quality health care to qualifying residents in the greater Texarkana area, which includes Miller (Arkansas) and Bowie (Texas) Counties, who do not have access to basic medical services. The First United Methodist Church at 401 N. Stateline, Texarkana, Texas has offered its facilities as a site for the clinic.

Statistics from the Kaiser Family Foundation indicate that sixteen percent of Arkansans are uninsured and twehty-five percent of Texans are uninsured. In The Greater Texarkana Peoples' Clinic's medical service area, forty-one percent of their service area population is uninsured. Instead of waiting for a government fix, the people saw a need and set about solving that need. Thanks in part to Chaplain Jim Rowland, president of the Greater Texarkana Ministerial Alliance, Dr. Tim Reynolds, medical director, and Dr. D. Jack Smith, clinic board member, a non-judgmental, compassionate environment in which to serve those individuals and families largely rejected by mainstream society has been created. The Greater Texarkana Peoples' Clinic is truly the result of a collaborative community effort. Medical professionals throughout the Texarkana area along with numerous volunteers are generously giving their expertise, time and financial support to make this initiative an overwhelming success.

I join with the leadership of Texarkana, Arkansas and Texarkana, Texas in thanking and congratulating all that were involved in bringing The Greater Texarkana Peoples' Clinic to a reality. The clinic and its services will prove to be an asset for years to come.

HONORING NATALIE STERN, 2004 CHERRY BLOSSOM PRINCESS

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. HOLT. Mr. Speaker, it is with great pleasure that I rise to recognize Ms. Natalie Stern, who will be representing New Jersey as our princess in the 2004 Cherry Blossom Princess Program.

Since 1948, state societies have selected accomplished female students to represent their states in the Cherry Blossom Princess Program. During the week-long program, the princesses participate in a number of events that provide them with an opportunity to share the culture and unique traditions of their state. The program culminates with a princess being crowned as the United States Cherry Blossom Queen, who will travel to Japan as a representative of the United States. During her two weeks in Japan, the U.S. Cherry Blossom Queen participates in events across the country and meets with Japanese dignitaries.

I am pleased that the New Jersey State Society picked Natalie Stern to represent our state in the festival. Ms. Stern is a shining example of the best New Jersey has to offer. She is a native of Pennington, New Jersey. She attended Stuart Country Day School in Princeton. Natalie continued her education at Indiana University and graduated in 2003 with two bachelor degrees. In addition to her studies at Indiana University, Natalie served as an intern at the White House as well as a fellow at the International Television and Radio Society in New York City.

I would like to extend my congratulations to Natalie and all of the other young women who have been selected to participate in the festival and I wish them all continued success in the future.

IN HONOR OF PETER TROXELL

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. FARR. Mr. Speaker, I rise today to honor Peter Troxell who passed away March

17, 2004 after a prolonged battle with cancer. Earlier this year I rose to congratulate him on his retirement and I am saddened to hear of this great man's passing. He is survived by his wife, Diana, children Adriana, Lyle, and Marina, and six grandchildren.

Although Peter was best known for his role as station manager of KUSP, which he assumed in 1993, he has been a leader in our community since the 1960s. He was one of the founders of the Mountain Community Theatre in Ben Lomond, helped establish the San Lorenzo Valley Children's Center, and managed Oganookie, a local band from Santa Cruz's hippie days.

His leadership skills were put to the test when he became the station manager of KUSP. The station was facing hard times internally and out, and might not have survived without Peter's tireless dedication. It is a testament to his skills as a businessman that we have KUSP in Santa Cruz today. But even with these new responsibilities, Peter never forgot his love of the arts. Even those who have never met Peter will recognize him as the host of the weekly shows "State of the Arts" and "In the Green Room."

Mr. Speaker, I rise once more to applaud Peter Troxell's many accomplishments. He was a remarkable figure in our community, and his memory will live on in the many people whose lives he has touched. I join the County of Santa Cruz, and friends and family in honoring this truly admirable man and all of his lifelong achievements.

WEST VIRGINIA QUARTER: NEW RIVER GORGE BRIDGE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. RAHALL. Mr. Speaker, my home State of West Virginia chose a representation of the New River Gorge Bridge to decorate the new West Virginia commemorative quarter to be issued next year by the U.S. Department of the Treasury.

The New River Gorge Bridge resides close to my home in Southern West Virginia. It symbolizes West Virginia's beauty, ingenuity, hard work, and our peoples' determination to do what many deem the impossible.

Until recently, the New River Gorge Bridge was the longest single arch bridge in the world. Today, it is only surpassed by the Lupu Bridge recently built in Shanghai, China, but it is not surpassed in the eyes and hearts of West Virginians and those who look upon it.

The New River Gorge is the sun around which West Virginia's ever-expanding numbers of tourism initiatives revolve. It is the Grand Canyon of the east—one of America's oldest and most spectacular natural wonders. More Americans—indeed, more people from all around the world—discover our New River Gorge every year.

I have spent a career protecting the New River Gorge. The bridge and the river are not only nationally acclaimed recreation destinations; they also generate jobs and contribute greatly to Southern West Virginia's economy.

Construction began on the New River Gorge Bridge in June of 1974, and was opened for the public's use on October 22, 1977. The enormous undertaking, and breathtaking result reduced a forty-minute drive down windy mountain roads to a one-minute trip over one of the world's greatest tourist attractions.

On the third Saturday of each October the New River Gorge Bridge is open to pedestrians, where hundreds of thousands of people get to walk the span of the bridge and enjoy a number of events, arts, and crafts. Some brave outdoor enthusiasts also use this day to parachute from the center of the bridge to the river basin 876 feet below. This day is referred to as "Bridge Day," and it is a day that brings people from all over the world to Southern West Virginia.

The New River Gorge Bridge represents what is best about West Virginia, our breathtaking natural beauty, and our people's skill and ingenuity. It is fitting that the New River Gorge Bridge was chosen to represent my home State in the commemorative coin series, and it is truly "Wild and Wonderful" news.

MS. ROBIN EVANS: A FOND FAREWELL FROM CAPITOL HILL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BEREUTER. Mr. Speaker, this Member would ask his colleagues join in commending and congratulating a long-time employee in this Member's personal office, Ms. Robin Evans, who is retiring next week after almost 23 years of congressional service. This Member hired Robin on February 1, 1982, and she has worked for this Member continually since that time with the exception of a 9-month period when Robin tried working for the other body, but she saw the light and returned to the House and this Member's office as our Office Manager.

Robin is one of those exceptionally outstanding employees who does her work exceptionally well and in a very professional manner. She is one of the most organized, conscientious, and capable people that this Member has had the pleasure to work with in his many years of congressional service. Robin will be greatly missed not only by this Member and this Member's staff, but also by the many people on Capitol Hill and in my constituency in Nebraska who have worked with her throughout these many years.

Please join this Member in wishing Robin all the best as she returns to her home area on Maryland's Eastern Shore and embarks upon a new career with the Morgan Stanley office in Salisbury, MD.

IN HONOR OF THE 40TH ANNIVERSARY OF RESTON, VIRGINIA AND THE 90TH BIRTHDAY OF ITS FOUNDER, ROBERT E. SIMON, JR.

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MORAN of Virginia. Mr. Speaker, Mr. TOM DAVIS of Virginia and I rise today to commemorate the 40th anniversary of Reston, Virginia and the 90th birthday of its legendary founder, Robert E. Simon, Jr.

Bob Simon grew up in New York immersed in his family's thriving real estate business, Hercer Corp. He attended Harvard University, and upon the passing of his father in 1935, took over the family business. While running Hercer Corp., Simon escaped the city by residing in Syosset, a suburb of Long Island. There he grew to value a lifestyle in which one could live, work, and play in the same desirable community.

In 1961, an offer for 6,750 lush acres 18 miles west of Washington, DC, caught Simon's attention. He inspected the land, instantly fell in love, and invested in the rolling green hills of Fairfax County. Simon sought to create a community to embody his ideals; he envisioned a well-rounded, self-sufficient community that respected the dignity of the individual and preserved the land's natural beauty.

He launched his development project at a time when the Commonwealth of Virginia still was segregated; nonetheless, Simon bravely fought for a community in which people of all backgrounds could live peacefully together. He put Dr. Martin Luther King's principles to practice and always will be remembered for his commitment to integration. Many investors turned away from Simon's concept, yet Gulf Oil accepted, providing critical resources and support for the project.

After securing funding, Simon worked closely with noted planners, architects, and environmentalists to transform his vision into a reality. Perhaps most notable was his innovative notion of clustered housing, leaving open land and improving the appearance and quality of the area. Simon's development team and those that succeeded them were able to realize his dream community, aptly naming it Reston, using the founder's initials and the English suffix for town. As Reston developed, numerous organizations such as the United States Geological Survey relocated to the area, bringing much needed employment and residents. In 1990, development began on the Reston Town Center, which produced a lasting, positive impact on the community.

Today, over 58,000 call 11.5 square mile Reston home. Reston has attracted national and worldwide recognition as one of the "best places to live," truly surpassing all expectations. Forty years ago Simon had a dream, and it appears as though this dream has come true. As Simon intended, Reston has become a thriving residential, commercial, industrial, cultural, and civic center where urban seamlessly meets rural.

Mr. Speaker, in closing, we would like to congratulate Reston on 40 years of success and wish its residents the best of luck in the many years to come. We ask that our colleagues join us in applauding this notable accomplishment and in wishing Bob Simon a happy celebration of Reston's success and his 90th birthday.

MINIMUM TAX AND PRIVATE ACTIVITY BONDS INTRODUCTORY STATEMENT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. NEAL of Massachusetts. Mr. Speaker, I first introduced legislation to repeal the individual alternative minimum tax on April 14, 1999, and have been warning about the dangers of letting this problem fester ever since. While the broad problem has since become better known (albeit not addressed in any meaningful way), little attention has been paid to the plethora of nagging problems caused by the neglect of the Bush Administration of this issue—problems I have addressed one at a time in additional legislation over the years.

The latest example of the cost of this Administration's neglect is the impact the alternative minimum tax is having, and will have, on private activity bonds; as discussed in an insightful analysis by John Buckley (Minority Chief Tax Counsel, Committee on Ways and Means) published in BNA's The Daily Tax Report March 1st. As a leader, along with Rep. Amo Houghton, in expanding the use of private activity bonds for low and moderate income housing, I am particularly sensitive to the adverse affect the AMT is having on the market for housing bonds.

The failure of the Bush Administration to address the issue of the AMT meaningfully means that the number of families subject to the minimum tax is skyrocketing. Without further action by Congress, 78.6 percent of families with incomes between $75,000 and $100,000, and 95 percent of all families with incomes between $100,000 and $500,000, will pay the minimum tax in the future. While the impact of the alternative minimum tax has become widely known, few recognize its impact on private activity bonds. Approximately 75 percent of all tax-exempt bonds are held directly or indirectly by individual investors. These investors generally have annual incomes that in the future will, as indicated above, almost guarantee that they will pay the alternative minimum tax. As a result, the individual market for tax-exempt private activity bonds is quickly eroding and could disappear entirely in the future.

Already the financial markets have begun to recognize this serious problem. Not only have some mutual funds reportedly announced their intention of not investing in bonds subject to the AMT, but higher interest rates are being offered in connection with these bonds. In 2000, private activity bonds were issued at average interest rates of about 104 percent of the rate offered on tax-exempt general obligation bonds, presumably reflecting slightly greater risk. In 2003, the average interest rate had increased on tax-exempt bonds to about 110 percent of the rate offered on tax-exempt general obligation bonds.

Some will argue that this is a problem that can wait for another day since the number of individuals subject to the minimum tax will explode only in the future. They are wrong. Tax-exempt bonds quite often are issued for terms as long as 30 years. The fact that an exemption may have value today but not in five years, will affect the interest rate at which those obligations are currently being issued.

Mr. Speaker, this country is now being forced to face the consequences of the Bush tax cut agenda. The deficit has exploded while the Administration swats at flies in non-defense discretionary spending, the value of our currency is declining as investors both here and abroad lose faith in our fiscal policies, and the International Monetary Fund recently criticized the fiscal policies of the Bush Administration in terms that previously had been used only in the context of developing nations. We are again seeing growing income inequalities as the wages paid to average workers stagnate and jobs flee the country.

These are some of the economic issues that divide the two parties in Congress, and we can and will vigorously debate them in the future. However, I believe that we should attempt to take action on a bipartisan basis to limit the adverse and unintended impacts of the alternative minimum tax. The bill I am introducing today, along with my colleague from New York STEVE ISRAEL, simply removes tax-exempt interest on private activity bonds from the individual alternative minimum tax. While failure to act would mean that Congress does not place as much emphasis on providing decent housing for the less fortunate as it seems to, I am confident that that is not the case. However, I am worried that this problem, as other problems involving the minimum tax, will simply be band aided over until that mythical time in the future when we tackle the AMT problem as a whole.

TRIBUTE TO OMAR D. BLAIR

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. DEGETTE. Mr. Speaker, I would like to recognize the extraordinary life and accomplishments of a remarkable gentleman from the 1st Congressional District of Colorado. It is both fitting and proper that we recognize Omar D. Blair for his impressive record of civic leadership and invaluable service.

Many people have made notable contributions to our community, but few have left a legacy of progress as Omar Blair. He once mused that he wanted to be remembered as one who tried. I would submit that Omar Blair molded a life of enduring accomplishment and proved to be a powerful force in transforming our community. His is an indomitable spirit and our lives have been truly enriched by his presence among us.

Omar Blair demonstrated that he had steel at an early age. Upon his graduation from Albuquerque High School in 1936, the school board determined that the six black graduates had to sit behind their classmates and would not have a spotlight shone on them as they received their diplomas. But Omar was not intimidated. He walked with dignity up to the stage in darkness to get his diploma to the ovation of his classmates. Years later, he was awarded "Outstanding Graduate of the Past 100 Years" by the same people who would not allow him to sit with his classmates forty-three years earlier.

Omar attended the University of California at Los Angeles prior to entering the Army Air Corps during World War II. Captain Blair belonged to the all-black 332nd Fighter Squadron—the famed Tuskegee Airmen—where he developed a reputation for daring. His squadron had been called upon to escort bombers on a raid over Berlin, but their fighters needed bigger fuel tanks to go the distance and they were not available through normal channels. Captain Blair learned that the needed tanks were on an Army train coming from Naples. He organized a convoy, stopped the train and forcibly offloaded the tanks as they were critical to his squadron's mission. Captain Blair got the job done and the bombing raid went off without a hitch.

In 1951, Omar and his wife Jeweldine, came to Denver. He found work and started a family that grew to include three children. He also found time to get involved in public affairs and was elected to the Denver Board of Education in 1972. He served two terms and was voted the first African American to serve as president of the school board. He led our city through what was arguably the most tumultuous era for public education in Denver. The schools were under court order to desegregate and Mr. Blair and other board members became the driving force to implement the order through busing. But his tenure on the board was not about changing how kids got to school; it was about fundamental change and the quality of public education. For Omar Blair, integrating schools did not mean simply having students sit with one another. It meant integrating school resources, providing new textbooks, hiring more teachers and making sure schools were uniformly upgraded and maintained. In short, it meant equal education for all of our children.

Omar served as President of the Colorado Association of School Boards, Vice President of the National Caucus of Black School Board Members, and National President of the Council of Great City Schools. But his service was not limited to education. He served as a Commissioner of the Denver Urban Renewal Authority during the time when he and his colleagues initiated the 16th Street Mall Project. He was a founding member of the Greater Park Hill Sertoma Club and his work was recognized by Sertoma International. He served as President of the Owls Club of Denver and as a board member of the Denver Chamber of Commerce and the East Denver YMCA.

Omar was honored on numerous occasions and his accolades include: the American-Israel Friendship League's Partners in Education Award; the U.S. Department of Justice Award for Outstanding Community Service and an honorary "Doctor of Public Service" degree from Metropolitan State College of Denver. His church, Shorter Community AME, dedicated its community room in his name and on April

17, 2004 after a prolonged battle with cancer. Earlier this year I rose to congratulate him on his retirement and I am saddened to hear of this great man's passing. He is survived by his wife, Diana, children Adriana, Lyle, and Marina, and six grandchildren.

Although Peter was best known for his role as station manager of KUSP, which he assumed in 1993, he has been a leader in our community since the 1960s. He was one of the founders of the Mountain Community Theatre in Ben Lomond, helped establish the San Lorenzo Valley Children's Center, and managed Oganookie, a local band from Santa Cruz's hippie days.

His leadership skills were put to the test when he became the station manager of KUSP. The station was facing hard times internally and out, and might not have survived without Peter's tireless dedication. It is a testament to his skills as a businessman that we have KUSP in Santa Cruz today. But even with these new responsibilities, Peter never forgot his love of the arts. Even those who have never met Peter will recognize him as the host of the weekly shows "State of the Arts" and "In the Green Room."

Mr. Speaker, I rise once more to applaud Peter Troxell's many accomplishments. He was a remarkable figure in our community, and his memory will live on in the many people whose lives he has touched. I join the County of Santa Cruz, and friends and family in honoring this truly admirable man and all of his lifelong achievements.

WEST VIRGINIA QUARTER: NEW RIVER GORGE BRIDGE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. RAHALL. Mr. Speaker, my home State of West Virginia chose a representation of the New River Gorge Bridge to decorate the new West Virginia commemorative quarter to be issued next year by the U.S. Department of the Treasury.

The New River Gorge Bridge resides close to my home in Southern West Virginia. It symbolizes West Virginia's beauty, ingenuity, hard work, and our peoples' determination to do what many deem the impossible.

Until recently, the New River Gorge Bridge was the longest single arch bridge in the world. Today, it is only surpassed by the Lupu Bridge recently built in Shanghai, China, but it is not surpassed in the eyes and hearts of West Virginians and those who look upon it.

The New River Gorge is the sun around which West Virginia's ever-expanding numbers of tourism initiatives revolve. It is the Grand Canyon of the east—one of America's oldest and most spectacular natural wonders. More Americans—indeed, more people from all around the world—discover our New River Gorge every year.

I have spent a career protecting the New River Gorge. The bridge and the river are not only nationally acclaimed recreation destinations; they also generate jobs and contribute greatly to Southern West Virginia's economy.

Construction began on the New River Gorge Bridge in June of 1974, and was opened for the public's use on October 22, 1977. The enormous undertaking, and breathtaking result reduced a forty-minute drive down windy mountain roads to a one-minute trip over one of the world's greatest tourist attractions.

On the third Saturday of each October the New River Gorge Bridge is open to pedestrians, where hundreds of thousands of people get to walk the span of the bridge and enjoy a number of events, arts, and crafts. Some brave outdoor enthusiasts also use this day to parachute from the center of the bridge to the river basin 876 feet below. This day is referred to as "Bridge Day," and it is a day that brings people from all over the world to Southern West Virginia.

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MS. ROBIN EVANS: A FOND FAREWELL FROM CAPITOL HILL

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Mr. BEREUTER. Mr. Speaker, this Member would ask his colleagues join in commending and congratulating a long-time employee in this Member's personal office, Ms. Robin Evans, who is retiring next week after almost 23 years of congressional service. This Member hired Robin on February 1, 1982, and she has worked for this Member continually since that time with the exception of a 9-month period when Robin tried working for the other body, but she saw the light and returned to the House and this Member's office as our Office Manager.

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Please join this Member in wishing Robin all the best as she returns to her home area on Maryland's Eastern Shore and embarks upon a new career with the Morgan Stanley office in Salisbury, MD.

IN HONOR OF THE 40TH ANNIVERSARY OF RESTON, VIRGINIA AND THE 90TH BIRTHDAY OF ITS FOUNDER, ROBERT E. SIMON, JR.

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MORAN of Virginia. Mr. Speaker, Mr. TOM DAVIS of Virginia and I rise today to commemorate the 40th anniversary of Reston, Virginia and the 90th birthday of its legendary founder, Robert E. Simon, Jr.

Bob Simon grew up in New York immersed in his family's thriving real estate business, Hercer Corp. He attended Harvard University, and upon the passing of his father in 1935, took over the family business. While running Hercer Corp., Simon escaped the city by residing in Syosset, a suburb of Long Island. There he grew to value a lifestyle in which one could live, work, and play in the same desirable community.

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Mr. Speaker, in closing, we would like to congratulate Reston on 40 years of success and wish its residents the best of luck in the many years to come. We ask that our colleagues join us in applauding this notable accomplishment and in wishing Bob Simon a happy celebration of Reston's success and his 90th birthday.

MINIMUM TAX AND PRIVATE ACTIVITY BONDS INTRODUCTORY STATEMENT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. NEAL of Massachusetts. Mr. Speaker, I first introduced legislation to repeal the individual alternative minimum tax on April 14, 1999, and have been warning about the dangers of letting this problem fester ever since. While the broad problem has since become better known (albeit not addressed in any meaningful way), little attention has been paid to the plethora of nagging problems caused by the neglect of the Bush Administration of this issue—problems I have addressed one at a time in additional legislation over the years.

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The failure of the Bush Administration to address the issue of the AMT meaningfully means that the number of families subject to the minimum tax is skyrocketing. Without further action by Congress, 78.6 percent of families with incomes between $75,000 and $100,000, and 95 percent of all families with incomes between $100,000 and $500,000, will pay the minimum tax in the future. While the impact of the alternative minimum tax has become widely known, few recognize its impact on private activity bonds. Approximately 75 percent of all tax-exempt bonds are held directly or indirectly by individual investors. These investors generally have annual incomes that in the future will, as indicated above, almost guarantee that they will pay the alternative minimum tax. As a result, the individual market for tax-exempt private activity bonds is quickly eroding and could disappear entirely in the future.

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These are some of the economic issues that divide the two parties in Congress, and we can and will vigorously debate them in the future. However, I believe that we should attempt to take action on a bipartisan basis to limit the adverse and unintended impacts of the alternative minimum tax. The bill I am introducing today, along with my colleague from New York STEVE ISRAEL, simply removes tax-exempt interest on private activity bonds from the individual alternative minimum tax. While failure to act would mean that Congress does not place as much emphasis on providing decent housing for the less fortunate as it seems to, I am confident that that is not the case. However, I am worried that this problem, as other problems involving the minimum tax, will simply be band aided over until that mythical time in the future when we tackle the AMT problem as a whole.

TRIBUTE TO OMAR D. BLAIR

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. DEGETTE. Mr. Speaker, I would like to recognize the extraordinary life and accomplishments of a remarkable gentleman from the 1st Congressional District of Colorado. It is both fitting and proper that we recognize Omar D. Blair for his impressive record of civic leadership and invaluable service.

Many people have made notable contributions to our community, but few have left a legacy of progress as Omar Blair. He once mused that he wanted to be remembered as one who tried. I would submit that Omar Blair molded a life of enduring accomplishment and proved to be a powerful force in transforming our community. His is an indomitable spirit and our lives have been truly enriched by his presence among us.

Omar Blair demonstrated that he had steel at an early age. Upon his graduation from Albuquerque High School in 1936, the school board determined that the six black graduates had to sit behind their classmates and would not have a spotlight shone on them as they received their diplomas. But Omar was not intimidated. He walked with dignity up to the stage in darkness to get his diploma to the ovation of his classmates. Years later, he was awarded "Outstanding Graduate of the Past 100 Years" by the same people who would not allow him to sit with his classmates forty-three years earlier.

Omar attended the University of California at Los Angeles prior to entering the Army Air Corps during World War II. Captain Blair belonged to the all-black 332nd Fighter Squadron—the famed Tuskegee Airmen—where he developed a reputation for daring. His squadron had been called upon to escort bombers on a raid over Berlin, but their fighters needed bigger fuel tanks to go the distance and they were not available through normal channels. Captain Blair learned that the needed tanks were on an Army train coming from Naples. He organized a convoy, stopped the train and forcibly offloaded the tanks as they were critical to his squadron's mission. Captain Blair got the job done and the bombing raid went off without a hitch.

In 1951, Omar and his wife Jeweldine, came to Denver. He found work and started a family that grew to include three children. He also found time to get involved in public affairs and was elected to the Denver Board of Education in 1972. He served two terms and was voted the first African American to serve as president of the school board. He led our city through what was arguably the most tumultuous era for public education in Denver. The schools were under court order to desegregate and Mr. Blair and other board members became the driving force to implement the order through busing. But his tenure on the board was not about changing how kids got to school; it was about fundamental change and the quality of public education. For Omar Blair, integrating schools did not mean simply having students sit with one another. It meant integrating school resources, providing new textbooks, hiring more teachers and making sure schools were uniformly upgraded and maintained. In short, it meant equal education for all of our children.

Omar served as President of the Colorado Association of School Boards, Vice President of the National Caucus of Black School Board Members, and National President of the Council of Great City Schools. But his service was not limited to education. He served as a Commissioner of the Denver Urban Renewal Authority during the time when he and his colleagues initiated the 16th Street Mall Project. He was a founding member of the Greater Park Hill Sertoma Club and his work was recognized by Sertoma International. He served as President of the Owls Club of Denver and as a board member of the Denver Chamber of Commerce and the East Denver YMCA.

Omar was honored on numerous occasions and his accolades include: the American-Israel Friendship League's Partners in Education Award; the U.S. Department of Justice Award for Outstanding Community Service and an honorary "Doctor of Public Service" degree from Metropolitan State College of Denver. His church, Shorter Community AME, dedicated its community room in his name and on April

26, 2003, the City and County of Denver named the Blair-Caldwell African American Research Library in recognition of his lifetime of service to our community. But accolades don't tell the whole story. Omar once made a poignant reference in an article that after 52 years of marriage to Jeweldine, "You can put this in big bold letters—without her I would not be half the person I am and I know that." Not only was Omar Blair a man of accomplishment, he was a man who was well-grounded with a clear sense of what mattered.

Omar Blair was an unrelenting advocate for the causes that elevate the human condition. He burnished a reputation of being forthright, pragmatic, outspoken and "taking on all comers." But ultimately, he was dedicated to our children—all of our children. He constantly reiterated that "the kids are what it's all about" and I believe his legacy to us is to never waver in our commitment to future generations.

Omar Blair lived a life of meaning and one that is rich in consequence. It is the character and deeds of Omar Blair, and all Americans like him, which distinguish us as a people. Truly, we are all diminished by the passing of this remarkable person. Please join me in paying tribute to the life of Omar D. Blair, a distinguished citizen. It is the values, leadership and commitment he exhibited during his life that serves to build a better future for all Americans.

HONORING ROSEMARIE FLORENCE FREENEY HARDING

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. LEE. Mr. Speaker, I rise today along with my colleague, LOIS CAPPS, to honor the legacy of Rosemarie Harding, a mother, counselor, social worker, and teacher. On March 1, 2004, Rose departed at the age of 73, surrounded by loved ones who prayed and sang her passage to the other side.

Rosemarie Florence Freeney Harding was born July 24, 1930 to Dock Freeney, Jr. and Ella Lee Harris Freeney. She was the youngest of nine siblings, a sweet and keenly intuitive child who was deeply loved. After graduating from high school, she spent two years at Chicago Teachers College. In 1955, Rose graduated from Goshen College in Indiana with a major in sociology.

After completing her bachelor's degree, Rose returned to Chicago and worked as a social worker and teacher, during which time she served Bethel Mennonite Church as a lay counselor. In 1959 she met Vincent Harding at a church conference. Rosemarie and Vincent married in 1960 and moved to Atlanta, Georgia in 1961 as representatives of the Mennonite Central Committee. There, they opened up their home as the South's first interracial voluntary service center, Mennonite House. This was an important gathering place for Civil Rights activists, who found respite, hospitality, encouragement and stimulating dialogue.

After her children were born, Rosemarie worked as a substitute teacher and helped found the city's first interracial preschool as well as the Martin Luther King, Jr. Community School, one of Atlanta's earliest independent black day schools. She also helped found the Guardians, an advocacy group dedicated to ensuring black parents a voice in the desegregation of Atlanta public schools. In 1974, Rosemarie and her family moved to Philadelphia where she continued her involvement in progressive political activism and helped raise several grandnieces and nephews. In 1978, she earned a masters degree in history and women's studies at Goddard College. Rosemarie also served in various volunteer capacities at the American Friends Service Committee and traveled to Brazil in 1980 to evaluate the organization's support for faith-based social justice initiatives.

From 1979 to 1981 Rosemarie worked at the Pendle Hill Quaker Study, where she and her husband developed a series of courses on spirituality and social justice. When the couple moved to Denver in 1981, Rosemarie continued to co-teach these courses with Vincent at the Iliff School of Theology. Increasingly, the couple traveled throughout the U.S. and internationally, conducting workshops, giving lectures, and sharing insights with educators, activists, religious leaders, and others. After receiving a masters degree in social work, Rosemarie worked for the Family Crisis Center in Denver. She treated colleagues and clients with great respect and often found gentle and creative ways to resolve even the most intransigent conflicts.

As the first member of her family to finish college, Rosemarie was a mentor and example to all of her nieces and nephews; always assisting and encouraging them. She helped with homework, shared her love for writing and reading, and provided opportunities for her younger relatives to travel and broaden their horizons. She was the mediator in the family—the one who, in the midst of tensions or arguments, could calm the storm. She didn't teach by dictate, but by example. She also loved to laugh and dance and was most happy when those around her were also enjoying themselves.

She leaves many to mourn her death and to celebrate her life: Vincent, her husband of 43 years; Rachel, her daughter; Jonathan, her son; her adopted son, Geshe Thupten Kunsang; her sisters Alma Campbell, Mildred Dozier and Sue Verrett; her nieces and nephews Louis, Maxine, Frank, Robert, Lottie, Carmen, Thomas, Francetta, Nataleen, Eileen, Anita, Tommy, Donna, Jimmy, James, Jean, Gloria, Phillip, Rose, JoAnn, Harvey, Walter, Felicia and Claude; and a host of other dearly beloved relatives and friends.

I take great pride in joining Rosemarie's family and colleagues to salute the extraordinary Rosemarie Harding. I want to thank her on behalf of the entire 9th Congressional District for her great heart and generous soul. She has been a friend who has shared her wisdom and has given me support.

STATE CHAMPIONS TIMES THREE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. COBLE. Mr. Speaker, while the nation focuses on the culmination of the NCAA men's basketball March Madness and the Final Four this weekend in San Antonio, Texas, the Sixth District of North Carolina is already basking in the glow as the home of three state high school basketball championship teams. Trinity High School in Randolph County, Thomasville High School in Davidson County, and Westchester Academy in Guilford County are the respective homes for high school basketball champions this season, and we are proud to acknowledge their tremendous seasons here.

Trinity High School completed a remarkable season on March 13 at the Dean Smith Center in Chapel Hill when it captured the North Carolina High School Athletic Association (NCHSAA) 3–A boys basketball championship with a win over Dudley High School of Greensboro. Led by state Coach of the Year Tim Kelly and state Player of the Year Josh King, the Bulldogs finished the year with a 31–1 record.

Despite that gaudy regular season record, many people did not give Trinity much of a chance going into the game against the Dudley Panthers. Coach Kelly told the Greensboro News & Record that a tough regular season schedule prepared his baby-faced warriors for the toughest battle of the year. "We think we saw the right mix to get here," Coach Kelly told the newspaper. "We didn't get a free pass. We didn't get to pass go and collect $200. We had to pay our way to get here and our kids were aggressive. We might look like choirboys when we walk into the building, but we're not. We're going to attack and be aggressive on both ends of the floor."

When it was over, the Bulldogs celebrated a 73–64 win over the Panthers, led by King's 21 points, along with 18 from championship game MVP John McEachin. Coach Kelly will tell you, however, that it took a total team effort to beat a talented Dudley squad. "I really feel like this team was destined to win tonight," the coach concluded. "We wish (Dudley) luck next year with everything they have coming back. I'd hate to have to play them next year, but maybe we'll get that opportunity."

So do all the Bulldogs fans, but before we look ahead to next season, let's take one more moment to savor this year's championship. Congratulations are in order to Coach Kelly and his assistants, Joey Freeman, Richard Brendle, Richard Austin, Lindy Hall, Brent McDowell, and Brian Nance. Again, led by Player of the Year King, and MVP McEachin, every member of the Bulldogs can take pride in the title quest. The other members of the championship team included J.B. McDowell, Jason Lewis, Spencer Smith, Jonathan Watts, Tim Kelly, Brian Downing, David Idol, Matt Watkins, Dane Young, Ben King, and Dustin Everette.

Assisting all season long were managers Kristy Craig, Jennifer Hiatt, Carson Wheeler, Jerome Porter, along with statisticians Ashley Gentry and Blair Farlow. To Principal Daryl

Barnes, Athletic Director Doug Tuggle, the coaches, players, students, faculty, staff, family, and friends of the Trinity Bulldogs, we say congratulations for capturing the 3–A state boys basketball championship.

Speaking of threes, the girls basketball team at Thomasville High School is celebrating its third straight NCHSAA 1–A state championship. Also known as the Bulldogs, Thomasville defeated Farmville Central 67–48 on March 13 to win the crown at the Smith Center in Chapel Hill. It was the second year in a row that Thomasville defeated Farmville Central in the title contest, but this year the squad was led by someone who wasn't even supposed to start the game. Charnette Davis was surprised by Head Coach Eric Rader when she was tapped to be in the starting lineup, and Charnette responded by scoring 18 points and pulling down 11 rebounds to be selected as the game's MVP. Charnette was also named as the MVP of the Western Regional final.

This third crown capped a remarkable 30–1 season, and Coach Rader told the High Point Enterprise that, in his mind, the final outcome was never in doubt. "When you have the heart of a champion like these ladies do, they never lose," Rader told the newspaper. For the last three years, the Thomasville Bulldogs have not lost and can celebrate this "three-peat" with pride and honor. The citizens of the Sixth District congratulate Coach Rader and his assistants Sara Larrick, Holly Harvey and Kelvin Caraway. In addition to MVP Davis, every member of the Thomasville girls basketball team contributed to the third straight title, including Leah Harris, Impris Manning, Mary Allen, Brittanny Marsh, LaShonda Cosby, Wudi Alford (who was named Most Outstanding Player for her 18-point performance in the championship game), Brittany Sanders, Tameka Thomas, Erin Crowder, Kendra Rutledge, Sha Harris, and Jenny Burgess. Providing valuable assistance all season long were managers Byron Lattimore, Andrew Oakley, Clifton Carroll, along with statistician Shanterra Robinson and video coordinator Jonathan Caraway.

Again, we congratulate Principal Dick Gurley, Athletic Director Woody Huneycutt, the coaches, players, students, faculty, staff, family and friends of Thomasville High School on the winning of their third straight 1–A girls basketball championship.

In keeping with our theme of threes, another high school in our district won its third boys basketball championship in five years and its second in a row. On February 28, Westchester Academy of High Point won the North Carolina Independent Schools Athletic Association (NCISAA) 2–A title. The Wildcats defeated Carolina Day of Asheville 74–52 at Ravenscroft High School in Raleigh. Even though this was not the first title for Westchester, Head Coach Pat Kahny said this one was significant. "This was special," Coach Kahny told the High Point Enterprise. "There was a lot of pressure trying to repeat as the number one seed, and there was pressure because we played before the biggest crowd all year."

The title contest culminated a tremendous 29–2 season for the Wildcats. Following two consecutive losses at a tournament in December, Westchester ran off 20 straight wins on its way to the championship. Leading the way to the title was Jacob Briles, who poured in 37 points in the championship game while Toby Grauel added 21. Coach Kahny, however, does not think the offensive firepower the determining factor in the outcome. "Our defense in the second quarter was the key," Coach Kahny told the Enterprise. We forced a number of turnovers and got several easy baskets in transition. They (Carolina Day) have a very good offensive team. To hold them to 23 points in the first half was a tremendous effort."

Coach Kahny and his assistants Ken Hyde and Adam Schwartz led that tremendous effort all season long. In addition to Briles and Grauel, the members of the winning squad included Britt Hutchens, Myles Pearl, Kemil Kepinski, Will Moore, Dexter Garner, Coleman Team, Jack Vance, Emir Dukic, Jack Tucker, Anthony Peters, Robert Byrd, and Tuck Tucker. Supporting the squad all season long were managers Candice Gilliland, Andrea McNamara, Kathryn Thompson, and Jeff Galloway along with publicist Lore Fariss.

Once more, we are pleased to congratulate Headmaster Tommy Hudgins, Athletic Director Kahny, the coaches, players, students, faculty, staff, family and friends of Westchester Academy for winning the NCISAA 2–A boys basketball championship.

On a final note, Mr. Speaker, I am proud to acknowledge that either current or former staffers of mine are graduates of Trinity, Thomasville and Westchester. It makes their state championships all the more sweet, and we offer our heartfelt thanks for making us proud.

HONORING JOAN KERSCHNER

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I stand before you today to recognize the achievements of Joan Kerschner, director of the Henderson District Public Libraries in Henderson, Nevada. It is a great honor to publicly recognize the achievements and contributions of this exceptional woman.

Joan Kerschner has been a leader in the library sciences field for many years. In 1972 she graduated with a master's degree from Indiana University in Library Science. Since her first job as a librarian she has helped both the young and old, using her skills and knowledge to provide the vast amount of information that can be found within our libraries for research projects, practical questions, and personal knowledge seekers.

Since her graduation in 1972 she has served on many councils and committees to help promote and further the use of libraries and library services. She, along with myself, is a firm believer in promoting the use of available knowledge to all those that seek it. She discovered the advantages of seeking knowledge through her job, but wanted to help those around her to discover it as well.

Since Joan's arrival in Henderson, she has helped bring about the opening of the first new public library since 1989. In 2001 she received the Henderson Economic Development Award for Public Person of the year. She has been a member of the Education Committee of the Henderson Chamber of Commerce and the Issues Committee of Henderson Development Association. This past year she served as president of the Henderson Rotary.

Mr. Speaker, I commend Joan Kerschner on her achievements and her community contributions. I hope that all of my colleagues will support me in giving thanks to her for her contributions and example of what knowledge and information can accomplish for those that seek it in their lives.

THE VoIP REGULATORY FREEDOM ACT OF 2004

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PICKERING. Mr. Speaker, I rise today to introduce the "VoIP Regulatory Freedom Act of 2004," in conjunction with my colleague in the United States Senate, Mr. SUNUNU, who will be introducing the companion version of this bill in that Chamber today.

This act will grant regulatory freedom to a new and exciting technology known as voiceover-Internet-protocol, or VoIP, by prohibiting the imposition of unnecessary federal, state and local regulation in order to allow this emerging technology to grow and develop. VoIP has flourished and prospered thus far because of the relatively hands-off approach taken by regulators and concomitantly the effectiveness and robust nature of the competitive marketplace. In order to ensure the continued success of this new technology, and the concurrent benefits which it delivers to the American consumer, we must prevent the wholesale or even piecemeal application of outdated regulations.

VoIP is the technology that allows voice communications to be converted into "packets" and transported with data over an IP network, such as the public internet or a privately managed IP network, to the desired location using IP addressing. The end result is a more innovative and technologically-advanced service to the consumer, while also the most efficient and cost-effective method by which to communicate.

Because VoIP is predominantly interstate in nature, the bill provides for a prohibition of state and local regulation and taxation of the application. This in no way implies that states and localities do not play a very important role in our federalist system as it relates to telecommunications policy. Rather, because of the unique attributes of this technology, including its mobility in some instances, a general inability to decipher the actual origination of calls in other instances, and the irrelevant treatment of area codes when assigning numbers, it would be deleterious to impose a patchwork of 50 different sets of regulatory regimes on such a nascent and far-reaching technology.

Having said all that, I do recognize that there are specific types of VoIP applications that have the capability to send calls to or receive calls from the public switched telephone network ("PSTN"), which I refer to as "connected VoIP applications." By sending and receiving calls to the PSTN, providers of connected VoIP applications will have to assume some obligations, such as (1) some type of interprovider compensation; (2) contribution to the Universal Service Fund; (3) compliance with law enforcement access; and (4) industry consensus on social obligations such as 911 service, disability access, reliability and security.

First, in light of the capability to send calls to or receive calls from the PSTN, the bill recognizes an obligation on the part of providers of connected VoIP applications to compensate others for the use of their facilities and equipment on the PSTN through some sore of interprovider compensation, which will be determined by the Federal Communications Commission. When making this determination, the FCC must take into account the differing geographic markets, especially the rural areas, which make up our country. The FCC will also be required to include a transition period, to allow the providers to adequately adjust to a new regime of compensation.

Second, by sending and receiving calls to the PSTN, providers of connected VoIP applications will be required to contribute to the overarching national goal of universal access to and affordable telephony for all Americans. When deciding upon the best methodology by which to assess such providers, the FCC will consider a variety of contribution methodologies. However, the main goal in applying USF to connected VoIP application providers is ensuring that the Fund is sustainable over the long term, and the FCC must seek to maximize to the greatest extent possible contributions into the Fund.

Under both scenarios, the bill will require the FCC to complete a rulemaking within 6 months to decide how such providers will meet their obligations. While this bill only addresses a small sliver of the overarching deficiencies associated with the universal service fund and the interprovider compensation regime, I intend to propose new legislation in the next few weeks that will tackle both issues head on and require a definitive conclusion to these perplexing problems.

Third, because of all the potential capabilities of this technology, we would be hard-pressed not to allow access by law enforcement. Especially in the day and age in which we live, including this time of war, we must always be thinking of our overall national security. Therefore, the bill would require the FCC to examine the technologically feasibility of requiring law enforcement access to such technology. If and when the FCC determines that it is technologically feasible and reasonable to do so, providers of connected VoIP applications will then be required to comply with law enforcement. While this may be somewhat burdensome on the industry, the value of our security far outweighs any burden which may be imposed. Security of our citizens will always be our number one priority.

In sum, the "VoIP Regulatory Freedom Act of 2004" bill will provide certainty in an area of the telecommunications industry that is significantly changing the way people communicate with one another. By establishing a new regime for this constantly-evolving technology, separate and apart from the outdated and archaic statutes and regulations applicable to traditional circuit-switched telephony, I believe we are laying the necessary groundwork for a new era of telecommunications.

Mr. Speaker, I look forward to working with you and other members of the House, as well as our colleagues in the Senate, to achieve a bipartisan consensus on this most important initiative.

CONGRESSIONAL HUMAN RIGHTS CAUCUS (CHRC) BRIEFING ON PROPOSED UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES: STATEMENT BY CHRC CO-CHAIR, CONGRESSMAN TOM LANTOS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. LANTOS. Mr. Speaker, on March 30th, the Congressional Human Rights Caucus held a groundbreaking Members Briefing entitled, "International Disability Rights: The Proposed UN Convention." This discussion of the global situation of people with disabilities was intended to help establish disability rights issues as an integral part of the general human rights discourse. The briefing brought together the human rights community and the disability rights community, and it raised awareness in Congress of the need to protect disability rights under international law to the same extent as other human rights through a binding UN convention on the rights of people with disabilities.

The Caucus welcomed as expert witnesses Deputy Assistant Secretary of State Mark P. Lagon; the Permanent Representative of the Republic of Ecuador to the United Nations, Ambassador Luis Gallegos; the United Nations Director of the Division for Social Policy and Development in the Department of Economic and Social Affairs, Johan Schölvinck; the distinguished former Attorney General of the United States, former Under-Secretary General of the United Nations and former Governor of Pennsylvania, the Honorable Dick Thornburgh; the President of the National Organization on Disability (NOD), Alan A. Reich; Kathy Martinez, a member of the National Council on Disabilities (NCD); and a representative of the United States International Council on Disabilities (USCID) and Executive Director of Mental Disability Rights International, Eric Rosenthal. I intend to place their important statements in the CONGRESSIONAL RECORD, so that all of my colleagues may profit from their expertise, and I ask that my own statement at the briefing be placed at this point of the CONGRESSIONAL RECORD.

Good morning, ladies and gentlemen. I would like to welcome you to today's Congressional Human Rights Caucus Briefing on international disability rights and the proposed UN Convention.

I would like to thank the Co-Chair of the Bipartisan Disabilities Caucus, James Langevin, as well as my good friends Peter King, Betty McCollum, Jim Moran and Jim Cooper for attending this important briefing. We all owe a special thanks to our former colleague, the former Chairman of the House International Relations Committee, Benjamin Gilman, for his active participation in this briefing. His support for this noble cause is invaluable.

This is the first time that the Congressional Human Rights Caucus has held a briefing on international disability rights. While I am very pleased that the Caucus is holding this groundbreaking briefing today, the mere fact that this is the first of its kind highlights an important shortcoming of the work of the human rights community, which, so far, has largely been absent in its support for the disability community.

Ladies and gentlemen, an estimated 600 million people in the world have a disability of various types and degrees. The day-to-day life of 25 percent of the world's population is affected by disability—affecting entire families, not just individuals. 80 percent of the world's people with a disability live in developing countries, where only 1 percent to 2 percent have access to the necessary rehabilitation services. The majority of an estimated 150 million children with disabilities worldwide remain deprived of learning opportunities. Only 2 percent of children who have disabilities in developing countries are attending schools or have access to rehabilitation facilities.

These facts only begin to describe the global disparities in the living conditions of persons with disabilities. According to the recent State Department's Country Reports on Human Rights Practices, in the People's Republic of China, some protection laws were passed and attention to disability issues raised, particularly in light of the upcoming Special Olympics in 2007. However, a wide gap exists between protection laws and the practical implementation. Additionally, some remaining legal provisions outrightly contradict those protection laws. The Maternal and Child Health Care Law prohibits the marriage of persons with certain specified contagious diseases or certain acute mental illnesses. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. Doctors frequently force parents of children with disabilities to place those children in state-run institutions, which cannot provide adequate rehabilitation. Government statistics showed that almost one-quarter of the approximately 60 million persons with disabilities live in extreme poverty. The Higher Education Law enables universities to legally exclude disabled candidates for higher education. Other countries also have codified laws to prevent discrimination against persons with disabilities, but fail to implement them. Traditional myths and misconceptions further compound harsh living conditions for people with disabilities. For example, in Zimbabwe according to traditional beliefs, persons with disabilities are considered bewitched, and reports of children with disabilities being hidden when visitors arrive are common.

In response to the existing global discrepancies, the UN set non-binding standards in 1993 through the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN res48/96). To further strengthen international standards, the General Assembly established an Ad Hoc Committee in 2001, which is charged with the drafting of a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. The Ad

Hoc Committee is chaired by Ambassador Luis Gallegos, whom we welcome today to this briefing. Currently, 27 countries and 12 representatives of NGOs participate in a working group, which is considering draft proposals for such a convention, and which reports to the Ad Hoc Committee.

Unfortunately, some critics have come forward and spoken out against this noble effort, characterizing it as either needless, naive, or too complex for an international solution. Arguments such as: "Are we really going to tell the poorest countries of the world that they now have to build ramps for people in wheelchairs, when they barely can feed their citizens?" do not only miss the purpose of a Convention, but also do not recognize the realities on the ground.

To address the latter point on the practical implications first, I am fully convinced that poor and developing countries can only move forward in their development if they include people with disabilities. It is impossible to feed a starving population on the ground with food donations when, as I have mentioned earlier, a significant number of people in the developing world have a disability, and cannot even reach this food aid. International Donor countries could have hardly intended to provide food aid so we all can witness scenes on television reminiscent of Darwin's "Survival of the Fittest," where only the strong survive. The same is true for any economic development. If significant numbers of people are excluded from any development and opportunities in a country, we can expect their dependence on international aid to continue. Furthermore, how can persons who are deaf or blind ever benefit from significant efforts in the global fight against HIV/AIDS, if they cannot be part of any education campaign, an issue recently addressed in a New York Times article from Sunday, March 28th? The United States can hardly change the infrastructure of a country over night. Nor can we do it alone, we need the international community and encourage all nations to move forward with our guidance and support.

Critics also miss the point of what the purpose of the proposed Convention really is. The most important role of the proposed convention is the elevation of disability rights to the highest level of international law. Only if we can establish an internationally verifiable consensus on what disability rights are and through what mechanisms they can be achieved, can we expect to make them part of a meaningful international dialogue. This is exactly the purpose of other UN human rights instruments the US has not only entered into, but helped bring into existence, most notably the Universal Declaration of Human Rights, which has become part of customary international law. This convention most certainly is not a "silver bullet" for all disability rights problems everywhere, nor does it change the situation in a country over night, only because it has become a party to this treaty. It also does not serve to "threaten" developing countries with the overnight implementation of unachievable goals and standards, but to offer an opportunity for a country to commit itself to a verifiable journey toward standards, which are the result of an international agreement. I think it behooves the United States to let other countries benefit from our expertise and the standards we have achieved, most notably in the Americans with Disabilities Act. We are undoubtedly the leading nation on disability rights, and we are the sole remaining superpower. This unique position realistically means that we can either provide active leadership toward passage of such a document, ensuring that it gains international credibility, or we can stand aside. Therefore, I was disappointed by the remarks of former Assistant Attorney General for Civil Rights, Ralph Boyd, before the Ad Hoc Committee on June 18, 2003. In his remarks, Assistant Attorney General Boyd, recognized that "Unfortunately, persons with disabilities have too often been the targets of improper discrimination . . ." and continues that: ". . . the activism and attention of UN Member States brings hope that one day they will be seamlessly integrated into the societies in which they live." Interestingly enough, the U.S. does not seem to be one of those states infected with "activism and attention," as he points out that—while the US has a lot of experience, and other countries are more than welcome to learn from us—we do so considering our "comprehensive domestic laws protecting those with disabilities, not with the expectation that we will become party to any resulting legal instrument."

We have invited the Department of Justice to participate in today's briefing, but the Department declined our invitation yesterday. I find it very curious that the Department of Justice speaks at the United Nations about these issues, but has nobody available to share their position with Members of Congress at this briefing today.

I, and all of my colleagues on the International Relations Committee, strongly disagreed with the position expressed by former Assistant Attorney General Boyd when we passed unanimously H. Con. Res. 169, a bill I have introduced in strong support of a UN Convention. I seriously hope that the Administration is reconsidering its position, and I call on the House Leadership to schedule my legislation as soon as possible, so that the Full House and the Senate can go on record in calling for an international convention before the next working group meeting in May. We also need to bring the complete resources of the U.S. Government to help in addressing the problems of people with disabilities abroad. That is why Frank Wolf and I introduced H.R. 1462, the International Disabilities and Victims of Civil Strife and Warfare Assistance Act, and we hope to see legislative action on that initiative soon.

We should be the engine of this effort, not the breaks.

Apart from our moral obligations as the richest and most powerful nation on this planet, the United States also stands to benefit directly from such efforts. First, only equal and full participation of all groups of society in all aspects of life can guarantee a stable country, and a strong democracy. I do not need to discuss this in great detail, as the spread of democracy around the globe has long been the foremost foreign policy goal of the United States. A leadership role in the field of international disability rights will significantly impact the positive perception of the United States globally. Second, in an increasingly global economy, American companies have to be global actors to be competitive. Maybe the critics of a strong US leadership role on this issue can explain to us how American citizens with disabilities will participate in those global opportunities, and the career chances they present, if persons with disabilities would not even be able to get to a branch office of their company in El Salvador, Rwanda, Vietnam or—let's say, Uzbekistan?

As you are aware, the US government recently made fundamental changes in the way we will consider foreign aid. The Millennium Challenge Act of 2003 (Pub. L. 108-199) established the Millennium Challenge Corporation (MCC), and clearly proscribes in Sec. 607(b)(1)(B) as one criteria for a country's eligibility for funds through the Millennium Challenge Account the " respect [for] human and civil rights, including the rights of people with disabilities." According to our legislation, "Such determination shall be based, to the maximum extent possible, upon objective and quantifiable indicators of a country's demonstrated commitment to the criteria in subsection (b), and shall, where appropriate, take into account and assess the role of women and girls."

The legislative intent is clear, the implementation is not. According to the MCC's Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in FY 2004, the disability rights criteria will largely be determined by the findings of the State Department's Human Rights Report. Unfortunately, the Country Reports vary widely in comprehensiveness and quality on this issue, precisely because of the absence of recognized international standards, which we have for other human rights issues. Clearly, only global and enforceable disability rights standards which have become part of accepted international law by UN Member Countries through a UN Convention can provide us with appropriate reporting criteria, so that an objective determination can be made.

A GOOD WEEK FOR FEDERAL EMPLOYEES

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. VAN HOLLEN. Mr. Speaker, this week, two important pieces of legislation that will help Federal employees advanced in the House of Representatives. House Resolution 581, which expresses Congress's support for parity between military and civilian Federal employee pay raises, passed the House 2 days ago with strong bipartisan support. Yesterday, H.R. 3751, which requires the Administration to present options for expanding the Federal Employees Health Benefit Plan (FEHBP) to include greater access to dental, vision and hearing benefits, received a unanimous vote in the Government Reform Committee.

Congressional efforts to correct pay disparities have been frustrated by the budgetary priorities of the Bush Administration, which has for years shown that pay parity is not a priority. Indeed, the administration's 2005 budget includes a 3.5 percent pay increase for military personnel, but only a 1.5 percent increase for civilian employees. The strong bipartisan support for pay parity in the House, even in the face of presidential opposition, illustrates the commitment many members of Congress feel for ensuring that we acknowledge the service and sacrifice made by both military and civilian personnel.

This week's Government Reform Committee vote in support of H.R. 3751 is also an important step forward for federal employees. Dental and vision problems can often be as disruptive to the lives of federal employees and their families as other health concerns. Yet vision and dental needs are not covered by many federal benefit plans. Serious, developing dental and vision problems are not often obvious to the casual observer and can sometimes only be detected by a physician. Despite its potential impact on general health, dental and vision insurance, in most cases, must currently be assumed by the federal employee alone at great personal expense. H.R. 3751 requires the Office of Personnel Management to explore ways to make affordable vision, hearing and dental care available to all federal employees.

Federal employee jobs, services and benefits have been the subject of much congressional activity lately. At every turn, the Bush Administration has fought efforts to protect the rights of federal employees and opposed the principle of pay parity in annual compensation. Fortunately, thanks to the success of these two bills, there is good news for federal employees this week.

INTRODUCTION OF THE MASTER TEACHER ACT OF 2004

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. CARDIN. Mr. Speaker, I rise today to introduce the Master Teacher Act of 2004.

Qualified, experienced, dedicated teachers are our most valuable resources for educating the nation's children. Under the No Child Left Behind Act (NCLBA), states are required to recruit highly qualified teachers, yet rural schools and schools in low-income areas often have difficulty attracting and retaining faculty. The Master Teacher Act of 2004 will help improve these schools' ability to attract the best teachers.

The real tragedy in our education system is that so many schools are failing to meet adequate yearly progress (AYP) performance standards. As currently designated by NCLBA, one hundred percent of our nation's public school students must meet AYP standards in reading, math, and science by the 2013–14 school year. This seems an insurmountable task for many underfunded school districts. In my home state of Maryland, more than one-third of public schools are now considered failing. This is not acceptable.

To improve educational achievement for all our students, we must ensure that underperforming public schools can attract and keep qualified teachers who will serve as a catalyst for change. The Master Teacher Act of 2004 will encourage teachers to work in those schools by offering tax incentives that will reward them financially for taking on such a challenge.

"Master teachers" are defined as faculty who hold a master's degree, have at least five years teaching experience in a public elementary or secondary school, meet the "highly qualified" standard as defined by the NCLBA, and have obtained advanced certification in their state licensing system. My legislation would reward "master teachers" who agree to teach in an underperforming school by exempting 25 percent of their gross income from federal taxes. They would be eligible for this exemption for up to four years. For the purposes of this legislation, underperforming schools are those that fail to meet Adequate Yearly Progress (AYP) standards as defined by NCLBA.

Mr. Speaker, good teachers are essential to a successful education system. They are the profession responsible for educating all other professionals, and therefore they are essential to our success as a nation. I urge my colleagues to join me in supporting this legislation and giving all our children access to the best teachers possible.

PERSONAL EXPLANATION

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MCINTYRE. Mr. Speaker, on Monday, March 29, 2004, I was unavoidably absent for rollcall vote 94, on passage of H.R. 3917, and rollcall vote 95, on passage of H.R. 2584. Had I been present I would have voted "yes" on rollcall votes 94 and 95.

REAUTHORIZATION OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. STEARNS. Mr. Speaker, at the request of the Honorable Norman Mineta, Secretary of Transportation and distinguished former member of this House, I am pleased to introduce the Administration's requested legislation reauthorizing the National Highway Transportation Safety Administration. I include with this statement a copy of the letter transmitting this legislation to Speaker HASTERT by the Secretary.

I particularly want to commend the Administrator, Dr. Jeff Runge, for his fine leadership of the Agency.

I have concerns with some aspects of this proposal, but I believe it deserves a fair hearing.

I believe that provisions in the legislation facilitating the President's hydrogen initiative, provisions promoting international harmonization of safety standards, and provisions to encourage the development of crash avoidance technologies are particularly meritorious.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, March 12, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am pleased to transmit to you for introduction and referral to the appropriate committee a proposed bill: To authorize appropriations for the motor vehicle safety and information and cost savings programs of the National Highway Traffic Safety Administration for fiscal years 2005–2007, and for other purposes.

The bill includes two titles. Title I, "Motor Vehicle Safety," contains an authorization of appropriations for the motor vehicle safety law (chapter 301 of title 49, United States Code) administered by the Department's National Highway Traffic Safety Administration (NHTSA) and seven additional sections that would amend that law. Title II, "Motor Vehicle Information and Cost Savings," contains an authorization of appropriations for the motor vehicle information and cost savings law (part C of subchapter VI of title 49, United States Code) administered by NHTSA and five additional sections that would amend that law.

Highway and motor vehicle safety programs and enforcement have succeeded in reducing the highway fatality rate despite significant increases in the number of vehicles and the number of vehicle miles traveled. Our most recent data show a rate of 1.5 fatalities per 100 million miles traveled, nearly half the rate of 20 years ago. The bill's proposed authorizations would provide the resources needed to continue this record of success for fiscal years 2005–2007.

Title I ("Motor Vehicle Safety") would authorize appropriations for NHTSA's motor vehicle safety programs of $125,221,000 in fiscal year 2005, and such sums as may be necessary in fiscal years 2006 and 2007.

Title II ("Motor Vehicle Information and Cost Savings") would authorize appropriations for NHTSA's motor vehicle information and cost savings programs of $14,080,000 in fiscal year 2005, and such sums as may be necessary in fiscal years 2006 and 2007.

The bill contains a number of amendments to the motor vehicle safety and information and cost savings laws, including provisions to (i) authorize the Secretary to participate and cooperate in international activities that enhance motor vehicle and traffic safety, (ii) authorize $5 million a year to support the President's Hydrogen Fuel Initiative and the FreedomCAR Program by a safety research initiative for alternate fuel vehicles that includes risk-assessment studies of hydrogen-fueled and other alternatively fueled vehicles, the development of test and evaluation procedures and performance criteria to assess the likelihood of potential failures that could indicate unsafe conditions, and the development of suitable countermeasures; and (iii) authorize $10 million a year for research into vehicle-based driver-assistance technologies such as electronic stability control, telematics, radar braking and similar vehicle advances, and to develop safety standards and consumer education programs, to ensure that appropriate safety benefits are derived from these technologies. Additional details describing these and other amendments are provided in the enclosed analysis.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,
NORMAN Y. MINETA.

HONORING KENNY TABB FOR HEROIC RESCUE

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to pay long overdue public tribute to a remarkable individual from my home state of Kentucky. Kenny Tabb, Hardin County Court Clerk and longtime community leader in Elizabethtown, KY, was nominated 46 years ago for a Young American Bravery National Medal following his rescue of an 11-year-old boy drowning in a swimming pool. Mr. Tabb never received word concerning the status of the 1958 award or appropriate recognition for his heroism.

On a summer day in 1958, Tabb, then 13, encountered a young mother screaming for help beside a hotel swimming pool. The woman's 11-year-old son, who could not swim, was struggling in the eight foot deep water, twice sinking below water. A young Kenny Tabb instinctively jumped into the pool, fully clothed, saving the boy from a near drowning.

On August 27, 1958, Representative Frank Chelf recommended to Attorney General William Rogers that a Young American Medal for Bravery be awarded to Kenny Tabb. The nomination was sent to a committee composed of F.B.I. Director J. Edgar Hoover, the Attorney General and the Solicitor General. President Dwight Eisenhower later awarded two youth medals to earlier nominees and no Federal recognition was made to honor Tabb for his valor.

Kenny Tabb demonstrated unusual courage and a selfless instinct to help others on that summer day in the prime of his youth. His action in saving a young life was an early indication of his character, qualities that have made him a brilliant public servant in the 46 years that have followed. Prior to his present post as clerk, Mr. Tabb served as Magistrate on the Hardin County Fiscal Court, as Assistant Principal at East Hardin High School and Principal at Sonora Elementary.

Today, I would like to correct a four-decade old administrative oversight and finally recognize Mr. Tabb, before the entire U.S. House of Representatives, for his childhood heroism and for his dutiful service to the Elizabethtown, KY, community in the years since. His efforts, then and now, make him an outstanding American, worthy of our collective respect and honor.

CONSTITUTIONAL AMENDMENT ON CONGRESSIONAL SUCCESSION

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. ROHRABACHER. Mr. Speaker, I have just introduced a constitutional amendment on congressional succession. Much has been said over the last couple years about the need to make sure we have a functioning Congress that is perceived as legitimate in the case of a national disaster that kills or incapacitates a large proportion of Members of Congress. So far, none of the proposals that have been introduced have been able to appeal to a broad, bipartisan cross-section of Congress. I believe the constitutional amendment I have introduced today addresses the major criticisms that have been leveled against the "continuity of Congress" constitutional amendments that have been introduced so far.

Under my proposal, each general election candidate for the House or Senate would be authorized to publicly appoint, in ranked order, 3 to 5 potential temporary successors. The legitimacy of a successor designated in this way temporarily succeeding a deceased or incapacitated Representative or Senator is similar to that of a Vice President succeeding a deceased or incapacitated President—not separately elected, but chosen by the principal and known well in advance of the election.

The problem faced by other proposals of how to determine when sufficient members have died or been incapacitated to trigger emergency procedures is avoided in my proposal because no such determination is necessary. If a congressional continuity solution is good enough to use when 110 Representatives are killed or disabled, it should be good enough to use when 50 or 20 or even one Representative dies or becomes unable to discharge his or her duties. Continuity of Congress is certainly important, but so is continuity of representation. Death or incapacity of Representatives and Senators (as in the case of the late Senator Paul Wellstone) should not change the control of either House of Congress or the outcome of votes. Also, the legitimacy of a congressional succession plan is more likely to be accepted in a national emergency if it has previously worked in smaller tragedies.

To further legitimize temporary successors, my proposal would repeal the current power state governors have to appointment temporary Senators. Since the adoption of the 17th Amendment, the American people have expected that the members of both Houses of Congress should be democratically elected. When a more democratic solution is available, we don't need to perpetuate the practice of a governor of another party being able to change the composition and control of the Senate just because a Senator tragically dies or is incapacitated.

My proposal would allow governors to appoint temporary Senators and Representatives only if the elected Senator or Representative has not submitted a list of successors or if none of the listed successors is able to serve. This backup appointment authority provides an incentive for Senators and Representatives (and potential Senators and Representatives) to make sure their "political will" is in order, since otherwise their governor could appoint someone they may not like. The backup authority of course also provides a further assurance of congressional continuity.

Mr. Speaker, I believe that my congressional succession constitutional amendment would solve the continuity of Congress problem in a way that would appeal to both sides of the aisle. I ask my colleagues for their support.

WELCOMING THE ACCESSION OF BULGARIA, ESTONIA, LATVIA, LITHUANIA, ROMANIA, SLOVAKIA, AND SOLVENIA TO THE NORTH ATLANTIC TREATY ORGANIZATION

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. PAUL. Madam Speaker, I rise in opposition to this resolution. I do so because further expansion of NATO, an outdated alliance, is not in our national interest and may well constitute a threat to our national security in the future.

More than 50 years ago the North Atlantic Treaty Organization was formed to defend Western Europe and the United States against attack from the communist nations of Eastern Europe. It was an alliance of sovereign nations bound together in common purpose—for mutual defense. The deterrence value of NATO helped kept the peace throughout the Cold War. In short, NATO achieved its stated mission. With the fall of the Soviet system and the accompanying disappearance of the threat of attack, in 1989–1991, NATO's reason to exist ceased. Unfortunately, as with most bureaucracies, the end of NATO's mission did not mean the end of NATO. Instead, heads of NATO member states gathered in 1999 desperately attempting to devise new missions for the outdated and adrift alliance. This is where NATO moved from being a defensive alliance respecting the sovereignty of its members to an offensive and interventionist organization, concerned now with "economic, social and political difficulties . . . ethnic and religious rivalries, territorial disputes, inadequate or failed efforts at reform, the abuse of human rights, and the dissolution of states," in the words of the Washington 1999 Summit.

And we saw the fruits of this new NATO mission in the former Yugoslavia, where the US, through NATO, attacked a sovereign state that threatened neither the United States nor its own neighbors. In Yugoslavia, NATO abandoned the claim it once had to the moral high ground. The result of the illegal and immoral NATO intervention in the Balkans speaks for itself: NATO troops will occupy the Balkans for the foreseeable future. No peace has been attained, merely the cessation of hostilities and a permanent dependency on US foreign aid.

The further expansion of NATO is in reality a cover for increased US interventionism in Europe and beyond. It will be a conduit for more unconstitutional US foreign aid and US interference in the internal politics of member nations, especially the new members from the former East.

It will also mean more corporate welfare at home. As we know, NATO membership demands a minimum level of military spending of its member states. For NATO's new members, the burden of significantly increased military spending when there are no longer external threats is hard to meet. Unfortunately, this is where the US government steps in, offering aid and subsidized loans to these members so they can purchase more unneeded and unnecessary military equipment. In short, it is nothing more than corporate welfare for the US military industrial complex.

The expansion of NATO to these seven countries, we have heard, will open them up to the further expansion of US military bases, right up to the border of the former Soviet Union. Does no one worry that this continued provocation of Russia might have negative effects in the future? Is it necessary?

Further, this legislation encourages the accession of Albania, Macedonia, and Croatia—nations that not long ago were mired in civil and regional wars. The promise of US military assistance if any of these states are attacked is obviously a foolhardy one. What will the mutual defense obligations we are entering into mean if two Balkan NATO members begin hostilities against each other (again)?

In conclusion, we should not be wasting US tax money and taking on more military obligations expanding NATO. The alliance is a relic of the Cold War, a hold-over from another time, an anachronism. It should be disbanded, the sooner the better.

YOU CAN BE A PART OF BUILDING SAFETY WEEK

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MOORE. Mr. Speaker, I rise today in recognition of Building Safety Week, observed April 4–10. Building safety affects many aspects of American life. Because of building safety code enforcement, we enjoy the comfort of structures that are safe and sound. Building safety and fire prevention officials work with citizens to address building safety and fire prevention concerns everyday.

The dedicated members of the International Code Council, including building safety and fire prevention officials, architects, engineers, and others in the construction industry, develop and enforce the codes that safeguard Americans in the buildings where we live, work, play and learn. The International Codes, the most widely adopted building safety and fire prevention codes in the nation, are used by most U.S. cities, counties and states.

Building safety codes provide safeguards to protect the public from natural disasters that can occur all across the country, such as snowstorms, hurricanes, tornadoes, wildland fires, and earthquakes. Building safety codes also work to minimize other potential building catastrophes.

Building Safety Week, sponsored by the International Code Council Foundation, is an opportunity to educate the public. It is a perfect time to increase public awareness of the role building safety and fire prevention officials, local and state building departments, and federal agencies play in the first line of defense to protect the public.

This year's theme, "You Can Be a Part of Building Safety Week," encourages all Americans to raise our awareness of building safety, and to take appropriate steps to ensure that the places where we live, work, play and learn are safe. Countless lives have been saved because of the building safety codes adopted and enforced by local and state agencies.

This year, as we observe Building Safety Week, I ask all Americans to consider projects to improve building safety at home and in the community, and to recognize the local building safety and fire prevention officials and the important role that they play in public safety.

I am proud to have this opportunity to recognize building safety and fire prevention officials today and urge all people to participate in Building Safety Week activities and to commence efforts to improve building safety.

RECOGNIZING THE LATIN BUSINESS ASSOCIATION

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. SOLIS. Mr. Speaker, I rise today to recognize the Latin Business Association (LBA) for its 28 years of performing exceptional work in promoting business growth, advocacy and education for the Latino community.

Established in 1976 as a private nonprofit organization, the LBA is the nation's largest Latino business entity with an active membership of 1,200 and overall outreach to Latino business owners. LBA's membership and outreach efforts enable it to fulfill its mission of being the fastest and most effective leader of Latino business opportunities in the market place. In addition, the LBA helps Latino-owned businesses grow by providing business-training workshops and developing effective advocacy programs.

More than a leader in the business world, the LBA transcends political, cultural, and language barriers that impact our nation's economic balance. As a result of the LBA's hard work, Latino businesses, executives, and entrepreneurs are not only nationally recognized, but have the opportunity to influence the nation's economic public policy.

As the Latino population continues to grow, the development of new corporations and entrepreneurial businesses will jumpstart our economy. I believe the LBA will be at the forefront among strong and influential business organizations offering support and direction to the Latino business community.

Tonight's 28th Annual Sol Business Awards Gala is a testament to the emerging significance and influence of the Latino business community. I am proud to recognize the LBA, its Board of Directors, and its members for 28 years of successfully generating business opportunities, providing advocacy, and educating the Latino community for business growth. The LBA has distinguished itself as an exceptional leader in Latino business development and I wish it much longevity and prosperity.

COMMENDING MARK PEPLOWSKI

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, it is my great honor that I stand before you today to recognize the achievements of a fine college professor, Mark Peplowski, in Henderson, NV. He has dedicated himself to the service of Henderson students through his loyalty to the Community College of Southern Nevada. Beginning with his appointment as an adjunct professor in 1976 he has been determined to make Henderson, NV a better place by dedicating his career to Community College of Southern Nevada.

During his career as an adjunct professor and a professor, he has created programs to bring his students into the political world by providing ways for them to travel to our Nation's Capitol to work and meet with the many leaders of our Nation. He has been there as a mentor and counselor to his students in helping them accomplish their career goals in politics.

Mark Peplowski has also had a long-term goal of creating a Grass Roots Institute of Politics at the Henderson campus to give students from all backgrounds a chance to participate in and understand the political process with the opportunity to get involved in government.

I commend Mark Peplowski for his dedication to his students and his loyalty to his country. He has demonstrated that he is an effective teacher and has continuously taught his students the meaning of good government through his example and dedication to learning.

SPIRITUAL LEADER, BLESSED PRESENCE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. KILDEE. Mr. Speaker, one of Michigan's finest citizens recently passed away. I have been searching for the right words to express my high esteem for Bishop Kenneth E. Untener. Having just read the editorial in the Saginaw News of Saginaw, Michigan, I feel that they have expressed well the love in which the Bishop was held by those whose lives he had touched.

Mr. Speaker, I ask that the Saginaw News editorial be reprinted in the CONGRESSIONAL RECORD.

[From the Saginaw News, Mar. 31, 2004]

SPIRITUAL LEADER, BLESSED PRESENCE

For the better part of a quarter century, Bishop Kenneth E. Untener served the Saginaw Diocese with humility, humor and unflinching devotion. His faith and commitment to God are unquestioned. Yet Untener's fidelity to the welfare of the region's people—people of all faiths, creeds and colors—was an equally profound reflection of his humanity and ability to lead.

His death this weekend of leukemia leaves a deep void in the Saginaw Valley, and not just among Catholics. The bishop's work to improve the community, to unite its interconnected and diverse components, was tireless. He was an inspiring presence within the region's religious and civic communities.

As former Saginaw Mayor Henry Marsh, his friend and compatriot in community affairs put it, Saginaw cannot replace him. His outreach brought hundreds of the region's leaders together via his monthly "bishop's breakfast" meetings. He was active in Saginaw County Vision 2020, Habitat for Humanity and myriad youth initiatives. He abolished perceived barriers among individuals and between groups.

There is no doubt Bishop Untener was taken, in the transitory, earthly way, too soon. It was only a few weeks ago that he announced his battle with cancer. He was 66.

The church, of course, will name a successor to lead the 140,000-member, 11-county Saginaw Diocese. The community will welcome the next bishop, and Untener's successor will embark on a path to leave his own mark.

Yet Untener's legacy will survive through his civic example and in his acclaimed religious writings. His "Little Books" are inspirational guides used by Catholics and non-Catholics alike. The level of praise from within the religious community, from clergy of all faiths, is a testament to Untener's bridge-building skills. His outreach sometimes rankled members of his own faith, as in his support for female priests, as contradictory to traditional church doctrine.

As a man living among us, however, Bishop Untener's humble march toward unity serves as an example we all would wisely strive to follow.

The community was blessed by Bishop Untener's presence for nearly a quarter century. The people he touched are forever changed; the community he served was changed for the better, too.

IN HONOR OF ALVIN "SAM" SHRADER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. GALLEGLY. Mr. Speaker, I rise to honor Alvin "Sam" Shrader's dedication to public service as the Breakfast Rotary Club of Camarillo recognizes him for 60 years of perfect Rotary Club attendance.

As my colleagues are aware, the object of Rotary is to encourage and foster the ideal of service in all aspects of one's life—business, personal and community. Alvin Shrader epitomizes that ideal.

Alvin Shrader and his wife, Avis (or Suzy as she's better known), will celebrate 70 years of marriage this June. They have three wonderful children, including my lovely wife, Janice. Alvin Shrader is as dedicated to his wife, children, eight grandchildren, 28 great-grandchildren and great-great-grandchild (soon to be two) as he has been to the Rotary over many decades.

In true Rotary fashion, Alvin Shrader also kept the Rotary ideal alive in his business dealings. He became a chiropractor in the 1930s and helped change its image and acceptability as an active member and past treasurer of the California Chiropractic Association. He is also a lifelong gardener, tending to his vegetables with the same care that he tends to all life.

Rotary has been the social center of Alvin and Avis' life. Prior to joining Rotary in 1945, Alvin was a member of the 20–30 Club's Los Angeles Chapter, where he also marked perfect attendance. He is a former Rotary Club of Los Angeles Southwest president and Avis is a former Rotary Ann.

When on the road, Alvin Shrader makes it a point to make up meetings by visiting other Rotary Clubs. He has attended meetings at clubs in Florida; Salt Lake City; Crystal City, VA; Carson City; St. Louis; Puerto Rico and the Kingdom of Tonga. When he was recently hospitalized with a broken hip, his biggest concern was making up Rotary meetings.

Mr. Speaker, I am blessed to have Alvin and Avis as my in-laws. As patriarch and matriarch of the Shrader family, they set the standard for generations to follow. It is a high standard of love and dedication that any family would be proud to follow. I know my colleagues will join me in recognizing Alvin "Sam" Shrader for a lifetime of service to family, his profession and his community by upholding and living the Rotary ideal.

CONGRATULATING THE UNIVERSITY OF MINNESOTA-DULUTH MEN'S HOCKEY TEAM

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. OBERSTAR. Mr. Speaker, I want to congratulate the University of Minnesota-Duluth men's hockey team on reaching the 2004 NCAA Men's Frozen Four Hockey Tournament. This moment has been 19 years in the making, since the last UMD men's hockey team reached the Frozen Four in 1985. This is the second time the UMD men's hockey team has reached the Frozen Four, and the third NCAA trip for the men's hockey team.

I want to acknowledge, in particular, the accomplishments of Head Coach and Hibbing, Minnesota native Scott Sandelin. Scott has been awarded the 2004 Western Collegiate College Association's Coach of the Year award. He is one of the most promising young coaches in college hockey and has only 4 years behind the bench as head coach. He is not only a great coach, but also a superb instructor who has taught his players a great understanding of the game. The team has demonstrated that understanding of the game with their impressive 28–12–4 record. It is clear that the lessons learned on the ice will serve these student-athletes well after graduation, which is the hallmark of college athletics.

I also want to congratulate University of Minnesota Duluth Senior, Junior Lessard, who became the seventh Bulldog to be named a Hobey Baker finalist. Mr. Lessard was selected as 2004 Western Collegiate Hockey Association Player of the Year and helped the Bulldogs advance to the Frozen Four for the first time in 19 years. He leads the nation in scoring with 61 points and 20 assists in league play.

I want to commend Coach Sandelin, Junior Lessard and the entire UMD hockey team for their outstanding season and to wish them success in the NCAA Frozen Four tournament.

IN HONOR OF ANTONIA HERNANDEZ

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BECERRA. Mr. Speaker, it is with utmost pleasure and privilege that I rise today to recognize and pay tribute to a great American and good friend, Antonia Hernandez, Former President and General Counsel of the Mexican American Legal Defense and Educational Fund (MALDEF). To me, Antonia is many things: a national leader on civil rights and public policy, a pioneer who has opened doors for countless underrepresented Americans in this country, and a wonderful friend and mentor who after 23 years with MALDEF, has embarked on another ambitious journey by leading one of this country's premiere charitable institutions, the California Community Foundation.

Born on May 30, 1948, Antonia was raised in Torreon, Coahuila, Mexico. At the age of eight, her parents, Manuel and Nicolasa Hernandez, emigrated, family and all, to the United States and settled in the Boyle Heights neighborhood of East Los Angeles. Growing up in the housing projects of East Los Angeles, Antonia learned her strong work ethic and core values from her parents. As the eldest of seven children (Maria, Guadalupe, Lisa, Mary Ann, Peter, and Manuel), Antonia demonstrated an incredible entrepreneurial spirit at an early age, going door-to-door in her housing project selling tamales to help support the family.

Antonia is a proud alumna of Garfield High School and East Los Angeles College. The first in her family to attend college, Antonia set her sights higher and went on to receive a Bachelor of Arts in history in 1970 and a Juris Doctorate in 1974 from the University of California, Los Angeles.

On October 8, 1977, Antonia married Michael Stern, and together they have become an indivisible team, blessed with a true partnership, friendship and love. Family has always been the top priority for these proud parents of three: Benjamin, Marisa, and Michael.

Antonia's illustrious career has taken her from the Los Angeles Center for Law and Justice to the Legal Aid Foundation, the United States Senate Judiciary Committee and of course MALDEF, where she quickly became an indispensable asset and emblematic of MALDEF's tenacity to prevail. Her collaborative style and incredible network of relationships have propelled MALDEF to the top of our nation's leading civil rights and public policy organizations. She served a remarkable and unprecedented 18 years as President and General Counsel of this preeminent organization. Under her guidance, MALDEF has gained long-term financial stability going from an organization that began in 1968 with a $2.2 million grant from the Ford Foundation to one that operates a $6.5 million annual budget and has offices in Los Angeles, Washington, D.C., Chicago, Houston, Atlanta, Sacramento and San Antonio.

What mark has this human being left on America? She heroically led the fight defeating the anti-immigrant Proposition 187 in the California courts in the 1990's. She courageously worked on the 1995 Edgewood case which held that the Texas legislature had the authority to require wealthier districts to share that wealth with less fortunate districts. Today, while still a work in progress, we are moving towards an educational system that provides a fair opportunity to all Texan children. And Latino families are forever indebted to Antonia for her instrumental role in pursuing accurate census counts in 1990 and 2000. Under her leadership, MALDEF took the lead in conducting nationwide census outreach campaigns and kept a vigilant watch over the complicated redistricting process so that Latinos would, for the first time, have a strong political voice throughout the country.

Antonia's years of demonstrated leadership led the California Community Foundation to name her as its new Chief Executive Officer and President. With this new position comes the opportunity to forge new paths and serve Californians in new ways.

Antonia's legal career has always embodied her passion for helping the Latino and other disenfranchised communities to "make sure that everyone has a place at the table." One of her former colleagues best characterized Antonia as someone who can interact respectfully with the most modest, humble immigrants and then translate their needs into action. As Antonia closes one chapter of her distinguished career and begins another, I would like to say "thank you" on behalf of the countless people whose lives she has changed by opening doors, leading by example and always holding firm to her convictions. Her innumerable contributions will be felt and appreciated for generations to come.

Mr. Speaker, as family, friends, and colleagues gather to pay tribute to Antonia, it is with great admiration and pride that I ask my colleagues to join me today in saluting this truly remarkable example of the American dream. Fortunately for all of us Antonia has much vigor and fight reserved for her new calling at the helm of the California Community Foundation. Antonia, you have earned the luck that will be with you.

TRIBUTE TO ANN SUNSTEIN KHEEL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. RANGEL. Mr. Speaker, I rise today to honor Ann Sunstein Kheel who died in New York City on December 28 at the age of 88. Ms. Kheel was a woman as close to a saint as I have ever known. She dedicated her whole life to the fight for social and racial justice. Born in Pittsburgh in 1915, she went to Cornell University where she earned a degree in General Studies in 1936. She lived in New York City ever since.

Ms. Kheel's goal was to make the American society "inclusive rather than exclusive." It was her motto "never to entertain except interracially" and not to support organizations which were not integrated. She remained truthful to these ideas throughout her life. She served on the board of the New York Urban League for more than thirty years and initiated its Federick Douglass Awards Dinner in 1966. For 25 years she was the chairwoman of this event, which honors leaders in the private and public sectors who try to eliminate race barriers and promote opportunities for the disadvantaged.

In the 1960s Ms. Kheel sponsored the purchase of books for students attending the Frederick Douglass Junior High School in Harlem who had completed research on individuals who had had a significant impact on African-American or Puerto-American history. In 1963 and 1964 she was a delegate to the President's Committee on Equal Employment Opportunities and, from 1971 to 1986, she served as a trustee of the Schomburg Center for Research in Black Culture. The NAACP awarded her with the Unity Award in 1971.

Ms. Kheel was also deeply involved in campaigns for environmental justice. She served as chairwoman of the New York State Parks, Recreation and Historic Preservation Commission from 1977 to 1986 and as trustee of the Rainforest Alliance. The promotion of better public education in New York City was another issue close to her heart.

Ms. Kheel ensured that her great contributions to the social life of New York City would not end with her death. In her last will, she asked her husband of 66 years, labor lawyer Theodore Kheel, to provide funding for charities. The Kheel family decided to create the Ann S. Kheel Charitable Trust and endowed it with $1 million. I am very honored that the Kheel family has asked me to chair this Trust which will provide funding for educational, civil rights and other organizations serving disadvantaged New York neighborhoods.

Ms. Kheel was an admirable woman and serves as a shining example in our society. Her death is a big loss for New York City, but she will always be remembered as a woman dedicated to achieving more social and racial equality in our society.

TRIBUTE TO CHRISTOPHER DARDEN AND WILLIAM SCHAUB

HON. ROBERT E. (BUD) CRAMER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. CRAMER. Mr. Speaker, I rise today to congratulate Christopher Darden and William Schaub for receiving the 2003 Isaac M. Cline Award from the National Weather Service.

The Isaac M. Cline Award is presented each year to individuals and teams that have made significant contributions in support of National Weather Service strategic and operational plans. Mr. Darden and Mr. Schaub were awarded the Cline award for their work demonstrating exceptional metrological skill and professionalism on May 6, 2003.

Mr. Speaker, Mr. Darden and Mr. Schaub are lead forecasters at the NWS Weather Forecast Office in Huntsville, Alabama. On May 6th, North Alabama was experiencing extensive flash flooding and numerous reports of tornadoes throughout the region. Mr. Darden and Mr. Schaub issued a series of Tornado Warnings that had an average warning lead time of twenty-three minutes. In addition, they issued several Flash Flood Warnings with a lead time of up to forty-five minutes. Due to the timeliness and accuracy of these severe weather warnings, Mr. Darden and Mr. Schaub likely saved numerous lives.

Mr. Darden and Mr. Schaub are being recognized for efforts performed within mere months of the opening of the new Huntsville Weather Forecast Office. This is a testament to their knowledge and expertise that is critical to address the unique weather patterns and needs of North Alabama.

Mr. Speaker, the Isaac M. Cline Award is the highest honor the National Weather Service can bestow upon its employees. I rise today, to congratulate Christopher Darden and William Schaub on this honor.

HONORING MERLE KILGORE

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor a great Tennesseean and a legend in country music. Merle Kilgore is a businessman who has bridged his early music experience with today's growing country music industry.

Merle began his career in Shreveport, Louisiana at the age of 14, carrying Hank Williams, Sr.'s guitar. Since then, Merle has risen as a leader in the country music industry. He co-wrote the "Ring of Fire" with June Carter-Cash, as recorded by Johnny Cash. That great hit sold more than sixteen million records. Merle didn't stop there; he continued to write hit after hit developing his catalog to over 300 songs. All together his song collection has sold close to fifty million records. Merle's first Top Ten record was self penned "Dear Mama," and he has accumulated several others since.

Merle moved to Nashville in 1962 and began his management career. Merle has been affiliated with Hank Williams, Jr. for more than thirty years. On April 7, 1986, Merle was named the Executive Vice President and head of management of Hank Williams, Jr. Enterprises.

In addition to managing Hank's career, Merle has served as Vice President of the Country Music Association and has served on the CMA Board of Directors since 1989. He has been President of both the Nashville Songwriter's Foundation, as well as the Nashville Songwriter's Association International. In 1987 he was named an honorary State Senator for Tennessee, and in 1998, Merle received the Legendary Songwriter's Award from the North American Country Music Association.

Merle is an accomplished singer, songwriter, and actor. He is a shining star in the nation's entertainment industry. However, Merle is definitely not just "resting on his laurels." For Singer-Songwriter-Manager Merle Kilgore, the best may be yet to come. Today I rise to recognize Merle and thank him for his dedication and his willingness to share his incredible talents with Tennesseeans and country music fans worldwide.

HONORING CESAR CHAVEZ ON THE ELEVENTH ANNIVERSARY OF HIS DEATH

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. MCCARTHY of Missouri. Mr. Speaker, I am proud to announce a celebration to honor Cesar Chavez on April 24, 2004, in Kansas City, Missouri. This celebration commemorates his legacy and the eleventh anniversary of his death, April 23, 1993.

Cesar has become a champion of working people everywhere. Born into Depression-era poverty in Arizona in 1927, he served in the United States Navy in the Second World War, and rose to become one of our greatest advocates of nonviolent change.

The farm workers who labored in the fields and yearned for respect and self-sufficiency pinned their hopes on this remarkable man, who, with faith and discipline, with soft-spoken humility and amazing inner strength, led a very courageous life. And in so doing, he brought dignity to the lives of so many others and provided inspiration for the rest of our Nation's history.

After achieving only an eighth-grade education, Cesar left school to work in the fields full-time to support his family. It was there that he noticed the labor contractors and the land owners exploited the workers. He tried reasoning with the farm owners about higher pay and better working conditions. But most of his fellow workers would not support him for fear of losing their jobs. Cesar's dream was to create an organization to protect and serve farm workers, whose struggles he shared. At the age of 35, he left his own well paid job to devote all his time to organizing the farm workers into a union. Cesar traveled from camp to camp recruiting workers, and the National Farm Workers Union was born.

With a strong leader to represent them, the workers began to demand their rights for fair pay and better working conditions. Without these rights, no one would work in the fields. In 1965, the grape growers didn't listen to the union's demands, and the farmhands wanted a strike. The workers left the fields, and the unharvested grapes began to rot on the vines. Union members, Cesar included, were jailed repeatedly. But public officials, religious leaders, and ordinary citizens from all across the United States flocked to California to march in support of the farm workers. In 1970, some grape growers signed agreements with the union. The union lifted the grape boycott, and its members began to pick grapes again. That same year, Cesar thought that even people who could not travel to California could show their support for his cause. Thus he appealed for a nationwide boycott of lettuce. People from all parts of the United States who sympathized with the cause of the farm workers refused to buy lettuce. Some even picketed in front of supermarkets.

By 1973, when Cesar inspired the people of Kansas City with his message of equality, justice and social change in an address at Penn Valley Community College, the union had changed its name to the United Farm Workers of America. Relations with the grape growers had once again deteriorated, so a grape boycott was added to the boycott of lettuce. On several occasions, Cesar fasted to protest the violence that arose. Finally, by 1978, some of the workers' conditions were met, and the United Farm Workers lifted the boycotts on lettuce and grapes. This is just one example of how dedicated Cesar was to the union and the people who counted on him.

Up until the day he died, he was concerned as ever about dignity, justice, and fairness. He said, "Fighting for social justice, it seems to me, is one of the profoundest ways in which man can say yes to man's dignity, and that really means sacrifice. There is no way on this earth in which you can say yes to man's dignity and know that you're going to be spared some sacrifice."

Mr. Speaker, please join me in honoring a small man with a big dream, Cesar Chavez. Cesar Chavez is a dedicated and true American hero: A civil rights, Latino and labor leader, a community servant and a crusader for nonviolent social change.

THE CIGARETTE FIRE SAFETY ACT OF 2004

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MARKEY. Mr. Speaker, today my friend, Congressman PETER KING and I rise to introduce on a bipartisan basis the Cigarette Fire Safety Act of 2004. This legislation will set a reasonable ignition standard for cigarettes and help to prevent an estimated 800 deaths, 2,200 injuries and nearly $560 million dollars in damages caused by cigarette ignited fires every year. We are joined today by 38 of our colleagues to begin what we hope is the last leg of a very long journey.

It is common knowledge that smoking is considered one of the nation's leading causes of preventable death, but it's less widely known that cigarettes are also the leading cause of fatal fires. Every year thousands of innocent people are killed, maimed or permanently disfigured by carelessly discarded cigarettes. The real tragedy is that many of these fires could be prevented by making a few small adjustments to the design of the cigarette at a cost of only pennies.

Over twenty years ago, our former colleague and friend, Joe Moakley, became involved with this issue when a family of seven perished in a fire ignited by a cigarette in his Congressional District. Five children—all under the age of ten—were burned to death along with their parents on Memorial Day Weekend in 1979.

Through Joe's relentless work on this issue, Congress passed two technical bills into law that laid the foundation for this legislation. The first bill, the Federal Cigarette Safety Act of 1984, formed a Technical Study Group, which established that it was, contrary to the tobacco industry's assertions, technically and economically feasible to manufacture a cigarette that is less likely to ignite a fire without increasing the risk of health consequences. The second bill, the Federal Safe Cigarette Act of 1990, established the methodology for testing the ignition propensity of cigarettes.

Recently we have made great steps forward in reducing risk of cigarette ignited fires. Phillip Morris has launched Merit cigarettes—their brand of less fire prone cigarettes. Merit cigarettes have proved that less fire prone cigarettes are both technically and commercially feasible.

Last year in a historic move, the state of New York passed the very first cigarette fire safety standard. By the end of this June, New York will require that all tobacco companies that sell cigarettes certify that no more than 25 percent of the cigarettes sold fail the ignition propensity test established by the American Society of Testing and Materials ("ASTM"). That means that cigarettes are far less likely to start a fire if they are left unattended. This law will make great strides towards preventing the all too frequent devastating cigarette ignited fires in New York.

Taking the lead from New York State and using their standard, two days ago Canada became the first nation to pass a cigarette fire safety standard.

However, New Yorkers and Canadians should not be the only ones who are protected from these little torches. Everyone in the United States deserves the same level of protection from fires caused by cigarettes. That is why today I am proposing a bill that requires that the CPSC adopt the New York cigarette fire safety standard as the national standard.

We can no longer tolerate losing one more innocent child or putting one more firefighter at risk in a fire that could have been prevented at the cost of pennies by making a couple simple changes to the construction of a cigarette. Together we can save thousands of lives and prevent the tremendous pain of thousands more burn victims. I urge you to support this bill.

SENATE—*Monday, April 5, 2004*

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Merciful God, enthroned far above all other powers, You bestowed upon us the royal dignity of being called Your sons and daughters. Thank You for the masterpiece of another day.

Lord, our hearts ache because of the pain in our world. We see the anger, the violence, the deaths, the tears, and the despair. We hear the questions, the bullets, the moans, the sirens, and the sobs. Forgive us when we forget that You are still on the throne and that the hearts of humanity are in Your hands. Remind us that Your power is far above any conceivable command, authority, or control.

Guide our Senators with Your sovereignty as they make their contributions to peace in our time. Bless those who support them in their work. Give wisdom to our military leaders as they face the fog of armed conflict.

We pray this in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period of morning business for Senators to make statements and to introduce legislation. There will be no rollcall votes during today's session, and tomorrow the Senate will resume debate on the motion to proceed to S. 2207, the Pregnancy and Trauma Care Access Prevention Act of 2004. Last week I filed a cloture motion on that motion to proceed, and that vote will occur at 2:15 on Wednesday. That cloture vote will be the first rollcall vote during this week.

I had hoped to reach agreement for us to begin this medical liability bill, but there was an objection from the other side of the aisle which has made this cloture necessary. I know Chairman GREGG and others will want to speak to the issue tomorrow, and I encourage all Members to listen closely to the debate.

The whole issue of medical malpractice reform and medical liability has reached crisis proportions in this country, as will be discussed tomorrow. You can't go to any community that is not affected by the unnecessary and frivolous lawsuits that have been filed, which results in a poor quality of care, with less access, with physicians moving from communities—in fact, some physicians leaving their specialty or leaving the practice of medicine altogether.

This week we will also try to finish the bill that has to do with manufacturing and jobs and taxation, a bill called the JOBS bill or a bill that is known as the FSC/ETI legislation. This is a very important bill that is directed at putting in sync our trade policy with what is actually carried out today in trade.

We continue to have discussions on how to finish this legislation. Unfortunately, there are an inordinate number of amendments that keep coming from the other side of the aisle. Given the importance of this bill and the timeliness of it, it is imperative we find a way to complete the measure as quickly as we possibly can without having to consider an additional 30 or 40 amendments.

Today I will offer a second cloture motion so we can have a vote this week to determine if Members are prepared to bring this bill to a conclusion.

The House passed the conference report to accompany the Pension Funding Equity Act. That conference report should be arriving today, and we must act on that conference report. I will be talking to the Democratic leader about scheduling the pension bill this week. I understand there is a payment deadline on April 15 and, therefore, there is urgency for us to act quickly and to act this week before we will be on our recess next week. Again, there is a payment deadline of April 15, and thus I want to act on this pension bill this week.

On yet another subject, the Commerce Committee is to file the legislation which is known as the indecency legislation. The House has acted, and we would like to expedite consideration of this bill as soon as we possibly can.

Lastly, I remind everyone we have been working for some time on asbestos litigation. We will be bringing that bill to the floor after the Easter recess. I hope Senators will allow us to proceed to that measure and debate the underlying bill, an important bill that recognizes the asbestos litigation system is out of control today and people who should be compensated are not receiving their just compensation because of a lack of reform. It is an issue we have talked a lot about, an issue that has been addressed in committee, and an issue we should address and will address in the Senate.

In a few moments I will be addressing issues surrounding health care security for our seniors.

ADJOURNMENT OF THE HOUSE AND SENATE OVER THE EASTER HOLIDAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 404, the adjournment resolution, the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 404) was agreed to, as follows:

H. CON. RES. 404

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, April 2, 2004, it stand adjourned until 2 p.m. on Tuesday, April 20, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Wednesday, April 7, 2004, Thursday, April 8, 2004, or Friday, April 9, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 19, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. FRIST. Mr. President, last night, I called my mother-in-law in Fort Worth, TX, just to get her perspective on Medicare and health care security for seniors, and to ask her what she, a long way from Washington, DC, understood in terms of the important Medicare legislation we passed on this floor in a bipartisan way—a Medicare bill that was signed by the President of the United States on December 8, 4 months ago. We had a good conversation.

I asked a little bit in a personal way about her own experience with buying prescription drugs. She, like most seniors who are having to buy prescription drugs on their own—because, remember, until December of this past year, 4 months ago, prescription drugs were outside of Medicare. So many seniors are dependent on prescription drugs for a whole range of illnesses, or to prevent illnesses, whether it is arthritis, diabetes, heart disease, or cancer. Those prescription drugs have been out of reach, or at least must be obtained outside of the Medicare system but indeed no longer.

It was clear to me that there is a lot of confusion by what people see in the press, what people see on television, comments that are made by opponents to that legislation. So I want to take a few minutes to comment on the importance of this legislation, but equally important, on what this legislation is doing and can do and will do for individuals with disabilities and seniors. I am speaking about 40 million people who will potentially be touched by this legislation we passed 4 months ago.

The first point. Already, seniors are benefiting. The legislation was signed December 8, and already seniors are benefiting because of the new bill and the reforms in that bill. Health care plans are getting an extra boost. As a result, seniors who are enrolled in Medicare health plans, Medicare private health plans, are already receiving better benefits at lower, what we call out-of-pocket costs. Already, these seniors are receiving more benefits at lower out-of-pocket costs.

In fact, the Centers for Medicare and Medicaid Services—when you hear CMMS, that means Centers for Medicare and Medicaid Services, which is the Government organization, or entity, the center in charge of managing and administering Medicare. They report that 3.7 million seniors are already receiving increased benefits, just 4 months after signing the bill, and 2 million have received lower cost sharing. That means when they actually have a benefit delivered, they pay less for that benefit; 1.9 million have seen their premiums go down; and it is less than 4 months after the President signed the bill. That is, the monthly premium seniors are paying has already gone down for 1.9 million seniors.

Let me share with you just one specific example. Aetna has eliminated copayments for a whole broad range of preventive services. That includes routine physical examinations. It is interesting; until this Medicare legislation, routine physical examinations were not part of Medicare. They eliminated copayments for routine physical exams; they eliminated copayments for bone mass measurements; they eliminated copayments for colorectal screening exams, prostate screening exams, mammograms, pelvic exams, and for routine hearing and vision exams for seniors enrolled in their Medicare Advantage plans.

Aetna has also slashed copayments for inpatient hospitalizations—that is when you are admitted to the hospital—by 50 percent. They added coverage for generic drugs in every market and for brand-name drugs in many of its larger markets.

In less than a month from now, seniors are going to also be able to take advantage of a new Medicare-endorsed prescription drug discount card. In less than 2 months, all Medicare beneficiaries, whether they are enrolled in private plans or whether they are enrolled in the traditional Medicare Program, are going to be able to use these discount cards, endorsed by Medicare, in order to get a 10- to 25-percent discount off the cost of their prescription drugs. These cards, in 2 months, are going to be available. You will be able to take them in, and however you are getting prescription drugs today, you will be able to get an additional 10- to 25-percent discount.

There is even better news for those 8 million lower income seniors—those who have the hardest time affording prescription drugs, or additional costs of health care. They will be eligible for an additional $600 in subsidies and assistance on top of the discount they are going to get, that 10- to 25-percent discount. That is, again, 8 million lower income seniors who will have the discount card, 10- to 25-percent discount, but in addition will get $600 in value, subsidies, to purchase prescription drugs. That is $600 in assistance they didn't have before the President signed that bill on December 8 of last year.

At the end of April, in about 3, 3½ weeks, all Medicare beneficiaries will be receiving a letter from the Secretary of Health and Human Services, Tommy Thompson. In that letter, there will be a four-page guide with information on this discount card.

When I talked to my mother-in-law last night, she said she faintly heard about this card but didn't have too much information on that. I told her in a few weeks this information will come to you in a letter. Read that four-page guide. More detailed information will be available from the Department of Health and Human Services. It will placed on the Department of Health and Human Services Web site and, as most people are beginning to hear, you can call 1–800–medicare and obtain even further information. If you call that number, they will also send you a 32-page booklet called Guide to Choosing a Medicare-Approved Drug Discount Card.

I mention all this now because people say they don't know very much about the card, but I point out that information will be made available on a timely basis so you will be able to understand what these cards provide, what they don't provide, and also what is the best card for you to choose given what drugs you may be on.

In fact, the Health and Human Services Web site will contain a fantastic new analysis, or Web page, that is easy to use called Price Compare. It is a price-compare tool that will allow seniors to choose the drug card that is best for them and their individual needs by offering a comparison of the cards available in that area for them. It will be specific, where you can put on that Web page what drugs you are on, and there will be a comparative analysis that is placed on the Web site where you can say this card looks like it would benefit me better than the other card, as well as a listing of all the cards available in your area. This site will be live and up and running at the end of this month, on April 29. It will have information as to how individuals with their individual needs will be able to benefit. Actually, an individual or specific pharmacies in one's community will be listed as well. So I am looking forward to that site. It will be a fantastic new Web site.

Right now, seniors and their families can go to a Web site, if you want to, www.medicare.gov. On the Web site you would look for a site called "Prescription Drugs and Other Assistance Programs." There is a section on that Web site. There you can enter your ZIP Code, where you live, and you can enter your income and your current medications to find out which cards will be available in your area.

This is a wonderful and easy way to get prepared once the final Web site comes out, and those benefits are made available. Again, we will keep you posted on when the benefits specifically become available. It is clear that seniors and individuals with disabilities need and deserve relief from these high costs of prescription drugs.

Seniors need and deserve a Medicare Program that provides them with what they want, and that is health care security. In the event one needs medicine to prevent a disease or illness, or when one is a senior or an individual with a disability and an illness strikes, they will have access to appropriate treatment. When I say health care security, that is what I mean.

Now that prescription drugs are brought into Medicare, we can say seniors will have affordable access with this legislation, much better than in the past.

I do want to tell the seniors of America that the President of the United States has heard them in that it is difficult to receive and purchase these skyrocketing prescription drugs because of the cost. The leadership in

Congress has responded with this bipartisan plan and, indeed, help is on the way, and more help will be on the way in the coming weeks. That is the positive side.

I also want to take this opportunity to comment on the fact that despite this landmark and new commitment—and, yes, it does mean more Government resources are directed at seniors who need those resources in terms of help obtaining prescription drugs—hardly a day goes by that opponents to this legislation do not level a new attack or a new accusation or seek a new investigation trying to tear apart this tremendous accomplishment for our seniors and for our individuals with disabilities.

I want to thank and commend Secretary Tommy Thompson for initiating an investigation that is being conducted by the inspector general of the Department of Health and Human Services in response to some of these accusations. I look forward to the inspector general's findings. If a law has in any way been broken, or if information was inappropriately withheld from Congress, clearly appropriate actions ought to and will be taken. However, the number of the attacks and the vehemence of the attacks coming from the other side, from those people who opposed this landmark legislation for seniors, suggests there is a lot more at work and a lot more is going on than just wanting strong congressional oversight or good government. Unfortunately, what we are seeing is an orchestrated scheme to discredit the progress that has been made to date to get prescription drugs to seniors in an affordable way; to dismantle the prescription drug coverage that for the first time in history we have put into the Medicare system. The opponents to the original legislation seem to want to dismantle that. It is political gamesmanship.

Part of it is driven by the success of passage of this wonderful legislation. Part of it is the fact that it is a political year and we have 7 months or so going into these elections, and people say this Medicare legislation, which is a success for the President of the United States and a success for this body, needs to be discredited in some way, I would argue, for political purposes.

We know for a fact that attacking Medicare is in part an aspect of the opponents' game plan for the elections. Why do I say that? Because we can actually find it in writing in a memo written earlier this year to Democratic leaders. Party pollsters outlined a game plan for discrediting this landmark Medicare Modernization Act. The pollsters' advice in the memo was unequivocal that Democrats were in danger of surrendering the Medicare issue unless they were willing to totally discredit the legislation by defining it as, and I draw upon their words, "unacceptable."

We are seeing results. This poll-driven political game is being followed. For some, voting against the legislation was not enough. They have also tried to prevent seniors from learning about the new benefits to which they are entitled, some of which I just outlined. They have leveled charges intended to frighten seniors and to undermine the legislation itself.

We simply will not let it happen. We cannot let it happen. I want seniors to know we will not turn back the clock on the progress we have made, under the leadership of the President of the United States and this body. We will make sure seniors and individuals with disabilities get these new benefits they need and deserve.

When this law is fully implemented, the bottom line is that seniors will have better access to more affordable medicines and prescription drugs they need.

There are several examples. Sixteen million lower income seniors—there are 40 million seniors today and 16 million lower income seniors are going to be paying little or no monthly premium, and no more than $5 for each prescription. That is a huge benefit to those people who are most vulnerable to not being able to obtain prescription drugs.

If we look at the 40 million seniors today, there will be 10 million seniors who have no current prescription drug coverage who will get relief from the high cost of prescription drugs by this legislation. All 40 million seniors today, and the 80 million baby boomers who will be coming through the system over the next 30 years, will have access to more preventive care because of this legislation. By that I mean simple things such as cholesterol screenings that were not a part of Medicare but are a part of Medicare today.

I mentioned baseline physical examinations. For the first time in Medicare—and it is through those baseline physical examinations that the diagnosis of hypertension or possibly diabetes is made. For the first time, these baseline physical examinations will be a part of Medicare. The purpose is to diagnose the potential for having a stroke by figuring out whether or not one has hypertension, or one is at a risk for heart disease, diabetes, or cancer.

We talk about chronic care coordination and disease management. Those are terms that are misunderstood, but they are very important. As a physician, it is important because with an aging population we see more chronic disease. As people live longer and we are able to treat acute and chronic disease such as heart disease, rheumatoid arthritis, or other debilitating arthritis, diabetes, or stroke, after one has had a stroke, it is very important. Couple that with diseases such as Alzheimer's or Parkinson's disease, how those chronic diseases are managed, especially when there is one, two, or three of the diseases with overlapping care, it is absolutely critical.

Our system historically has not been set up very well. Especially in Medicare it has not been set up at all until recently, until this bill, to manage this complex overlap of diabetes with heart disease, with arthritis, with Parkinson's disease. For the first time in this Medicare bill there is an appropriate system set up for disease management and chronic disease coordination. Physicians will be able to continue treating Medicare patients because in the new law there was $7 billion included to help safeguard medical services to seniors. Seniors in rural areas will benefit from the legislation's historic $25 billion investment in improving health care in rural America, to provide services that may not be there today, to set up a system that will attract or keep nurses and physicians in rural areas, $25 billion injected into the system to better accomplish taking care of and managing the care of seniors in rural America.

For the whole category of retirees today who get health coverage from their former employer, the cost of this bill will be more secure, thanks to the bill's $89 billion in increased Government assistance to retirees.

I mentioned last night that my conversation with my mother-in-law very quickly came to the cost of a particular medicine she was taking and how, over the last three billing periods, I think she said, each time the cost of that one medicine has gone up. Was it addressed in the Medicare bill?

As a first step, it was addressed. We still have a lot more to do. This Medicare bill was never intended to solve all of the challenges we have in Medicare today, but we did take a first step in controlling those prescription drug costs.

Drug costs will be held more firmly in check for all Americans, not just seniors but for all Americans. That is because the Medicare bill had a whole part which speeds the cheaper generic drugs that are just as good, with just as much what we call efficacy—they are equal in efficacy, but it speeds those generic drugs to market, and by market I mean consumers; by consumers I mean patients; by patients I mean people such as my relatives, my mother-in-law, seniors who are out there today. Also, the Medicare bill helps close many of those loopholes in our Nation's patent laws that prevented prescription drug price competition.

Again, it is a first step. It doesn't attempt to solve all of the prescription costs, the skyrocketing costs we see for prescription drugs, but takes a very definite first step.

There is a lot of confusion about what health savings accounts are, but when you look at the Medicare bill, for the first time we have offered a health savings account or medical savings account that an individual can own. It does not apply just to seniors; it can start with a 20-year-old or 25- or 30- or 35- or 40-year-old. But it is an account that you yourself pay into, tax free. For health benefits that you want to pay for, you take it out tax free. So it is a tax favored savings account that you own and you can take with you through life. If you pay into it when you are 25 years of age or 30 years of age or 35 years of age, but say you have a high deductible insurance policy, and you don't have any health expenses that year, the money that you put in or that your employer put in or somebody from your family put in, rolls over to the next year and grows. If you don't need it the next year, it grows again. If you don't need it when you are 33, it grows again, or 35 or 40 or 45. You take it. You draw down on it, but you take it with you.

When you get to be a senior, you can use it to pay for some of those copayments for a prescription drug or you can use it to pay for your long-term care if you need long-term care.

It is a fantastic new entity that gives the individual real ownership—control over health care decisionmaking, control over that health care dollar. It is called a health savings account. It will be coming on line very soon. It was part of this Medicare bill signed by the President 4 months ago.

In closing, this Medicare Modernization Act is helping millions of seniors in countless ways. Millions are being helped right now because of the passage of this bill. We are getting results. It is a major first step. I say it is a first step, a major first step, because, although it is a big bill, an important bill, a significant piece of legislation, because clearly there are things we will have to do about the cost of health care, affordability to our seniors, access to health care, addressing the issues of the trust fund itself, addressing the doubling of the number of seniors who will come into the system over the next 30 years with a diminishing number of the workforce actually paying into the system. These are all issues we will have to address. But this bill is a major first step that is to the benefit of every senior listening to me today and those 78 million people who will be new seniors over the next 30 years.

We worked hard on this in this body, the Senate. We worked with the House. We worked in a bipartisan way to provide these benefits to America's seniors. We have worked hard to give seniors today the coverage they need and to give them the Medicare coverage they deserve. We simply cannot, we will not let election politics get in the way of health care for millions of America's seniors.

I will close and review again very quickly those benefits on the chart next to me that outline how important this particular bill is that was not law on December 1 but on December 8 was signed by the President of the United States. Those benefits include a drug card with 10–25 percent immediate prescription drug discounts and additional relief for 8 million low-income seniors. That is now a reality. Comprehensive prescription drug coverage for 16 million low-income seniors is now a reality. Protection against high—catastrophic prescription drug costs, something that all seniors fear, not knowing what might happen to them 5 years from now or 10 years from now. There are new preventive benefits, including that annual physical examination where, for the first time, when that blood pressure cuff may be put around your arm and the diagnosis of high blood pressure is made, for the first time in the cost of the Medicare bill you can get help getting a drug, through Medicare, to prevent that hypertension causing a heart attack which otherwise would put you into the hospital—very expensive—or cause a stroke—very expensive. Now that can be preventative.

There is $7 billion in improved physician payments which physicians deserve; $25 billion in rural health improvements in order that our rural communities will be able to access the appropriate health care they need today; $26 billion in State Medicaid relief and affordable health care through tax deductible health savings accounts. All of it is a first step, a start.

I wish to comment this has been accomplished in a bipartisan way. We need to continue working in a bipartisan way. I look forward to doing that. I look forward to working with both sides of the aisle to the benefit of America's seniors.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 2280 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I have a couple very brief statements to make; the first on the issue surrounding jobs, and the second on the issue of asbestos. Both of these issues are issues that we, on the floor of the Senate, have a real responsibility to address. I have specific suggestions as to how we might address both of these issues in the coming days and coming weeks.

JOB TRAINING

Mr. FRIST. Mr. President, first, in terms of jobs and job training, this morning the President of the United States unveiled a proposal to double the number of Americans who would receive job training assistance from the Federal Government. The initiative reflects the President's commitment to help people get the training they need, they require to find new jobs and better jobs. It builds upon an earlier proposal by the President of the United States announced in his State of the Union Message in January to help community colleges train an additional 100,000 workers for industries that are creating jobs in this country, to bring these job training programs to people who need the education and the job training, and to use our community colleges, expanding on the tremendous resource they provide today.

As we all know, our economy is changing and changing fast. It is being transformed in so many ways. That is a great source of strength and adaptability, that flexibility to changing times both here in this country and around the world. Yet, at the same time, as we increasingly realize, this transformation, this adaptability, this flexibility in our economy—these changes in our economy—almost by definition result in a dislocation, a loss of jobs for some individual workers. That leaves us with a responsibility that we on the floor of the Senate must address, and we have addressed in part, but we have not fully addressed.

We must make a strong commitment to effective—I underscore that word "effective"—job training programs that will help American workers adapt to that changing economy, to give them the tools they need to fill those new jobs that are being created.

The Department of Labor, as we all know by now, announced last Friday that more than a half a million new jobs have thus far been created this year. That is good news. It is great news. We need to keep working to ensure that more jobs are created, and that workers are being trained to fill those new jobs that are being created. We need to respond now as well as in the months ahead.

We hear about the Workforce Investment Act, the WIA. We hear about it, and we hear that it is being obstructed, that we have acted in the Senate, that the House has acted, but it cannot make it to conference. Yes, this is one of a whole series of bills that we have worked on, that we have passed, and then we have this obstruction in getting to conference. Although my colleagues know, others who are listening may not: No matter how much work you do on the Senate floor, and the House floor, and you pass things, until you get it to conference and work through it and bring it back to the floor, it does not become law of the land. That is exactly where we are with this Workforce Investment Act.

People ask, what is the Workforce Investment Act? Right now, our Federal Government sends about $4 billion—actually, more than $4 billion—a year to State governments and local governments through this Workforce Investment Act. However, last year, only 200,000 people—200,000 workers—received job training through these programs.

President Bush, as he outlined today, has set a goal to double the number of workers receiving job training through Workforce Investment Act programs. So we have fewer than 200,000 workers, and that would mean doubling it to 400,000 workers a year. He set out—and appropriately, I believe, and as reflected in our underlying bill—he wants to do this by maximizing the Federal dollars that are sent, by maximizing those Federal dollars directly to the workers themselves—getting it right down to the workers themselves, No. 1, and, No. 2, eliminating the bureaucracy, the overlap, the duplication, the overhead cost, where we know there are going to be additional savings. So we have a problem, but it is a problem that we know can be fixed.

Right now, the Federal Government spends $23 billion a year on more than 30 job training programs, spread across nine different Departments and agencies.

The result of that is a confusing patchwork of programs that result in overlapping, inefficiencies, confusion, and chaos. This overlap of all of these programs results in bureaucratic redtape. You put all that together, it means fewer of the dollars that are allocated, that are spent actually get down to that individual worker or person who is to receive job training. I applaud the President for his focus on creating jobs, on training workers for jobs today and the future, but we in the Congress have to step up as well.

The fact is the Workforce Investment Act has expired. It needs to be reauthorized. Mr. ENZI, the Senator from Wyoming, who is chairman of the Subcommittee on Employment Safety and Training of the Committee on Health, Education, Labor, and Pensions, has done a tremendous job in working with his colleagues in a bipartisan way to develop a bill. That bill has passed in the Senate. A companion bill has passed in the House. But because of objections from the other side of the aisle, we have been unable to go to conference, to pull those two bills together on this important JOBS legislation.

I do hope that the other side of the aisle will reconsider their objections to go to conference so that we indeed can get important legislation to the President and get workers back to work, get people back to work who may have lost their jobs with the appropriate training. That is our responsibility. The President has laid out the vision, laid out the agenda. We have written the legislation. We passed the legislation. Now it is time to marry that legislation with the House in conference.

Thus I ask my colleagues on the other side of the aisle to reconsider and allow us to go to conference. It is in our workers' best interest. Indeed, it is in America's best interest.

ASBESTOS LITIGATION

Mr. FRIST. Mr. President, this is a matter I have referred to on several occasions in the last several weeks. In fact, I referred to it last Friday; that matter being that we have an asbestos litigation crisis that is brewing today. It is a crisis we in Congress have a responsibility to fix. That is the assessment of the Supreme Court which on two occasions has in essence said the system is broken and Congress has the responsibility to fix it.

I rise to reiterate my goal to resolve this asbestos litigation crisis and also to announce that we will file a revised bill later this week so people and all of our colleagues will have the opportunity to look at what is in the bill and study what is in the bill itself. We have made tremendous progress toward enacting Chairman HATCH's Fairness in Asbestos Injury Resolution Act; we call it the FAIR Act. I, as majority leader, have made all of this a personal priority in the sense that I want the Senate to be able to address and resolve this issue.

Indeed, the magnitude of the asbestos litigation crisis is staggering. The torrent of asbestos litigation has wreaked havoc on victims, on American jobs, and indeed on our economy. The 600,000 claims that have been filed have already cost $54 billion in settlements and judgments and litigation costs. And even with the billions already being spent, the asbestos tort system today has become nothing more than a litigation lottery. A few victims receive adequate compensation, but far more suffer long delays for unpredictable and indeed inequitable awards if they receive anything at all. It is a system today with only one real consistent winner, and that is the plaintiffs' trial lawyers, who, I should add, by the way, are taking home half of every dollar that is awarded to the victims.

The system is broken. We have the responsibility—in fact this body, the Congress, has the obligation and the responsibility—to fix this broken system.

As I mentioned, we will be introducing the revised bill later this week and giving Members substantial time to review the changes we are proposing that came out of the committee. We have made real progress toward closing the gaps that separated the insurers from the defendant companies, from organized labor. Chairman HATCH, the minority leader, Senators LEAHY, DODD, and SPECTER, and many others have invested heavily in reaching consensus on many of these issues.

I hope my colleagues will very carefully consider what is in this bill and engage in meaningful debate. Member after Member from both sides have voiced their agreement with that assessment by the Supreme Court, that the system is broken and Congress has the responsibility to fix it. With the help of my colleagues I am confident we can fix it. As I have outlined many times in the Senate, we have a process whereby we can consider that bill and bring it to the floor and indeed fix it.

CONCLUSION OF MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Resumed

Mr. FRIST. Mr. President, I ask for the regular order with respect to S. 1637.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Pending:

Harkin Amendment No. 2881, to amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay.

McConnell (for Frist) Amendment No. 2886, in the nature of a substitute.

Grassley Amendment No. 2898 (to the instructions (Amendment No. 2886) of the motion to recommit), relative to the effective date following enactment of the Act.

Grassley Amendment No. 2926 (to Amendment No. 2898), relative to the effective date following enactment of the Act.

Mr. FRIST. Mr. President, I ask unanimous consent to withdraw the pending motion to recommit.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT WITH AMENDMENT NO. 3011

Mr. FRIST. I now move to recommit the bill with the instructions to report back forthwith with an amendment which is at the desk, and I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] moves to recommit S. 1637 to the Committee on Finance with instructions to report back forthwith with the following amendment numbered 3011.

(The amendment is printed in today's RECORD under "Text of Amendments.")

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the pending motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending motion to Calendar No. 381, S. 1637.

Bill Frist, Charles Grassley, Gordon Smith, James Talent, John Ensign, John Cornyn, Wayne Allard, Olympia Snowe, Rick Santorum, Michael B. Enzi, Mike DeWine, Trent Lott, Christopher Bond, Thad Cochran, Kay Bailey Hutchison, Jim Bunning, Mitch McConnell.

AMENDMENT NO. 3012

Mr. FRIST. I now send a first-degree amendment to the instructions to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3012 to the instructions of the motion to recommit S. 1637 to the Committee on Finance.

Mr. FRIST. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the instructions, insert the following:

SEC. . This act shall become effective 1 day after enactment.

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3013 TO AMENDMENT NO. 3012

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3013 to amendment No. 3012.

Mr. FRIST. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment strike "1 day" and insert "2 days".

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING CORPORAL THOMAS ROBERTS

• Mr. BAYH. Mr. President, I rise today with great sadness and tremendous gratitude to honor the life of a brave law enforcement officer from Mishawaka. Corporal Thomas Roberts was only 43 years old when his life was taken from him in an instant. He died during the predawn hours of December 13, 2003 in Mishawaka, while responding to a "shots fired" call. He was hit by the assailant's gunfire and died at the scene. As a 14-year veteran of the Mishawaka Police Department, Tom was a respected police officer who protected community members and fought for the values we all hold close to our hearts.

Tom Roberts was the second officer killed that night while dutifully serving his city. Today, I join Tom's family, friends, and the entire Michiana community in mourning Tom's death. While our pride in Tom shall certainly live on, so, too, will our sorrow.

After working for 10 years at Ladig, Inc., Tom attended the Plainfield Police Academy and joined the Mishawaka Police Department in 1989. On or off the job, he treated everyone he met with respect and dignity. As a caring and concerned man, Tom always reached out to help others in any way he could. His respected career is a testament to his commitment to hard work and willingness to help others.

Tom graduated from Mishawaka High School where he was a member of the football team. Tom had a lifelong love of football and was an avid Notre Dame football fan. He especially enjoyed going to the games with his family and friends and collecting sports memorabilia.

Tom leaves behind his loving fiancée, Debbie McGinnis; his daughters, Lindsay, Holly, and Ashley; his son, Larry Peak; his mother, Francelia; brothers, Larry and Gary; and his sisters, Ann Marie, Celia Dillon, Peggy Boyd, and Lisa. His father, John E. Roberts, and his brother, John, preceded Tom in death.

While Tom's life on Earth has been cut short, his bravery and strength of character will live on. May his life serve as a clear reminder of the risks taken each day by law enforcement officers across the Nation who keep our cities and towns safe.

It is my sad duty to enter the name of Corporal Thomas Roberts in the official record of the United States Senate for his dedication to public service, as well as his profound commitment to serve and protect. When I think about the daily sacrifices and risks that our law enforcement officers take each day, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Tom's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.•

THE 2004 NATIONAL FINAL, WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION

• Mr. AKAKA. Mr. President, I am proud to announce that the class from Kahuku High School of Kahuku, HI, will represent the State of Hawaii at the national finals of We the People: The Citizen and the Constitution. These Hawaii students will join the more than 1,200 students from across the country that will visit Washington, DC, to take part in the We the People national competition to be held during the first week of May. These outstanding students, through their knowledge of the U.S. Constitution, won Hawaii's statewide competition and earned the chance to come to our Nation's Capital and compete at the national level.

The We the People program is administered by the Center for Civic Education and is an extensive educational program developed specifically to educate young people about the U.S. Constitution and Bill of Rights. The 3-day competition is modeled after hearings in the U.S. Congress and provides students with the opportunity to demonstrate their knowledge before a panel of adult judges while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by questions designed to probe the students' depth of understanding and ability to apply their constitutional knowledge.

I would like to recognize the following 25 Kahuku students that will be representing the State of Hawaii: Samuel Braden, Chelsey Bunker, Stacia Colton, Brian Craycroft, Tusi Esera, Lacey Golonka, Evelyn Griffin, Reis Harney, Celesta Hubner, Jeremy James, Natalie Kamauoha, Jennifer Kamiya, Azura Iversen-Keahi, Tiffany Lee, Brook McArthur, Donna Ramos, Leilani Relator, Alicia Reidy, Aaron Rillamas, Jordan Williams, Austin Spring, Ian Tapu, Alexandra Thompson, Rachel Tolleson, and Seini Unga. I would especially like to thank their teacher, Ms. Sandra Cashman, for once again seizing this opportunity to empower and educate students about the significance of the American institutions of constitutional democracy. I am confident that the students will step up to the challenges presented in this competition and they will give a stellar performance.

As one who formerly taught at Kahuku High School, I take a special pride in these students' accomplishments. I know that it is because of school and parental support, dedication, and commitment that these students were empowered and encouraged to excel in this arena. I wish these students the best of luck at the We the People national finals and applaud their achievement. These students have no doubt made everyone in their school, their families, and their friends proud of what they have achieved. We should all be proud that they are learning and advocating the fundamental ideas that identify us as a people and bind us together as a nation. Let the students' enthusiasm and active participation in shaping their understanding of government serve as a model for all citizens to follow.•

HONORING THE LIFE OF TOWN MARSHAL RICHARD M. CLAPP

• Mr. BAYH. Mr. President, I rise today with a heavy heart and a deep sense of gratitude to honor one of Indiana's finest, Richard Mark Clapp, the New Richmond Town Marshal who lost his life in the line of duty on December 5, 2003.

Mark Clapp and his son, Aaron, were responding to a domestic dispute in New Richmond. Aaron, a county jail officer, waited in the patrol car as his father accompanied the suspect into the home. Once inside the home, Mark Clapp became engaged in a struggle with the suspect and suffered a fatal heart attack. He was 45 years old.

As Town Marshal, Mark Clapp devoted his life to selfless service for his community. He served as the New Richmond Town Marshal for 22 years. His desire to help people and defend what is right and just in our society was apparent to everyone in his passion for serving as Town Marshal. Mark never missed an opportunity to learn more about law enforcement and how to better protect his community.

Born on April 7, 1958, in Greencastle, Mark Clapp graduated from Mt. Comfort High School and attended Vincennes University. On November 18, 1978, he married Debbie Zentko. Mark and Debbie enjoyed 25 years of marriage and were the proud parents of their only child. Mark is survived by his mother Patricia; his father, Joseph; his wife, Debbie; his son, Aaron; and his two brothers.

Mark Clapp was a dedicated family man and public servant. He touched many lives over the course of his career and will be remembered as a loving husband, father, and community leader.

It is my sad duty to enter the name of Richard Mark Clapp in the official record of the United States Senate for his service to the State of Indiana and the community of New Richmond. His commitment to protecting and serving the public will not soon be forgotten. As Mark is laid to rest, let us never forget the courage and sacrifice he laid down on December 5, 2003.

When I think about the daily sacrifices and risks that our law enforcement officers take each day, and the unfortunate pain that comes with the loss of our heroes, I hope families like Mark's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.•

CONGRATULATING THE UNIVERSITY OF MINNESOTA-DULUTH BULLDOGS

• Mr. COLEMAN. Mr. President, I wish to recognize and congratulate head coach Scott Sandelin and the University of Minnesota-Duluth Men's ice hockey team for their appearance in the NCAA Frozen Four. The Bulldogs will be making their third NCAA Frozen Four appearance, having appeared in 1984 and 1985.

Since the Bulldogs will be leaving Minnesota early Tuesday morning, I take note of their remarkable accomplishments prior to their departure.

In convincing fashion, the Bulldogs defeated Michigan State 5 to 0 and the University of Minnesota-Twin Cities 3 to 1 to earn their first Frozen Four bid since 1985. Against archrival Minnesota-Twin Cities, the Bulldogs stuck to a solid game plan, scored timely goals, and received phenomenal goaltending from Isaac Reichmuth, who also should be recognized for his stellar shut-out of Michigan State.

While absent 19 years from the Frozen Four, the Bulldogs appearance in this year's Frozen Four is no surprise. After finishing the season 28–12–4, and placing second in the Western Collegiate Hockey Association, the Bulldogs earned the 2nd seed in the Midwest Regional of the NCAA tournament. They are led by Coach Scott Sandelin, who was just today announced as a finalist for the Spencer Penrose Award, the award for NCAA Division 1 coach of the year. Coach Sandelin has achieved tremendous praise in just four years at Minnesota-Duluth and is recognized in the hockey community as one of the most promising young coaches in college hockey.

On the ice, the Bulldogs have been led all year by Hobey Baker finalist Junior Lessard, who currently leads the nation in goals and scoring. On the blue line, the Bulldogs are led by first team WCHA all-conference selection Beau Geisler, and as I mentioned before, Isaac Rechmuch, himself a second team all conference selection, has been unbeatable in the pipes.

The Bulldog ice-hockey tradition runs deep. The program has placed over 34 of its student-athletes into the National Hockey League over the past 35 years. Thanks to Bulldog legends such as Curt Giles, Pat Boutette, Brett Hull, Chris Marinucci, Derek Plante, and Shjon Podein, Minnesota-Duluth is one of the premier hockey schools in the nation and a source of deep pride for Duluth and all of Minnesota.

These young men, 15 of whom are native Minnesotans, are continuing this tradition of excellence and deserve the recognition and excitement that is accompanying their trip to the Frozen Four next Thursday in Boston. Charter buses of Minnesotans have already been filled to make the long trek to Beantown. Congratulations to the University of Minnesota-Duluth Bulldogs for what has been a stellar season and their ongoing quest for the national championship.•

UNIVERSITY OF HAWAII ATHLETES KIM WILLOUGHBY AND MICHAEL KUEBLER

• Mr. AKAKA. Mr. President, I rise to congratulate two University of Hawaii (UH) student athletes, Kim Willoughby and Michael Kuebler, for their outstanding athletic achievements. Kim is an outside hitter for the UH Wahine Rainbow volleyball team and Michael is a guard for the UH Men's basketball team. Both athletes are seniors and have had highly decorated and successful careers while participating in the UH athletic program.

Fans are quick to recognize Kim's presence on the court as she is best known for her powerful and precise play. During her first season with the Wahine Rainbows, Kim earned the title of Western Athletic Conference, WAC, cofreshman averaging 3.14 kills and 3.02 digs per game. As a sophomore, Kim earned WAC player of the year, All-West region team, American Volleyball Coaches Association, AVCA, and Volleyball Magazine All-American first team honors. That season Kim surpassed conference and school records as she led the Nation with 850 kills and 7.20 kills per game. Kim captured the AVCA player of the week title twice and the WAC player of the week four times that same year. In her junior year, Kim earned the WAC player of the year honor for a second time. In her last 2 years on the squad, Kim ranked second in the Nation in kills per game and was again awarded the AVCA All-American first team titles. In 2003, Kim acquired AVCA's National player of the year as well as was named to the College Sports Television All-American team. Kim set the Wahine Rainbow record with 2,598 career kills, the sixth highest in the history of NCAA Division I women's volleyball.

As a transfer student from Clackamas Community College in Oregon, Michael joined the Rainbow Warriors and started the final 28 games of the 2002–2003 season. Michael's impressive play earned him Academic All-WAC newcomer team and All-Junior and Community College transfer team honors. During his senior season, Michael was voted to the All-WAC first team and earlier in the year tied the team's record for consecutive games with at least one three pointer. Michael not only led the team in scoring, but he also led the conference with 91 three pointers. This past March, the Rainbow Warriors concluded their season with a 21-to-12 record and finished one game short of the National Invitation Tournament, NIT, "final four." During that last NIT match against Michigan, Michael scored a team high of 19 points, earned a career high of 8 assists, and increased his UH single season 3-point record to 97. I am also impressed with his priorities of balancing an athletic career while also building a strong academic foundation. Michael's off court accomplishments include holding a 3.67 grade point average as a business marketing major and being the first Rainbow Warrior to make the College Sports Information Director's Association Academic All-American first team.

The sports fans of Hawaii and I have enjoyed watching Kim Willoughby and Michael Kuebler compete and develop as athletes. I thank them both for their contributions to their respective sports and continuing the tradition of excellence long withstanding at the University of Hawaii at Manoa. As both of them bid the UH campus farewell this season, I wish the both of them the best in their future endeavors.•

HONORING PATROLMAN BRYAN S. VERKLER

• Mr. BAYH. Mr. President, I rise today with great sadness and tremendous gratitude to honor the life of a brave law enforcement officer from Mishawaka. Patrolman Bryan Verkler was only 27 years old when his life was taken from him in an instant. He died during the predawn hours of December 13, 2003, in Mishawaka, while responding to a "shots fired" call. After entering a home where an assailant was held up, Bryan was hit by the assailant's gunfire. He fought for his life, but the surgeon's efforts were to no avail. Bryan was a respected police officer who protected Hoosiers and served those in need. He fought for the values that we all hold close to our hearts.

Bryan Verkler was the second officer killed that December morning while dutifully serving his city. Today, I join Bryan's family, friends, and the entire Michiana community in mourning his death. While our memories of Bryan shall certainly live on, so, too, will our sorrow.

Before joining the Mishawaka Police Department, Bryan served on the St. Joseph County Police Department as a Special Deputy. He graduated from the Indiana Law Enforcement Academy in 1999. Recognized as a "gentle giant," he had a generous heart without a mean bone in his body. Bryan loved to laugh and joke and was described as a laid-back man who was conscientious and caring. Yet as a police officer, he was bold and not afraid to fulfill the duties required by his job.

Bryan graduated from John Glenn High School where he was a shot-put and discus athlete. After high school he attended Purdue University and Vincennes University, from which he graduated in 1996. While attending Vincennes, Bryan earned recognition as an All-American athlete while competing in track and field.

Bryan leaves behind his wife of 7 months, Juli; his father, Randy, who is a Walkerton Police Officer; his mother Carolyn; and his brother Brett, who is also a Walkerton Police Officer.

While Bryan's life on Earth has been cut short, his bravery and strength of character shall live on as a powerful and consoling force. May Bryan's life also serve as a clear reminder of the risks taken every day by law enforcement officers across the Nation who keep our cities and towns safe.

It is my sad duty to enter the name of Bryan S. Verkler in the official record of the United States Senate for his dedication to public service and for his profound commitment to serve and protect. When I think about the daily sacrifices and risks that our law enforcement officers take each day, and the unfortunate pain that comes with the loss of our heroes, I hope families like Bryan's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.•

TRIBUTE TO ALISA BARTON

• Mr. BUNNING. Mr. President, today I take the opportunity to honor Mrs. Alisa Barton of Hopkinsville, KY. Salvation Army welfare coordinator, Alisa Barton, was honored nationwide with an Award of Excellence in Social Service at the National Social Services Conference in Pittsburgh on Tuesday, March 20th.

As former military child and wife, Mrs. Barton knows first hand the hardship Army families can experience, especially during times of deployment. Mrs. Barton has continuously worked to help alleviate the needs of families remaining at home while their loved ones serve this country in Afghanistan and Iraq.

She developed a program called Homefront War Relief, which has received national recognition for helping the families of deployed Fort Campbell Soldiers. The Homefront War Relief program, partnered with Wal-Mart, allowed the Salvation Army to assist 743 military families resulting in the largest military assistance effort the Salvation Army of Hopkinsville has ever done. Throughout 2003, 5,000 military personnel and their families received assistance in the form of comfort kits to deployed soldiers, food and clothing, holiday meals, and Bibles and inspirational books to troops.

Mrs. Barton is dedicated to helping those who come to the Salvation Army in need. She began working with the Salvation Army by ringing donation bells and describes her work as a labor of love spreading the Christian faith and helping people. I ask my colleagues to join me in honoring Mrs. Barton. She is a wonderful asset to Kentucky and an inspiration to us all.•

HONORING THE LIFE OF CAPTAIN JAMES E. BAUGH

• Mr. BAYH. Mr. President, today I rise to pay tribute to the life of a distinguished Hoosier public servant, Captain James E. Baugh of Greencastle, who lost his life in the line of duty on January 2, 2004.

Living a life of selfless public service, Captain Baugh held positions in both emergency medical services and law enforcement throughout his distinguished career. A veteran who served our country in Vietnam in the U.S. Air Force from 1963 to 1966, Captain Baugh went on to serve on the Greencastle Police Department before becoming a deputy with the Putnam County Sheriff's Department in 1971. He had previously served as Chief Deputy before becoming Putman County Sheriff in 1975. Captain Baugh held the honor of being the longest serving deputy, devoting 32 years of service to the department.

Captain Baugh's dedication to law enforcement and commitment to Putnam County was exemplified by his lifelong efforts to improve his marksmanship and educate fellow officers through his work at the Indiana Law Enforcement Academy. He was also an avid photographer, sportsman, gunsmith, and youth leader.

Captain James Baugh was a dedicated member of the Greencastle Christian Church. He is survived by his wife, Lauralee Perry Baugh; sons, Jason E. and Jerrod E. Baugh; daughter-in-law, Tara Baugh; sisters Eileen Bryant, Helen Hansel Poynter, Barbara Shepard and Mildred Buttram; and a granddaughter, Gayle Evelyn Baugh.

The citizens of Putnam County and the State of Indiana were well-served by Captain Baugh's life of noble service. It is my sad duty to enter his name into the official record of the United States Senate for his dedication to public service, as well as his profound commitment to protecting community members.

When I think about the daily sacrifices and risks that our law enforcement officers take each day, and the unfortunate pain that comes with the loss of our heroes, I hope families like Captain Baugh's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.●

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, on April 2, 2004, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 4062. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

Under the authority of the order of January 7, 2003, the enrolled bill was signed by the President pro tempore (Mr. STEVENS) during the adjournment of the Senate, on April 2, 2004 .

MESSAGE FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 404. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirments and other provisions, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments and an amendment to the title:

S. 2056. A bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language (Rept. No. 108–253).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. STEVENS: (for himself, Mr. HOLLINGS, and Mr. INOUYE):

S. 2280. A bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. SUNUNU:

S. 2281. A bill to provide a clear and unambiguous structure for the jurisdictional and regulatory treatment for the offering or provision of voice-over-Internet-protocol applications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. BAUCUS, and Mr. DASCHLE):

S. 2282. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. BAUCUS):

S. 2283. A bill to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FITZGERALD (for himself and Mrs. FEINSTEIN):

S. Res. 331. A resolution designating June 2004 as "National Safety Month"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 346

At the request of Mr. LEVIN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 346, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1353

At the request of Mr. BROWNBACK, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1353, a bill to establish new special immigrant categories.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1734

At the request of Mrs. JOHNSON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1734, a bill to amend title XIX and XXI of the Social Security Act to provide States with the option to expand or add coverage of pregnant women under the medicaid and State children's health insurance programs, and for other purposes.

S. 1874

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1874, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 1909

At the request of Mr. COCHRAN, the name of the Senator from Indiana (Mr.

LUGAR) was added as a cosponsor of S. 1909, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 2007

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2007, a bill to provide better protection against bovine spongiform encephalopathy and other prion diseases.

S. 2059

At the request of Mr. FITZGERALD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2059, a bill to improve the governance and regulation of mutual funds under the securities laws, and for other purposes.

S. 2179

At the request of Mr. BROWNBACK, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2179, a bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown.

S. 2193

At the request of Ms. SNOWE, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2193, a bill to improve small business loan programs, and for other purposes.

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2193, supra.

S. 2236

At the request of Ms. CANTWELL, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. DODD), the Senator from Washington (Mrs. MURRAY), the Senator from Michigan (Mr. LEVIN), the Senator from Vermont (Mr. LEAHY) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2236, a bill to enhance the reliability of the electric system.

2238

At the request of Mr. BUNNING, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2238, a bill to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

S. 2252

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2252, a bill to increase the number of aliens who may receive certain non-immigrant status during fiscal year 2004 and to require submissions of information by the Secretary of Homeland Security.

S. 2261

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as cosponsor of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. 2267

At the request of Ms. SNOWE, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 2267, supra.

S. 2278

At the request of Mr. ENSIGN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2278, a bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 3 circuits, and for other purposes.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 328

At the request of Mr. NELSON of Florida, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 328, a resolution expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS: (for himself, Mr. HOLLINGS, and Mr. INOUYE):

S. 2280. A bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I rise to introduce today the National Ocean Exploration Program Act to expand exploration and knowledge of our Nation's oceans. This bill is cosponsored by Senators HOLLINGS and INOUYE.

The National Ocean Exploration Program Act will create better coordination of ocean exploration and research between the National Oceanic and Atmospheric Administration, the National Science Foundation, and other appropriate Federal agencies.

The purposes of the program are to expand ocean exploration to discover new marine substances that potentially have therapeutic benefits; to study unique marine ecosystems, organisms, and the geology of the world's oceans; and to maximize ocean research effectiveness by integrating multiple scientific disciplines in the ocean science community.

There will be a focus on remote ocean research and exploration, in particular, deep marine regions, specifically, hydrothermal vents communities and seamounts. More research on these areas, where organisms exist in highly toxic environments, may bring significant scientific and medical breakthroughs.

Decades ago I helped Oscar Dyson, a great Alaska fisherman, secure a small grant to explore the North Pacific. With that grant, he discovered a significant number of species of marine life we now consider to be central to the North Pacific. It is my hope the National Ocean Exploration Program Act will provide this type of exploration and discovery to our Nation's oceans.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 331—DESIGNATING JUNE 2004 AS "NATIONAL SAFETY MONTH"

Mr. FITZGERALD (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 331

Whereas the mission of the National Safety Council is to educate and influence society to adopt safety, health, and environmental policies, practices, and procedures that prevent and mitigate human suffering and economic losses arising from preventable causes;

Whereas the National Safety Council works to protect lives and promote health with innovative programs;

Whereas the National Safety Council, founded in 1913, is celebrating its 91st anniversary in 2004 as the premier source of safety and health information, education, and training in the United States;

Whereas the National Safety Council was congressionally chartered in 1953, and is celebrating its 51st anniversary in 2004 as a congressionally chartered organization;

Whereas even with advancements in safety that create a safer environment for the people of the United States, such as new legislation and improvements in technology, the unintentional-injury death toll is still unacceptable;

Whereas citizens deserve a solution to nationwide safety and health threats;

Whereas such a solution requires the cooperation of all levels of government, as well as the general public;

Whereas the summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on both the problem and the solution; and

Whereas the theme of "National Safety Month" for 2004 is "Crash-Free June", a national initiative intended to reduce motor vehicle crashes, which are the leading cause of injury death in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2004 as "National Safety Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities that promote acknowledgment, gratitude, and respect for the advances of the National Safety Council and its mission.

Mr. FITZGERALD. Mr. President, I rise today to submit a resolution that would designate June 2004 as National Safety Month.

National Safety Month is not just a tribute to our Nation's advances in health and safety and our never-ending efforts to protect lives. It represents a standard of excellence in safety to which we as a Nation must continue to aspire. While our Nation has enjoyed great advances in safety, we must continue to work to reduce the number of unintentional and preventable injuries and deaths. As summer is traditionally a time in which the number of unintentional deaths increases, it is appropriate to dedicate a month at the beginning of the season to the improvement of safety and health in our country.

During National Safety Month, the National Safety Council will provide tips, articles and information to raise awareness and promote safe driving, home and community safety, general preparedness, and workplace safety. This year, the National Safety Council will focus on reducing the number of motor vehicle crashes, which are the leading cause of injury death in the United States.

I would like to commend the National Safety Council for the contributions that it has made to public safety. I am proud that the National Safety Council is headquartered in my home State of Illinois. The National Safety Council is celebrating its 91st anniversary as an organization this year, and its 51st anniversary as a federally chartered organization. Congress chartered the National Safety Council in 1953 to educate and influence society to adopt safety, health, and environmental policies, practices, and procedures that prevent and mitigate human suffering and economic loss arising from preventable causes. The National Safety Council fulfills its mission through a network of approximately 50 local and regional chapters that provide safety and health programs and services to communities across the United States. The Council currently has 37,500 members.

I thank Senator FEINSTEIN for joining me to introduce this resolution that declares June 2004 National Safety Month and recognizes the National Safety Council for its important work. During a time when homeland security is foremost on the minds of Americans, this month will continue to heighten public awareness of the ongoing quest to save and protect lives. I urge all of my colleagues join me in supporting this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3011. Mr. FRIST proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

SA 3012. Mr. FRIST proposed an amendment to the bill S. 1637, supra.

SA 3013. Mr. FRIST proposed an amendment to amendment SA 3012 proposed by Mr. FRIST to the bill S. 1637, supra.

SA 3014. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3015. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3011. Mr. FRIST proposed an amendment intended to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Jumpstart Our Business Strength (JOBS) Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.
Sec. 102. Deduction relating to income attributable to United States production activities.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

Sec. 201. 20-year foreign tax credit carryover; 1-year foreign tax credit carryback.
Sec. 202. Look-thru rules to apply to dividends from noncontrolled section 902 corporations.
Sec. 203. Foreign tax credit under alternative minimum tax.
Sec. 204. Recharacterization of overall domestic loss.
Sec. 205. Interest expense allocation rules.
Sec. 206. Determination of foreign personal holding company income with respect to transactions in commodities.

Subtitle B—International Tax Simplification

Sec. 211. Repeal of foreign personal holding company rules and foreign investment company rules.
Sec. 212. Expansion of de minimis rule under subpart F.
Sec. 213. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.
Sec. 214. Application of uniform capitalization rules to foreign persons.
Sec. 215. Repeal of withholding tax on dividends from certain foreign corporations.
Sec. 216. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

Subtitle C—Additional International Tax Provisions

Sec. 221. Active leasing income from aircraft and vessels.
Sec. 222. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.
Sec. 223. Look-thru treatment for sales of partnership interests.
Sec. 224. Election not to use average exchange rate for foreign tax paid other than in functional currency.
Sec. 225. Treatment of income tax base differences.
Sec. 226. Modification of exceptions under subpart F for active financing.
Sec. 227. United States property not to include certain assets of controlled foreign corporation.
Sec. 228. Provide equal treatment for interest paid by foreign partnerships and foreign corporations.
Sec. 229. Clarification of treatment of certain transfers of intangible property.
Sec. 230. Modification of the treatment of certain REIT distributions attributable to gain from sales or exchanges of United States real property interests.
Sec. 231. Toll tax on excess qualified foreign distribution amount.
Sec. 232. Exclusion of income derived from certain wagers on horse races and dog races from gross income of nonresident alien individuals.
Sec. 233. Limitation of withholding tax for Puerto Rico corporations.
Sec. 234. Report on WTO dispute settlement panels and the appellate body.
Sec. 235. Study of impact of international tax laws on taxpayers other than large corporations.
Sec. 236. Delay in effective date of final regulations governing exclusion of income from international operation of ships or aircraft.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

Sec. 301. Expansion of qualified small-issue bond program.

Sec. 302. Expensing of broadband Internet access expenditures.
Sec. 303. Exemption of natural aging process in determination of production period for distilled spirits under section 263A.
Sec. 304. Modification of active business definition under section 355.
Sec. 305. Modified taxation of imported archery products.
Sec. 306. Modification to cooperative marketing rules to include value added processing involving animals.
Sec. 307. Extension of declaratory judgment procedures to farmers' cooperative organizations.
Sec. 308. Temporary suspension of personal holding company tax.
Sec. 309. Increase in section 179 expensing.
Sec. 310. Five-year carryback of net operating losses.
Sec. 311. Extension and modification of research credit.
Sec. 312. Expansion of research credit.

Subtitle B—Manufacturing Relating to Films

Sec. 321. Special rules for certain film and television productions.
Sec. 322. Modification of application of income forecast method of depreciation.

Subtitle C—Manufacturing Relating to Timber

Sec. 331. Expensing of certain reforestation expenditures.
Sec. 332. Election to treat cutting of timber as a sale or exchange.
Sec. 333. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
Sec. 334. Modification of safe harbor rules for timber REITS.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 401. Clarification of economic substance doctrine.
Sec. 402. Penalty for failing to disclose reportable transaction.
Sec. 403. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 404. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty on promoters of tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.
Sec. 419. Increases in penalties for aiding and abetting understatements.
Sec. 420. Study on information sharing among law enforcement agencies.

Subtitle B—Other Corporate Governance Provisions

Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.
Sec. 423. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 424. Disallowance of deduction for punitive damages.
Sec. 425. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.

Subtitle C—Enron-Related Tax Shelter Provisions

Sec. 431. Limitation on transfer or importation of built-in losses.
Sec. 432. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 433. Repeal of special rules for FASITs.
Sec. 434. Expanded disallowance of deduction for interest on convertible debt.
Sec. 435. Expanded authority to disallow tax benefits under section 269.
Sec. 436. Modification of interaction between subpart F and passive foreign investment company rules.

Subtitle D—Provisions To Discourage Expatriation

Sec. 441. Tax treatment of inverted corporate entities.
Sec. 442. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 443. Excise tax on stock compensation of insiders of inverted corporations.
Sec. 444. Reinsurance of United States risks in foreign jurisdictions.
Sec. 445. Reporting of taxable mergers and acquisitions.

Subtitle E—International Tax

Sec. 451. Clarification of banking business for purposes of determining investment of earnings in United States property.
Sec. 452. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 453. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 454. Effectively connected income to include certain foreign source income.
Sec. 455. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 456. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

Sec. 461. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 462. Application of earnings stripping rules to partners which are C corporations.
Sec. 463. Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest.
Sec. 464. Modification of straddle rules.
Sec. 465. Denial of installment sale treatment for all readily tradeable debt.

PART II—CORPORATIONS AND PARTNERSHIPS

Sec. 466. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 467. Clarification of definition of nonqualified preferred stock.
Sec. 468. Modification of definition of controlled group of corporations.
Sec. 469. Mandatory basis adjustments in connection with partnership distributions and transfers of partnership interests.

PART III—DEPRECIATION AND AMORTIZATION

Sec. 471. Extension of amortization of intangibles to sports franchises.
Sec. 472. Class lives for utility grading costs.
Sec. 473. Expansion of limitation on depreciation of certain passenger automobiles.
Sec. 474. Consistent amortization of periods for intangibles.
Sec. 475. Reform of tax treatment of leasing operations.
Sec. 476. Limitation on deductions allocable to property used by governments or other tax-exempt entities.

PART IV—ADMINISTRATIVE PROVISIONS

Sec. 481. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 482. Extension of IRS user fees.
Sec. 483. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 484. Partial payment of tax liability in installment agreements.
Sec. 485. Extension of customs user fees.
Sec. 486. Deposits made to suspend running of interest on potential underpayments.
Sec. 487. Qualified tax collection contracts.
Sec. 488. Whistleblower reforms.

PART V—MISCELLANEOUS PROVISIONS

Sec. 491. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 492. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
Sec. 493. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 494. Limitations on deduction for charitable contributions of patents and similar property.
Sec. 495. Repeal of 10-percent rehabilitation tax credit.
Sec. 496. Increase in age of minor children whose unearned income is taxed as if parent's income.
Sec. 497. Holding period for preferred stock.

TITLE V—PROTECTION OF UNITED STATES WORKERS FROM COMPETITION OF FOREIGN WORKFORCES

Sec. 501. Limitations on off-shore performance of contracts.
Sec. 502. Repeal of superseded law.
Sec. 503. Effective date and applicability.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Relating to Housing

Sec. 601. Treatment of qualified mortgage bonds.
Sec. 602. Premiums for mortgage insurance.
Sec. 603. Increase in historic rehabilitation credit for certain low-income housing for the elderly.

Subtitle B—Provisions Relating to Bonds

Sec. 611. Expansion of New York Liberty Zone tax benefits.
Sec. 612. Modifications of treatment of qualified zone academy bonds.
Sec. 613. Modifications of authority of Indian tribal governments to issue tax-exempt bonds.
Sec. 614. Definition of manufacturing facility for small issue bonds.
Sec. 615. Conservation bonds.
Sec. 616. Indian school construction.

Subtitle C—Provisions Relating to Depreciation

Sec. 621. Special placed in service rule for bonus depreciation property.
Sec. 622. Modification of depreciation allowance for aircraft.
Sec. 623. Modification of class life for certain track facilities.
Sec. 624. Minimum tax relief for certain taxpayers.

Subtitle D—Expansion of Business Credit

Sec. 631. New markets tax credit for Native American reservations.
Sec. 632. Ready Reserve-National Guard employee credit added to general business credit.
Sec. 633. Rural investment tax credit.
Sec. 634. Qualified rural small business investment credit.
Sec. 635. Credit for maintenance of railroad track.
Sec. 636. Railroad revitalization and security investment credit.
Sec. 637. Modification of targeted areas designated for new markets tax credit.
Sec. 638. Modification of income requirement for census tracts within high migration rural counties.

Subtitle E—Miscellaneous Provisions

Sec. 641. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income.
Sec. 642. Modification of unrelated business income limitation on investment in certain debt-financed properties.
Sec. 643. Civil rights tax relief.
Sec. 644. Exclusion for payments to individuals under National Health Service Corps loan repayment program and certain State loan repayment programs.
Sec. 645. Certain expenses of rural letter carriers.
Sec. 646. Method of accounting for naval shipbuilders.
Sec. 647. Suspension of policyholders surplus account provisions.
Sec. 648. Payment of dividends on stock of cooperatives without reducing patronage dividends.
Sec. 649. Special rules for livestock sold on account of weather-related conditions.
Sec. 650. Motor vehicle dealer transitional assistance.
Sec. 651. Expansion of designated renewal community area based on 2000 census data.
Sec. 652. Reduction of holding period to 12 months for purposes of determining whether horses are section 1231 assets.
Sec. 653. Blue Ribbon Commission on Comprehensive Tax Reform.
Sec. 654. Treatment of distributions by ESOPs with respect to S corporation stock.
Sec. 655. Clarification of working capital for reasonably anticipated needs of a business for purposes of accumulated earnings tax.
Sec. 656. Tax treatment of State ownership of railroad real estate investment trust.
Sec. 657. Clarification of contribution in aid of construction for water and sewerage disposal utilities.
Sec. 658. Credit for purchase and installation of agricultural water conservation systems.
Sec. 659. Modification of involuntary conversion rules for businesses affected by the September 11th terrorist attacks.

Subtitle F—Revenue Provisions

PART I—GENERAL REVENUE PROVISIONS

Sec. 661. Treasury regulations on foreign tax credit.
Sec. 662. Nonattribution of certain manufacturing by persons other than controlled foreign corporation.
Sec. 663. Freeze of provisions regarding suspension of interest where Secretary fails to contact taxpayer.

PART II—PENSION AND DEFERRED COMPENSATION

Sec. 671. Treatment of nonqualified deferred compensation plans.
Sec. 672. Prohibition on deferral of gain from the exercise of stock options and restricted stock gains through deferred compensation arrangements.
Sec. 673. Increase in withholding from supplemental wage payments in excess of $1,000,000.
Sec. 674. Treatment of sale of stock acquired pursuant to exercise of stock options to comply with conflict-of-interest requirements.
Sec. 675. Determination of basis of amounts paid from foreign pension plans.

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

Sec. 701. Parity in the application of certain limits to mental health benefits.
Sec. 702. Modifications to work opportunity credit and welfare-to-work credit.
Sec. 703. Consolidation of work opportunity credit with welfare-to-work credit.
Sec. 704. Qualified zone academy bonds.
Sec. 705. Cover over of tax on distilled spirits.
Sec. 706. Deduction for corporate donations of scientific property and computer technology.
Sec. 707. Deduction for certain expenses of school teachers.
Sec. 708. Expensing of environmental remediation costs.
Sec. 709. Expansion of certain New York Liberty Zone benefits.
Sec. 710. Repeal of reduction of deductions for mutual life insurance companies.
Sec. 711. Tax incentives for investment in the District of Columbia.
Sec. 712. Combined employment tax reporting program.
Sec. 713. Allowance of nonrefundable personal credits against regular and minimum tax liability.
Sec. 714. Credit for electricity produced from certain renewable resources.
Sec. 715. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 716. Indian employment tax credit.
Sec. 717. Accelerated depreciation for business property on Indian reservation.
Sec. 718. Disclosure of return information relating to student loans.
Sec. 719. Extension of transfers of excess pension assets to retiree health accounts.
Sec. 720. Elimination of phaseout of credit for qualified electric vehicles.
Sec. 721. Elimination of phaseout for deduction for clean-fuel vehicle property.

Subtitle B—Revenue Provisions

Sec. 731. Donations of motor vehicles, boats, and airplanes.
Sec. 732. Addition of vaccines against influenza to list of taxable vaccines.
Sec. 733. Treatment of contingent payment convertible debt instruments.
Sec. 734. Modification of continuing levy on payments to Federal venders.

TITLE VIII—ENERGY TAX INCENTIVES

Sec. 800. Short title.

Subtitle A—Renewable Electricity Production Tax Credit

Sec. 801. Extension and expansion of credit for electricity produced from certain renewable resources.

Subtitle B—Alternative Motor Vehicles and Fuels Incentives

Sec. 811. Alternative motor vehicle credit.
Sec. 812. Modification of credit for qualified electric vehicles.
Sec. 813. Credit for installation of alternative fueling stations.
Sec. 814. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 815. Small ethanol producer credit.

Subtitle C—Conservation and Energy Efficiency Provisions

Sec. 821. Credit for construction of new energy efficient home.
Sec. 822. Credit for energy efficient appliances.
Sec. 823. Credit for residential energy efficient property.
Sec. 824. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 825. Energy efficient commercial buildings deduction.
Sec. 826. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 827. Three-year applicable recovery period for depreciation of qualified water submetering devices.
Sec. 828. Energy credit for combined heat and power system property.

Sec. 829. Credit for energy efficiency improvements to existing homes.

Subtitle D—Clean Coal Incentives

Part I—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

Sec. 831. Credit for production from a qualifying clean coal technology unit.

Part II—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

Sec. 832. Credit for investment in qualifying advanced clean coal technology.
Sec. 833. Credit for production from a qualifying advanced clean coal technology unit.

Part III—Treatment of Persons Not Able To Use Entire Credit

Sec. 834. Treatment of persons not able to use entire credit.

Subtitle E—Oil and Gas Provisions

Sec. 841. Oil and gas from marginal wells.
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Sec. 893. Total accountability.
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TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) In General.—Section 114 is hereby repealed.

(b) Conforming Amendments.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking "114 or".

(4) Section 275(a) is amended—

(A) by inserting "or" at the end of paragraph (4)(A), by striking "or" at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

"(3) Tax-exempt assets not taken into account.—

"(A) In general.—For purposes of"; and inserting:

"(3) Tax-exempt assets not taken into account.—For purposes of", and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking "114, 164(a)," and inserting "164(a)".

(7) Section 999(c)(1) is amended by striking "941(a)(5),".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) Binding contracts.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) Revocation of Section 943(e) Elections.—

(1) In general.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) Exception.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) General Transition.—

(1) In general.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) Current FSC/ETI beneficiary.—The term "current FSC/ETI beneficiary" means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) Transition amount.—For purposes of this subsection—

(A) In general.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) Phaseout percentage.—

(i) In general.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	**The phaseout percentage is:**
2005	80
2006	60.

(ii) Special rule for 2004.—The phaseout percentage for 2004 shall be the amount that bears the same ratio to 80 percent as the number of days after the date of the enactment of this Act bears to 366.

(iii) Special rule for fiscal year taxpayers.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) Short taxable year.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) Base period amount.—For purposes of this subsection, the base period amount is the average FSC/ETI benefit for the taxpayer's taxable years beginning in calendar years 2000, 2001, and 2002.

(5) FSC/ETI benefit.—For purposes of this subsection, the term "FSC/ETI benefit" means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) Special rule for agricultural and horticultural cooperatives.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) Certain rules to apply.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) Coordination with binding contract rule.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2004 shall be treated as being equal to 100 percent.

(9) Special rule for taxable year which includes date of enactment.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2004, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

"(a) Allowance of Deduction.—

"(1) In general.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

"(2) Phasein.—In the case of taxable years beginning in 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	**The transition percentage is:**
2004, 2005, or 2006	5
2007	6
2008	7.

"(b) Deduction Limited to Wages Paid.—

"(1) In general.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

"(2) W–2 wages.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

"(3) Special rules.—

"(A) Pass-thru entities.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level. The preceding sentence shall not apply to any entity all of the ownership interests of which are held directly or indirectly by members of the same expanded affiliated group.

"(B) Acquisitions and dispositions.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

"(c) Qualified Production Activities Income.—For purposes of this section—

"(1) In general.—The term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

"(2) Reduction for taxable years beginning before 2013.—The amount otherwise determined under paragraph (1) (the 'unreduced amount') shall not exceed—

"(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

"(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

"(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

"(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

"(d) Determination of Income Attributable to Domestic Production Activities.—For purposes of this section—

"(1) In general.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

"(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

"(B) the sum of—

"(i) the costs of goods sold that are allocable to such receipts,

"(ii) other deductions, expenses, or losses directly allocable to such receipts, and

"(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

"(2) Allocation method.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

"(3) Special rules for determining costs.—

"(A) In general.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

"(B) Exports for further manufacture.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

“(4) Modified taxable income.—The term ‘modified taxable income’ means taxable income computed without regard to the deduction allowable under this section.

“(e) Domestic Production Gross Receipts.—For purposes of this section—

“(1) In general.—The term ‘domestic production gross receipts’ means the gross receipts of the taxpayer which are derived from—

“(A) any sale, exchange, or other disposition of, or

“(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

“(2) Special rules for certain property.—In the case of any qualifying production property described in subsection (f)(1)(C)—

“(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

“(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

“(f) Qualifying Production Property.—For purposes of this section—

“(1) In general.—Except as otherwise provided in this paragraph, the term ‘qualifying production property’ means—

“(A) any tangible personal property,

“(B) any computer software, and

“(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

“(2) Exclusions from qualifying production property.—The term ‘qualifying production property’ shall not include—

“(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

“(B) oil or gas,

“(C) electricity,

“(D) water supplied by pipeline to the consumer,

“(E) utility services, or

“(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

“(g) Domestic/Worldwide Fraction.—For purposes of this section—

“(1) In general.—The term ‘domestic/worldwide fraction’ means a fraction (not greater than 1)—

“(A) the numerator of which is the value of the domestic production of the taxpayer, and

“(B) the denominator of which is the value of the worldwide production of the taxpayer.

“(2) Value of domestic production.—The value of domestic production is the excess (if any) of—

“(A) the domestic production gross receipts, over

“(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

“(3) Purchased inputs.—

“(A) In general.—Purchased inputs are any of the following items acquired by purchase:

“(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

“(ii) Items consumed in connection with such activities.

“(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

“(B) Special rule.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

“(4) Value of worldwide production.—

“(A) In general.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

“(i) worldwide production gross receipts shall be taken into account, and

“(ii) paragraph (3)(B) shall not apply.

“(B) Worldwide production gross receipts.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

“(h) Definitions and Special Rules.—

“(1) Application of section to pass-thru entities.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

“(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

“(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

“(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

“(ii) additional reporting requirements.

“(2) Patrons of agricultural and horticultural cooperatives.—

“(A) In general.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

“(i) is received by a person from an organization to which part I of subchapter T applies which is engaged—

“(I) in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or

“(II) in the marketing of agricultural or horticultural products, and

“(ii) is allocable to the portion of the qualified production activities income of the organization which, but for this paragraph, would be deductible under subsection (a) by the organization and is designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed a deduction under subsection (a) with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(B) Special rules.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

“(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

“(ii) in the case of an organization described in subparagraph (A)(i)(II), the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

“(3) Special rule for affiliated groups.—

“(A) In general.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

“(B) Expanded affiliated group.—The term ‘expanded affiliated group’ means an affiliated group as defined in section 1504(a), determined—

“(i) by substituting ‘50 percent’ for ‘80 percent’ each place it appears, and

“(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

“(4) Coordination with minimum tax.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

“(5) Ordering rule.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

“(6) Trade or business requirement.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

“(7) Possessions, etc.—

“(A) In general.—For purposes of subsections (d) and (e), the term ‘United States’ includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

“(B) Special rules for applying wage limitation.—For purposes of applying the limitation under subsection (b) for any taxable year—

“(i) the determination of W-2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

“(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

“(8) Coordination with transition rules.—For purposes of this section—

“(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

“(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.

“(9) Separate application to films and videotape.—In the case of qualifying production property described in section 168(f)(3), this section shall be applied separately to qualified production activities income of the taxpayer allocable to each of the following markets with respect to such property:

“(A) Theatrical.

“(B) Broadcast television (including cable, foreign, pay-per-view, and syndication).

“(C) Home video.”.

(b) Minimum Tax.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

"(v) Deduction for domestic production.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.".

(c) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 199. Income attributable to domestic production activities.".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) Application of section 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYOVER; 1-YEAR FOREIGN TAX CREDIT CARRYBACK.

(a) General Rule.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20".

(b) Excess Extraction Taxes.—Paragraph (1) of section 907(f) is amended—

(1) by striking "in the second preceding taxable year,",

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20", and

(3) by striking the last sentence.

(c) Effective Date.—

(1) Carryback.—The amendments made by subsections (a)(1) and (b)(1) shall apply to excess foreign taxes arising in taxable years beginning after the date of the enactment of this Act.

(2) Carryover.—The amendments made by subsections (a)(2) and (b)(2) shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year ending after the date of the enactment of this Act.

SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) In General.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

"(4) Look-thru applies to dividends from noncontrolled section 902 corporations.—

"(A) In general.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

"(i) the portion of earnings and profits attributable to income described in such subparagraph, to

"(ii) the total amount of earnings and profits.

"(B) Earnings and profits of controlled foreign corporations.—In the case of any distribution from a controlled foreign corporation to a United States shareholder, rules similar to the rules of subparagraph (A) shall apply in determining the extent to which earnings and profits of the controlled foreign corporation which are attributable to dividends received from a noncontrolled section 902 corporation may be treated as income in a separate category.

"(C) Special rules.—For purposes of this paragraph—

"(i) Earnings and profits.—

"(I) In general.—The rules of section 316 shall apply.

"(II) Regulations.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

"(ii) Inadequate substantiation.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

"(iii) Coordination with high-taxed income provisions.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.

"(iv) Look-thru with respect to carryover of credit.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.".

(b) Conforming Amendments.—

(1) Subparagraph (E) of section 904(d)(1) is hereby repealed.

(2) Section 904(d)(2)(C)(iii) is amended by adding "and" at the end of subclause (I), by striking subclause (II), and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D) is amended to read as follows: "Such term does not include any financial services income.".

(4) Section 904(d)(2)(E) is amended—

(A) by inserting "or (4)" after "paragraph (3)" in clause (i), and

(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) is amended by striking "(D), or (E)" and inserting "or (D)".

(6) Section 864(d)(5)(A)(i) is amended by striking "(C)(iii)(III)" and inserting "(C)(iii)(II)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) In General.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking "and if section 59(a)(2) did not apply".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) General Rule.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

"(g) Recharacterization of Overall Domestic Loss.—

"(1) General rule.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

"(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

"(2) Overall domestic loss defined.—For purposes of this subsection—

"(A) In general.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

"(B) Taxpayer must have elected foreign tax credit for year of loss.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

"(3) Characterization of subsequent income.—

"(A) In general.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

"(B) Income category.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

"(4) Coordination with subsection (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).".

(b) Conforming Amendments.—

(1) Section 535(d)(2) is amended by striking "section 904(g)(6)" and inserting "section 904(h)(6)".

(2) Subparagraph (A) of section 936(a)(2) is amended by striking "section 904(f)" and inserting "subsections (f) and (g) of section 904".

(c) Effective Date.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

(a) Election To Allocate on Worldwide Basis.—Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Election To Allocate Interest, etc. on Worldwide Basis.—For purposes of this subchapter, at the election of the worldwide affiliated group—

"(1) Allocation and apportionment of interest expense.—

"(A) IN GENERAL.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

"(B) TREATMENT OF WORLDWIDE AFFILIATED GROUP.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

"(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

"(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

"(C) WORLDWIDE AFFILIATED GROUP.—For purposes of this paragraph, the term 'worldwide affiliated group' means a group consisting of—

"(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

"(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

"(2) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

"(3) TREATMENT OF TAX-EXEMPT ASSETS; BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection, except that paragraph (4) shall be applied on a worldwide affiliated group basis.

"(4) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

"(B) DESCRIPTION.—A corporation is described in this subparagraph if—

"(i) such corporation is a financial institution described in section 581 or 591,

"(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

"(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

"(C) TREATMENT OF BANK AND FINANCIAL HOLDING COMPANIES.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)),

"(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)), and

"(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business, shall be treated as a corporation described in subparagraph (B).

"(5) ELECTION TO EXPAND FINANCIAL INSTITUTION GROUP OF WORLDWIDE GROUP.—

"(A) IN GENERAL.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

"(i) are members of such worldwide affiliated group, but

"(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

"(B) FINANCIAL CORPORATION.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(C)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

"(C) ANTIABUSE RULES.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

"(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

"(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

"(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

"(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

"(D) ELECTION.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2008, in which such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

"(E) DEFINITIONS RELATING TO GROUPS.—For purposes of this paragraph—

"(i) PRE-ELECTION WORLDWIDE AFFILIATED GROUP.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

"(ii) ELECTING FINANCIAL INSTITUTION GROUP.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

"(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

"(ii) preventing assets or interest expense from being taken into account more than once, and

"(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

"(6) ELECTION.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists which includes such affiliated group and at least 1 foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.".

(b) EXPANSION OF REGULATORY AUTHORITY.—Paragraph (7) of section 864(e) is amended—

(1) by inserting before the comma at the end of subparagraph (B) "and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection", and

(2) by striking "and" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) preventing assets or interest expense from being taken into account more than once, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) In General.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

"(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

"(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or".

(b) Definition and Special Rules.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

"(4) Definition and special rules relating to commodity transactions.—

"(A) Commodity hedging transactions.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

"(i) is a hedging transaction as defined in section 1221(b)(2), determined—

"(I) without regard to subparagraph (A)(ii) thereof,

"(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

"(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

"(ii) is clearly identified as such in accordance with section 1221(a)(7).

"(B) Treatment of dealer activities under paragraph (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

"(C) Regulations.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.".

(c) Modification of Exception for Dealers.—Clause (i) of section 954(c)(2)(C) is amended by inserting "and transactions involving physical settlement" after "(including hedging transactions".

(d) Effective Date.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

Subtitle B—International Tax Simplification

SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Personal Holding Company Rules.—

(1) In general.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(2) Treatment of income from personal service contracts.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

"(I) Personal service contracts.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services if—

"(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

"(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

"(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.".

(c) Conforming Amendments.—

(1) Section 1(h) is amended—

(A) in paragraph (10), by inserting "and" at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

(B) by striking "a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or" in paragraph (11)(C)(iii).

(2) Section 163(e)(3)(B), as amended by this Act, is amended by striking "which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or" and inserting "which is a controlled foreign corporation (as defined in section 957) or".

(3) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or foreign personal holding company".

(4) Paragraph (2) of section 245(a) is amended by striking "foreign personal holding company or".

(5) Section 267(a)(3)(B), as amended by this Act, is amended by striking "to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or" and inserting "to a controlled foreign corporation (as defined in section 957) or".

(6) Section 312 is amended by striking subsection (j).

(7) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)".

(8) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(9) Subparagraph (B) of section 465(c)(7) is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(10) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(11) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(12) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(13) Subsection (d) of section 751 is amended by adding "and" at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking "paragraph (1), (2), or (3)" in paragraph (3) (as so redesignated) and inserting "paragraph (1) or (2)".

(14) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(15)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

"(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and".

(B) Subparagraph (B) of section 898(b)(2) is amended by striking "and sections 551(f) and 554, whichever are applicable,".

(C) Paragraph (3) of section 898(b) is amended to read as follows:

"(3) United States shareholder.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).".

(D) Subsection (c) of section 898 is amended to read as follows:

"(c) Determination of Required Year.—

"(1) In general.—The required year is—

"(A) the majority U.S. shareholder year, or

"(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(2) 1-month deferral allowed.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

"(3) Majority U.S. shareholder year.—

"(A) In general.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(i) each United States shareholder described in subsection (b)(2)(A), and

"(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

"(B) Testing day.—The testing days shall be—

"(i) the first day of the corporation's taxable year (determined without regard to this section), or

"(ii) the days during such representative period as the Secretary may prescribe.".

(16) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

"(ii) Certain amounts included.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies).".

(17)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking "FOREIGN PERSONAL HOLDING OR".

(18) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(19) Paragraph (3) of section 989(b) is amended by striking ", 551(a),".

(20) Paragraph (5) of section 1014(b) is amended by inserting "and before January 1, 2005," after "August 26, 1937,".

(21) Subsection (a) of section 1016 is amended by striking paragraph (13).

(22)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

"(3) Special rules on carrybacks.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

"(A) for which it is a regulated investment company (as defined in section 851), or

"(B) for which it is a real estate investment trust (as defined in section 856).".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

(23) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(24) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(25) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

(26)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking "551(d), 959(a)," and inserting "959(a)".

(B) Subsection (e) of section 1291 is amended by inserting "(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)" after "section 1246".

(27) Paragraph (2) of section 1294(a) is amended to read as follows:

"(2) Election not permitted where amounts otherwise includible under section 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.".

(28) Section 6035 is hereby repealed.

(29) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(30) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) Constructive dividends.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.".

(31) Subsection (a) of section 6679 is amended—

(A) by striking "6035, 6046, and 6046A" in paragraph (1) and inserting "6046 and 6046A", and

(B) by striking paragraph (3).

(32) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(33) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(34) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(35) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

(d) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) In General.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking "$1,000,000" and inserting "$5,000,000".

(b) Technical Amendments.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(2) Clause (i) of section 881(c)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(c) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

(a) In General.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) Constructive ownership through partnerships.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership.".

(b) Clarification of Comparable Attribution Under Section 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking "any individual" and inserting "any person".

(c) Effective Date.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of the enactment of this Act.

SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) In General.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(7) Foreign persons.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes.".

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) Change in method of accounting.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

(a) In General.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

"(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.".

(b) Effective Date.—The amendment made by this section shall apply to payments made after December 31, 2004.

SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

(a) In General.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) Conforming Amendment.—Section 1441(g) is amended is amended by striking "section 871(a)(3)" and inserting "section 871(a)(2)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle C—Additional International Tax Provisions

SEC. 221. ACTIVE LEASING INCOME FROM AIRCRAFT AND VESSELS.

(a) In General.—Section 954(c)(2) is amended by adding at the end the following new subparagraph:

"(D) Certain rents, etc.—

"(i) In general.—Foreign personal holding company income shall not include qualified leasing income derived from or in connection with the leasing or rental of any aircraft or vessel.

"(ii) Qualified leasing income.—For purposes of this subparagraph, the term 'qualified leasing income' means rents and gains derived in the active conduct of a trade or business of leasing with respect to which the controlled foreign corporation conducts substantial activity, but only if—

"(I) the leased property is used by the lessee or other end-user in foreign commerce and predominantly outside the United States, and

"(II) the lessee or other end-user is not a related person (as defined in subsection (d)(3)).

Any amount not treated as foreign personal holding income under this subparagraph shall not be treated as foreign base company shipping income.".

(b) CONFORMING AMENDMENT.—Section 954(c)(1)(B) is amended by inserting "or (2)(D)" after "paragraph (2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 222. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY INCOME RULES.

(a) IN GENERAL.—Subsection (c) of section 954, as amended by this Act, is amended by adding after paragraph (4) the following new paragraph:

"(5) LOOK-THRU IN THE CASE OF RELATED CONTROLLED FOREIGN CORPORATIONS.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person (as defined in subsection (b)(9)) shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income (as defined in section 952). For purposes of this paragraph, interest shall include factoring income which is treated as income equivalent to interest for purposes of paragraph (1)(E). The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 223. LOOK-THRU TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income), as amended by this Act, is amended by adding after paragraph (5) the following new paragraph:

"(6) LOOK-THRU RULE FOR CERTAIN PARTNERSHIP SALES.—

"(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for coordination of this paragraph with the provisions of subchapter K.

"(B) 25-PERCENT OWNER.—For purposes of this paragraph, the term '25-percent owner' means a controlled foreign corporation which owns directly 25 percent or more of the capital or profits interest in a partnership. For purposes of the preceding sentence, if a controlled foreign corporation is a shareholder or partner of a corporation or partnership, the controlled foreign corporation shall be treated as owning directly its proportionate share of any such capital or profits interest held directly or indirectly by such corporation or partnership".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 224. ELECTION NOT TO USE AVERAGE EXCHANGE RATE FOR FOREIGN TAX PAID OTHER THAN IN FUNCTIONAL CURRENCY.

(a) IN GENERAL.—Paragraph (1) of section 986(a) (relating to determination of foreign taxes and foreign corporation's earnings and profits) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) ELECTIVE EXCEPTION FOR TAXES PAID OTHER THAN IN FUNCTIONAL CURRENCY.—

"(i) IN GENERAL.—At the election of the taxpayer, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency other than in the taxpayer's functional currency.

"(ii) APPLICATION TO QUALIFIED BUSINESS UNITS.—An election under this subparagraph may apply to foreign income taxes attributable to a qualified business unit in accordance with regulations prescribed by the Secretary.

"(iii) ELECTION.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 225. TREATMENT OF INCOME TAX BASE DIFFERENCES.

(a) IN GENERAL.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) TREATMENT OF INCOME TAX BASE DIFFERENCES.—

"(i) IN GENERAL.—A taxpayer may elect to treat tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles as tax imposed on income described in subparagraph (C) or (I) of paragraph (1).

"(ii) ELECTION IRREVOCABLE.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 226. MODIFICATION OF EXCEPTIONS UNDER SUBPART F FOR ACTIVE FINANCING.

(a) IN GENERAL.—Section 954(h)(3) is amended by adding at the end the following:

"(E) DIRECT CONDUCT OF ACTIVITIES.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation or qualified business unit in its home country if the activity is performed by employees of a related person and—

"(i) the related person is an eligible controlled foreign corporation the home country of which is the same as the home country of the corporation or unit to which subparagraph (A)(ii)(II) is being applied,

"(ii) the activity is performed in the home country of the related person, and

"(iii) the related person is compensated on an arm's-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in its home country for purposes of the home country's tax laws.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of such foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporations end.

SEC. 227. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting a semicolon, and by adding at the end the following new subparagraphs:

"(L) securities acquired and held by a controlled foreign corporation in the ordinary course of its business as a dealer in securities if—

"(i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and

"(ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business; and

"(M) an obligation of a United States person which—

"(i) is not a domestic corporation, and

"(ii) is not—

"(I) a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, or

"(II) a partnership, estate, or trust in which the controlled foreign corporation, or any related person (as defined in section 954(d)(3)), is a partner, beneficiary, or trustee immediately after the acquisition of any obligation of such partnership, estate, or trust by the controlled foreign corporation.".

(b) CONFORMING AMENDMENT.—Section 956(c)(2) is amended by striking "and (K)" in the last sentence and inserting ", (K), and (L)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 228. PROVIDE EQUAL TREATMENT FOR INTEREST PAID BY FOREIGN PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) in the case of a foreign partnership, which is predominantly engaged in the active conduct of a trade or business outside the United States, any interest not paid by a trade or business engaged in by the partnership in the United States and not allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 229. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 367(d)(2) is amended by adding at the end the following new sentence: "For purposes of applying section 904(d), any such amount shall be treated in the same manner as if such amount were a royalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts treated as received pursuant to section 367(d)(2) of the Internal Revenue Code of 1986 on or after August 5, 1997.

SEC. 230. MODIFICATION OF THE TREATMENT OF CERTAIN REIT DISTRIBUTIONS ATTRIBUTABLE TO GAIN FROM SALES OR EXCHANGES OF UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Paragraph (1) of section 897(h) (relating to look-through of distributions) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, any distribution by a REIT with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the taxable year.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end the following new subparagraph:

"(F) CERTAIN DISTRIBUTIONS.—In the case of a shareholder of a real estate investment trust to whom section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be included in computing long-term capital gains for such shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

"(i) shall not be included in computing such shareholder's long-term capital gains, and

"(ii) shall be included in such shareholder's gross income as a dividend from the real estate investment trust.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 231. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

"SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

"(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

"(1) the taxpayer's excess qualified foreign distribution amount, and

"(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for the taxable year.

"(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

"(A) the aggregate dividends received by the taxpayer during the taxable year which are—

"(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

"(ii) described in a domestic reinvestment plan which—

"(I) is approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, and

"(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation, over

"(B) the base dividend amount.

"(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

"(3) FIXED BASE PERIOD.—

"(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

"(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

"(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

"(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall include all the taxable years of the taxpayer ending on or before December 31, 2002.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DIVIDENDS.—The term 'dividend' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

"(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by section 951(b).

"(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

"(4) FOREIGN TAX CREDIT LIMITATION.—For purposes of section 904, there shall be disregarded 85 percent of—

"(A) the excess qualified foreign distribution amount,

"(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

"(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

"(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

"(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer for purposes of this section.

"(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

"(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

"(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

"(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

"(d) ELECTION.—

"(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

"(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

"(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer and shall apply to all members of the affiliated group.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

SEC. 232. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES AND DOG RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.

(a) IN GENERAL.—Subsection (b) of section 872 (relating to exclusions) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

"(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race or dog race in the United States.".

(b) CONFORMING AMENDMENT.—Section 883(a)(4) is amended by striking "(5), (6), and (7)" and inserting "(6), (7), and (8)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wagers made after the date of the enactment of this Act.

SEC. 233. LIMITATION OF WITHHOLDING TAX FOR PUERTO RICO CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 881 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of paragraph (1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) WITHHOLDING.—Subsection (c) of section 1442 (relating to withholding of tax on foreign corporations) is amended—

(1) by striking "For purposes" and inserting the following:

"(1) GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 881 is amended by striking "GUAM AND VIRGIN ISLANDS CORPORATIONS" in the heading and inserting "POSSESSIONS".

(2) Paragraph (1) of section 881(b) is amended by striking "IN GENERAL" in the heading and inserting "GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid after the date of the enactment of this Act.

SEC. 234. REPORT ON WTO DISPUTE SETTLEMENT PANELS AND THE APPELLATE BODY.

Not later than March 31, 2004, the Secretary of Commerce, in consultation with the United States Trade Representative, shall transmit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, regarding whether dispute settlement panels and the Appellate Body of the World Trade Organization have—

(1) added to or diminished the rights of the United States by imposing obligations or restrictions on the use of antidumping, countervailing, and safeguard measures not agreed to under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards;

(2) appropriately applied the standard of review contained in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994; or

(3) exceeded their authority or terms of reference under the Agreements referred to in paragraph (1).

SEC. 235. STUDY OF IMPACT OF INTERNATIONAL TAX LAWS ON TAXPAYERS OTHER THAN LARGE CORPORATIONS.

(a) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study of the impact of Federal international tax rules on taxpayers other than large corporations, including the burdens placed on such taxpayers in complying with such rules.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a), including any recommendations for legislative or administrative changes to reduce the compliance burden on taxpayers other than large corporations and for such other purposes as the Secretary determines appropriate.

SEC. 236. DELAY IN EFFECTIVE DATE OF FINAL REGULATIONS GOVERNING EXCLUSION OF INCOME FROM INTERNATIONAL OPERATION OF SHIPS OR AIRCRAFT.

Notwithstanding the provisions of Treasury regulation §1.883-5, the final regulations issued by the Secretary of the Treasury relating to income derived by foreign corporations from the international operation of ships or aircraft (Treasury regulations §1.883-1 through §1.883-5) shall apply to taxable years of a foreign corporation seeking qualified foreign corporation status beginning after September 24, 2004.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

SEC. 301. EXPANSION OF QUALIFIED SMALL-ISSUE BOND PROGRAM.

(a) IN GENERAL.—Subparagraph (F) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended to read as follows:

"(F) ADDITIONAL CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—With respect to any issue, in addition to any capital expenditure described in subparagraph (C), capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 302. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

"SEC. 191. BROADBAND EXPENDITURES.

"(a) TREATMENT OF EXPENDITURES.—

"(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

"(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to—

"(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

"(B) the connection of such qualified equipment to any qualified subscriber.

"(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

"(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

"(B) next generation broadband services are provided through such equipment to qualified subscribers.

"(2) LIMITATION.—

"(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

"(i) the original use of which commences with the taxpayer, and

"(ii) which is placed in service, after the date of the enactment of this Act.

"(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

"(i) is originally placed in service after the date of the enactment of this Act by any person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

"(d) SPECIAL ALLOCATION RULES.—

"(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of—

"(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

"(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

"(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

"(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

"(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

"(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

"(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

"(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

"(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

"(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

"(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

"(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

"(A) a cable operator,

"(B) a commercial mobile service carrier,

"(C) an open video system operator,

"(D) a satellite carrier,

"(E) a telecommunications carrier, or

"(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

"(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

"(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

"(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

"(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

"(D) such services have been purchased by 1 or more such subscribers, and

"(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

"(13) QUALIFIED EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

"(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

"(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

"(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

"(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

"(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

"(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

"(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

"(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

"(A) with respect to the provision of current generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

"(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

"(B) with respect to the provision of next generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

"(ii) any residential subscriber.

"(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

"(16) RURAL AREA.—The term 'rural area' means any census tract which—

"(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

"(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

"(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

"(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

"(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

"(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

"(B) such services can be utilized—

"(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

"(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

"(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

"(B) does not include a commercial mobile service carrier.

"(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

"(23) UNDERSERVED AREA.—The term 'underserved area' means—

"(A) any census tract which is located in—

"(i) an empowerment zone or enterprise community designated under section 1391, or

"(ii) the District of Columbia Enterprise Zone established under section 1400, or

"(B) any census tract—

"(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

"(ii) the median family income of which does not exceed—

"(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

"(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

"(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"(f) SPECIAL RULES.—

"(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

"(2) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).".

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(29).".

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) (relating to capital expenditures) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 191.".

(2) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 191(f)(2).".

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

"Sec. 191. Broadband expenditures.".

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act and before the date which is 12 months after the date of the enactment of this Act.

SEC. 303. EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS UNDER SECTION 263A.

(a) IN GENERAL.—Section 263A(f) of the Internal Revenue Code of 1986 (relating to general exceptions) is amended by adding at the end the following new paragraph:

"(5) EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS.—For purposes of this subsection, the production period for distilled spirits shall be determined without regard to any period allocated to the natural aging process.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production periods beginning after the date of the enactment of this Act.

SEC. 304. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.

(a) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

"(A) In general.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

"(B) Control.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as one distributee corporation.".

(b) Conforming Amendments.—

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

"(A) it is engaged in the active conduct of a trade or business,".

(2) Section 355(b)(2) is amended by striking the last sentence.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply—

(A) to distributions after the date of the enactment of this Act, and

(B) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date.

(2) Transition rule.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) Election to have amendments apply.—Paragraph (2) shall not apply if the distributing corporation elects not to have such paragraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

SEC. 305. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) Bows.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) Bows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) Archery equipment.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) Arrows.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) Arrows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) Exception.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) Arrow.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) Conforming Amendments.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "Arrows.—" in the heading and inserting "Arrow components.—".

(d) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after December 31, 2003.

SEC. 306. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) In General.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(k) Cooperative Marketing Includes Value-Added Processing Involving Animals.—For purposes of section 521 and this subchapter, the marketing of the products of members or other producers shall include the feeding of such products to cattle, hogs, fish, chickens, or other animals and the sale of the resulting animals or animal products.".

(b) Conforming Amendment.—Section 521(b) is amended by adding at the end the following new paragraph:

"(7) Cross Reference.—

"For treatment of value-added processing involving animals, see section 1388(k).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 307. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) In General.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking "or" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or".

(b) Effective Date.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act.

SEC. 308. TEMPORARY SUSPENSION OF PERSONAL HOLDING COMPANY TAX.

(a) In General.—Section 541 (relating to imposition of personal holding company tax) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply with respect to any taxable year to which section 1(h)(11) (as in effect on the date of the enactment of this sentence) applies.".

(b) Coordination With Accumulated Earnings Tax.—Section 532(b) is amended by adding at the end the following flush sentence:

"Paragraph (1) shall not apply to any taxable year to which section 541 does not apply."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 309. INCREASE IN SECTION 179 EXPENSING.

(a) In General.—Section 179(b)(2) (relating to reduction in limitation) is amended by inserting "50 percent of" before "the amount".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 310. FIVE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) In General.—Subparagraph (H) of section 172(b)(1) is amended—

(1) by inserting "5-year carryback of certain losses.—" after "(H)", and

(2) by striking "or 2002" and inserting ", 2002, or 2003".

(b) Rules Relating to Certain Extended Net Operating Losses.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Rules Relating to Certain Extended Net Operating Losses.—In the case of a taxpayer which has a net operating loss for any taxable year ending during 2003 and does not make an election under subsection (j), such taxpayer shall be treated as having made an election under paragraphs (4)(E) and (2)(C)(iii) of section 168(k) with respect to all classes of property for such taxable year.

(c) Temporary Suspension of 90 Percent Limit on Certain NOL Carryovers.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(1) by striking "or 2002" and inserting ", 2002, or 2003", and

(2) by striking "and 2002" and inserting ", 2002, and 2003".

(d) Technical Corrections.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking "a taxpayer which has".

(2) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147) is amended by striking "before January 1, 2003" and inserting "after December 31, 1990".

(3)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking "attributable to carryovers".

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking "for taxable years" and inserting "from taxable years", and

(ii) by striking "carryforwards" and inserting "carryovers".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2002.

(2) Technical corrections.—The amendments made by subsection (d) shall take effect as if included in the amendments made by section 102 of the Job Creation and Worker Assistance Act of 2002.

(3) Election.—In the case of a net operating loss for a taxable year ending during 2003—

(A) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before November 15, 2004, and

(B) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 15, 2004.

(4) Special rule for taxpayers with taxable years ending during January.—Any taxpayer which has a taxable year ending during January may elect under this paragraph to apply section 172(b)(1)(H) of the Internal Revenue Code of 1986 (as amended by this section) to its taxable year ending in 2004 rather than its taxable year ending in 2003. If such election is made, then section 172(k) of such Code (as added by this section) shall be applied to the taxpayer's taxable year ending in 2004. Such election shall be made in such manner and at such time as may be prescribed by the Secretary of the Treasury. Such election, once made, shall be irrevocable.

SEC. 311. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) Extension.—

(1) In general.—Section 41(h)(1)(B) (relating to termination) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(2) Conforming amendment.—Section 45C(b)(1)(D) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(b) Increase in Rates of Alternative Incremental Credit.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent",

(2) by striking "3.2 percent" and inserting "4 percent", and

(3) by striking "3.75 percent" and inserting "5 percent".

(c) Alternative Simplified Credit for Qualified Research Expenses.—

(1) In general.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Election of alternative simplified credit.—

"(A) In general.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) Special rule in case of no qualified research expenses in any of 3 preceding taxable years.—

"(i) Taxpayers to which subparagraph applies.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) Credit rate.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

"(C) Election.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies."

(2) Coordination with election of alternative incremental credit.—

(A) In general.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: "An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies."

(B) Transition rule.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by paragraph (1)) for such year.

(f) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

(2) Subsections (b) and (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2004.

SEC. 312. EXPANSION OF RESEARCH CREDIT.

(a) Credit for Expenses Attributable to Certain Collaborative Research Consortia.—

(1) In general.—Section 41(a) (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.".

(2) Research consortium defined.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) Research consortium.—

"(A) In general.—The term 'research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

"(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

"(B) Treatment of persons.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) Conforming amendment.—Section 41(b)(3)(C) is amended by inserting "(other than a research consortium)" after "organization".

(b) Repeal of Limitation on Contract Research Expenses Paid to Small Businesses, Universities, and Federal Laboratories.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) Amounts paid to eligible small businesses, universities, and federal laboratories.—

"(i) In general.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) Eligible small business.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) Small business.—For purposes of this subparagraph—

"(I) In general.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

"(II) Startups, controlled groups, and predecessors.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

"(iv) Federal laboratory.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2004.

Subtitle B—Manufacturing Relating to Films

SEC. 321. SPECIAL RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) In General.—Part VI of subchapter B of chapter 1 is amended by inserting after section 180 the following new section:

"SEC. 181. TREATMENT OF QUALIFIED FILM AND TELEVISION PRODUCTIONS.

"(a) Election To Treat Certain Costs of Qualified Film and Television Productions as Expenses.—

"(1) In general.—A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction.

"(2) Dollar limitation.—

"(A) In general.—The aggregate cost which may be taken into account under paragraph (1) with respect to each qualified film or television production shall not exceed $15,000,000.

"(B) Higher dollar limitation for productions in certain areas.—In the case of any qualified film or television production the aggregate cost of which is significantly incurred in an area eligible for designation as—

"(i) a low-income community under section 45D, or "(ii) a distressed county or isolated area of distress by the Delta Regional Authority established under section 2009aa-1 of title 7, United States Code,

subparagraph (A) shall be applied by substituting '**$20,000,000**' for '**$15,000,000**'.

"(b) Amortization of Remaining Costs.—

"(1) In general.—If an election is made under subsection (a) with respect to any qualified film or television production, that portion of the basis of such production in excess of the amount taken into account under subsection (a) shall be allowed as a deduction ratably over the 36-month period beginning with the month in which such production is placed in service.

"(2) No other deduction or amortization deduction allowable.—With respect to the basis of any qualified film or television production described in paragraph (1), no other depreciation or amortization deduction shall be allowable.

"(c) Election.—

"(1) In general.—An election under subsection (a) with respect to any qualified film or television production shall be made in such manner as prescribed by the Secretary and by the due date (including extensions) for filing the taxpayer's return of tax under this chapter for the taxable year in which costs of the production are first incurred.

"(2) Revocation of election.—Any election made under subsection (a) may not be revoked without the consent of the Secretary.

"(d) Qualified Film or Television Production.—For purposes of this section—

"(1) In general.—The term 'qualified film or television production' means any production described in paragraph (2) if 75 percent of the total compensation of the production is qualified compensation.

"(2) Production.—

"(A) In general.—A production is described in this paragraph if such production is property described in section 168(f)(3). For purposes of a television series, only the first 44 episodes of such series may be taken into account.

"(B) Exception.—A production is not described in this paragraph if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production.

"(3) Qualified compensation.—For purposes of paragraph (1)—

"(A) In general.—The term 'qualified compensation' means compensation for services performed in the United States by actors, directors, producers, and other relevant production personnel.

"(B) Participations and residuals excluded.—The term 'compensation' does not include participations and residuals (as defined in section 167(g)(7)(B)).

"(e) Application of Certain Other Rules.—For purposes of this section, rules similar to the rules of subsections (b)(2) and (c)(4) of section 194 shall apply.

"(f) Termination.—This section shall not apply to qualified film and television productions commencing after December 31, 2008.".

(b) Conforming Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 180 the following new item:

"Sec. 181. Treatment of qualified film and television productions.".

(c) Effective Date.—The amendments made by this section shall apply to qualified film and television productions (as defined in section 181(d)(1) of the Internal Revenue Code of 1986, as added by this section) commencing after the date of the enactment of this Act.

SEC. 322. MODIFICATION OF APPLICATION OF INCOME FORECAST METHOD OF DEPRECIATION.

(a) In General.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

"(7) Treatment of participations and residuals.—

"(A) In general.—For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

"(B) Participations and residuals.—For purposes of this paragraph, the term 'participations and residuals' means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

"(C) Special rules relating to recomputation years.—If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting 'for each taxable year in such period' for 'for such period'.

"(D) Other special rules.—

"(i) Participations and residuals.—Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

"(ii) Coordination with other rules.—Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B) or sections 263, 263A, 404, 419, or 461(h).

"(E) Authority to make adjustments.—The Secretary shall prescribe appropriate adjustments to the basis of property and to the look-back method for the additional amounts allowable as a deduction solely by reason of this paragraph.".

(b) Determination of Income.—Section 167(g)(5) (relating to special rules) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

"(E) Treatment of distribution costs.—For purposes of this subsection, the income with respect to any property shall be the taxpayer's gross income from such property.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle C—Manufacturing Relating to Timber

SEC. 331. EXPENSING OF CERTAIN REFORESTATION EXPENDITURES.

(a) In General.—So much of subsection (b) of section 194 (relating to amortization of reforestation expenditures) as precedes paragraph (2) is amended to read as follows:

"(b) Treatment as Expenses.—

"(1) Election to treat certain reforestation expenditures as expenses.—

"(A) In general.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall treat reforestation expenditures which are paid or incurred during the taxable year with respect to such property as an expense which is not chargeable to capital account. The reforestation expenditures so treated shall be allowed as a deduction.

"(B) Dollar limitation.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed **$10,000** (**$5,000** in the case of a separate return by a married individual (as defined in section 7703)).".

(b) Net Amortizable Basis.—Section 194(c)(2) (defining amortizable basis) is amended by inserting "which have not been taken into account under subsection (b)" after "expenditures".

(c) Conforming Amendments.—

(1) Section 194(b) is amended by striking paragraphs (3) and (4).

(2) Section 194(b)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(B)".

(3) Section 194(c) is amended by striking paragraph (4) and inserting the following new paragraphs:

"(4) Treatment of trusts and estates.—

"(A) In general.—Except as provided in subparagraph (B), this section shall not apply to trusts and estates.

"(B) Amortization deduction allowed to estates.—The benefit of the deduction for amortization provided by subsection (a) shall be allowed to estates in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiary and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account for purposes of determining the amount allowable as a deduction under subsection (a) to such beneficiary.

"(5) Application with other deductions.—No deduction shall be allowed under any other provision of this chapter with respect to any expenditure with respect to which a deduction is allowed or allowable under this section to the taxpayer .".

(4) The heading for section 194 is amended by striking "**AMORTIZATION**" and inserting "**TREATMENT**".

(5) The item relating to section 194 in the table of sections for part VI of subchapter B of chapter 1 is amended by striking "Amortization" and inserting "Treatment".

(d) Repeal of Reforestation Credit.—

(1) In general.—Section 46 (relating to amount of credit) is amended—

(A) by adding "and" at the end of paragraph (1),

(B) by striking ", and" at the end of paragraph (2) and inserting a period, and

(C) by striking paragraph (3).

(2) Conforming amendments.—

(A) Section 48 is amended—

(i) by striking subsection (b),

(ii) by striking "this subsection" in paragraph (5) of subsection (a) and inserting "subsection (a)", and

(iii) by redesignating such paragraph (5) as subsection (b).

(B) The heading for section 48 is amended by striking "**; REFORESTATION CREDIT**".

(C) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking ", reforestation credit".

(D) Section 50(c)(3) is amended by striking "or reforestation credit".

(e) Effective Date.—The amendments made by this section shall apply with respect to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 332. ELECTION TO TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.

Any election under section 631(a) of the Internal Revenue Code of 1986 made for a taxable year ending on or before the date of the enactment of this Act may be revoked by the taxpayer for any taxable year ending after such date. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this section) shall not be taken into account.

SEC. 333. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) In General.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking "retains an economic interest in such timber" and inserting "either retains an economic interest in such timber or makes an outright sale of such timber".

(b) Conforming Amendments.—

(1) The third sentence of section 631(b) is amended by striking "The date of disposal" and inserting "In the case of disposal of timber with a retained economic interest, the date of disposal".

(2) The heading for section 631(b) is amended by striking "With a Retained Economic Interest".

(c) Effective Date.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 334. MODIFICATION OF SAFE HARBOR RULES FOR TIMBER REITS.

(a) Expansion of Prohibited Transaction Safe Harbor.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) Certain sales not to constitute prohibited transactions.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

"(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

"(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

"(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

"(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

"(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

"(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

"(vi) the sales price of the property sold by the trust is not based in whole or in part on income or profits, including income or profits derived from the sale or operation of such property.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) In General.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Clarification of Economic Substance Doctrine; Etc.—

"(1) General rules.—

"(A) In general.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) Definition of economic substance.—For purposes of subparagraph (A)—

"(i) In general.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) Special rule where taxpayer relies on profit potential.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) Treatment of lessors.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

“(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

“(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

“(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

“(A) IN GENERAL.—In the case of a failure under subsection (a) by—

“(i) a large entity, or

“(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

“(B) LARGE ENTITY.—For purposes of subparagraph (A), the term ‘large entity’ means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

“(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term ‘high net worth individual’ means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

“(c) DEFINITIONS.—For purposes of this section—

“(1) REPORTABLE TRANSACTION.—The term ‘reportable transaction’ means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

“(2) LISTED TRANSACTION.—Except as provided in regulations, the term ‘listed transaction’ means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

“(d) AUTHORITY TO RESCIND PENALTY.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

“(A) the violation is with respect to a reportable transaction other than a listed transaction,

“(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

“(C) it is shown that the violation is due to an unintentional mistake of fact;

“(D) imposing the penalty would be against equity and good conscience, and

“(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

“(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

“(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

“(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

“(A) the facts and circumstances of the transaction,

“(B) the reasons for the rescission, and

“(C) the amount of the penalty rescinded.

“(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

“(B) a description of each penalty rescinded under this subsection and the reasons therefor.

“(e) PENALTY REPORTED TO SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which—

“(A) is required to pay a penalty under this section with respect to a listed transaction,

“(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

“(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

“(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.”.

(b) DISCLOSURE BY SECRETARY.—

(1) IN GENERAL.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

“(q) DISCLOSURE RELATING TO PAYMENTS OF CERTAIN PENALTIES.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.”.

(2) RECORDS.—Section 6103(p)(3)(A) is amended by striking “or (n)” and inserting “(n), or (q)”.

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

“Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

“(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

“(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘reportable transaction understatement’ means the sum of—

“(A) the product of—

“(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

“(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

“(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

“(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

“(A) any listed transaction, and

“(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

“(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

“(1) IN GENERAL.—Subsection (a) shall be applied by substituting ‘30 percent’ for ‘20 percent’ with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

“(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

“(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special Rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) Coordination with other penalties.—

"(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) Cross reference.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained,

"(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

"(V) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts,

"(IV) is not signed by all individuals who are principal authors of the opinion, or

"(V) fails to meet any other requirement as the Secretary may prescribe.".

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or

advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, which is—

"(1) subject to penalty under section 6700, 6701, 6707, or 6708, or

"(2) in violation of any requirement under regulations issued under section 320 of title 31, United States Code.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $100,000, or

"(II) 50 percent of the amount determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 415. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

SEC. 419. INCREASES IN PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENTS.

(a) IN GENERAL.—Section 6701(b) is amended to read as follows:

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The amount of the penalty imposed by subsection (a) shall be the greater of—

"(A) $2,000, or

"(B) 50 percent of the gross income derived (or to be derived) from the activity giving rise to the penalty.

"(2) CORPORATIONS.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, paragraph (1)(A) shall be applied by substituting '$20,000' for '$2,000'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 420. STUDY ON INFORMATION SHARING AMONG LAW ENFORCEMENT AGENCIES.

(a) STUDY.—The Secretary of the Treasury shall, jointly with the Attorney General, the Securities and Exchange Commission, and the Commissioner of Internal Revenue, study the effectiveness of, and ways to improve, the sharing of information related to the promotion of prohibited tax shelters or tax avoidance schemes and other potential violations of Federal laws.

(b) REPORT.—The Secretary shall, not later than 1 year after the date of the enactment of this Act, report to the appropriate committees of the Congress the results of the study under subsection (a), including any recommendations for legislation.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 422. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) IN GENERAL.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending after the date of the enactment of this Act.

SEC. 423. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 424. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 425. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions after December 31, 2003.

(2) LIQUIDATIONS.—The amendment made by subsection (b) shall apply to liquidations after December 31, 2003.

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

"(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking "or a FASIT".

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing fasits.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by inserting "or equity held by the issuer (or any related party) in any other person" after "or a related party".

(b) Capitalization Allowed With Respect to Equity of Persons Other Than Issuer and Related Parties.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Capitalization allowed with respect to equity of persons other than issuer and related parties.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) Exception for Certain Instruments Issued by Dealers in Securities.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) Conforming Amendments.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(d) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) In General.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES

"(a) Inverted Corporations Treated as Domestic Corporations.—

"(1) In general.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) Inverted domestic corporation.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) Preservation of Domestic Tax Base in Certain Inversion Transactions to Which Subsection (a) Does Not Apply.—

"(1) In general.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) Acquired entity.—For purposes of this section—

"(A) In general.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) Aggregation rules.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) Applicable period.—For purposes of this section—

"(A) In general.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) Special rule for inversions occurring before March 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) Tax on Inversion Gains May Not Be Offset.—If subsection (b) applies—

"(1) In general.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) Credits not allowed against tax on inversion gain.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) Special rules for partnerships.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) Inversion gain.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) Coordination with section 172 and minimum tax.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) Statute of limitations.—

"(A) In general.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) Pre-inversion year.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) Special Rules Applicable to Acquired Entities to Which Subsection (b) Applies.—

"(1) Increases in accuracy-related penalties.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) Modifications of limitation on interest deduction.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Rules for application of subsection (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) Certain stock disregarded.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) Plan deemed in certain cases.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) Certain transfers disregarded.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) Special rule for related partnerships.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) Treatment of certain rights.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) Foreign incorporated entity.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) Foreign related person.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) Subsequent acquisitions by unrelated domestic corporations.—

"(A) In general.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) Requirements.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) Regulations.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) Information Reporting.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) Conforming Amendment.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

"(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

"(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

"(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

"(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

"(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

"(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

"(A) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State."

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or "(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

“(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after January 1, 2004.”.

(2) Section 2107 is amended by adding at the end the following new subsection:

“(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.”.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

“(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.”.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting “or 877A” after “section 877”.

(B) The second sentence of section 6039G(e) is amended by inserting “or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))” after “877(a))”.

(C) Section 6039G(f) is amended by inserting “or 877A(e)(2)(B)” after “877(e)(1)”.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after January 1, 2004.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after January 1, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

“CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

“Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

“SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

“(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

“(b) VALUE.—For purposes of subsection (a)—

“(1) IN GENERAL.—The value of specified stock compensation shall be—

“(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

“(B) in any other case, the fair market value of such compensation.

“(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

“(A) in the case of specified stock compensation held on the inversion date, on such date,

“(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

“(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

“(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with respect to such corporation.

“(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

“(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

“(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

“(e) DEFINITIONS.—For purposes of this section—

“(1) DISQUALIFIED INDIVIDUAL.—The term ‘disqualified individual’ means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

“(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

“(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

“(2) INVERTED CORPORATION; INVERSION DATE.—

“(A) INVERTED CORPORATION.—The term ‘inverted corporation’ means any corporation to which subsection (a) or (b) of section 7874 applies determined—

“(i) by substituting ‘July 10, 2002’ for ‘March 20, 2002’ in section 7874(a)(2)(A), and

“(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

“(B) INVERSION DATE.—The term ‘inversion date’ means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

“(3) SPECIFIED STOCK COMPENSATION.—

“(A) IN GENERAL.—The term ‘specified stock compensation’ means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

“(B) EXCEPTIONS.—Such term shall not include—

“(i) any option to which part II of subchapter D of chapter 1 applies, or

“(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

“(4) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that seotion 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(f) SPECIAL RULES.—For purposes of this section—

“(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

“(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

“(A) shall be treated as specified stock compensation, and

“(B) shall not be allowed as a deduction under any provision of chapter 1.

“(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

“(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

“(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting “48,” after “46,”.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

“(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.”.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period “or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A”.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

“Chapter 48. Stock compensation of insiders in inverted corporations.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

"(A) obligations of the United States, money, or deposits with—

"(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

"(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

"(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

"(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

"(A) subsection (a) and section 331 shall not apply to such distribution, and

"(B) such distribution shall be treated as a distribution to which section 301 applies.

"(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

"(i) which is a common parent of an affiliated group,

"(ii) stock of which is directly owned by the distributee foreign corporation,

"(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

"(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

"(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) 0f section 1504(b)).

"(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

"(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.".

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking "The Secretary" and inserting:

"(A) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any item payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent that an amount attributable to such item (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

"Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

"(D) APPLICATION TO CERTAIN DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATION.—

"(i) IN GENERAL.—This paragraph shall apply to an applicable disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.

"(ii) APPLICABLE DISPOSITION.—For purposes of clause (i), the term 'applicable disposition' means any disposition of any share of stock in a controlled foreign corporation in a transaction or series of transactions if, immediately before such transaction or series of transactions, the taxpayer owned more than 50 percent (by vote or value) of the stock of the controlled foreign corporation.

"(iii) EXCEPTION.—A disposition shall not be treated as an applicable disposition under clause (ii) if it is part of a transaction or series of transactions—

"(I) to which section 351 or 721 applies, or under which the transferor receives stock in a foreign corporation in exchange for the stock in the controlled foreign corporation and the stock received is exchanged basis property (as defined in section 7701(a)(44)), and

"(II) immediately after which, the transferor owns (by vote or value) at least the same percentage of stock in the controlled foreign corporation (or, if the controlled foreign corporation is not in existence after such transaction or series of transactions, in another foreign corporation stock in which was received by the transferor in exchange for stock in the controlled foreign corporation) as the percentage of stock in the controlled foreign corporation which the taxpayer owned immediately before such transaction or series of transactions.

Clause (i) shall apply to any gain recognized on any disposition to which this clause applies.

"(iv) CONTROLLED FOREIGN CORPORATION.—For purposes of this subparagraph, the term 'controlled foreign corporation' has the meaning given such term by section 957.

"(v) STOCK OWNERSHIP.—For purposes of this subparagraph, ownership of stock shall be determined under the rules of subsections (a) and (b) of section 958.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

"(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

"(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

"(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

"(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

"(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

"(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

"(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

"(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

"(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

"(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.".

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting "ON DIVIDENDS" after "TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) CROSS REFERENCE.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE C CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(A) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(B) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) Effective Date.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) Rules Relating to Identified Straddles.—

(1) In general.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) In general.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) Identified straddle.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) Unrecognized gain.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Special rule for identified straddles.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.".

(4) Conforming amendment.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) Physically Settled Positions.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) Special rules for physically settled positions.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) Repeal of Stock Exception.—

(1) In general.—Paragraph (3) of section 1092(d) (relating to definitions and special rules) is amended to read as follows:

"(3) Special rules for stock.—For purposes of paragraph (1)—

"(A) In general.—The term 'personal property' includes—

"(i) any stock which is a part of a straddle at least 1 of the offsetting positions of which is a position with respect to such stock or substantially similar or related property, or

"(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

"(B) Rule for application.—For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in subparagraph (A)(ii), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.".

(2) Conforming amendment.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) Modifications of Qualified Covered Call Exception.—

(1) Markets on which options may be traded.—

(A) In general.—Section 1092(c)(4)(B)(i) is amended by striking "or other market which the Secretary determines has rules adequate to carry out the purposes of this paragraph".

(B) Regulations.—Section 1092(c)(4)(H) is amended by adding at the end the following new sentence: "Such regulations shall not add any exchange or market not described in subparagraph (B)(i) to the exchanges or markets on which qualified covered call options may be traded."

(2) Holding period for dividend exclusion.—The last sentence of section 246(c) is amended by inserting: ", other than a qualified covered call option to which section 1092(f) applies" before the period at the end.

(e) Effective Date.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) In General.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) Effective Date.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) In General.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) Liabilities in Excess of Basis.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) Effective Date.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) In General.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) In General.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) Application of Existing Rules to Other Code Provisions.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) Brother-sister controlled group definition for provisions other than this part.—

"(A) In general.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) Brother-sister controlled group.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) Applicable provision.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking "**OPTIONAL**" in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**OPTIONAL**" in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 755(c), as added by this Act, is amended by striking "section 734(b)" and inserting "section 734(a)".

(4) Section 761(e)(2) is amended by striking "optional".

(5) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(6) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(7) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 473. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle—

"(I) which is primarily designed or which can be used to carry passengers over public streets, roads, or highways (except any vehicle operated exclusively on a rail or rails),

"(II) which is not subject to section 280F, and

"(III) which is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) is designed to have a seating capacity of more than 9 persons behind the driver's seat,

"(II) is equipped with a cargo area of at least 6 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment, or

"(III) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking "AMORTIZE" and inserting "DEDUCT" in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking "AMORTIZATION" and inserting "DEDUCTION" in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 475. REFORM OF TAX TREATMENT OF LEASING OPERATIONS.

(a) CLARIFICATION OF RECOVERY PERIOD FOR TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—Subparagraph (A) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting "(notwithstanding any other subparagraph of this paragraph)" after "shall".

(b) LIMITATION ON DEPRECIATION PERIOD FOR SOFTWARE LEASED TO TAX-EXEMPT ENTITY.—Paragraph (1) of section 167(f) is amended by adding at the end the following new subparagraph:

"(C) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3))."

(c) LEASE TERM TO INCLUDE RELATED SERVICE CONTRACTS.—Subparagraph (A) of section 168(i)(3) (relating to lease term) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

"(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

"(II) which is with respect to the property subject to the lease or substantially similar property, and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

"SEC. 470. LIMITATIONS ON LOSSES FROM TAX-EXEMPT USE PROPERTY.

"(a) LIMITATION ON LOSSES.—Except as otherwise provided in this section, a tax-exempt use loss for any taxable year shall not be allowed.

"(b) DISALLOWED LOSS CARRIED TO NEXT YEAR.—Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed under subsection (a) for any taxable year shall be treated as a deduction with respect to such property in the next taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) TAX-EXEMPT USE LOSS.—The term 'tax-exempt use loss' means, with respect to any taxable year, the amount (if any) by which—

"(A) the sum of—

"(i) the aggregate deductions (other than interest) directly allocable to a tax-exempt use property, plus

"(ii) the aggregate deductions for interest properly allocable to such property, exceed

"(B) the aggregate income from such property.

"(2) TAX-EXEMPT USE PROPERTY.—The term 'tax-exempt use property' has the meaning given to such term by section 168(h) (without regard to paragraph (1)(C) or (3) thereof and determined as if property described in section 167(f)(1)(B) were tangible property). Such term shall not include property with respect to which the credit under section 42 is allowed and which, but for this sentence, would be tax-exempt property solely by reason of section 168(h)(6).

"(d) EXCEPTION FOR CERTAIN LEASES.—This section shall not apply to any lease of property which meets the requirements of all of the following paragraphs:

"(1) PROPERTY NOT FINANCED WITH TAX-EXEMPT BONDS OR FEDERAL FUNDS.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from—

"(A) the proceeds of an obligation the interest on which is exempt from tax under section 103(a) and which (or any refunding bond of which) is outstanding when the lease is entered into, or

"(B) Federal funds.

The Secretary may by regulations provide for a de minimis exception from this paragraph.

"(2) AVAILABILITY OF FUNDS.—

"(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if (at any time during the lease term) not more than an allowable amount of funds are—

"(i) subject to any arrangement referred to in subparagraph (B), or

"(ii) set aside or expected to be set aside, to or for the benefit of the lessor or a lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease. Funds shall be treated as described in clause (ii) only if a reasonable person would conclude, based on the facts and circumstances, that such funds are so described.

"(B) ARRANGEMENTS.—The arrangements referred to in this subparagraph are—

"(i) a defeasance arrangement, a loan by the lessee to the lessor or a lender, a deposit arrangement, a letter of credit collateralized with cash or cash equivalents, a payment undertaking agreement, a lease prepayment, a sinking fund arrangement, or any similar arrangement (whether or not such arrangement provides credit support), and

"(ii) any other arrangement identified by the Secretary in regulations.

"(C) ALLOWABLE AMOUNT.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'allowable amount' means an amount equal to 20 percent of the lessor's adjusted basis in the property at the time the lease is entered into.

"(ii) HIGHER AMOUNT PERMITTED IN CERTAIN CASES.—To the extent provided in regulations, a higher percentage shall be permitted under clause (i) where necessary because of the credit-worthiness of the lessee. In no event may such regulations permit a percentage of more than 50 percent.

"(iii) OPTION TO PURCHASE.—If under the lease the lessee has the option to purchase the property for a fixed price or for other than the fair market value of the property (determined at the time of exercise), the allowable amount at the time such option may be exercised may not exceed 50 percent of the price at which such option may be exercised.

"(iv) NO ALLOWABLE AMOUNT FOR CERTAIN ARRANGEMENTS.—The allowable amount shall be zero in the case of any arrangement which involves—

"(I) a loan from the lessee to the lessor or a lender,

"(II) any deposit, letter of credit, or payment undertaking agreement involving a lender, or

"(III) any credit support made available to the lessor in which a lender (if any) does not have a claim which is senior to the lessor.

For purposes of subclause (I), the term 'loan' shall not include any amount treated as a loan under section 467 with respect to a section 467 rental agreement.

"(3) LESSOR MUST MAKE SUBSTANTIAL EQUITY INVESTMENT.—A lease of property meets the requirements of this paragraph if—

"(A) the lessor—

"(i) has at the time the lease is entered into an unconditional at-risk equity investment (as determined by the Secretary) in the property of at least 20 percent of the lessor's adjusted basis in the property as of that time, and

"(ii) maintains such investment throughout the term of the lease, and

"(B) the fair market value of the property at the end of the lease term is reasonably expected to be equal to at least 20 percent of such basis.

Subparagraphs (A)(ii) and (B) shall not apply if the lease term is described in section 168(h)(1)(C)(ii), or in the case of qualified technological equipment, is described in section 168(h)(3). For purposes of subparagraph (B), the fair market value at the end of the lease term shall be reduced to the extent that a person other than the lessor bears a risk of loss in the value of the property.

"(4) LESSEE MAY NOT BEAR MORE THAN MINIMAL RISK OF LOSS.—

"(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if there is no arrangement under which more than a minimal risk of loss (as determined under regulations) in the value of the property is borne by the lessee.

"(B) CERTAIN ARRANGEMENTS FAIL REQUIREMENT.—In no event will the requirements of this paragraph be met if there is any arrangement under which the lessee bears—

"(i) any portion of the loss that would occur if the fair market value of the leased property were 25 percent less than its reasonably expected fair market value at the time the lease is terminated, or

"(ii) more than 50 percent of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were zero.

"(5) PROPERTY WITH MORE THAN 7-YEAR CLASS LIFE.—In the case of a lease—

"(A) of property with a class life (as defined in section 168(i)(1)) of more than 7 years, and

"(B) under which the lessee has the option to purchase the property,

the lease meets the requirements of this paragraph only if the purchase price under the option equals the fair market value of the property (determined at the time of exercise).

"(6) REGULATORY REQUIREMENTS.—A lease of property meets the requirements of this paragraph if such lease of property meets such requirements as the Secretary may prescribe by regulations.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF FORMER TAX-EXEMPT USE PROPERTY.—

"(A) IN GENERAL.—In the case of any former tax-exempt use property—

"(i) any deduction allowable under subsection (b) with respect to such property for any taxable year shall be allowed only to the extent of any net income (without regard to such deduction) from such property for such taxable year, and

"(ii) any portion of such unused deduction remaining after application of clause (i) shall be treated as allowable under subsection (b) with respect to such property in the next taxable year.

"(B) FORMER TAX-EXEMPT USE PROPERTY.—For purposes of this subsection, the term 'former tax-exempt use property' means any property which—

"(i) is not tax-exempt use property for the taxable year, but

"(ii) was tax-exempt use property for any prior taxable year.

"(2) DISPOSITION OF ENTIRE INTEREST IN PROPERTY.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property (or former tax-exempt use property), rules similar to the rules of section 469(g) shall apply for purposes of this section.

"(3) COORDINATION WITH SECTION 469.—This section shall be applied before the application of section 469.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) RELATED PARTIES.—The terms 'lessor', 'lessee', and 'lender' include any related party (within the meaning of section 197(f)(9)(C)(i)).

"(2) LEASE TERM.—The term 'lease term' has the meaning given to such term by section 168(i)(3).

"(3) LENDER.—The term 'lender' means, with respect to any lease, a person that makes a loan to the lessor which is secured (or economically similar to being secured) by the lease or the leased property.

"(4) LOAN.—The term 'loan' includes any similar arrangement.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulation which—

"(1) allow in appropriate cases the aggregation of property subject to the same lease, and

"(2) provide for the determination of the allocation of interest expense for purposes of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

"Sec. 470. Limitations on losses from tax-exempt use property."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to leases entered into after November 18, 2003.

(2) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this section shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before November 18, 2003.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term "applicable taxpayer" means a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A).

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 1, 2005" and inserting "September 30, 2013".

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) Contract Requirements.—

(1) In general.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

"SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

"(a) In General.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

"(b) Qualified Tax Collection Contract.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

"(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

"(A) to locate and contact any taxpayer specified by the Secretary,

"(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

"(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

"(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

"(3) prohibits subcontractors from—

"(A) having contacts with taxpayers,

"(B) providing quality assurance services, and

"(C) composing debt collection notices, and

"(4) permits subcontractors to perform other services only with the approval of the Secretary.

"(c) Fees.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

"(d) No Federal Liability.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

"(e) Application of Fair Debt Collection Practices Act.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

"(f) Cross References.—

"(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

"(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).".

(2) Conforming amendments.—

(A) Section 7809(a) is amended by inserting "6306," before "7651".

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

"Sec. 6306. Qualified Tax Collection Contracts.".

(b) Civil Damages for Certain Unauthorized Collection Actions by Persons Performing Services Under Qualified Tax Collection Contracts.—

(1) In general.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

"SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

"(a) In General.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

"(b) Modifications.—For purposes of subsection (a)—

"(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

"(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

"(3) Such civil action shall not be an exclusive remedy with respect to such person.

"(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.".

(2) Clerical amendment.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

"Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.".

(c) Application of Taxpayer Assistance Orders to Persons Performing Services Under a Qualified Tax Collection Contract.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

"(g) Application to Persons Performing Services Under a Qualified Tax Collection Contract.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.".

(d) Ineligibility of Individuals Who Commit Misconduct To Perform Under Contract.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

"(e) Individuals Performing Services Under a Qualified Tax Collection Contract.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.".

(e) Effective Date.—The amendments made to this section shall take effect on the date of the enactment of this Act.

SEC. 488. WHISTLEBLOWER REFORMS.

(a) In General.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking "The Secretary" and inserting "(a) In General.—The Secretary",

(2) by striking "and" at the end of paragraph (1) and inserting "or",

(3) by striking "(other than interest)", and

(4) by adding at the end the following new subsections:

"(b) Awards to Whistleblowers.—

"(1) In general.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the proceeds (including penalties and interest) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

"(2) Award in case of less substantial contribution.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based primarily on disclosures of specific information (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds (including penalties and interest) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual in contributing to such action. This paragraph shall not apply if the information resulting in the initiation of such action was originally provided by such individual.

"(3) Appeal of award determination.—Any determination regarding an award under paragraph (1) or (2) shall be subject to the filing by the individual described in such paragraph of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute) and such review shall be subject to the rules under section 7461(b)(1).

"(4) Application of this subsection.—This subsection shall apply with respect to any action—

"(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for the taxable year subject to such action, and

"(B) if the tax (including penalties and interest) in dispute exceeds $20,000.

"(5) Additional rules.—

"(A) No contract necessary.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

"(B) Representation.—Any individual described in paragraph (1) or (2) may be represented by counsel.

"(C) Award not subject to individual alternative minimum tax.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

"(c) Whistleblower Office.—

"(1) In general.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

"(A) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

"(B) shall monitor any action taken with respect to such matter,

"(C) shall inform such individual that it has accepted the individual's information for further review, may ask for additional assistance from such individual, and may require such individual to not disclose any information so provided,

"(D) shall determine the amount to be awarded to such individual under subsection (b).

"(2) Funding for office.—From the amounts available for expenditure under subsection (a), the budget of the Whistleblower Office shall be credited with an amount equal to 20 percent of the awards made under subsection (b). These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection. Such funds may also be used to contract with or reimburse the legal representatives of any such individual to provide assistance in pursuing the actions described in subsection (a).

(b) Effective Date.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) Conforming Amendment.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "May 8, 2003".

(c) Effective Date.—

(1) Sales, etc.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) In General.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) Property acquired in like-kind exchange.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.".

(b) Effective Date.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act:

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) In General.—Section 501(c)(15)(A) is amended to read as follows:

"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

"(i)(I) the gross receipts for the taxable year do not exceed $600,000, and

"(II) more than 50 percent of such gross receipts consist of premiums, or

"(ii) in the case of a mutual insurance company—

"(I) the gross receipts of which for the taxable year do not exceed $150,000, and

"(II) more than 35 percent of such gross receipts consist of premiums.

Clause (ii) shall not apply to a company if any employee of the company, or a member of the employee's family (as defined in section 2032A(e)(2)), is an employee of another company exempt from taxation by reason of this paragraph (or would be so exempt but for this sentence).".

(b) Controlled Group Rule.—Section 501(c)(15)(C) is amended by inserting ", except that in applying section 831(b)(2)(B)(ii) for purposes of this subparagraph, subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) Definition of Insurance Company for Section 831.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Insurance Company Defined.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".

(d) Conforming Amendment.—Clause (i) of section 831(b)(2)(A) is amended by striking "exceed $350,000 but".

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) Transition rule for companies in receivership or liquidation.—In the case of a company or association which—

(A) for the taxable year which includes April 1, 2004, meets the requirements of section 501(c)(15)(A) of the Internal Revenue Code of 1986, as in effect for the taxable year beginning before January 1, 2004, and

(B) on April 1, 2004, is in a receivership, liquidation, or similar proceeding under the supervision of a State court,

the amendments made by this section shall apply to taxable years beginning after the earlier of the date such proceeding ends or December 31, 2007.

SEC. 494. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) Deduction Allowed Only to the Extent of Basis.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,".

(b) Treatment of Contributions Where Donor Receives Interest.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) Special rules for contributions of patents and similar property where donor receives interest.—

"(A) Disallowance of deduction.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

"(B) Contributions with qualified interest.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

"(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

"(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

"(C) Qualified interest.—For purposes of this paragraph—

"(i) In general.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

"(ii) Secretarial authority.—

"(I) In general.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

"(II) Exceptions.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

"(iii) Limitation.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.".

(c) Reporting Requirements.—

(1) In general.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking "If" and inserting:

"(1) Dispositions of donated property.—If",

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

"(2) Payments of qualified interests.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

"(B) a description, and date of contribution, of the property to which the qualified interest relates,

"(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

"(D) the date and the amount of the payment pursuant to the qualified interest, and

"(E) a description of the terms of the qualified interest.".

(2) Conforming amendments.—

(A) The heading for section 6050L is amended by striking "**CERTAIN DISPOSITIONS OF**".

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking "certain dispositions of".

(d) Anti-Abuse Rules.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) Effective Date.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 495. REPEAL OF 10-PERCENT REHABILITATION TAX CREDIT.

Section 47 is amended by adding at the end the following new subsection:

"(e) Termination.—This section shall not apply to expenditures described in subsection (a)(1) incurred in taxable years beginning after December 31, 2003.".

SEC. 496. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) In General.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 497. HOLDING PERIOD FOR PREFERRED STOCK.

(a) In General.—Section 1(h)(11)(B)(iii)(I) is amended to read as follows:

"(I) with respect to which the holding period requirements of section 246(c) are not met, determined by substituting '60 days' for '45' days each place it appears, by substituting '120-day' for '90-day' each place it appears, and by substituting '120 days' for '90 days' and '240-day' for '180-day' in paragraph (2)."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE V—PROTECTION OF UNITED STATES WORKERS FROM COMPETITION OF FOREIGN WORKFORCES

SEC. 501. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

(a) Limitations.—

(1) In general.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"SEC. 42. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

"(a) Conversions to Contractor Performance of Federal Activities.—An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor or any subcontractor at a location outside the United States except to the extent that such activity or function was previously performed by Federal Government employees outside the United States.

"(b) Other Federal Contracts.—(1) A contract that is entered into by the head of an executive agency may not be performed outside the United States except to meet a requirement of the executive agency for the contract to be performed specifically at a location outside the United States.

"(2) The prohibition in paragraph (1) does not apply in the case of a contract of an executive agency if—

"(A) the President determines in writing that it is necessary in the national security interests of the United States for the contract to be performed outside the United States; or

"(B) the head of such executive agency makes a determination and reports such determination on a timely basis to the Director of the Office of Management and Budget that—

"(i) the property or services needed by the executive agency are available only by means of performance of the contract outside the United States; and

"(ii) no property or services available by means of performance of the contract inside the United States would satisfy the executive agency's need.

"(3) Paragraph (1) does not apply to the performance of a contract outside the United States under the exception provided in subsection (a).

"(c) State Contracts.—(1) Except as provided in paragraph (2), funds appropriated for financial assistance for a State may not be disbursed to or for such State during a fiscal year unless the chief executive of that State has transmitted to the Administrator for Federal Procurement Policy, not later than April 1 of the preceding fiscal year, a written certification that none of such funds will be expended for the performance outside the United States of contracts entered into by such State.

"(2) The prohibition on disbursement of funds to or for a State under paragraph (1) does not apply with respect to the performance of a State contract outside the United States if—

"(A) the chief executive of such State—

"(i) determines that the property or services needed by the State are available only by means of performance of the contract outside the United States and no property or services available by means of performance of the contract inside the United States would satisfy the State's need; and

"(ii) transmits a notification of such determination to the head of the executive agency of the United States that administers the authority under which such funds are disbursed to or for the State; and

“(B) the head of the executive agency receiving the notification of such determination—

“(i) confirms that the facts warrant the determination;

“(ii) approves the determination; and

“(iii) transmits a notification of the approval of the determination to the Director of the Office of Management and Budget.

“(3) In this subsection, the term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

“(d) Subsections (b) and (c) shall not apply to procurement covered by the World Trade Organization Government Procurement Agreement.

“(e) NATIONAL SECURITY EXEMPTION.—Subsection (b) shall not apply to any procurement for national security purposes entered into by—

“(1) the Department of Defense or any agency or entity thereof;

“(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

“(3) the Department of Homeland Security;

“(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

“(5) any element of the intelligence community.

“(f) RESPONSIBILITIES OF OMB.—The Director of the Office of Management and Budget shall—

“(1) maintain—

“(A) the waivers granted under subsection (b)(2), together with the determinations and certifications on which such waivers were based; and

“(B) the notifications received under subsection (c)(2)(B)(iii); and

“(2) submit to Congress promptly after the end of each quarter of each fiscal year a report that sets forth—

“(A) the waivers that were granted under subsection (b)(2) during such quarter; and

“(B) the notifications that were received under subsection (c)(2)(B)(iii) during such quarter.

“(g) ANNUAL GAO REVIEW.—The Comptroller General shall—

“(1) review, each fiscal year, the waivers granted during such fiscal year under subsection (b)(2) and the disbursements of funds authorized pursuant to the exceptions in subsections (c)(2) and (e); and

“(2) promptly after the end of such fiscal year, transmit to Congress a report containing a list of the contracts covered by such waivers and exception together with a brief description of the performance of each such contract to the maximum extent feasible outside the United States.”.

(2) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

“Sec. 42. Limitations on off-shore performance of contracts.”.

(b) INAPPLICABILITY TO STATES DURING FIRST TWO FISCAL YEARS.—Section 42(c) of the Office of Federal Procurement Policy Act (as added by subsection (a)) shall not apply to disbursements of funds to a State during the fiscal year in which this Act is enacted and the next fiscal year.

SEC. 502. REPEAL OF SUPERSEDED LAW.

Section 647 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended by striking subsection (e).

SEC. 503. EFFECTIVE DATE AND APPLICABILITY.

(a) IN GENERAL.—This title and the amendments made by this title shall take effect 30 days after the Secretary of Commerce certifies that the amendments made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the United States economy. The initial certification shall be made by the Secretary of Commerce no later than 90 days after the enactment of this Act. Such certification must be renewed on or before January 1 of each year in order for the amendments made by this title to be in effect for that year.

(b) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—The provisions of this title shall not apply to the extent that they may be inconsistent with obligations under international agreements. Within 90 days of this legislation, the Office of Management and Budget, in consultation with the Office of the United States Trade Representative, shall develop guidelines for the implementation of this provision.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Relating to Housing

SEC. 601. TREATMENT OF QUALIFIED MORTGAGE BONDS.

(a) YEAR HOLIDAY.—Section 143(a)(2)(A)(iv) of the Internal Revenue Code of 1986 shall not apply to amounts received during the 1-year period beginning on the date of the enactment of this Act with respect to any bond outstanding on such date.

(b) REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.—

(1) IN GENERAL.—Subparagraph (A) of section 143(a)(2) (defining qualified mortgage issue) is amended by adding “and” at the end of clause (ii), by striking “, and” at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) is amended by striking “(and clause (iv) of subparagraph (A))”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds originally issued after the date of the enactment of this Act.

SEC. 602. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Paragraph (3) of section 163(h) (relating to qualified residence interest) is amended by adding after subparagraph (D) the following new subparagraph:

“(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

“(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this subsection as qualified residence interest.

“(ii) PHASEOUT.—The amount otherwise allowable as a deduction under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).”.

(b) DEFINITION AND SPECIAL RULES.—Paragraph (4) of section 163(h) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

“(E) QUALIFIED MORTGAGE INSURANCE.—The term ‘qualified mortgage insurance’ means—

“(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

“(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

“(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Administration.”.

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

“(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

“(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

“(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

“(3) SPECIAL RULES.—For purposes of this subsection—

“(A) rules similar to the rules of subsection (c) shall apply, and

“(B) the term ‘mortgage insurance’ means—

“(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

“(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued in taxable years beginning after December 31, 2004, and ending before January 1, 2006.

SEC. 603. INCREASE IN HISTORIC REHABILITATION CREDIT FOR CERTAIN LOW-INCOME HOUSING FOR THE ELDERLY.

(a) In General.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

"(e) Special Rule Regarding Certain Historic Structures.—In the case of any qualified rehabilitation expenditure with respect to any certified historic structure—

"(1) which is placed in service after the date of the enactment of this subsection,

"(2) which is part of a qualified low-income building with respect to which a credit under section 42 is allowed, and

"(3) substantially all of the residential rental units of which are used for tenants who have attained the age of 65,

subsection (a)(2) shall be applied by substituting '25 percent' for '20 percent'.".

(b) Application of MACRS.—The Internal Revenue Code of 1986 shall be applied and administered as if paragraph (4)(X) of section 251(d) of the Tax Reform Act of 1986 as applied to the amendments made by section 201 of such Act had not been enacted with respect to any property described in such paragraph and placed in service after the date of the enactment of this Act.

(c) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Bonds

SEC. 611. EXPANSION OF NEW YORK LIBERTY ZONE TAX BENEFITS.

(a) Additional Extension of Tax-Exempt Bond Financing.—Section 1400L(d)(2)(D), as amended by this Act, is amended by striking "2006" and inserting "2010".

(b) Extension of Advance Refundings.—Section 1400L(e)(1) is amended by striking "2005" and inserting "2006".

SEC. 612. MODIFICATIONS OF TREATMENT OF QUALIFIED ZONE ACADEMY BONDS.

(a) Proceeds of Bonds May Be Used for Construction and Land Acquisition.—Paragraph (5) of section 1397E(d) (defining qualified purpose) is amended—

(1) by striking "rehabilitating or repairing" in subparagraph (A) and inserting "constructing, rehabilitating, or repairing", and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following:

"(B) acquiring the land on which the facility is to be constructed,".

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after December 31, 2003.

SEC. 613. MODIFICATIONS OF AUTHORITY OF INDIAN TRIBAL GOVERNMENTS TO ISSUE TAX-EXEMPT BONDS.

(a) In General.—Paragraph (1) of section 7871(c) (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:

"(1) In general.—Subsection (a) of section 103 shall apply to any obligation issued by an Indian tribal government (or subdivision thereof) only if—

"(A) such obligation—

"(i) is part of an issue 95 percent or more of the net proceeds of which are to be used to finance any facility located on an Indian reservation, and

"(ii) is issued before January 1, 2006, or

"(B) such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.".

(b) Special Rules and Definitions.—Subsection (c) of section 7871 is amended by inserting at the end the following new paragraph:

"(4) Special rules and definitions.—

"(A) Exclusion of gaming.—An obligation described in subparagraph (A) or (B) of paragraph (1) may not be used to finance any portion of a building in which class II or III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2702)) is conducted or housed.

"(B) Indian reservation.—For purposes of paragraph (1), the term 'Indian reservation' means—

"(i) a reservation, as defined in section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and

"(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by a Native corporation as defined in section 3(m) of such Act (43 U.S.C. 1602(m)).".

(c) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 614. DEFINITION OF MANUFACTURING FACILITY FOR SMALL ISSUE BONDS.

(a) In General.—Section 144(a)(12) (relating to termination dates) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) Manufacturing facility.—For purposes of this paragraph, the term 'manufacturing facility' means any facility which is used in—

"(i) the manufacture of tangible personal property (including processing which results in a change in the condition of such property),

"(ii) the manufacture or development of any software product or process if—

"(I) it takes more than 6 months to manufacture or develop such product,

"(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months, and

"(III) the software product or process comprises programs, routines, and attendant documentation developed and maintained for use in computer and telecommunications technology, or

"(iii) the manufacture or development of any biobased product or bioenergy if—

"(I) it takes more than 6 months to manufacture or develop, and

"(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months.

"(D) Related facilities.—For purposes of subparagraph (C), the term 'manufacturing facility' includes a facility which is directly and functionally related to a manufacturing facility (determined without regard to subparagraph (C)) if—

"(i) such facility, including an office facility and a research and development facility, is located on the same site as the manufacturing facility, and

"(ii) not more than 40 percent of the net proceeds of the issue are used to provide such facility.

"(E) Other definitions.—For purposes of subparagraph (C)(iii)—

"(i) Biobased product.—The term 'biobased product' means a commercial or industrial product (other than food or feed) which utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

"(ii) Bioenergy.—The term 'bioenergy' means biomass used in the production of energy, including liquid, solid, or gaseous fuels, electricity, and heat.".

(b) Effective Date.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 615. CONSERVATION BONDS.

(a) Tax-Exempt Bond Financing.—

(1) In general.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) Qualified forest conservation bond.—For purposes of this section, the term "qualified forest conservation bond" means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) Limitation on aggregate amount issued.—

(A) In general.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $1,500,000,000 for all projects (excluding refunding bonds).

(B) Allocation of limitation.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) Qualified project costs.—For purposes of this subsection, the term "qualified project costs" means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) Special rules.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) Treatment of current refunding bonds.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) LIMITATION.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "qualified harvesting activity" means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term "qualified conservation plan" means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term "qualified organization" means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) UNRELATED PERSON.—The term "unrelated person" means a person who is not a related person.

(5) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting "25 percent" for "50 percent" each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

SEC. 616. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term "Bureau" means the Bureau of Indian Affairs of the Department.

(2) DEPARTMENT.—The term "Department" means the Department of the Interior.

(3) ESCROW ACCOUNT.—The term "escrow account" means the tribal school modernization escrow account established under subsection (b)(6)(B)(i).

(4) INDIAN.—The term "Indian" means any individual who is a member of an Indian tribe.

(5) INDIAN TRIBE.—

(A) IN GENERAL.—The term "Indian tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40) of the Internal Revenue Code of 1986 (including the application of section 7871(d) of that Code).

(B) INCLUSION.—The term "Indian tribe" includes a consortium of Indian tribes approved by the Secretary.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) TRIBAL SCHOOL.—The term "tribal school" means an elementary school, secondary school, or dormitory that—

(A) is operated by a tribal organization or the Bureau for the education of Indian children; and

(B) under a contract, a grant, or an agreement, or for a Bureau-operated school, receives financial assistance to pay the costs of operation from funds made available under—

(i) section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), 458d); or

(ii) the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.).

(b) ISSUANCE OF BONDS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program under which eligible Indian tribes may issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools (including the advance planning and design of tribal schools).

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), an Indian tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by the bond will be used primarily for elementary and secondary educational purposes for not less than the period during which the bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction referred to in subparagraph (A)(i) meets the requirements of this subparagraph if the plan—

(i) contains a description of the construction to be carried out with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been completed to determine the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains a response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined to be appropriate by the Secretary.

(C) PRIORITY.—In determining whether an Indian tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to an Indian tribe that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List, as of fiscal year 2000, of the Bureau (65 Fed. Reg. 4623);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) that meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) ADVANCE PLANNING AND DESIGN FUNDING.—

(i) IN GENERAL.—An Indian tribe may propose in the plan of construction of the Indian tribe to receive advance planning and design funding from the escrow account.

(ii) CONDITIONS ON ALLOCATION OF FUNDS.—As a condition to the allocation to an Indian tribe of advance planning and design funds from the escrow account under clause (i), the Indian tribe shall agree—

(I) to issue qualified tribal school modernization bonds after the date of receipt of the funds; and

(II) as a condition of each bond issuance, that the Indian tribe will deposit into the escrow account, or a fund managed by the trustee as described in paragraph (4)(C), an amount equal to the amount of funds received from the escrow account.

(3) PERMISSIBLE ACTIVITIES.—In addition to the use of funds permitted under paragraph (1), an Indian tribe may use amounts received through the issuance of a qualified tribal school modernization bond—

(A) to enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms—

(i) to determine the needs of the tribal school; and

(ii) for the design and engineering of the tribal school;

(B) enter into and make payments under contracts with financial advisers, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the Indian tribe in issuing bonds; and

(C) carry out other activities determined to be appropriate by the Secretary.

(4) BOND TRUSTEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be subject to a trust agreement between the Indian tribe and a trustee.

(B) TRUSTEE.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) CONTENT OF TRUST AGREEMENT.—A trust agreement entered into by an Indian tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection, shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of the bond, a transfer of funds from the escrow account, or from other funds furnished by or on behalf of the Indian tribe, in an amount that (including interest earnings from the investment of the funds in obligations of, or fully guaranteed by, the United States, or from other investments authorized by paragraph (10)) will produce funds sufficient to timely pay in full the entire principal amount of the bond on the stated maturity date of the bond;

(iv) invest the funds transferred under clause (iii) in an investment described in that clause; and

(v)(I) hold and invest the funds transferred under clause (iii) in a segregated fund or account under the agreement; and

(II) use the fund or account solely for payment of the costs of items described in paragraph (3).

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—

(i) PAYMENTS.—

(I) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with such requirements as the Indian tribe shall prescribe in the trust agreement entered into under subparagraph (C).

(II) INSPECTION.—Before making a payment for a project to a contractor under subparagraph (C)(v), to ensure completion of the project, the trustee shall require an inspection of the project by—

(aa) a local financial institution; or

(bb) an independent inspecting architect or engineer.

(ii) CONTRACTS.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) PAYMENTS OF PRINCIPAL AND INTEREST.—

(A) PRINCIPAL.—

(i) IN GENERAL.—No principal payment on any qualified tribal school modernization bond shall be required under this subsection until the final, stated date on which the bond reaches maturity.

(ii) MATURITY; OUTSTANDING PRINCIPAL.—With respect to a qualified tribal school modernization bond issued under this subsection—

(I) the bond shall reach maturity not later than 15 years after the date of issuance of the bond; and

(II) on the date on which the bond reaches maturity, the entire outstanding principal under the bond shall become due and payable.

(B) INTEREST.—There shall be awarded a tax credit under section 1400M of the Internal Revenue Code of 1986 in lieu of interest on a qualified tribal school modernization bond issued under this subsection.

(6) BOND GUARANTEES.—

(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(I) establish a tribal school modernization escrow account; and

(II) beginning in fiscal year 2005, from amounts made available for school replacement under the construction account of the Bureau, deposit not more than $30,000,000 for each fiscal year into the escrow account.

(ii) TRANSFERS OF EXCESS PROCEEDS.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the escrow account.

(iii) PAYMENTS.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (ii)—

(I) to make payments to trustees appointed and acting in accordance with paragraph (4); or

(II) to make payments described in paragraph (2)(D).

(7) LIMITATIONS.—

(A) OBLIGATION TO REPAY.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds provided under paragraph (4)(C)(iii).

(ii) NO GUARANTEE.—No qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be an obligation of, and no payment of the principal of such a bond shall be guaranteed by—

(I) the United States;

(II) the Indian tribe; or

(III) the tribal school for which the bond was issued.

(B) LAND AND FACILITIES.—No land or facility purchased or improved with amounts derived from a qualified tribal school modernization bond issued under this subsection shall be mortgaged or used as collateral for the bond.

(8) SALE OF BONDS.—A qualified tribal school modernization bond may be sold at a purchase price equal to, in excess of, or at a discount from, the par amount of the bond.

(9) TREATMENT OF TRUST AGREEMENT EARNINGS.—No amount earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall be subject to Federal income taxation.

(10) INVESTMENT OF SINKING FUNDS.—A sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond issued under this subsection shall be invested in—

(A) obligations issued by or guaranteed by the United States; or

(B) such other assets as the Secretary of the Treasury may by regulation allow.

(c) Expansion of Incentives for Tribal Schools.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Z—Tribal School Modernization Provisions

"Sec. 1400M. Credit to holders of qualified tribal school modernization bonds.

"SEC. 1400M. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

"(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.

"(2) Annual credit.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) Applicable credit rate.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the date of sale of the issue) on outstanding long-term corporate obligations (as determined by the Secretary).

"(4) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Qualified Tribal School Modernization Bond; Other Definitions.—For purposes of this section—

"(1) Qualified tribal school modernization bond.—

"(A) In general.—The term 'qualified tribal school modernization bond' means, subject to subparagraph (B), any bond issued as part of an issue under section 616(b) of the Jumpstart Our Business Strength (JOBS) Act, as in effect on the date of the enactment of this section, if—

"(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(ii) the bond is issued by an Indian tribe,

"(iii) the issuer designates such bond for purposes of this section, and

"(iv) the term of each bond which is part of such issue does not exceed 15 years.

"(B) National limitation on amount of bonds designated.—

"(i) National limitation.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

"(I) $200,000,000 for 2005,

"(II) $200,000,000 for 2006, and

"(III) zero after 2006.

"(ii) Allocation of limitation.—The national qualified tribal school modernization bond limitation shall be allocated to Indian tribes by the Secretary of the Interior subject to the provisions of section 616 of the Jumpstart Our Business Strength (JOBS) Act, as in effect on the date of the enactment of this section.

"(iii) Designation subject to limitation amount.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any Indian tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

"(iv) Carryover of unused limitation.—If for any calendar year—

"(I) the limitation amount under this subparagraph, exceeds

"(II) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this subparagraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2012.

"(2) Credit allowance date.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(3) Bond.—The term 'bond' includes any obligation.

"(4) Tribe.—The term 'tribe' has the meaning given the term 'Indian tribal government' by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.

"(e) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(f) Bonds Held by Regulated Investment Companies.—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(g) Treatment for Estimated Tax Purposes.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(h) Credit Treated as Allowed Under Part IV of Subchapter A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

"(i) Reporting.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).".

(d) Conforming Amendment.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter Z. Tribal school modernization provisions.".

(e) Additional Provisions.—

(1) Sovereign immunity.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(2) Application.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act with respect to bonds issued after December 31, 2004, regardless of the status of regulations promulgated thereunder.

Subtitle C—Provisions Relating to Depreciation

SEC. 621. SPECIAL PLACED IN SERVICE RULE FOR BONUS DEPRECIATION PROPERTY.

(a) In General.—Section 168(k)(2)(D) (relating to special rules) is amended by adding at the end the following new clause:

"(iii) Syndication.—For purposes of subparagraph (A)(ii), if—

"(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

"(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date so placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

"(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale, so long as no previous owner of such property elects the application of this subsection with respect to such property.".

(b) Effective Date.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 622. MODIFICATION OF DEPRECIATION ALLOWANCE FOR AIRCRAFT.

(a) Aircraft Treated as Qualified Property.—

(1) In general.—Paragraph (2) of section 168(k) is amended by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) Certain aircraft.—The term 'qualified property' includes property—

"(i) which meets the requirements of clauses (ii) and (iii) of subparagraph (A),

"(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes, "(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of—

"(I) 10 percent of the cost, or

"(II) $100,000, and

"(iv) which has—

"(I) an estimated production period exceeding 4 months, and

"(II) a cost exceeding $200,000.".

(2) Placed in service date.—Clause (iv) of section 168(k)(2)(A) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(b) Conforming Amendments.—

(1) Section 168(k)(2)(B) is amended by adding at the end the following new clause:

"(iv) Application of subparagraph.—This subparagraph shall not apply to any property which is described in subparagraph (C).".

(2) Section 168(k)(4)(A)(ii) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(3) Section 168(k)(4)(B)(iii) is amended by inserting "and paragraph (2)(C)" after "of this paragraph)".

(4) Section 168(k)(4)(C) is amended by striking "subparagraphs (B) and (D)" and inserting "subparagraphs (B), (C), and (E)".

(5) Section 168(k)(4)(D) is amended by striking "Paragraph (2)(E)" and inserting "Paragraph (2)(F)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 623. MODIFICATION OF CLASS LIFE FOR CERTAIN TRACK FACILITIES.

(a) 7-Year Property.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) any motorsports entertainment complex, and".

(b) Definition.—Section 168(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(15) Motorsports entertainment complex.—

"(A) In general.—The term 'motorsports entertainment complex' means a racing track facility that is permanently situated on land and which during the applicable period is scheduled to host one or more racing events for automobiles (of any type), trucks, or motorcycles that are open to the public for the price of admission.

"(B) Ancillary and support facilities.—Such term shall include, if owned by the complex and provided for the benefit of patrons of the complex—

"(i) ancillary grounds and facilities and land improvements in support of the complex's activities (including parking lots, sidewalks, waterways, bridges, fences, and landscaping),

"(ii) support facilities (including food and beverage retailing, souvenir vending, and other nonlodging accommodations), and

"(iii) appurtenances associated with such facilities and related attractions and amusements (including ticket booths, race track surfaces, suites and hospitality facilities, grandstands and viewing structures, props, walls, facilities that support the delivery of entertainment services, other special purpose structures, facades, shop interiors, and buildings).

"(C) Exception.—Such term shall not include any transportation equipment, administrative services assets, warehouses, administrative buildings, hotels, or motels.

"(D) Applicable period.—For purposes of subparagraph (A), the term 'applicable period' means the period ending the later of the last day of—

"(i) the 36 month period following the first day of the month in which the asset is or was placed in service, or

"(ii) the 36 month period ending December 31, 2003, to the extent that the asset remains in service during such period.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to any property placed in service after the date of the enactment of this Act.

(2) No inference.—Nothing in the amendments made by this section shall be construed to affect the treatment of expenses incurred on or before the date of the enactment of this Act.

SEC. 624. MINIMUM TAX RELIEF FOR CERTAIN TAXPAYERS.

(a) Election to Increase Minimum Tax Credit Limitation in Lieu of Bonus Depreciation.—

(1) In general.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

"(e) Additional Credit in Lieu of Bonus Depreciation.—

"(1) In general.—In the case of a corporation making an election under this subsection for a taxable year, the limitation under subsection (c) shall be increased by an amount equal to 50 percent of the bonus depreciation amount.

"(2) Bonus depreciation amount.—For purposes of paragraph (1), the bonus depreciation amount for any taxable year is an amount (not in excess of $10,000,000) equal to the product of—

"(A) 30 percent, and

"(B) the excess (if any) of—

"(i) the aggregate amount of depreciation which would be determined under section 168 for property placed in service during such taxable year if no election under this subsection were made, over

"(ii) the aggregate allowance for depreciation allowable with respect to such property placed in service for such taxable year.

"(3) Aggregation rule.—All members of the same controlled group of corporations shall be treated as 1 corporation for purposes of this subsection.

"(4) Election.—Sections 168(k) (other than paragraph (2)(F) thereof) shall not apply to any property placed in service during a taxable year by a corporation making an election under this subsection for such taxable year. An election under this subsection may only be revoked with the consent of the Secretary.

"(5) Credit refundable.—The aggregate increase in the credit allowed by this section for any taxable year by reason of this subsection shall for purposes of this title (other than subsection (b)(2) of this section) be treated as a credit allowed to the taxpayer under subpart C.".

(2) Conforming amendments.—Subsection (k) of section 168 is amended by adding at the end the following new paragraph:

"(5) Cross reference.—For an election to claim certain minimum tax credits in lieu of the allowance determined under this subsection, see section 53(e).".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2003.

(b) Use of General Business Credits Against Alternative Minimum Tax.—

(1) In general.—Section 38(c) (relating to limitations based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Special rule for 2004.—Notwithstanding the preceding provisions of this paragraph, in the case of any taxable year beginning in 2004, the credit allowed under subsection (a) shall not exceed the greater of—

"(A) the amount determined under this subsection without regard to this paragraph, or

"(B) 50 percent of the lesser of—

"(i) the amount which would be determined under this subsection if the tentative minimum tax were treated as being zero in applying paragraph (1) to such credit, or

"(ii) the amount of the current year business credit.".

(2) Effective date.—The amendments made by this subsection shall apply to taxable years beginning in 2004.

Subtitle D—Expansion of Business Credit

SEC. 631. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by redesignating sections 45E and 45F as sections 45F and 45G, respectively, and by inserting after section 45E the following new section:

"SEC. 45D. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

"(a) Allowance of Credit.—

"(1) In general.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the Native American new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the reservation development entity for such investment at its original issue.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage is—

"(A) 5 percent with respect to the first 3 credit allowance dates, and

"(B) 6 percent with respect to the remainder of the credit allowance dates.

"(3) Credit allowance date.—For purposes of paragraph (1), the term 'credit allowance date' means, with respect to any qualified equity investment—

"(A) the date on which such investment is initially made, and

"(B) each of the 6 anniversary dates of such date thereafter.

"(b) Qualified Equity Investment.—For purposes of this section—

"(1) In general.—The term 'qualified equity investment' means any equity investment in a reservation development entity if—

"(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

"(B) substantially all of such cash is used by the reservation development entity to make qualified low-income reservation investments, and

"(C) such investment is designated for purposes of this section by the reservation development entity.

Such term shall not include any equity investment issued by a reservation development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

“(2) Limitation.—The maximum amount of equity investments issued by a reservation development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

“(3) Safe harbor for determining use of cash.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the reservation development entity are invested in qualified low-income reservation investments.

“(4) Treatment of subsequent purchasers.—The term ‘qualified equity investment’ includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

“(5) Redemptions.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

“(6) Equity investment.—The term ‘equity investment’ means—

“(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

“(B) any capital interest in an entity which is a partnership.

“(c) Reservation Development Entity.—For purposes of this section—

“(1) In general.—The term ‘reservation development entity’ means any domestic corporation or partnership if—

“(A) the primary mission of the entity is serving, or providing investment capital for, low-income reservations,

“(B) the entity maintains accountability to residents of low-income reservations through their representation on any governing board of the entity or on any advisory board to the entity, and

“(C) the entity is certified by the Secretary for purposes of this section as being a reservation development entity.

“(2) Exception.—For purposes of subparagraph (C) of paragraph (1), the Secretary shall not certify an entity as a reservation development entity if such entity is also certified as a qualified community development entity under section 45D(c).

“(d) Qualified Low-Income Reservation Investments.—For purposes of this section—

“(1) In general.—The term ‘qualified low-income reservation investment’ means—

“(A) any capital or equity investment in, or loan to, any qualified active low-income reservation business,

“(B) the purchase from another reservation development entity of any loan made by such entity which is a qualified low-income reservation investment,

“(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income reservations, and

“(D) any equity investment in, or loan to, any reservation development entity.

“(2) Qualified active low-income reservation business.—

“(A) In general.—For purposes of paragraph (1), the term ‘qualified active low-income reservation business’ means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if for such year—

“(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income reservation,

“(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income reservation,

“(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income reservation,

“(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

“(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

“(B) Proprietorship.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

“(C) Portions of business may be qualified active low-income reservation business.—The term ‘qualified active low-income reservation business’ includes any trades or businesses which would qualify as a qualified active low-income reservation business if such trades or businesses were separately incorporated.

“(3) Qualified business.—For purposes of this subsection, the term ‘qualified business’ has the meaning given to such term by section 45D(d)(3).

“(e) Low-Income Reservation.—For purposes of this section, the term ‘low-income reservation’ means any Indian reservation (as defined in section 168(j)(6)) which has a poverty rate of at least 40 percent.

“(f) National Limitation on Amount of Investments Designated.—

“(1) In general.—There is a Native American new markets tax credit limitation of $50,000,000 for each of calendar years 2004 through 2007.

“(2) Allocation of limitation.—The limitation under paragraph (1) shall be allocated by the Secretary among reservation development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to any entity—

“(A) with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or

“(B) which intends to satisfy the requirement under subsection (b)(1)(B) by making qualified low-income reservation investments in 1 or more businesses in which persons unrelated to such entity (within the meaning of section 267(b) or 707(b)(1)) hold the majority equity interest.

“(3) Carryover of unused limitation.—If the Native American new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

“(g) Recapture of Credit in Certain Cases.—

“(1) In general.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a reservation development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

“(2) Credit recapture amount.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

“(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

“(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

“(3) Recapture event.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a reservation development entity if—

“(A) such entity ceases to be a reservation development entity,

“(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

“(C) such investment is redeemed by such entity.

“(4) Special rules.—

“(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) No credits against tax.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

“(h) Basis Reduction.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1400B, and 1400F.

“(i) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

“(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

“(2) which prevent the abuse of the purposes of this section,

“(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

“(4) which impose appropriate reporting requirements, and

“(5) which apply the provisions of this section to newly formed entities.”.

(b) Credit Made Part of General Business Credit.—

(1) In general.—Subsection (b) of section 38 is amended by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively, and by inserting after paragraph (13) the following new paragraph:

“(14) the Native American new markets tax credit determined under section 45E(a).”.

(2) Limitation on carryback.—Subsection (d) of section 39 is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

“(10) NO CARRYBACK OF NATIVE AMERICAN NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2004.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2004.”.

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by redesignating paragraph (10) as paragraph (11), by striking “and” at the end of paragraph (9), and by inserting after paragraph (9) the following new paragraph:

“(10) the Native American new markets tax credit determined under section 45E(a), and”.

(d) CONFORMING AMENDMENTS.—

(1) Section 38(b)(15), as redesignated by subsection (b)(1), is amended—

(A) by striking “45E(c)” and inserting “45F(c)”, and

(B) by striking “45E(a)” and inserting “45F(a)”.

(2) Section 38(b)(16), as redesignated by subsection (b)(1), is amended by striking “45F(a)” and inserting “45G(a)”.

(3) Section 39(d)(11), as redesignated by subsection (b)(2), is amended by striking “section 45E” and inserting “section 45F”.

(4) Section 196(c)(11), as redesignated by subsection (c), is amended by striking “45E(a)” and inserting “45F(a)”.

(5) Section 1016(a)(28) is amended—

(A) by striking “under section 45F” and inserting “under section 45G”, and

(B) by striking “section 45F(f)(1)” and inserting “section 45G(f)(1)”.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the items relating to sections 45E and 45F and inserting the following:

“Sec. 45E. Native American new markets tax credit.
“Sec. 45F. Small employer pension plan startup costs.
“Sec. 45G. Employer-provided child care credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2003.

(f) GUIDANCE ON ALLOCATION OF NATIONAL LIMITATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall issue guidance which specifies—

(1) how entities shall apply for an allocation under section 45E(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that such Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

(g) AUDIT AND REPORT.—Not later than January 31 of 2007 and 2010, the Comptroller General of the United States shall, pursuant to an audit of the Native American new markets tax credit program established under section 45E of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program, including all reservation development entities that receive an allocation under the Native American new markets credit under such section.

(f) GRANTS IN COORDINATION WITH CREDIT.—

(1) IN GENERAL.—The Secretary of the Treasury is authorized to award a grant of not more than $1,000,000 to the First Nations Oweesta Corporation.

(2) USE OF FUNDS.—The grant awarded under paragraph (1) may be used—

(A) to enhance the capacity of people living on low-income reservations (within the meaning of section 45E(e) of the Internal Revenue Code of 1986, as added by this section) to access, apply, control, create, leverage, utilize, and retain the financial benefits to such low-income reservations which are attributable to qualified low-income reservation investments (within the meaning of section 45E(d) of such Code), and

(B) to provide access to appropriate financial capital for the development of such low-income reservations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal years 2004 through 2014 to carry out the provisions of this subsection.

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

“SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

“(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to 50 percent of the lesser of—

“(1) the actual compensation amount with respect to such employee for such taxable year, or

“(2) $15,000.

“(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term ‘actual compensation amount’ means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

“(c) LIMITATIONS.—

“(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

“(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) QUALIFIED ACTIVE DUTY.—The term ‘qualified active duty’ means—

“(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

“(B) hospitalization incident to such duty.

“(2) COMPENSATION.—The term ‘compensation’ means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

“(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term ‘Ready Reserve-National Guard employee’ means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

“(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

“(e) PORTION OF CREDIT REFUNDABLE.—

“(1) IN GENERAL.—In the case of an employer of a qualified first responder, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

“(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

“(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

“(2) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘employer payroll taxes’ means the taxes imposed by—

“(i) section 3111(b), and

“(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

“(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

“(3) QUALIFIED FIRST RESPONDER.—For purposes of this subsection, the term ‘qualified first responder’ means any person who is—

“(A) employed as a law enforcement official, a firefighter, or a paramedic, and

“(B) a Ready Reserve-National Guard employee.”.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “, plus”, and by adding at the end the following:

“(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).”.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting “45H(a),” after “45A(a),”.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

“Sec. 45H. Ready Reserve-National Guard employee credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 633. RURAL INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

“SEC. 42A. RURAL INVESTMENT CREDIT.

“(a) In General.—For purposes of section 38, the amount of the rural investment credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the eligible basis of each qualified rural investment building.

“(b) Applicable Percentage: 70 Percent Present Value Credit for New Buildings; 30 Percent Present Value Credit for Existing Buildings.—For purposes of this section—

“(1) In general.—The term ‘applicable percentage’ means the appropriate percentage prescribed by the Secretary for the earlier of—

“(A) the first month of the credit period with respect to a rural investment building, or

“(B) at the election of the taxpayer, the month in which the taxpayer and the rural investment credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the rural investment credit dollar amount to be allocated to such building.

A month may be elected under subparagraph (B) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

“(2) Method of prescribing percentages.—The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

“(A) 70 percent of the eligible basis of a new building, and

“(B) 30 percent of the eligible basis of an existing building.

“(3) Method of discounting.—The present value under paragraph (2) shall be determined—

“(A) as of the last day of the 1st year of the 10-year period referred to in paragraph (2),

“(B) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under subparagraph (A) or (B) of paragraph (1) and compounded annually, and

“(C) by assuming that the credit allowable under this section for any year is received on the last day of such year.

“(c) Eligible Basis; Qualified Rural Investment Building.—For purposes of this section—

“(1) Eligible basis.—

“(A) In general.—The eligible basis of any qualified rural investment building for any taxable year shall be determined under rules similar to the rules under section 42(d), except that—

“(i) the determination of the adjusted basis of any building shall be made as of the beginning of the credit period, and

“(ii) such basis shall include development costs properly attributable to such building.

“(B) Development costs.—For purposes of subparagraph (A)(ii), the term ‘development costs’ includes—

“(i) site preparation costs,

“(ii) State and local impact fees,

“(iii) reasonable development costs,

“(iv) professional fees related to basis items,

“(v) construction financing costs related to basis items other than land, and

“(vi) on-site and adjacent improvements required by State and local governments.

“(2) Qualified rural investment building.—The term ‘qualified rural investment building’ means any building which is part of a qualified rural investment project at all times during the period—

“(A) beginning on the 1st day in the compliance period on which such building is part of such an investment project, and

“(B) ending on the last day of the compliance period with respect to such building.

“(d) Rehabilitation Expenditures Treated as Separate New Building.—Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building under the rules of section 42(e).

“(e) Definition and Special Rules Relating to Credit Period.—

“(1) Credit period defined.—For purposes of this section, the term ‘credit period’ means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is first placed in service.

“(2) Special rule for 1st year of credit period.—

“(A) In general.—The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by multiplying such credit by the fraction—

“(i) the numerator of which is the number of full months of such year during which such building was in service, and

“(ii) the denominator of which is 12.

“(B) Disallowed 1st year credit allowed in 11th year.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

“(3) Credit period for existing buildings not to begin before rehabilitation credit allowed.—The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

“(f) Qualified Rural Investment Project; Qualifying County.—For purposes of this section—

“(1) Qualified rural investment project.—The term ‘qualified rural investment project’ means any investment project of 1 or more qualified rural investment buildings located in a qualifying county (and, if necessary to the project, any contiguous county) and selected by the State according to its qualified rural investment plan.

“(2) Qualifying county.—The term ‘qualifying county’ means any county which—

“(A) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

“(B) during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

“(g) Limitation on Aggregate Credit Allowable With Respect to Investment Projects Located in a State.—

“(1) Credit may not exceed credit amount allocated to building.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the rural investment credit dollar amount allocated to such building under rules similar to the rules of section 42(h)(1).

“(2) Allocated credit amount to apply to all taxable years ending during or after credit allocation year.—Any rural investment credit dollar amount allocated to any building for any calendar year—

“(A) shall apply to such building for all taxable years in the credit period ending during or after such calendar year, and

“(B) shall reduce the aggregate rural investment credit dollar amount of the allocating agency only for such calendar year.

“(3) Rural investment credit dollar amount for agencies.—

“(A) In general.—The aggregate rural investment credit dollar amount which a rural investment credit agency may allocate for any calendar year is the portion of the State rural investment credit ceiling allocated under this paragraph for such calendar year to such agency.

“(B) State ceiling initially allocated to State rural investment credit agencies.—Except as provided in subparagraphs (D) and (E), the State rural investment credit ceiling for each calendar year shall be allocated to the rural investment credit agency of such State. If there is more than 1 rural investment credit agency of a State, all such agencies shall be treated as a single agency.

“(C) State rural investment credit ceiling.—The State rural investment credit ceiling applicable to any State and any calendar year shall be an amount equal to the sum of—

“(i) the unused State rural investment credit ceiling (if any) of such State for the preceding calendar year,

“(ii) $185,000 for each qualifying county in the State,

“(iii) the amount of State rural investment credit ceiling returned in the calendar year, plus

“(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State rural investment credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate rural investment credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State rural investment credit ceiling returned in the calendar year equals the rural investment credit dollar amount previously allocated within the State to any investment project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified rural investment project within the period required by this section or the terms of the allocation or to any investment project with respect to which an allocation is canceled by mutual consent of the rural investment credit agency and the allocation recipient.

“(D) Unused rural investment credit carryovers allocated among certain States.—

“(i) In general.—The unused rural investment credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

“(ii) Unused rural investment credit carryover.—For purposes of this subparagraph, the unused rural investment credit carryover of a State for any calendar year is the excess (if any) of the unused State rural investment credit ceiling for such year (as defined in subparagraph (C)(i)) over the excess (if any) of—

"(I) the unused State rural investment credit ceiling for the year preceding such year, over

"(II) the aggregate rural investment credit dollar amount allocated for such year.

"(iii) FORMULA FOR ALLOCATION OF UNUSED RURAL INVESTMENT CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused rural investment credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

"(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

"(I) which allocated its entire State rural investment credit ceiling for the preceding calendar year, and

"(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

"(E) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

"(F) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

"(G) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of a calendar year after 2005, the $185,000 amount in subparagraph (C) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—Any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(4) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

"(A) IN GENERAL.—At least 10 percent of the State rural investment credit ceiling for any State for any calendar year shall be allocated to qualified rural investment projects described in subparagraph (B).

"(B) INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified rural investment project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the investment project throughout the compliance period.

"(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

"(i) such organization is described in any paragraph of section 501(c) and is exempt from tax under section 501(a),

"(ii) such organization is determined by the State rural investment credit agency not to be affiliated with or controlled by a for-profit organization; and

"(iii) 1 of the exempt purposes of such organization includes the fostering of rural investment.

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

"(E) STATE MAY NOT OVERRIDE SET-ASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

"(F) CREDITS FOR QUALIFIED NONPROFIT ORGANIZATIONS.—

"(i) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualified rural investment building of a qualified nonprofit organization if such organization were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such organization.

"(ii) USE OF CREDIT.—A qualified nonprofit organization may assign, trade, sell, or otherwise transfer any credit allowable to such organization under subparagraph (A) to any taxpayer.

"(iii) CREDIT NOT INCOME.—A transfer under subparagraph (B) of any credit allowable under subparagraph (A) shall not result in income for purposes of section 511.

"(5) SPECIAL RULES.—

"(A) BUILDING MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A rural investment credit agency may allocate its aggregate rural investment credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

"(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate rural investment credit dollar amounts allocated by a rural investment credit agency for any calendar year exceed the portion of the State rural investment credit ceiling allocated to such agency for such calendar year, the rural investment credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

"(C) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO SALES CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the rural investment credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if this section were applied without regard to paragraph (2)(A) of subsection (e).

"(D) RURAL INVESTMENT CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM ELIGIBLE BASIS.—In allocating a rural investment credit dollar amount to any building, the rural investment credit agency shall specify the applicable percentage and the maximum eligible basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum eligible basis so specified shall not exceed the applicable percentage and eligible basis determined under this section without regard to this subsection.

"(6) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) RURAL INVESTMENT CREDIT AGENCY.—The term 'rural investment credit agency' means any agency authorized to carry out this subsection.

"(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

"(7) PORTION OF STATE CEILING SET-ASIDE FOR QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDITS.—Not more than 10 percent of the State rural investment credit ceiling for any State for any calendar year may be allocated to qualified rural small business investment credits under section 42B.

"(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 10 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

"(2) NEW BUILDING.—The term 'new building' means a building the original use of which begins with the taxpayer.

"(3) EXISTING BUILDING.—The term 'existing building' means any building which is not a new building.

"(4) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (i) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

"(i) RECAPTURE OF CREDIT.—If—

"(1) as of the close of any taxable year in the compliance period, the amount of the eligible basis of any building with respect to the taxpayer is less than

"(2) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).

"(j) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—

"(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—Following the close of the 1st taxable year in the credit period with respect to any qualified rural investment building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

"(A) the taxable year, and calendar year, in which such building was first placed in service,

"(B) the eligible basis of such building as of the beginning of the credit period,

"(C) the maximum applicable percentage and eligible basis permitted to be taken into account by the appropriate rural investment credit agency under subsection (g),

"(D) the election made under subsection (f) with respect to the qualified rural investment project of which such building is a part, and

"(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the eligible basis for the taxable year of each qualified rural investment building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

"(3) ANNUAL REPORTS FROM RURAL INVESTMENT CREDIT AGENCIES.—Each agency which allocates any rural investment credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

"(A) the amount of rural investment credit amount allocated to each building for such year,

"(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

"(k) RESPONSIBILITIES OF RURAL INVESTMENT CREDIT AGENCIES.—

"(1) PLANS FOR ALLOCATION OF CREDIT AMONG INVESTMENT PROJECTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the rural investment credit dollar amount with respect to any building shall be zero unless—

"(i) such amount was allocated pursuant to a qualified rural investment plan of the agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,

"(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such investment project and provides such individual a reasonable opportunity to comment on the investment project,

"(iii) a comprehensive market study of the development needs of individuals in the qualifying county to be served by the investment project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

"(iv) a written explanation is available to the general public for any allocation of a rural investment credit dollar amount which is not made in accordance with established priorities and selection criteria of the rural investment credit agency.

"(B) QUALIFIED RURAL INVESTMENT PLAN.—For purposes of this section, the term 'qualified rural investment plan' means any plan—

"(i) which sets forth selection criteria to be used to determine priorities of the rural investment credit agency which are appropriate to qualifying counties,

"(ii) which also gives preference in allocating rural investment credit dollar amounts among selected investment projects to—

"(I) investment projects that target those small rural counties with consistently high rates of net out-migration,

"(II) investment projects that link the economic development and job creation efforts of 2 or more small rural counties with high rates of net out-migration, and

"(III) investment projects that link the economic development and job creation efforts of 1 or more small rural counties in the State with high rates of net out-migration to related efforts in regions of such State experiencing economic growth, and

"(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance through regular site visits.

"(C) CERTAIN SELECTION CRITERIA MUST BE USED.—The selection criteria set forth in a qualified rural investment plan must include—

"(i) investment project location,

"(ii) technology and transportation infrastructure needs, and

"(iii) private development trends.

"(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE INVESTMENT PROJECT FEASIBILITY.—

"(A) IN GENERAL.—The rural investment credit dollar amount allocated to an investment project shall not exceed the amount the rural investment credit agency determines is necessary for the financial feasibility of the investment project and its viability as a qualified rural investment project throughout the compliance period.

"(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the rural investment credit agency shall consider—

"(i) the sources and uses of funds and the total financing planned for the investment project,

"(ii) any proceeds or receipts expected to be generated by reason of tax benefits,

"(iii) the percentage of the rural investment credit dollar amount used for investment project costs other than the cost of intermediaries, and

"(iv) the reasonableness of the developmental and operational costs of the investment project.

Clause (iii) shall not be applied so as to impede the development of investment projects in hard-to-develop areas.

"(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING PLACED IN SERVICE.—

"(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

"(I) The application for the rural investment credit dollar amount.

"(II) The allocation of the rural investment credit dollar amount.

"(III) The date the building is first placed in service.

"(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the rural investment credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) dealing with—

"(A) investment projects which include more than 1 building or only a portion of a building,

"(B) buildings which are sold in portions,

"(2) providing for the application of this section to short taxable years,

"(3) preventing the avoidance of the rules of this section, and

"(4) providing the opportunity for rural investment credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following:

"(18) the rural investment credit determined under section 42A(a).".

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

"(12) NO CARRYBACK OF RURAL INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the rural investment credit determined under section 42A may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.".

(d) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) is amended by inserting "or subsection (i) or (j) of section 42A" after "section 42".

(2) Subsections (i)(c)(3), (i)(c)(6)(B)(i), and (k)(1) of section 469 are each amended by inserting "or 42A" after "section 42".

(3) Section 772(a) is amended by striking "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

"(11) the rural investment credit determined under section 42A, and".

(4) Section 774(b)(4) is amended by inserting ", 42A(i)," after "section 42(j)".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 42 the following:

"Sec. 42A. Rural investment credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 634. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 42B. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of a qualified rural small business, the amount of the qualified rural small business investment credit determined under this section for any taxable year is equal to 30 percent of the qualified expenditures for the taxable year of such business.

"(b) DOLLAR LIMITATION.—

"(1) IN GENERAL.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $5,000, or

"(B) the amount when added to the aggregate credits allowable to the taxpayer under subsection (a) for all preceding taxable years does not exceed $25,000.

"(2) NO DOUBLE CREDIT ALLOWED.—In the case of any qualified rural small business which places in service a qualified rural investment building with respect to which a rural investment credit is allowed under section 42A for any taxable year, paragraph (1)(A) shall be applied with respect to such taxable year by substituting 'zero' for '$5,000'.

"(c) QUALIFIED RURAL SMALL BUSINESS.—For purposes of this section, the term 'qualified rural small business' means any person if such person—

"(1) employed not more than 5 full-time employees during the taxable year,

"(2) materially and substantially participates in management,

"(3) is located in a qualifying county, and

"(4) submitted a qualified business plan with respect to which the rural investment credit agency with jurisdiction over such qualifying county has allocated a portion of the State rural investment ceiling for such taxable year under section 42A(g)(7).

For purposes of paragraph (1), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

"(d) QUALIFIED EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified expenditures' means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant and equipment, inventory expenses, and wages, but not including interest costs.

"(2) ONLY CERTAIN EXPENDITURES INCLUDED FOR EXISTING BUSINESSES.—In the case of a qualified rural small business with respect to which a credit under subsection (a) was allowed for a preceding taxable year, such term shall include only so much of the expenditures described in paragraph (1) for the taxable year as exceed the aggregate of such expenditures for the preceding taxable year.

"(e) QUALIFIED BUSINESS PLAN.—For purposes of this section, the term 'qualified business plan' means a business plan which—

"(1) has been approved by the rural investment credit agency with jurisdiction over the qualifying county in which the qualified rural small business is located pursuant to such agency's rural investment plan, and

"(2) meets such requirements as the agency may specify.

"(f) DENIAL OF DOUBLE BENEFIT.—In the case of the amount of the credit determined under this section—

"(1) no deduction or credit shall be allowed for such amount under any other provision of this chapter, and

"(2) no increase in the adjusted basis of any property shall result from such amount.

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) any term which is used in this section which is used in section 42A shall have the meaning given such term by section 42A, and

"(2) rules similar to the rules under subsections (j)(2), (j)(3), and (k) of section 42A shall apply.".

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following:

"(19) the qualified rural small business investment credit determined under section 42B(a).".

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

"(13) NO CARRYBACK OF QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualified rural small business investment credit determined under section 42B may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 42A the following:

"Sec. 42B. Qualified rural small business investment credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 635. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is an amount equal to 30 percent of the qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—

"(1) $3,500, and

"(2) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year.

"(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means—

"(1) any Class II or Class III railroad, and

"(2) any person who transports property using the rail facilities of a person described in paragraph (1) or who furnishes railroad-related property or services to such a person.

"(d) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) CLASS II OR CLASS III RAILROAD.—For purposes of this section, the terms 'Class II railroad' and 'Class III railroad' have the meanings given such terms by the Surface Transportation Board.

"(2) CONTROLLED GROUPS.—Rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this section.

"(3) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

"(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.".

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45I may be carried to a taxable year beginning before January 1, 2005.".

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the railroad track maintenance credit determined under section 45I(a).".

(2) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e)(3).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45F the following new item:

"Sec. 45I. Railroad track maintenance credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 636. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

(a) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount equal to 50 percent of the qualified project expenditures paid or incurred by the taxpayer during the taxable year.

"(b) QUALIFIED PROJECT EXPENDITURES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified project expenditures' means, with respect to any project for intercity passenger rail transportation (as defined under section 24102 of title 49, United States Code) which is included in a State rail plan, expenditures (whether or not otherwise chargeable to capital account) for—

"(A) planning,

"(B) environmental review and environmental impact mitigation,

"(C) track and track structure rehabilitation, relocation, improvement, and development,

"(D) railroad safety and security improvements,

"(E) communications and signaling improvements,

"(F) intercity passenger rail equipment acquisition, and

"(G) rail station and intermodal facilities development.

"(2) EXCEPTIONS.—An expenditure shall not be treated as a qualified project expenditure unless all persons which conduct rail operations over the infrastructure with respect to which such an expenditure is made—

"(A) are employers for purposes of the Railroad Retirement Act of 1974 and are carriers for purposes of the Railway Labor Act (unless such a person is an operator with respect to commuter rail passenger transportation (as defined in section 24102(4) of title 49, United States Code) of a State or local government authority (as such terms are defined in section 5302 of such title) eligible to receive financial assistance under section 5307 of such title, a contractor performing services in connection with the operations with respect to commuter rail passenger transportation (as so defined), or the Alaska Railroad or its contractors),

"(B) provide assurances to the State that any collective bargaining agreements with such a person's employees (including terms regulating the contracting of work) will remain in full force and effect according to the terms of the agreements for work performed for such a person on the railroad transportation corridor, and

"(C) comply with the protective agreements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 with respect to employees affected by actions taken in connection with the project.

"(c) LIMITATION.—

"(1) IN GENERAL.—The amount of the credit allowed under subsection (a) for any taxable year with respect to any project for which qualified project expenditures are made shall not exceed the limitation allocated to such project under this subsection for the calendar year in which the taxable year begins.

"(2) STATE LIMITATION.—

"(A) IN GENERAL.—There is a State railroad revitalization and security investment credit limitation for each calendar year. Such limitation is the amount which bears the same ratio to $165,000,000 as the allocation number for such State bears to the allocation number for all States.

"(B) ALLOCATION NUMBER.—For purposes of subparagraph (A), the allocation number is, with respect to any State, the sum of the following:

"(i) The number of railroad and public road grade crossings on intercity passenger rail routes within the State.

"(ii) The number of intercity passenger rail miles within the State.

"(iii) The number of intercity embarkations and disembarkations for each passenger within the State.

"(3) UNUSED CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

"(A) IN GENERAL.—The unused credit carryover for all States for any calendar year shall be reallocated to each qualified State in an amount which bears the same ratio to the unused credit carryover for all States for the calendar as the allocation number for such qualified State bears to the allocation number for all qualified States.

"(B) UNUSED CREDIT CARRYOVER.—For purposes of this paragraph, the term 'unused credit carryover' means, with respect to any State, the excess of the State limitation (determined under paragraph (2)) for the calendar year over the amount allocated by the State under paragraph (4) for such calendar year.

"(C) QUALIFIED STATES.—For purposes of this paragraph, the term 'qualified State' means any State—

"(i) which allocated its entire State limitation amount under paragraph (4) for the calendar year, and

"(ii) for which a request is made to receive an allocation under this paragraph.

"(4) ALLOCATION WITHIN STATES.—Each State shall allocate the limitation amount allocated to such State under paragraphs (2) and (3) to projects for intercity passenger rail transportation which are included in the State rail plan of such State.

"(5) NEW YORK CITY RAIL PROJECTS.—

"(A) IN GENERAL.—In addition to the amounts allocated under paragraph (2), the Secretary shall allocate a limitation of $200,000,000 to New York City, New York, for qualified project expenditures within the New York Liberty Zone (as defined in section 1400L(h)) for the period described in subsection (h).

"(B) ALLOCATION AMONG PROJECTS.—Of the limitation allocated under subparagraph (A)—

"(i) $100,000,000 shall be allocated to projects designated by the Mayor of New York City, New York, and

"(ii) $100,000,000 shall be allocated to projects designated by the Governor of New York.

"(C) SPECIAL RULE REGARDING QUALIFIED PROJECT EXPENDITURES.—For purposes of this paragraph, a qualified project expenditure shall include any expenditure for improvements to subway systems, for commuter rail systems, for rail links to airports, and for public infrastructure improvements in the vicinity of rail or subway stations.

"(d) STATE RAIL PLAN.—For purposes of this section, the term 'State rail plan' means a plan prepared and maintained in accordance with chapter 225 of title 49, United States Code.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

"(f) NO DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to any expenditures for which a credit is allowed under section 45I.

"(g) CREDIT TRANSFERABILITY.—Any credit allowable under this section may be transferred (but not more than once) if—

"(1) the credit exceeds the tax liability of the taxpayer for the taxable year, or

"(2) the taxpayer is not subject to any tax imposed by this chapter by reason of having a tax-exempt status.

"(h) APPLICATION OF SECTION.—This section shall apply to qualified project expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.".

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to any taxable year beginning before January 1, 2005.".

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the railroad revitalization and security investment credit determined under section 45J(a).".

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) in the case of property with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(e).".

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45I the following new item:

"Sec. 45J. Railroad revitalization and security investment credit.".

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(b) STATE RAIL PLANS.—

(1) IN GENERAL.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following:

"CHAPTER 225—STATE RAIL PLANS

"Sec.
"22501. Authority.
"22502. Purposes.
"22503. Transparency; coordination.
"22504. Content.
"22505. Approval.
"22506. Definitions.

"§ 22501. Authority

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) make the State's approved plan available to the public and transmit a copy to the Secretary of Transportation; and

"(4) revise the plan no less frequently than once every 5 years.

"§ 22502. Purposes

"(a) PURPOSES.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(3) To serve as the basis for Federal and State rail investments within the State.

"(b) CONTENT.—The State rail plan shall establish the period covered by such plan.

"(c) CONSISTENCY WITH STATE TRANSPORTATION EFFORTS.—A State rail plan shall be consistent with the State transportation planning goals and programs and shall set forth rail transportation's role within the State transportation system.

"§ 22503. Transparency; coordination

"(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input on a proposed State rail plan under this chapter to the following:

"(1) The public.

"(2) Rail carriers.

"(3) Commuter and transit authorities operating in, or affected by rail operations within, the State.

"(4) Units of local government.

"(5) Other parties interested in the preparation and review of the State rail plan.

"(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives of regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

"§ 22504. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A statement of the State's passenger rail service objectives, including minimum service levels, for intercity passenger rail transportation routes in the State.

"(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

"(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

"(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

"(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

"(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

"(12) A statement that the State satisfies the conditions set forth in section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

"(A) Two lists for rail capital projects, 1 list for freight rail capital projects and 1 list for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The lists of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"§ 22505. Approval

"The State rail plan approval authority established or designated under section 22501(b)(2) may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital improvement projects under the plan—

"(A) the project meets all safety and environmental requirements, including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right-of-way directly affected by the project that provides for the State to proceed with the project and includes assurances regarding capacity and compensation for use of such infrastructure or right-of-way, if applicable; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to section 135 of title 23.

"§ 22506. Definitions

"In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or other means; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the affected persons or private entities.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and other positive community effects; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the persons or private entities involved in the project.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

"(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Chief Executive of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan under this chapter.".

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 223 the following:

"225. STATE RAIL PLANS ....22501.".

SEC. 637. MODIFICATION OF TARGETED AREAS DESIGNATED FOR NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 45D(e) is amended to read as follows:

"(2) TARGETED POPULATIONS.—The Secretary shall prescribe regulations under which 1 or more targeted populations (within the meaning of section 3(20) of the Riegle Community Development and Regulatory Improvement Act of 1974 (12 U.S.C. 4702(20))) may be treated as low-income communities. Such regulations shall include procedures for determining which entities are qualified active low-income community businesses with respect to such populations.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to designations made by the Secretary of the Treasury after the date of the enactment of this Act.

SEC. 638. MODIFICATION OF INCOME REQUIREMENT FOR CENSUS TRACTS WITHIN HIGH MIGRATION RURAL COUNTIES.

(a) IN GENERAL.—Section 45D(e) (relating to low-income community) is amended by adding at the end the following new paragraph:

"(4) MODIFICATION OF INCOME REQUIREMENT FOR CENSUS TRACTS WITHIN HIGH MIGRATION RURAL COUNTIES.—

"(A) IN GENERAL.—In the case of a population census tract located within a high migration rural county, paragraph (1)(B)(i) shall be applied by substituting '85 percent' for '80 percent'.

"(B) HIGH MIGRATION RURAL COUNTY.—For purposes of this paragraph, the term 'high migration rural county' means any county which, during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 121(a) of the Community Renewal Tax Relief Act of 2000.

Subtitle E—Miscellaneous Provisions

SEC. 641. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subsection (b) of section 512 (relating to unrelated business taxable income) is amended by adding at the end the following new paragraph:

“(18) TREATMENT OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES.—

“(A) IN GENERAL.—Notwithstanding paragraph (5)(B), there shall be excluded any gain or loss from the qualified sale, exchange, or other disposition of any qualifying brownfield property by an eligible taxpayer.

“(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘eligible taxpayer’ means, with respect to a property, any organization exempt from tax under section 501(a) which—

“(I) acquires from an unrelated person a qualifying brownfield property, and

“(II) pays or incurs eligible remediation expenditures with respect to such property in an amount which exceeds the greater of $550,000 or 12 percent of the fair market value of the property at the time such property was acquired by the eligible taxpayer, determined as if there was not a presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property.

“(ii) EXCEPTION.—Such term shall not include any organization which is—

“(I) potentially liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the qualifying brownfield property,

“(II) affiliated with any other person which is so potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship which is created by the instruments by which title to any qualifying brownfield property is conveyed or financed or by a contract of sale of goods or services), or

“(III) the result of a reorganization of a business entity which was so potentially liable.

“(C) QUALIFYING BROWNFIELD PROPERTY.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualifying brownfield property’ means any real property which is certified, before the taxpayer incurs any eligible remediation expenditures (other than to obtain a Phase I environmental site assessment), by an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located as a brownfield site within the meaning of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

“(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall include a sworn statement by the eligible taxpayer and supporting documentation of the presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property (including a Phase I environmental site assessment and, if applicable, evidence of the property's presence on a local, State, or Federal list of brownfields or contaminated property) and other environmental assessments prepared or obtained by the taxpayer.

“(D) QUALIFIED SALE, EXCHANGE, OR OTHER DISPOSITION.—For purposes of this paragraph—

“(i) IN GENERAL.—A sale, exchange, or other disposition of property shall be considered as qualified if—

“(I) such property is transferred by the eligible taxpayer to an unrelated person, and

“(II) within 1 year of such transfer the eligible taxpayer has received a certification from the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located that, as a result of the eligible taxpayer's remediation actions, such property would not be treated as a qualifying brownfield property in the hands of the transferee.

For purposes of subclause (II), before issuing such certification, the Environmental Protection Agency or appropriate State agency shall respond to comments received pursuant to clause (ii)(V) in the same form and manner as required under section 117(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

“(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall be made not later than the date of the transfer and shall include a sworn statement by the eligible taxpayer certifying the following:

“(I) Remedial actions which comply with all applicable or relevant and appropriate requirements (consistent with section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) have been substantially completed, such that there are no hazardous substances, pollutants, or contaminants which complicate the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property.

“(II) The reasonably anticipated future land uses or capacity for uses of the property are more economically productive or environmentally beneficial than the uses of the property in existence on the date of the certification described in subparagraph (C)(i). For purposes of the preceding sentence, use of property as a landfill or other hazardous waste facility shall not be considered more economically productive or environmentally beneficial.

“(III) A remediation plan has been implemented to bring the property into compliance with all applicable local, State, and Federal environmental laws, regulations, and standards and to ensure that the remediation protects human health and the environment.

“(IV) The remediation plan described in subclause (III), including any physical improvements required to remediate the property, is either complete or substantially complete, and, if substantially complete, sufficient monitoring, funding, institutional controls, and financial assurances have been put in place to ensure the complete remediation of the property in accordance with the remediation plan as soon as is reasonably practicable after the sale, exchange, or other disposition of such property.

“(V) Public notice and the opportunity for comment on the request for certification was completed before the date of such request. Such notice and opportunity for comment shall be in the same form and manner as required for public participation required under section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph). For purposes of this subclause, public notice shall include, at a minimum, publication in a major local newspaper of general circulation.

“(iii) ATTACHMENT TO TAX RETURNS.—A copy of each of the requests for certification described in clause (ii) of subparagraph (C) and this subparagraph shall be included in the tax return of the eligible taxpayer (and, where applicable, of the qualifying partnership) for the taxable year during which the transfer occurs.

“(iv) SUBSTANTIAL COMPLETION.—For purposes of this subparagraph, a remedial action is substantially complete when any necessary physical construction is complete, all immediate threats have been eliminated, and all long-term threats are under control.

“(E) ELIGIBLE REMEDIATION EXPENDITURES.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘eligible remediation expenditures’ means, with respect to any qualifying brownfield property, any amount paid or incurred by the eligible taxpayer to an unrelated third person to obtain a Phase I environmental site assessment of the property, and any amount so paid or incurred after the date of the certification described in subparagraph (C)(i) for goods and services necessary to obtain a certification described in subparagraph (D)(i) with respect to such property, including expenditures—

“(I) to manage, remove, control, contain, abate, or otherwise remediate a hazardous substance, pollutant, or contaminant on the property,

“(II) to obtain a Phase II environmental site assessment of the property, including any expenditure to monitor, sample, study, assess, or otherwise evaluate the release, threat of release, or presence of a hazardous substance, pollutant, or contaminant on the property,

“(III) to obtain environmental regulatory certifications and approvals required to manage the remediation and monitoring of the hazardous substance, pollutant, or contaminant on the property, and

“(IV) regardless of whether it is necessary to obtain a certification described in subparagraph (D)(i)(II), to obtain remediation cost-cap or stop-loss coverage, re-opener or regulatory action coverage, or similar coverage under environmental insurance policies, or financial guarantees required to manage such remediation and monitoring.

“(ii) EXCEPTIONS.—Such term shall not include—

“(I) any portion of the purchase price paid or incurred by the eligible taxpayer to acquire the qualifying brownfield property,

“(II) environmental insurance costs paid or incurred to obtain legal defense coverage, owner/operator liability coverage, lender liability coverage, professional liability coverage, or similar types of coverage,

“(III) any amount paid or incurred to the extent such amount is reimbursed, funded, or otherwise subsidized by grants provided by the United States, a State, or a political subdivision of a State for use in connection with the property, proceeds of an issue of State or local government obligations used to provide financing for the property the interest of which is exempt from tax under section 103, or subsidized financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the property, or

"(IV) any expenditure paid or incurred before the date of the enactment of this paragraph.

For purposes of subclause (III), the Secretary may issue guidance regarding the treatment of government-provided funds for purposes of determining eligible remediation expenditures.

"(F) Determination of gain or loss.—For purposes of this paragraph, the determination of gain or loss shall not include an amount treated as gain which is ordinary income with respect to section 1245 or section 1250 property, including amounts deducted as section 198 expenses which are subject to the recapture rules of section 198(e), if the taxpayer had deducted such amounts in the computation of its unrelated business taxable income.

"(G) Special rules for partnerships.—

"(i) In general.—In the case of an eligible taxpayer which is a partner of a qualifying partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property, this paragraph shall apply to the eligible taxpayer's distributive share of the qualifying partnership's gain or loss from the sale, exchange, or other disposition of such property.

"(ii) Qualifying partnership.—The term 'qualifying partnership' means a partnership which—

"(I) has a partnership agreement which satisfies the requirements of section 514(c)(9)(B)(vi) at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i),

"(II) satisfies the requirements of subparagraphs (B)(i), (C), (D), and (E), if 'qualified partnership' is substituted for 'eligible taxpayer' each place it appears therein (except subparagraph (D)(iii)), and

"(III) is not an organization which would be prevented from constituting an eligible taxpayer by reason of subparagraph (B)(ii).

"(iii) Requirement that tax-exempt partner be a partner since first certification.—This paragraph shall apply with respect to any eligible taxpayer which is a partner of a partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property only if such eligible taxpayer was a partner of the qualifying partnership at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i) and ending on the date of the sale, exchange, or other disposition of the property by the partnership.

"(iv) Regulations.—The Secretary shall prescribe such regulations as are necessary to prevent abuse of the requirements of this subparagraph, including abuse through—

"(I) the use of special allocations of gains or losses, or

"(II) changes in ownership of partnership interests held by eligible taxpayers.

"(H) Special rules for multiple properties.—

"(i) In general.—An eligible taxpayer or a qualifying partnership of which the eligible taxpayer is a partner may make a 1-time election to apply this paragraph to more than 1 qualifying brownfield property by averaging the eligible remediation expenditures for all such properties acquired during the election period. If the eligible taxpayer or qualifying partnership makes such an election, the election shall apply to all qualified sales, exchanges, or other dispositions of qualifying brownfield properties the acquisition and transfer of which occur during the period for which the election remains in effect.

"(ii) Election.—An election under clause (i) shall be made with the eligible taxpayer's or qualifying partnership's timely filed tax return (including extensions) for the first taxable year for which the taxpayer or qualifying partnership intends to have the election apply. An election under clause (i) is effective for the period—

"(I) beginning on the date which is the first day of the taxable year of the return in which the election is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership, and

"(II) ending on the date which is the earliest of a date of revocation selected by the eligible taxpayer or qualifying partnership, the date which is 8 years after the date described in subclause (I), or, in the case of an election by a qualifying partnership of which the eligible taxpayer is a partner, the date of the termination of the qualifying partnership.

"(iii) Revocation.—An eligible taxpayer or qualifying partnership may revoke an election under clause (i)(II) by filing a statement of revocation with a timely filed tax return (including extensions). A revocation is effective as of the first day of the taxable year of the return in which the revocation is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership. Once an eligible taxpayer or qualifying partnership revokes the election, the eligible taxpayer or qualifying partnership is ineligible to make another election under clause (i) with respect to any qualifying brownfield property subject to the revoked election.

"(I) Recapture.—If an eligible taxpayer excludes gain or loss from a sale, exchange, or other disposition of property to which an election under subparagraph (H) applies, and such property fails to satisfy the requirements of this paragraph, the unrelated business taxable income of the eligible taxpayer for the taxable year in which such failure occurs shall be determined by including any previously excluded gain or loss from such sale, exchange, or other disposition allocable to such taxpayer, and interest shall be determined at the overpayment rate established under section 6621 on any resulting tax for the period beginning with the due date of the return for the taxable year during which such sale, exchange, or other disposition occurred, and ending on the date of payment of the tax.

"(J) Related persons.—For purposes of this paragraph, a person shall be treated as related to another person if—

"(i) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or section 707(b)(1), determined by substituting '25 percent' for '50 percent' each place it appears therein, and

"(ii) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization."

(b) Exclusion From Definition of Debt-Financed Property.—Section 514(b)(1) (defining debt-financed property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) any property the gain or loss from the sale, exchange, or other disposition of which would be excluded by reason of the provisions of section 512(b)(18) in computing the gross income of any unrelated trade or business.".

(c) Savings Clause.—Nothing in the amendments made by this section shall affect any duty, liability, or other requirement imposed under any other Federal or State law. Notwithstanding section 128(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a certification provided by the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4) of the Internal Revenue Code of 1986) shall not affect the liability of any person under section 107(a) of such Act.

(d) Effective Date.—The amendments made by this section shall apply to any gain or loss on the sale, exchange, or other disposition of any property acquired by the taxpayer after December 31, 2004.

SEC. 642. MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.

(a) In General.—Section 514(c)(6) (relating to acquisition indebtedness) is amended—

(1) by striking "include an obligation" and inserting "include—

"(A) an obligation",

(2) by striking the period at the end and inserting ", or", and

(3) by adding at the end the following:

"(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

"(i) issued by such company under section 303(a) of such Act, and

"(ii) held or guaranteed by the Small Business Administration.".

(b) Effective Date.—The amendments made by this section shall apply to acquisitions made on or after the date of the enactment of this Act.

SEC. 643. CIVIL RIGHTS TAX RELIEF.

(a) Deduction Allowed Whether or Not Taxpayer Itemizes Other Deductions.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

"(19) Costs involving discrimination suits, etc.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code. The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.".

(b) Unlawful Discrimination Defined.—Section 62 is amended by adding at the end the following new subsection:

"(e) Unlawful discrimination defined.—For purposes of subsection (a)(19), the term 'unlawful discrimination' means an act that is unlawful under any of the following:

"(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

"(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

"(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

"(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

"(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

"(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

"(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

"(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

"(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

"(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

"(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

"(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

"(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3, or 2000e–16).

"(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

"(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

"(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

"(18) Any provision of Fderal, State, or local law, or common law claims permitted under Federal, State, or local law—

"(i) providing for the enforcement of civil rights, or

"(ii) regulating any aspect of the employment relationship, including claims for wages, compensation, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.".

(c) Effective Date.—The amendments made by this section shall apply to fees and costs paid after December 31, 2002, with respect to any judgment or settlement occurring after such date.

SEC. 644. EXCLUSION FOR PAYMENTS TO INDIVIDUALS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.

(a) In General.—Section 108(f) (relating to student loans) is amended by adding at the end the following new paragraph:

"(4) Payments under national health service corps loan repayment program and certain state loan repayment programs.—In the case of an individual, gross income shall not include any amount received under section 338B(g) of the Public Health Service Act or under a State program described in section 338I of such Act.".

(b) Treatment for Purposes of Employment Taxes.—Each of the following provisions is amended by inserting "108(f)(4)," after "74(c),":

(1) Section 3121(a)(20).

(2) Section 3231(e)(5).

(3) Section 3306(b)(16).

(4) Section 3401(a)(19).

(5) Section 209(a)(17) of the Social Security Act.

(c) Effective Date.—The amendments made by this section shall apply to amounts received by an individual in taxable years beginning after December 31, 2003.

SEC. 645. CERTAIN EXPENSES OF RURAL LETTER CARRIERS.

(a) In General.—Section 162(o) (relating to treatment of certain reimbursed expenses of rural mail carriers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) Special rule where expenses exceed reimbursements.—Notwithstanding paragraph (1)(A), if the expenses incurred by an employee for the use of a vehicle in performing services described in paragraph (1) exceed the qualified reimbursements for such expenses, such excess shall be taken into account in computing the miscellaneous itemized deductions of the employee under section 67.".

(b) Conforming Amendment.—The heading for section 162(o) is amended by striking "Reimbursed".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 646. METHOD OF ACCOUNTING FOR NAVAL SHIPBUILDERS.

(a) In General.—In the case of a qualified naval ship contract, the taxable income of such contract during the 5-taxable year period beginning with the taxable year in which the contract commencement date occurs shall be determined under a method identical to the method used in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

(b) Recapture of Tax Benefit.—In the case of a qualified naval ship contract to which subsection (a) applies, the taxpayer's tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the first taxable year following the 5-taxable year period described in subsection (a) shall be increased by the excess (if any) of—

(1) the amount of tax which would have been imposed during such period if this section had not been enacted, over

(2) the amount of tax so imposed during such period.

(c) Qualified Naval Ship Contract.—For purposes of this section—

(1) In general.—The term "qualified naval ship contract" means any contract or portion thereof that is for the construction in the United States of 1 ship or submarine for the Federal Government if the taxpayer reasonably expects the acceptance date will occur no later than 9 years after the construction commencement date.

(2) Acceptance date.—The term "acceptance date" means the date 1 year after the date on which the Federal Government issues a letter of acceptance or other similar document for the ship or submarine.

(3) Construction commencement date.—The term "construction commencement date" means the date on which the physical fabrication of any section or component of the ship or submarine begins.

(d) Effective Date.—This section shall apply to contracts for ships or submarines with respect to which the construction commencement date occurs after the date of the enactment of this Act.

SEC. 647. SUSPENSION OF POLICYHOLDERS SURPLUS ACCOUNT PROVISIONS.

(a) Distributions To Shareholders From Pre-1984 Policyholders Surplus Account.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following:

"(g) Special Rules Applicable During 2004 and 2005.—In the case of any taxable year of a stock life insurance company beginning after December 31, 2003, and before January 1, 2006—

"(1) the amount under subsection (a)(2) for such taxable year shall be treated as zero, and

"(2) notwithstanding subsection (b), in determining any subtractions from an account under subsections (c)(3) and (d)(3), any distribution to shareholders during such taxable year shall be treated as made first out of the policyholders surplus account, then out of the shareholders surplus account, and finally out of other accounts.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 648. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) In General.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: "For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 649. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) Replacement of Livestock With Other Farm Property.—Subsection (f) of section 1033 (relating to involuntary conversions) is amended—

(1) by inserting "drought, flood, or other weather-related conditions, or" after "because of",

(2) by inserting "in the case of soil contamination or other environmental contamination" after "including real property", and

(3) by striking "Where There Has Been Environmental Contamination" in the heading and inserting "in Certain Cases".

(b) Extension of Replacement Period of Involuntarily Converted Livestock.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking "Conditions.—For purposes" and inserting "Conditions.—

"(1) In general.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) Extension of replacement period.—

"(A) In general.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

"(B) Further extension by secretary.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.".

(c) Income Inclusion Rules.—Section 451(e) (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

"(3) Special election rules.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 650. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE.

(a) In General.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who elects the application of this section and who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement (hereafter in this section referred to as "termination payment") are considered to be received for property used in the trade or business of a motor vehicle retail sales and service dealership, and

(2) to the extent such termination payment is reinvested in property used in a motor vehicle retail sales and service dealership located within the United States, such property shall qualify as like-kind replacement property to which section 1031 of the Internal Revenue Code of 1986 shall apply with the following modifications:

(A) Such section shall be applied without regard to subparagraphs (A) and (B)(ii) of subsection (a)(3).

(B) The period described in section 1031(a)(3)(B) of such Code shall be applied by substituting "2 years" for "180 days".

(b) Rules for Election.—

(1) Form of election.—The taxpayer shall make an election under this section in such form and manner as the Secretary of the Treasury may prescribe and shall include in such election the amount of the termination payment received, the identification of the replacement property purchased, and such other information as the Secretary may prescribe.

(2) Election on amended return.—The Secretary of the Treasury shall permit an election under this section on an amended tax return for taxable years beginning before the date of the enactment of this Act.

(c) Statute of Limitations.—Notwithstanding the provisions of any other law or rule of law, the statutory period for the assessment for any deficiency attributable to any termination payment gain shall be extended until 3 years after the date the Secretary of the Treasury is notified by the taxpayer of the like-kind replacement property or an intention not to replace.

(d) Effective Date.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

SEC. 651. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) Renewal Communities.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

"(g) Expansion of Designated Areas.—

"(1) Expansion based on 2000 Census.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

"(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

"(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

"(2) Expansion to certain areas which do not meet population requirements.—

"(A) In general.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

"(B) Area.—An area is described in this subparagraph if—

"(i) the area is adjacent to at least 1 other area designated as a renewal community,

"(ii) the area has a population less than the population required under subsection (c)(2)(C), and

"(iii)(I) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or

"(II) the area contains a population of less than 100 people.

"(3) Applicability.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).".

(b) Effective Date.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

SEC. 652. REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.

(a) In General.—Subparagraph (A) of section 1231(b)(3) (relating to definition of property used in the trade or business) is amended by striking "and horses".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 653. BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM.

(a) Establishment.—

(1) In general.—There is established the "Blue Ribbon Commission on Comprehensive Tax Reform" (in this section referred to as the "Commission").

(2) Membership.—

(A) Composition.—The Commission shall be composed of 17 members of whom—

(i) 3 shall be appointed by the majority leader of the Senate;

(ii) 3 shall be appointed by the minority leader of the Senate;

(iii) 3 shall be appointed by the Speaker of the House of Representatives;

(iv) 3 shall be appointed by the minority leader of the House of Representatives; and

(v) 5 shall be appointed by the President, of which no more than 3 shall be of the same party as the President.

(B) Federal employees.—The members of the Commission may be employees or former employees of the Federal Government.

(C) Date.—The appointments of the members of the Commission shall be made not later than October 30, 2004.

(3) Period of appointment; vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) Meetings.—The Commission shall meet at the call of the Chairman.

(6) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) Chairman and vice chairman.—The President shall select a Chairman and Vice Chairman from among its members.

(b) Duties of the Commission.—

(1) Study.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(2) Recommendations.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(3) Report.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to subsection (a)(2), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) Powers of the Commission.—

(1) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(2) Information from federal agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) Postal services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) Commission Personnel Matters.—

(1) Compensation of members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) Travel expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5,

United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to the Commission to carry out this section.

SEC. 654. TREATMENT OF DISTRIBUTIONS BY ESOPS WITH RESPECT TO S CORPORATION STOCK.

(a) IN GENERAL.—Section 4975(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentences:

"A plan shall not be treated as violating the requirements of section 401, 409, or subsection (e)(7), or as engaging in a prohibited transaction for purposes of paragraph (3), merely by reason of any distribution described in section 1368(a) with respect to S corporation stock which constitutes qualifying employer securities if the distribution is, in accordance with the plan provisions, used to make payments on a loan described in paragraph (3) the proceeds of which were used to acquire the qualifying employer securities (whether or not allocated to participants). The preceding sentence shall not apply in the case of a distribution which is paid with respect to any employer security which is allocated to a participant unless the plan provides that employer securities with a fair market value of not less than the amount of such distribution are allocated to such participant for the year which (but for the preceding sentence) such distribution would have been allocated to such participant."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1998.

SEC. 655. CLARIFICATION OF WORKING CAPITAL FOR REASONABLY ANTICIPATED NEEDS OF A BUSINESS FOR PURPOSES OF ACCUMULATED EARNINGS TAX.

(a) IN GENERAL.—Section 537(b) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) WORKING CAPITAL.—The reasonably anticipated needs of a business for any taxable year shall include working capital for the business in an amount which is not less than the sum of the cost of goods, operating expenses, taxes, and interest expense which the business incurred during the preceding taxable year. Any amounts incurred as part of a plan a principal purpose of which is to increase the limitation under this subsection shall not be taken into account.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003, and before January 1, 2009.

SEC. 656. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation which is a real estate investment trust, which is a non-operating class III railroad, and substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons in railroad transportation, then, for purposes of section 115 of the Internal Revenue Code of 1986—

(1) income derived from such activities by the corporation shall be treated as accruing to the State, and

(2) such activities shall be treated as the exercise of an essential governmental function of the State to the extent such activities are of a type which are an essential government function (within the meaning of section 115 of such Code).

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of the corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—Any obligation issued by an entity described in subsection (a) shall be treated as an obligation of the State for purposes of applying section 103 and part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986.

(d) DEFINITIONS.—For purposes of this section—

(1) REAL ESTATE INVESTMENT TRUST.—The term "real estate investment trust" has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term "non-operating class III railroad" has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.) and the regulations thereunder.

(3) STATE.—The term "State" includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a).

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2005.

SEC. 657. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION FOR WATER AND SEWERAGE DISPOSAL UTILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 118(c)(3) (relating to definitions) is amended to read as follows:

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term—

"(i) shall include amounts paid as customer connection fees (including amounts paid to connect the customer's water service line or sewer lateral line to the utility's distribution or collection system or extend a main water or sewer line to provide service to a customer), and

"(ii) shall not include amounts paid as service charges for starting or stopping services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

SEC. 658. CREDIT FOR PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the water conservation system expenses paid or incurred by the taxpayer during such year.

"(b) LIMITATIONS.—The credit allowed by subsection (a) with respect to any acre of land which is served by a water conservation system shall not exceed the excess of—

"(1) $500, over

"(2) the amount of credit allowed under this section with respect to such acre for all prior taxable years.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any taxpayer if—

"(A) at least 50 percent of such taxpayer's gross income is normally derived from farm land, and

"(B) such taxpayer complies with all Federal, State, and local water rights and environmental laws.

"(2) WATER CONSERVATION SYSTEM EXPENSES.—

"(A) IN GENERAL.—The term 'water conservation system expenses' means expenses for the purchase and installation of a water conservation system but only if—

"(i) the land served by the water conservation system is entirely in a county or county-equivalent area which has received, in the taxable year the expenses were paid or incurred or in any of the 3 preceding taxable years, a primary-county designation due to drought by the Secretary of Agriculture, and

"(ii) such system is certified as saving at least 5 percent more irrigation water than the irrigation system which was used on such land immediately prior to the installation of such water conservation system.

For purposes of clause (ii), irrigation water savings shall be determined and certified under regulations prescribed jointly by the Natural Resources Conservation Service of the Department of Agriculture and the Bureau of Reclamation of the Department of the Interior. Such regulations shall include a list of individuals or organizations qualified to make such certification.

"(B) Water conservation system.—The term 'water conservation system' means, with respect to farm land—

"(i) new or replacement irrigation equipment and machinery, including sprinklers, pipes, siphons, nozzles, pumps, motors, and engines, and

"(ii) computer systems for irrigation and water management.

"(C) Farm land.—The term 'farm land' means land used in a trade or business by the taxpayer or a tenant of the taxpayer for—

"(i) the production of crops, fruits, or other agricultural products,

"(ii) the raising, harvesting, or growing of trees, or

"(iii) the sustenance of livestock.

"(d) Year Expenditure Made.—For purposes of this section, an expenditure with respect to a water conservation system shall be treated as made when the original installation of the system is completed.

"(e) Limitation Based on Amount of Tax.—

"(1) Liability for tax.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

"(B) the tentative minimum tax for the taxable year.

"(2) Carryforward of unused credit.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for the taxable year, the excess shall be carried to the succeeding taxable year and added to the amount allowable as a credit under subsection (a) for such succeeding taxable year.

"(f) Denial of Double Benefit.—No deduction shall be allowed under this chapter with respect to any expense which is taken into account in determining the credit under this section, and any increase in the basis of any property which would (but for this subsection) result from such expense shall be reduced by the amount of credit allowed under this section for such expense.

"(g) Termination.—This section shall not apply to amounts paid or incurred with respect any water conservation system the installation of which is completed after December 31, 2006.".

(b) Technical Amendment.—Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting "; and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f), in the case of amounts with respect to which a credit has been allowed under section 30B.".

(c) Clerical Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 30B. Purchase and installation of agricultural water conservation systems.".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act with respect any water conservation system the installation of which is completed after December 31, 2004.

SEC. 659. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.

(a) In General.—Subsection (g) of section 1400L is amended to read as follows:

"(g) Modification of Rules Applicable to Nonrecognition of Gain.—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

"(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

"(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.".

(b) Effective Date.—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

Subtitle F—Revenue Provisions

PART I—GENERAL REVENUE PROVISIONS

SEC. 661. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

Section 901, as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Regulations.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.".

SEC. 662. NONATTRIBUTION OF CERTAIN MANUFACTURING BY PERSONS OTHER THAN CONTROLLED FOREIGN CORPORATION.

(a) In General.—Section 954(d) (defining foreign base company sales income) is amended by adding at the end the following new paragraph:

"(5) Nonattribution of certain manufacturing activities.—For purposes of this subsection, in determining whether income of a controlled foreign corporation is foreign base company sales income, any manufacturing, production, or construction by a person other than an individual who is an employee of the corporation shall not be attributed to the corporation or taken into account in determining whether the property sold by such corporation has been sufficiently transformed as to constitute property different from the property purchased by such corporation."

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning on or after the date of the enactment of this Act, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) No inference.—Nothing in the amendment made by this section shall be construed to infer the proper treatment of manufacturing, production, or construction for taxable years beginning before the date of the enactment of this Act.

SEC. 663. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) In General.—Section 6404(g) (relating to suspension of interest and certain penalties where secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

PART II—PENSION AND DEFERRED COMPENSATION

SEC. 671. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following new section:

"SEC. 409A. INCLUSION IN GROSS INCOME OF DEFERRED COMPENSATION UNDER NONQUALIFIED DEFERRED COMPENSATION PLANS.

"(a) Rules Relating to Constructive Receipt.—

"(1) In general.—

"(A) Gross income inclusion.—If at any time during a taxable year a nonqualified deferred compensation plan—

"(i) fails to meet the requirements of paragraphs (2), (3), (4), and (5), or

"(ii) is not operated in accordance with such requirements,

all compensation deferred under the plan for the taxable year and all preceding taxable years shall be includible in gross income for the taxable year to the extent not subject to a substantial risk of forfeiture and not previously included in gross income.

"(B) Interest and additional tax payable with respect to previously deferred compensation.—

"(i) In general.—If compensation is required to be included in gross income under subparagraph (A) for a taxable year, the tax imposed by this chapter for the taxable year of inclusion shall be increased by the sum of—

"(I) the amount of interest determined under clause (ii), and

"(II) an amount equal to 10 percent of the compensation which is required to be included in gross income.

"(ii) Interest.—For purposes of clause (i), the interest determined under this clause for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable in which such deferred compensation is not subject to a substantial risk of forfeiture.

"(2) Distributions.—

"(A) In general.—The requirements of this paragraph are met if the plan provides that compensation deferred under the plan may not be distributed earlier than—

"(i) except as provided in subparagraph (B)(i), separation from service (as determined by the Secretary), "(ii) the date the participant becomes disabled (within the meaning of subparagraph (C)),

"(iii) death,

"(iv) a specified time (or pursuant to a fixed schedule) specified under the plan as of the date of the deferral of such compensation,

"(v) to the extent provided by the Secretary, a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation, or

"(vi) the occurrence of an unforeseeable emergency.

"(B) SPECIAL RULES.—

"(i) SEPARATION FROM SERVICE OF SPECIFIED EMPLOYEES.—In the case of specified employees, the requirement of subparagraph (A)(i) is met only if distributions may not be made earlier than 6 months after the date of separation from service. For purposes of the preceding sentence, a specified employee is a key employee (as defined in section 416(i)) of a corporation the stock in which is publicly traded on an established securities market or otherwise.

"(ii) CHANGES IN OWNERSHIP OR CONTROL.—In the case of a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, the requirement of subparagraph (A)(v) is met only if distributions may not be made earlier than 1 year after the date of the change in ownership or effective control.

"(iii) UNFORESEEABLE EMERGENCY.—For purposes of subparagraph (A)(vi)—

"(I) IN GENERAL.—The term 'unforeseeable emergency' means a severe financial hardship to the participant or beneficiary resulting from a sudden and unexpected illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in section 152(a)), loss of the participant's or beneficiary's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.

"(II) LIMITATION ON DISTRIBUTIONS.—The requirement of subparagraph (A)(vi) is met only if, as determined under regulations of the Secretary, the amounts distributed with respect to an emergency do not exceed the amounts necessary to satisfy such emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the participant's or beneficiary's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship).

"(C) DISABLED.—For purposes of subparagraph (A)(ii), a participant shall be considered disabled if the participant—

"(i) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or

"(ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the participant's employer .

"(3) INVESTMENT OPTIONS.—The requirements of this paragraph are met if the plan provides that the investment options a participant may elect under the plan—

"(A) are comparable to the investment options which a participant may elect under the qualified employer plan of the employer which has the fewest investment options, or

"(B) if there is no such qualified employer plan, meet such requirements as the Secretary may prescribe (including requirements limiting such options to permissible investment options specified by the Secretary).

"(4) ACCELERATION OF BENEFITS.—The requirements of this paragraph are met if the plan does not permit the acceleration of the time or schedule of any payment under the plan, except as provided by the Secretary.

"(5) ELECTIONS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the requirements of subparagraphs (B) and (C) are met.

"(B) INITIAL DEFERRAL DECISION.—The requirements of this subparagraph are met if the plan provides that compensation earned during a taxable year may be deferred at the participant's election only if the election to defer such compensation is made during the preceding taxable year or at such other time as provided in regulations. In the case of the first year in which a participant becomes eligible to participate in the plan, such election may be made with respect to services to be performed subsequent to the election within 30 days after the date the participant becomes eligible to participate in such plan.

"(C) CHANGES IN TIME AND FORM OF DISTRIBUTION.—The requirements of this subparagraph are met if, in the case of a plan which permits under a subsequent election a delay in a payment or a change in the form of payment—

"(i) the plan requires that such election may not take effect until at least 12 months after the date on which the election is made,

"(ii) in the case an election related to a payment not described in clause (ii), (iii), or (vi) of paragraph (2)(A), the plan requires that the first payment with respect to which such election is made be deferred for a period of not less than 5 years from the date such payment would otherwise have been made, and

"(iii) the plan requires that any election related to a payment described in paragraph (2)(A)(iv) may not be made less than 12 months prior to the date of the first scheduled payment under such paragraph.

A plan shall be treated as failing to meet the requirements of this subparagraph if the plan permits more than 1 subsequent election to delay any payment.

"(b) RULES RELATING TO FUNDING.—

"(1) OFFSHORE PROPERTY IN A TRUST.—In the case of assets set aside (directly or indirectly) in a trust (or other arrangement determined by the Secretary) for purposes of paying deferred compensation under a nonqualified deferred compensation plan, such assets shall be treated for purposes of section 83 as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors—

"(A) at the time set aside if such assets are located outside of the United States, or

"(B) at the time transferred if such assets are subsequently transferred outside of the United States.

This paragraph shall not apply to assets located in a foreign jurisdiction if substantially all of the services to which the nonqualified deferred compensation relates are performed in such jurisdiction.

"(2) EMPLOYER'S FINANCIAL HEALTH.—In the case of a nonqualified deferred compensation plan, there is a transfer of property within the meaning of section 83 as of the earlier of—

"(A) the date on which the plan first provides that assets will become restricted to the provision of benefits under the plan in connection with a change in the employer's financial health, or

"(B) the date on which assets are so restricted.

"(3) INCOME INCLUSION FOR OFFSHORE TRUSTS AND EMPLOYER'S FINANCIAL HEALTH.—For each taxable year that assets treated as transferred under this subsection remain set aside in a trust or other arrangement subject to paragraph (1) or (2), any increase in value in, or earnings with respect to, such assets shall be treated as an additional transfer of property under this subsection (to the extent not previously included in income).

"(4) 'INTEREST ON TAX LIABILITY PAYABLE WITH RESPECT TO TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—If amounts are required to be included in gross income by reason of paragraph (1) or (2) for a taxable year, the tax imposed by this chapter for such taxable year shall be increased by the sum of—

"(i) the amount of interest determined under subparagraph (B), and

"(ii) an amount equal to 10 percent of the amounts required to be included in gross income.

"(B) INTEREST.—For purposes of subparagraph (A), the interest determined under this subparagraph for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the amounts been includible in gross income for the taxable year in which first deferred or, if later, the first taxable in which such amounts is not subject to a substantial risk of forfeiture.

"(c) NO INFERENCE ON EARLIER INCOME INCLUSION.—Nothing in this section shall be construed to prevent the inclusion of amounts in gross income under any other provision of this chapter or any other rule of law earlier than the time provided in this section. Any amount included in gross income under this section shall not be required to be included in gross income under any other provision of this chapter or any other rule of law later than the time provided in this section.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) NONQUALIFIED DEFERRED COMPENSATION PLAN.—The term 'nonqualified deferred compensation plan' means any plan that provides for the deferral of compensation, other than—

"(A) a qualified employer plan, and

"(B) any bona fide vacation leave, sick leave, compensatory time, disability pay, or death benefit plan.

"(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

"(B) any eligible deferred compensation plan (within the meaning of section 457(b)) of an employer described in section 457(e)(1)(A).

"(3) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement, including an agreement or arrangement that includes one person.

"(4) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

"(5) Treatment of earnings.—References to deferred compensation shall be treated as including references to income (whether actual or notional) attributable to such compensation or such income.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the determination of amounts of deferral in the case of a nonqualified deferred compensation plan which is a defined benefit plan,

"(2) relating to changes in the ownership and control of a corporation or assets of a corporation for purposes of subsection (a)(2)(A)(v),

"(3) exempting arrangements from the application of subsection (b) if such arrangements will not result in an improper deferral of United States tax and will not result in assets being effectively beyond the reach of creditors,

"(4) defining financial health for purposes of subsection (b)(2), and

"(5) disregarding a substantial risk of forfeiture in cases where necessary to carry out the purposes of this section."

(b) Application of Golden Parachute Payment Provisions.—Section 280G(b) of such Code (defining excess parachute payment) is amended by adding at the end the following new paragraph:

"(7) Special rules for certain payments from nonqualified deferred compensation plans.—

"(A) In general.—In the case of any applicable payment—

"(i) such payment shall be treated as a parachute payment without regard to any exception otherwise applicable under this subsection, and

"(ii) notwithstanding paragraph (1), the entire amount of the payment shall be treated as an excess parachute payment.

"(B) Coordination with other payments.—An applicable payment shall be taken into account in determining whether any payment other than an applicable payment is a parachute payment under paragraph (2) or an excess parachute payment under paragraph (1).

"(C) Applicable payment.—For purposes of this paragraph, the term 'applicable payment' means any distribution (including any distribution treated as a parachute payment without regard to this paragraph) from a nonqualified deferred compensation plan (as defined in section 409A(d)) which is made—

"(i) to a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, and

"(ii) during the 1-year period following a change in the ownership or effective control of the corporation or in the ownership of a substantial portion of the assets of the corporation.

"(D) No double counting.—Under regulations, proper adjustments shall be made in the application of this paragraph to prevent a deduction from being disallowed more than once."

(c) W–2 Forms.—

(1) In general.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and", by striking the period at the end of paragraph (12) and inserting ", and", and by inserting after paragraph (12) the following new paragraph:

"(13) the total amount of deferrals under a nonqualified deferred compensation plan (within the meaning of section 409A(d))."

(2) Threshold.—Subsection (a) of section 6051 is amended by adding at the end the following: "In the case of the amounts required to be shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply."

(d) Conforming and Clerical Amendments.—

(1) Section 414(b) is amended by inserting "409A," after "408(p),".

(2) Section 414(c) is amended by inserting "409A," after "408(p),".

(3) The table of sections for such subpart A is amended by adding at the end the following new item:

"Sec. 409A. Inclusion in gross income of deferred compensation under nonqualified deferred compensation plans."

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to amounts deferred in taxable years beginning after December 31, 2004.

(2) Earnings attributable to amount previously deferred.—The amendments made by this section shall apply to earnings on deferred compensation only to the extent that such amendments apply to such compensation.

(f) Guidance Relating to Change of Ownership or Control.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance on what constitutes a change in ownership or effective control for purposes of section 409A of the Internal Revenue Code of 1986, as added by this section.

(g) Guidance Relating to Termination of Certain Existing Arrangements.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance providing a limited period during which an individual participating in a nonqualified deferred compensation plan adopted on or before December 31, 2004, may, without violating the requirements of paragraphs (2), (3), (4), and (5) of section 409A(a)(2) of the Internal Revenue Code of 1986 (as added by this section), terminate participation or cancel an outstanding deferral election with regard to amounts earned after December 31, 2004, if such amounts are includible in income as earned.

SEC. 672. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.

(a) In General.—Section 83 (relating to property transferred in connection with performance of services) is amending by adding at the end the following new subsection:

"(i) Prohibition on Additional Deferral Through Deferred Compensation Arrangements.—If a taxpayer elects to exchange an option to purchase employer securities—

"(1) to which subsection (a) applies, or

"(2) which is described in subsection (e)(3),

or any other property based on employer securities transferred to the taxpayer, for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term 'employer securities' includes any security issued by the employer."

(b) Controlled Group Rules.—Section 414(t)(2) is amended by inserting "83(i)," after "79,".

(c) Effective Date.—The amendments made by this section shall apply to any exchange after December 31, 2004.

SEC. 673. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS IN EXCESS OF $1,000,000.

(a) In General.—If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent (or the corresponding rate in effect under section 1(i)(2) of the Internal Revenue Code of 1986 for taxable years beginning in the calendar year in which the payment is made).

(b) Special Rule for Large Payments.—

(1) In general.—Notwithstanding subsection (a), if the supplemental wage payment, when added to all such payments previously made by the employer to the employee during the calendar year, exceeds $1,000,000, the rate used with respect to such excess shall be equal to the maximum rate of tax in effect under section 1 of such Code for taxable years beginning in such calendar year.

(2) Aggregation.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subsection.

(c) Conforming Amendment.—Section 13273 of the Revenue Reconciliation Act of 1993 (Public Law 103–66) is repealed.

(d) Effective Date.—The provisions of, and the amendment made by, this section shall apply to payments made after December 31, 2003.

SEC. 674. TREATMENT OF SALE OF STOCK ACQUIRED PURSUANT TO EXERCISE OF STOCK OPTIONS TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) In General.—Section 421 of the Internal Revenue Code of 1986 (relating to general rules for certain stock options) is amended by adding at the end the following new subsection:

"(d) Certain Sales To Comply With Conflict-of-Interest Requirements.—If—

"(1) a share of stock is transferred to an eligible person (as defined in section 1043(b)(1)) pursuant to such person's exercise of an option to which this part applies, and

"(2) such share is disposed of by such person pursuant to a certificate of divestiture (as defined in section 1043(b)(2)),

such disposition shall be treated as meeting the requirements of section 422(a)(1) or 423(a)(1), whichever is applicable."

(b) Effective Date.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 675. DETERMINATION OF BASIS OF AMOUNTS PAID FROM FOREIGN PENSION PLANS.

(a) In General.—Section 72 of the Internal Revenue Code of 1986 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (w) as subsection (x) by inserting subsection (v) the following new subsection:

"(w) Determination of Basis of Foreign Pension Plans.—Notwithstanding any other provision of this section, for purposes of determining the portion of any distribution from a foreign pension plan which is includible in gross income of the distributee, the investment in the contract with respect to the plan shall not include employer or employee contributions to the plan (or any earnings on such contributions) unless such contributions or earnings were subject to taxation by the United States or any foreign government."

(b) Effective Date.—The amendments made by this section shall apply to distributions on or after the date of the enactment of this Act.

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) In General.—Section 9812(f) is amended—

(1) by striking "and" at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

"(2) on or after January 1, 2004, and before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act, and

"(3) after December 31, 2005.".

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(d) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall apply to benefits for services furnished on or after December 31, 2003.

(2) Subsections (b) and (c).—The amendments made by subsections (b) and (c) shall apply to benefits for services furnished on or after December 31, 2004.

SEC. 702. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) Permanent Extension of Credit.—

(1) In general.—Section 51(c) is amended by striking paragraph (4).

(2) Long-term family assistance recipients.—

(A) In general.—Section 51A is amended by striking subsection (f).

(B) Conforming amendments.—

(i) The heading for section 51A is amended by striking "temporary".

(ii) The item relating to section 51A in the table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking "Temporary incentives" and inserting "Incentives".

(b) Eligibility of Ex-Felons Determined Without Regard to Family Income.—Paragraph (4) of section 51(d) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) Increase in Maximum Age for Eligibility of Food Stamp Recipients.—Clause (i) of section 51(d)(8)(A) is amended by striking "25" and inserting "40".

(d) Increase in Maximum Age for Designated Community residents.—

(1) In general.—Paragraph (5) of section 51(d) is amended to read as follows:

"(5) Designated community residents.—

"(A) In general.—The term 'designated community resident' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 40 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

"(B) Individual must continue to reside in zone or community.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community."

(2) Conforming amendment.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

"(D) a designated community resident,".

(e) Effective Dates.—

(1) Extension of credits.—The amendments made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

(2) Modifications.—The amendments made by subsections (b), (c), and (d) shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 703. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) In General.—Paragraph (1) of section 51(d) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) a long-term family assistance recipient."

(b) Long-Term Family Assistance Recipient.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) Long-term family assistance recipient.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation."

(c) Increased Credit for Employment of Long-Term Family Assistance Recipients.—Section 51 is amended by inserting after subsection (d) the following new subsection:

"(e) Credit for Employment of Long-Term Family Assistance Recipients.—

"(1) In general.—With respect to the employment of a long-term family assistance recipient—

"(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

"(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

"(2) Qualified second-year wages.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

"(A) which are paid to a long-term family assistance recipient, and

"(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

"(3) Special rules for agricultural and railway labor.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

"(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'."

(d) Repeal of Separate Welfare-to-Work Credit.—

(1) In general.—Section 51A is hereby repealed.

(2) Clerical amendment.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(e) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 704. QUALIFIED ZONE ACADEMY BONDS.

(a) In General.—Paragraph (1) of section 1397E(e) is amended by striking "and 2003" and inserting "2003, 2004, and 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2003.

SEC. 705. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) In General.—Paragraph (1) of section 7652(f) is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(b) Effective Date.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

SEC. 706. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) Scientific Property Used for Research.—

(1) In general.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(2) Conforming amendment.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembling" after "construction".

(b) Computer Technology and Equipment for Educational Purposes.—

(1) In general.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(2) Special rule extended.—Section 170(e)(6)(G) is amended by striking "2003" and inserting "2005".

(3) Conforming amendments.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(c) Effective Date.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2003.

SEC. 707. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) In General.—Subparagraph (D) of section 62(a)(2) is amended by striking "or 2003" and inserting ", 2003, 2004, or 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

SEC. 708. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) Extension of Termination Date —Subsection (h) of section 198 is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 709. EXPANSION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) Extension of Tax-Exempt Bond Financing.—Subparagraph (D) of section 1400L(d)(2) is amended by striking "2005" and inserting "2006".

(b) Clarification of Bonds Eligible for Advance Refunding.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking ", or" and inserting "or the Municipal Assistance Corporation, or".

(c) Election Out Technical Amendment.—Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

"(5) Election out.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.".

(d) Effective date.—The amendments made by subsections (b) and (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 710. REPEAL OF REDUCTION OF DEDUCTIONS FOR MUTUAL LIFE INSURANCE COMPANIES.

(a) In General.—Section 809 of the Internal Revenue Code of 1986 (relating to reductions in certain deduction of mutual life insurance companies) is hereby repealed.

(b) Conforming Amendments.—

(1) Subsections (a)(2)(B) and (b)(1)(B) of section 807 of such Code are each amended by striking "the sum of (i)" and by striking "plus (ii) any excess described in section 809(a)(2) for the taxable year,".

(2)(A) The last sentence of section 807(d)(1) of such Code is amended by striking "section 809(b)(4)(B)" and inserting "paragraph (6)".

(B) Subsection (d) of section 807 of such Code is amended by adding at the end the following new paragraph:

"(6) Statutory reserves:—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c)."

(3) Subsection (c) of section 808 of such Code is amended to read as follows:

"(c) Amount of Deduction.—The deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year."

(4) Subparagraph (A) of section 812(b)(3) of such Code is amended by striking "sections 808 and 809" and inserting "section 808".

(5) Subsection (c) of section 817 of such Code is amended by striking "(other than section 809)".

(6) Subsection (c) of section 842 of such Code is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(7) The table of sections for subpart C of part I of subchapter L of chapter 1 of such Code is amended by striking the item relating to section 809.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 711. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) Designation of Zone.—Subsection (f) of section 1400 is amended by striking "December 31, 2003" both places it appears and inserting "December 31, 2005".

(b) Tax-Exempt Economic Development Bonds.—Subsection (b) of section 1400A is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(c) Zero Percent Capital Gains Rate.—

(1) In general.—Subsection (b) of section 1400B is amended by striking "January 1, 2004" each place it appears and inserting "January 1, 2006".

(2) Conforming amendments.—

(A) Section 1400B(e)(2) is amended—

(i) by striking "December 31, 2008" and inserting "December 31, 2010", and

(ii) by striking "2008" in the heading and inserting "2010".

(B) Section 1400B(g)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(C) Section 1400F(d) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(d) First-Time Homebuyer Credit.—Subsection (i) of section 1400C is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) Tax-exempt economic development bonds.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 712. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) In General.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

"(5) Disclosure for combined employment tax reporting.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 713. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) In General.—Paragraph (2) of section 26(a) is amended—

(1) by striking "RULE FOR 2000, 2001, 2002, AND 2003.—" and inserting "RULE FOR TAXABLE YEARS 2000 THROUGH 2004.—", and

(2) by striking "or 2003" and inserting "2003, or 2004".

(b) Conforming Provisions.—

(1) Section 904(h) is amended by striking "or 2003" and inserting "2003, or 2004".

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 714. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) In General.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) Effective Date.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 715. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) In General.—Subparagraph (H) of section 613A(c)(6) is amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 716. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 717. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 718. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 719. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) Amendment of Internal Revenue Code of 1986.—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking "December 31, 2005" and inserting "December 31, 2013".

(b) Amendments of ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2014", and

(B) by striking "Tax Relief Extension Act of 1999" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(c) Minimum Cost Requirements.—

(1) In general.—Section 420(c)(3)(E) is amended by adding at the end the following new clause:

"(ii) Insignificant cost reductions permitted.—

"(I) In general.—An eligible employer shall not be treated as failing to meet the requirements of this paragraph for any taxable year if, in lieu of any reduction of retiree health coverage permitted under the regulations prescribed under clause (i), the employer reduces applicable employer cost by an amount not in excess of the reduction in costs which would have occurred if the employer had made the maximum permissible reduction in retiree health coverage under such regulations. In applying such regulations to any subsequent taxable year, any reduction in applicable employer cost under this clause shall be treated as if it were an equivalent reduction in retiree health coverage.

"(II) Eligible employer.—For purposes of subclause (I), an employer shall be treated as an eligible employer for any taxable year if, for the preceding taxable year, the qualified current retiree health liabilities of the employer were at least 5 percent of the gross receipts of the employer. For purposes of this subclause, the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply in determining the amount of an employer's gross receipts."

(2) Conforming amendment.—Section 420(c)(3)(E) is amended by striking "The Secretary" and inserting:

"(i) In general.—The Secretary".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 720. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) In General.—Section 30(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) Conforming Amendments.—

(1) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(2) Section 55(c)(2) is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 721. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY.

(a) In General.—Paragraph (1) of section 179A(b) is amended to read as follows:

"(1) Qualified clean-fuel vehicle property.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

"(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

"(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(C) $50,000 in the case of—

"(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

Subtitle B—Revenue Provisions

SEC. 731. DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

(a) In General.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(11) Contributions of used motor vehicles, boats, and airplanes.—

"(A) In general.—In the case of a contribution of a qualified vehicle in excess of $500—

"(i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer's return of tax which includes the deduction, and

"(ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed under subsection (a) shall not exceed the gross proceeds received from such sale.

"(B) Content of acknowledgement.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

"(i) The name and taxpayer identification number of the donor.

"(ii) The vehicle identification number or similar number.

"(iii) In the case of a qualified vehicle to which subparagraph (A)(ii) applies and which is sold by the donee organization—

"(I) a certification that the vehicle was sold in an arm's length transaction between unrelated parties,

"(II) the gross proceeds from the sale, and

"(III) that the deductible amount may not exceed the amount of such gross proceeds.

"(iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—

"(I) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and

"(II) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.

"(C) Contemporaneous.—For purposes of subparagraph (A), an acknowledgement shall be considered to be contemporaneous if the donee organization provides it within 30 days of—

"(i) the sale of the qualified vehicle, or

"(ii) in the case of an acknowledgement including a certification described in subparagraph (B)(iv), the contribution of the qualified vehicle.

"(D) Information to secretary.—A donee organization required to provide an acknowledgement under this paragraph shall provide to the Secretary the information contained in the acknowledgement. Such information shall be provided at such time and in such manner as the Secretary may prescribe.

"(E) Qualified vehicle.—For purposes of this paragraph, the term 'qualified vehicle' means any—

"(i) self-propelled vehicle manufactured primarily for use on public streets, roads, and highways,

"(ii) boat, or

"(iii) airplane.

Such term shall not include any property which is described in section 1221(a)(1).

"(F) Regulations or other guidance.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this paragraph.".

(b) Penalty for Fraudulent Acknowledgments.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended adding at the end the following new section:

"SEC. 6717. FRAUDULENT ACKNOWLEDGMENTS WITH RESPECT TO DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

"Any donee organization required under section 170(f)(11)(A) to furnish a contemporaneous written acknowledgment to a donor which knowingly furnishes a false or fraudulent acknowledgment, or which knowingly fails to furnish such acknowledgment in the manner, at the time, and showing the information required under section 170(f)(11), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty equal to—

"(1) in the case of an acknowledgment with respect to a qualified vehicle to which section 170(f)(11)(A)(ii) applies, the greater of the value of the tax benefit to the donor or the gross proceeds from the sale of such vehicle, and

"(2) in the case of an acknowledgment with respect to any other qualified vehicle to which section 170(f)(11) applies, the greater of the value of the tax benefit to the donor or $5,000.".

(2) Conforming amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6717. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.".

(c) Effective Date.—The amendments made by this section shall apply to contributions after June 30, 2004.

SEC. 732. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine) is amended adding at the end the following new subparagraph:

"(M) Any trivalent vaccine against influenza.".

(b) Conforming Amendment.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act".

(b) Effective Date.—

(1) Sales, etc.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 733. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) In General.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) In general.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) Treatment of contingent payment convertible debt.—

"(A) In general.—In the case of a debt instrument which—

"(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

"(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

"(B) Special rule.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.".

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

"For the treatment of contingent payment convertible debt, see section 1275(d)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 734. MODIFICATION OF CONTINUING LEVY ON PAYMENTS TO FEDERAL VENDERS.

(a) IN GENERAL.—Section 6331(h) (relating to continuing levy on certain payments) is amended by adding at the end the following new paragraph:

"(3) INCREASE IN LEVY FOR CERTAIN PAYMENTS.—Paragraph (1) shall be applied by substituting '100 percent' for '15 percent' in the case of any specified payment due to a vendor of goods or services sold or leased to the Federal Government.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE VIII—ENERGY TAX INCENTIVES

SEC. 800. SHORT TITLE.

This title may be cited as the "Energy Tax Incentives Act".

Subtitle A—Renewable Electricity Production Tax Credit

SEC. 801. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—Subsection (c) of section 45 (relating to electricity produced from certain renewable resources) is amended to read as follows:

"(c) QUALIFIED ENERGY RESOURCES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified energy resources' means—

"(A) wind,

"(B) closed-loop biomass,

"(C) open-loop biomass,

"(D) geothermal energy,

"(E) solar energy,

"(F) small irrigation power,

"(G) biosolids and sludge, and

"(H) municipal solid waste.".

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) OPEN-LOOP BIOMASS.—

"(A) IN GENERAL.—The term 'open-loop biomass' means—

"(i) any agricultural livestock waste nutrients, or

"(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush; but not including spent chemicals from pulp manufacturing,

"(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

"(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

"(B) AGRICULTURAL LIVESTOCK WASTE NUTRIENTS.—

"(i) IN GENERAL.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

"(ii) AGRICULTURAL LIVESTOCK.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

"(C) EXCEPTIONS.—The term 'open-loop biomass' does not include—

"(i) closed-loop biomass, or

"(ii) biomass burned in conjunction with fossil fuel (cofiring) beyond such fossil fuel required for startup and flame stabilization.

"(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

"(5) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.

"(6) BIOSOLIDS AND SLUDGE.—The term 'biosolids and sludge' means the residue or solids removed in the treatment of commercial, industrial, or municipal wastewater.

"(7) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).".

(b) EXTENSION AND EXPANSION OF QUALIFIED FACILITIES.—

(1) IN GENERAL.—Section 45 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED FACILITIES.—For purposes of this section—

"(1) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

"(2) CLOSED-LOOP BIOMASS FACILITY.—

"(A) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(B) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii)—

"(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than January 1, 2005,

"(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

"(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(3) OPEN-LOOP BIOMASS FACILITY.—

"(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity for grid sale in excess of its internal requirements, the term 'qualified facility' means any facility owned by the taxpayer which—

"(i) in the case of a facility using agricultural livestock waste nutrients, is originally placed in service after December 31, 2004, and before January 1, 2007, and

"(ii) in the case of any other facility, is originally placed in service before January 1, 2005.

"(B) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in subparagraph (A)(ii) which is placed in service before January 1, 2005—

"(i) subsection (a)(1) shall be applied by substituting '1.2 cents' for '1.5 cents', and

"(ii) the 5-year period beginning on January 1, 2005, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) CREDIT ELIGIBILITY.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

"(5) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007.

"(6) BIOSOLIDS AND SLUDGE FACILITY.—In the case of a facility using waste heat from the incineration of biosolids and sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account for purposes of the energy credit under section 46.

"(7) MUNICIPAL SOLID WASTE FACILITY.—

"(A) IN GENERAL.—In the case of a facility or unit incinerating municipal solid waste to produce electricity, the term 'qualified facility' means any facility or unit owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007.

"(B) SPECIAL RULE.—In the case of any facility or unit described in subparagraph (A), the 5-year period beginning on the date the facility or unit was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) CREDIT ELIGIBILITY.—In the case of any qualified facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.".

(2) No credit for certain production.—Section 45(e) (relating to definitions and special rules), as redesignated by paragraph (1), is amended by striking paragraph (6) and inserting the following new paragraph:

"(6) Operations inconsistent with solid waste disposal act.—In the case of a qualified facility described in subsection (d)(6)(A), subsection (a) shall not apply to electricity produced at such facility during any taxable year if, during a portion of such year, there is a certification in effect by the Administrator of the Environmental Protection Agency that such facility was permitted to operate in a manner inconsistent with section 4003(d) of the Solid Waste Disposal Act (42 U.S.C. 6943(d)).".

(3) Conforming amendment.—Section 45(e), as so redesignated, is amended by striking "subsection (c)(3)(A)" in paragraph (7)(A)(i) and inserting "subsection (d)(1)".

(c) Credit Rate for Electricity Produced From New Facilities.—

(1) In general.—Section 45(a) is amended by adding at the end the following new flush sentence:

"In the case of electricity produced after December 31, 2004, at any qualified facility originally placed in service after such date, paragraph (1) shall be applied by substituting '1.8 cents' for '1.5 cents'.".

(2) New rate not subject to inflation adjustment.—Section 45(b)(2) (relating to credit and phaseout adjustment based on inflation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any amount which is substituted for the 1.5 cent amount in subsection (a) by reason of any provision of this section.".

(d) Elimination of Certain Credit Reductions.—Section 45(b)(3)(A) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103, or any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).", and

(5) by striking "TAX-EXEMPT BONDS," in the heading and inserting "CERTAIN".

(e) Treatment of Persons Not Able To Use Entire Credit.—Section 45(e) (relating to definitions and special rules), as redesignated by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(8) Treatment of persons not able to use entire credit.—

"(A) Allowance of credit.—

"(i) In general.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) Persons described.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) Transfer of credit.—

"(i) In general.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) Regulations.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act.

"(D) Credit not income.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) Treatment of unrelated persons.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(g) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(2) Certain biomass facilities.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(3) Credit rate for new facilities.—The amendments made by subsection (c) shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(4) Nonapplication of amendments to preeffective date poultry waste facilities.—The amendments made by this section shall not apply with respect to any poultry waste facility (within the meaning of section 45(c)(3)(C), as in effect on December 31, 2004) placed in service on or before such date.

Subtitle B—Alternative Motor Vehicles and Fuels Incentives

SEC. 811. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) New Qualified Fuel Cell Motor Vehicle Credit.—

"(1) In general.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) Increase for fuel efficiency.—

"(A) In general.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

"(B) 2002 model year city fuel economy.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

"(ii) In the case of a light truck:

"If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

"(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck—

"(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

"(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

"If percentage of the maximum available power is:	The credit amount is:
At least 4 percent but less than 10 percent	$250
At least 10 percent but less than 20 percent	$500
At least 20 percent but less than 30 percent	$750
At least 30 percent	$1,000.

"(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

"(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$1,000
At least 30 percent but less than 40 percent	$1,750
At least 40 percent but less than 50 percent	$2,000
At least 50 percent but less than 60 percent	$2,250
At least 60 percent	$2,500.

"(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$4,000
At least 30 percent but less than 40 percent	$4,500
At least 40 percent but less than 50 percent	$5,000
At least 50 percent but less than 60 percent	$5,500
At least 60 percent	$6,000.

"(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

"If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	$6,000
At least 30 percent but less than 40 percent	$7,000
At least 40 percent but less than 50 percent	$8,000
At least 50 percent but less than 60 percent	$9,000
At least 60 percent	$10,000.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

"(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

"(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

"(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

"(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

"If the model year is:	The increased credit amount is:
2004	$2,500
2005	$2,000
2006	$1,500.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2004	$6,500
2005	$5,250
2006	$4,000.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

"If the model year is:	The increased credit amount is:
2004	$10,000
2005	$8,000
2006	$6,000.

"(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

"(ii) MAXIMUM AVAILABLE POWER.—

"(I) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

“(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

“(i) which draws propulsion energy from onboard sources of stored energy which are both—

“(I) an internal combustion or heat engine using consumable fuel, and

“(II) a rechargeable energy storage system,

“(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

“(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(iii) which, in the case of a heavy duty hybrid motor vehicle, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

“(iv) the original use of which commences with the taxpayer,

“(v) which is acquired for use or lease by the taxpayer and not for resale, and

“(vi) which is made by a manufacturer.

“(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term ‘consumable fuel’ means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

“(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term ‘heavy duty hybrid motor vehicle’ means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

“(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

“(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

“(A) 40 percent, plus

“(B) 30 percent, if such vehicle—

“(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

“(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act.

“(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

“(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified alternative fuel motor vehicle’ means any motor vehicle—

“(i) which is only capable of operating on an alternative fuel,

“(ii) the original use of which commences with the taxpayer,

“(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

“(iv) which is made by a manufacturer.

“(B) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

“(5) CREDIT FOR MIXED-FUEL VEHICLES.—

“(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

“(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

“(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

“(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘mixed-fuel vehicle’ means any motor vehicle described in subparagraph (C) or '(D) of paragraph (3), which—

“(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

“(ii) either—

“(I) has received a certificate of conformity under the Clean Air Act, or

“(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

“(iii) the original use of which commences with the taxpayer,

“(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

“(v) which is made by a manufacturer.

“(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

“(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘90/10 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

“(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

“(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

“(2) the tentative minimum tax for the taxable year.

“(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given such term by section 30(c)(2).

“(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

“(3) OTHER TERMS.—The terms ‘automobile’, ‘passenger automobile’, ‘medium duty passenger vehicle’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

“(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

“(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

“(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

“(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Recapture.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(8) Property used outside United States, etc., not qualified.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(9) Election to not take credit.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) Carryback and carryforward allowed.—

"(A) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before January 1, 2005.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) Interaction with air quality and motor vehicle safety standards.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) Regulations.—

"(1) In general.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) Coordination in prescription of certain regulations.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) Termination.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) Conforming Amendments.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 30B(f)(4).".

(2) Section 55(c)(2) is amended by inserting "30B(e)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 812. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) Amount of Credit.—

(1) In general.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) Limitation of credit according to type of vehicle.—Paragraph (1) of section 30(b) (relating to limitations) is amended to read as follows:

"(1) Limitation according to type of vehicle.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) except as provided in clause (ii) or (iii), $3,500,

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds, and

"(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act, the lesser of—

"(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(II) $1,500.

"(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.".

(b) Qualified Battery Electric Vehicle.—

(1) In general.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) Leased vehicles.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) Conforming amendments.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "Battery" after "Qualified".

(C) The heading of section 30 is amended by inserting "**BATTERY**" after "**QUALIFIED**".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) Additional Special Rules.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) No double benefit.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) Carryback and carryforward allowed.—

"(A) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before January 1, 2005.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 813. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) Credit Allowed.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) Limitation.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) Year Credit Allowed.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) NO DOUBLE BENEFIT.—

"(1) COORDINATION WITH OTHER DEDUCTIONS AND CREDITS.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(2) NO DEDUCTION ALLOWED UNDER SECTION 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—Subsection (f) of section 179A is amended to read as follows:

"(f) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 814. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	The applicable amount is—
2005 and 2006	50 cents.

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) SOLD AT RETAIL.—

"(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any new qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the alternative fuel retail sales credit determined under section 40A(a).".

(c) LIMITATION ON CARRYBACK.—

(1) IN GENERAL.—Subsection (d) of section 39, as amended by this Act, is amended to read as follows:

"(d) TRANSITIONAL RULE.—No portion of the unused business credit for any taxable year which is attributable to a credit specified in section 38(b) may be carried back to any taxable year before the first taxable year for which such specified credit is allowable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to taxable years beginning after December 31, 2003.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to fuel sold at retail after December 31, 2004, in taxable years ending after such date.

SEC. 815. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

"(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle C—Conservation and Energy Efficiency Provisions

SEC. 821. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

"(i) in the case of a 30-percent home, $1,000, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

"(i) 30-PERCENT HOME.—The term '30-percent home' means—

"(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment, or

"(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which would be described in clause (i)(I) if 50 percent were substituted for 30 percent.

"(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

"(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy credit (as determined under section 48(a)), and

"(B) expenditures taken into account under section 25D, 47, or 48(a) shall not be taken into account under this section.

"(3) PROVIDER LIMITATION.—Any eligible contractor who directly or indirectly provides the guarantee of energy savings under a guarantee-based method of certification described in subsection (d)(1)(D) shall not be eligible to receive the credit allowed by this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

"(A) the person who constructed the qualifying new home, or

"(B) in the case of a qualifying new home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system which can, individually or in combination with other components, meet the requirements of this section.

"(3) QUALIFYING NEW HOME.—

"(A) IN GENERAL.—The term 'qualifying new home' means a dwelling—

"(i) located in the United States,

"(ii) the construction of which is substantially completed after December 31, 2004, and

"(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

"(B) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method, a performance-based method, or a guarantee-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

"(C) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a new home—

"(I) heated by the same fuel type, and

"(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(D) GUARANTEE-BASED METHOD.—

"(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

"(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

"(A) in the case of a component-based method, a local building regulatory authority, a utility, or a home energy rating organization,

"(B) in the case of a performance-based method or a guarantee-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

"(C) in the case of a qualifying new home which is a manufactured home, a manufactured home primary inspection agency.

"(3) FORM.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

"(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

"(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coefficient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor (HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

"(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based and guarantee-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(e) APPLICATION.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after December 31, 2004, and purchased during the period beginning on such date and ending on—

"(1) in the case of any 30-percent home, December 31, 2005, and

"(2) in the case of any 50-percent home, December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) the new energy efficient home credit determined under section 45K(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45K(a).".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits), as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45K(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to homes the construction of which is substantially completed after December 31, 2004.

SEC. 822. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

"(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

"(1) APPLICABLE AMOUNT.—The applicable amount is—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

"(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

"(C) $150, in the case of a refrigerator manufactured before 2007 which consumes at least 20 percent less kilowatt hours per year than such energy conservation standards.

"(2) ELIGIBLE PRODUCTION.—

"(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

"(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2001, 2002, and 2003.

"(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

"(i) clothes washers described in paragraph (1)(A)(i),

"(ii) clothes washers described in paragraph (1)(B)(i),

"(iii) refrigerators described in paragraph (1)(A)(ii),

"(iv) refrigerators described in paragraph (1)(B)(ii), and

"(v) refrigerators described in paragraph (1)(C).

"(c) LIMITATION ON MAXIMUM CREDIT.—

"(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $60,000,000, of which not more than $30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

"(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

"(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

"(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

"(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

"(e) SPECIAL RULES.—

"(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

"(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

"(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(g) TERMINATION.—This section shall not apply—

"(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2005, and

"(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the energy efficient appliance credit determined under section 45L(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Energy efficient appliance credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2004, in taxable years ending after such date.

SEC. 823. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

"(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

"(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

"(B) $500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

"(C) for property described in subsection (d)(6)—

"(i) $150 for each electric heat pump water heater,

"(ii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

"(iii) $150 for each advanced natural gas, oil, or propane water heater,

"(iv) $50 for each natural gas, oil, or propane water heater,

"(v) $50 for an advanced main air circulating fan,

"(vi) $150 for each advanced combination space and water heating system,

"(vii) $50 for each combination space and water heating system, and

"(viii) $250 for each geothermal heat pump.

"(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER) for property described in subsection (d)(6)(B)(viii)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

"(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

"(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

"(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

"(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, “(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

“(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

“(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

“(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

“(e) SPECIAL RULES.—For purposes of this section—

“(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

“(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

“(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

“(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(3) CONDOMINIUMS.—

“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

“(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

“(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

“(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

“(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

“(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

“(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.”.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

“(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)” and inserting “subsection (b)(3)”.

(B) Section 23(b)(4)(B) is amended by inserting “and section 25C” after “this section”.

(C) Section 24(b)(3)(B) is amended by striking “23 and 25B” and inserting “23, 25B, and 25C”.

(D) Section 25(e)(1)(C) is amended by inserting “25C,” after “25B,”.

(E) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25C”.

(F) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25C”.

(G) Section 904(h) is amended by striking “and 25B” and inserting “25B, and 25C”.

(H) Section 1400C(d) is amended by striking “and 25B” and inserting “25B, and 25C”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting “, and”, and by adding at the end the following new paragraph:

“(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.”.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

“Sec. 25C. Residential energy efficient property.”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2004, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2004.

SEC. 824. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking “or” at the end of clause (i), by adding “or” at the end of clause (ii), and by inserting after clause (ii) the following new clause:

“(iii) qualified fuel cell property or qualified microturbine property,”.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

“(A) QUALIFIED FUEL CELL PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified fuel cell property’ means a fuel cell power plant which—

“(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

“(II) has an electricity-only generation efficiency greater than 30 percent.

“(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

“(iii) FUEL CELL POWER PLANT.—The term ‘fuel cell power plant’ means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

“(iv) TERMINATION.—The term ‘qualified fuel cell property’ shall not include any property placed in service after December 31, 2007.

“(B) QUALIFIED MICROTURBINE PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified microturbine property’ means a stationary microturbine power plant which—

“(I) has a capacity of less than 2,000 kilowatts, and

“(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

“(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

“(iii) STATIONARY MICROTURBINE POWER PLANT.—The term ‘stationary microturbine power plant’ means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) TERMINATION.—The term 'qualified microturbine property' shall not include any property placed in service after December 31, 2006.".

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 825. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

"SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) which is the type of structure to which the Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America is applicable.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) ENERGY EFFICIENT PROPERTY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'energy efficient property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

"(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

"(C) COMPUTER SOFTWARE.—

"(i) IN GENERAL.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

"(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

"(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

"(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

"(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

"(4) NOTICE TO OWNER.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

"(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

"(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

"(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

"(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

"(d) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(e) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (c)(2)(B) with respect to property which is part of a lighting system—

"(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1-2001.

"(2) REDUCTION IN CREDIT IF REDUCTION LESS THAN 40 PERCENT.—

"(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction of lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of credit otherwise allowable under this section with respect to such property shall be allowed.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

"(i) 50, and

"(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

"(C) EXCEPTIONS.—This subsection shall not apply to any system—

"(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1-2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

"(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

"(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 179B(d).".

(2) Section 1245(a) is amended by inserting "179B," after "179A," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179B".

(4) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by inserting after subparagraph (H) the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 179B.".

(5) Section 312(k)(3)(B) is amended by striking "or 179A" each place it appears in the heading and text and inserting ", 179A, or 179B".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

"Sec. 179B. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 826. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

"(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—

"(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

"(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

"(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (A)(iii) the following:

"(A)(iv) .... 20".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 827. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) QUALIFIED WATER SUBMETERING DEVICE.—

"(A) IN GENERAL.—The term 'qualified water submetering device' means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

"(B) WATER SUBMETERING DEVICE.—For purposes of this paragraph, the term 'water submetering device' means any submetering device which is used by the taxpayer—

"(i) to measure and record water usage data, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

"(C) ELIGIBLE RESUPPLIER.—For purposes of subparagraph (A), the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by inserting after the item relating to subparagraph (A)(iv) the following:

"(A)(v) .... 20".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 828. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit; reforestation credit), as amended by this Act, is amended by adding at the end the following new subsection:

"(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(iv)—

"(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(C) which produces—

"(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(D) the energy efficiency percentage of which exceeds 60 percent, and

"(E) which is placed in service before January 1, 2007.

"(2) SPECIAL RULES.—

"(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

"(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(ii) the denominator of which is the lower heating value of the fuel sources for the system.

"(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

"(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(D) PUBLIC UTILITY PROPERTY.—

"(i) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

"(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

"(A) paragraph (1)(D) shall not apply, but

"(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 829. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

“(b) Limitation.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

“(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) Qualified Energy Efficiency Improvements.—For purposes of this section, the term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which is certified to meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

“(1) such component or combination of measures is installed in or on a dwelling which—

“(A) is located in the United States,

“(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45K, and

“(C) is owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121),

“(2) the original use of such component or combination of measures commences with the taxpayer, and

“(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

“(e) Certification.—

“(1) Methods of certification.—

“(A) Component-based method.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

“(B) Performance-based method.—

“(i) In general.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

“(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

“(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

“(ii) Computer software.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

“(2) Provider.—A certification described in subsection (d) shall be provided by—

“(A) in the case of the method described in paragraph (1)(A), a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

“(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

“(3) Form.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

“(4) Regulations.—

“(A) In general.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

“(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

“(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

“(B) Providers.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

“(f) Definitions and Special Rules.—For purposes of this section—

“(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

“(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

“(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

“(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

“(3) Condominiums.—

“(A) In general.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual’s proportionate share of the cost of qualified energy efficiency improvements made by such association.

“(B) Condominium management association.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

“(4) Building envelope component.—The term ‘building envelope component’ means—

“(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

“(B) exterior windows (including skylights), and

“(C) exterior doors.

“(5) Manufactured homes included.—For purposes of this section, the term ‘dwelling’ includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

“(g) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(h) Termination.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.”.

(b) Credit Allowed Against Regular Tax and Alternative Minimum Tax.—

(1) In general.—Section 25D(b), as added by subsection (a), is amended—

(A) by striking “The credit” and inserting the following:

“(1) Dollar amount.—The credit”, and

(B) by adding at the end the following new paragraph:

“(2) Limitation based on amount of tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.”.

(2) Conforming amendments.—

(A) Section 25D(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)” and inserting “subsection (b)(2)”.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking “section 25C” and inserting “sections 25C and 25D”.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting “25D,” after “25C,”.

(E) Section 25B(g)(2), as amended by this Act, is amended by striking “23 and 25C” and inserting “23, 25C, and 25D”.

(F) Section 26(a)(1), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(G) Section 904(h), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) Additional Conforming Amendments.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting "; and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after December 31, 2004, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2004.

Subtitle D—Clean Coal Incentives

PART I—CREDIT FOR EMISSION REDUCTIONS AND EFFICIENCY IMPROVEMENTS IN EXISTING COAL-BASED ELECTRICITY GENERATION FACILITIES

SEC. 831. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) Credit for Production From a Qualifying Clean Coal Technology Unit.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) General Rule.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the applicable percentage of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

"(b) Applicable Amount.—

"(1) In general.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) Inflation adjustment.—For calendar years after 2005, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) Applicable Percentage.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualifying clean coal technology unit.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

"(A) on January 1, 2005—

"(i) was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit, and

"(ii) had a nameplate capacity rating of not more than 300 megawatts,

"(B) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on January 1, 2005,

"(C) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

"(D) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

"(2) Clean coal technology unit.—The term 'clean coal technology unit' means a unit which—

"(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology, for the production of electricity,

"(B) uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity,

"(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

"(D) has a maximum design net heat rate of not more than 9,500, and

"(E) meets the pollution control requirements of paragraph (3).

"(3) Pollution control requirements.—

"(A) In general.—A unit meets the requirements of this paragraph if—

"(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

"(I) subparagraph (B), or

"(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

"(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

"(B) Specific levels.—The levels specified in this subparagraph are—

"(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

"(ii) in the case of nitrogen oxide emissions—

"(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

"(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

"(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) Design net heat rate.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

"(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels, and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

"(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate [1 − {((12,000-design coal heat content, Btu per pound)/1,000) 0.013}],

"(C) shall be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute (psia),

"(iii) temperature, dry bulb of 63°F,

"(iv) temperature, wet bulb of 54°F, and

"(v) relative humidity of 55 percent, and

"(D) if carbon capture controls have been installed with respect to any qualifying unit and such controls remove at least 50 percent of the unit's carbon dioxide emissions, shall be adjusted up to the design heat rate level which would have resulted without the installation of such controls.

"(5) HHV.—The term 'HHV' means higher heating value.

"(6) Application of certain rules.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.

"(7) Inflation adjustment factor.—

"(A) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

"(B) GDP implicit price deflator.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(8) Noncompliance with pollution laws.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(e) National Limitation on the Aggregate Capacity of Qualifying Clean Coal Technology Units.—

"(1) In general.—For purposes of this section, the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

"(2) Allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection, "(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the megawatt capacity allocated to any unit under this subsection does not exceed 300 megawatts and the combined megawatt capacity allocated to all such units when all such units are placed in service during the 10-year period described in subsection (d)(1)(B), does not exceed 4,000 megawatts,

"(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

"(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance, be placed in service as soon as possible, and

"(ii) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

"(I) a site,

"(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

"(III) filings for all necessary preconstruction approvals,

"(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

"(V) such other factors that the Secretary determines are appropriate,

"(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

"(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units which become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", plus", and by adding at the end the following new paragraph:

"(25) the qualifying clean coal technology production credit determined under section 45M(a).".

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Credit for production from a qualifying clean coal technology unit.".

(d) Effective Date.—The amendments made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

PART II—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

SEC. 832. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) Allowance of Qualifying Advanced Clean Coal Technology Unit Credit.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the qualifying advanced clean coal technology unit credit.".

(b) Amount of Qualifying Advanced Clean Coal Technology Unit Credit.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) In General.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) Qualifying Advanced Clean Coal Technology Unit.—

"(1) In general.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

"(A)(i) in the case of a unit first placed in service after December 31, 2004, the original use of which commences with the taxpayer, or

"(ii) in the case of the retrofitting or repowering of a unit first placed in service before January 1, 2005, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) Special rule for sale-leasebacks.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) Noncompliance with pollution laws.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) Applicable Percentage.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) Advanced Clean Coal Technology Unit.—For purposes of this section—

"(1) In general.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) Eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after December 31, 2004, and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,500 (8,900 in the case of units placed in service before 2009).

"(3) Eligible pressurized fluidized bed combustion technology unit.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after December 31, 2004, and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013).

"(4) Eligible integrated gasification combined cycle technology unit.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after December 31, 2004, and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2009, and 40.2 percent in the case of units placed in service after 2008 and before 2013).

"(5) Eligible other technology unit.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after December 31, 2004, and before January 1, 2017.

"(6) CARBON EMISSION RATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45M shall have the meaning given such term in section 45M.

"(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45N,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45M(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45M(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of this subsection, the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(ii), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) QUALIFIED PROGRESS EXPENDITURES.—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following rules shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction the numerator of which is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and the denominator of which is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting ", (2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced clean coal technology unit credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2004, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 833. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45N. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(A) If the qualifying advanced clean coal technology unit is producing electricity only:

"(i) In the case of a unit originally placed in service before 2009, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

"(B) If the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(i) In the case of a unit originally placed in service before 2009, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.2 percent	$.0060	$.0038
Less than 40.2 but not less than 39 percent	$.0025	$.0010
Less than 39 but not less than 38.4 percent	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	$.0105	$.0090
Less than 43.9 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 46.3 percent	$.0140	$.0115
Less than 46.3 but not less than 44.2 percent	$.0120	$.0090.

"(2) Special rule for units qualifying for greater applicable amount when placed in service.—If, at the time a qualifying advanced clean coal technology unit is placed in service, production from the unit would be entitled to a greater applicable amount if such unit had been placed in service at a later date, the applicable amount for such unit shall be such greater amount.

"(c) Inflation Adjustment.—For calendar years after 2005, each dollar amount in subsection (b)(1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) In general.—Any term used in this section which is also used in section 45M or 48A shall have the meaning given such term in such section.

"(2) Applicable rules.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", plus", and by adding at the end the following new paragraph:

"(26) the qualifying advanced clean coal technology production credit determined under section 45N(a).".

(c) Denial of Double Benefit.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) Denial of double benefit.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45N.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45N. Credit for production from a qualifying advanced clean coal technology unit.".

(e) Effective Date.—The amendments made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

PART III—TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT

SEC. 834. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) In General.—Section 45M, as added by this Act, is amended by adding at the end the following new subsection:

"(f) Treatment of Person Not Able To Use Entire Credit.—

"(1) Allowance of credits.—

"(A) In general.—Any credit allowable under this section, section 45N, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) Persons described.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) Transfer of credit.—

"(A) In general.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) Regulations.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) Use by TVA.—

"(A) In general.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) Treatment of credits.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) Credit carryover.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) Credit not income.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) Treatment of unrelated persons.—For purposes of this subsection, transfers among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(B) shall be treated as transfers between unrelated parties.".

(b) Effective Date.—The amendment made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

Subtitle E—Oil and Gas Provisions

SEC. 841. OIL AND GAS FROM MARGINAL WELLS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45O. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) General Rule.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) Reduction as oil and gas prices increase.—

"(A) In general.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) Inflation adjustment.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 2005, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) Inflation adjustment factor.—For purposes of clause (i)—

"(I) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2004.

"(II) GDP implicit price deflator.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(C) Reference price.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

"(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

"(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) PROPORTIONATE REDUCTIONS.—

"(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

"(4) DEFINITIONS.—

"(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(D) DOMESTIC NATURAL GAS.—The term 'domestic natural gas' does not include Alaska natural gas (as defined in section 45Q(c)(1)).

"(d) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ", plus", and by adding at the end the following new paragraph:

"(27) the marginal oil and gas well production credit determined under section 45O(a).".

(c) COORDINATION WITH SECTION 29.—Section 29(a) (relating to allowance of credit) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45O. Credit for producing oil and gas from marginal wells.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2004.

SEC. 842. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) NATURAL GAS GATHERING LINE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

"(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(ii) .... 14".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 843. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) TREATMENT AS EXPENSES.—A small business refiner (as defined in section 45I(c)(1)) may elect to treat 75 percent of qualified capital costs (as defined in section 45I(c)(2)) which are paid or incurred by the taxpayer during the taxable year as expenses which are not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which paid or incurred.

"(b) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in subsection (a) shall be reduced (not below zero) by the product of such number (before the application of this subsection) and the ratio of such excess to 50,000 barrels. For purposes of calculating such average daily domestic refinery runs, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(c) BASIS REDUCTION.—

"(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.".

"(d) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting "; or", and by adding at the end the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179B" each place it appears in the heading and text and inserting "179B, or 179C".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 179C(c)."

(5) Paragraphs (2)(C) and (3)(C) of section 1245(a), as amended by this Act, are each amended by inserting "179C," after "179B,".

(5) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 844. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45P. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

"(a) IN GENERAL.—For purposes of section 38, the amount of the low sulfur diesel fuel production credit determined under this section with respect to any facility of a small business refiner is an amount equal to 5 cents for each gallon of low sulfur diesel fuel produced during the taxable year by such small business refiner at such facility.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—The aggregate credit determined under subsection (a) for any taxable year with respect to any facility shall not exceed—

"(A) 25 percent of the qualified capital costs incurred by the small business refiner with respect to such facility, reduced by

"(B) the aggregate credits determined under this section for all prior taxable years with respect to such facility.

"(2) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in paragraph (1) shall be reduced (not below zero) by the product of such number (before the application of this paragraph) and the ratio of such excess to 50,000 barrels. For purposes of calculating such average daily domestic refinery runs, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

"(A) with respect to which not more than 1,500 individuals are engaged in the refinery operations of the business on any day during such taxable year, and

"(B) the average daily domestic refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on December 31, 2002, did not exceed 205,000 barrels.

For purposes of calculating such average daily domestic refinery run or retained production, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(2) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means, with respect to any facility, those costs paid or incurred during the applicable period for compliance with the applicable EPA regulations with respect to such facility, including expenditures for the construction of new process operation units or the dismantling and reconstruction of existing process units to be used in the production of low sulfur diesel fuel, associated adjacent or offsite equipment (including tankage, catalyst, and power supply), engineering, construction period interest, and sitework.

"(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

"(4) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on January 1, 2003, and ending on the earlier of the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility or December 31, 2009.

"(5) LOW SULFUR DIESEL FUEL.—The term 'low sulfur diesel fuel' means diesel fuel with a sulfur content of 15 parts per million or less.

"(6) SPECIAL RULE FOR DETERMINATION OF REFINERY RUNS.—Refinery runs shall be determined under rules similar to the rules under section 613A(d)(4).

"(d) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

"(e) CERTIFICATION.—

"(1) REQUIRED.—No credit shall be allowed unless, not later than the date which is 30 months after the first day of the first taxable year in which the low sulfur diesel fuel production credit is allowed with respect to a facility, the small business refiner obtains certification from the Secretary, after consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, after consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

"(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

"(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends with respect to the taxpayer, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(f) COOPERATIVE ORGANIZATIONS.—

"(1) APPORTIONMENT OF CREDIT.—

"(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(B) FORM AND EFFECT OF ELECTION.—An election under subparagraph (A) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

"(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(3) SPECIAL RULE.—If for any reason the tax imposed with respect to any patron of a cooperative organization would, but for this paragraph, be increased by any amount by reason of a credit apportioned to such patron under this subsection—

"(A) the amount of such increase in tax shall not be imposed on such patron, and

"(B) the tax imposed by this chapter on such organization shall be increased by such amount.

The increase under subparagraph (B) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ", plus", and by adding at the end the following new paragraph:

"(28) in the case of a small business refiner, the low sulfur diesel fuel production credit determined under section 45P(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding after subsection (d) the following new subsection:

"(e) LOW SULFUR DIESEL FUEL PRODUCTION CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45P(a).".

(d) BASIS ADJUSTMENT.—Section 1016(a) (relating to adjustments to basis), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) in the case of a facility with respect to which a credit was allowed under section 45P, to the extent provided in section 45P(d).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45P. Credit for production of low sulfur diesel fuel.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 845. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after December 31, 2004.

SEC. 846. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking "2005" and inserting "2007".

SEC. 847. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) In General.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Amortization of Delay Rental Payments for Domestic Oil and Gas Wells.—

"(1) In general.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

"(2) Half-year convention.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) Exclusive method.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) Treatment upon abandonment.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

"(5) Delay rental payments.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2004.

SEC. 848. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Amortization of Geological and Geophysical Expenditures.—

"(1) In general.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

"(2) Special rules.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.".

(b) Conforming Amendment.—Section 263A(c)(3) is amended by inserting "167(h), 167(i)," after "under section".

(c) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.

SEC. 849. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) In General.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

"(h) Extension for Other Facilities.—

"(1) Oil and gas.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after December 31, 2004, and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) Facilities producing fuels from agricultural and animal waste.—

"(A) In general.—In the case of a facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

"(B) Qualified agricultural and animal waste.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

"(3) Wells producing viscous oil.—

"(A) In general.—In the case of a well for producing viscous oil which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

"(B) Viscous oil.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) Waiver of unrelated person requirement.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) Facilities producing refined coal.—

"(A) In general.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

"(B) Refined coal.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) Covered facilities.—

"(i) In general.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) Qualified emission reduction.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2004.

"(iii) Qualified enhanced value.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iv) Qualifying advanced clean coal technology units excluded.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

"(5) Coalmine gas.—

"(A) In general.—This section shall apply to coalmine gas—

"(i) captured or extracted by the taxpayer during the period beginning after December 31, 2004, and ending before January 1, 2007, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

"(B) Coalmine gas.—For purposes of this paragraph, the term 'coalmine gas' means any methane gas which is—

"(i) liberated during or as a result of coal mining operations, or

"(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

"(C) Special rule for advanced extraction.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

"(D) Noncompliance with pollution laws.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State and Federal pollution prevention, control, and permit requirements.

"(6) Special rules.—In determining the amount of credit allowable under this section solely by reason of this subsection—

"(A) Fuels treated as qualified fuels.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

"(B) Daily limit.—The amount of qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1) sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

"(C) Extension period to commence with unadjusted credit amount and new phase-out adjustment.—For purposes of applying subsection (b)(2), in the case of fuels sold after 2003—

"(i) paragraphs (1)(A) and (2) of subsection (b) shall be applied by subtituting '$35.00' for '$23.50', and

"(ii) subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979' in determining such dollar amounts.".

(b) Extension for certain fuel produced at existing facilities.—

(1) Extension.—Section 29(f)(2) (relating to application of section) is amended by inserting "(January 1, 2006, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(2) Use of credit as an offset.—Section 29, as amended by subsection (a), is amended by adding the end the following new subsection:

"(i) Use of Credit as an Offset.—

"(1) In general.—Any credit allowable under subsection (a) with respect to any natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B) owned by a person described in section 1381(a)(2)(C) or subsidiaries of such person may be used as provided in paragraph (2).".

"(2) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1), any credit to which paragraph (1) applies may be applied by such person—

"(A) to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, and

"(B) to the extent provided by the Secretary of Energy, as a prepayment not to exceed 50 percent of any obligation the person has incurred pursuant to an asset purchase agreement entered into with the Secretary and dated October 7, 1988.

"(3) Credit not income.—Any use under paragraph (2) of any credit to which paragraph (1) applies shall not be treated as income for purposes of this title.

"(4) Treatment of unrelated persons.—For purposes of subsection (a)(2)(A), sales of qualified fuels among and between persons described in paragraph (1) shall be treated as sales between unrelated parties.".

(c) Treatment as Business Credit.—

(1) Credit moved to subpart relating to business related credits.—The Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating section 29, as amended by this Act, as section 45R and by moving section 45R (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) Credit Treated as Business Credit.—Section 38(b) is amended by striking "plus" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following:

"(31) the nonconventional source production credit determined under section 45R(a).".

(3) Conforming Amendments.—

(A) Section 30(b)(2)(A), as redesignated by this Act, is amended by striking "sections 27 and 29" and inserting "section 27".

(B) Sections 43(b)(2) and 613A(c)(6)(C) are each amended by striking "section 29(d)(2)(C)" and inserting "section 45R(d)(2)(C)".

(C) Section 45R(a), as redesignated by paragraph (1), is amended by striking "At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is".

(D) Section 45R(b), as so redesignated, is amended by striking paragraph (6).

(E) Section 53(d)(1)(B)(iii) is amended by striking "under section 29" and all that follows through "or not allowed".

(F) Section 55(c)(2) is amended by striking "29(b)(6),".

(G) Subsection (a) of section 772 is amended by inserting "and" at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(H) Paragraph (5) of section 772(d) is amended by striking "the foreign tax credit, and the credit allowable under section 29" and inserting "and the foreign tax credit".

(I) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(J) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45Q the following new item:

"Sec. 45R. Credit for producing fuel from a nonconventional source.".

(d) Study of Coalbed Methane.—

(1) In general.—The Secretary of the Treasury shall conduct a study regarding the effect of section 45R of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) Contents of study.—The study under paragraph (1) shall estimate the total amount of credits under section 45R of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 45R. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 45R, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after December 31, 2004, in taxable years ending after such date.

(2) Existing facilities.—The amendments made by subsection (b) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

(3) Treatment as business credit.—The amendments made by subsection (c) shall apply to taxable years ending after December 31, 2003.

SEC. 850. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting ", and", and by adding at the end the following new clause:

"(iv) any natural gas distribution line.".

(b) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) .... 35".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 851. CREDIT FOR ALASKA NATURAL GAS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45Q. ALASKA NATURAL GAS.

"(a) In General.—For purposes of section 38, the Alaska natural gas credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) Alaska natural gas the production of which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is $0.52 per 1,000,000 Btu of Alaska natural gas.

"(2) Reduction as gas prices increase.—

"(A) In general.—The dollar amount under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $0.83, bears to

"(ii) $0.52.

"(B) Applicable reference price.—For purposes of this paragraph—

"(i) In general.—The applicable reference price for any calendar month in a taxable year is the reference price for the calendar month in which production occurs.

"(ii) Reference price.—The term 'reference price' means, with respect to any calendar month, a published market price for natural gas in United States dollars per 1,000,000 Btu (reduced by any gas transportation costs and gas processing costs as determined by the appropriate national regulatory body for natural gas transportation) as determined under regulations by the Secretary.

"(C) Inflation adjustment.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 2005, each of the dollar amounts contained in paragraph (1) and subparagraph (A) of this paragraph shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) Inflation adjustment factor.—For purposes of clause (i)—

"(I) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2004.

"(II) GDP implicit price deflator.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(c) Alaska Natural Gas.—For purposes of this section—

"(1) In general.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(18) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

"(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

"(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

"(2) Natural gas.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).

"(d) Special Rules.—For purposes of this section—

"(1) Production attributable to the taxpayer.—

"(A) In general.—In the case of a well in which there is more than 1 person or entity—

"(i) entitled to production of Alaska natural gas, or

"(ii) at the election of such person or entity, entitled to the value of production as either an operating interest owner or a royalty interest owner,

the portion of such production attributable to such person or entity shall be determined on the basis of the ratio which the person's or entity's interest in the production or the value of production bears to the aggregate of the interests of all such persons or entities. Production otherwise attributable to a United States tax-exempt person or entity by reason of a royalty interest shall be attributable to such person or entity with respect to whom royalty-in-value production remains or to whom royalty-in-kind production is sold.

"(B) Partnership properties.—In the case of a partnership, for purposes of applying subparagraph (A), production shall be attributable to its partners based on each partner's distributive share of Alaska natural gas which is produced from partnership properties and attributable to the partnership or its partners under subparagraph (A).

"(2) Pass-Thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Application of Section.—This section shall apply to Alaska natural gas during the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) ending with the date which is 25 years after the date described in paragraph (1).".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", plus", and by adding at the end the following new paragraph:

"(29) The Alaska natural gas credit determined under section 45Q(a).".

(c) Allowing Credit Against Entire Regular Tax and Minimum Tax.—

(1) In general.—Section 38(c) (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Special rules for Alaska natural gas credit.—

"(A) In general.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) Alaska Natural Gas Credit.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45Q(a).".

(2) Conforming amendments.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "specified credits".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45Q. Alaska natural gas.".

SEC. 852. CERTAIN ALASKA NATURAL GAS PIPELINE PROPERTY TREATED AS 7-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking "and" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) any Alaska natural gas pipeline, and".

(b) Alaska Natural Gas Pipeline.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) Alaska natural gas pipeline.—The term 'Alaska natural gas pipeline' means the natural gas pipeline system located in the State of Alaska which—

"(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

"(B) is—

"(i) placed in service after December 31, 2012, or

"(ii) treated as placed in service on January 1, 2013, if the taxpayer who places such system in service before January 1, 2013, elects such treatment.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.".

(c) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(ii) the following new item:

"(C)(iii) .... 22".

"(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004.

SEC. 853. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO CERTAIN ALASKA FACILITIES.

(a) In General.—Section 43(c)(1) (defining qualified enhanced oil recovery costs) is amended by adding at the end the following new subparagraph:

"(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

"(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude,

"(ii) prepares Alaska natural gas (as defined in section 45Q(c)(1)) for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

"(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.".

(b) Effective Date.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.

SEC. 854. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) In General.—Section 148(b) (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

"(4) Safe harbor for prepaid natural gas.—

"(A) In general.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

"(B) Qualified natural gas supply contract.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by or for a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract for the utility during any year does not exceed the sum of—

"(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

"(C) Natural gas used to generate electricity.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

"(i) only if the electricity is generated by a utility owned by a governmental unit, and

"(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

"(D) Adjustments for changes in customer base.—

"(i) New business customers.—If—

"(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility, and

"(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

"(ii) Overall limitation.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

"(E) Ruling requests.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

"(F) Adjustment for natural gas otherwise on hand.—

"(i) In general.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

"(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

"(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

"(ii) Applicable share.—For purposes of clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

"(G) Intentional acts.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

"(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas used to transport such natural gas to the utility.

"(H) Testing period.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

"(I) Service area.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

"(i) any area throughout which such utility provided at all times during the testing period—

"(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

"(II) in the case of an electric utility, electricity distribution services,

"(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

"(iii) any area recognized as the service area of such utility under State or Federal law.".

(b) Private Loan Financing Test Not To Apply to Prepayments for Natural Gas.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).".

(c) Conforming Amendment.—Section 141(d) is amended by adding at the end the following new paragraph:

"(7) Exception for qualified electric and natural gas supply contracts.—The term 'nongovernmental output property' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).".

(d) Effective Date.—The amendment made by this section shall apply to obligations issued after December 31, 2004.

Subtitle F—Electric Utility Restructuring Provisions

SEC. 855. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeal of Limitation on Deposits Into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

"(b) Limitation on Amounts Paid Into Fund.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.".

(b) Clarification of Treatment of Fund Transfers.—Section 468A(e) (relating to Nuclear Decommissioning Reserve Fund) is amended by adding at the end the following new paragraph:

"(8) Treatment of fund transfers.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.".

(c) Treatment of Certain Decommissioning Costs.—

(1) In general.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Transfers Into Qualified Funds.—

"(1) In general.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

"(2) Deduction for amounts transferred.—

"(A) In general.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

"(B) Denial of deduction for previously deducted amounts.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

"(C) Transfers of qualified funds.—If—

"(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

"(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not the transferor. The preceding sentence shall not apply if the transferor is an entity exempt from tax under this chapter.

"(D) Special rules.—

"(i) Gain or loss not recognized.—No gain or loss shall be recognized on any transfer permitted by this subsection.

"(ii) Transfers of appreciated property.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall not exceed the adjusted basis of such property.

"(3) New ruling amount required.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) No basis in qualified funds.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) New ruling amount to take into account total costs.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

(d) Technical Amendment.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 856. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) Income From Open Access and Nuclear Decommissioning Transactions.—

(1) In general.—Section 501(c)(12)(C) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) Definitions and special rules.—Section 501(c)(12) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of electric transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) which operates at an electric voltage of 69 kilovolts or greater. To the extent provided in regulations, such term includes any output facility which FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) Treatment of Income From Load Loss Transactions.—Section 501(c)(12), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

"(II) the megawatt hours of electric energy sold during the base year to such members.

"(v) For purposes of clause (iv)(II), the term 'base year' means—

"(I) the calendar year preceding the start-up year, or

"(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

"(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

"(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes January 1, 2005, or, if later, at the election of the mutual or cooperative electric company—

"(I) the first year that such electric company offers nondiscriminatory open access, or

"(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

"(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

"(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.".

(c) Exception From Unrelated Business Taxable Income.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) Treatment of mutual or cooperative electric companies.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.".

(d) Cross Reference.—Section 1381 is amended by adding at the end the following new subsection:

"(c) Cross Reference.—

"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after Decmeber 31, 2004.

SEC. 857. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) In General.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) Special Rule for Sales or Dispositions To Implement Federal Energy Regulatory Commission or State Electric Restructuring Policy.—

"(1) In general.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year (determined without regard to this subsection),

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) Qualifying electric transmission transaction.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2008, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) Independent transmission company.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than January 1, 2008, or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility

Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

"(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after December 31, 2004.

Subtitle G—Volumetric Ethanol Excise Tax Credit

SEC. 860. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 861. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 5211 and 5242 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) GASOLINE.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

"(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.''.

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4), as amended by section 5101 of this Act, is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating tc section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) Tariff schedule.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) Registration requirement.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) Extension of alcohol fuels credit.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) Repeal of general fund retention of certain alcohol fuels taxes.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) Format for Filing.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 862. BIODIESEL INCOME TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) Qualified biodiesel mixture.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) Biodiesel credit.—

"(A) In general.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) User credit not to apply to biodiesel sold at retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) Credit for agri-biodiesel.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) Coordination With Credit Against Excise Tax.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) Agri-biodiesel.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) Mixture or biodiesel not used as a fuel, etc.—

"(A) Mixtures.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) Biodiesel.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any sale or use after December 31, 2006.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", plus", and by adding at the end the following new paragraph:

"(30) the biodiesel fuels credit determined under section 40B(a).".

(c) Conforming Amendments.—

(1)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(2) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40B(a).".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(d) Effective Date.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle H—Fuel Fraud Prevention

SEC. 870. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 871. TAXATION OF AVIATION-GRADE KEROSENE.

(a) Rate of Tax.—

(1) In general.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) Commercial aviation.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) Taxes imposed on fuel used in commercial aviation.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) Nontaxable uses.—

(A) In general.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) Aviation-Grade Kerosene.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) Conforming amendments.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) Nonaircraft use of aviation-grade kerosene.—

(A) In general.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) Conforming amendment.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) Commercial Aviation.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Commercial Aviation.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) Refunds.—

(1) In general.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) Refunds for aviation-grade kerosene.—

"(A) No refund of certain taxes on fuel used in commercial aviation.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) Payment to ultimate, registered vendor.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Time for filing claims.—Subparagraph (A) of section 6427(i)(4) is amended—

(A) by striking "subsection (l)(5)" both places it appears and inserting "paragraph (4)(B) or (5) of subsection (l)", and

(B) by striking "the preceding sentence" and inserting "subsection (l)(5)".

(3) Conforming amendment.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) Repeal of Prior Taxation of Aviation Fuel.—

(1) In general.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) Conforming amendments.—

(A) Section 4041(c) is amended to read as follows:

"(c) Aviation-Grade Kerosene.—

"(1) In general.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) Exemption for previously taxed fuel.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) Rate of tax.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) In general.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) In general.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.

"Subpart B. Special provisions applicable to fuels tax.".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 872. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 873. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 874. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 875. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 876. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

"(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 877. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 878. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking "ENTRY.—The penalty" and inserting: "ENTRY.—

"(A) FORFEITURE.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 879. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 880. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) IN GENERAL.—Every", and

(2) by adding at the end the following new paragraph:

"(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 881. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 882. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) Failure to Register.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) Assessable Penalty for Failure to Report.—

(1) In general.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) In General.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) Failures Subject to Penalty.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) Effective Date.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 883. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) In General.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) In General.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40B to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) Contents of Return.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) Enforcement.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 884. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) Tax at Point of Entry Where Importer Not Registered.—

(1) In general.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) In General.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) Enforcement of Assessment.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) Levy of Fuel.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) Conforming amendment.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) Denial of Entry Where Tax Not Paid.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 885. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) In General.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) In General.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 886. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) In General.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) In general.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) Liquid sold as diesel fuel.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) Conforming Amendments.—

(1) Section 40B(b)(1)(B), as added by this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 887. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—

(1) Refunds.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) Registered vendors permitted to administer certain claims for refund of diesel fuel and kerosene sold to farmers.—

"(A) In general.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (l)(5)(A)(iii)).

"(B) Payment to ultimate vendor.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Filing of claims.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) Special rule for vendor refunds with respect to farmers.—

"(A) In general.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 888. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 889. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 890. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Under regulations by the Secretary, every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) REGULATIONS REGARDING DISPLAY OF TAX CERTIFICATE.—The Secretary of the Treasury shall issue regulations required under section 4481(d)(2) of the Internal Revenue Code of 1986 (as added by subsection (b)) not later than October 1, 2005.

SEC. 891. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 892. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 893. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable liquid.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 894. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis. Not earlier than January 1, 2005, such filings shall be in electronic form as prescribed by the Secretary.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 895. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section. Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle I—Mobile Machinery

SEC. 896. TREATMENT OF MOBILE MACHINERY.

(a) TREATMENT OF MOBILE MACHINERY AS HIGHWAY VEHICLE.—

(1) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) TREATMENT OF MOBILE MACHINERY AS HIGHWAY VEHICLE.—

"(A) IN GENERAL.—A vehicle described in subparagraph (B) shall be treated as a highway vehicle.

"(B) MOBILE MACHINERY.—A vehicle is described in this subparagraph if such vehicle consists of a chassis—

"(i) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(ii) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(iii) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) ELIGIBILITY FOR REFUND IN CASE OF LIMITED USE OF VEHICLE ON HIGHWAYS.—

(1) RETAIL SALES AND TIRE TAXES.—

(A) IN GENERAL.—Section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended by adding at the end the following new paragraph:

"(7) MOBILE MACHINERY.—

"(A) IN GENERAL.—If the tax imposed by section 4051 or 4071 has been paid with respect to any vehicle described in section 7701(a)(48)(B) which meets the use-based test for each of the first 2 12-month periods after such payment, 50 percent of such tax shall be considered an overpayment for each such period.

"(B) USE-BASED TEST.—For purposes of subparagraph (A), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during any 12-month period.

"(iii) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of clause (i), the use-based test shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on the day after the date of the enactment of this Act.

(2) FUEL TAXES.—

(A) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle described in section 7701(a)(48)(B) which meets the use-based test.

"(ii) Use-based test.—For purposes of clause (i), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(iii) Special rule for use by certain tax-exempt organizations.—For purposes of clause (i), the use-based test shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) Annual refund of tax paid.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) Nonapplication of paragraph.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(C) Effective date.—The amendments made by this paragraph shall apply to taxable years beginning after the date of the enactment of this Act.

(3) Conforming amendment for tax-exempt users with respect to use tax.—

(A) In general.—Section 4483(d)(1) (relating to suspension of tax) is amended by adding at the end the following new subparagraph:

"(C) Special rule for use by certain tax-exempt organizations.—Subparagraph (A) shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) Effective date.—The amendment made by this paragraph shall take effect on the day after the date of the enactment of this Act.

Subtitle J—Additional Provisions

SEC. 897. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) Study.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under subtitle B and the conservation and energy efficiency provisions under subtitle C, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) Reports.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2004, and annually thereafter.

SEC. 898. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) Taxes on Trains.—

(1) In general.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) Conforming amendments.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Diesel fuel used in trains.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081."

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Paragraph (3) of section 4083(a) is amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) Gasoline used in trains.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081."

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) Refund of certain taxes on fuel used in diesel-powered trains.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof."

(b) Fuel Used on Inland Waterways.—

(1) In general.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) Conforming amendment.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 899. DISTRIBUTIONS FROM PUBLICLY TRADED PARTNERSHIPS TREATED AS QUALIFYING INCOME OF REGULATED INVESTMENT COMPANIES.

(a) In General.—Paragraph (2) of section 851(b) (defining regulated investment company) is amended to read as follows:

"(2) at least 90 percent of its gross income is derived from—

"(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

"(B) distributions or other income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and"

(b) Source Flow-Through Rule Not To Apply.—The last sentence of section 851(b) is amended by inserting "(other than a qualified publicly traded partnership as defined in subsection (h))" after "derived from a partnership".

(c) Limitation on Ownership.—Subsection (c) of section 851 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) The term 'outstanding voting securities of such issuer' shall include the equity securities of a qualified publicly traded partnership (as defined in subsection (h)).".

(d) Definition of Qualified Publicly Traded Partnership.—Section 851 is amended by adding at the end the following new subsection:

"(h) Qualified Publicly Traded Partnership.—For purposes of this section, the term 'qualified publicly traded partnership' means a publicly traded partnership described in section 7704(b) other than a partnership which would satisfy the gross income requirements of section 7704(c)(2) if qualifying income included only income described in subsection (b)(2)(A).".

(e) Definition of Qualifying Income.—Section 7704(d)(4) is amended by striking "section 851(b)(2)" and inserting "section 851(b)(2)(A)".

(f) Limitation on Composition of Assets.—Subparagraph (B) of section 851(b)(3) is amended to read as follows:

"(B) not more than 25 percent of the value of its total assets is invested in—

"(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

"(ii) the securities (other than the securities of other regulated investment companies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or

"(iii) the securities of one or more qualified publicly traded partnerships (as defined in subsection (h)).".

(g) Application of Special Passive Activity Rule to Regulated Investment Companies.—Subsection (k) of section 469 (relating to separate application of section in case of publicly traded partnerships) is amended by adding at the end the following new paragraph:

"(4) Application to regulated investment companies.—For purposes of this section, a regulated investment company (as defined in section 851) holding an interest in a qualified publicly traded partnership (as defined in section 851(h)) shall be treated as a taxpayer described in subsection (a)(2) with respect to items attributable to such interest.".

(h) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 899A. CERTAIN BUSINESS RELATED CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAX.

(a) In General.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Special rules for specified credits.—

"(A) In general.—In the case of specified credits—

"(i) this section and section 39 shall be applied separately with respect to such credits, and

"(ii) in applying paragraph (1) to such credits—

"(I) the tentative minimum tax shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the specified credits).

"(B) SPECIFIED CREDITS.—For purposes of this subsection, the term 'specified credits' includes—

"(i) for taxable years beginning after December 31, 2004, the credit determined under section 40, and

"(ii) the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

"(I) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

"(II) during the 4-year period beginning on the date that such facility was originally placed in service.".

(b) CONFORMING AMENDMENTS.—Paragraph (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each amended by inserting "or the specified credits" after "employee credit".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 3012. Mr. FRIST proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end of the instructions, insert the following:

SEC. . This act shall become effective 1 day after enactment.

SA 3013. Mr. FRIST proposed an amendment to amend SA 3012 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

In the amendment strike "1 day" and insert "2 days".

SA 3014. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organizations rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . DELAY IN EFFECTIVE DATE OF FINAL REGULATIONS GOVERNING EXCLUSION OF INCOME FROM INTERNATIONAL OPERATION OF SHIPS OR AIRCRAFT.

Notwithstanding the provisions of Treasury regulation §1.883–5, the final regulations issued by the Secretary of the Treasury relating to income derived by foreign corporations from the international operation of ships or aircraft (Treasury regulations §1.883–1 through §1.883–5) shall apply to taxable years of a foreign corporation seeking qualified foreign corporation status beginning after September 24, 2004.

SA 3015. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, line 13, strike "December 31, 2006" and insert "December 31, 2004".

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94–201, as amended by Public Law 105–275, appoints the following individuals as members of the Board of Trustees of the American Folklife Center of the Library of Congress: Mickey Hart of California and Dennis Holub of South Dakota.

The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108–173, appoints the following individual to serve as a member of the Commission on Systemic Interoperability: Fredrick W. Slunecka of South Dakota.

ORDERS FOR TUESDAY, APRIL 6, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, April 6. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11 a.m., with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee; provided that at 11 a.m. the Senate resume consideration of the motion to proceed to Calendar No. 462, S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate, it be in order until 4:30 today for committees to file reported matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the motion to proceed to the Pregnancy and Trauma Care Access Protection Act of 2004. There will be no rollcall votes tomorrow, but I do encourage all Members who wish to speak on this important legislation to come to the floor during tomorrow's session.

The next rollcall vote will occur on Wednesday at 2:15 p.m. The vote will be on the motion to invoke cloture on the motion to proceed to the Pregnancy and Trauma Care Access Protection Act.

As a reminder, a few moments ago I filed a cloture motion on the motion to recommit the FSC/ETI JOBS bill. If cloture fails on the motion to proceed to the Pregnancy and Trauma Care Access Protection Act, the cloture vote relative to the FSC/ETI JOBS bill will occur immediately thereafter. Therefore, Senators should expect the possibility of two back-to-back rollcall votes on Wednesday at 2:15 p.m.

In addition, the pension equity conference report is at the desk, having passed the House at the end of last week. I will be asking the Democratic leader to allow us to schedule a vote on that conference report this week prior to adjourning for the recess.

Finally, I add that the indecency legislation will be reported today by the Commerce Committee, and we will be looking for an opportunity to get that bill finished this week as well.

As my colleagues can tell, we have a very busy week, even though it is short. We are honoring Passover as we go into the Easter holidays. Again, it is a short week, but we are in session today, tomorrow, and the next day, and we will be voting on Wednesday and Thursday.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senators HARKIN, MCCONNELL, and DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

DEBATING AND VOTING ON AMENDMENTS

Mr. HARKIN. Mr. President, I was listening with some interest to the unanimous consent proposed by the distinguished majority leader, and I thought for a minute I was back in the House of Representatives. I remember a time in the Senate when we actually offered amendments, debated and voted on them. I thought that was what the Senate was supposed to do.

Over in the House, where I served for 10 years, they have a Rules Committee. The Rules Committee reports a bill out on the floor, and a lot of times they give them closed rules, which means you cannot add amendments. That is what I just heard propounded here. If, in fact, they get cloture, it is a closed rule. That is basically what it is.

I wish we can get back to a Senate where we debate and vote on amendments.

THE ECONOMY

Mr. HARKIN. Mr. President, I want to take a little bit of time this afternoon to talk about the economy. We are all encouraged by the essentially positive job growth reported for the month of March. However, the same report noted that the overall rate of unemployment increased in March. Strange. There are major questions surrounding the quality of the jobs that were added. For instance, there was no increase whatsoever in manufacturing jobs. Indeed, for 43 consecutive months we have either lost manufacturing jobs or have seen zero job growth.

The good news on jobs appears to be largely concentrated in the services sector—jobs that generally don't pay well and many with no benefits. Meanwhile, long-term job losses have consequences.

On the 1st of April, 1.1 million jobless Americans lost their unemployment benefits. They expired because the President and the Republicans in Congress are adamantly refusing any extension of unemployment benefits. In no other comparable period on record have there been so many unemployed people who have exhausted their unemployment benefits literally overnight.

Think about it. Despite the scarcity of jobs, despite the fact the United States is currently in the longest period of secular job decline in our history, despite the fact that nearly 3 million private sector jobs have been lost in the last 3 years, despite the fact that more than 9 million Americans cannot find work, despite the fact that hundreds of thousands of discouraged workers have dropped out of the labor market, despite all of these harsh realities, the President and his allies have slammed the door on any extension of unemployment benefits. I guess we can say: So much for compassionate conservatism.

In my State of Iowa, more than 8,000 people lost their unemployment benefits in the first 3 months of this year. Nearly 9,000 more Iowans will lose their benefits in the next 3 months if Congress doesn't act. This is a cruel, unnecessary blow to these unfortunate people. It is a blow to Iowa's economy, because extending unemployment benefits would have provided more than $100 million in economic stimulus in my State alone.

When it comes to economic stimulus, this administration is all for economic stimulus when it involves tax breaks for people making more than $200,000 a year, but it is adamantly opposed to economic stimulus when it involves people who have lost their jobs and have lost their unemployment benefits, or when it involves directly creating jobs.

What I mean by that is, the President now is threatening to veto the highway bill and, for my State alone, the more modest House highway bill would cost 12,000 jobs compared to what we passed in the Senate. The President is threatening even to veto that bill.

We are not talking just about statistics; we are talking about real people here, people who are hurting. One of those is Larry O'Brien of Cedar Falls, IA. He is 60 years old. He lost his job as a machinist when the Doerfer Engineering plant closed in October. He says he is not optimistic about his future when his unemployment runs out in 2 weeks. He already says he is not optimistic at all about getting a job. He has begun taking high blood pressure and stomach medicine every other day instead of daily. When the medicine is gone, he is afraid he won't be able to get any more. He is worried he will have to take a low-paying job with no benefits just to make ends meet—at age 60.

Larry O'Brien and millions like him are hurting. They are in real distress. Their plight is being ignored in Washington. It is being ignored by the very people whose economic policies are largely responsible for their plight.

Let's be clear. Despite the uptick in jobs reported last Friday, America has been stuck in a jobless recovery for several years now. It is not an accident. Since the Bush administration took office, nearly 3 million private sector jobs have been lost, including nearly 1 in every 6 in manufacturing.

This administration presided over the largest job loss of any administration since the Great Depression of the 1930s. Yet Mr. Bush and his Republican allies in Congress remain stubbornly committed to policies that are making this problem worse. They continue to pursue a whole range of policies that are retarding job creation, driving down wages, and threatening the economic security of the American people.

In January, the White House issued its annual economic report—signed by the President—explaining why we should be celebrating the "offshoring" of U.S. jobs. The President's top economic adviser assured us of the outsourcing of high-end white-collar jobs to Asia is "a plus for the economy in the long run."

The President's report praises the virtue of a level playing field for goods and services, arguing that "when a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically." But do we really want American workers competing on a "level playing field," head to head with factory workers in China making 20 cents an hour or software engineers in India making $10,000 a year? Would this not precipitate a race to the bottom with nations competing to slash salaries and benefits in order to "win jobs"?

We are a free market economy. Corporations have the right to move jobs overseas. However, it is wrong for the White House to be a cheerleader for this unfortunate trend, and it is wrong for our Tax Code to reward companies that outsource jobs. That is why Senator WYDEN, Senator DURBIN, and I are sponsoring an amendment to eliminate these tax subsidies.

Our amendment, which would go on the so-called FSC bill, would eliminate the ability of companies to deduct, depreciate, or amortize costs involved in shifting jobs overseas. This would include such costs as training of replacement workers, transporting property overseas, the sale of property in the United States that is closed, administrative costs, and acquiring facilities overseas.

Our amendment would also eliminate the ability of companies to not pay taxes on the profits from outsourced activity by keeping those funds overseas that were generated by outsourced workers.

As I said, the Harkin-Wyden-Durbin amendment would not prohibit companies from outsourcing jobs—I do not think constitutionally we could do that—but it would stop encouraging and rewarding them under the Tax Code. This is the least we owe to America's workers.

Outsourcing is not the only thing hurting job creation and suppressing wages. The Department of Labor is forging ahead with its radical rewrite of the rules governing who is eligible for time-and-a-half overtime pay. Up to 8 million American workers could be stripped of their right to overtime pay. American workers fear, rightfully so, that under these new rules they would be obliged to work 45, 50, 55, 60 hours a week with zero additional compensation.

Moreover, these proposed new overtime rules are all but guaranteed to hurt job creation. It is just basic logic. If employers can more easily deny overtime pay, they will push current employees to work longer hours without compensation. With 9 million

Americans currently out of work, why give employers yet another disincentive to hire new workers?

So let me review. This administration sees the outsourcing of jobs as a plus. It is determined to eliminate the right to overtime pay for millions of American workers. It refuses to extend unemployment benefits for the long-term unemployed. There is one more thing. We saw last week on the Senate floor that the President and his allies remain adamantly opposed to any increase in the minimum wage which has been frozen at $5.15 for years. This is not a living wage. It is a poverty wage.

A minimum wage employee working 40 hours a week, 52 weeks a year, earns $10,700 a year. That is $5,000 below the poverty line for a family of three.

It has been 7 years since we last voted to raise the minimum wage. We have raised our salaries three or four times since then. So it is time we raised it to a minimum of $7 an hour. Yet, once again, my friends on the other side of the aisle are refusing to allow a vote on a key issue related to jobs. We debated the Boxer amendment to the Temporary Assistance to Needy Families bill, regarding minimum wage, but as with my overtime amendment and as with the amendment to extend unemployment benefits, we were denied the opportunity to have an up-or-down vote.

In fact, the Republicans on the other side would rather sacrifice the underlying bills, the FSC and TANF bills, rather than allow a vote on these issues so crucial to working Americans.

It seems the administration has one approach: tax cuts, mainly for those who are wealthy. But something is missing. Most working Americans are not participating in this so-called recovery. The rich are getting richer. Tax cuts are working for the privileged few, but more and more Americans live in fear of losing their jobs, their health benefits, and their retirement benefits.

The truth is, we cannot build a sustainable recovery by exporting jobs, driving down wages, and making Americans work longer hours without compensation. Moreover, such a recovery is not desirable. A true recovery must include all Americans, and it can only be built on a foundation of good jobs with good wages in America, not overseas. It must be built on a minimum wage that is a living wage, not a poverty wage. It must be built on a foundation that preserves our time-honored right: time and a half pay for overtime over 40 hours a week.

So it is time for the Senate to get to work on the people's business. As my friends on the other side of the aisle like to say, the majority leader determines what bills will come before the Senate, but according to the rules of the Senate and according to our longstanding tradition, it is Senators who decide what amendments are to be proposed to those bills. It is Senators, in open, free, and fair votes, who decide how those bills are shaped on the Senate floor.

All I can say is, Senators on this side of the aisle have proposed amendments in good faith that we believe are necessary for job creation and economic growth in America. On all three—the minimum wage, extending unemployment benefits, and the overtime issue—the Republican leadership on that side refuses to allow a straight up-or-down vote. This is not just unfair to us on this side, this is unfair to America.

My friends on the other side seem desperate to change the subject. Instead of talking about jobs, they want to talk about guns, abortion, or gay marriage, whatever social wedge issue seems handy at the time. In fact, they are so eager to change the subject, they are so eager to prevent votes on overtime, minimum wage, and extending unemployment benefits, that it seems they are willing to sacrifice or at least substantially delay the underlying bills.

We need to get to work in the Senate. Our economy remains fragile and hesitant. We have millions of Larry O'Briens in this country who are desperate, who need help, who want to go back to work. We need to address outsourcing. We need to boost the minimum wage. We need to extend unemployment benefits and we need to assure working Americans that they are not going to lose their right to time-and-a-half overtime pay.

Strong, timely acts on these issues will give a much needed boost to the economy, and it will ensure that Friday's generally positive economic report was not just another one-time fluke.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

AT WAR WITH EACH OTHER

Mr. MCCONNELL. Mr. President, there is no question that the terrorists are at war with us. Unfortunately, it is becoming apparent that in Washington we are also at war with each other.

Today, the senior Senator from Massachusetts, Mr. KENNEDY, delivered an incendiary speech in Washington that deserves a strong rebuttal. We should all remember that last September Senator KENNEDY made news and raised eyebrows with an astonishing claim that the war in Iraq was "made up in Texas" and that "the whole thing was a fraud" because it was going "to be good politically" for the President.

Of course, that suggestion was so absurd that the senior Senator from Massachusetts was roundly criticized for the recklessness of the charge, as well he should have been. Today the Senator has mounted another vicious attack on the President by leveling claims so outrageous, so completely outrageous I am not going to repeat them here on the Senate floor, although they are being carried on television across the world, presumably even in Baghdad where those who are fighting Americans in the street can view them.

I would simply say this to the Senator from Massachusetts, that the only one responsible for the attack on America is al-Qaida. Further, I would say we need to focus on routing out global terrorism by fighting the terrorists and not each other. It is this Senator's opinion America would be much better served if the Senator from Massachusetts would remember who the enemy is. The enemy is terrorism and the enemy is al-Qaida.

But the political season is upon us and this will not be the last attack on President Bush. But while the debate over the election proceeds, I am hopeful the tone set by the Senator from Massachusetts will not become the standard.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

THE AMERICAN ECONOMY

Mr. DOMENICI. Mr. President, I just heard the distinguished Senator from Iowa talk about the American economy. It seems to this Senator that for some it doesn't matter what happens to the American economy; it is not good or it is not good enough. That seems to me to be playing politics with the reality of the American economy.

Job growth in the first quarter of this year averaged more than 170,000 per month. The Friday number was not an aberration. The increase on Friday was 308,000 jobs for that quarter. That is not an aberration. It is a continuation of month after month of growth, once we got out of this recession.

Fiscal and monetary policy still matter. The tax cuts President Bush pushed through Congress and the steadiness of the Federal Reserve Board have been able to bring this economy to a true test. Truly, we have been involved in a war, a recession, and come out of it with the American economy growing rapidly. With productivity gains continuing, with corporate earnings improving, job growth should continue to accelerate.

Every time you have a set of good things happen to America, which we have all been waiting to share with each other as Americans, it is instantly politicized and spoken of by some as if the good things didn't happen. It is like changing the subject because you don't like the subject even if it is true, so you turn to the other subject and you talk about something else.

I assume there will be a vote on those issues raised by the distinguished Senator from Iowa before this year is out.

But I don't believe they have anything to do with whether America's economy grows, how much it grows, or whether we have productivity increases. You know historically when you had productivity increases, it meant there was more to be distributed. Generally it meant more people could be paid more, that corporations could make more profit so they could grow and prosper. We have been having incredible productivity growth, the highest and most sustained in our Nation's history, and we all knew sooner rather than later that would begin to respond in jobs. Everyone who looked at the economy kept saying it is a matter of when. That "when" happened in this last quarter. The "how" is very simple—a well-managed set of policies by the Federal Government, especially directed at small business.

If you look at the tax cuts, America's small businesses, millions of them, were in the front lines receiving assistance so they could grow and invest and hire. I bet if we could look at these new jobs, we would find it is the small businesses that were helped by the tax cuts that are finally getting around to hiring people.

Instead of realizing this is good for everyone, watch; today they on the other side tried to find excuses as to why this is not good. I think the facts are going to prevail. We have all been saying let the economy recover, let jobs come back, and that is happening.

THE ENERGY BILL

Mr. DOMENICI. Mr. President, I want to change the subject for a minute. Today the United States-Canada Power System Outage Task Force released their final report on the causes of the August 14, 2003 blackouts and the ways to reduce the possibility of future blackouts. The Chair remembers, it was not too long ago when they had this northeastern blackout. The August 14 blackout was the worst blackout in North American history. It affected Ontario, Quebec, the States of Michigan, Ohio, New York, northern New Jersey, and parts of Massachusetts and Connecticut. Approximately 62,000 megawatts of customer load was lost, leaving close to 50 million people without power. Economic losses related to the blackout are estimated to range between $4 and $10 billion.

The principal recommendation of the task force is that Congress enact mandatory reliability rules like those included in S. 2095. Guess what that is. That is the Energy bill. Everyone speaks as if it has provisions in it that they like to tell the public about. The truth of the matter is that bill is loaded with important provisions, matters of policy for America's future, and one is it provides us, if and when it is signed, with a mandatory system to regulate the customer load and the kinds of things that would prevent us from having another blackout.

Its principal recommendation was mandatory reliability rules, such as the ones included in the Energy bill. Mandatory reliability rules are not the only requirement necessary to prevent blackouts. These standards by which our transmission grid should operate are the rules of the road, if you will, but we also need to upgrade our transmission system. The road itself, not just the rules of the road, needs to be improved. To avoid future blackouts and provide our industry and consumers with the reliable electricity they need, we need to invest in critical transmission infrastructure; provide limited Federal siting authority of transmission lines to ensure the transmission of national interest lines, and avoid the most significant areas where we had gridlock; streamline the permitting of siting for transmission lines to assure adequate transmission, develop advanced transmission technology and open access to the grid through regional transmission organizations. We need all these parts of the Energy bill.

In addition, we need similarly important provisions relating to our growing dependence on natural gas: relicensing of hydroelectric plants, building a new generation of clean coal-powered plants, ethanol, the Alaska natural gas pipeline and conservation, and obviously we need some kind of tax incentive to start up again the nuclear powerplant business in America.

The electricity reliability crisis was easy to see. Millions of people lost power. We are facing a similarly troubling time. It is more difficult to see the crisis because of our growing dependence upon imported oil and gas. By 2005, we will import 70 percent of our oil and 30 percent of our natural gas.

As economies grow around the world, where current demand is growing at extraordinary rates, we will become less influential in setting world prices and guaranteeing supply. We are literally slowly but surely allowing our economy to fall under the control of oil and natural gas exporting countries. We are worried about it now because of gas prices.

If we don't pass this Energy bill, we will worry about it more each year, and we will become more dependent on more kinds of products and be less capable of handling our own business in our own way.

From what I can see with the Chinese and the Indians out in the market, who want to buy up all the oil they can find, we had better come to our senses and pass an energy bill that will do many things, the least of which will produce much more natural gas for America than we are producing today and maximize crude oil production over which we have control.

To this point, I have insisted, because aspects of such a broad policy are so complicated and need to be considered together, that we move on one comprehensive bill. However, last week I proposed to the Republican leader and to others—and he has agreed—to attach the energy tax bill provisions to the pending foreign sales corporation tax bill.

We need to get the energy package done. It renews the urgently needed wind production tax credit. This package for the first time also extends those credits to solar and geothermal. The tax package includes incentives for a natural gas pipeline. Without the incentives, there will be no pipeline. It includes tax incentives for clean coal. Coal is our most abundant energy source. If we can make it burn cleaner, we will have enough coal to keep the lights on halfway into the 31st century.

Once we get this package through, I will work with those who want to work with me on S. 2095. We will make sure we get it through.

We have enough popular provisions in the authorizing package to power it through the Senate. We have ethanol, electricity reliability and loan guarantees relating to the pipeline, just to name a few.

In addition, the balance of the bill scores our minus $1.2 billion which actually results in increased revenue to the Treasury over 10 years.

In conclusion, I strongly support the effort that our leader has made today. I think it will add considerable support to the foreign sales corporation bill, because the tax bill, in addition to the items I have just told you, provides tax incentives for people to buy alternative powered cars. It provides tax credits for consumers to buy energy efficient appliances and houses; technology to reduce energy consumption; new incentives to provide oil and gas from marginal—that is small—wells; expands the research and development tax credit for energy-related research universities; and involves tax provisions necessary to ensure that increased use of ethanol does not reduce the funds available to the Highway Trust Fund.

When you add it up, we have now before the Senate an excellent tax package. Each one helps the other, and both together assure their passage.

Then we have what is left: the authorizing parts of this bill. I have enumerated a few of them. I am certain that will become very much wanted once we get the tax package beyond us. Then we will proceed because the Senate will find that to delay the residual package any longer is sheer folly.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 10 a.m. tomorrow.

Thereupon, the Senate, at 4:04 p.m., adjourned until Tuesday, April 6, 2004, at 10 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 6, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 7

9:30 a.m.

Foreign Relations

To hold hearings to examine the United Nations oil-for-food program.

SD–419

10 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for National Guard and Reserve programs.

SD–192

Finance

To hold hearings to examine strategies to improve access to Medicaid home and community based services.

SD–215

Governmental Affairs

To resume hearings to examine U.S. Postal Service reform issues, focusing on the chairmen's perspective on governance and rate-setting.

SD–342

Indian Affairs

Business meeting to consider pending calendar business.

SR–485

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine a proposal to split the Ninth Circuit.

SD–226

Armed Services

Strategic Forces Subcommittee

To hold hearings to examine the proposed Defense Authorization Request for fiscal year 2005, focusing on defense intelligence programs and lessons learned in recent military operations.

SR–222

Appropriations

Transportation, Treasury and General Government Subcommittee

To hold hearings to examine tax law enforcement and information technology challenges at the Internal Revenue Service.

SD–138

2 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the National Bank Preemption Rules.

SD–538

Environment and Public Works

Business meeting to consider S. 1814, to transfer federal lands between the Secretary of Agriculture and the Secretary of the Interior, S. 441, to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county, proposed legislation, to designate the Orville Wright Federal Building and the the Wilbur Wright Federal Building in Washington, District of Columbia, and the nominations of Stephen L. Johnson, of Maryland, to be Deputy Administrator, Ann R. Klee, of Virginia, and Benjamin Grumbles, of Virginia, each to be an Assistant Administrator of the Environmental Protection Agency, Charles Johnson, of Utah, to be Chief Financial Officer, all of the Environmental Protection Agency, and Gary Lee Visscher, of Maryland, to be a Member of the Chemical Safety and Hazard Investigation Board.

SD–406

Governmental Affairs

Financial Management, the Budget, and International Security Subcommittee

To hold hearings to examine S. 346, to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

SD–342

2:30 p.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine fighting HIV/AIDS in Africa; to be followed by a nominations hearing.

SD–419

Judiciary

Antitrust, Competition Policy and Consumer Rights Subcommittee

To hold hearings to examine crude oi relating to higher gas prices.

SD–226

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold an oversight hearing to examine the detection of lead in District of Columbia drinking water, focusing on needed improvements in public communications and the status of short- and long-term solutions.

SD–406

Appropriations

Military Construction Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for Army and Navy military construction programs.

SD–138

Commerce, Science, and Transportation

Oceans, Fisheries and Coast Guard Subcommittee

To hold an oversight hearing to examine U.S. Coast Guard activities.

SR–428A

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine near earth objects.

SR–253

3:30 p.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for programs under its jurisdiction.

SD–192

APRIL 8

9:30 a.m.

Armed Services

To hold hearings, in closed session, to examine military implications of the United Nations Convention on the Law of the Sea; to be followed by an open session at 10 a.m. in SD–106.

SR–222

Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold hearings to examine implementing the Medicare Prescription Drug Program.

SD–342

10 a.m.

Banking, Housing, and Urban Affairs

To resume hearings to examine current investigations and regulatory actions regarding the mutual fund industry.

SD–538

Judiciary

To hold hearings to examine the nominations of Robert Bryan Harwell, to be United States District Judge for the District of South Carolina, George P. Schiavelli, to be United States District Judge for the Central District of California, William Duane Benton, of Missouri, to be United States Circuit Judge for the Eighth Circuit, and Curtis V. Gomez, to be Judge for the District Court of the Virgin Islands.

SD–226

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for Corporation for National and Community Service programs.

SD–628

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

11 a.m.
Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SR–253

Appropriations
Legislative Branch Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Office of the Architect of the Capitol and the Office of the Secretary of the Senate.
SD–138

2:30 p.m.
Foreign Relations
European Affairs Subcommittee
To hold hearings to examine anti-Semitism.
SD–419

Appropriations
Foreign Operations Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign operations.
SD–124

Judiciary
To hold hearings to examine safety concerns of America's Mass Transportation System.
SD–226

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine National Park Service concessions program, including implementation of the National Park Service Concessions Management Improvement Act (Public Law 105–391).
SD–366

APRIL 21

9:30 a.m.
Indian Affairs
To hold hearings to examine S. 297, to provide reforms and resources to the Bureau of Indian Affairs to improve the Federal acknowledgement process.
SR–485

10 a.m.
Joint Economic Committee
To hold hearings to examine the economic outlook.
SH–216

11:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign assistance and to combat international terrorism.
SD–124

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold an oversight hearing to examine the implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.
SD–366

APRIL 27

10 a.m.
Energy and Natural Resources
To hold an oversight hearing to examine sustainable, low emission, electricity generation.
SD–366

APRIL 28

9:30 a.m.
Indian Affairs
To hold hearings to examine S. 2172, to make technical amendments to the provisions of the Indian Self Determination and Education Assistance Act relating to contract support costs.
SR–485

MAY 11

10 a.m.
Energy and Natural Resources
To hold hearings to examine the impacts and costs of last year's fires, focusing on the problems faced last year and what problems agencies and the land they oversee may face next season, including aerial fire fighting assests and crew, and overhead availability.
SD–366

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

POSTPONEMENTS

APRIL 8

10 a.m.
Judiciary
To hold hearings to examine the nominations of William Duane Benton, of Missouri, to be United States Circuit Judge for the Eighth Circuit, Robert Bryan Harwell, to be United States District Judge for the District of South Carolina, George P. Schiavelli, to be United States District Judge for the Central District of California, and Curtis V. Gomez, to be Judge for the District Court of the Virgin Islands.
SD–226

SENATE—*Tuesday, April 6, 2004*

The Senate met at 10 a.m. and was called to order by the Honorable JOHN CORNYN, a Senator from the State of Texas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who remains the same though all else fades, in this season that is holy for so many we pause to thank You for loving us, even when we wander from Your purposes. Incline our hearts to respond to Your amazing grace and to cling to You, who alone can give us rest and joy.

We pray for our Senators. May they follow in the footsteps of their noble forebears who risked all for freedom. Help them through the decisions they make to build monuments of moral excellence and courage for generations to behold. Open their eyes to Your wisdom and may they hear the distant triumph songs of Your throne. Lord, uphold this great Nation with Your strong right hand. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN CORNYN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 6, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN CORNYN, a Senator from the State of Texas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CORNYN thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning there will be a period of morning business until 11 a.m. Following morning business, the Senate will then resume consideration of the motion to proceed to S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

I remind my colleagues, on Friday of this past week I asked for consent to proceed to S. 2207 to allow us to begin debate on this important medical liability issue, an issue which addresses a crisis which affects us all. There was an objection from the other side and it was necessary to file a cloture motion on the motion to proceed to the pregnancy and trauma care bill. Under the order, that vote will occur at 2:15 tomorrow afternoon. Members will debate that motion and the merits of this underlying medical liability legislation throughout the day today. I do hope we are able to invoke cloture Wednesday afternoon so we may proceed to this very important measure.

I also remind Senators yesterday it became necessary for me to file a second cloture motion with respect to the JOBS bill, the bill known as the FSC/ETI, or the Jumpstart JOBS bill. Consideration of this timely measure—timely because sanctions right now are in effect and the sanctions are affecting U.S. companies every day—consideration of this timely measure has been slowed because of unrelated amendments, amendments that have nothing to do with these manufacturing jobs and trade issues.

I have had a number of discussions with the two managers of the bill in an effort to finish the bill in a reasonable amount of time with a reasonable number of amendments, but we have been unable to reach an agreement today. Due to the desire to offer these unrelated amendments not relevant to the bill, and with no end to the number of amendments in sight, it became necessary for this second cloture vote.

I now ask consent that the vote on cloture on the motion to recommit occur tomorrow afternoon following the 2:15 vote, regardless of the provisions of rule XXII.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Yesterday, I also mentioned the need to act on the pension equity conference report. We would like to lock in agreement for a short period of debate and a vote on the conference report prior to the end of this week. An important piece of legislation, the pension bill had gone to conference; it has come out of conference; it is ready for floor action. I know there are objections to this on the Democratic side at this time. However, I hope we will be able to reach a time agreement this week on this timely conference report as well.

Mr. President, as we look at the medical malpractice and medical liability bill, as we look at FSC/ETI or the JOBS bill, as we look at the pension equity conference report, we have a lot to do over the next 4 days. We have a short amount of time to do it. It is important we stay focused on these important bills for the American people.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Utah.

FEAR AND PESSIMISM IN CAMPAIGN POLITICS

Mr. BENNETT. Mr. President, on the 5th of April, the senior Senator from Massachusetts, Senator KENNEDY, appearing before the Brookings Institute, delivered what Larry King described as a blistering attack on the Bush administration. Last night, Larry King and Senator KENNEDY had a conversation about the speech and Senator KENNEDY's comments that is worthy of comment and reaction in the Senate.

First, let me make this observation. Senator KENNEDY earlier in this campaign made personal attacks on the President which I felt compelled to respond to in the Senate.

I am happy to report in his conversations with Larry King, Senator KENNEDY backed away from that degree of personal attack on the President, and I salute him for that. I think it important for us to recognize how much we can get carried away with election-year rhetoric and how personal we can get in our attacks sometimes. I salute Senator KENNEDY, in spite of the vigorousness of his attack on the administration, for his decision to back away

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from personal attacks on the President. I would hope other members of his party would follow his lead.

We have seen the former Vice President of the United States attack the President of the United States in language reminiscent of that which Joe McCarthy used to use to attack Harry Truman. We should back away from that kind of personal hatred, even though historically it has been part of our election tradition.

There has probably not been a President more personally hated than Franklin Roosevelt in my lifetime. I remember the things that were said about him. I remember the things that were said about Harry Truman. I remember some of the things that were said about Richard Nixon, about Bill Clinton. We should back away from those kinds of personal attacks. Unfortunately, this election year has seen them come back to the point where one could almost say the basis of the campaign against the President is, in fact, personal hatred.

Former Governor Dean certainly went into that direction in his attacks against the President. We have seen Senator KERRY, in an unguarded moment, refer to his opponents as a bunch of lying crooks. I would hope we could back down from hatred as the primary theme of this campaign.

But there is another theme in this campaign which did come out in Senator KENNEDY's speech I would like to respond to and comment on. It is the theme of fear. There is an underlying sense of fear that pervades the rhetoric of the President's opponents here. It is interesting to me, because the founder of the modern Democratic Party, Franklin D. Roosevelt, is perhaps best remembered for his statement in his first inaugural when he said: We have nothing to fear but fear itself.

It would seem in this campaign there are those who have nothing to offer but fear itself—fear and its handmaiden, indeed, its standard derivative, which is pessimism. We have great fear, and we are convinced nothing is going to work. That, if I may, Mr. President, is what pervaded Senator KENNEDY's speech before the Brookings Institute, a conviction that nothing is going to work, that nothing is going to save this country except the personal replacement of the President. But none of the policies the President has put in place can possibly work, and we are in such a terrible morass and difficulty that we live in fear.

I was tempted to go through Senator KENNEDY's speech point by point and rebut it one at a time. I believe I could do that. It would take a great deal of time, and it would probably bore everybody. It is the kind of thing lawyers do in courtrooms where it is essential to build a record. But, as you know, Mr. President, I am unburdened with a legal education. I would like to step back from the point-by-point kind of refutation that would be called for in a courtroom and have an overall view of what Senator KENNEDY was saying. I refer to him personally, but I think this speech, in fact, is a distillation of the position the Democratic Party will take in the upcoming election. So I think we should step back from the point-by-point situation and look at the overall message of what they are trying to tell us. That is what I would like to address today.

Basically, as I say, it is rooted in fear and its derivative, pessimism. That is what they are offering the American people: fear and pessimism. This is the fundamental position Senator KENNEDY's speech takes: If it is bad, and it happened on President Bush's watch, he is responsible for it. If it is good, and it happened on President Bush's watch, it was coincidence or anybody could have done it, and he does not deserve any of the credit.

Let's go down the history of what has happened on President Bush's watch and see if, in fact, that pattern I have just described did play itself out.

Turn to today's headline where we have a Commission examining what happened prior to 9/11 in the year 2001. Well, we are being told repeatedly it was Bush's fault. He is responsible for 9/11 because he did not do enough to prevent it. 9/11 was his fault. Then the Commission goes on to detail what he did. Basically what he did was what the Clinton administration did. They kept track of al-Qaida. They monitored what was happening. They did their best to find out what was happening, but they did not do enough. In other words, they did not invade Afghanistan.

It is interesting to me that the people who are now saying President Bush did not do enough prior to 9/11 are the same people who are saying he did too much in Iraq. He acted before Iraq became a threat. That is in Senator KENNEDY's speech—he should have waited until Iraq became a threat. But, of course, the same critics are saying he should have acted before al-Qaida became a threat. You cannot have it both ways. Either he was prudent in doing what the Clinton administration did prior to 9/11, and watched the situation carefully to see how it would play out, or he was too timid. And if he was too timid and should have taken more forceful action prior to 9/11, he learned that lesson and took more forceful action with respect to Iraq. You cannot attack him for doing the one in the one situation and then the other in the other; you must be consistent. But the President's critics are not.

As I say, he is responsible for 9/11, according to his critics, because he did basically what the Clinton administration did, but he should have seen it coming and done more. Then when he did do more—that is, when the President led us into Afghanistan—the President's critics were outraged. What did we hear over and over again? Maybe the media has short memories, but I do not. We heard lessons from history: The British went into Afghanistan, they got bogged down, and they could not accomplish anything. The Soviets went into Afghanistan; they got bogged down and ultimately humiliated. We are going to get bogged down, and we are going to get humiliated. And going into Afghanistan is a terrible mistake.

Then suddenly the battlefield situation changed, and now we hear the President's actions in Afghanistan were brilliantly planned and brilliantly executed. We see Afghanistan on the verge of a new constitution. We see women back in the Afghanistan economy, women going to school, women now being allowed rights they did not have under the Taliban. But we do not give President Bush any credit for that. No. As I say, the mantra is: If it is bad, and it happened on Bush's watch, he is responsible. But if something good comes out of what happened on President Bush's watch, that was coincidence, and he has no right to claim any credit for it.

I am interested in a comment Senator KENNEDY did make in his speech, and I will go to the speech for this one. He said, referring to our decision to go to war in Iraq:

> . . . President Bush gave al Qaeda two years—two whole years—to regroup and recover in the border regions of Afghanistan.

I find that an incredible statement—incredible in the true meaning of that word: incredible, not credible, not to be accepted.

Afghanistan, prior to the time we went in—Afghanistan, during the period of the Clinton administration—was a haven for al-Qaida. It was a training ground for al-Qaida. President Clinton ordered the lobbing of cruise missiles into some of those training grounds but did nothing more.

Now, in response to 9/11, President Bush led the world into cleaning out the al-Qaida training camps in Afghanistan. The al-Qaida leadership has been disrupted. A large percentage of their leadership has been either killed or arrested. Assets, totaling in the tens if not hundreds of millions of dollars, of al-Qaida have been discovered and frozen, and yet the Senator says: "President Bush gave al Qaeda two years . . . to regroup and recover in the border regions of Afghanistan."

Al-Qaida has been on the run. Al-Qaida has been disrupted. Al-Qaida has seen its assets destroyed in the 2 years we have been at war with al-Qaida and Afghanistan has been freed. Those are solid accomplishments for which the President's enemies give him no credit whatsoever.

Let's talk about Iraq. That is the core of most of the criticism of the

President. There are those who suggest Iraq was created by George W. Bush; that is, the crisis was created by George W. Bush. There are those who suggest—and Senator KENNEDY comes very close to it—that George W. Bush was the first one to indicate there might have been weapons of mass destruction in Iraq. Again, the media may not have any memory on these issues, but I have a clear memory. Sitting in this body, I remember who it was who first convinced me al-Qaida had weapons of mass destruction. That was Madeleine Albright, President Clinton's Secretary of State.

We all went to 407, the room in the Capitol where we receive briefings on confidential and top secret information, classified information. Madeleine Albright laid out in chilling fashion all of the evidence to tell us there were weapons of mass destruction in Iraq. In response to that evidence, President Clinton went to war against Iraq. We forget that. We pretend that never happened. President Clinton, using his powers as Commander in Chief and acting under the authority of the U.N. resolutions that had condemned Iraq following the first gulf war, launched a heavy bombing attack upon Iraq for the sole purpose of destroying their weapons of mass destruction. And to his credit, during the current political debate, President Clinton has made it clear we did not know whether or not that bombing attack destroyed all of Iraq's weapons of mass destruction. President Clinton has made it clear we had no way of knowing how successful that bombing attack was.

Yes, the difference between President Bush and President Clinton is President Clinton bombed. He carried on the war from the air. President Bush decided to carry on the war at ground level. I do not suggest that is a trivial difference. It is a very significant difference. But if we are going to talk about who went to war in Iraq over the issue of weapons of mass destruction, we have to say the answer is President Clinton. If we are going to talk about Secretaries of State who informed the Congress about Iraq's program of weapons of mass destruction, we have to say the first one who did it was Madeleine Albright.

I am one who believed Madeleine Albright. I am one who believed and supported President Clinton. I find it a little disheartening to have those who agreed with us then now suggesting it was President Bush who first brought up the issue of weapons of mass destruction, and it was President Bush who first said we had to deal with those weapons by acts of war. Memories should be longer than that.

When President Bush decided to go ahead in Iraq, what did his critics have to say? It will never work—fear, pessimism; we can't succeed. On the floor of this Senate, we heard over and over again: There will be thousands and thousands of body bags coming back as Saddam Hussein uses chemical weapons against our troops. We cannot send our troops there to be exposed to these weapons.

These are the same voices now who are saying: There were no weapons. But certainly they believed there were, as they warned us that our troops would be gassed, that they would be killed with chemical weapons, and we could not run that risk.

Then when the action started, these same voices said: Bogged down on the road; held down by the resistance of the Iraqis. We are in a quagmire; we will never succeed.

Then when Baghdad fell within a matter of weeks from those prophesies and predictions, now we are being told: Anybody could have done it. No big deal. We can't give Bush any credit for having gone into Iraq and winning the war. It was a piece of cake.

Before the fact, fear and pessimism; after the fact, blame, no credit for success, determination that it is not going to work in the long term.

I could go on about Iraq in that regard, but there will be many more debates. Let me go into the other substance of Senator KENNEDY's speech and demonstrate the same pattern: fear and pessimism.

The Senator talks about education, talks about No Child Left Behind. He takes credit for having helped write No Child Left Behind, appropriately. One of the reasons I voted against No Child Left Behind is because I thought the things the Senator from Massachusetts succeeded in getting into that bill would be too heavy handed in terms of the Federal pressure on State boards of education. In that, I feel vindicated because State board after State board has complained that this represents entirely too much Federal control on education.

Now Senator KENNEDY says: No money for education; lots of promises out of the administration but no money.

The facts are that under President Bush's leadership, this Congress has increased Federal spending on education to higher actual levels and at a higher percentage increase than any other administration in history. This administration has spent more on education than the Clinton administration did and has accelerated that spending at a higher rate than the Clinton administration did.

Yet we are being told: No, they are holding back on education spending. They are being too stingy on education spending—as they spend more than any other administration and Congress in history.

In advance, can't work; after the fact, pessimism that we can't get there—fear and pessimism.

The Senator talks about cost estimates with respect to the Medicare bill. Here we have to get into a little inside baseball so people can understand exactly what happened. Senator KENNEDY quotes the fact that we used the figure in the Senate of $400 billion as the cost of this bill and that an official in the Department of Health and Human Services said it is going to be closer to 500, that it is going to be over 500. And he was told not to make that estimate public. Senator KENNEDY berates the administration for selling the $400 billion number when it knew $500 billion was the correct one.

Now let's get into the facts. A number of us on this side of the aisle were equally disturbed by this gap between numbers. We assaulted the chairman of the Budget Committee, Senator NICKLES, to ask him: How did this happen? How did we get trapped with a low estimate when there was a higher estimate out there?

He pointed out this fact that doesn't get into the public consciousness and that the media does not take the time to understand and explain: By law, we in the Congress, as we are adopting a budget, can use only one source for our estimate of costs. By law we have to take the estimate or score—to use the word we all understand around here—of the Congressional Budget Office.

As Senator NICKLES pointed out to us, during the debate, the Congressional Budget Office said: This will cost $400 billion.

That is where it was scored. After the estimate came out of the administration that it was going to be higher, the Congressional Budget Office said: The number is still $400 billion, according to our estimates.

By law, we could not have used the higher estimate in writing the budget because it came from a source outside of the Congressional Budget Office. Now, the one thing I know about the $400 billion number offered by the CBO and the $500 billion-plus number offered by OMB is that both of them are wrong. I cannot tell you whether either one of them are too high or too low. I can only make my own estimate.

But stop and think about it for a moment. We are talking about a program, spread over 5 years, that is not working yet, and we are making guesses as to what it would cost. You feed into your computer certain assumptions and you get a number; you change the assumptions in the computer and it will give you another number. The question is not, Is the number correct? The question is, Are the assumptions correct? The answer is, all of the assumptions are guesses—whether CBO is making the guess or whether HHS is making the guess or whether it is OMB. Everybody is making the guess.

But in terms of the debate on the floor of the Senate, we had no choice but to accept the CBO number as the controlling number. That is the law. So

Senator KENNEDY is attacking the Republicans and the decisions in this Senate with respect to the budget for following the law. He is attacking us for not accepting estimates which, by law, we cannot use. I think it is important to understand that as we go through this debate, and talk about what is going to happen in the election.

In summary, as we look ahead to the election, I think we should pay attention to the details, but we should also understand the overall thrust of the two campaigns. I do believe that the campaign mounted on the Democratic side of the aisle has begun out of personal hatred of President Bush, and now more into a litany of fear and pessimism. They are afraid the economy is not coming back. They tell us pessimistically that we are never going to get any jobs.

Once again, before this last Friday, we were told, well, the unemployment rate might be coming down, but that isn't the rate we should look at; we should look at the number of jobs created. On Friday, it was announced that 308,000 jobs were created in March. Now we are told, no, don't look at that, look at the unemployment figure; it is not coming down fast enough. Don't pay attention to the number of jobs created.

We are told this is the worst economy in 50 years. I have heard that rhetoric on the floor. According to the blue-chip economists who are looking at this recovery, they are projecting for 2004—another guess, I make that clear—the highest growth rates in 40 years. If that is the example of the kind of economy we are getting from George W. Bush, I say give us more. The highest growth rate in 40 years is what the experts on Wall Street are projecting.

And the pessimists are complaining about that. The pessimists are telling us we cannot get there. Look at Iraq. Of course, things are bad in the Sunni Triangle in Iraq. The deaths of Americans and the deaths of Iraqis are tragic, and we should mourn them and do everything we can to try to prevent them, but let us not focus solely on those deaths.

Let us look at the fact that Iraq is on its way—however haltingly or however slowly, and with whatever difficulty—toward establishing a constitution and, one hopes, a democracy. The pessimists say we can never get there. The pessimists are filled with fear and are saying we will fail and when we fail al-Qaida will destroy our cities. But George W. Bush is not a pessimist. He is an optimist and he does not peddle fear.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BENNETT. I ask unanimous consent that I be allowed to continue for an additional 4 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENNETT. That is the core of this election. Do we face the future with fear and pessimism and a conviction that we cannot do it or do we face the future with a clear, realistic understanding of how difficult it will be, but with a confidence and an optimism that we can do it, that we can succeed in implanting a democracy in Iraq, in bringing freedom into that part of the world in a way that it has never known before?

We see signs that we are succeeding already. We see India and Pakistan, two nuclear powers that have been on the verge of war, now looking out over the world of George W. Bush and American resolve and saying maybe we should talk and try to resolve our differences short of war. We see Qadhafi in Libya saying: Maybe it is not a good idea to have weapons of mass destruction and I will voluntarily surrender them and dismantle them in this new situation that George W. Bush has created.

I believe the American people will respond more actively to hope and optimism than they will to fear and pessimism. For that reason, I look forward to this election season with some relish about debating the details of the issues raised by the Senator from Massachusetts and, at the same time, some confidence in the wisdom of the American people and their willingness to embrace hope and optimism and put aside the fears and pessimism that are being peddled by the President's opponents.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. I ask unanimous consent that I be allowed to proceed for 10 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEDICAL MALPRACTICE

Mr. GREGG. Mr. President, later on, we are going to move to the medical malpractice bill, which is an important piece of legislation. It will allow women, especially, to have access to OB/GYN doctors, some of whom are giving up their practices of delivering babies because of the cost of medical liability insurance. It will also address the issue of doctors in emergency rooms and make sure those doctors are able to practice in emergency rooms so people, when they are seriously injured and they go to an emergency room, will have doctors. We will be on that bill at 11 o'clock.

JOBS

Mr. GREGG. Mr. President, I want to talk about the approach being taken by the other side of the aisle toward a lot of issues in the Senate but specifically two dealing with jobs; that is, this attitude of obstruction for the purpose of basically stopping legislation and not allowing this body to move forward and do the business of the people.

There are two bills pending in this body. One is the JOBS bill, which deals with correcting the tax structure of the United States so we are no longer out of compliance with a ruling made by the WTO, which ruling, if it is allowed to stand, will have the practical effect of raising duties on American products sold overseas rather significantly. In fact, they could raise as high as 18 percent, as I understand it.

The effect of those duties, of course, which have now been ruled legal under this international tribunal that we subscribe to as a member state, will be that those American goods are not as competitive as they should be, and therefore those American goods will not be able to be effectively sold into those markets overseas. The practical effect of that will be that jobs will be lost here in the U.S.

The other side of the aisle continues to filibuster that bill. The effect of the filibuster will be that these duties will go into place and jobs will be lost. This bill which is called the JOBS bill is just that, a jobs bill. Yet we hear from the other side of the aisle what appears to be and must be crocodile tears on the issue of creating more jobs, because they have the opportunity to pass a piece of legislation that will clearly impact the creation and maintenance of jobs in the United States, and they are obstructing it and filibustering it.

We hear from the other side a great deal about outsourcing, American jobs being moved overseas. The practical effect of objecting to this bill, obstructing this bill and of filibustering this bill, is that those jobs will probably move overseas because those manufacturers, in order to avoid the duty, are going to have to move overseas in order to be competitive with the products in those nations where they are selling them. So the effect of the filibuster and obstruction we are seeing on the other side on the issue of the JOBS bill is to basically energize the loss of jobs in the U.S. and the outsourcing of jobs overseas.

Therefore, when we hear all this discussion and concern about the creation of jobs in this country today from the other side of the aisle in the context of the Presidential election, one wonders how serious they are, because clearly if they are serious they would pass this bill which, by the way, is supported by a majority of the Senate. The objection to this bill is not the underlying law. It is not the correction to the tax law which will allow these jobs to be retained in the United States. It is, rather, they wish to bring forward extraneous legislation and put it on this bill, legislation which we voted on a couple of times before in committee and which we voted on at least once on the floor of the Senate.

Therefore, it is a tangential idea and a desire to make a political point, and their willingness to pursue that tangential idea and desire at the expense of these jobs, I find, is cynical and clearly inappropriate. That is the first bill being stopped.

The second bill is a bill I managed and which just came out of conference, and it is the pension reform bill. It did not have everything in it that I wanted. It did not have everything in it the House wanted. But it has key pieces of legislation in it which will have a direct impact on jobs. I called this pensions bill the ultimate jobs bill because, quite honestly, that is exactly what it is.

If this pensions bill is not passed and passed promptly, the practical effect is there will be a misallocation of up to $80 billion of resources within the investment community and in the small and large business communities of this country. What has happened today is that companies fund what is known as a defined benefits plan under rules which they say, in order to determine how much they are going to pay to the plan each year, they have to look at the rate of return on the 30-year Treasury bond.

The 30-year Treasury bond is a vehicle which does not exist anymore. We do not sell it, basically, as a country. Therefore, the price of a 30-year Treasury bond has been moved to an artificially low number, and the practical effect of that is that companies, businesses, and unions which must see their pension funds funded for these defined benefits plans are going to see those payments to those defined benefits plans increased at an arbitrary rate based on a nonexistent bond vehicle, the 30-year bond. It is technical, but it is an important point.

This pensions bill corrects that situation. It sets up a new structure for defining how much must be contributed to a defined benefits plan for a period of 2 years based on a bond rate which does actually exist, which is a market basket of corporate bonds. The practical effect of that will be an appropriate allocation of money into these defined benefits plans, leaving dollars available to invest in new plant, new equipment, and expansion of business in the United States, which leads directly to jobs.

Thus, if this pensions bill is not enacted in the next week, we will have these arbitrary reallocations of funds occurring by April 15. This pensions bill will have a direct and proximate effect on the ability of business in the United States to be competitive, to create investment, and, in return, to create jobs.

Yet, once again, we were told by the leadership on the other side of the aisle—at least the leadership in the committees, Senator KENNEDY and Senator BAUCUS—that they oppose this bill and they are going to use all their means available to them to stop it.

They can stop this bill. There is no question about it. They can stop it for at least 2 or 3 weeks, and the practical effect of that will be that we will go beyond the April 15 funding date, and this rather horrific misallocation of resources will kick in, the practical effect of which will be instead of investing to create jobs, they will be investing arbitrarily in these defined benefits funds at a rate which is not reflective of what the actual return rate on those funds would be if they had an appropriate market basket of corporate bonds on which they were basing their yield rates.

Yes, they can hold this bill up. And, yes, I guess they intend to hold this bill up. What is the effect of that? It is going to cost Americans jobs. It is going to mean jobs will not be created. It is going to mean investment will not be made. It will mean dollars will be arbitrarily allocated rather than flowing where they can most effectively be used through investment in new plant and equipment and the resulting jobs that occur from that.

So, once again, we see from the other side of the aisle an attitude that says: We are going to obstruct you; we are going to stop business in the Senate. We don't care that in the process of doing that we are going to create an atmosphere where jobs are lost, as in the case of the JOBS bill where the duties are increased against American manufacturers and maybe as a result jobs have to be outsourced. In any event, we will certainly have our products being less competitive, which means probably fewer jobs will be created in those businesses and maybe jobs will be lost in those businesses in the area of the pensions bill. They do not care. They are going to obstruct, and they are going to stop this bill because they are tweaked about the issue of how far it went and, as a result, what is going to be the impact. Jobs will be lost because the dollars for investing in plant and equipment will not be available. It is a rather cynical strategy from the other side of the aisle. First, they go out to the public in the Presidential campaign and say: Why don't we have more jobs? Then, on the floor of the Senate, they are aggressively pursuing strategies which stop us from creating more jobs. It is a lot like the kids who killed their parents and then go to the court and claim they should receive special treatment because they are orphans.

These folks on the other side of the aisle are shooting the programs which would create jobs, and then they are going out in the Presidential politics arena and saying: Why aren't we creating more jobs?

The cynicism of it is rather extreme. From my standpoint, I certainly hope they are not going to continue this practice because, in the end, it means people in America will not have jobs and will have fewer opportunities to work. For me, that is not right.

I hope we can pass this pensions bill this week, and I hope we can pass this JOBS bill this week, but it certainly doesn't look like that is going to occur.

I yield back the remainder of my time. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened with great interest to comments of some of my colleagues, especially on this issue of obstructionism as it relates to jobs. It is true there is a JOBS bill, as it is called, on the floor of the Senate that has been delayed. This JOBS bill is a bill that gives tax breaks to U.S. manufacturers, and it has, in fact, been delayed. Let me explain why it has been delayed and why the obstructionism on the part of the majority party in Congress exists.

When that bill came to the floor of the Senate, someone on this side of the aisle offered a very important amendment. It also had to do with jobs, so it had to do with the subject of the bill. Because the majority party did not want to vote on the amendment, they took all their marbles, walked off the floor, and went home and accused our side of being obstructionist. Let me describe the circumstances.

Senator HARKIN offered an amendment on overtime pay. Why did he do that? Because the Department of Labor is about to produce new regulations that, for the first time in 60 years, will obliterate the 40-hour workweek and tell workers, Oh, by the way, if your employer decides to work you more than 40 hours, anywhere from 6 to 8 million Americans who now receive overtime will not be able to receive overtime pay. The employer will be able to say: You work overtime, you work 50 hours; if you don't like it, tough luck, and I am not going to pay you overtime. For the first time in 60 years, the 40-hour workweek will be gone for about 6 to 8 million people.

These new rules are touted as worker-friendly rules, but, of course, we know that is not the case at all because there are consulting companies—and the Department of Labor itself—putting out information to businesses to say: Here is the way you structure your company to avoid paying your workers overtime under these new rules.

Senator HARKIN offered an amendment on this important JOBS bill. Why is it germane to this JOBS bill? Because if employers are able to say to workers, You work overtime for no extra pay, instead of creating new jobs which ought to be created, they will say to existing workers: You work overtime; we are not going to pay you extra.

This new rule from the Department of Labor is an approach that will diminish jobs, that will retard the creation of new jobs. Yet, when Senator HARKIN offered that amendment, the majority party had some kind of an apoplectic seizure.

According to the majority party, Senator HARKIN is apparently obstructing things because he offers an amendment dealing directly with jobs. No, it is not Senator HARKIN who is obstructing. What is obstructing the business of this Chamber is the majority party. Senator HARKIN offered an amendment that deals directly with jobs and they refused to have a vote on it, and they are going to take their marbles and just go home. They are going to go home and accuse someone else of obstructing.

The obstruction in this Chamber is by the majority party that refuses to allow votes on issues that are important and that are relevant to the matters at hand. That is the obstruction. It is a curious strategy to know the majority party would obstruct its own agenda, but obstruct they do. Then they rush out to the microphones to accuse others of obstructing.

There is a very simple way to remove all of these issues. We do not have to have any obstruction by anybody. Bring the bills to the floor and let us try to deal with them in a thoughtful way. When someone offers an amendment, like Senator HARKIN, give us an opportunity to have a vote on it. Let's move ahead. That is not the case these days. It is just a little bizarre to hear these charges of obstructionism.

I would also say to those who came to the floor this morning to say what they really want to see is a positive campaign for the Presidency, I say amen to that. But there is a large, well-oiled attack machine in this town. In fact, I watched the television commercials last evening by the administration, which represent Senator KERRY's position on taxation. It is a wholly negative television commercial.

I agree with my colleague who said, let's be positive. How about maybe we see the other side, maybe see the White House take some of those commercials off the air and then let us talk about being positive.

FOREIGN COMPANIES MUST PAY TAXES

Mr. DORGAN. Mr. President, I came to the floor not to talk about the obstruction by the majority party; I came instead to talk about a new report that is just out. It is a report by the GAO, and it says something important about fiscal policy in this country.

The GAO report, which Senator CARL LEVIN and I asked for, compares the reported tax liabilities of some of the biggest companies that do business in this country, both domestic companies and foreign companies.

This report studied a period of time when we had robust economic growth in our economy, 1996–2000. On the summary page, it says that an average of 71 percent of all foreign corporations doing business in the United States of America pay no income tax at all. These are names almost all Americans would easily recognize. Obviously, this report does not provide these names. But when one talks about the major foreign corporations selling products in this country, earning billions of dollars from those sales and paying zero to the Federal Government in tax liability, it raises very serious questions about gaping holes in this country's tax system.

We are nearing April 15, when Americans will march off to the post office and pay their taxes. They will pay their taxes because they do not have any alternative or any flexibility. They understand the obligation in this country to pay taxes.

Now, 71 percent of the foreign corporations that do business and make money in this country have decided they want to participate in our country and market system, but they do not want to participate in paying taxes on those profits. There is something fundamentally wrong with that. Once again, it demonstrates the gaping holes in our tax system. No, not for ordinary people, just for the big interests who do a lot of business, make a lot of money and pay no taxes. Shame on them.

This report also found that 61 percent of domestic companies during this period of economic growth paid no income taxes in this country.

We know the stories about companies that have decided they want to run their company out of a mailbox in Bermuda or the Bahamas. Why? Because they do not want to pay taxes to the United States. I say this to companies that want to do that: If they want to run their company out of a mailbox in the Bahamas, the next time they get in trouble, call the Bahamian Navy. I understand they have 21 sailors. Call them to get their company out of trouble.

These foreign corporations that do business and make profits in this country have an obligation to pay taxes in this country. Domestic companies that make profits in this country have an obligation as well. That obligation is to participate with ordinary Americans who understand that part of the cost of citizenship in this country is to help fund schools, pay for defense and pay for the social services that make this a great country. That is part of the obligation.

We have some of the biggest economic interests who have decided they want to participate in every way of being an American except paying taxes. That has to stop. I hope this Congress will begin to take this seriously.

This is the second GAO report we have done in the last 6 years on this subject. The tax avoidance problem is not getting better, it is getting worse. Tax loopholes are not getting narrower, they are getting wider.

Again, as we near April 15, when Americans think about the obligation to pay taxes into this Government, I think it is shameful to get a report like this that says so many big economic interests that make so much money have decided they want all of the advantages America has to offer, but they do not want to pay taxes to the United States of America. That is a shameful situation and one we ought to fix.

THE JOBS BILL

Mr. DORGAN. Mr. President, when we return to the JOBS Act, the bill that the majority party pulled from the Senate floor because Senator HARKIN offered an amendment on overtime, Senator MIKULSKI and I are going to offer an amendment. The amendment is very simple. It says this: We are going to end that provision in our Tax Code that says to American companies, if they will just pack up all of their belongings, fire all of their workers and move somewhere else offshore, make the same product and ship it back into our country, we will give them a tax break. Talk about perversity, that is perverse, offering a tax break to someone who moves their American jobs overseas. Yet, that is exactly what exists in the Tax Code. We have voted on this before because I offered a similar amendment a number of years ago.

Let me describe exactly how this tax break works. Let's say there are two companies in this country with manufacturing plants. Each company produces garage door openers and these companies do a good job. They employ American workers, they produce garage door openers for sale in the U.S. marketplace and they earn some profit. But one company decides what it really wants to do is move overseas because it does not have to pay $11 an hour for a manufacturing worker. The company can go to Sri Lanka, Bangladesh, Indonesia or China and hire a 16 year-old-kid or a 12-year-old kid and pay them 12 cents an hour, working them 12 hours a day 7 days a week.

So one of the companies that makes garage door openers leaves, makes exactly the same garage door opener now in Sri Lanka and ships it back into this country.

The other company that makes garage door openers stays in America. The difference is that the company that left this country does not have to pay income taxes on their profits any longer because we have something called tax deferral. Until and unless they repatriate those earnings, those earnings are tax free in this country.

Our amendment is very simple. It says this: If a company leaves this country and moves its jobs overseas to produce a product to ship back into this marketplace, the company loses tax deferral that now perversely incentivizes companies to leave this country. It is one thing to have companies leave because of bad trade agreements, because they can avoid the things we have fought for for years in this country—safe workplaces, fair labor standards, and decent wages. It is quite another thing for them to leave because in part we say we will give them a tax break if they leave our country. What a nutty idea and one that we ought to change.

REIMPORTATION OF PRESCRIPTION DRUGS

Mr. DORGAN. Mr. President, I will make one additional point on another subject. Last week, I went to see the Secretary of Health and Human Services, Tommy Thompson, and made a presentation in support of a pilot project I want him to approve which would allow the reimportation of prescription drugs from Canada. My pilot project is very simple. It sets up a 2-year pilot project for North Dakota that would allow North Dakota pharmacists to access FDA-approved drugs from pharmacists in Canada.

As you know, the administration has been fighting this notion of reimporting prescription drugs. The pharmaceutical industry is fighting it. The administration is fighting it.

This is why it is important: In every case—the drug Lipitor, Prevacid, Zocor, Celebrex—it is the same drug put in the same bottle made by the same company sold in two countries, but the charges are much higher to the U.S. consumer. It is not just true with Canada; it is true for every country in the world because the U.S. consumer is charged the highest prices in the world for FDA-approved prescription drugs, and that is not fair.

Let me ask consent to show two pill bottles on the floor of the Senate.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. DORGAN. These are bottles of a drug called Lipitor. This, I believe, is one of the fastest selling, most popular drugs in the United States. It is used for the lowering of cholesterol. By all accounts, it is a very successful drug and it sells rapidly and is prescribed often.

As you can see, these two bottles of Lipitor are identical. These are both bottles that have 10 milligram tablets of Lipitor in them. They are made in the same plant. These are FDA-approved drugs made in an FDA-approved plant. The same pill is put in the same bottle made by the same company. There is one difference. This one is sold to Canadians at $1.01 per tablet. This one is sold to Americans at $1.81 per tablet. It is the same pill, the same bottle, same company, FDA approved, but nearly twice as much money is charged to the American consumer than the Canadian consumer.

I could have used Germany as an example, Italy, England, France, Spain—almost anyone. I could have used almost any country and come up with nearly the same result.

In Europe, they have something called parallel trading. If you are in Spain and want to buy a drug from Germany, there is no problem, you go through the parallel trading system. If you are in Italy and want to buy a drug from France, no problem, parallel trading. In this country we are told by FDA and others that there would be a huge safety problem if we purchased drugs from Canada—total nonsense. The Canadians have virtually the same chain of custody as we do. The Canadian drug supply is safe. Even our health authorities will admit that. So having licensed U.S. pharmacists acquire from licensed pharmacists or licensed distributors in Canada the identical drug and passing the savings along to the American consumer makes good sense and poses no—I repeat no—safety issues for citizens of this country.

I have asked the Secretary of Health and Human Services for a waiver to allow this pilot program to go forward. We will continue on the floor of the Senate to pass legislation. I believe we will soon pass legislation that deals with this issue, but, in the meantime, I am asking the Secretary of Health and Human Services to make a decision on this waiver request. He is now studying that. I assume it will be some weeks. But my hope is he will understand that the issue, which is a safety issue that they have described, simply does not, cannot, and will not exist with respect to this matter.

The question is, Who is going to stand up for the American consumer? Will somebody stand up and say, on behalf of the American consumers, that what is happening here is not fair? I hope so.

This proposal is called Prairie Prescriptions. It is a 2-year pilot project I put together. My hope is my State can be a pilot project that will demonstrate for everyone that the issue of safety in the reimportation of drugs with Canada, which has a nearly identical chain of custody, will always be a bogus issue. The issue is whether the American people will continue to pay the highest prices in the world for prescription drugs.

Miracle drugs offer no miracle for those who cannot afford them. Our senior citizens of this country are 12 percent of America's population and they take one-third of the prescription drugs. They are often the people least able to afford these prices. Yet day after day, month after month in this country we have senior citizens going down to their grocery store, and finding out how much their prescription drugs are going to cost so they know how much they have left to buy their groceries.

I notice my colleague Senator HARKIN is waiting to speak. I am sure in Iowa, as we have in North Dakota, when you go to a meeting someplace you often have somebody 80 years old touch you on the elbow and say: Can you help me? You say: What is it? And the tears well up in their eyes and their chin begins to quiver and they say: I have heart disease and diabetes and I am supposed to take this medicine and I can't afford it. Can you help me?

The fact is, we pay too much for prescription drugs. We pay the highest prices in the world, and it is just not fair.

Obviously, my interest is at some point to force a repricing in this country, but in the absence of that, I believe reimportation is the way to let the market system even out these prices. I believe that can, should, and will be done without any safety issues whatsoever.

I await anxiously the decision by the Secretary of Health and Human Services and the administration. The Prairie Prescriptions Pilot Project is a solid project, one that will benefit, in my judgment, the entire country by demonstrating once and for all this phony issue that has been raised by the former head of FDA, Dr. McClellan, and so many others. The issue of safety is just not an issue at all. The issue really is will the American people finally be treated fairly with respect to prescription drug pricing.

I yield the floor.

Mr. HARKIN. Mr. President, how much time is left?

The PRESIDING OFFICER. Five minutes fifty seconds.

Mr. HARKIN. I understand that the Senate will then resume consideration of the motion to proceed.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, I am going to ask unanimous consent, since I had 15 minutes—I am going to ask unanimous consent that I be allowed to speak for 5 minutes as in morning business and then the Senate would then interrupt my presentation to return to the motion to proceed and that I be recognized to finish my statement then.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, might I ask—reserving the right to object, may I ask unanimous consent that the Senator from Iowa be given 15 minutes in morning business?

Mr. HARKIN. We will just go to the motion to proceed. That is fine.

The PRESIDING OFFICER. Is there objection to the original request?

Without objection, it is so ordered.

Mr. HARKIN. Which one?

The PRESIDING OFFICER. Your request that you be allowed 5 minutes now, then we go to the bill, and then you be recognized to speak for an additional 10 minutes.

Mr. HARKIN. I thank the Chair and I thank my colleague from North Dakota. We might as well go on with the motion to proceed. I can make my presentation then, too.

THE ECONOMY

Mr. HARKIN. Mr. President, there is no secret that there is a great frustration in the American workplace today. There is a great anxiety among American working families. You can sense it, you can feel it, you can hear it no matter where you go in America, whether it is in Iowa or Wyoming or New York or wherever it is. Something is happening out there. You get it all the time from people who have been working, maybe have lost their jobs, maybe they took another job, they are not making ends meet. They see the economy doing much better. They read this in the paper all the time—the economy is getting better, tax cuts are going into effect, foreign car sales, the big cars, the Mercedes and all those, are up. We see all the higher end items being purchased and sold.

For example, over the recent Christmas holidays, the Sharper Image, I believe, which sells high end electronics stuff, and Neiman Marcus had great sales. But Wal-Mart was down.

There is a great sense among American working people that something is not quite right with what is going on in this country. Maybe most Americans don't have degrees in economics; they haven't studied it, but they sense something is going wrong.

In his recent book, "Wealth and Democracy," Kevin Phillips pointed out that there is a trend that different countries go through at various stages of their growth. One of those stages is where more and more of the output of a country accumulates to capital and less and less accumulates to labor, to the working people.

It is with great interest I note that, after I had read Kevin Phillips' book, yesterday in the New York Times an article by Bob Herbert brought it home. The title of the piece was "We're More Productive. Who Gets the Money?" As Mr. Herbert wrote yesterday in the New York Times:

> It's like running on a treadmill that keeps increasing its speed. You have to go faster and faster just to stay in place. Or, as a factory worker said many years ago, "You can work 'til you drop dead, but you won't get ahead."
>
> American workers have been remarkably productive in recent years, but they are getting fewer and fewer of the benefits of this increased productivity. While the economy, as measured by the gross domestic product, has been strong for some time now, ordinary workers have gotten little more than the back of the hand from employers who have pocketed an unprecedented share of the case from this burst of economic growth.
>
> What is happening is nothing short of historic. The American workers' share of the increase in national income since November 2001, the end of the last recession, is the lowest on record. Employers took the money and ran. This is extraordinary, but very few people are talking about it, which tells you something about the hold that corporate interests have on the national conversation.
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> The situation is summed up in the long, unwieldy but very revealing title of a new study from the Center of Labor Market Studies at Northeastern University: "The Unprecedented Rising Tide of Corporate Profits and the Simultaneous Ebbing of Labor Compensation—Gainers and Losers from the National Economic Recovery in 2002 and 2003."

The PRESIDING OFFICER. The Senator's time has expired.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT OF 2004—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will resume consideration of the motion to proceed to the consideration of S. 2207, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 2207) to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such service.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized for an additional 10 minutes.

Mr. HARKIN. Mr. President, parliamentary inquiry. I did not understand I was under a time limit. I had asked to continue to proceed after morning business on the motion to proceed, but I didn't recognize there was a time limit there. I did not ask consent for 10 minutes.

The PRESIDING OFFICER. The Senator has been granted 10 minutes to speak on any subject he wishes. But the total is 15 minutes under the request.

Mr. HARKIN. I think the record will show that I asked for consent to continue to speak in morning business, to yield the floor, to then return to the motion to proceed, and that I be recognized to continue to speak on the motion to proceed. That does not have a time limit.

The PRESIDING OFFICER. The Senator is recognized to speak on the motion to proceed or on whatever subject he wishes to speak for 10 minutes and thereafter on the bill.

Mr. HARKIN. I understand that. I thank the Chair.

Mr. GREGG. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HARKIN. Sure.

Mr. GREGG. At the end of the Senator's 10 minutes, does the Senator come back and retain the floor?

The PRESIDING OFFICER. It was my understanding that the time under the request was that he was going to have a total of 15 minutes. Otherwise, there would have been an objection.

Mr. GREGG. Mr. President, I will be seeking the floor at the conclusion of the 10 minutes as the manager of the bill, for everybody's knowledge.

The PRESIDING OFFICER. Under the normal procedure, the manager of the bill may speak as soon as a bill is brought up, with the exception of the 10 minutes as a continuation of the total of 15 minutes.

The Senator from Iowa may proceed.

Mr. HARKIN. I do not mean to take more than 15 minutes. I might go into 18 or 20 minutes. I wasn't going to take a long time. I wanted to finish my statement without being constrained with the 15 minutes I had under morning business. That is why I went on the motion to proceed. I will speak on that for an additional few minutes. But I will take whatever time I can now. If I am cut off, I will be back.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, Mr. Herbert further said:

> Andrew Sum, the center's director and lead author of the study, said: "This is the first time we've ever had a case where two years into a recovery, corporate profits got a larger share of the growth of national income than labor did. Normally labor gets about 65 percent and corporate profits about 15 to 18 percent. This time profits got 41 percent and labor [meaning all forms of employee compensation, including wages, benefits, salaries and the percentage of payroll taxes paid by employers] got 38 percent."
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> The study said: "In no other recovery from a post-World War II recession did corporate profits ever account for as much as 20 percent of the growth in national income. And at no time did corporate profits ever increase by a greater amount than labor compensation."
>
> In other words, an awful lot American workers have been had. Fleeced. Taken to the cleaners.
>
> The recent productivity gains have been widely acknowledged. But workers are not being compensated for this. During the past two years, increases in wages and benefits have been very weak, or nonexistent. And despite the growth of jobs in March that had the Bush crowd dancing in the White House halls last Friday, there has been no net increase in formal payroll employment since the end of the recession. We have lost jobs. There are fewer payroll jobs now than there were when the recession ended in November 2001.

> So if employers were not hiring workers, and if they were miserly when it came to increases in wages and benefits for existing employees, what happened to all the money from the strong economic growth?
>
> The study is very clear on this point. The bulk of the gains did not go to workers, "but instead were used to boost profits, lower prices, or increase C.E.O. compensation."
>
> This is a radical transformation of the way the bounty of this country has been distributed since World War II. Workers are being treated more and more like patrons in a rigged casino. They can't win.
>
> Corporate profits go up. The stock market goes up. Executive compensation skyrockets. But workers, for the most part, remain on the treadmill.
>
> The study found that the amount of income growth devoured by corporate profits in this recovery is "historically unprecedented," as is the "low share . . . accruing to the nation's workers in the form of labor compensation."

I thought Mr. Herbert wound up his statement quite adequately when he said:

> I have to laugh when I hear conservatives complaining about class warfare. They know this terrain better than anyone. They launched the war. They're waging it. And they're winning it.

One of the reasons they are winning it is because workers no longer have organized labor. Organized labor has been weakened to the point where workers are told: Take what you got or go get something else or we will take your job and we will take it to China or we will take your job and move it to India or South Africa or some other place. You have no recourse as a worker.

I have tried for years in this Senate and in this Congress to try to get a bill passed called the striker replacement bill which says if you are on strike you can't be replaced with a replacement worker. That one thing alone has broken the back of organized labor to the point where workers no longer have the power to withhold their labor, the only tool with which they have to bargain.

So here we have more and more of the earnings from increased productivity going to capital and less going to workers. What do we do about it? We say now we are going to take away your time-and-a-half overtime. That is the next assault on the time-and-a-half overtime. For our workers who are working more and more in this country and working longer hours than any other industrialized country, we are going to say to workers we will take away your right to overtime.

That issue was brought up on the bill that was before us earlier. That was my amendment, to say these proposed rules by the Department of Labor that would deny up to 8 million Americans their right to time-and-a-half overtime could not go into effect. Now we find that not only is the administration trying to push through new rules to eliminate overtime pay; at the same time, many employers are illegally pushing the same thing. They are doctoring their employee time records in order to avoid paying overtime. This practice is shaving time. It is easy to do, it is hard to detect, and is done in a matter of a few keystrokes.

According to the New York Times article on Sunday by Steven Greenhouse:

> Workers have sued Family Dollar and Pep Boys, the auto parts and repair chain, accusing managers of deleting hours. A jury found the Taco Bell managers in Oregon had routinely erased workers' time. More than a dozen former Wal-Mart employees said in interviews and depositions that managers had altered time records and shortchanged employees.

I ask unanimous consent a copy of the New York Times article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 4, 2004]

ALTERING OF WORKER TIME CARDS SPURS GROWING NUMBER OF SUITS

(By Steven Greenhouse)

As a former member of the Air Force military police, as a play-by-the-rules guy, Drew Pooters said he was stunned by what he found his manager doing in the Toys "R" Us store in Albuquerque.

Inside a cramped office, he said, his manager was sitting at a computer and altering workers' time records, secretly deleting hours to cut their paychecks and fatten his store's bottom line.

"I told him, 'That's not exactly legal,'" said Mr. Pooters, who ran the store's electronics department. "Then he out-and-out threatened me not to talk about what I saw."

Mr. Pooters quit, landing a job in 2002 managing a Family Dollar store, one of 5,100 in that discount chain. Top managers there ordered him not to let employees' total hours exceed a certain amount each week, and one day, he said, his district manager told him to use a trick to cut payroll: delete some employee hours electronically.

"I told her, 'I'm not going to get involved in this,'" Mr. Pooters recalled, saying that when he refused, the district manager erased the hours herself.

Experts on compensation say that the illegal doctoring of hourly employees' time records is far more prevalent than most Americans believe. The practice, commonly called shaving time, is easily done and hard to detect—a simple matter of computer keystrokes—and has spurred a growing number of lawsuits and settlements against a wide range of businesses.

Workers have sued Family Dollar and Pep Boys, the auto parts and repair chain, accusing managers of deleting hours. A jury found that Taco Bell managers in Oregon had routinely erased workers' time. More than a dozen former Wal-Mart employees said in interviews and depositions that managers had altered time records to shortchange employees. The Department of Labor recently reached two back-pay settlements with Kinko's photocopy centers, totaling $56,600, after finding that managers in Ithaca, NY, and Hyannis, MA, had erased time for 13 employees.

"There are a lot of incentives for store managers to cut costs in illegal ways," said David Lewin, a professor of management who teaches a course on compensation at the University of California, Los Angeles. "You hope that would be contrary to company practices, but sometimes these practices become so ingrained that they become the dominant practice."

Officials at Toys "R" Us, Family Dollar, Pep Boys, Wal-Mart and Taco Bell say they prohibit manipulation of time records, but many acknowledge that it sometimes happens.

"Our policy is to pay hourly associates for every minute they work," said Mona Williams, vice president for communications at Wal-Mart. "With a company this large, there will inevitably be instances of managers doing the wrong thing. Our policy is if a manager deliberately deletes time, they're dismissed."

Compensation experts say that many managers, whether at discount stores or fast-food restaurants, fear losing their jobs if they fail to keep costs down.

"A lot of this is that district managers might fire you as soon as look at you," said William Rutzick, a lawyer who reached a $1.5 million settlement with Taco Bell last year after a jury found the chain's managers guilty of erasing time and requiring off-the-clock work. "The store managers have a toehold in the lower middle class. They're being paid $20,000, $30,000. They're in management. They get medical. They have no job security at all, and they want to keep their toehold in the lower middle class, and they'll often do whatever is necessary to do it."

Another reason managers shave time, experts say, is that an increasing part of their compensation comes in bonuses based on minimizing costs or maximizing profits.

"The pressures are just unbelievable to control costs and improve productivity," said George Milkovich, a long time Cornell University professor of industrial relations and co-author of the leading textbook on compensation. "All this manipulation of payroll may be the unintended consequence of increasing the emphasis on bonuses."

Beth Terrell, a Seattle lawyer who has sued Wal-Mart, accusing its managers of doctoring time records, said: "Many of these employees are making $8 an hour. These employees can scarcely afford to have time deleted. They're barely paying their bills already."

In the punch-card era, managers would have had to conspire with payroll clerks or accountants to manipulate records. But now it is far easier for individual managers to accomplish this secretly with computers, payroll experts say.

Mr. Pooters, a father of five who left the Air Force in 1997 for a career in retailing, talks with disgust about photocopied Toys "R" Us records that he said showed how his manager made it appear that he had clocked out much earlier than he had.

"Unless you keep track of your time and keep records of when you punch in and punch out, there's no way to stop this," he said.

After leaving Toys "R" Us and Family Dollar, Mr. Potters moved to Indiana and took a job as an account manager with Rentway, a chain that leases furniture and electronics. There, he and a co-worker, William Coombs, said, the workload was so intense that they typically missed four lunch breaks a week. Nonetheless, they said, their manager inserted a half-hour for lunch into their time records every day, reducing their pay accordingly.

"They told us to sign the payroll printouts to confirm it was right," Mr. Pooters said, describing a confrontation last November. "When we protested about what happened with our lunch hours, the manager said, 'If you don't sign, you're not going to get paid.' "

Mr. Coombs said: "They removed our lunch hours all the time. We were told if we didn't sign the payroll sheets, we'd be terminated."

Larry Gorski, Rentway's vice president for human resources, said his company strictly prohibited erasing time. "As soon as we hear this is going on, we jump all over it," he said.

Shannon Priller, who worked at a Family Dollar store in Rio Rancho, N.M., sheepishly acknowledged that she sometimes watched her district manager erase her hours. "The manager and I would sit there and go over everybody's time cards," she said. "We were told not to go over payroll, or we would lose our jobs. If we were over, my hours would get shaved."

Some weeks, she said, she lost 10 or 15 hours, and her 6 a.m. clock-in time became 9 a.m. Patricia Bauer, a clerk at the store, said her paycheck was sometimes cut to under 30 hours on weeks when she worked 40.

Like Mr. Pooters, these women have joined a lawsuit that accuses Family Dollar of erasing time and requiring off-the-clock work. "It needs to stop," said Ms. Priller, who now cleans houses.

Kim Danner said that when she ran a Family Dollar store with eight employees in Minneapolis, her district manager urged her to erase hours so that she never paid overtime or exceeded her allotted payroll. Federal law generally requires paying time-and-a-half to nonmanagerial employees who work more than 40 hours a week.

Ms. Danner said her employees could not do all the unloading, stocking, cashier work and pricing of merchandise in the hours allotted. "The message from the district manager was, basically, 'I don't care how you do it, just get it done,' " she said.

So she altered clock-out times and inserted half-hour lunch breaks even when employees had worked through them. "I felt horrible that I was doing this," she said. "I felt pressured, absolutely. If I refused, I would have been terminated easily."

After five months, she quit.

Sandra Wilkenloh, Family Dollar's communications director, declined to respond to the lawsuit, but said, "Family Dollar's policy is to fully comply with all wage and hour laws and to take appropriate disciplinary action in any case where we determine that such policy has been violated."

She said Family Dollar maintained a hot line that employees could call anonymously to report wage violations.

Rosann Wilks, who was an assistant manager at a Pep Boys in Nashville, said she was fired in 2001 after refusing to delete time. She said her district manager told her, "Under no circumstances at all is overtime allowed, and if so, then you need to shave time."

At first, she bowed to orders and erased hours. Some employees began asking questions, she said, but they refused to confront management. "They took it lying down," she said. "They didn't want to lose their job. Jobs are hard to find."

When she started feeling guilty and confronted her district manager, she said, "It all came to a boil. He fired me."

Bill Furtkevic, Pep Boys' spokesman, said his company did not tolerate deleting time.

"Pep Boys' policy dictates, and record demonstrates, that any store manager found to have shaved any amount of employee time be terminated," he said. He added that the company's investigation "revealed no more than 21 instances over the past five years where time shaving" had occurred.

More than a dozen former Wal-Mart employees said time records were altered in numerous ways. Some said that when they clocked more than 40 hours a week, managers transferred extra hours to the following week, to avoid paying overtime. Federal law bars moving hours from one week to another.

Wal-Mart executives acknowledged that one common practice, the "one-minute clock-out," had cheated employees for years. It involved workers who clocked our for lunch and forgot to clock back in before finishing the day. In such situations, many managers altered records to show such workers clocking out for the day one minute after their lunch breaks began—at 12:01 p.m., for example. That way a worker's day was often three hours and one minute, instead of seven hours.

Ms. Williams, the Wal-Mart spokeswoman, said Wal-Mart had broadcast a video to store managers last April telling them to halt all one-minute clock-outs. Under the new policy, when workers fail to clock in after lunch, managers must do their best to determine what their true workday was.

In interviews, five former Wal-Mart managers acknowledged erasing time to cut costs. Victor Mitchell said that as an assistant manager in Hazlehurst, Miss., in 1997, he frequently shaved time.

"We were told we can't have any overtime," he said. "It's what the other assistant managers were doing, and I went along with it."

. Mr. Mitchell said the store's manager ordered them to stop. But he said that in 2002, after becoming manager of a Wal-Mart in Bogalusa, La., a new district ordered him to erase overtime. He said he refused.

Ms. Williams said Wal-Mart had increased efforts to stop managers from shaving time or allowing off-the-clock work.

Wal-Mart has circulated a "payroll integrity" memo, saying that any worker, "hourly or salaried, who knowingly falsifies payroll records is subject to disciplinary action up to an including termination."

Employees at Wal-Mart and other companies complain that they receive no paper time records, making it hard to challenge management when their paychecks are inexplicably low.

Ms. Danner, the former Family Dollar manager, praised the system at the McDonald's restaurant she managed for seven years. At day's end, she said, employees received a printout detailing total hours worked and when they clocked in and out.

"We never had any problems like this at McDonald's," she said.

Mr. HARKIN. I also ask unanimous consent that yesterday's article by Bob Herbert be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Apr. 5, 2004]

We're More Productive. Who Gets the Money?

(By Bob Herbert)

It's like running on a treadmill that keeps increasing its speed. You have to go faster and faster just to stay in place. Or, as a factory worker said many years ago, "You can work 'til you drop dead, but you won't get ahead."

American workers have been remarkably productive in recent years, but they are getting fewer and fewer of the benefits of this increased productivity. While the economy, as measured by the gross domestic product, has been strong for some time now, ordinary workers have gotten little more than the back of the hand from employers who have pocketed an unprecedented share of the cash from this burst of economic growth.

What is happening is nothing short of historic. The American workers' share of the increase in national income since November 2001, the end of the last recession, is the lowest on record. Employers took the money and ran. This is extraordinary, but very few people are talking about it, which tells you something about the hold that corporate interests have on the national conversation.

The situation is summed up in the long, unwieldy but very revealing title of a new study from the Center for Labor Market Studies at Northeastern University: "The Unprecedented Rising Tide of Corporate Profits and the Simultaneous Ebbing of Labor Compensation—Gainers and Losers from the National Economic Recovery in 2002 and 2003."

Andrew Sum, the center's director and lead author of the study said: "This is the first time we've ever had a case where two years into a recovery, corporate profits got a larger share of the growth of national income than labor did. Normally labor gets about 65 percent and corporate profits about 15 to 18 percent. This time profits got 41 percent and labor [meaning all forms of employee compensation, including wages, benefits, salaries and the percentage of payroll taxes paid by employers] got 38 percent."

The study said: "In no other recovery from a post-World War II recession did corporate profits ever account for as much as 20 percent of the growth in national income. And at no time did corporate profits ever increase by a greater amount than labor compensation."

In other words, an awful lot of American workers have been had. Fleeced. Taken to the cleaners.

The recent productivity gains have been widely acknowledged. But workers are not being compensated for this. During the past two years, increases in wages and benefits have been very weak, or nonexistent. And despite the growth of jobs in March that had the Bush crowd dancing in the White House halls last Friday, there has been no net increase in formal payroll employment since the end of the recession. We have lost jobs. There are fewer payroll jobs now than there were when the recession ended in November 2001.

So if employers were not hiring workers, and if they were miserly when it came to increases in wages and benefits for existing employees, what happened to all the money from the strong economic growth?

The study is very clear on this point. The bulk of the gains did not go to workers, "but instead were used to boost profits, lower prices, or increase C.E.O. compensation."

This is a radical transformation of the way the bounty of this country has been distributed since World War II. Workers are being treated more and more like patrons in a rigged casino. They can't win.

Corporate profits go up. The stock market goes up. Executive compensation skyrockets. But workers, for the most part, remain on the treadmill.

When you look at corporate profits versus employee compensation in this recovery, and then compare that, as Mr. Sum and his colleagues did, with the eight previous recoveries since World War II, it's like turning a chart upside down.

The study found that the amount of income growth devoured by corporate profits

> in this recovery is "historically unprecedented," as is the "low share . . . accruing to the nation's workers in the form of labor compensation."
>
> I have to laugh when I hear conservatives complaining about class warfare. They know this terrain better than anyone. They launched the war. They're waging it. And they're winning it.

Mr. HARKIN. Mr. President, the article went on to point out that Kim Danner used to manage a Family Dollar store with eight employees in Minneapolis. She says:

> . . . her district manager urged her to erase hours so she never paid overtime or exceeded her allotted payroll.

She said her employees could not do all of the unloading, stocking, cashier work, and pricing in the hours allotted, so she altered clock-out times and inserted half-hour lunch breaks, even when employees worked through lunch. She says:

> I felt horrible that I was doing this. I felt pressured, absolutely. If I refused, I would have been terminated easily.

Instead of issuing new rules to officially eliminate overtime for millions of Americans, the Department of Labor ought to be cracking down on these unscrupulous companies. The Department of Labor ought to be enforcing the overtime laws so American workers are not gouged and cheated out of their hard-earned pay.

Now we see clearly where the increased productivity is coming from. American workers are working longer hours, they are working through their lunchtimes, but their hours are being shaved. Their time is taken away from them. Sometimes they clock out and they are made to come back to work. Rather than making an example of these companies and going after them, the Department of Labor is coming around the other side and saying, well, that may be illegal, but what we are going to do is make it legal to take away the overtime rights of up to 8 million workers. In fact, even in the proposed rules, the Department offered employers helpful tips on how to avoid paying overtime to the lowest paid workers, the very workers, of course, supposedly helped by the new rules.

For example, the Department of Labor, in their own writing, suggests cutting a worker's hourly wage so any new overtime payments will not result in a net gain to the employee. The Department of Labor also recommends raising a worker's salary slightly to meet the threshold at which eligibility for time-and-a-half pay ends.

Again, American workers face a double-barreled threat to their overtime rights. They face a threat from unscrupulous employers who deny overtime illegally and now they face a threat from the Department of Labor which wants to deny overtime legally. But the result is the same: an assault on the American worker's right to time-and-a-half pay for hours worked in excess of 40 hours a week.

We are going to continue to try to offer this amendment and to try to get a vote on it. In Rollcall today there is an article saying "Will 'Obstructionist' Label Stick?" Evidently, our majority leader last week said: Obstruction, obstruction, obstruction—every bill. That is according to Majority Leader FRIST, at least according to the article in Rollcall.

I have the greatest respect for Senator FRIST. He knows that. I like him as a friend. But quite frankly, that will not wash. The first ruling on FSC was in 2002.

Mr. President, I will continue my remarks later today.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I understand the motion to proceed has been reported.

The PRESIDING OFFICER. Yes.

Mr. GREGG. We are now moving on to the issue of how we give the American people better access to doctors, especially women who are having children, people who have experienced a traumatic event and have gone to the emergency room.

Regrettably, in our society today we are seeing a lot of highly qualified people in the medical professions—not only doctors, but nurse midwives and ambulance professionals, EMT professionals—giving up the practice which they love; in the case of an OB doctor, delivering a baby, and in the case of emergency room personnel, especially the doctor, trying to save lives—having given up those professions or significantly curtailed the extent to which they practice their profession because the cost of their liability insurance due to lawsuits has gotten so high there is no way they can earn enough money to cover the premiums they have to pay to purchase the liability coverage. Of course, there is no hospital in America today which allows a doctor to practice unless that doctor has adequate liability coverage.

This is a crisis. It is a crisis in a lot of States in this country. It is soon to be a crisis in even more States. There are 19 States which the American Medical Association has identified as in crisis. There is another group, I think 23, the American Medical Association has said moving toward crisis. The red States on the chart are in crisis and the yellow States are the States moving toward crisis. There are 11 States which are doing pretty good, which have their medical liability issues under control.

This bill attempts to create a national response to this problem so women who are having children or want to have children can see a doctor. If you are in a car accident and you have a serious injury, or you are walking down the road and you slip and fall and have a serious injury, or you have any other type of physical injury and you go to your emergency room, you will see a doctor who is capable of taking care of you. That is what this bill tries to address.

The issue, of course, is these doctors want to deliver these services. It is not as if they want to get out of the business or out of the activity for which they have trained all their lives, such as delivering a baby. I have had meetings with doctors in my home State. I remember distinctly a doctor from Dover, a woman who loves to deliver babies. This is what really excites her about being a doctor. It is why she went to medical school. It is why she went to graduate school afterwards. But she has actually had to stop delivering babies. The only babies she now delivers are members of her own family. She has to get special dispensation from the hospital to do that because as an OB/GYN she cannot afford the insurance necessary to cover her costs of delivering those children.

We have regions in our State, and it is true in every State that has any sort of rural atmosphere, where we literally do not have any coverage at all, where a woman in northern New Hampshire who has decided to have a child has to drive 10 miles—10 would be conservative—20, 30, 40 miles or more in order to see an obstetric doctor, in order to get care during her pregnancy.

It is darn dangerous in New Hampshire in the middle of the winter to drive those miles, especially if you are pregnant or, Lord forbid, you happen to actually be in labor. The local hospitals do not have doctors on call, do not have doctors, period, who are willing to practice delivering babies. So these women find themselves placed on the road in order to see a doctor.

This is true across the country in our urban areas. A lot of hospitals are finding it very hard to get coverage in their emergency rooms—emergency room closed. In Phoenix Memorial Hospital—emergency room closed.

Why was it closed? It was closed because the doctors who covered the emergency room could not afford the cost of the insurance they had to pay to meet the demands of the trial bar which has been suing the doctors. They had to back out of the business or out of the activity of covering the emergency room, so the emergency room got closed.

You talk to hospitals across this country, and they are finding it very difficult to get doctors to do the call, to do their period where they have to come in and do their coverage responsibilities because of the fact the local doctors do not want to put at risk their insurance premiums as a result of going into the emergency room and practicing 1 day a week or 2 days a week, as has been the tradition.

I know in the town I grew up in, Nashua, NH, the medical community, the physicians, would take turns. They would come on rotation into the emergency room and cover the emergency room. They were not all trauma specialists, but that was sort of their responsibility as being part of the medical community in the city of Nashua, and they were proud of it.

Today it is very hard to get doctors who are not trauma specialists into the emergency room because of the fact these insurance premiums have gotten so out of control, and the trauma specialists themselves cannot afford the premiums because it is a low-paying area of the medical profession. As a result, they cannot work long enough hours; and they work outrageous hours already. There are not enough hours in the day for them to work in order to cover the cost of their insurance. This is a crisis.

The same is true of baby doctors. I had a doctor in Laconia tell us—Laconia, NH; a great town on Lake Winnipesaukee. I hope everybody will go up and visit this summer. It is a beautiful place to take your summer vacation. He told us he has to work 5½ months of the year to pay the premiums on his insurance because he delivers babies, and they are down to two doctors who do this in his area. That makes it economically unviable for him to practice obstetrics. When it takes 5½ months to pay your premiums and 6 months to pay your taxes, you only have 2 weeks of the year you earn for yourself, and you still have to send your kids to college and maybe even buy your wife something for Christmas—you cannot do it—or your husband. A lot of the OB doctors are, obviously, women. So it is serious.

Yet we have in this institution tried time and again to raise the issue, and what has happened? We have been stonewalled by the other side. Why would the other side not even be willing to allow us to proceed to these bills? This is the third time we have tried this, to get to these bills to discuss how we are going to relieve the pressure on doctors who deliver babies and doctors who take care of emergency rooms. We are not even expecting it necessarily to pass. We would like it to pass, but we at least want to be able to debate it. Yet time and again the Democratic leadership of this institution has said: No, you are not even going to be allowed to proceed to the bill. That is what we are trying to get to today with the motion to proceed. It is a technical motion, meaning it is a way to try to get the bill to the floor so it is up for action.

I heard the Senator from Iowa out here railing about a rule at the Labor Department, and he cannot get his amendment up. Well, one of the reasons he cannot get his amendment up is because we cannot move to this bill. If we could move to this bill, he could offer his amendment. So why is he voting against moving to this bill? Because it appears he is more inclined to support the position of the trial lawyers, who are resisting, in a manner of extreme intensity, any action in this area to try to improve the ability of doctors to deliver care, by making more doctors available to women specifically, or more doctors available in the emergency room, and who are resisting that so aggressively they have told the leadership of the other side, the Democratic leadership: You shall not, if you expect to continue to get our support—the trial lawyers' support—allow this bill to be debated on the floor of the Senate. You shall not allow a motion to proceed. So it is an ironic situation, to say the least.

We hear the Members of the other side saying they want to offer amendments, they want to get this issue up and that issue up. Yet they are filibustering a motion to proceed to a bill which, if we did proceed to it, would allow them to offer the exact amendments they claim they cannot raise. But it appears there is a countervailing force here which is, maybe they do not want to offer that amendment so much they would affront the trial lawyers by allowing this bill to proceed. That appears to be the case.

But in the end, who is the loser? Who is the loser? Well, the loser is, obviously, the doctors who cannot practice what they have been trained to do. We are about to hear from one member of that profession who is an extraordinary example of that profession in quality and ability. And, secondly, the most important, the women, especially in rural areas, who cannot see a doctor if they are having a baby; and people who walk into that emergency room under extreme stress and trauma and suddenly find there is nobody there to take care of them.

Mr. President, I will reserve my further comments because I do see the leader is on the floor. Of course, this is an issue which he has an intimate knowledge of and an intense desire to move forward. I congratulate him for his efforts in this area, and thank him for making this time available to us.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will take a few moments to comment on a bill that deserves to be debated on this floor and brought to this floor because, as the distinguished Senator from New Hampshire said, the patients—not the doctors and not the system; all of them are disadvantaged—but it is the patients who suffer.

When people hear of patients, they say: That is somebody in a hospital somewhere who is suffering. No, it is you and your children, and everybody who is listening to me. Who knows? You could be driving home today from work, and you might have an accident and have to go to the emergency room or the trauma room. Or after you pick up your kids from school—or maybe they are taking the bus home from school today—if they are struck by a car, or fall down and break a bone, they have to go to the emergency room. Or if you are one of the millions of women who anticipate the joy of having a baby in the near future, it is you who will suffer as you look for an obstetrician, as you look for an obstetrician who will be with you during that prenatal period or over the whole 9-month period.

All of this comes down to a fundamental issue. Our medical litigation system is broken. It is failing. It is failing the American people. It is failing our communities. It is failing our hospitals. It is failing our doctors. It is failing our families. And, most importantly, it is failing our patients.

The medical litigation system should be strong. Its purpose is to promote the common good, first and foremost; and, second, to improve health care for all Americans through the fair and efficient resolution of meritorious medical negligence claims. Indeed, those two purposes—to promote the common good and to improve health care through the fair and efficient resolution of meritorious medical negligence claims—are noble goals.

But instead of achieving these noble goals, our litigation system is out of control and patients are being hurt. Due to this broken system of medical justice, medical liability premiums today are unnecessarily skyrocketing. You will hear the words "skyrocketing" and "runaway" because that is what is happening. The ultimate victims are the patients—the potential patients, the future patients—and that means all of us, our families and future generations.

The ultimate victims are patients who see their access to care—to that obstetrician, to that emergency room, to that trauma center—threatened and, in some cases, totally disappearing. The American Medical Association now lists 19 States where access to care is threatened. The situation is a crisis that is getting worse day by day by day. That is why as majority leader, in terms of scheduling in the Senate, we are going to keep bringing this issue back because the crisis is getting worse. If we are not successful, we will come back again and again.

While the crisis does affect all people who will need or who need appropriate access to care, it affects those who are seeking help from specialists in particular. When we say "high-risk specialist physicians," they are the ones who are responding to a trauma accident or the neurosurgeon who has to be highly trained to respond to a brain injury, a contusion, a head injury. When we say "high-risk medical specialist," we mean the cardiac surgeon, a high-risk specialty physician who is called in if trauma comes into an emergency room.

These patients who seek the high-risk medical specialist indeed are among the most sick and the ones who most desperately need urgent attention. But our litigation system is increasingly forcing these medical specialists, such as neurosurgeons and obstetricians, to drop their services altogether and not do those higher risk responses; to limit those services maybe to certain hours to not provide those services; not to offer those services in the emergency setting but do them in a much more controlled environment.

It is even causing these high-risk medical specialists to pick up their practices and move from one State, say, from cities such as Philadelphia, where premiums are skyrocketing, to a city in California that has done a much better job and that is not in crisis because they have legislated appropriately in terms of addressing what was 20 years ago a crisis in California in medical liability. It causes these neurosurgeons and obstetricians—the two areas we are addressing in part with the legislation we are doing our best to bring to the floor over the next 24 hours—to retire from the practice of medicine altogether. They are saying: It is too much, $400,000 as a neurosurgeon in some cities, just for liability premiums. I can't afford that. I am going to leave the whole practice of neurosurgery. It does not make sense for me anymore.

That is the reality today. It is a reality that is getting worse. And when we say it is a crisis, it is a crisis getting worse. And that demands a response by this body. As the services these specialists provide become harder and harder to find, who is hurt? Everybody, yes, but the sickest and, indeed, the most vulnerable are the ones hurt the worst; again, demonstrating the perverse and unintended consequences of a failing medical litigation system. That is why this week we are bringing to the floor this medical liability reform. It is for the patients.

The Pregnancy and Trauma Care Access Protection Act focuses liability reform on two areas: Emergency and trauma care, and obstetrical services, where the services are provided right before, during, and after the delivery of babies. It is these two critical areas that are literally under siege today because they rely on medical specialists who are suffering the most from this lawsuit abuse.

Of course, the true victims are those who need to go to the emergency room, as the distinguished Senator from New Hampshire said. It is not the physicians themselves. It is the people who have to go to the emergency rooms and wait longer for a specialist to be called in because they are not in the hospital, or there is nobody in the region. It is the expectant mother who is having difficulty even finding an obstetrician. And it is the stories that are increasingly occurring of once you get an obstetrician, right after you become pregnant, that obstetrician leaves and moves and another obstetrician comes in, and maybe that obstetrician stays a few months and then another obstetrician. So we have a huge medical problem. It is our responsibility to respond.

Before coming to the Senate, I spent 20 years both training and practicing as a thoracic surgeon, a chest surgeon, which is heart, lungs, trachea—really everything between the diaphragm and the neck. That is what I did. As a member of the thoracic surgical team at Vanderbilt University Medical Center, we handled all of the trauma to the chest, the lungs, the heart. That is what I did every day.

At that level I trauma center, which covered throughout the middle section of Tennessee, if somebody came in with a knife wound to the chest, they would call Dr. FRIST, and I would go down and repair the knife wound to the chest or to the heart, as a medical specialist. Based on that experience, I can tell you that emergency care and trauma care is an absolutely necessary and critical component of our overall health care system.

Each year, there are 110 million visits to the emergency room, and 90 percent of these visits require urgent attention, emergency attention within 2 hours. These are emergencies. As I implied earlier, no one can predict when you are going to need that care. Driving home today, will you be in an accident, or will your child fall down and break a bone climbing a tree this afternoon? That is emergency care that you want a response to immediately.

The Alliance of Specialty Medicine has documented the important details of this critical care. Approximately 28 million Americans visit the emergency room each year due to an accident. Ninety-nine percent will recover after receiving care; in many cases, lifesaving care. Over 3.5 million emergency room visits are related to bone fractures or to broken bones. Of these, 888,000 require hospitalization, and delays in treatment can result in loss of the use of that limb, amputation of that limb, or indeed permanent disability. Over 1.5 million people suffer traumatic head injury with damage to the brain itself.

Neurosurgeons, a focus in the legislation we are debating, perform over 36,000 emergency brain operations on head-injured patients each year. They place little intracranial monitoring devices to control brain swelling in another 8,000 patients each year. Trauma frequently inflicts damage to the spinal cord which runs through the body. Indeed, over 70,000 Americans are hospitalized because of spinal injuries each year. Another 26,000 are hospitalized with acute or emergency or sudden neck injuries.

And, as we all know, nerve tissue heels in a very slow, different way. You cut off blood supply to the spinal cord or to the brain and there is not an immediate response. That tissue pretty much dies forever; very slow recovery. Thus that time of response becomes critical. Delay in treating any sort of injuries to the spinal cord can cause paresthesia or tingling, paralysis, can cause permanent disability, and, of course, can cause death.

My own specialty was the chest and was cardiothoracic, cardiovascular, the heart itself. When you look at emergencies coming in because of heart attack or cardiovascular disease or stroke, the blood vessel is huge. Sixty-five million Americans have some form of heart and blood vessel, or cardiovascular disease, which could lead to a heart attack or stroke; and each year over 1 million Americans suffer a myocardial infarction, or a heart attack. You want to take them to the emergency room because today, as cardiac surgeons, cardiologists, heart specialists—and it is very different today than 30 or 40 years ago—there are medicines you can give and procedures you can do that can open up the blood supply when you have a heart attack and get blood to the heart before the millions of cells die. Every moment counts. It is important to get that blood supply opened by heart specialists.

Unfortunately, our broken litigation system is stretching those moments—if those specialists are not available to respond—into hours. It is stretching them longer and longer, and that causes death of that heart muscle.

Of course, patients and most people listening today expect, if they have an emergency and are going to be rushed to the emergency room, that there will be people to treat them, including heart specialists who can rush down and open the blood vessels; or if they have a brain injury or a concussion or a contusion to the head, they expect there will be somebody there to respond appropriately.

However, that assumption is getting to be less and less true, due in large part to our broken medical malpractice litigation system. Because of runaway medical malpractice costs, many medical specialists have been forced to stop treating patients in the emergency room—the neurosurgeons; the orthopedics, or bone surgeons; the heart and lung surgeons; the obstetricians; the cardiologists; and the list goes on in terms of specialists we have to respond in the emergency room. They are simply saying: I will practice my specialty, but I am not going to do it in the emergency setting. I will not sign up for what we call "on-call" for the emergency room or for the trauma team because if I do, my own insurance premiums will skyrocket, or I cannot get the insurance at all. So fewer and fewer specialists are volunteering for this "on-call" in emergency rooms.

Because of the high-risk operations they are called upon to perform in these emergency situations, neurosurgeons, the specialty of the brain and spine, have been particularly hit hard by the litigation process. According to the American Association of Neurological Surgeons and the Congress of Neurological Surgeons, between the years 2000 and 2004, that 4-year period, the national average, of medical liability premiums for neurosurgeons increased 100 percent. It literally practically doubled, from $45,915 up to $91,848.

As I mentioned a few minutes ago, in some States, neurosurgeons are now paying insurance premiums of almost $400,000 per year. That is not the cost of doing the medicine or delivering the care or of the practice or being in the operating room or paying the nurses to help you or the cost of the equipment or the cost of the drugs or the cost of your training; that is just a tax of $400,000 placed on top of all those expenses that the physicians pay to have the opportunity to treat you if you come into the emergency room. It doesn't make sense.

It is a crisis. It is getting worse. It should be no surprise that this medical malpractice liability crisis is having a negative effect on the way these much needed specialists practice medicine. In fact, a recent survey—a fascinating survey—showed that 70 percent of neurosurgeons responding said they have had to make at least one of five practice changes. So if 100 responded, 70 said they have had to do one of these following things to narrow down or change their practice in response to the medical malpractice crisis: referred complex cases, closed their practice, moved to a different state, stopped providing patient care or retired.

Runaway lawsuits are forcing neurosurgeons and other specialists to limit emergency services. Again, it is not the doctor who is being hurt, it is the patients who are being hurt, and it is future patients, and that means potentially everybody listening to me now.

Many patients are rushed to these trauma centers. When I was on call at Vanderbilt Trauma Center as a thoracic surgeon, we had somebody actually in the hospital, or very close to the hospital, practically all the time. For heart disease, heart attacks, you need somebody there almost all the time. Why is that? Because you have a golden hour, especially for spinal disease and heart disease. Every second that goes by that you have the blood supply cut off, especially when you can open that blood supply up, the patient is being hurt.

Unfortunately, patients are having to endure longer and longer waits as these precious lifesaving minutes tick by. If you have a broken bone, a gunshot wound, frequently you might be diverted from one facility to another because of the lack of availability of a specialist or the resources in one of the hospitals. Then you have this frantic search of finding a needed specialist for that broken bone, or that gunshot wound to the heart, or that stab wound.

According to a recent study—because people say that could not be what is happening today, but it is what is happening—76 percent of emergency departments recently have diverted patients to another facility because of a lack of specialty physician coverage. Of these, over 33 percent diverted patients 6 or more times a month, and an additional 28 percent have diverted patients to other facilities 3 to 5 times a month. Over a quarter of hospitals report that the reason they have lost specialty coverage is because of medical liability concerns. These concerns simply discourage specialists from offering their services or volunteering their services for this on-call emergency coverage.

The medical litigation crisis is affecting health care, patient care, all across the country. The consequences are obvious—the consequences of death. Here is an example. According to the Palm Beach Post, a Florida woman, Mildred McRoy, suffered a hemorrhagic stroke in February. That is where you actually bleed into the brain itself, and because the skull is a fixed cavity, when you bleed into the brain, it swells and it requires an emergency response. She was rushed to JFK Medical Center in Atlantis for treatment, but JFK stopped providing around-the-clock neurosurgical coverage in July because of the medical liability crisis. In fact, there wasn't a single neurosurgeon on call in all of Palm Beach County when this occurred. Again, that shows how pervasive the impact is if you don't have specialists signing up because of high medical liability premiums. Ms. McRoy was then transported 40 miles away to North Broward Medical Center. More than 8 hours later she was operated on by a neurosurgeon but died after being in a coma for several days.

That is the story. That is why we must act. We know there is a problem, a crisis, and we know the crisis is getting worse. We know it is going to take action on this floor to reverse it. Florida is one of the 19 States the AMA considers in crisis.

In a few cases, trauma centers and emergency rooms have been actually forced to shut down—as we saw on the chart that was behind me a while ago, which the Senator from New Hampshire had shown—because either the emergency department physicians or the on-call specialists could not obtain medical liability insurance at any price whatsoever. The most infamous example occurred in the summer of 2002 when Las Vegas lost its only level I trauma center. When I use that term, level I, that is the highest level. They can take anything that comes. Level I is the most sophisticated, most prepared, most responsive level of trauma center that we have. Las Vegas lost their level I trauma center which, by the way, was one of the 10 most busiest in the country for several days, forcing residents from that major city of Las Vegas to travel over 100 miles to seek urgent care.

For me as a physician who has gone through 4 years of medical school and 8 years of medical training, what is sad and tragic is we are not getting rid of a few bad doctors. Right now we have highly qualified, highly committed physicians, women and men, who have chosen to dedicate their lives to helping their fellow man—really mankind, humanity broadly—through neurosurgery or obstetrics or heart surgery, and we are literally forcing them to leave the field they cherish, that they spent years working to become so they can help other people. These are people who are devoting their professional lives to healing others, and we are saying because of this medical litigation system, which is out of control: You are no longer going to be able to do that.

They do not want to drop these specialized services. They do not want to make themselves unavailable for emergency care. Indeed, that is why they got into the business. Tragically, and all too often, the medical litigation system, with these skyrocketing, out-of-control costs simply leaves them no choice. In the end, our health care system suffers, but it is the patients who really suffer.

The story is the same for obstetricians. Right now we know women are having a harder time finding an obstetrician. As I said earlier, one might have two or three obstetricians over one pregnancy period today because obstetricians are having to move. A few weeks ago, we brought the Healthy Mothers and Healthy Babies Access to Care Act to the floor of the Senate. That bill specifically addressed the medical liability challenges we have focusing on OB/GYNs and women and the babies they serve. We did that because all across the country, indeed in my home State of Tennessee, the current medical litigation system is forcing many OB/GYNs to simply stop delivering babies.

Floor discussions at that time several weeks ago demonstrated the crisis. It showed the extent of the crisis. There is no reason at this juncture to restate all of the arguments, but the doctor drain has gotten so bad that it is clear that women are having a harder time finding doctors to give them prenatal care and to deliver their babies.

What happened several weeks ago? Unfortunately, opponents to this needed medical liability reform filibustered the mere consideration of the bill on the floor of the Senate. We simply cannot allow people to keep their heads in the sand any longer. The crisis is real. It is time for us to act.

The crisis is getting worse every day. As a physician and as a policymaker, as someone who has had the opportunity, a real blessing, to take care of patients in the setting of trauma, the emergency room, and responding to their needs, I am simply not, as majority leader, going to sit back and allow this crisis to continue to explode.

The legislation itself we are considering, the Pregnancy and Trauma Care Access Protection Act, addresses these two areas—delivering babies and responding to emergency care. Why? Because these areas have been hit the hardest. It is common sense in medical litigation reform that will protect our patients, our families from medical negligence with fair compensation. If somebody has been negligently injured, they deserve just and fair compensation. If there are bad doctors, they need to be punished accordingly.

The problem is the overall system is broken. The overall system has these frivolous lawsuits with these runaway costs. The legislation is based on sound models that have worked in States, that have a demonstrated track record, such as California. It is supported by numerous medical specialty societies and speciality groups. The American College of Obstetricians and Gynecologists, the American Association of Neurological Surgeons, the American Academy of Orthopedic Surgeons all support this legislation and, of course, the list goes on.

I hope opponents of reform do not make excuses. They seem to put the blame of the crisis everywhere except where it belongs—our medical litigation system. It is time to face that simple fact that we need to reform our medical litigation system. It is in desperate need of reform. It is hurting all patients. It is hurting our vulnerable patients the most.

In addition, I should add that all of this has a huge, unnecessary cost in the practice of defensive medicine, the reaction of our medical system to frivolous lawsuits. These are your health care dollars that are being wasted. These are your health care dollars that are taken from you and not being channeled back into better health care for you.

Congress should act now. I am very hopeful we will be allowed to act now by putting patients first rather than the special interests who have been so vocal in obstructing this bill.

For the sake of all Americans who will be forced to go to the emergency room this year and for the sake of all expectant mothers, I ask my colleagues to allow this debate to move forward tomorrow by voting to proceed to this critical medical litigation reform bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of S. 2207, the Pregnancy and Trauma Care Access Protection Act: Senator FITZGERALD, Senator CORNYN, and Senator HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. I thank the Chair.

I wish to express my gratitude to the majority leader for his important comments. He brings an expertise to this debate no one else in this body can offer by virtue of his training, education, and extensive practice as a medical doctor in Tennessee. I am not going to speak from the perspective of a doctor because I am not one. I am going to speak from the perspective of a patient because, like it or not, I will be one at some point in my life, and from the standpoint of other prospective patients which would include not only my family and loved ones, but literally everyone within the sound of my voice.

I want to express again my appreciation that the majority leader would bring this issue back up. This is our third attempt in recent months to enact significant medical liability reform. The reason why it is so important to bring this issue back up is to ask our colleagues across the aisle who have obstructed our ability to go to a vote on this important issue to reconsider because the truth is their obstruction of our ability to get meaningful medical liability reform is not hurting doctors only, it is not hurting insurance companies only, it is hurting everyone who has been or will be a patient in a medical care facility or at the hands of a doctor.

We have had the opportunity to discuss these issues before, as I said, but before I get into what I consider the meat of this issue—and that is access to good quality health care for all Americans—let me say on other issues that affect American competitiveness in terms of our ability to compete in a global economy, the ability of employers to provide health insurance for their employees, which is diminishing day by day because the costs of health care continue to go up in part because of our broken medical liability system, that, in turn, puts pressure on the uninsured in our society. Where employers are unable to carry medical insurance on their employees, that means that too many people who cannot afford health care coverage are forced to emergency rooms where they know they can and will be treated. In the vast majority of those cases, they could be more efficiently, more humanely, and more cost-effectively treated in a primary care setting in a doctor's office or in a clinic, but because of the pressures being put on our health care system by a broken liability component, it is hurting us in so many different ways.

As I said, I want to talk about access, but it also hurts us in terms of our global competitiveness, in terms of job creation and job growth, and in terms of diminished access to health care because people have nowhere else to turn if they do not have medical insurance, except the emergency room where they know they can and will be treated but in a way that is insufficient, inhumane, and certainly not cost effective and causes a host of other problems in all of our big cities and everywhere else where emergency rooms are frequently put on divert status because they are so clogged up with cases that probably, in a medical sense, should not be there because they could be treated more cost effectively and more humanely in another setting, but they are there and then the true emergencies are diverted to emergency rooms that are farther away.

The majority leader, Dr. FRIST, talked about the medical consequences of delayed treatment when people have to travel sometimes many miles just to get treated, what complications can occur because of a traumatic injury or because a baby that is delivered because the mother cannot find a hospital that can take her nearby. My point is, it creates a cascading of problems that are not just limited to medical liability but which have a lot of ramifications and a huge ripple effect.

Unfortunately, our colleagues on the other side of the aisle are offering no solutions but are merely trying to score political points, trying to divert the attention to other nonissues and will not allow us to do what we have been sent here by the American people to do and that is to pass legislation that will meaningfully and significantly improve the quality of their lives.

We have had a chance to deal with this medical liability problem before and, unfortunately, we have not done so. My hope is that our colleagues will reconsider and we will do so today. If those on the other side of the aisle are truly serious about their concern for the American people and the quality of health care they receive, I hope they will join us in passing the bill we are discussing today.

The solutions to their professed concerns are right before us. They just need to allow an up-or-down vote. I hope the American people are paying close attention to what is happening, because if we do not get an up-or-down vote it is they who will pay the price for those who would prefer to score political points over actually producing results.

The bill offered by the Senator from New Hampshire, the distinguished chairman of the HELP Committee, the Health, Education, Labor, and Pensions Committee, is designed to improve access to health care, both for women who need obstetrical and gynecological care and for patients who need emergency care.

As I am sure every Member of this body has, I have heard complaints from our constituents about how badly the system is broken.

There are those on the other side of the aisle who would say that, because we have been rejected twice before, by bringing it up a third time this is somehow just a political exercise. I assure them that is not true. We were not allowed to vote before, despite support from a bipartisan majority.

The bottom line is, we are simply unwilling to put up with or to accept, without a fight, the kind of obstruction we have seen on this and so many other important issues.

This bill would provide desperately needed relief to a health care system that is in crisis, focusing especially on emergency room doctors and obstetrics, baby doctors, to critical areas that deserve our support.

This chart has been seen before, and my colleagues will notice that this chart reflects in red States that are in crisis because of the difficulty of purchasing medical liability insurance, the huge increases in cost which have simply caused medical doctors either to retire early or to move to States that have provided some commonsense reform or just discouraging people from getting into the medical profession at all.

The States in red, including my State of Texas, are indicated as States in crisis. The ones in yellow are the States showing problem signs but do not yet qualify as a crisis State, and the ones in white are States that are currently considered to be OK. I would not suggest by saying that they are currently OK that they have no problems. It is just that they have not gotten to the point that conditions have in my State and other States indicated in red.

The truth is, this crisis is not something that just popped up this week. It is a crisis that we had last fall when we were blocked from bringing up comprehensive medical liability reform for an up-or-down vote. It was a crisis that existed a month ago when we were blocked from having an up-or-down vote for legislation that offered immediate help for mothers and their babies, and it remains a crisis today even as we attempt to debate this legislation and bring it up for another vote.

The fact is, frivolous lawsuits are causing escalating medical malpractice insurance premiums which are driving doctors out of practice. We can debate what the cause of that is, but we cannot debate the result. It is a fact. Indeed, opponents of this legislation do not appear to debate the fact of the result—that is, doctors leaving, retiring, not going into practice, access being denied. They just want to say there may be other causes, but they do not want to deal with this cause because, unfortunately, an important constituency, the personal injury trial lawyers, simply are unwilling to agree that any change in this current broken system can be made.

The problem is that those who are preventing us from taking up this legislation are simply caving in to the demands of this narrow special interest group that are prospering mightily, that are getting rich off the current system, at the same time that the rest of America is getting hurt.

This is a picture of a doctor formerly who practiced in Fort Worth, TX, representing medical specialists, especially neurosurgeons, orthopedic surgeons, obstetricians, and emergency physicians, who are being forced to retire early or move their practices to States where effective liability reforms are in place.

For example, Dr. Malone comes from my home State. He is an orthopedic surgeon who has practiced more than 20 years in Fort Worth, TX. He reluctantly was forced to leave his practice, citing the extreme costs of liability insurance for physicians as being too much of a financial burden for him to bear.

We simply cannot expect physicians to practice their chosen profession after their lengthy education and training and not be able to provide for their families. We don't expect them to do it at a loss to themselves and their families. I don't think we can blame them, when the costs of doing business exceed what comes in the door such that they simply have no choice but to leave.

In the State of Texas, this crisis, particularly as it regards baby doctors, obstetrician-gynecologists, means that out of 254 counties of Texas, 154 of them have no OB/GYN specialist. In other words, a woman who is pregnant and perhaps needs prenatal care, so increasing the chances her baby will be delivered healthy, must travel to another county in order to get that prenatal care from a specialist; or once she goes into labor, she must travel to another county to have the doctor, medical specialist in obstetrics, deliver that baby. This means almost 6 out of the 10 counties in my home State alone have no doctor specializing in obstetrics, representing approximately 2 million Texans in my State.

Let me talk about another story, another case that is worth referring to also in my State. Just last year a pregnant woman showed up at Dr. Lloyd Van Winkle's Castroville office in south Texas. She showed up in Dr. Van Winkle's Castroville office less than 10 minutes from delivery of her baby. Her family doctor in Uvalde, another Texas town, had recently stopped delivering babies altogether, citing medical liability concerns, and this pregnant woman was trying to drive the 80 miles to her San Antonio doctor from her home in Uvalde.

Let me give another story about a woman by the name of Denise Payne. Denise Payne walked into an emergency room recently. The doctors there did not want to treat her. She said, "They didn't want to touch me because I was pregnant," this 38-year-old pregnant woman, who was 6 weeks along in her pregnancy at that time.

Luckily for Denise Payne the delay getting treatment didn't kill her. Although she couldn't get a kidney biopsy in Corpus Christi on the gulf coast of Texas, she was able to get one about 150 miles away in San Antonio, but she doesn't blame the doctors. "I would say it's because of all the lawyers scaring the doctors," she said. "They are scared to death to treat you."

Indeed, that reminds me of other situations where I have heard doctors, concerned about their patients, but saying because of the broken liability system, every time you walk into an examining room, every time you walk into the emergency room, every time you walk into the delivery room, you are putting at risk everything that you have worked a lifetime to build for yourself and your family. Physicians and others are simply not able to put up with it, resulting in a crisis that even Ms. Payne, who no doubt was frustrated by her inability to get doctors to treat her in Corpus Christi, had to drive 150 miles away to get treated because she was pregnant and she needed a kidney biopsy. But because she was a higher risk patient who is at a higher risk of medical complications but also a higher risk of litigation, the doctors were scared to death to treat her, so she had to travel a long way to get that treatment.

These stories are not unique to Texas. Let me tell you about Linda Sallard of Arizona. At 2 a.m. on the morning of March 20, 2002, 22-year-old Melinda Sallard woke up with labor pains. She and her husband hopped into their car and started driving the 45 miles to Sierra Vista, which housed the only hospital within a 6000-square-mile area with obstetricians able to deliver babies. En route, they passed the Copper Queen Community Hospital, which was forced to close its maternity unit just 2 months earlier because all the practitioners able to deliver babies had lost their medical liability coverage.

Just 3 miles past Copper Queen, which is where they had a hospital that could have delivered her baby but had since closed its delivery facilities because of medical liability concerns, just 3 miles past this hospital, while her husband continued to drive their car, Melinda delivered her own baby girl, who you can see here in this picture in her lap. She gave birth on a desert highway to her daughter, Susanna. While Susanna, as you can tell from this picture, looks healthy and thriving today, when she was born she was not breathing. So Melinda, after she had the baby by herself, unassisted, without a physician—because she couldn't get to a hospital that had obstetrical services in time—Melinda, after she had her baby, cleared the baby's breathing passage and started CPR. Fortunately, the baby started breathing and Melinda wrapped her newborn in a sweater and held her to her chest as her husband drove them all the way to Sierra Vista Hospital, where the ER staff cut the umbilical cord in the parking lot.

As a result of the medical liability crisis, Sierra Vista is now the only hospital in a county of 140,000 residents that actually delivers babies. All high-risk patients are sent to Tucson, an hour and a half away, in a neighboring county. I shudder to think what could have happened in Melinda's case. Thankfully, as I said, Susanna Sallard is a healthy young girl—no thanks to a medical liability system that almost left her as a casualty.

The skyrocketing liability insurance premiums have also affected emergency and trauma services for patients. This is where the severity of the crisis becomes even more apparent.

Let me tell you about Jim Lawson. This is a picture of Jim Lawson, Mary Rasar's father. Mary lost her father in 2002 when Nevada's only level I trauma center was forced to close because of skyrocketing medical liability costs. The majority leader, Dr. FRIST, told us earlier that level I trauma centers are the ones that handle the most serious trauma cases. But Nevada's only level I trauma center was forced to close in 2002 because of skyrocketing medical liability costs.

Jim Lawson was injured in a car accident in Las Vegas, where he suffered multiple injuries and required immediate care. The State's only level I trauma center, the University of Nevada's medical center, where Mr. Lawson should have been taken, was forced to shut its doors just days before this accident because rising liability costs had forced insurers to drop coverage on high-risk specialists, high-risk specialists like neurosurgeons, like emergency room physicians, and others who handle the most seriously injured patients.

Unfortunately, as I indicated at the outset, this story does not have a happy ending. Mr. Lawson was rushed to Desert Springs Hospital, where he died while awaiting air transport to the next nearest level I trauma center facility, more than an hour away, at Salt Lake City, UT. So this gentleman, who was in a car accident in Las Vegas, who could have been treated at the University of Nevada's medical center but for the fact it had to shut down because it lost its medical liability coverage, died because the only facility that could treat him was more than an hour away in Salt Lake City.

Let me tell you about Leanne and Tony Dyess. Leanne is a 48-year-old wife and mother of two from Mississippi. This is Leanne and her family. On July 5, 2002, Leanne's husband Tony was involved in a car accident in Gulf Port, MS, and suffered serious head injuries. After removing him from the car, paramedics rushed Tony to Garden Park Hospital in Gulfport, MS. But there were no neurosurgeons there available to treat Tony because rising medical liability costs forced doctors in that community to abandon their practice. Six critical hours passed before Tony could be airlifted to University Medical Center. As a result of the inability to locate a specialist to provide him immediate care, today Tony is permanently brain damaged, mentally incompetent, and unable to care for himself or his children.

In addition to this tragedy and the others I have mentioned, there are numerous other examples from my home State of Texas of tragedies, or near tragedies, or worse than injuries as a result of the inability to get medical care close by because of this crisis.

Another couple of stories: George Kuempe, who recently retired as a reporter for the Dallas Morning News not too long ago, fell from an oak tree and broke his back on a Sunday afternoon in the Austin area. He had to be flown to Scott & White Clinic in Temple, TX, because there were no neurosurgeons available in Austin, TX. There was a long delay in the amount of time necessary to treat his injuries in order to travel just 60 miles up the road. There were hours of delay. Dr. Path Crocker, chief of emergency medicine at Brackenridge Hospital in Austin, where he could have been and should have been treated had a neurosurgeon been available, said this is a warning flag to the citizens of Texas that a major problem is brewing.

In 2002, an elderly man was taken to an emergency hospital room in McAllen, TX, in south Texas in the Rio Grand Valley after falling and injuring his head. After 7 hours, the emergency room could still not locate a neurosurgeon to treat this elderly man's head injury, even though they searched in Corpus Christi, in San Antonio, and Austin. Unfortunately, this elderly man, with a head injury, died because he could not get timely medical treatment for that condition.

There are even more stories that illustrate the lengths to which patients must go just to receive desperately needed care.

Neurosurgeons in Houston, TX, are bombarded with trauma and emergency cases from around the State because doctors have dropped emergency services in efforts to lower their professional liability premiums just so they can earn a living.

You can see Houston, TX, located in the southeast part of our State where patients, let us say, down in the Rio Grand Valley—this shows Harlingen, a distance of 330 miles, which is close to McAllen where that elderly man had a head injury and where he would have to be airlifted to Houston to receive those treatments by a qualified neurosurgeon or other specialist. The time it takes to travel 330 miles from the Rio Grand Valley to Houston, the time it takes to travel from the Rio Grand Valley to San Antonio, or San Antonio to Houston, or El Paso to Houston, obviously, has medical consequences which means people who are injured and suffer more serious injuries and people whose lives could have been saved lose their lives because of this medical liability crisis with which our colleagues on the other side of the aisle simply refuse to deal.

Houston neurosurgeon Bruce Ehni described it like this. He said:

> We are the recipient of much more serious and risky cases that would have otherwise been cared for locally. Here at our hospital in Houston we are receiving hemorrhages, traumas and other dire emergencies from as far away as El Paso on the opposite side of the State, and Brownsville, which is down near Harlingen in the southern part of the State—sometimes up to 600 miles or more away.

Some of the examples include a patient with head trauma and a blown pupil flown in from Harlingen to Houston, more than 300 miles away; an intracranial hemorrhage flown in from Laredo on the United States-Mexico border 300 miles away; and a brain tumor causing an abrupt paralysis flown in from San Antonio, 200 miles away.

Dr. Ehni continued:

> All of these communities have neurosurgeons. The "bad" cases end up in Houston despite the presence of neurosurgeons locally because everyone is trying to avoid being sued. It is bad for patients and it is bad for us. We are being dumped on endlessly.

For the rest of this body, and perhaps others listening, let me put all of this in perspective geographically. For a medical transfer from El Paso to Houston, it would be as if a patient was hurt in Washington, DC, and because he could not find a surgeon, he had to be flown farther than Chicago, IL, for surgery. For a transfer from Harlingen to Houston, it would be like forcing a patient to fly from Washington almost to Buffalo, NY. For a transfer from San Antonio to Houston, it is as if a patient were forced to fly from Washington to New York City.

Can anyone in this body state they would be content to have their family or loved one suffer those sorts of delays in treatment if they really needed a medical specialist and couldn't find one? Of course, they wouldn't accept that. Neither should the American people. But that is what they are being forced to do because of the inaction and obstruction of those on the other side of the aisle who will not allow us to have a true debate and an up-or-down vote on this reform to our broken medical liability system.

The chief obstacle to making our health care system the best in the world is our liability lottery. In the liability lottery, people aren't free to act because doctors simply can't meet the demand, and Americans end up paying more for health care and suffering medical complications because of it.

It is not all bad news, I must say. I am glad to say, in response to many of the concerns which I have raised that pertain to my State of Texas, the legislature and the people of my State have acted. Last September voters took to the ballot and passed Proposition 12, an amendment to the Texas Constitution providing caps on noneconomic damages and paving the way for the full implementation of important medical liability reform.

We already have, even though this passed just last September, some of the early signs of beneficial results. One medical liability insurance carrier has reduced their medical liability premiums by 12 percent, and another medical liability insurance company has canceled their planned 19-percent rate increase because of these reforms.

My home State of Texas recognizes the need for government to step in and help address this urgent problem. But more needs to be done, and there is still too little recourse for patients in States without reform.

Let me mention briefly some of those States. In Illinois, more than 15 percent of the neurosurgeons have left the State in the last 2 years. That is according to the American Association of Neurological Surgeons. There are currently no hospitals in the northwest suburbs of Chicago that have 24/7 neurosurgery coverage. Most patients in need of care are transferred either to Rockford, which is 60 miles away, or to the University of Illinois in Chicago, 45 miles away—not quite the distances we talked about in my State but still nevertheless consequential distances in terms of the delay in treatment of serious cases.

In the State of Massachusetts, the home State of Senator KENNEDY and Senator KERRY, a third of the State's hospital beds have closed in the past decade, and 32 percent of physicians say they plan to leave the State if the practice environment fails to improve. In the 1990s in Massachusetts the number of practicing obstetrician/gynecologists declined by more than 20 percent. In New York, record numbers of people seeking emergency care are overwhelming emergency departments across the State in areas including Long Island, Syracuse, Rochester, and Buffalo. Many doctors and higher risk specialties are eliminating services, retiring early, or contemplating leaving. The exodus of 4,000 doctors in New York alone from 2000 to 2002 has been attributed to a litigious atmosphere in that State.

In North Carolina, in 2002 alone, medical liability rates increased by 50 percent and high-risk specialists are facing increases between 50 percent and 100 percent. Physicians are simply going out of business, leaving a State, or substantially increasing prices as they pass along costs, as they can, to their patients. But the problem is especially acute for obstetricians, neurosurgeons, and emergency physicians.

Finally, the last State I will mention is the State of Washington. Since 1998, Washington State has seen a 31-percent increase in its physicians moving out of the State, and between 1996 and 2001 the number of retirements increased 50 percent with the average age of those retirees dropping from age 63 to age 58.

We know this liability reform can have a beneficial impact on reducing costs and improving access because some States have done it for a while. My State has done it since September and has not yet seen the full benefit although we have seen some very hopeful early signs. California has adopted something called MICRA, which has been the medical liability tort reform package. With MICRA, California has achieved a more stable marketplace and lower premium increases over the years than have other States without the kind of medical liability reform we are advocating today. According to the data, California medical liability premiums grew 167 percent over the past 25 years compared to 505 percent for States without medical liability reform.

I have taken more time than perhaps I should, but I thought it was important to go over in detail what the problem is, what we think the solution may be, at least in part, and demonstrate for our colleagues on the other side of the aisle, if they would allow an up-or-down vote on this legislation, we could see some very real, substantial benefits, not just to physicians.

I like physicians. I respect physicians. But this is not something we ought to do to help members of the medical profession. The reason we ought to do it is to help patients. Like it or not, all of us will be patients at some future point in our lives. The best way we can ensure the good quality health care is available for us and our loved ones, should we need it in the future, is to pass this meaningful reform.

I ask our colleagues to seriously reconsider and not to obstruct this important reform. We know it can help. If they have other ideas they think will add to the substantial beneficial effect of this legislation, let them come to the floor and talk about it. We will be willing to talk to them and engage them on it. If a consensus develops that an even better package can be produced as a result of the kind of debate and negotiations and compromise that characterize this body and which this body is so good at when it works properly, I say, bring it on.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore (Mr. CORNYN). Without objection, it is so ordered.

Mr. ENZI. Mr. President, I rise to speak about the Nation's medical litigation crisis. I begin by explaining where we are in this process. It is the right of the majority leader to bring a bill up for debate. On the Senate side, it requires unanimous consent to have that debate. We have been denied unanimous consent to debate the medical litigation solution.

What are the options? We can have a cloture vote. We will have that tomorrow afternoon. The cloture vote requires 60 votes of approval in order to debate the medical litigation crisis solution. On most of the bills we see brought up, the unanimous consent is almost automatic. However, on this particular bill, we are not even able to debate the bill. We can debate it, but it has no effect. There can be no amendments. There can be no votes until the filibuster is broken.

What happens when the filibuster is broken? Technically there can be 30 hours of debate on that particular right to debate before the actual debate begins. Then when we actually do get to the debate, every single amendment can be filibustered and the bill can be filibustered. Supposing we make it past those roadblocks and the House passes the bill and there are differences between the two, there has to be a conference committee. At that point, there can be three more filibusters.

Our Founding Fathers intended for the Senate to be the cooling saucer for legislation. I don't think they intended it to become a stagnant pond. I do think they intended the bills would be debated and conclusions reached, there would be some time taken, but not all time taken.

We have a medical litigation crisis in this country. The system is broken. We need to start working to fix it. I urge my colleagues to vote for cloture on the Gregg-Ensign bill. It is time to stop filibustering and to start working. We should not be having this filibuster on whether to debate. We need to pass the motion to proceed and get into amendments on the bill if amendments are needed.

This is the third time in this Congress we have brought a medical litigation reform bill to the Senate. We need to pass this legislation. We need to pass some legislation that deals with this crisis. Passing this bill would be the best thing we can do to stabilize medical liability premiums in the short term, which will allow us to retain doctors in states like Wyoming, which will allow people to have access to doctors.

I proposed legislation aimed at solving this problem over the long term and I will speak to that later. But right now, we need to vote in favor of ending this filibuster against this bill so we can begin to debate the bill. I am willing to consider any amendments my colleagues in the minority might have, but we cannot consider any of their amendments until they agree to end this filibuster and begin debate on the bill.

I understand some Senators are concerned this bill would limit the ability of an injured patient to get fair compensation. This bill would do no such thing. This bill will not limit the ability of an injured patient to get fair compensation. This bill would permit full and fair compensation to patients for their economic losses. This is an important point for everyone to keep in mind. If a judge and jury were to decide a person suffered an injury due to a doctor's mistake or a hospital's negligence, that person would still be entitled, under this bill, to receive full compensation for their economic loss, including everything from rehabilitation to lost wages resulting from their injury.

I cannot stress this point strongly enough. This bill would not limit awards for economic losses. What the bill would do is place a ceiling on noneconomic damages. The bill would limit the maximum award for noneconomic damages to $250,000 in States that do not have their own limits on such awards. Noneconomic damages are those for pain and suffering.

I want to ask, How much pain and suffering do you have if you cannot even see a doctor? And if you cannot see a doctor, and you die, who do you sue? The trial lawyers? Maybe so. They are a part of the problem. I am not going to try to cover all of the parts of the problem. We are trying to fix one specific part of the problem. This bill will not take care of the whole thing.

But I want to ask you, How much pain and suffering do you have if you cannot even see a doctor? This is not primarily a city problem. You can have the problem in the city, and doctors are leaving cities as well. But in cities it gets glossed over a bit because there are so many doctors. There are so many doctors everybody anticipates they can find a doctor. Well, there are also more people in cities, so there are more people waiting in lines to see the doctors. There is a limit to how long you want to wait in line to see a doctor, particularly if you are having an emergency.

This bill only covers two categories; one is emergency medical services, and the other is people who deliver babies. So I ask again: how long do you want to wait in the emergency room?

Is this proposal for a limit of $250,000 for noneconomic damages way out of line? I do not know. I do know California passed this limit. California put a limit of $250,000 on noneconomic damages, and it has made a difference. They are one of the few States in the Nation that is not having the problem.

Now, California, viewed by Wyoming folks, where I am from, is considered to be very liberal. So if they did it, this could not be a conservative move. If California can have a $250,000 limit, why shouldn't other places be able to? You may say: Well, States could pass their own. California did. States can. It is a very long procedure for some States. Wyoming has very limited legislative time, and then a lengthy procedure for having votes of the people before it then comes back to the legislature for additional work. So there are limitations in the States.

This can be handled on a national basis. If you hear this bill would limit an injured patient to receiving $250,000 in compensation, though, you can say that is simply false. There is no other way to put it. That contention is false.

This bill would also only apply, as I mentioned, to obstetrical services and emergency medical services. These are two of the areas of medicine where patients are in the most danger of losing their access to these services.

Once more, I ask, how many will be harmed by not getting to see a doctor? What do you do if you are a woman and you cannot see a doctor to deliver your baby? Baby doctors are particularly hard hit because the child can sue when the child reaches age, so the tail on their insurance is extremely long, and that provides additional opportunities to sue, which means additional cost for the insurance.

But we are also talking about the emergency medical services. In an emergency, as Senator FRIST, the doctor of the Senate, pointed out, every single moment counts. There is, at most, a "golden hour" in emergency treatment. So if you have to spend that golden hour traveling 750 miles—as the Senator from Texas showed on his chart of Texas showing how far some people have to travel for specialized care—it could be too late.

Physicians are being hit with six-figure annual premiums in the medical specialties of obstetrics and trauma care. As a result, they are curtailing their practices, retiring early, or moving to States with better legal environments, because a better legal environment means lower insurance premiums.

In Wyoming, we have one of those bad legal environments. We do not have limits on noneconomic damage awards. We do not have limits, despite evidence that shows reasonable limits on noneconomic damage awards have helped control the rising cost of medical liability insurance premiums in other States.

As a result, people in Wyoming are losing access to affordable health care in their communities. The rising cost of medical liability insurance in my State of Wyoming is forcing doctors to curtail their practices or close them entirely. We have a shortage of doctors in Wyoming as it is, and the cost of medical liability insurance is making a bad problem even worse.

I want my colleagues to know we have a full-fledged medical liability crisis on our hands in this country, and particularly in Wyoming. Just last month, the largest of the three insurers in Wyoming announced they would be leaving the Wyoming market later this year. As a result, 381 doctors and 7 hospitals are going to have to find new insurance coverage. Of the two companies that are left, one of them is not writing new policies for emergency and trauma care physicians. So the few emergency room specialists we have in Wyoming soon will have only one company to choose from for their professional insurance.

These insurance company executives are not dumb people. Just as doctors are moving to States with better legal environments, so are the insurance companies.

As I mentioned, some have left Wyoming. People say, well, yes, there go those rich insurance companies. They are going to move somewhere else where they can make a lot more money. Did you know some of them are going broke? If the profit is all that prolific, why are some going broke?

One of the doctors in Wyoming was doing his calculation about whether to stay in business or not, whether to deliver babies anymore or not. He ran a calculation based on the rise in insurance premium costs he had, despite that he has not been sued at all. He found out $25 of each doctor visit goes to pay the insurance. If you are paying $100 for a doctor visit, $25 of that is going to pay for the insurance. The other $75 is not all profit either. It has to go to pay for the nurses, the supplies, the building—all of those things. But $25 of each visit goes to insurance.

I do not care which insurance companies are writing policies in my State, as long as there are some. But I do care when good doctors leave the State. Wyoming is a big State with a lot of small communities. In fact, people out here in the East cannot even comprehend the small communities we have. If you grew up in a small town, you probably got to know your family doctor pretty well. Doctors are part of the fabric of life in the small towns that dot the map of my State. It is not easy for them to pick up and leave, but that is what is happening. As hard as it is for the doctors to leave, it is even harder on the families they serve—the families who have grown comfortable with the care these doctors provide.

I commend Senators GREGG and ENSIGN and our majority leader, Dr. FRIST, for trying again to pass a sensible short-term solution to this Nation's crisis. They have developed a bill that is focused on providing relief to the doctors who serve mothers and their babies, and the doctors who save lives in our Nation's emergency rooms.

Every day, thousands of patients depend on these doctors when it comes time to bring a new life into the world or to save a life that is already here.

I hope we can all agree to support this short-term solution that will maintain access to the services these doctors provide.

I have noticed something interesting during the debate on the issue of medical liability reform. While we have been debating the pros and cons of reform, no one is standing up to defend our current system of medical litigation. I have yet to hear a rousing defense of our medical litigation system. Even some of the lawyers in this body have agreed that frivolous lawsuits are a problem and that our medical liability system needs reform. Why aren't we hearing anyone defend the merits of our current medical litigation system? It is because it is indefensible. Our system does not work. It does not work for patients, nor does it work for their doctors.

The bill we are debating today is a good bill. It will help us stabilize insurance premiums and preserve access to critical medical services. But even the sponsors would probably admit it is a short-term measure that does not address the fundamental problems with our medical litigation system. This is an important bill, but it is just a tourniquet to stop the bleeding. It is not going to heal our broken system.

It reminds me of the town that lived on the edge of a cliff. The town had a tremendous problem because kids fell off of this cliff, and the fall killed a lot of them. They decided they needed to do something about it. After extensive meetings and committee work, they purchased the finest ambulance that could be found, and they put that ambulance at the base of the cliff. They hired the best EMTs they could get so the person could be loaded on to the ambulance and served while they got to the nearest hospital. Somebody then suggested: Why don't you just put a fence on the cliff. And they said: No, we don't do fences.

That is what we are doing with this medical litigation crisis. We are avoiding putting up the fence for the short-term solution and we are letting people fall off the cliff; then we are trying to provide them with the best possible service we can after they fall. What are we going to do when they use this fine ambulance and these great EMTs and they get to the hospital and there is no emergency room doctor? We need the fence and the emergency room doctors too. This bill is designed to make sure there is medical liability insurance so the doctors can continue to operate.

We like to say that justice is blind. With respect to our medical litigation system, I would say that justice is absent and nowhere to be found.

Every Member of this body wants to make sure that someone who is truly injured by a medical error gets the compensation they deserve. But a number of studies have shown that many patients who were hurt by negligent actions received no compensation at all for their losses.

I have also seen studies that suggest that those who receive compensation end up with about 40 cents on every dollar in insurance premiums, once the lawyers' fees and their courtroom costs are subtracted. So the victim gets 40 cents on the dollar. Somebody else is getting the other 60 cents. I don't think that sounds fair.

What is more, studies have demonstrated the likelihood of a doctor or hospital being sued, and the result of such a suit, bears little relation to whether the doctor or hospital was at fault.

These facts led the congressionally chartered Institute of Medicine to issue a report in 2002. That report called upon Congress to create demonstration projects to encourage States to evaluate alternatives to current medical tort litigation.

In response, I have introduced a bill that would turn these expert recommendations into action. My bill, the Reliable Medical Justice Act, would authorize funding for States to create alternatives to current tort litigation. The funding would cover the costs of planning and initiating proposals. My bill would require participating States and the Federal Government to work together in evaluating the results of the alternatives as compared to the traditional tort litigation. This way all States and the Federal Government could learn from new approaches. We could see if there is not a way to get people fairly and justly compensated, compensated more quickly, and to actually receive the majority of the money, not just a small pittance.

The bill outlines some model approaches States could employ. For instance, one State might want to evaluate the idea of health care courts where judges with special expertise could hear medical cases. This concept is similar to the special courts we have for taxes, domestic violence, drugs, and other complex and emotional issues. That way we would get some fairness between cases. One person with the same kind of hurt would get compensated the same way, approximately, that somebody else with that same hurt had, not based on who picked the best lawyer or who picked the best injury—with fairness, quickness, and the victim receiving the money.

Another State might want to test an administrative approach. For instance, a State could set up classes of avoidable injuries and a schedule of compensation for them and then establish an administrative board to resolve claims related to those injuries. A scientific process of identifying preventable injuries and setting appropriate compensation for them might offer better results than the randomness of the court system.

Another State might want to provide health care providers and organizations with immunity from lawsuits if they make a timely offer to compensate an injured patient for his or her losses. This could give a health care provider who makes an honest mistake the chance to make amends financially with a patient without the provider fearing that their honesty would land them in a lawsuit.

The point of my bill is there are plenty of ideas for better ways to resolve medical disputes. One of the best ways Congress can help fix the flawed litigation system in the long term is by encouraging States to test alternatives and to learn from them.

As I speak, some States are already looking into alternatives. My State of Wyoming is one of them. Another is Massachusetts, where the Governor is working with Harvard University on an innovative project. Another is Florida, where the Governor's task force recommended projects for which my bill could provide support.

Believe it or not, both Newt Gingrich and the editors of the New York Times have endorsed this idea. If Newt Gingrich and the New York Times can agree on something, maybe we can find enough support for it in this Chamber as well.

I want to remind my colleagues that I support the Gregg-Ensign bill. It will provide some short-term relief for this medical liability crisis. We don't have time just for testing at the moment. We are losing the doctors who provide emergency care and the doctors who deliver babies. In my own State, several of the doctors have quit delivering babies because they can't afford the insurance. Others have had to cut back on the number of babies they deliver to be able to afford the insurance. That means ladies having babies are not able to get doctors with the necessary expertise.

We need short-term relief from the medical liability crisis, and I know many of my colleagues will join me in voting for it. But I know that some will vote against it. Regardless of whether you feel this is the right solution for the short term, let's acknowledge that our medical litigation system is failing us and that we must work together to find a long-term solution.

Medical lawsuits are supposed to compensate people fairly and deter future errors, but most patients don't get fair and timely compensation. There is nothing to show that lawsuits are deterring medical errors or making patients safer.

I urge Members to vote for the Gregg-Ensign bill. I also ask that Members take a serious look at S. 1518. My basic reason for introducing S. 1518 is that most patients don't want to sue their doctors. If their doctor made a mistake, they want an apology. They want to be compensated for their loss. They want the situation to be resolved quickly and fairly. I believe most physicians want the same thing. They want to apologize. They want to make amends financially.

If patients and their doctors want the same thing, what stands in the way? Our legal system, that is what.

Our legal system pits doctors against their patients. Doctors cannot apologize to their patients because admitting a mistake might end a doctor up in court, and probably would. As a result, doctors order more expensive tests and spend less time getting to know their patients—anything to protect against a career-threatening lawsuit.

Patients feel this distrust, and they respond in kind. If a patient has a bad medical outcome, they assume their doctor was at fault, even if there was nothing their doctor would or could have done differently.

Sometimes bad outcomes happen in health care, and no one is at fault. But if a doctor doesn't feel free to say "I am sorry" when he or she makes a mistake, how will a patient know whether their doctor is at fault? It is hard to blame the patient for assuming the worst.

This is a fundamental flaw in the way we resolve medical disputes today. The courtroom stands between the people who matter most—the patient and the doctor. The courtroom ought to be the last resort for resolving disputes, not the only resort. Patients and doctors ought to be on the same side, working together; but fear of the legal system puts them in opposite corners and pits them against one another.

There has to be a better way. My bill would be another step toward replacing the medical lawsuits with a better and fairer system for compensating and protecting patients. But it is a long-term solution, and we do have a short-term solution, the Gregg-Ensign bill. I hope we can work together to find the long-term solution, but that we will do the short-term solution now.

Again, our debate now is whether we get to the debate the bill. Unless we have cloture tomorrow, we won't actually get to debate the short-term solution.

I want to recap and remind you that this bill doesn't limit economic damages. It will assure that we can have emergency care, that doctors who deliver babies can continue to deliver babies.

If you don't get care at all, how much pain and suffering will you have? How much injury can be caused if you cannot go to a doctor in your community and you have to travel extensively to do it?

This bill is a limit on noneconomic damages, similar to the limit in California, where the crisis has been averted. I ask my colleagues to support cloture on the motion to proceed so we can proceed to pass the Gregg-Ensign bill, so we will have a short-term solution to the medical liability crisis we face in our country, which keeps us from getting the medical treatment we need, when we need it.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I rise in strong support of S. 2207, the Pregnancy and Trauma Care Protection Act of 2004. I strongly encourage my colleagues to vote for this very important legislation.

This is the third time in the 108th Congress that I have come to the floor to argue for medical liability reform. It should not be this difficult to pass a piece of legislation that will improve access of all Americans to timely and efficient medical care, reduce the cost of hospitalization insurance and health insurance, and do something about the enormous cost of defensive medicine being practiced today by physicians throughout the country, which is contributing also to the high cost of health insurance premiums.

I start off today by telling a story of the Schweiterman family in Ohio's rural west-central Mercer County. Doctors Jim and Tom Schweiterman are brothers who, along with their father, who is retired, have delivered about 5,700 babies over the years. The family has a 113-year history of bringing babies into the world. Their great-grandfather started the current medical practice in 1896. They have never been sued for a delivery.

Yet this family is giving up delivering babies because of escalating malpractice insurance costs. Their insurance rates rose from $32,000 6 years ago to this year's quote of $78,000. Dr. Jim Schweiterman stated he would continue to deliver babies if he could just break even, but unfortunately, because of insurance costs, he cannot. Their last delivery will take place this September.

This is happening all over the United States. This legislation is a must. It is important because the effects of medical liability crises can be felt most acutely by obstetricians/gynecologists and emergency room physicians.

Data from the American Medical Association indicates that 19 States currently face a medical liability "crisis" and 25 States show "problem signs." That is 44 States out of our 50. The doctors in these 44 States will either leave the practice of medicine entirely or move their practice to a neighboring State with better malpractice insurance rates. This phenomenon cries for national legislation.

One category of patients impacted greatly by this crisis and who we are trying to help with this legislation is women of childbearing age. One out of every 11 obstetricians nationwide has stopped delivering babies and, instead, scaled back their practices to gynecology only. In addition, one in six has begun to refuse high-risk cases. Most alarming is recent data showing that for a third year in a row, the number of obstetrics/gynecology residency training slots filled by U.S. medical students declined by 65.1 percent—the lowest level ever. People are not going into residencies in OB/GYN and in ER.

How does this affect a woman's access to care? As premiums increase, a woman's access to general care, including regular screenings for reproductive cancers, high blood pressure, cholesterol, diabetes, and other serious health risks, will decrease.

With fewer health care providers offering full services, the workload has increased significantly for those who still do. Wait time increases, putting women at risk.

Women receive less prenatal care in our current environment. Improved access to prenatal care has resulted in low infant mortality rates, an advance now threatened as OB/GYNs drop obstetrics. As you may have read, for the first time since 1958, the U.S. infant mortality rate is up. According to the preliminary data released this month by the statisticians for the CDC, the Nation's infant mortality rate in 2002 was 7 per 1,000 births. That is up from 6.8 in 2001, and some experts are attributing that to poor access to quality prenatal care.

Another group of physicians that has been significantly affected by the medical liability crisis, and that we are trying to help out with this legislation, is emergency room physicians. When patients rush to the ER, they assume the hospital will be open and doctors will be there to treat them. However, to secure affordable medical liability insurance, or to minimize their risks of lawsuits, many physicians, including neurosurgeons, orthopedic surgeons, cardiothoracic surgeons, obstetricians, and cardiologists, are no longer able to serve on-call to hospital emergency departments. In extreme cases—for example, Nevada, Florida, and Pennsylvania—emergency departments and trauma centers have been forced to shut down completely because the physicians have been unable to secure medical liability insurance at any price. It is not available.

In fact, in the past 10 years, hundreds of emergency departments have closed in the United States in such States including Arizona, Florida, Maryland, Mississippi, Nevada, Ohio, Pennsylvania, Texas, and West Virginia. Over the same period, the number of visits in the Nation's emergency departments climbed over 20 percent. While more Americans are seeking emergency medical care, emergency departments continue to lose staff and resources and are almost at the breaking point.

In addition, three in four of emergency departments diverted ambulances in the last 12 months. I will repeat that. Three of four emergency departments diverted ambulances in the last 12 months in part because no specialists were available.

Of these, one-third diverted patients six or more times a month, and an additional 28 percent diverted patients three to five times a month.

This is devastating, especially in light of the volume of patients treated by emergency room physicians. Each year there are 110 million visits to emergency rooms in the United States. Over 3.5 million ER visits are related to bone fractures. Of these, some 885,000 people have such severe fractures which can cut off or reduce blood flow to a limb or lead to shock. Patients cannot afford delays in treatment which can lead to death, amputation of a limb, loss of use of a limb, or permanent disability.

Each year, over 1 million Americans suffer a heart attack. Approximately 20 percent of heart attack victims will die. Cardiologists and cardiovascular surgeons can perform lifesaving treatments and, in some cases, can even reverse heart damage if the patients are treated promptly. Stroke patients treated within 90 minutes of the onset of their symptoms show the most improvements.

We need this legislation to keep these ERs open and fully staffed and to make sure there are no delays in treatment that can result in death or permanent injury.

How does this affect a person's access to care in the emergency room or the trauma care center? Today, in many hospitals, there is no neurosurgeon available to treat patients with major head trauma or no orthopedic surgeon to care for patients with open fractures.

According to a recent study, over 70 percent of the Nation's hospitals, again, were forced to divert patients in the past month. That is a startling statistic. According to a recent study, over 70 percent of this Nation's hospitals were forced to divert patients in this past month, in part because of lack of specialists on call.

Neurosurgeon Thomas Hawk of Columbus stopped providing trauma and emergency care in an effort to reduce his liability premiums. He also writes to me:

> I see lots of patients each week from West Virginia who cannot find neurosurgical care and are coming all the way to Columbus, OH, to get care.

This is another problem, the transferring of patients. Because of the growing scarcity of oncall specialists, patients now wait longer for care in emergency departments. As I mentioned, many are being transferred to other facilities. This can be deadly for elderly patients experiencing heart attacks or strokes which require immediate medical attention.

In fact, the emergency physicians at Akron's two level I trauma centers—Akron is fortunate; they have two trauma centers, Akron General Medical and Akron City Hospital—often treat patients from other areas of the State, including Youngstown and Cleveland. Youngstown is, I think, an hour away, and Cleveland is 45 minutes away. I do not see how my colleagues can claim we are not in the middle of a crisis.

When I have given speeches in the past, I have given testimonials from dozens upon dozens of physicians in Ohio who have been affected by this crisis. Every week I see many of them. But this time instead I would like to talk about some other States to show that this crisis does not just affect my home State of Ohio or States such as Nevada or Pennsylvania, but it is widespread throughout the country and should cause many of my colleagues from other States to support this legislation or explain why they cannot.

In Illinois, according to the American College of Emergency Physicians, fewer inpatient beds and staffing shortages are contributing to severe overcrowding and ambulance diversion. A 2003 report from the Metropolitan Chicago Health Care Council indicated the city's hospitals are unprepared to meet the future health care needs of their patients. According to the American Association of Neurological Surgeons, more than 15 percent of Illinois neurosurgeons have left the State in the past 2 years.

In addition, since January of 2003, 59 doctors have left the St. Clair-Madison County area. Just since October 2003, as premium renewals are considered at the end of the year, over 10 physicians have left, including 3 orthopedic surgeons.

Also in Illinois, according to a November 2002 survey, 63.5 percent of responding Illinois OB/GYNs have been forced to make changes in their practice, such as quitting obstetrics, retiring, relocating, decreasing gynecologic procedures, and no longer performing major surgery. Almost 50 Illinois OBs stopped practicing obstetrics recently, forcing 7,776 pregnant Illinois women to find new OB/GYNs to provide obstetrics care.

I don't know how we can take this situation. I have six grandchildren, and I cannot think of a worst situation than if one of them had a problem pregnancy and were told by their OB/GYN: I am sorry, I can't handle it because if I do, my insurance premiums are going to skyrocket. And yet in Illinois, 50 stopped practicing.

An orthopedic surgeon in Oakbrook Terrace, IL, told the story of a 5-year-old child who was struck by a car and sustained a fracture of the femur and small skull fracture with minimal underlying brain contusion. He stated:

> Such injuries would typically be treated by . . . an orthopaedic surgeon and then a neurosurgeon. . . . In this case, the neurosurgeon on call would not see any patient under 18. A pediatric orthopaedic surgeon was in attendance . . . but without a neurosurgeon . . . a transfer to Loyola had to be arranged. At Loyola, no pediatric orthopaedic surgeon was available, so the adult orthopaedic trauma surgeon had the child's leg placed in traction, inserting a pin just above the knee in order to hang the weights which pulled on the leg. The plan was to keep the child in traction for a few weeks, and then place the child in a cast. The family, after 2 days at Loyola, desired transfer of care back to their home town. The liability crisis has created a situation where this patient had to endure two useless ambulance rides with a broken femur, several extra days of hospitalization, and insertion and removal of a traction pin. This waste of resources and interference with medical care is repeated endlessly across the nation.

In New Jersey, according to the State Hospital Association, hospital liability premiums jumped 50 percent on average in 2003, and the average annual hospital premium increased to $1.4 million.

In addition, a survey of more than 1,000 obstetricians found 23 percent had left their practices last year because they could not afford liability coverage, and only one pediatric surgeon is left in each of Ocean and Monmouth Counties, according to the State medical society. Some hospitals do not even have obstetricians on call.

Also in New Jersey, in January of 2002, there were 85 practicing neurosurgeons in the State. A little more than a year later, an estimated 20 have been forced to stop practicing. Warren County residents, including its 200-bed hospital, saw its only two neurosurgeons leave in September 2002. The closest neurosurgery center is now more than 1 hour away from these residents.

In North Carolina, the average size of liability claims increased by approximately 80 percent over 10 years. Some physicians are going out of business, leaving the State or substantially increasing prices as they pass on costs to their patients. The Senator from North Carolina, who was a Presidential candidate, should be very familiar with those statistics. The problem is especially acute for obstetricians, neurosurgeons, and emergency physicians.

In fact, in nine counties in the rural southern region, there is a 3-percent decrease in specialty physicians, despite a nearly 8-percent increase in population between 1999 and 2002. At the same time, specialty physicians in all rural counties have increased only 1 percent, while the general population in those counties grew by 7 percent.

Neurosurgeons have been particularly affected by the medical liability crisis and many are stopping or limiting their trauma and emergency care in an effort to obtain affordable liability insurance. As a result, many hospitals, including Moore Regional Hospital in Pinehurst, NC, no longer have 24-hour neurosurgery coverage. Patients who suffer injuries during the wrong time are transferred to Chapel Hill sometimes after waiting for hours.

What about Florida? In Florida, liability premiums increased 75 percent in 2002. The average premium per physician was 55 percent higher than the national average. Emergency departments across the State are transferring patients to other hospitals because of shortages of cardiologists.

Between 1998 and 2002, 30 professional liability insurers left Florida. That is, the insurance companies have just left Florida because of the multiplicity of medical lawsuits that have been filed. Thirty-four percent of Florida physicians have stopped or reduced their emergency care coverage.

At Orlando Regional Medical Center, where Disney World is located, is one of only six level I trauma centers in the State. Think about this. This is the State of Florida, one of the fastest growing States in the United States. They have six level I trauma centers in the State. For those people who travel to Florida, I am sure that one of these days they are going to start taking that into consideration about going to the State of Florida because of the fact they do not have the trauma centers they need to take care of the people who come down from all over the country.

All of the neurosurgeons on staff at the Orlando Regional Medical Center, which is one of the six level I, have what they call "gone bare" and no longer have any professional liability insurance. So what has the hospital done to take care of the situation? Listen to this. The hospital has resorted to paying the doctors $4,000 per day to cover the call schedule and enable them to keep their door open to traumas.

In addition, Orlando Regional Sand Lake Hospital has had to eliminate both of its on-call orthopedics and urology coverage in its emergency department due to a lack of physician availability.

The stories from Florida are particularly egregious, so much so that I cannot understand how my colleagues from that State are not supportive of this legislation. I cannot figure it out. With what is going on in Florida, I cannot understand why the two Senators from that State cannot be supportive of this legislation.

Dr. Richard Foltz from Fort Lauderdale, FL, writes:

> There are no neurosurgeons in Palm Beach to do brain surgeries or take ER call. They try to transfer patients across county lines all the time. I have no insurance and have gone bare. My last premium notice was over $400,000 a year.

According to neurosurgeon Troy Tippett, there are no longer any neurosurgeons in the Pensacola, FL, area who treat pediatric patients who are often considered high risk in liability terms. Children suffering from head and spinal injuries are airlifted more than 200 miles away. Think about that, airlifted 200 miles away to get treatment they ought to be able to get in their own community.

A Winter Park OB/GYN dropped his obstetric practice after his premiums rose from $48,000 to $100,000. At that rate, he would have to work 6 months of the year just to pay his liability premiums. Instead he, along with four other obstetricians, gave up obstetrics altogether.

I could go on and on with one story after another about the fact we are losing surgeons and we are losing obstetricians all over this country. We are just talking about two of the specialties right now. We are concentrating on these two right now because we know they are the most in need and the shortage is most acute.

The legislation we are debating today gets us on our way to turning these statistics around. It provides a commonsense approach to our litigation problems that will keep consumers from bearing the costs of costly and unnecessary litigation while making sure those with legitimate grievances have recourse through the courts.

I would like to point out the argument that the insurance industry is ripping off doctors—and we hear that all the time on this floor—and raising rates to make up for investment losses is preposterous. I would again invite those Members who believe this to read the article I submitted for the RECORD during our last debate in February entitled "Did Investments Affect Medical Malpractice Premiums," where it is concluded that asset allocation and investments returns have had little, if any, correlation to the development of the current malpractice problem.

I am not going to bore my colleagues today with statistic after statistic about what has happened to medical malpractice insurance companies in this country, but most of them are out of business. Most of them are limiting what they make available to doctors based on the type of medicine the doctor practices.

I would also like to point out testimony given to the Ohio Medical Malpractice Commission by a man by the name of James Hurley of the American Academy of Actuaries. In his testimony, Mr. Hurley tried to debunk a few misconceptions about the insurance industry and medical malpractice, one of which is the idea that insurers are increasing rates because of investment losses, particularly their losses in the stock market.

In response to this, Mr. Hurley states unequivocally, that in establishing rates insurers do not recoup investment losses.

I ask unanimous consent that a letter of March 26, 2004, from James Hurley be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ACADEMY OF ACTUARIES,
Washington, DC, March 26, 2004.

Hon. BILL FRIST,
U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: On behalf of the American Academy of Actuaries' Medical Malpractice Subcommittee, I appreciate the opportunity to provide an actuarial perspective on the issues related to patient access to health care and, in particular, the availability and pricing of medical malpractice insurance. As Congress considers medical malpractice liability reform (include S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004), the subcommittee feels it is important to highlight certain misconceptions in the current debate so Congress can more effectively address problems related to the availability and affordability of this insurance.

DETERMINING RATES.—Ratemaking is the term used to describe the process by which companies determine what premium is indicated for a coverage. In the insurance transaction, the company assumes the financial risk associated with a future, contingent event in exchange for a fixed premium before it knows what the true cost of the event is, if any. The company must estimate those costs, determine a price for it and be willing to assume the risk that the costs may differ, perhaps substantially, from those estimates. A general principle of ratemaking is that the rate charged reflects the expected costs for the coverage to be provided, not what has been paid or is going to be paid on past coverage. It does not reflect money lost on prior investments. In short, a rate is a reflection of future costs.

In general, the actuarial process used in making these estimations for medical malpractice insurance starts with historical loss experience for the specific coverage and, usually, for a specific jurisdiction. Rates are determined for this coverage, jurisdiction, and a fixed time period. To the appropriately projected loss experience, a company must incorporate consideration of all expenses, the time value of money and an appropriate provision for risk and profit associated with the insurance transaction.

Some lines of insurance coverage are more predictable than other lines. The unpredictability of coverage reflects its inherent risk characteristics. Most companies would agree that costs and, therefore, rates for automobile physical damage coverage, for example, are more predictable than for medical malpractice insurance because automobile insurance is relatively high frequency/low severity coverage compared to medical malpractice insurance. In the case of auto physical damage, one has a large number of similar claims for relatively small amounts that fall in a fairly narrow range. In medical malpractice insurance one has a small number of claims that have a much higher average value and a significantly wider range of possible outcomes. There also is significantly longer delay for medical malpractice insurance between the occurrence of an event giving rise to a claim, the reporting of the claim, and the final disposition of the claim. This longer delay adds to the uncertainty inherent in projecting the ultimate value of losses, and consequently premiums.

RATES DON'T RECOUP PAST INVESTMENT LOSSES.— The ratemaking process is forward looking. In establishing rates, both state insurance laws and actuarial standards of practice prohibit recoupment of past investment losses. Instead of trying to make up for past losses, the general ratemaking practice is to choose an expected prospective investment yield and calculate a discount factor based on historical payout patterns. For medical malpractice, the insurer often expects to have an underwriting loss that will be offset by investment income. Since interest yields drive this process, when interest yields decrease, rates will increase.

Insurers are restricted in their investment activity due to state insurance regulation and competition in the market. The majority of invested assets are fixed-income instruments. Generally, these are purchased in maturities that are reasonably consistent with the anticipated future payment of claims. Losses from this portion of the invested asset base have been minimal, although the rate of return available has declined.

TORT REFORMS.—Tort reform has been proposed as a solution to higher loss costs and surging rates. Reforms modeled after California's Medical Injury Compensation Reform Act, or MICRA, are proposed to alleviate some of the financial pressure on the medical malpractice insurance system. The Subcommittee, which takes no position for or against tort reforms, observes the following:

A coordinated package of tort reforms is more likely to achieve savings in malpractice losses and insurance premiums than an individual reform, like a cap on pain and suffering or non economic damages only.

While a cap on non economic awards could substantially reduce claim losses (on a per-event basis and at some level low enough to have an effect; such as MICRA's $250,000) other tort reform elements, such as a mandatory collateral source offset rule, are also important.

Such reforms may not assure immediate rate reductions, particularly given the size of some rate increases being implemented currently. The actual effect, including whether the reforms are applied as intended, will not be immediately known.

These reforms are unlikely to eliminate claim severity (or frequency) changes but they may mitigate them. The economic portion of claims is not affected if a non-economic cap is enacted. Thus, rate increases are still likely to be needed.

Such reforms should reduce concerns about large dollar awards containing significant subjective non-economic damage components and make the loss environment more predictable.

Thank you very much for your consideration. Please do not hesitate to contact me or Greg Vass, the Academy's Senior Casualty Policy Analyst, at 202-223-8196 if you have any questions or would like additional information.

Sincerely,

JAMES HURLEY,
Chairperson,
Medical Malpractice Subcommittee.

Mr. VOINOVICH. Throughout my career in public service, health care has been one of my top legislative priorities and certainly was a high priority while I was Governor of the State of Ohio and mayor of the city of Cleveland. All of us want access to quality, affordable health care. When the quality is not there, when people die or are truly sick due to negligence or other medical error, they should be compensated.

When healthy plaintiffs file meaningless lawsuits to coerce settlements or to shake the money tree to get as much as they can get, there is a snowball effect and all of us pay the price. For the system to work, we must strike a delicate balance between the rights of aggrieved parties to bring lawsuits and the rights of society to be protected against frivolous lawsuits and outrageous judgments that are disproportionate to compensating the injured and made at the expense of society as a whole.

I repeat that again. For the system to work, we must strike a delicate balance between the rights of the aggrieved parties to bring lawsuits and the rights of society to be protected against frivolous lawsuits and outrageous judgments that are disproportionate to compensating the injured and made at the expense of society as a whole.

I have been concerned about this issue since my days as Governor, as I mentioned. In 1996, I essentially had to pull teeth in the Ohio legislature to pass my tort reform bill which would have placed caps on noneconomic and punitive damages, established proportional liability, and created a rebuttable presumption that a hospital was not negligent regarding negligent credentialing, among other provisions.

I signed the bill into law in October of 1996. Three years later, the Ohio Supreme Court ruled it unconstitutional. Had that law withstood the supreme court scrutiny—and I think today it would because we have a different supreme court—Ohioans would not be facing the medical access problems they are facing today—doctors leaving their practice, patients unable to receive the care they need, and cost of health insurance going through the roof.

Next to the economy and jobs, the most important issue facing America today is health care. In fact, it is a part of the reason why our economy is in trouble. We have too many uninsured, and those who have insurance face soaring premiums every year, making it less likely they can continue to pay for them.

In addition, employers face spiraling costs and in some cases do not even provide insurance, and those that do have been forced to increase their premiums and pass on the added costs to their employees, whose family budgets are often already stretched razor thin.

In other words, I see people in business every day who say, Senator, I want to provide health care for my employees but the cost of it has gone up to the point where I cannot afford to provide it for them. Or, in the alternative, Senator, I am going to provide it for them, but I am going to ask them to pay for more of their premiums. And, Senator, in so many instances my employees cannot pay the additional premiums, and because they cannot pay the additional premiums, they lose their health insurance.

I believe that providing the sort of commonsense approach found in the Pregnancy and Trauma Care Access Protection Act of 2004 is one way to deal with this escalating cost of health insurance in the United States. The bill will give patients greater access to care. It will provide medical liability for those physicians who provide prenatal delivery and postpartum care to mothers and babies. Patients would not have to give away large portions of their judgment to their attorneys. Truly injured parties can recover 100 percent of their economic damages. Punitive damages are reserved for those cases where they are truly justified. Doctors and hospitals would not be held liable for harm they do not cause and physicians can focus on doing what they do best, practicing medicine and providing health care.

I, again, urge my colleagues to vote for cloture so we can debate this issue and have an up-or-down vote on this legislation. We owe it to the people of this country to have a robust debate of this on the Senate floor.

I close my remarks this afternoon by reading a letter from Laurence E. Stempel, an MD from Columbus, OH. This is from the letter he sent to his patients on June 23, 2003:

> On June 17, 2003, I received my professional liability insurance rate quote for the upcoming year, and it is 64 percent higher than last year. I have seen my premiums almost triple during the past 2 years, despite never having had a single penny paid out on my behalf in 27 years as a physician. Even worse, during this time the insurance company has reduced the amount of coverage that I can purchase from $5 million to only $1 million . . .

In other words, his insurance has gone up astronomically and he is getting about 80 percent less coverage than he had before. He said:

> while jury verdicts have skyrocketed, often exceeding $3.4 million. If I were to purchase this policy, I would be putting all of my family's personal assets at risk every time that I delivered a baby, or performed surgery. I refuse to do that.
>
> I have therefore decided to retire from private practice. . . .[T]he final day of my current liability insurance policy [is when that will happen.]

This is not a decision I have taken lightly, but unfortunately it has become necessary. For many of you, I have been part of your life for years. I have delivered your babies and helped you through some of life's most difficult challenges. It has truly been an honor.

We have to stop this from happening in this country. We have the power to do something about it on the floor of the Senate, and it is about time we faced up to our responsibility and did something about it.

I ask unanimous consent that the entire letter be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

June 23, 2003.

Dear Friends, As you know, our country is in the midst of its worst medical liability crisis ever. Hardly a day passes without a mention of the "malpractice crisis" in the newspapers or on the nightly news. In fact, just a couple of weeks ago, it was Time Magazine's cover story. This is a national problem, and a truly frightening one. For example, Las Vegas had 130 obstetricians a year ago. There are now 75, and by the end of the year, there will probably only be 40 left to care for the 23,000 women who deliver there each year. Women are driving to Utah and California for prenatal care. Closer to home, there were nine obstetricians in Athens, Ohio, a year ago. There are now four, and soon there will only be the two who teach at the medical school. Some hospitals around the nation have closed their obstetric units.

On June 17, 2003, I received my professional liability insurance rate quote for the upcoming year, and it is 64% higher than last year's rate. I have seen my premiums almost triple during the past two years, despite never having had a single penny paid out on my behalf in twenty-seven years as a physician. Even worse, during this time the insurance company has reduced the amount of coverage that I can purchase from $5 million to only $1 million, while jury verdicts have skyrocketed, often exceeding $3-4 million. If I were to purchase this policy, I would be putting all of my family's personal assets at risk every time that I delivered a baby or performed surgery. I refuse to do that.

I have therefore decided to retire from private practice on July 31, 2003, the final day of may current liability insurance policy. This is not a decision that I have taken lightly, but unfortunately it has become necessary. For many of you, I have been part of your life for years. I have delivered your babies, and helped you through some of life's most difficult challenges. It has truly been an honor.

There is always a silver lining in every cloud. I am looking forward to being able to devote more time to teaching medical students and obstetric residents, a pursuit that has occupied about a third of my professional time during recent years. I will also be able to spend more time with my wife and family, whom I have often neglected during the past years due to the responsibility of my practice.

I know that these changes will be a serious inconvenience for many of you. For those of you who are currently pregnant, I will try to find each and every one you a competent and caring obstetrician to help you through the rest of your pregnancy and delivery. For those patients who have a gynecology appointment schedule after July 31, it will be necessary for you to reschedule with another physician. I would like to recommend the physicians of Associates in Central Ohio Obstetrics & Gynecology (phone 889-6117). This group has an office in Suite A of my building, as well as a couple of other offices around town. I have known all of these physicians for years, and I taught most of them when they were medical students or obstetric residents. Furthermore, I have traded call with this group for a number of years. They have agreed to be the custodian of my patients' charts, and to see my patients if they would like. If you would prefer to see another physician, they have agreed to forward the pertinent information upon receipt of a signed request.

Thank you again for the honor of being your physician. I will miss each and every one of you.

Sincerely,

Laurence E. Stempel, M.D.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING TRADE ADJUSTMENT ASSISTANCE

Mr. WYDEN. Mr. President, software programmers in Beaverton, OR, every day have to compete with those in Beijing. I think it is very important for the Senate to set in place bipartisan policies that are going to finally give a fair shake to our workers who are competing in tough global markets.

I come to the floor this afternoon because I have developed, with the support of Senator Coleman, our colleague from Minnesota, a bipartisan proposal that would give the Senate a chance to help hundreds of thousands of laid-off high tech workers and service employees by extending trade adjustment assistance benefits to them so they can receive job training, income support, and health insurance tax credits.

So often these workers have lost their jobs through no fault of their own, and we know—especially the distinguished Presiding Officer of the Senate—these high tech workers have been the envy of our American workforce. There is extraordinary ingenuity among these hundreds of thousands of programmers and engineers and designers who have helped drive our economy in this century. Their creativity has generated an exceptional wave of economic prosperity, and trade agreements on services and intellectual property helped carry the fruits of the work of our workers around the globe.

Information technology developed by American workers transformed the world and the way business is done. Overseas cable costs have dropped by as much as 80 percent in the last 5 years which, as the distinguished Presiding Officer knows, has spread the Internet far and wide. The Internet has made it a lot cheaper to send work through a phone line than to ship a bulky package on an airplane.

Globalization of technology has globalized the technology workforce. So, in fact, the workers I am honored to represent in Beaverton, OR, do have to compete against workers in Beijing, and certainly geography is increasingly less important in determining where a job can be done.

But the transformation from an economy built on smokestacks to one built on packages of light has come at a heavy price. So often trade agreements in the past considered these high technology and service workers as an afterthought. The irony is now some of the very same workers who launched the technology revolution have actually become its victims. Hardly a day goes by without a front-page story in our country about an American programmer on his way out who is having to train a foreign worker who will replace him.

Senator Coleman and I have been working with a number of colleagues. Senator Baucus on this side of the aisle has been exceptionally helpful. We talked with a number of colleagues on the other side of the aisle. Senator Coleman and I have developed a bipartisan proposal to make sure these workers, who have not gotten a fair shake in the past, do have an opportunity to get back into our marketplace economy.

It is not a moment too soon. The American Electronics Association 2003 Cyberstates report found unemployment among computer programmers jumped from 4.5 percent in 2001 to 6.2 percent in 2003. High tech employment fell by 540,000 jobs to 6 million in 2002 and a further loss of 234,000 jobs was expected in 2003.

The average American may think the Federal Government is helping those technology workers and service workers whose jobs have been displaced by trade. But the reality is that assistance is not available because the trade assistance law, which was authored in 1962 for displaced manufacturing workers, did not contemplate the tremendous number of jobs we now have in the technology sector, with all of those software programmers and engineers and designers. The U.S. trade assistance laws were designed for the manufacturing era.

Since 1962, when workers lost their jobs in a manufacturing plant as a result of trade, they could get help through the Trade Adjustment Assistance Act. The Trade Adjustment Assistance Act has, in fact, helped hundreds of thousands of those displaced workers. But workers in the technology and the services sector, which now accounts for four-fifths of the U.S. workforce, have not been eligible for trade adjustment assistance. Time after time when a displaced software developer, accountant, or someone who has worked in the telemedicine field has gone knocking on the doors of the Trade Adjustment Assistance Program, they have been turned away. The bipartisan amendment I have developed with

Senator COLEMAN will open the doors of the Trade Adjustment Assistance Act to the hundreds of thousands of displaced technology and service sector workers.

All of these workers who have been displaced by trade and by global marketplace forces deserve the same kinds of benefits. All of them have a chance to use these programs as a trampoline back into the private economy, so they can capture the jobs for which their skills have blessed them. Our amendment will establish equity in the program between manufacturing and service workers.

The Wyden-Coleman amendment will cover three categories of trade-impacted service workers: those who lose their jobs when their employer closes or lays off because of import competition; public and private sector service workers who lose their jobs when their facility moves overseas; and secondary service workers who provide services to a primary firm where workers are eligible for trade adjustment assistance and where a closure has caused a layoff or closure at a secondary firm.

This is an extraordinarily important statute because it provides retraining, income support, health insurance tax credits, and other benefits to workers who lose their jobs. It can also help secondary workers or individuals who supply parts or services and who may have lost their jobs because their facilities shut down due to import competition or they move overseas. This is exactly the type of trade-displaced service worker opportunity that our citizens need.

A self-described "newly employed software engineer" from Hillsboro, OR, wrote in December that "my job was moved to India where the company can pay Indians a fifth of what they pay Americans."

Another wrote:

> [A]s a 50-year-old high-tech manufacturing engineer with 26 years' experience, I was laid off in December 2002. I am sure the new factory the company is building in China will prevent my ever returning. I can't even get hired into an entry level position anywhere because I am over-qualified.

These unemployed Oregonians and the hundreds of thousands of other information technology professionals who have lost their jobs deserve an opportunity to get the training, health care, and income assistance so they can get back on their feet and use their skills in the private marketplace. The Trade Adjustment Assistance Act would target these kinds of workers who have been hurt by unfair competition.

Globalization of information technology hardware production from 1995 through 2002 cut information technology hardware costs 10 to 30 percent, translating into higher productivity growth and adding $230 billion to our gross domestic product. Information technology became affordable to business sectors that were previously bypassed by the productivity boom.

We are now talking about the small and midsized companies in health care, construction, and a host of related fields. But as information technology hardware prices declined, the importance of information technology services and software increased to almost 70 percent of information technology spending in 2001. With the growth in software and services outpacing hardware spending by almost two to one, the demand for cheaper information technology services has lent strength to this whole trend to move these jobs offshore. No one appears to have anticipated the extraordinary speed in which all of this has taken place or the scale of jobs moving offshore.

The workers who lost their jobs and their livelihoods from jobs that have gone overseas cannot afford to wait for the higher skilled jobs that economists keep telling them is right around the corner. Higher value and higher paid systems integration jobs may come along, but in this period unemployed information technology professionals seem to feel they are more likely to see Elvis than a sudden proliferation of new highly skilled information technology jobs.

At the end of the day, what I am saying, along with the distinguished Senator from Minnesota, is it should be irrelevant whether an individual works in today's economy in the services and technology sector or whether they work in the manufacturing area. Each of our workers who has been displaced by trade should be eligible for the same benefits. That is what our bipartisan proposal would do. The hundreds of thousands of workers who have been laid off in every part of our country in the technology sector and in the service sector are looking to whether the Senate will modernize the trade adjustment laws so they finally can get a fair shake and so they can pick up the skills and the health care and the income support that is going to let them get back on their feet, use their ingenuity, and use their work ethic to have a chance for a high-skill, high-wage job once again.

I call on the Senate in a time of discussion about gridlock and the inability to move forward on important legislation. This is an example of two Senators who have worked with colleagues from both political parties to come up with a proposal that can help hundreds of thousands of workers in an economic crunch today that is sure to continue. We hope the Senate will move expeditiously on our legislation.

It seems to me, to put it in the context of my home State, that when a worker who is a software programmer in Beaverton, OR, works hard and plays by the rules, it ought to be the job of the Senate to say when that worker is up against a software programmer in Beijing and the Beijing worker works for a fraction of the wages of the worker in Beaverton we create policies which are going to make it possible for our workers to move ahead to have the kind of quality of life that will allow them to support a family and participate in the community.

I call on the Senate to pass our bipartisan proposal as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, what is the parliamentary situation? Are we back on the motion to proceed?

The PRESIDING OFFICER. We are on the motion to proceed.

Mr. HATCH. Mr. President, today I rise to speak in support of S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

This bill helps to remedy the exploding medical liability and litigation crisis in our country, which is preventing patients from receiving high-quality health care—or, in some cases, any care at all—because doctors are being driven out of practice. In fact, this crisis hits us on two fronts, preventing many Americans from getting the vital health care they need, and raising the overall costs of health care for nearly all Americans.

As you will recall, this legislation is not our first attempt to relieve this crisis in access to care. Most recently, we debated S. 2061, which failed to receive the 60 votes necessary to invoke cloture in February, and we debated S. 11 prior to that. We can ill afford to ignore the many Americans whose doctors are retiring early or restricting their practices because of rising malpractice costs.

This health care crisis is jeopardizing access to health care in my home State of Utah and around the country.

The medical liability crisis is also inhibiting efforts to improve patient safety and stifling medical innovation. Excessive litigation is adding billions of dollars in increased costs. The Congressional Budget Office estimates that total savings to Medicare, Medicaid and the Federal Employees Health Benefit Program would be $15 billion in direct health care costs by passing medical liability reform. A Department of Health and Human Services report estimates that we could save $70 billion to $126 billion in defensive medicine costs. And they are really on the conservative side. I said 20 years ago, as a former medical liability defense lawyer defending doctors, health care providers, nurses, and so forth, knowing that most of those suits were frivolous to begin with, that there was at least $300 billion in unnecessary defensive medicine. Now we all want defensive medicine. We want doctors to do everything they can to help. But I am talking about unnecessary defensive medicine, unnecessary tests, unnecessary costs, unnecessary x-rays, unnecessary MRIs, unnecessary CAT scans, unnecessary cardiovascular tests, unnecessary respiratory tests and other types of tests that are not needed but are insisted upon by doctors because they want to have in their history every possible protection.

Even the American Medical Association admits there are at least $65 billion in unnecessary defensive medicine costs. When you get the AMA to admit that, you know it probably is a lot higher. In fact, it is costing every American, because we will not do anything about getting these frivolous suits under control. It is wrecking our health care profession in this country.

The liability crisis is also reducing access to high-quality health care. The 2004 survey by Medical Group Management Association of almost 13,000 physicians found that 15.6 percent of responding groups reported that their physicians plan to retire, relocate or restrict their services over the next three years.

These numbers have been consistent in large studies done in New York, California, Colorado and my home state of Utah.

However, the equally troubling statistics are that only two percent of cases with actual negligent injuries result in claims and less than one-fifth—17 percent—of claims filed actually involve a negligent injury. In other words, the deserving injured are going uncompensated, while a great deal of litigants with spurious claims tie up our court system and cost all of us unnecessary billions of dollars.

This situation has been likened to a traffic cop who regularly gives out more tickets to drivers who go through green lights than to those who run red lights. That is clearly no way to ensure traffic safety, and we should not accept such an inefficient and inequitable method of ensuring patient safety.

These numbers are a searing indictment of the current medical liability system. I believe we can do better for the American people and the Pregnancy and Trauma Care Access Protection Act is an important step along that path. We must do better.

Today's proposed legislation addresses two areas in dire need of relief: trauma care and obstetrical care.

Many physician groups are no longer able to be oncall for hospital emergency departments. As medical care to trauma victims, especially children, is by its nature high risk, many doctors can no longer afford to treat pediatric trauma patients. The problem is also acute for women who need obstetrical and gynecological care because OB/GYN is among the top three specialties with the highest professional liability insurance premiums. This has led to many doctors leaving their practice and to a shortage of doctors in many States, including my own home State of Utah. For example, Utah physician Dr. Catherine Wheeler would have to deliver more than 60 babies each year just to pay for her medical liability insurance, which is over $70,000. Although she works 80 hours per week, after she pays her malpractice premiums and other costs, she takes home money for only 2½ months of the year.

Utah Medical Association data show that medical liability insurance premiums continue to increase rapidly, creating pressure on doctors to restrict service in Utah. In 2002, there was a 30-percent rise. Last year, premiums rose 20 percent. This year, they are projected to increase 15 percent in Utah.

Studies by both the Utah Medical Association and the Utah Chapter of the American College of Obstetricians and Gynecologists, ACOG, underscore the problem in my State.

Utah Medical Association data show that over half of the family practitioners in Utah have already given up obstetrical services or have never practiced obstetrics even though they were trained to do so. Of the remaining practitioners who still deliver babies, nearly one-third say they plan to stop providing OB services within the next decade—most within 5 years. A Utah ACOG survey found that 15 of the 106 members polled had already stopped practicing obstetrics, and 21 of the remaining 91 plan to stop within 5 years. These changes in practice, such as retiring, relocating, or dropping obstetrics because of the medical liability reform crisis, leaves almost 1,500 pregnant women in Utah without OB/GYN care.

The medical liability crisis, while affecting all medical specialties and practices, hits OB/GYN practices especially hard. Astonishingly, over three-fourths—76.5 percent—of obstetrician/gynecologists report being sued at least once in their individual careers. Indeed, over one-fourth of OB/GYN doctors will be sued for care given during their residency. These numbers have discouraged Americans finishing medical school from choosing this vital specialty.

Currently, one-third of OB/GYN residency slots are filled by foreign medical graduates, compared to only 14 percent one decade ago. OB/GYN doctors are particularly vulnerable to unjustified lawsuits because of the tendency to blame the doctor for brain-injured infants, although research has proven that physician error is responsible for less than 4 percent of all neurologically impaired babies.

Jury awards have been escalating at an alarming rate. Data from Jury Verdict Research show that the average liability award increased 176 percent from 1994 to 2001. The average jury award is $3.9 million. Over half of all awards are $1 million or more. This crisis is threatening Americans' confidence in our health care system to take care of their medical needs. Over three-fourths of Americans fear that skyrocketing medical liability costs could limit their access to care, and indeed that is already happening. AMA, the American Medical Association, data show that 19 States—19 States—have serious patient access problems, and 25 more, including my own home State of Utah, are nearing crisis.

An August 2003 GAO report concluded that actions taken by health providers as a result of skyrocketing malpractice premiums have contributed to health care access problems. These problems include reduced access to hospital-based services for deliveries, especially in rural areas.

In addition, the report indicated that States that have enacted tort reform laws with caps on noneconomic damages have slower growth rates in medical malpractice premiums and claims payments. From 2001 to 2002, the average premiums for medical malpractice insurance increased about 10 percent in States with caps on noneconomic damages. In comparison, States with more limited reforms experienced an increase of 29 percent in medical malpractice premiums each year.

Medical liability litigation directly and dramatically increases health care costs for all Americans. In addition, skyrocketing medical litigation costs indirectly increase health care costs by changing the way doctors practice medicine.

"Defensive medicine" is defined as medical care that is primarily or solely motivated by fear of malpractice claims and not by the patient's medical condition. According to a survey of 1,800 doctors published in the journal entitled Medical Economics, more than three-fourths of doctors felt they must practice defensive medicine. A 1998 study of defensive medicine by Dr. Mark McClellan, using national health expenditure data, found that medical liability reform had the potential to reduce defensive medicine expenses by $69 billion to $124 billion in the year 2001. You can imagine what that number is today.

I remember, as a medical malpractice defense lawyer, I would tell doctors: You are just pigeons in a shooting gallery. The fact is, physicians have to have a history of treatments they have provided to their patients so they can prove that they did everything possible to prevent any real problems with their respective patients. Consequently, doctors have had to do that over the years because of the skyrocketing medical liability claims being made, a good 90 percent of which are, for the most part, spurious and frivolous.

The financial toll of defensive medicine is great, and especially significant for reform purposes, as it does not produce any positive health benefits. Not only does defensive medicine increase health care costs, it also puts

Americans at avoidable risk. Nearly every test and every treatment has possible side effects; thus, every unnecessary test, procedure, and treatment potentially puts a patient in harm's way. Seventy-six percent of physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients.

What can we do to address this crisis? The answer is, plenty; and there are excellent examples of what works. Last March, HHS released a report describing how reasonable reforms in some States have reduced health care costs and improved access to quality health care. More specifically, over the last 2 years, in States with limits of $250,000 to $350,000 on noneconomic damages, premiums have increased at an average of just 18 percent compared to 45 percent in States without such limits.

California enacted the Medical Injury Compensation Reform Act, also known as MICRA, more than a quarter century ago. MICRA slowed the rate of increase in medical liability premiums dramatically without affecting negatively the quality of health care received by California State residents. As a result, doctors are not leaving California.

Furthermore, between 1976 and the year 2000, premiums increased by 167 percent in California, while they increased three times as much—505 percent—in the rest of the country. Now, both percentage increases are high, but 505 percent is extremely high in comparison to a very litigious State like California. Consequently, Californians were saved billions of dollars in health care costs and Federal taxpayers were saved billion of dollars in the Medicare and Medicaid Programs because of the California restraint on medical malpractice claims, especially those that are not proper claims.

No one in this body, perhaps with the exception of our colleague from Tennessee, Dr. BILL FRIST, our majority leader, is more keenly aware of the defects in this system than I am. I used to try these cases, and I can say from a practical standpoint that a lot of lawyers bring cases that really are frivolous, because the cost of defending these cases can be in the hundreds of thousands of dollars.

Many insurance companies will pay off those defense costs to get rid of the case rather than take the chance a runaway jury will cost them even more. That is what is happening. It is happening in hundreds, perhaps thousands, of cases throughout the country. Most of these cases should have never been filed, however, there are a small number of cases that are very serious and it is appropriate for our judicial system to take care of them.

Before coming to Congress, I litigated several medical liability cases. I have seen heart-wrenching cases in which mistakes were made, where there was negligence. But more often, I have seen heart-wrenching cases in which mistakes were not made. Doctors were forced to spend valuable time and resources defending themselves against these frivolous lawsuits.

A recent Institute of Medicine report, "To Err is Human," concluded that:

> The majority of medical errors do not result from individual recklessness or the actions of a particular group. This is not a bad apple problem. More commonly, errors are caused by faulty systems, processes, and conditions that lead people to make mistakes or fail to prevent them.

We need reform to improve the health care system and processes that allow errors to occur and to identify better when real medical liability has occurred. The reform I envision would address litigation abuses in order to provide swift and appropriate compensation for malpractice victims, redress for serious problems, and ensure medical liability costs do not prevent patients from accessing the care they really need. So we need to move ahead with legislation to improve patient safety and reduce medical errors, and we need to urgently address the medical liability crisis so more women are not denied access to quality medical care because it has become too expensive for their OB/GYN doctors to continue their practice, and so we do not jeopardize trauma patients' access to urgently needed medical attention.

The Pregnancy and Trauma Care Access Protection Act of 2004 will allow us to begin ensuring that women, babies, and trauma patients get the medical care they need and deserve.

Without tort reform, juries are awarding astounding and unreasonable sums for pain and suffering. A sizable portion of those awards goes to the attorney rather than the patient. It is often estimated as high as 50 percent. The result is doctors cannot get insurance and patients cannot get the care they need.

All Americans deserve the access to care, the cost savings, and the legal protections States like California provide their residents. Today's bill will allow us to begin to address this crisis in our health care system. It will give trauma patients and women and their babies access to their doctors, and it will enable doctors to provide high quality, cost-effective medical care.

America's medical liability system is broken. It is not ensuring patient safety, and it is causing shortages of vital health care throughout the country. Congressional action to pass medical liability reform legislation is imperative. I strongly support this legislation and I urge my colleagues to support cloture and end this filibuster that will now be the third time effective changes in these laws is being attempted. Our pregnant women deserve better. They deserve the best quality care the medical system can provide. Our trauma victims deserve better. We are finding all over the country trauma centers are either starting to shut down or severely cutting back because they can no longer afford to fight these frivolous cases. They can't function in a health care system that doesn't work. That is a tragedy, especially for those who suffer from trauma-related injuries.

I hope our colleagues will vote for cloture on this bill. I hope we can proceed and pass medical liability reform which is long overdue. I strongly support S. 2207 and urge my colleagues to do what is in the best interest of patients and health care providers throughout the country.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Vermont.

Mr. LEAHY. Mr. President, it is remarkable that in 29 years here in the Senate—several times the Senate under the control of Democrats, several times the Senate under the control of Republicans—I have never seen so little accomplished and I have never seen so much political posturing on the Senate floor which then gets put into fundraising letters and fundraising appeals. I have never seen so much special interest legislation. But the bottom line is I have never seen so little accomplished. Probably there is a corollary.

Instead of doing the people's business, we seem to be doing political action committee business. And that is why, of course, nothing gets done.

Let's talk about this. If there were ever a piece of legislation on which politics is being played, it is the medical malpractice bill. It is a one-size-fits-all bill for a problem that is really different from State to State. Basically we are telling the 50 State legislatures and Governors that the Members of the U.S. Senate know a lot more about their States' needs than they do and that the U.S. Senate will dictate a change. We will override their courts and their legislatures. We will override their laws and we will make life better for them. But when we do, of course, we yank away the rights of the States and the people there. Whenever we target the rights of the public and we try to figure out ways to run roughshod over a State, we ought to be pretty careful how we do it.

Normally you would think we would have committee hearings. We would try to have a bipartisan bill. We would have something that would demonstrate to the States, as we take away their rights, that such a move has been considered by all 100 Senators and there is a consensus. Instead, we have a piece of legislation written by lobbyists and special interests that is so bad nobody even dares send it to a committee—not even friendly committees. They send it right to the floor.

This is the third time the Republicans have taken this partisan approach. Last July they employed this partisan tactic and failed to pass legislation. Earlier this year, they tried to rush through the Senate a bill to limit the legal rights of the most vulnerable patients—mothers and infants—and they failed. Now they are again rushing an extreme bill overriding the laws of each of the 50 States. This time, however, the bill is not limited to obstetrical and gynecological care. Now they want to extend the restrictions on legal rights to trauma and emergency care. The third time for this partisan approach is no charm. Republicans' mad dash to push through this proposal in this election year under the guise of reducing health care costs is a blatant attempt not to reduce health care costs, which we would all support, but to exploit their own political agenda.

I remember the article last year in Washington Monthly, titled "Malpractice Makes Perfect: How the GOP Milks a Phony Doctors' Insurance Crisis." This article was so good, it was nominated for a National Magazine Award. It shows how Republicans launched a sophisticated lobbying campaign with business interests to manipulate the medical malpractice debate and change it from one about medical errors and fair compensation, pitting one political constituency against another.

I commend to my colleagues the article to which I referred from the Washington Monthly of October 1, 2003, by Stephanie Mencimer.

Mr. President, the article points out clearly that even if we passed this legislation, insurance rates would not have come down. There is no one who with a straight face can say that if we pass this legislation, then insurance rates will come down. Insurance companies would not be spending so much money trying to get this passed if they thought so.

Once again, Republicans have proposed a plan that would cap non-economic damages across the Nation at $250,000—whether you live in California, Ohio, Vermont, or anywhere else; no matter what the injury, that is the cap.

The so-called medical malpractice reform debate too often ignores the men, women and children whose lives have been dramatically—and often permanently—altered by medical errors.

I will give you a real-life example in my State of Vermont. On April 7, 2000, Diana Winn Levine had a severe migraine headache. That is something that has probably happened to most of us at one time or another. She went to a health center in Plainfield, VT. She was a musician. She received a painkiller and an injection of a mild sedative, Phenergan. This combination was injected into her artery rather than her vein, and resulting circulatory problems led to this musician having to have two amputation surgeries on her right arm.

Ms. Levine sued the corporate giant, Wyeth, for improper instructions for using its drug, Phenergan. As she said:

> I never expected to sue anyone in my life; I'm not the suing type.

Sometimes it takes something like this to make it known when a drug is not being used right.

There was a full trial. I remember reading the account of the trial. When they went to swear Ms. Levine in for her testimony, the bailiff asked her to raise her right hand. Of course, she had no right hand. That jury in Vermont—and our juries are pretty careful—found that Ms. Levine deserved $2.4 million for her past and future medical expenses, and $5 million for the "daily pain she does suffer and for the loss of enjoyment of her life." Of course, most of that would have been slashed by this legislation. Crowds of the children Ms. Levine had worked with on musical projects—children she'd brought joy to as a musician—sat in the courtroom of the Montpelier Superior Court. She said:

> That was the day they actually showed pictures of my dead hand . . . before amputation, with the gangrene. I worried about how the kids would react to my disfigurement. I told the mom to cover her eyes. But afterward she came up to me and said, "We just didn't know what you have been through."

Now, Wyeth, of course, was well represented. They had a team of six lawyers—two from Vermont and four from Washington, DC. They did, after all, have 2003 revenues of $15.8 billion and keep a $1.3 billion reserve fund because of the ongoing litigation over their diet drugs.

Again I say: This musician would have been cut out entirely if the U.S. Senate were to overwrite the laws of our State.

Mr. President, I ask unanimous consent that the article from the Burlington Free Press be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Mar. 16, 2004]

VT. WOMAN WINS $7.4M LAWSUIT

(By Stephen Klernan)

A Marshfield musician who lost an arm to a medical error has won one of the largest lawsuit awards in Vermont history.

Diana Winn Levine, owner and creative director of Rebop Records, had sued the multinational health products company Wyeth for having improper guidelines for the drug that damaged her hand and forearm and led to amputation.

A Montpelier jury on Friday awarded Levine $7.4 million.

"Sometimes it takes something like this to make it known, when a drug is not being used right," Levine said Monday.

The weeklong trial, pitting a central Vermont bass player and guitarist against one of the world's largest health products companies, featured testimony by family members and well-known Vermont musicians, as well as gallery crowds of children involved in Rebop recordings.

NOT THE SUING TYPE

Levine was suffering from a migraine April 7, 2000, when she went to the Health Center in Plainfield. She received a painkiller, and an injection of a mild sedative, Phenergan.

In what she called "a medical blunder," the drug entered her artery rather than her vein. Resulting circulatory problems led to two amputation surgeries on her right arm.

The case against Wyeth pertained to the company's instructions for using the drug, Levine said.

"I never expected to sue anybody in my life; I'm not the suing type," she said. Then she learned that "Phenergan, which is toxic, can be given in three ways. The other two are fine. What happened to me can happen, it is foreseeable."

The trial, in which she was represented by Richard Rubin, David Kidney and Kerry DeWolfe, featured considerable drama.

IMPORTANCE OF MUSIC

"We played a lot of music for the jury," Rubin said, "We showed videotapes of her performing."

Folksinger Jonathan Gailmor testified on Levine's behalf.

"Jon expressed it so amazingly, how important music is in life, and how he couldn't even imagine losing the ability to play," she said.

Crowds of the children Levine has worked with on musical projects, such as Rebop's latest CD "Even Kids Get the Blues," sat in the courtroom in Monptelier Superior Court.

"That was the day they actually showed pictures of my dead hand," before amputation, with the gangrene," Levine said. "I worried about how the kids would react to my disfigurement. I told the mom to cover her eyes. But afterward she came up to me and said, 'We just didn't know what you have been through.' "

PUBLIC AIRING

Rubin said one powerful moment in the trial came accidentally.

"We'd spent all this time establishing what it is like to lose your right hand, even if you're not a musician. When someone offers to shake your hand, what do you do? When someone is handing you change at the cash register, what do you do?"

Then Levine's turn on the witness stand arrived. The baliff came to swear her in, asking her to raise her right hand.

"We looked at each other, and it hit me first," Levine said. "Then we cracked up. There's my prosthesis, so I said, "You mean this?"

"She laughed," Rubin said, "but it was a poignant moment."

She was afraid to testify, Levine said, and publicly relive the experience of losing her arm, "but once you get up there, it just comes out."

Levine became comfortable enough, Rubin said, she showed the jury how her prosthesis works.

Levine said the "ultimate" was when her 21-year-old daughter testified. "What mother gets a chance to have her daughter up there, basically saying all these things about how much she appreciated me, and her upbringing in a house full of music?"

DAVID VS. GOLIATH

Wyeth had a team of six lawyers, Rubin said, two from Vermont and four from Washington, D.C. The company, with 2003 revenues of $15.8 billion, makes Robitussin, Advil, Centrum and many other health products. The company also has a $1.3 billion reserve fund for ongoing litigation over its diet drugs.

Attorneys for Wyeth did not return calls seeking comment.

"But we did not make this case anti-drug company, or anti-out-of-state company," Rubin said. "This case was really about Diana's loss of her ability to play and write music."

"Music is my way of healing and processing everything that happens to me," Levine said. "The right hand is just the core of your playing. And so much of writing comes not from your head but from what your hands do."

Rubin said the suit sought $2.4 million for Levine's past and foreseeable medical expenses, plus $5 million "for the daily pain she does suffer and for the lost employment of her life."

The amount of money seems large, he said, but is actually based on "an hourly rate. We asked the jury to award $25 per hour for her pain and suffering, 16 hours a day, for the next 20 years."

The jury deliberated about four hours before awarding her the entire $7.4 million.

"The jury came in, and I'm like, 'Prop me up,' my knees were so weak," Levine said.

State Court Administrator Lee Suskin, said he could only recall one larger financial result from a suit. "We don't keep track of these things, but it seems an usually large award."

"That's just on paper," Levine said. "It's almost certain that they will appeal. My bank account is no fuller than it was a month ago."

Wyeth did make one strategic error, Rubin said.

"There was nobody here from Wyeth who knew about the drug and was prepared to defend it from the corporate perspective," he said. "The jury never saw anyone from Wyeth but their lawyers."

Even if there is an appeal, Levine said, "There's something about retelling that helps you to finish it. And to move on."

CRACKING EGGS

Levine said phantom pain, in which her mind thinks she still has an arm, remains a daily problem. "You look down there and you see, there is no arm there, kiddo. But the brain thinks there is a giant Mickey Mouse hand that always feels like pins and needles, and as the day goes on it gets worse."

Her salvation is the children she works with, she said. "They take my mind off it; they have become my healing partners."

Otherwise her life continues to be "an improvisation. I rode a bike the other day. . . . It was like being six years old all over again. I've gone from feeling like I was battling one-handed, to feeling like I'm conducting one-handed. . . .

"It has become pretty easy to crack an egg one-handed even if I do wind up with little bits of shell in my eggs."

Mr. LEAHY. We know a lot of our health care system is in crisis. We know some of the giants of our health care system would probably like this legislation to go through so they can make higher profits. Much of our health care system is in crisis. That is what we ought to attack.

Dramatically rising medical malpractice insurance rates are forcing some doctors to abandon their practices or to cross State lines to find more affordable situations. Patients who need care in high-risk specialties, such as obstetrics, and patients in areas already underserved by health care providers, such as many rural communities, are too often left without adequate care.

But this bill does nothing to actually reduce medical malpractice insurance rates. Of course, each State has a different experience. Insurance remains largely a State-regulated industry because the States found that is the way it works best. But each State ought to look at and be left to solve their own unique problems. We should not tell their Governors and legislatures we are not going to let them solve their own problems because we will take it over for them.

We don't have the kind of crisis in Vermont that others do. We have worked very well with our legislature, and we are still working hard to find answers, as other States have. You know, it is funny. We hear so many speeches that we want to get power out of Washington. We want States to be able to do what they want. We don't want Washington dictating everything. Well, not exactly. When you get some very wealthy contributors and very powerful PACs and say, Yes, but if you don't let Washington take care of our special interests, nobody will—suddenly it changes.

This is an attempt to tally points on some election year political scoreboard for powerful special interests at the public's expense. I am looking at the big picture.

Some States, such as my own, Vermont, while experiencing problems, do not face as great a crisis as others. Vermont's legislature is considering legislation to find the right answers for our State, and the same process is underway now in other States. In contrast, in States such as West Virginia, Pennsylvania, Florida, and New Jersey, doctors have walked out of work in protest over the exorbitant rates being extracted from them by their insurance carriers.

Instead of letting States find solutions that are best for their citizens, the Republicans prefer this attempt to tally points on some election year political scoreboard for powerful special interests, at the public's expense. Instead of looking at the big picture—at overly broad antitrust immunity, ways to reduce medical errors, and at other real issues that could make a real difference—the majority has chosen to coddle big insurance companies instead of to cure the problem.

Instead of letting the States continue to find solutions that are best for their citizens, they would take a chainsaw to the legal rights of the American people and to the prerogatives of each of the 50 States we represent here in the United States Senate.

Thoughtful solutions to the situation will require creative thinking, a genuine effort to rectify the problem, and bipartisan consensus to achieve real reform. Unfortunately, these are not the characteristics of the bill before us. Indeed, S. 2207 is a partisan bill that was introduced only a few days ago without any committee consideration.

Ignoring the central truth of this crisis—that it is a problem in the insurance industry, not the tort system—the majority has proposed a plan that would cap noneconomic damages across the Nation at $250,000 in medical malpractice cases.

The notion that such a one-size-fits-all scheme is the answer runs counter to the factual experience of the States. Most importantly, the majority's proposal does nothing to protect true victims of medical malpractice and nothing to prevent malpractice in the first place.

We are fortunate in this Nation to have many highly qualified medical professionals, and this is especially true in my own home State of Vermont. Unfortunately, good doctors sometimes make errors. It is also unfortunate that some not-so-good doctors manage to make their way into the health care system as well. While we must do all that we can to support the men and women who commit their professional lives to caring for others, we must also ensure that patients have access to adequate remedies should they receive inadequate care.

High malpractice insurance premiums are not the direct result of malpractice lawsuit verdicts. They are the result of investment decisions by the insurance companies and of business models geared toward ever-increasing profits as well as the cyclical hardening of the liability insurance market. In cases where an insurer has made a bad investment, or has experienced the same disappointments from Wall Street that so many Americans have, it should not be able to recoup its losses from the doctors it insures.

The insurance company should have to bear the burdens of its own business model, just as the other businesses in the economy do. And a nationwide arbitrary capping of awards available to victims—as the majority has proposed again and again—should not be the first and only solution turned to in a tough medical malpractice insurance market.

The problem at hand deserves thoughtful and collaborative consideration in committee to achieve a sensible solution that is fair to patients and that supports our medical professionals in their ability to practice quality health care. One aspect of the insurance industry's business model requires a legislative correction: Its blanket exemption from Federal antitrust laws. Insurers have for years—too many years—enjoyed a benefit that is novel in our marketplace. The McCarran-Ferguson Act permits insurance companies to operate without being subject to most of the Federal antitrust laws, and our Nation's physicians and their patients have been the worse off for it.

Using their exemption, insurers can collude to set rates, resulting in higher premiums than true competition would achieve—and because of this exemption, enforcement officials cannot investigate any such collusion. If Congress is serious about controlling rising premiums, we must objectively limit this overly broad exemption in the McCarran-Ferguson Act.

More than a year ago, I introduced the "Medical Malpractice Insurance Antitrust Act of 2003," S. 352. I want to thank Senators REID, KENNEDY, DURBIN, EDWARDS, ROCKEFELLER, FEINGOLD, BOXER and CORZINE for cosponsoring this essential and straightforward legislation.

Our bill modifies the McCarran-Ferguson Act with respect to medical malpractice insurance, and only for the most pernicious antitrust offenses: price fixing, bid rigging, and market allocations. Only those anticompetitive practices that most certainly will affect premiums are addressed. I am hard-pressed to imagine that anyone could object to a prohibition on insurance carriers' fixing prices or dividing territories. After all, the rest of our Nation's industries manage either to abide by these laws or pay the consequences.

Many State insurance commissioners police the industry well within the power they are accorded in their own laws, and some States have antitrust laws of their own that could cover some anticompetitive activities in the insurance industry. Our legislation is a scalpel, not a chainsaw. It would not affect regulation of insurance by State insurance commissioners and other State regulators. But there is no reason to continue, unexamined, a system in which the Federal enforcers are precluded from prosecuting the most harmful antitrust violations just because they are committed by insurance companies.

Our legislation is a carefully tailored solution to one critical aspect of the problem of excessive medical malpractice insurance rates. I had hoped for quick action by the Judiciary Committee and then by the full Senate to ensure that this important step on the road to genuine reform is taken before too much more damage is done to the physicians of this country and to the patients they care for. But our legislation to narrow this loophole in the Nation's anti-trust laws for medical malpractice insurers has languished for more than a year in the Senate Judiciary Committee.

Instead of conducting hearings and a markup on our bill, the majority now rushes a "tort reform" agenda item to the floor without any committee consideration.

If Congress is serious about controlling rising medical malpractice insurance premiums, then we must limit the broad exemption to Federal antitrust law and promote real competition in the insurance industry, as well as attack this problem at its core by reducing medical errors across our health care system. Unfortunately, the partisan bill before us is not designed for creating a solution to a serious problem. Instead, it is designed purely for politics, and that is not only a waste of the Senate's time and of the public's trust; it is also a shame.

Overly broad antitrust immunity, which the insurance companies have, allows them to fix prices any way they want, whether it is justifiable or not. Antitrust immunity allows them to take their failed investments and try to make it up by charging doctors higher malpractice insurance. We ought to find ways to reduce medical errors. But the big thing is we end up coddling these insurance companies. We don't call them to task. We don't get them to say whether they are spending out this money on malpractice awards. Of course, they are not. A lot of their losses came because they speculated wrong in the stock market. Suddenly, we have to bail them out. Get rid of their antitrust immunity, something that makes no sense in today's day and age with conglomerates. Make them actually say what they base it on. You will find that they are not beginning to pay out the amounts their malpractice claims say they are.

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The bottom line is, we have a piece of legislation that is designed to be introduced not to improve the question of medical malpractice insurance, it is designed not to make hospitals safer, it is designed not to make patients safer, it is designed not to save money. It is designed to raise money. I guarantee you after the vote on this issue, all the fundraising letters will go out: Isn't it terrible, isn't it terrible, the Senate is standing in the way of much-needed malpractice reform?

It will not say: There were some in the Senate who were willing to stand up and not let the Senate run roughshod over our State legislatures.

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JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, the thought occurred to me, even though we have not done much here in the last few days, the last few months, or so, we see a number of people come to the floor and say we have to have immediate votes on the handful of the remaining judicial nominations. They say there is a handful out there we have to have. Interestingly, they are ignoring that 173 judges have already been confirmed, ignoring the fact that when Democrats were in control of the Senate we moved President Bush's judges through a lot faster than Republicans have. But I suppose if they talk enough about it, people will not realize the Republicans have moved far slower on President Bush's nominees than the Democrats did. But there is another point.

What they are really saying is that we have to give $163,000 a year lifetime jobs to three of the most controversial judicial nominees submitted by President Bush. To hear them talk, one would think this is the number one priority on the part of the American people: is giving three judges—highly controversial, highly political, highly ideological—a lifetime job paying $150,000, $160,000, $170,000 a year.

Frankly, I think a lot more people are worried about the millions of Americans who have lost their jobs and the millions more who worry they are going to be the next victims of outsourcing. I think that is really what is on the mind of the American public, not three more highly paid lifetime judicial appointments. They are far more worried about the millions of Americans who are out of jobs, millions of Americans who are seeing their jobs go to India and everywhere else, and millions of American families where both mother and father bringing in paychecks are barely making the mortgage. They are not the ones getting the $160,000 a year lifetime jobs.

For the public and for the Democratic Members of the Senate, our higher priorities right now have to do with the millions of Americans who are trying to find or keep their jobs. Our higher priorities have to do with securing adequate health care for the members of our National Guard and Reserves. Our priorities have to do with getting decent health care for our veterans and our service men and women who have brought the injuries home from service in Afghanistan and Iraq.

To be charitable, these crocodile tears about judicial nominations are just a tad disingenuous. Let's review the record.

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So 173 have been confirmed. Six of the most controversial have been blocked. Two of them have been unilaterally appointed by the President during Senate recesses. One has withdrawn to rejoin a lucrative job with a law firm. So three were blocked. I have never heard so many tears shed for these three. I don't see any tears shed for the millions of Americans out of work. I don't see any tears shed for the millions of Americans whose jobs are being outsourced, but one would think that, with these three, the whole Nation is collapsing.

The irony is the same people coming down here to the floor and crying about these three, sobbing about these three, did not say one word when they blocked 61 of President Clinton's nominees. They blocked 61, and you would think the sky is falling because we stopped three. Oh, give me a break.

Let's look at what they do not want to do. During the past two weeks, we have wasted so many hours in quorum calls and cloture votes to serve the Republican leadership's goal of avoiding votes on votes that will help American families. The Republican leadership is blocking a vote on raising the minimum wage. They are blocking a vote on extending unemployment benefits. They are blocking a vote on protecting people from the new overtime regulations of the Department of Labor. Why?

During these past two wasted weeks, 687,000 more Americans filed first-time claims for unemployment insurance, yet Republicans are only talking about three jobs. Give me a break. I suspect the reason they are talking about these three is because they do not want the American people to know they blocked unemployment benefits, they blocked raising minimum wage, they blocked protecting overtime compensation. These are the people who actually have to go out and pay their mortgages. These are the people who actually try to figure out how they are going to pay to send their children to school. These are the people who live from paycheck to paycheck.

I say they blocked the Senate from extending unemployment benefits. According to figures recently released by the Labor Department, the unemployment rate held steady at 5.6 percent because hundreds of thousands of people stopped looking for work. They could not find work. This has left too many unemployed Americans without benefits for months.

They call it an economic recovery. It is a jobless economic recovery if it is an economic recovery at all because millions of Americans still cannot find jobs. Our law gives them 26 weeks of unemployment benefits, and up until the last day of 2003, if you were still looking for a job, our law would offer a 13-week extension. We tried to make a 13-week extension. Can we do it? No. Do you know why? Because the Republican leadership will not even allow us to vote on it. Are they afraid that maybe some of their own Members might now be feeling more compassion for these millions of Americans who are out of work than they do for three lifetime appointments?

Which priorities are they serving? Apparently not most working Americans. They would not even allow a vote on the Cantwell amendment.

Then we tried to raise the minimum wage. Why now? The last minimum wage was signed into law by President Clinton almost eight years ago. While they are caterwauling about a $160,000 lifetime job for three nominees, do they really believe that families could meet their basic needs on a minimum wage of just $5.15 an hour? The people who are making $5.15 an hour are real Americans, and the Republicans will not even allow us to vote for the first time in eight years to raise the minimum wage. The purchasing power of today's minimum wage is already below that of the minimum wage before 1996. To save the same purchasing power as it had in 1968, the minimum wage would need to be $8. Even in Vermont, where our state leaders have helped working Vermonters earn wages that are somewhat more livable, the minimum wage is still worth less than it was 35 years ago.

More people are out of work, underemployed, and struggling to keep roofs over their family's heads and food on the table than at any time since the administration of Herbert Hoover. Today there are more economic pressures squeezing them, with health care costs becoming unaffordable and gasoline prices reaching the highest level in my age. Despite the millions of American families with children who would directly benefit from a raise in the Federal minimum wage, Senate Republicans blocked a vote on the Boxer-Kennedy amendment to the welfare bill that would raise the minimum wage to $7 an hour in three steps over a 2-year period.

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We give tens of thousands of dollars in tax breaks to the people who go to these large fundraisers, but we take away overtime for eight million Americans who are barely making it? In fact, the regulations are so slanted against American workers that they will include a list of cost-cutting suggestions for big businesses to show them precisely how they can avoid paying overtime compensation to workers not singled out in the rules.

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Of course, we want to have another vote, a vote on the Harkin amendment, to express our disapproval of the labor regulations, either vote it up or down. After all, the Republicans are in the majority in this body. If they want to approve of the move of the administration of President Bush to deny overtime pay to eight million Americans, then they can vote and say they agree with it. We want a vote one way or the other, but they will not allow the vote. They are blocking that vote.

So I think we ought to talk about real people, people who live from paycheck to paycheck. We ought to talk about the votes that are being blocked to extend unemployment insurance, the votes that are being blocked to raise the minimum wage, the votes that are being blocked that might allow them to collect overtime pay for overtime work. One can imagine in the corporate boardroom they suddenly say, wait a minute, we could just have somebody work another 20 hours and we do not have to pay any overtime, we do not have to hire extra people, man, this is wonderful for us. And they can talk about it when they go out to the golf club.

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We ought to ask, where are the priorities of the American people? Where are the Democratic priorities in the Senate? Where are the Republican priorities in the Senate? Should our top priority be right now to find good six-figure jobs for a handful of the President's most controversial activist judicial nominees, or should we give our time and attention to the millions of Americans living paycheck to paycheck who need help, the eight million Americans who are suddenly going to find they cannot earn overtime pay, and millions of Americans who have not had a raise in the minimum wage for eight years?

I think the priorities of the Democratic Members of the Senate are the people's priorities. Unfortunately, the priorities of my friends on the other side seem to be the priorities of the very privileged few.

I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, we all know we are likely to pass only a few major tax bills this election year, and we know one of the most important tax bills is the jobs in manufacturing bill that comes up for a cloture vote tomorrow. We know the only way the JOBS in manufacturing bill can pass is a "yes" vote on the motion to stop debate or, as we call it in the Senate, cloture. That vote will be tomorrow.

Once again, we must ask, will the Democrats say no to cloture? Will they say no to stopping debate? Will they refuse to allow us to get to finality on this very important bipartisan legislation that when it comes to a final vote will overwhelmingly pass in the Senate? Will they go on record opposing the provisions that are in this bill? Democrats should not because this is a bipartisan bill. This is a bill that every Democrat member of the Senate Finance Committee voted yes on to report it from committee.

Keep in mind that the jobs in manufacturing bill could be the last train out of town this year. It has to get done if we are going to end the sanctions and tariffs that have been put on U.S. exports to Europe as a result of the United States not following our own trade agreements.

Each time a Member votes against stopping debate, it lessens the chance that this bill is going to go forward. In fact, it kills off many good measures in the jobs in manufacturing bill. From the very beginning, this bill was overwhelmingly bipartisan. In fact, there was a bipartisan agreement that we need to pass this bill because there is a bipartisan agreement of long standing that the United States agrees to international trade agreements, and we have an obligation to do our part and live up to those agreements.

A "no" vote on this motion tomorrow is an obstruction to the bipartisanship that is expressed in the language of this bill.

I would like to briefly go through some of the measures that are in this jobs in manufacturing bill. What I am going to refer to is what a lot of Members of both political parties have asked for the consideration of by my committee and for inclusion in the language of this bill. I will go over what is in this bill and sincerely ask why the Democrat leadership is willing to tell its members to kill the bill by voting no to stopping debate.

This bill will end $4 billion a year of sanctions against the United States and our exports. As of March 1, those sanctions are being imposed against U.S. exports of grain, timber, paper, and manufactured goods.

You will later hear my comments on the products that are being hit right now by sanctions. I think each Member ought to know how this is affecting the economy of their district.

First, manufacturing jobs are good jobs in America. They pay 15 percent above the national average. If jobs are related to exports, there is a tariff on your exports in another country and we aren't competitive, those jobs aren't going to exist very long.

Think about what that would do in Waterloo, IA, for one-fifth of the tractors that come off the assembly line being exported. We couldn't afford to lose one-fifth of the jobs at John Deere in Waterloo, IA, because of these tariffs.

We can end the sanctions that are in this bill, but will the Democrats say no to cloture so we don't end sanctions?

This bill provides $75 billion of tax relief to our U.S.-based manufacturing sector to promote factory hiring here in the United States. It is not going to benefit corporations for that portion of their manufacturing overseas.

Will the Democrats say no to $75 billion worth of help, and help create jobs in factories in America, particularly considering the fact that every day you hear comments about outsourcing, and they expect us to do something about outsourcing? This bill will do something about outsourcing.

The jobs in manufacturing bill extends the research and development tax credit through next year. This is a domestic tax benefit that generates research and development in the United States. That translates into good high-paying jobs for workers in the United States—not overseas. The amendment we had on research and development passed overwhelmingly with a bipartisan vote.

Why would Democrats say no to a bipartisan provision in this bill? Will they? I hope not.

The jobs in manufacturing bill extends for 2 years many tax provisions that expired either last year or are going to expire this year. This would include items such as a work opportunity tax credit and the welfare-to-work tax credit and make the merger of those credits permanent. Senator BAYH and Senator SANTORUM asked for these provisions, and we included them. Will these Senators vote for cloture? They should.

Senator BREAUX and Senator SNOWE asked for a provision that allows naval shipbuilders to use a method of accounting which results in more favorable income tax credit treatment. We included that provision in this bill for Senator BREAUX and Senator SNOWE. They each have reasons to vote for cloture to get these amendments to the President for his signature.

There are enhanced depreciation provisions to help the ailing airline industry. Senator LINCOLN, Senator BROWNBACK, and Senator ROBERTS asked for these provisions. I hope they will vote to stop debate tomorrow so we can get to finality on this legislation.

There are what is referred to as new homestead provisions. These were requested by Senator DORGAN, Senator BAUCUS, Senator THOMAS, Senator ENZI, and Senator CRAPO. I hope these Senators will vote to stop debate so what they have asked me to do can get to the President for his signature.

There are rural development provisions to create businesses in counties that are losing population. For example, they provide incentives for starting or expanding rural businesses in a rural outmigration county when it hits a certain percentage of outmigration.

At the request of Senator DORGAN, we also included a new market tax credit for high outmigration counties. These credits help economic development in rural counties that have lost over 10 percent of their population.

There is only one way this homestead and the new market provisions can become law; that is, to have the Senate stop debate. That takes 60 votes.

For Senators we have tried to work with to get their provisions included, if they aren't willing to help stop debate and move this bill along, why would they even ask me to include provisions in the bill if they do not want this bill to move along?

The jobs in manufacturing bill includes brownfields revitalization which was requested by Senators LAUTENBERG, DOLE, and INHOFE. The bill helps tax-exempt investors that invest in the cleanup and remediation of qualified brownfields sites.

I hope those Senators who asked me to include their provisions in my bill will decide they should vote to stop debate. Without getting over that hurdle, you never get to final passage.

Senators BOB GRAHAM, BREAUX, and HATCH asked us to include the mortgage bonds revenue measure. It would repeal the current rule that doesn't allow revenue bond payments to be used for issuing new mortgages.

There are 70 cosponsors of this bill. The 70 Members who took time to study this provision on mortgage revenue bonds and signed it surely want this bill to become law. Otherwise, why would they put their signature on it? That means that tomorrow those 70 Senators ought to be stopping debate so we can move on to finality.

Another provision is allowing a deduction for private mortgage insurance. This was asked for by Senator LINCOLN and Senator SMITH. It benefits people struggling to afford a home. I hope no one votes against their idea. Home ownership is the dream of all Americans. It is the American dream. This provision helps that along a little bit.

Some might say we have the highest percentage of home ownership this country has ever seen at 68 percent. Yes. But what about the other 32 percent? This might help some of those people who might not otherwise be able to afford a home.

In most cases, you have to buy mortgage insurance. If you buy mortgage insurance, it costs money for lower income people who are on the edge of owning a home or not owning a home. This might just help them get their loan through. But a vote against cloture would be a vote against this deduction that might bring the American dream to a few more young people.

Our bill includes the tax credit for employers for wages paid to reservists who have been called to active duty. Senator LANDRIEU and Senator ALLEN asked for this provision. I hope we will have their vote tomorrow, if they are serious about helping our guardsmen and reservists who have been called to action because of the war on terrorism. Otherwise, what is the point of asking me to put this in the bill if they are not helping us to move it to finality?

At the request of Senator SCHUMER and Senator CLINTON, we have extended and enhanced the Liberty Zone bonds provided for the rebuilding of Lower Manhattan. We also included $200 million in new tax credits to be used for rail infrastructure projects in the New York Liberty Zone; again, responding to the needs of the people in New York because of what happened on September 11. These two Senators came to me and asked for consideration of these provisions in this bill, and in a bipartisan way, we try to do things and we have responded accordingly.

Are they serious about getting these provisions into law for their New York constituents? If so, then they ought to vote for cloture and move this bill to finality.

We even included the renewable communities provisions requested by Senators CLINTON and SCHUMER.

Will the Senate Democratic leadership ask their members to vote against Liberty Zone funding for meeting the needs of the people of New York by voting no on cloture? We should not deny funding for the Liberty Zone just to prove a political point on a proposed labor regulation that may never be finalized in the first place. Even if it is finalized, Congress can always overturn it under the Congressional Review Act.

Hundreds of regulations are proposed in Washington every week. Very few make it to the finish line. So why is the Democrat leadership holding up funding for the Liberty Zone over a proposed regulation? This is not responsible governance. This is not responsible opposition. There is a legitimacy in our form of government, one party being in the opposition and the other party being in the majority. They play a very important role in making people responsible. Do we hold up every piece of legislation because it is an election year and Members think next year they might be in a majority, so they can do what they want to do?

All of these requests that are made to me, why not hold them up until next year? Then I would not have to be considering them at this point. If they are important, we ought to move this legislation along. In other words, we should have responsible opposition in the process of everybody making their points.

The Liberty Zone needs our help, and we need to behave as adults and get this bill completed.

In the jobs in manufacturing act we increase small business industrial development bonds to spur economic development in rural areas. This was requested by Senator PRYOR and Senator THOMAS. I hope they will vote for cloture tomorrow.

We have bonds for rebuilding school infrastructure. These were requested by Senator CONRAD.

We have included tribal bonds in the jobs in manufacturing bill, requested by Senator CAMPBELL and Senator JOHNSON. I am sure this is supported by Senator DASCHLE, as well, because he has a record of supporting Native American projects. These bonds allow the same rules that apply to tax-exempt bonds for State and local governments to apply to Native American tribes issuing tax-exempt bonds to finance facilities on their reservations. That is just an explanation, not something new. In other words, if it is good for one State and local government, why shouldn't it be good for the governance of our tribes?

We have included tribal school bonds, again, as requested by Senator JOHNSON and Senator CAMPBELL. Under current law, there is no class of bonds designated for the purpose of encouraging school construction on Indian reservations. This provision fills that void. We have a tribal new markets tax credit which was added at the request of Senator DASCHLE and Senator CAMPBELL. This amendment adds $50 million a year to economic development on reservation land.

Will the Democrat leadership tell Democrats to vote against closing debate and kill these Native American measures? Again, if they do not want to get it done, why did they come to me and ask for me to include these things?

We have also included the Civil Rights Tax Fairness Act. This is at the request of Senator BINGAMAN and Senator COLLINS. This is very important.

We have Senator CONRAD and Senator SANTORUM and Senator BUNNING asking we add a change in section 815 of the Tax Code. The provision suspends applicable rules imposing income tax on certain distributions to shareholders from the policyholder's surplus account of a life insurance company. This is included in the bill.

We have a special dividend allocation rule that benefits farmers' cooperatives. Senator LINCOLN and Senator COLEMAN asked it be included.

We have other farm provisions that give cattlemen tax-free treatment if they replace livestock because of something beyond their own control, such as drought, floods, or weather-related conditions. Senator DASCHLE and Senator THOMAS asked for that.

At the request of Senator CANTWELL and Senator THOMAS, we included a provision that allows payments under the National Health Service Corps loan repayment program to be exempt from tax. This is an important measure to enhance the delivery of medical services in rural America.

We included the passenger rail infrastructure tax credits at the request of Senator CARPER. It provides $500 million for intercity passenger rail capital projects. We also included the short-line credits requested by Senator SMITH and Senator BROWNBACK.

At the request of Senator ROCKEFELLER and Senator HATCH, we added a provision to allow taxpayers to apply their bonus depreciation against the alternative minimum tax credits. This measure is very important to the steel mills of West Virginia; hence, Senator ROCKEFELLER.

A provision benefiting Oldsmobile dealers was included at the request of Senator BAUCUS and Senator BINGAMAN. The proposal provides tax-free treatment for Oldsmobile dealers because their franchise is being terminated.

How many times have we heard Members talk about the need to make broadband available in rural communities? We know it is essential to the economic competitiveness of rural America, particularly since we see so many Asian companies, so far in advance of the United States in broadband. To keep our economy competitive, it ought to be here. But we also know many Democratic Senators support this. It is, likewise, in the bill.

Senator MURRAY and Senator SMITH asked for the forest industry bond provisions in this bill. That allows nonprofits to use tax-exempt bond financing to acquire forest land, to achieve better balance between the goals of conservationists and the timber industry. Up to $1.5 billion in bonds may be issued under this program. That, sir, is a lot of conservation money.

At the request of Senator BOXER, we have included a proposal that would allow employers to take a 50-percent tax credit against the FICA taxes for wages paid to the first responders who are called to active duty. We added a second measure at Senator BOXER's request. This proposal would allow farmers and ranchers to take a 30-percent credit for the installation of irrigation equipment which reduces water use. The credit would be limited to land that has received drought assistance during the past 3 years.

Anyone who votes against cloture is voting to kill all the items I just listed. Why would people come to me as chairman of the Senate Finance Committee and ask me to include provisions in the bill if they do not want to get this bill to the President for signature? Tomorrow, they have their chance.

We had debate extended on this bill 2 weeks ago, and we had a vote to stop debate. Debate was not stopped. So tomorrow we vote again. We have to get over this hurdle to get all these provisions that have been requested in this bill and to get it to the President for his signature.

I hope Members are sincere about all this legislation that is introduced. I hope Members are sincere in telling me how important their amendments are to this bill. I hope Members will show that sincerity tomorrow when we have a chance to stop debate and complete this bill.

All the beneficial provisions I have just discussed are being held hostage this minute because the Democratic leadership is pushing for a vote on an issue that is not even in this bill. The vote is an attempt to embarrass the administration in an election year about a proposed labor regulation on overtime. The Democrats said the regulation was going final, and they had to add it to the jobs in manufacturing bill; otherwise, they would block this bill. That was 2 weeks ago. The regulation is still not final. And who knows, the way bureaucracy moves, it may never be final but continue to tilt at windmills, and what will come.

But it seems to me that it is politics all the time. It is politics from the Democrat leadership, and it is obstructing an important piece of legislation. More importantly, right now, it is obstructing legislation that most of the members of the other party have asked me to include in this bill. Now, why do you ask me to include it in the bill if you are not going to vote to get the bill to the President? This sort of obstructionism is inexcusable because we have worked hard throughout this process to make sure that everyone's concerns—both Republican and Democrat—were incorporated into this bill. Why? Because I know you do not get anything done in this body that is not bipartisan.

People who want to be partisan can be partisan, but they are not going to get done what they want done either. So you bring the Senate to a standstill. We have tried, in the spirit of bipartisanship, to respond. This legislation and all these amendments included are responding to that bipartisanship. You see that effort in the amendments I just listed.

But if it were not overtime, it would be something else to obstruct this bill. It could be the minimum wage; it could be trade adjustment assistance for services; it could be some kind of health care issue—anything to block the jobs in manufacturing bill at the very same time people on the other side of the aisle are complaining because we are not doing enough to stop outsourcing. This bill will help do that.

It is all about the Democratic leadership keeping the European Union sanctions in place to drive down the economy, because if the economy is not very good this fall, they think they have a better chance of electing their people. This is outrageous when you consider the bipartisan history of this jobs in manufacturing bill.

The JOBS bill is a completely bipartisan bill. Construction of the bill began when Senator BAUCUS was chairman of the Finance Committee in 2002. Senator BAUCUS and I have always worked with our Finance Committee colleagues on the bipartisan development of this Foreign Sales Corporation/Extraterritorial Income Act repeal and also the international tax reform provisions of this bill.

Let me emphasize, there is not one provision in this JOBS bill that was not agreed to by both Republicans and Democrats. I have already said, every Democrat in the committee—all 10 of them—voted for this bill to be reported out of committee. We have acted in good faith to produce a bill that protects American manufacturing jobs and to make our companies globally competitive—the same thing you hear Senator KERRY speaking about on the campaign trail, about making our corporations competitive. In fact, he even has a proposal that would reduce corporate taxes the same way we do.

Let's get on with the business at hand and finish this bill; vote for cloture tomorrow, stop debate, put this bipartisan jobs in manufacturing bill ahead of partisan politics. Then we can show the people of this country that the adults are in charge of the Senate, and we can get the JOBS bill—creating jobs in manufacturing—out of the Senate and eventually to the President.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Mississippi.

Mr. LOTT. Mr. President, I appreciate the chairman's comments on the need to move this legislation forward.

Mr. President, let me just inquire in terms of parliamentary procedure, are we open for general debate?

The PRESIDING OFFICER. We are on the motion to proceed. There are no limits on debate.

Mr. LOTT. Thank you, Mr. President.

I did come to the floor last week and speak to the need to move this very important jobs growth, FSC/ETI issue and not have a filibuster and complete our work. If we do not, we are going to see that we are going to be hit by a continuing increase in fines by the European Union because we are not complying with the World Trade Organization ruling of over a year ago.

I also said we stand to benefit from the tax proposals in this legislation, and I urged that we complete this work. In fact, I said we have no alternative but to complete this work. I am glad the leadership is going to continue to push this issue because we must get it done.

I do want to say now that I understand that perhaps a decision was made to attach tax provisions from the Energy bill to this bill, and I think that was a mistake. I am going to have to review what that means in terms of my own vote. Instead of helping move this legislation, and other legislation, it may have complicated both of them. But I hope we can find a way to get this done.

Mr. President, the reason I came to the floor this afternoon, though, was to speak in support of S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004. We have a health care crisis in America. Health care is becoming more and more difficult to obtain, to afford, and to be assured that it is the quality that you might need. In rural States such as mine and Senator GRASSLEY's State of Iowa, the issues of access and distance, or being able to get trauma care or care from obstetricians and gynecologists, present real problems.

I also think we have to acknowledge that the cost is becoming more and more difficult and more and more prohibitive. The cost of health care insurance continues to go up. The cost of medical liability insurance continues to go up. When you talk to trauma emergency care doctors, when you talk to OB/GYNs, they are paying $85,000, $100,000, $125,000 for medical liability coverage. How much will it be? There is no limit?

There is no question, in my mind, many of these doctors are now practicing what we would describe as defensive medicine. They are prescribing additional procedures. They are taking extra precautions to make sure they do not get sued. That, by the way, continues to drive up the cost of health care. So it has become a big problem in this country.

Escalating jury awards and the high cost of defending lawsuits, even the frivolous ones, are increasing medical liability premiums nationwide, and they are having devastating effects on the health care of millions of Americans. Medical specialists, including neurosurgeons, obstetricians, and emergency physicians, are being forced to cut services, retire early, or move their practices to other States.

This past Saturday night, I was in Augusta, GA, for an event for Congressman NORWOOD, a Congressman who has been very much involved in patients' rights and health care issues. I was informed that one of the neurosurgeons in Augusta recently moved from my State of Mississippi. It is not an isolated incident. It is a pattern. Augusta has several neurosurgeons. Mississippi has a declining number, even in places where they are needed to provide trauma care services in larger metropolitan areas.

Nineteen States are in full-blown medical liability crisis now, and 25 States are showing signs of crisis. Only 6 States are considered stable, each of which has instituted reforms.

Ninety-eight percent of osteopathic students acknowledged in a recent survey that medical liability issues will influence their future career decisions. Seventy-three percent say medical liability issues will "significantly" influence their decisions—in other words, where they practice, whether they practice, and what kind of medicine they practice.

Medical liability costs the Federal Government well over $50 billion per year. The source of that information is the Department of Health and Human Services. I have heard the discussions over the years: Well, you guys from Mississippi, and other similar States, have always talked about the States should deal with these issues. This is a States rights issue. It is a State problem.

Let me tell you what: When it costs the Federal Treasury $50 billion, this is a national problem. This is not just a problem in Mississippi, Alabama, Arkansas, or Iowa; it is a nationwide problem. Very few States—even those that have passed medical liability reforms—have been able to stem this tide of abuse and costs that are really causing difficulties in a number of States and in the health care of this country. So we have to do something.

Here we are in the Senate with this crisis looming out there that affects children, babies, mothers, elderly, emergency care needs; all of them have been held up while the Senate cannot even proceed to debate the legislation. That is what we have here, the motion to proceed. That is indefensible. How could we not at least take this issue up and have a full discussion about its dire consequences?

Let's talk a little bit about what the bill does. This is not something that just popped out of a committee or hasn't been thought through clearly. This issue has been pending for a long time. Some of the legitimate concerns have been addressed.

The bill provides reasonable guidelines to govern liability claims related to the provision of obstetrical, gynecological, emergency and trauma care goods and services. I want to emphasize, this is a limited bill. This is not all medical professions. This is targeted to those people who treat us when we are in the greatest need of health care, when we are going into an emergency room or a trauma facility as a result of an automobile accident, or doctors who deliver and look after our children and the mothers of those children. Can we not at least provide some medical liability reform and protection there so we can keep these doctors in the practice?

More and more in my State and all across the country doctors who have in the past practiced obstetrical and gynecological work are dropping the obstetrician part because they are being sued. The insurance is becoming prohibitively expensive in terms of the cost it is putting on these doctors.

The bill sets a statute of limitation of 3 years after the date of manifestation of an injury or 1 year after the claimant discovers or should have discovered the injury. That is reasonable. You can't say 5 years later: I had a problem back there. It says you have to exercise your right within 3 years or 1 year after you discovered it.

It allows recovery of unlimited economic damages, but it limits noneconomic pain and suffering damages to $250,000. This is obviously a place where some restraint needs to be employed. This is where certain juries in certain counties in certain States, mine included, have been rendering multimillion dollar decisions for pain and suffering. I think some reasonable limits there clearly would be appropriate.

This bill allows the court to restrict the payment of attorney contingency fees by applying a percentage scale based on the amount of the judgment. These lawsuits should not be about attorneys' fees. The lawsuits should be about medical costs and medical liability. What is a reasonable recovery when you do in fact have some legitimate claims?'

Don't get me wrong. I do think in the American system of jurisprudence, you have a right to take your grievance to court. I would defend that. I am an attorney. But I do think the system is being abused, and it has become more about attorneys' fees than it has the injuries that were incurred.

The bill sets out qualifications for expert witnesses. Again, that is an area where there have been some abuses I am personally familiar with. It permits courts to reduce damages received by the amount of collateral source benefits to which a claimant is entitled; in other words, money paid by another entity such as a health insurance provider.

It authorizes the award of punitive damages only where a high standard is met of clear and convincing evidence that a defendant acted with malicious intent to injure or deliberately failed to prevent injury that was certain to occur.

This is very good legislation. It is targeted. It is limited in the impact it would have on restricting the coverage, but also it is limited to these particular areas of specialty I have noted.

Let me go to my own State of Mississippi, since our State is really being adversely affected by these medical liability cases. It is one of those States which has been described as a judicial hellhole. I don't like to hear that. When various entities identify my State in that sort of way, I resent it. Even if they are right, I don't like to hear it. But there is no question we have had lots of problems in my State of Mississippi. We have had a tremendous explosion of lawsuits in this health care area, very large verdicts. Physicians who are practicing in Louisiana, Mississippi, Texas, and West Virginia can clearly demonstrate how medical lawsuits have hurt our health care system. The doctors will tell you about that.

A recent survey that was done by the American Tort Reform Association, in cooperation with other groups such as the Mississippi State Medical Association, points out 84 percent of the physicians surveyed report they are very concerned about the effect of medical litigation on the practice of medicine. Eighty-one percent report they have changed the way they practice medicine because of litigation concerns. That means more cost. That is what I was referring to at the beginning. They have been requiring and prescribing more and more procedures to protect themselves against these lawsuits. And by the way, in many instances, the procedures are not necessary and not required medically. They are required to defend yourself against a frivolous lawsuit.

Eighty-six percent of the physicians believe states with a liability crisis like Mississippi increase medical malpractice insurance costs. And the list goes on. There is no question it is creating a real problem.

Again, specifics: Half of my State's 82 counties now have fewer physicians to treat patients than were available in 2001. Mississippi has fewer physicians per capita than 48 other States. So when we lose a physician, it really hurts because we already are in dire straits. In 16 Mississippi counties, the numbers of physicians remained unchanged from 2000 to 2002, but the population in those counties increased during the same period. The population growth in 62 percent of Mississippi counties outpaced a stagnant or decreasing base of physicians to treat those patients. The source of this information is the Mississippi State Medical Association.

Approximately 100 doctors have left or plan to leave the State of Mississippi. The source of that information is a Time magazine article of June 9, 2003.

Mississippi had a net loss of 73 physicians in 2002. The number of physicians licensed in the State in 2001 was 5,710. But in 2002, this number had dropped to 5,637. Since the population is increasing, since we have certain areas of the State that have experienced tremendous growth, you would think we would be increasing the number of physicians per capita. The numbers are going in the wrong direction.

I ask unanimous consent that other statistics I have about what is happening in my own State be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

This net loss of 73 physicians is all the more disturbing because the total number of physicians licensed in 2002 actually includes 414 newly licensed doctors—meaning that there were approximately 500 doctors practicing in the state in 2001 who were not practicing in the state by 2002. The source of my information is a Mississippi State Medical Association news release of August 14, 2002.

Furthermore, another disturbing trend is the decrease in the number of medical licenses that are being issued each year. In 2000, the medical board issued 470 new licenses; in 2001 the number was 456; and in 2002 the number was 414. The number of new licenses dropped steadily by 39 percent from 1997–2002. The source of my information is a Mississippi State Medical Association news release of August 14, 2002.

Mississippi can't afford to lose doctors when the state's population increased by 271,442—or 10.5 percent—between 1990 and 2000. The State population of 2,573,216 in 1990 grew to 2,844,658 in 2000. The source of this information is the U.S. Census Bureau.

Only two neurosurgeons remain in practice on the Mississippi Gulf Coast, and general surgeons are in short supply because of the state's medical liability crisis. "Everybody is reduced to the same low level of trauma care that we had 20 years ago," said Steve Delahousey, vice president of operations at American Medical Response ambulance service. My source is the Biloxi Sun Herald, Jan. 29, 2003.

Increasing costs of medical liability insurance has reduced the number of neurosurgeons in the State by one-third, creating holes in the State's trauma system. My source is the Greenwood Commonwealth, April 25, 2003.

One major medical liability insurer, St. Paul Cos., has withdrawn from the Mississippi market, forcing as many as 1,000 physicians to find other insurers. My source is the New Orleans Times Picayune, February 2, 2003.

In Cleveland, MS, three of the town's six OB–GYNs have stopped delivering babies. Yazoo City's 14,500 residents have no OB–GYNs. According to the Mississippi State Medical Association, insurance rates for OB–GYNs have increased from 20–400 percent in the previous year. My source is the Mississippi State Medical Society.

Loss of doctors at Gulfport-Memorial: As of summer 2003, Gulfport-Memorial had 24 hour neurosurgery coverage, and now they have no neurosurgery coverage at all; had 6 neurologists, and now have 1; had 6 orthopaedic surgeons, and now have 3; had 3 vascular surgeons, and now have 2; had 9 OB–GYNs, but 2 retired due to malpractice insurance crisis, and now have 7. The source of my information is Dr. Arthur Matthews.

"Nursing homes in Mississippi have been faced with increases in total premiums as great as 900 percent in the past two years. Since Medicare and Medicaid pay most of the costs of nursing home care, these increased costs are borne by taxpayers, and consumer resources that could otherwise be used to expand health (or other) programs." The source of this information is a HHS medical litigation report, March 3, 2003.

Mr. LOTT. I want to make this point. We used to have several, then we had three, now we have one insurance company that is providing medical liability insurance in my State of Mississippi. This is a problem that is of great concern to leaders in the State of both parties, in the medical profession, in the business world, and those of us who are trying desperately to advance the State economically and have had some success bringing major industries into the State. While a major industry may want to know, do you have a good interstate system, do you have international airports, good schools, can you provide affordable housing, they don't always immediately ask about the accessibility of hospitals and do you have the doctors who are needed, but that is a question that eventually they come to. It is one that will affect us in the future if we don't do something about it.

Let me tell you what it means when you don't have the doctors you need. I want to give some specific examples.

Tony Dyess of Vicksburg, MS, received serious head injuries in a car accident on July 5, 2002. Since a specialist in brain injuries, or neurosurgery services, was not available in Gulfport, MS, he had to be airlifted to another hospital which led to Tony having permanent brain damage and no longer having the ability to care for himself or to have a job. The source of that is the American Medical News, May 26, 2003.

Fortunately for Elmoe Kee III of Woodville, the withdrawal of insurance coverage by St. Paul malpractice insurance provider from the State of Mississippi did not occur before he was attacked by a bank robber in a small rural county at Wilkinson County Savings Bank where he served as president. He would have most certainly died if he had not been able to get doctors to treat him almost immediately at Catchings Clinic in Woodville, MS. With the withdrawal of St. Paul as a malpractice provider, seven of the eight doctors in the area, including those at Catchings Clinic, Field Clinic in Centreville, and Gloster Clinic were left without a malpractice insurance provider beginning on June 30, 2002. The source of this information is the Jackson Clarion-Ledger of June 27, 2002.

On April 18, 2003, John Fair Lucas IV of Greenwood received a severe head injury due to a one-person car accident. Since the Delta Regional Medical Center no longer has around-the-clock neurosurgery services because of the impact of the medical malpractice insurance crisis and the loss of that coverage, John had to be airlifted to Jackson, losing valuable time because the distance from that area of Greenwood, MS, down to Jackson is about a 2-hour drive, or certainly a 30-minute helicopter ride, and he lost valuable time for the surgical procedure needed to reduce pressure on the brain. Sadly, John passed away on May 28, 2003. The source for that is the Greenwood Commonwealth newspaper, April 25, 2003.

"Jill Mahaffey says she got lucky. She and her husband are here, they live in the Delta, too. She got lucky. She heard she's pregnant. She's getting there, getting ready. She goes to the doctor, he says, I've got to leave—OB/GYN getting ready to leave because of lawsuits, because of the threats. Because even if you're a doctor who practices good medicine, you're going to get sued in this State and in other States. Believe this or not, fortunately, she was getting toxic and the doc induced labor before he quit his practice. She says she was lucky. And she was." This is a quote from President Bush's address to Madison High School in Madison, MS August 7, 2002.

Amber Peterson's obstetrician in Cleveland, Mississippi stopped practicing 3 weeks before her due date, and she had to drive out of State, over a hundred miles, to Memphis, Tennessee, to get the care she needed. The source of this information is the U.S. Department of Health and Human Services, from a report dated July 24, 2002.

Marine Hawkins, 20, of Boyle, Mississippi, was shocked to hear from her obstetrician that he was closing his practice—just 2 weeks before her due date of July 21. The nearest doctor is 30 minutes away. She doesn't have a car and will have to rely on relatives to get there. "This isn't what I needed now," she said. The source of this information is the Houston Chronicle, July 20, 2002.

In February 2003, Sharkey-Issaquena Community Hospital in Rolling Fork, MS saw its insurance premiums rise from $163,000 to $223,000. Because of this rise, the hospital was forced to close its doors for 3 weeks while the hospital looked for an alternative insurance policy after being discontinued by its previous insurer. During these 3 weeks, Sharkey-Issaquena had to contract paramedics to treat patients while they were being transported by ambulance to the closest hospital. The source of this information is the American Medical News May 26, 2003.

In 2002, 10 physicians left Greenwood Leflore Hospital because of the State's problems with medical liability insurance. Also during 2002, the hospital's liability insurance premium increased from $150,000 per year to $1.3 million. The source of this information is The Greenwood Commonwealth, June 26, 2003.

On Sept. 30, 2002, officials at Forest General Hospital announced they are eliminating nearly 300 positions—200 of which were already vacant—to save an estimated $7.6 million in the new fiscal budget. Citing causative factors that prompted the cuts, hospital president Bill Oliver stated that Forrest General was hit last year with a dramatic increase—about $4 million—in medical malpractice insurance. The source of this information is the Hattiesburg American Oct. 2, 2002.

Mr. President, let me talk a little about exactly what is happening with the doctors in my State.

In February 2003, 14 doctors in the Oxford area in various medical fields were left without malpractice insurance and were forced to close their doors because their insurer, Doctors Insurance Reciprocal, went into receivership on February 13. Doctors are slowly, surely leaving the area to go to bigger areas, or even to other States.

I was in my hometown area, Pascagoula and Moss Point, MS, on the Gulf Coast, and met a new impressive doctor in the community. He was also involved in the trauma unit because he was an orthopedic surgeon. He moved to Mississippi from the State of Missouri. He is an African-American doctor. He was doing a great job. He told me because of the insurance coverage situation, even though his family wanted to stay on the Mississippi Gulf Coast, it looked as if they might have to return to Missouri. Other doctors have been either leaving the State or getting out of the practice of obstetrics.

In the case of Dr. Don Gaddy, as well as four other obstetricians and three nurse-midwives, they filed notice to take a 1-year leave of absence from Memorial Hospital at Gulfport, MS, because of extreme increases in medical malpractice insurance coverage. The source of this information is the Biloxi Sun-Herald, April 18, 2003.

Dr. Gregory Patton, an OB/GYN with the Oxford Obstetrics and Gynecology Associates PA in Oxford MS, reports that his malpractice insurance premiums have gone up 60 percent—with each doctor paying $67,000. The source of this information is The Daily Mississippian June 10, 2003.

Drs. Blackwood and Baugh's temporary departure left no OBs in Cleveland for about 10 days. Only one family physician continues to deliver babies at the local hospital. But the malpractice insurance providers that are protecting them are only "Band-Aid insurance." The source of this information is American Medical News Sept. 9, 2002.

Dr. Kurt Kooyer left the small town of Rolling Fork after getting fed up with lawyers filing suit against him without even the patients' knowledge that they were filing suit against their physician. Dr. Kooyer was the only pediatrician among three physicians in town who lowered the infant mortality rate from an average of 10 deaths per 1,000 live births to 3.34 deaths per 1,000. Dr. Kooyer now lives in North Dakota. The source of this information is The Clarion-Ledger Aug. 23, 2002.

"Dr. Frothingham, you talk about a man with heart. You think Kooyer has a heart? Wait until you hear Frothingham. He's a great Mississippian; grew up here; thought he might try to live in South Carolina, realized what he was missing, came back to Mississippi. He's a neurosurgeon. He talked with deep compassion about a man who suffered a trauma, a fellow he was with—Johnny was with us today. He's a guy who understands that practicing medicine is more than just technology. It's concern and care. They're running him out of business. There's too many frivolous lawsuits. And that hurts the state and it hurts the country. It hurts the people." This quote is from President Bush's address to Madison High School in Madison, MS, August 7, 2002.

On July 15, 2003, Drs. Derveloy and Gilmore, the only two heart surgeons in Oxford, are closing their practice. They contribute their relocation to a shortage of key elements: facilities, cardiologists, affordable medical malpractice insurance and regional referrals. Dr. Derverloy is joining an existing group off heart surgeons who are practicing in Tupelo, and Dr. Gilmore recently accepted an offer to set up a heart surgery program in Decatur, Ala. The source of this information is The Oxford Eagle June 8, 2003.

Also in Oxford, the two cardiologists with the Oxford Heart Clinic, Dr. Nelson Little and Dr. Timothy Wright, are merging their practices with a Tupelo office, but will keep their local office open, which followed the loss of Oxford's only two heart surgeons, Drs. Derveloy and Gilmore. The source of my information is The Oxford Eagle, June 8, 2003.

Five doctors at the Family Practice/After Hours Clinic on U.S. 98 West have posted a sign on their doors informing patients that no appointments are being scheduled for 2003. The physicians are also filling out applications for licensing in Alabama and Louisiana. The doctors explain the possible departure from Mississippi by the clinic's malpractice insurer informing them recently that their premiums will increase 45 percent on Jan. 1, 2003. The source of my information is the Hattiesburg American, Oct. 2, 2003.

OB/GYN Mark Blackwood of Cleveland has seen his practice load nearly double since three physicians quit delivering babies in the area. His insurance lapsed in July, forcing him to close his clinic for ten days leaving dozens of patients without a physician to deliver their babies. He and his partner have seen an increase in the number of suits filed against them since the new legislation passed. The source of this information is the Mississippi State Medical Association Dec. 1, 2002.

Radiologist Ken Duff was able to get coverage less than twenty-four hours before his old policy expired. He and his eleven partners cover two hospitals in Hattiesburg, facilities ion Columbia, Collins and Tylertown, as well as two large outpatient facilities. Without diagnostic radiology services patients have to wait longer to get test results, and other physicians will have to find new specialists to consult. The group desperately needs new recruits to cover demand. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

General Surgeon Brian Anthony of Bay St. Louis practices more defensive medicine and no longer does vascular work. He plans to retire 10 years early because of the litigious environment. He says other physicians often consult him in order to document their cases and to reduce their exposure. He and the remaining surgeon in the area are considering whether they will continue to provide trauma services. The source of this information is the Mississippi State Medical Association Dec. 1, 2002.

Neurosurgeon Terry Smith has not had a vacation in five years because there is not enough neurosurgery coverage to take care of his patients. He is one of only three neurosurgeons covering trauma cases for seven hospitals on the Gulf Coast. When he lost his insurance in August 2002 he had to go on staff with a hospital in order to continue to practice in the area. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Otolaryngologist Gene Hesdorffer of Hinds County had to close his practice on December 31 and was forced into full-retirement because he could no longer afford insurance. His insurance carrier informed him they were doubling his rates despite the fact that he has never been sued. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

OB/GYN Al Diaz of Ocean Springs has insurance until December 2002. He has lived on the Coast for 20 years but is now looking at practice in Mobile, Alabama, and Slidell, Louisiana. Both his son and daughter-in-law are training in Louisiana but will not return to practice in Mississippi. The entire group of four OB/GYNs just renovated their clinic in Ocean Springs and opened an office in Biloxi when they were told their insurance carrier would no longer be doing business in the State. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Surgeon Cecil Johnson of Lauderdale County plans to retire soon. Until then he will continue to order more tests, x-rays and consultations in order to back up diagnoses. He also plans to drop vascular surgery in hopes that he will be able to find more affordable insurance. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Internist Bob Lewis of Wilkinson County spent a week treating patients at the local emergency room while his clinic was closed. The group could not find coverage and the only quote they could get was $355,000. The four-man group paid $67,000 last year. Family Practice physician Jennings Owens and his group serve nearly 40,000 patients. He is upset that the hospital had to hire physicians in order to insure them. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

ER physician Bob Corken had to find insurance from Lloyd's of London for this ER group which services a hospital in Washington County and three others in the Delta and Central Mississippi. Corken found insurance at the eleventh hour in order to avoid work stoppages and temporary closure of at least one emergency room. The source of this information is the Mississippi State Medical Association, Dec. 1, 2002.

Orthopaedic Surgeon Alan Swayze, MD of McComb took on more patients last year than ever before—partly because there are few orthopaedic surgeons in the area. Now he is leaving Mississippi and opening a practice in Georgia because his liability insurance to practice in Mississippi skyrocketed to $125,000 per year. His premium in Georgia will be $14,000 annually. The hospital administrator in McComb said the prospects of recruiting replacement physicians to McComb is "bleak." The source of this information is the Enterprise Journal, June 12, 2003.

In April 2002, State Commissioner George Dale said, "It's just a matter of time until insurance companies will say they're not going to cover medical providers in Mississippi." That time has arrived. Dozens of insurers have either discontinued writing medical malpractice in Mississippi or raised their premiums to such a level that doctors—like those at the Family Practice/After Hour Clinic—are being forced to consider relocating out of state. According to a survey conducted recently by the Rating Division at the Mississippi Insurance Department, 36 companies offered medical malpractice insurance in all categories in 2000. As of Sept. 10, there are only two licensed regulated, companies still providing medical malpractice insurance to physicians and surgeons in Mississippi. The main reason insurance companies give for hiking premiums and/or leaving the state is their concern about Mississippi's civil justice system, which has generated over 100 verdicts of $1 million in the last 6 years. The source of this information is the Hattiesburg American, Oct. 2, 2002.

Fifteen medical malpractice insurers have withdrawn from offering coverage in Mississippi in the past five years. The source of this information is an HHS medical litigation report, March 3, 2003.

"We've had trouble recruiting and had physicians say they are not interested in coming to Mississippi because of the malpractice insurance rates," according to Dean Griffin, executive officer of Baptist Memorial-Golden Triangle Hospital. The source of this information is The Associated Press, March 20, 2003.

A poster on the large wooden doors leading into Delta OB/GYN explains it all: "It is with much regret that we must inform you that our office will be closed effective 7/14/02 until further notice. Due to the current malpractice crisis in the State of Mississippi, our liability insurance has been canceled." The source of this information is the American Medical News, Sept. 9, 2002.

Mr. President, I ask unanimous consent that the entire list of physicians who are no longer delivering babies in Mississippi be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHYSICIANS NO LONGER DELIVERING BABIES WITHIN MISSISSIPPI

Total: 54.

ADAMS COUNTY (3):

Ob-Gyn T.L Purvis of Natchez.

Family Practice physician Dr. Ana Leurinda of Natchez.

Family Practice physician Jody Nance of Natchez.

ALCORN COUNTY (1):

Family Physician Dr. Erica Noyes of Corinth.

AMITE COUNTY (1):

Family Practice physician Mutahhar Ahmed of Liberty.

ATTALA COUNTY (4):

Family Practice physician Tim Alford of Kosciusko.

Family Practice physician Anson Thaggard of Kosciusko.

Family Practice physician Richard Carter of Kosciusko.

Family Practice physician Stanley Hartness of Kosciusko.

BOLIVAR COUNTY (3):

Family Practice physician Don Blackwood of Cleveland.

Family Practice physician Bill McArthur of Cleveland.

Family Practice physician Scott Nelson of Cleveland.

COAHOMA COUNTY (1):

Ob-Gyn Dr. Joseph O. Sims of Clarksdale.

COPIAH COUNTY (1):

Family Practice physician Fred McDonnell of Hazlehurst.

COVINGTON COUNTY (2):

Family Practice physician Word Johnston of Mt. Olive.

Family Practice physician David Wheeler of Mt. Olive.

DESOTO COUNTY (1):

Family Practice physician Dr. Pravin Patel of Coldwater.

FORREST COUNTY (1):

Ob-Gyn Hilda McGee of Hattiesburg.

FRANKLIN COUNTY (1):

Family Practice physician Bo Gabbert.

GRENADA COUNTY (1):

Ob-Gyn Sidney Bondurant of Grenada.

HARRISON COUNTY (3):

Family Practice physician Karen Mullen of Biloxi.

Ob-Gyn Maria Moman of Gulfport.

Ob-Gyn Oney Raines of Gulport.

HINDS COUNTY (3):

Family Practice physician Charles Guess of Jackson.

Family Practice physician Wayne Johnson.

Ob-Gyn Beverly McMillan of Jackson.

HOLMES COUNTY (1):

Family Practice physician Charles Campbell.

JACKSON COUNTY (2):

Ob-Gyn Tom Singley of Pascagoula.

Ob-Gyn Jack Hoover of Pascagoula.

JEFFERSON COUNTY (1):

Family Practice physician Shanti Pansey of Fayette.

LAMAR COUNTY (1):

Family Practice physician Stephen Harless.

LEAKE COUNTY (1):

Family Practice physician David Moody of Carthage.

LEE COUNTY (1):

Ob-Gyn Jack Kahlstorf of Tupelo.

LEFLORE COUNTY (3):

Ob-Gyn S. R. Evans of Greenwood.

Ob-Gyn Ed Meeks of Greenwood.

Ob-Gyn Terry McMillin of Greenwood.

OKTIBBEHA COUNTY (2):

Family Practice physician L. H. Brandon of Starkville.

Family Practice physician John Hollister.

PANOLA COUNTY (1):

Ob-Gyn Purnima Purohit.

PEARL RIVER COUNTY (2):

Ob-Gyn Anthony Grieco of Picayune.

Ob-Gyn James Blount of Picayune.

RANKIN COUNTY (1):

Family Practice physician John Boone of Brandon.

SIMPSON COUNTY (2):

Family Physician Dr. Sherry Meadows of Mendenhall.

Family Physician Dr. Terry Meadows of Mendenhall.

SUNFLOWER COUNTY (1):

Family Practice physician W. L. Prichard of Indianola.

WARREN COUNTY (2):

Family Practice physician John Ford.

Family Practice physician Lamar McMillim.

WASHINGTON COUNTY (3):

Ob-Gyn Dr. Elmertha Burton of Greenville.

Family Practice physician James Adams.

Family Practice physician Hernando Payne.

WILKINSON COUNTY (1):

Family Practice physician James Leake of Centreville.

WINSTON COUNTY (2):

Ob-Gyn Glen Peters of Louisville.

Family Physician Dr. DeWitt Crawford of Louisville.

Mr. LOTT. Mr. President, this is not a short list. This is a lengthy list, with probably as many as 40 counties listed. In Adams County, they lost three physicians who had been delivering babies. Attala County, in the center of the State, lost four family practice physicians who had been doing deliveries; they got out of the practice. In Harrison County, one of our more metropolitan areas on the Gulf Coast, three doctors got out of delivering babies. The list goes on and on.

Pretty soon it is going to be hard to have a baby delivered in my State. That causes me a great deal of concern.

Mr. President, I hope we can get the votes tomorrow to proceed on this issue and have a full debate and a vote. This is not some massive tort reform, although I think we need it. I hope we will later visit the issue of class action reform.

This is very targeted legislation that will address a serious problem in many States—the majority of States across this country, where we are losing the services of these physicians in these critical areas. I would hate to have to explain to my State how I would not even vote to proceed, let alone not vote to have some limits on medical liability for doctors who deliver babies and treat their mothers and who care for us when we have accidents and go to the emergency room.

I think this is very carefully drafted legislation, very thoughtful. I certainly hope the Senate will see fit to proceed to a full debate and vote on this critical legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

PENSION FUNDING EQUITY ACT

Mr. McCONNELL. Mr. President, I want to briefly address a conference report that we will hopefully be voting on in the Senate this week; that is, the conference report called the Pension Funding Equity Act.

The House of Representatives passed this bill overwhelmingly last week. This is a bill that addresses the urgent need to establish an appropriate interest rate for determining pension plan liabilities. The conference agreement provides for a temporary replacement only for the 30-year Treasury bond in determining the pension plan's liabilities.

The Government stopped issuing this bond in 2001, and continuing to use this outdated interest rate would require companies to make unnecessarily large contributions to the pension plans.

If this change is not made, the administration estimates it will cost American companies $80 billion over the next 2 years. This is $80 billion over the next 2 years, not the standard 10 years by which we usually measure legislation.

This is $80 billion that companies could put to better use creating jobs, purchasing equipment, providing raises to workers, or pursuing any number of worthwhile business activities.

This is legislation that cannot wait. It needs to be passed this week. A previous temporary replacement rate expired January 1 of this year, 2004. Unless the Senate acts prior to the recess, by the end of this week, companies will be required to make the first of their inflated contributions based on the flawed interest rate on April 15, while we are not here. So this is it; the last opportunity to address this great inequity is this week. Again, these are funds that companies could otherwise use to create jobs, invest in new equipment, and provide raises to workers.

I believe I am safe in saying that every Member of the body has heard from his or her constituents about the need to solve this problem before April 15. The House recognized the urgency of this matter and passed this conference agreement on a bipartisan vote of 336 to 69 last Friday. That was an overwhelming bipartisan recognition that this conference report needs to become law and needs to become law now. It is critically important that the Senate do the same and send this to the President for his signature before April 15.

We spend a lot of time talking about jobs and job security on the Senate floor, and we should be talking about jobs and job security. This pensions conference report is an opportunity to stop talking and start acting. We ought to seize this opportunity and pass this very much needed legislation this week.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNIVERSITY OF TENNESSEE LADY VOLS

Mr. FRIST. Mr. President, I see my colleague from Tennessee in the Chamber. I know shortly he will be addressing the issue under consideration, that of medical liability. In seeing him, I did want to, for a couple of minutes, talk about a very important event that will occur later this evening.

The State of Tennessee, which both he and I represent, is once again at the height of March Madness. Congratulations to the University of Tennessee Lady Vols, who will play for their seventh NCAA title tonight against a familiar foe, the University of Connecticut Huskies.

Coach Pat Summitt has maintained a championship basketball program at the University of Tennessee for three decades. This upcoming matchup, to be played in a few hours, will be the Tennessee native's 102nd NCAA tournament game. Coach Pat Summitt has led the team to an overall record of 851 wins and 166 losses in 30 seasons.

Under the watchful eye of the winningest coach in women's basketball history, the Lady Vols have advanced to the NCAA Sweet 16 and the Elite Eight in 19 of the last 23 years. Tennessee is making its third straight Final Four appearance, setting a new NCAA record with 15 such appearances. The win over Stanford in the 2004 Midwest Regional final gave the Lady Vols their 14th 30-win season in Coach Pat Summitt's 30-year career at Tennessee.

This is an especially big game for the Lady Vols seniors. During their 4-year stint at Tennessee, they have yet to clinch a national championship. They did garner a No. 1 seed for a nation leading 16th time in 2004.

It is the seniors' outstanding play that has blazed the trail to the 2004 NCAA championship game. Senior Tasha Butts scored the winning basket at the buzzer in both games of the Midwest regional. Senior LaToya Davis scored with 1.6 seconds left in Sunday night's Final 4 matchup to keep Tennessee's national championship hopes alive.

Butts, Davis, and fellow senior Ashley Robinson accounted for one-third of the team's total production in the 2004 NCAA Tournament. They have attributed 47 percent of Tennessee's points, 77 percent of its assists, and 39 percent of its three-pointers. Together these exceptional student athletes have produced 30 points, 21 rebounds, 10 assists, 4 steals, and 3 blocked shots per game.

Tennessee, although a perennial powerhouse, has not won a national title since 1998. Under the tutelage of a basketball living legend, combined with the heart of the Lady Vols' seniors, Tennessee hopes to bring the glory of women's basketball back to Rocky Top.

I wish both teams good luck tonight, and I hope to join the Tennessee Lady Vols at a White House victory celebration later this year. Go Vols.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not. The Senate is considering a motion to proceed.

Mr. ALEXANDER. Mr. President, I wish to respond to the majority leader's comments, if I may. I, as a great many Americans, am going to be watching the Connecticut-Tennessee basketball game tonight at 8:30 eastern time.

Connecticut has a wonderful tradition, a terrific coach, and great players. They have won the last couple of years. But the Naismith Coach of the Year this year is Pat Summitt. For those of us in Tennessee, she is the coach of the year every year.

Senator FRIST has mentioned her achievements as a coach, which I think we must take for granted in Tennessee. We expect Pat Summitt to be in the Final Four. We expect her team to be in the finals. We expect her often to win, and we sometimes forget how hard that is.

Twenty-five years ago, it might have been easy when women's basketball was starting. Today, there is a lot of parity. There are a good many great coaches. There are many teams inspired by Pat Summitt. It is an enormous accomplishment for Coach Summitt to have this team in the finals once again. One day, when she is finished—and I hope that is no time soon—I will look back and say how could that have happened, and how much could one woman build this game and make such a difference?

She does one other thing that I think is important to hear. This is a time when we hear about athletes, which we wish we hadn't heard, young men and women suddenly exposed to fame, money, and television with bad results. You do not hear about many of Pat Summit's young women. It was true a few years ago when I was president of the University of Tennessee that every single young woman who completed her eligibility at Tennessee on a Pat Summitt team has received her degree or is in the process of completing her degree requirements—every single one. That was true 10 years ago. I suspect it is still true today.

If you watch those young women when they are interviewed, before, after the game, or any other time, they look like future coaches. They speak well. They conduct themselves well. They are graceful toward their opponents. They make us proud to be Tennesseans when we see them. So this team not only wins, its coach and players conduct themselves brilliantly as scholars and as competitors, and they bring out the best in our country.

Pat Summitt, I suppose, is not for every young woman who wants to play college basketball. She is a tough competitor. I think that is one reason why she is such a good coach and why she gets many of the greatest players. She and her staff bring out the best in players, and they want to play for Pat Summitt. There are little girls around this country who play basketball in sixth, seventh, and eighth grade who dream of growing up to play for Pat Summitt.

One other thing I would add. Pat Summitt has kept her coaching team together for a long time. Mickie DeMoss, her assistant, left for the University of Kentucky to take a well-deserved head coaching position there. Mickie DeMoss is a great recruiter and will be a great head coach, I believe. Many people thought when Mickey went to Kentucky, Pat would not be able to recruit as well. I am sure the competitive urge in Pat Summitt caused her to go out and recruit what is already being called the "Fabulous 6," the All America player of the year for the last 2 years and five other young women who are coming to the University of Tennessee next year on scholarships. Many basketball analysts say it is the best women's recruiting class ever.

Senator FRIST and I salute Coach Pat Summitt, not just for being Coach of the Year this year, but, in our book, for being coach every year and for effort in the incredible graduation rate of the young women who have played for her and helping them grow into womanhood and to represent our State and our country in that sport very well.

Mr. President, if I may speak on another subject, I come to the floor today to express my concern, once again, with the rising cost of medical liability insurance and what this means for patient access to medical care in Tennessee. This is a subject we have talked about many times on this floor, and it is a subject I hear about often when I am in Tennessee.

Last February, we debated this issue right here and, unfortunately, we were not even able to get to a vote on it. We were not able to invoke cloture, we were not able to vote on the issue of medical liability insurance.

Today we are limiting our debate to just this issue: the care for mothers and babies and for anyone with an emergency medical condition. That is all we are talking about in this legislation—mothers and babies and anyone of any age with an emergency medical condition.

These are the individuals who have the highest need for medical care in our country, and the lack of access to that care can prove deadly.

The increasing cost of medical liability insurance is creating a patient access crisis because doctors are leaving the practice of medicine rather than pay the high cost of medical malpractice insurance.

For example, in the Hardin County General Hospital in Savannah, in west Tennessee, the only OB/GYN doctor left the hospital to practice in another State because Tennessee's insurance premiums were too high. High medical liability insurance is one more reason it is difficult to recruit specialists to rural areas.

We need to make certain we ensure access to good care in emergency rooms for all Americans, all Tennesseans. Yet neurosurgeon Rick Boop of Memphis, TN, wrote me to say:

> I have seen three children die recently of shunt malfunctions in emergency rooms which did not have a neurosurgeon who could perform procedures on children. All neurosurgeons can provide a simple shunt revision, but many are being forced to stop caring for children in order to retain or reduce their liability premiums.

All three of these children died awaiting helicopter transport to a children's hospital—

Where there was a specialist who could perform that type of procedure.

More and more Americans are seeking emergency room care. In Tennessee, for example, the number of emergency room visits increased by almost one-third, 31 percent, over a 3-year period. The largest increase in usage was among individuals in our TennCare program, our Medicaid program. These are the people who need the most help, our poorest people in Tennessee. We need to make sure specialists are available in the emergency rooms of this country and Tennessee to care for these patients.

In 2002, the average net medical liability premium for an OB/GYN in Tennessee was $33,600. In 2003, the premium was up to $41,980. In 2004, it increased again to $49,408. This is a 47-percent increase in medical malpractice insurance premiums over the past 3 years. This is not sustainable over time if we expect to have doctors, specialists in the hospitals, in the emergency rooms, to care for mothers and babies and the most vulnerable in our society.

Two years ago, I met a young woman who had just graduated from the University of Tennessee Medical School. She was looking forward to going into her OB/GYN practice in a rural area of Tennessee. She told me her medical malpractice insurance premium 2 years ago was $70,000 a year and she had never delivered a baby in her practice.

I believe S. 2207, the Pregnancy and Trauma Care Access Protection Act, will help protect access to care for mothers and babies and Tennesseans in emergency medical conditions. This bill will still allow unlimited economic damages, but it places a sensible cap on non-economic damages. I hope we can agree to have a vote to reach cloture on this important legislation.

I often express my concern for federalism, for the importance of allowing States and local governments to exercise their rights and responsibilities and not be overridden by the Federal Government except when it is absolutely necessary. In this case, this legislation allows States to set their own caps if they prefer a lower cap or if they prefer a higher cap. In this case, we ought to act because Americans should have an equal opportunity to health care, particularly if they are mothers, children and the most vulnerable and poor in our society.

I ask that the full Senate agree that we vote—be it up, or down, and I will vote yes—on this important legislation to help those who need help the most.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I rise to continue to speak about the Foreign Sales Corporation Extraterritorial Income Act that is before Congress that we call the JOBS and manufacturing act. I wish to bring the Senate up to date on the status of this not just as a jobs bill but as a major economic policy legislation.

This, of course, is bipartisan legislation. This is legislation that was designed to respond to the World Trade Organization's adverse ruling on a benefit under the old law for U.S. exporters and to bring our law into conformity with that World Trade Organization ruling, but to do it in a way that actually creates jobs in America and emphasizes domestic manufacturing so American manufacturers are going to benefit from this legislation on what they do in the United States, not what they do overseas.

Foreign corporations that come into the United States are going to benefit under this legislation as long as they set up plants and manufacture in the United States. This bill has an acronym, J-O-B-S, and it is truly jobs-creating legislation.

We have problems with this now because some people who even support this legislation want to stall it so they can use it as a vehicle for getting some of their pet projects through the Senate. When everybody is saying, and rightly so, that we have not created enough jobs in manufacturing and we have a bill before the Senate that will do it, I do not know why anybody would want to hold this bill up, but there is a playing of politics and, in my view, then when one plays politics, the people's business is neglected.

First, there is a lot in this bill on which we all agree: The tax benefit I refer to is the foreign sales corporation extraterritorial income benefit. That benefit provides a roughly 5-percent corporate rate tax cut for U.S. exporters of manufactured products.

As everyone knows, there is a disturbing economic statistic about U.S. manufacturing and that was that there was a downturn in the manufacturing index starting March of 2000. I emphasize that because everybody thinks this recession started under President Bush, but if one looks at the manufacturing index, they would find the manufacturing index started to turn down March of 2000. It just now has bottomed out and it is just now that it looks as if there is going to be an increase in hiring in manufacturing.

Fortunately, with the tax relief in place in this bill and with other stimulative measures that have been passed last year, manufacturing has come back. Unfortunately, manufacturing employment has not come back to previous levels, and that is what this bill deals with. Both sides, meaning both Democrat and Republican, agree there is a problem with the loss of manufacturing jobs. Both sides also agree that the loss of this previous benefit will result in a tax increase on U.S. manufacturers. Following the simple rules of Economics 101, if something is taxed higher, there is less of it.

There is some dissent on my side of the aisle, the Republican side, which I want to mention so that I am candid in not everybody who opposes this bill is on the Democrat side.

We have Senator KYL and Senator NICKLES, as an example. They are Republicans. They question the wisdom of the current law benefit.

I was also surprised to hear last week that one Member from the other side—quite a liberal Member, as a matter of fact—in effect agreed with Senator KYL and Senator NICKLES. That Member questioned the wisdom of the foundation of this bill—the tax deduction for domestic manufacturers. That Member took to task, as he said, the authors of the legislation.

I wonder if that Member bothered to check to see the authors were also Republicans and Democrats on the Senate Finance Committee. In fact, every member of the Senate Finance Committee who is a Democrat voted for this bill to come out of committee.

In any event, with the exceptions noted—meaning one Democrat plus Senator KYL and Senator NICKLES, also—there is general agreement on both sides that we need to replace current law with a manufacturing benefit which will agree with the General Agreement on Tariffs and Trade, the international agreement that decides the rules of trade.

Conversely, I have not heard anyone say it is wise to sit idly by while our exports get hit with tariffs put on our products in a legal way by Europe, causing our products to be uncompetitive.

In general, both sides agree we need to deal with this tariff problem. We need to deal with this adverse World Trade Organization ruling. Both sides agree we have a responsibility to remove the tariffs against our exports. But yet there doesn't seem to be agreement it should have been done yesterday. It is OK if it is done down the road in another 6 months when we have another 6 percent tariff put on. At least that appears to me to be the way some people are acting.

If we agree on the problem and on the substance of this bill, why can't the job be done? Why can't this bill get to the President? It appears to me the two sides disagree on the outcome for this bill.

I think dealing with this bill goes to the heart of our responsibility as a Senate. We take an oath to uphold the Constitution. The Constitution provides Senators with a unique power somewhat different than in the House of Representatives. That unique power also carries unique responsibilities. Where there is a compelling public policy problem and there is a consensus around the legislation that solves that problem, it is our responsibility as Senators to do everything in our power to make it happen.

Said another way: If we have a bill before the Senate that is going to pass the Senate 90–10, or by a wider margin than that, and there is an agreement it ought to be done, why doesn't it get done?

We all know the Senate is an institution that renders easily to gridlock and to delay. I suppose we would have to blame our Founding Fathers because they contemplated a Senate where the majority would set the agenda and the minority defines its agenda with amendments and debate. Those powers of delay and obstruction are properly resorted to when the majority is ramming something through on a partisan agenda. There is, however, a reflective responsibility on the part of the minority leadership and its members where the legislative item is a bipartisan product. That seems to me to be a responsibility to be constructive. It is irresponsible then for minority leadership and members of the minority to obstruct a consensus item.

It is the height of irresponsibility to obstruct and delay when the item is a bipartisan compelling matter such as this bill is. It is simple. Is the United States going to abide by international agreements we have already approved in this Senate?

It is our responsibility to set an example for the rest of the world because we are outstanding in exemplifying the rule of law and the protection of individual freedoms. Some people might say we ought to give that notoriety to England because our law comes from England. But I think you would all agree when it comes to individual freedom we have even advanced beyond England.

Are we going to have a constructive approach to this legislation? I have to say to my fellow Senators: It is in our hands. Either we can continue to play these political games or we can do the job we were elected to do.

Some have said something such as we will take a limited time on amendments. That misses the point. The point is the majority is led by Senator FRIST. We have all played this game straight. The majority amendments to this bill have improved the bill in ways that will get even more votes for it. All those amendments we have offered have been bipartisan.

For example, the Hatch-Murray amendment on research and development credit and the Bunning-Stabenow amendment on accelerating the manufacturing deduction—you recognize those Senators' names immediately and know there is one Democrat and one Republican. That is the way things get done in the Senate.

The Democratic leadership has taken this bipartisan bill and turned it into a political football.

We have an amendment on overtime that was previously voted on and that is a sticking point.

There are other showstoppers planned by the Democratic leadership. In this case, you have one side—the majority—using the power of setting the agenda in a constructive way. I define that constructive way as bipartisan because nothing gets done in the Senate that is not bipartisan.

Then you have the other side—the Democratic side—using its power of amendments and the power of delay solely for politically destructive purposes.

That imbalance can't last for long. If it does last for long, the Senate is brought to a halt. It is kind of like the law of physics. For every action there is a reaction.

There shouldn't be this kind of tension on a must-do—in other words, a must-pass—bipartisan bill. When it is this way on a must-pass bipartisan bill, something is out of whack. Republicans will eventually be fed up with the gamesmanship on the other side. It will mean the Republican political amendments—those which the Democrats do not like—are going to be brought up because for every action there is a reaction. That is going to lead to a vicious circle and this bipartisan bill will be more bogged down than it is presently.

Another route Republicans could take is to switch to an agenda item that is not like this one. It would be a bill that has heavy political overtones. It would not be as compelling as this bill. It probably wouldn't necessarily be a must-pass bill.

Again, if we were to do that, the victim would be this very good must-pass bipartisan bill.

From the Republican side, let me say to every Democrat, we don't want to go that way. We will do everything we can to avoid going that way.

Maybe the Democratic leadership thinks a designed plan to deter us from taking care of the people's business is good politics. Blame the Republicans, they may be thinking. They may be thinking: We have a liberal press, we can get away with it. They will protect us. They do all the time, anyway. It is kind of an encouragement. Maybe they think it is more important than actually helping the workers which this bill will help; and the U.S. businesses that are at risk because of this Euro tax; in other words, the European tariff on our products going from the United States to Europe.

It isn't that simple. There will be accountability. There has always been in the case of cloture votes. We don't want to go the route of a cloture vote. None of us want to go there again. But we could go there again. There is a petition on file. The American people expect us to do our jobs and not play politics.

I have talked about our responsibility as Senators. Let me put it in the context in my role as chairman of the Senate Finance Committee. Thanks to the good people of Iowa, I have seniority to chair the oldest standing committee in the Senate, the Finance Committee. I am pleased to work with my friend, our ranking Democratic member, Senator BAUCUS. Not to toot our horns too much, but I am proud of our committee. We respond to big, tough issues in a businesslike, professional manner. We do not always agree, but most of the time we do agree.

From my view, this foreign sales corporation replacement bill has been handled in the best bipartisan tradition of our Finance Committee. Senator BAUCUS and I developed this bill as partners. All Democrats, even Senators Daschle and Kerry, participated in and supported this bill out of the Finance Committee. They are Members of this committee. All of the amendments I put up for this bill have been bipartisan amendments. They are amendments that have improved the bill.

Who can argue with the domestic job benefit extended by the research and development credit? That was a bipartisan bill. Who can argue with enhancing the manufacturing deduction? That was a bipartisan amendment. Democratic Members were accommodated in the committee and on the floor with a managers' package. Senator BAUCUS and I developed that package shoulder to shoulder.

The latest version includes the bipartisan package of energy tax incentives approved by the Senate Finance Committee last year for farmers in the Midwest, the South, timber harvesters in the Northwest, or wind farms across the country. This package is going to produce and create jobs. This package has twice passed the Senate without dissent.

For all the Senators from my region and other places who said they could not support cloture on the Energy bill last winter because of the MTBE issue, here is your chance to vote for an energy bill that does not have anything to do with MTBE. Members do not have to worry about your personal injury lawyer friends calling upon you to fight the MTBE thing because they want to protect their own income. Members do not have to worry about offending them. That is not in this bill. Members got a chance to vote an energy bill they wanted.

This maneuvering bothers me. So I brought along a chart that draws from a favorite activity in the Midwest. I am talking about a game of football. The gridiron does not necessarily have anything to do with the gridlock that is occurring on this bill, but it illustrates the problems we have.

This JOBS bill is very near the Senate goalline. Unfortunately, politics is driving the Democratic leadership to move the goalposts. When we came into session in January, Senator FRIST was criticized by the Democratic leadership for not moving to the JOBS bill right away. At that time, the goalpost was very clear, very close, right there where it always is on the football field. That was in January.

After we finished the highway bill and a couple of other things, Senator FRIST attempted to move the jobs in manufacturing bill. Much to my surprise, we were ambushed by the Democratic leadership with unrelated amendments. I thought I had an understanding as floor manager. That understanding was we were going to do amendments first that were related to the bill and then move to other amendments. That agreement was not carried out.

From my standpoint, this was an unfortunate event. In budget discussions, I made clear I opposed putting this JOBS bill in the reconciliation package because I had assurances that the Democratic leadership wanted the bill passed. In fact, my ranking Member, Senator BAUCUS, 2 days before Republicans went to Philadelphia for our retreat in January to make our plans for this year, told me. I want to move this JOBS bill; do not let the Republicans include this JOBS bill in the reconciliation because reconciliation is obnoxious to the bipartisanship of the Senate. It is obnoxious to the minority.

When we were making our plans in Philadelphia, my colleagues responded to that request from my Democrat ranking Member and we did not include this bill in the process of reconciliation. It happens that my view was not shared by the House leadership or even by the Senate leadership or by the White House. I took the position in leadership meetings and in the Senate Budget Committee Republican caucus deliberations that the Democratic leadership would not politicize this bill; we would get it passed.

I was ambushed on March 3rd. In fact, it looks like I was wrong and others were right.

So we have a second goalpost here. It was the amendment of my colleague from Iowa on overtime. It did not matter that we had voted on that amendment previously. It did not matter that the amendment dealt with proposed—not final, proposed—Department of Labor regulations. No, none of that mattered. That amendment was and still is a showstopper to this bipartisan bill that everyone agrees ought to pass the Senate. When it comes to a final vote, it will pass overwhelmingly.

We are now at that second goalpost. The demands of the Democratic leadership still change. We were talking about a single-digit list of amendments. Not anymore. Now that it looks like an overtime vote may be in the picture, there is a goalpost yet farther away. For the first time, we are hearing of other amendments not even in the jurisdiction of the Finance Committee, such as an increase in the minimum wage, another showstopper. We cannot finish the bill, we are told, even though we are told the substance is great. This is the greatest bill since sliced bread is the opinion of people all over the Senate. But we cannot finish the bill because of this new goalpost.

Heaven help us how that might turn out.

There is a final goalpost out there. It is way, way out there, as you can see. It is getting to conference. We may move through all of these goalposts but then be blocked from going to conference because the Democrats have decided they should never agree to go to conference on a bill unless they can dictate the outcome. Effectively, that does not just shut down the Senate; that shuts down the whole Congress.

Now, let me ask you: Is this any way to legislate? Is this a proper exercise of leadership? Is this right when jobs are on the line and people back home expect us to move consensus legislation? You have to wonder: Is all this obstruction really worth it?

Now, my sense is, the political imperative of stopping this bipartisan bill is very strong. It seems the Democratic leadership is so fearful or resistant to getting a bipartisan JOBS bill to the President's desk that they are going to do anything to block it. Just keep moving the goalposts; pretty soon you will not see them. I think the record reflects this view I have that somehow there can be no JOBS bill that gets to the President of the United States.

Now, do you know what I would be willing to do? If there is something with the title of this bill, called a JOBS bill, that is obnoxious to the minority, because it might make a Republican President look good, well, I will change the name of it. You guys name this bill. It is OK with me. The title has nothing to do with the substance of it in the sense of legislative dominance, but we try to say, in the title of a bill, what we are intending to accomplish. What we are intending to accomplish in this jobs in manufacturing bill is to stop this outsourcing that you hear so much about, to create jobs in manufacturing in America, and not just jobs but good jobs, because manufacturing jobs that are related to exports pay 15 percent above the national average. They are good jobs.

I have predicted they cannot let this bill get to the President of the United States for political reasons. I hope I am proven wrong in the next few days. But I can say this: It is time to get the job done. In a few days, I hope we can move back and pass this jobs in manufacturing legislation. It is, in fact, a bipartisan piece of legislation. It is, in fact, a piece of legislation that deserves better treatment than it has received so far.

So tomorrow I hope, for all these reasons, particularly the reasons I gave earlier this afternoon—that there are so many amendments that have been added to this bill at the request of Democrats and Republicans alike, but I emphasize the Democrats—they have something in this bill they have asked for. They have asked for me to consider it. If they do not vote to stop debate tomorrow, to move on this legislation, get it to the President, why did they come to me in the first place and ask me to put their favorite piece of legislation in this bill?

It is all good legislation. I do not find fault with the people who have asked me to do it. It is all good public policy. But, also, it was not something real pertinent to the primary purpose of this legislation. But we are helping them get their bill passed by cooperating with them. I would like a little cooperation in return. I would like to have all the Members who we have tried to accommodate—both Republican and Democrat—vote to stop debate and move on to final passage of this bill, so we can create jobs in manufacturing.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Madam President, I ask unanimous consent to proceed as in morning business for not to exceed 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2288 are printed in today's RECORD under "Statements on introduced bills and joint resolutions.")

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from New Hampshire.

Mr. SUNUNU. I ask unanimous consent that I be allowed to speak for 5 minutes as in morning business, and I further ask consent that immediately after my remarks Senator HARKIN be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOICE OVER INTERNET PROTOCOL REGULATORY RELIEF ACT

Mr. SUNUNU. Madam President, I rise to speak today on legislation I introduced this week called the VOIP Regulatory Freedom Act of 2004. This is legislation that deals with the issue of voice communications sent using Internet protocol that many Members of this body may not be familiar with or may not have heard a great deal about; but it is a new technology that takes advantage of the growing broadband networks that are in place in this country to send voice messages, much the same as one might send an e-mail or an instant message. It is a growing area of technology and innovation, but it is one where there is not a very clear path regarding regulatory and taxing jurisdiction, and there are not a lot of laws on the books that clearly address this new technology.

In order to encourage continued investment in and continued use of this application and this system for sending voice traffic and in order to make sure consumers continue to have the benefits of lower costs, new features, and better service that is the potential of this technology, I have introduced legislation this week.

First and foremost, S. 2281 declares this is a technology that uses national and global broadband data networks, the Internet, that we have all read and heard so much about by this point in time. It recognizes these are international networks, global networks, and therefore we should have Federal jurisdiction in this area.

Second, it takes the step of preempting States from regulating in this area, the area related to voice-over-Internet-protocol applications, because what we do not need is a patchwork of 50 different sets of regulations that would stifle the innovation, the investment, and the productivity we all hope will come from this technology.

Even worse, the regulations some States have already begun to try to apply are not regulations developed for the Internet, broadband, or a voice-over-Internet-protocol application. They are really designed for a copper wire circuit switch telephone network that was invented 100 years ago and for which most of these State regulations were developed in the 1930s, 1940s, and 1950s. It is an outdated system and we should not be trying to force old regulatory structures on this new technology.

Third, the VOIP Regulatory Freedom Act of 2004 that I have introduced will clarify the definition for information services, for VOIP applications, in a way that can be easily understood given new and emerging technologies.

I was not in Congress at the time, but Congress wrote the 1996 Telecommunications Act that talked about information services and telecommunications. Quite frankly, it did not envision these kinds of voice applications being offered over the public Internet or over private networks. So as a result, we have had lawsuits, not surprisingly. In America, if one is unsure of what is happening, if one does not like the law, get a lawyer and sue, but we have had lawsuits because of the lack of clarity in some of these definitions. My bill would clarify the definition of voice-over-Internet-protocol. It states clearly what it is and what it is not from a regulatory perspective, and then treats it much like we would any other information service that uses Internet protocol, whether it is an e-mail, an instant message, or sending other data over the Internet.

This bill does address a lot of key concerns regarding telecommunications and the old telephone circuit switch telephone network. The bill makes sure that voice-over-Internet-protocol providers participate in existing Federal universal service programs. In other areas, such as E-911 emergency calling, and disability access, the bill calls for an industry group to work out the implementation of these important features for the new technology. S. 2281 will make sure we do not apply the old access charges to this new technology. We put forward a requirement for the FCC to work out a new system for intercarrier compensation and, of course, we recognize law enforcement will need access to these new voice-over-Internet-protocol applications and state it has to be the same or better access but no less than the access available for information services that currently exist today.

Finally, the bill protects consumers by ensuring that this new service won't be taxed at the State level. Everyone knows the more you tax something the less you get. If you want to discourage investment, innovation, and capital from moving into important new services like this, then raise the taxes and discourage that investment. From my perspective, this would be the wrong direction.

I think this bill provides for enormous opportunity for consumers, including robust features and functions, more options, and lower prices.

It is important to note that we have narrowly tailored this bill to deal with the voice-over-Internet-protocol applications. It should be clear that is not an effort to rewrite the 1996 Telecommunications Act.

I urge my colleagues to take a look at the legislation and step forward. Let me know your views and thoughts. We are likely to have hearings on this bill in the Commerce Committee in the coming months. I look forward to a vigorous and substantive debate.

ECONOMIC MALPRACTICE

Mr. HARKIN. Mr. President, before us right now is a motion to proceed to what is called the medical malpractice bill, for short. In fact, that is what it is—to change the tort system in America to take away the right of any person who has been injured to seek redress in court for noneconomic damages and also for punitive damages. It is called the medical malpractice bill. We have had it here a number of times before. It is not going anywhere because it is not a true compromise. There may be a compromise that could be worked out on this issue, but this bill represents a one-sided view. It is not going anywhere. The Republicans know this. They know it is not going anywhere, but they brought it up.

I thought the FSC bill—the JOBS bill—which they brought up earlier was a must-do bill. There was a jobs bill. They are going to put people to work. Yet it languishes somewhere.

In the meantime, we brought up the TANF bill. Now we brought up the medical malpractice bill.

It makes you wonder what the priorities are of the majority party in the Senate. There is a lot of talk about who is obstructing what around here. But I think it is clear to any casual observer that the majority is basically kind of filibustering their own bills, obstructing their own bills. And sometimes, as in the case of the gun bill that was up before us a few weeks ago, the Republican majority even voted against its own bill. But it chews up a lot of time. It takes up a lot of time on the Senate floor, but nothing goes anywhere.

That is what we are facing again with this so-called medical malpractice bill, or the motion to proceed to it. The majority party knows it is not going anywhere. So they want to talk about medical malpractice. There has been a few speakers on the floor today on the Republican side talking about medical malpractice.

I think what the country wants us to focus on and wants to hear us debate and discuss and vote on is the economic malpractice of the Bush administration. That is right, the economic malpractice of the Bush administration.

I mean by that the fact we have had a loss in jobs in this country over the last 3 years unlike anything we have seen in 70 years.

This chart shows that not since the Great Depression have we had a loss of jobs for any President during his first term—some more than others, but we have always had a positive indication of job creation.

It is interesting to note that most of these took place under Democratic administrations—Roosevelt, Truman, and Eisenhower had a little bit but still had some; Kennedy, we had good job creation; Johnson, very healthy job creation; even under Nixon, pretty good; Ford, back down; Carter; even under Reagan; Bush, it is down; Clinton, up a little bit more. All positive, Republicans and Democrats, until this President, the only President in 70 years to have negative job growth.

That is why I call it the economic malpractice of the Bush administration—the only President in all of those years to preside over negative job growth in our country.

Not only are we not discussing on the Senate floor these issues pertaining to workers, but we are precluded by the majority from even offering amendments and getting a vote on them.

I tried earlier on the so-called FSC bill that everyone talks about, the so-called JOBS bill they had here, to offer my amendment to disallow the promulgation of proposed rules that would change the overtime laws in our country.

Last year, to refresh everyone's memory, about this time—a year and a month ago, as a matter of fact—the Department of Labor came out with a proposed change in overtime rules.

The Fair Labor Standards Act has been in existence since 1938. We have had changes in basic overtime laws. But in every single case, when it has been done, it has always been done with consultation with Congress after open hearings with the public having input.

These proposed rules came like a bolt of lightning in the midnight hour. No public hearings were held. Not one public hearing was held on these proposed changes in overtime rules. No hearings were held by Congress. No witnesses were called to talk about what these proposed changes might mean in the workplace. They just put the rules out there.

Now the Department of Labor is about to issue its permanent change in regulations.

That is why last summer this Senator offered an amendment on the Senate floor to disallow these rules from going into effect. The Senate adopted my amendment on a bipartisan vote. We had quite a few Republicans vote for it. The House of Representatives then voted to instruct its conferees to go along with the Senate on that provision. That was on the appropriations bill. The White House came in and got it knocked out. Then we were forced to vote on the appropriations bill without that provision in it.

I said at that time in January I was going to find any vehicle I could to try to revisit this issue because the Congress had spoken; that we did not want these rules to go into effect which would take away the rights of up to 8 million American workers to get paid time-and-a-half overtime if they worked over 40 hours a week.

The first bill I could do this on was the FSC bill, which was brought out by the Finance Committee to the floor. They termed it a jobs bill.

I pointed out then, and I point out again today: How can you have a meaningful jobs bill on the floor of the Senate if we are not going to speak about it, debate it, and vote on whether we are going to take away the rights of people in this country to get paid time and a half for over 40 hours a week? Yet that is what happened. I offered the amendment. The majority will not permit a vote on it. They tried all kinds of parliamentary maneuvers, tactics, recommits, all kinds of funny parliamentary games just to keep us from voting on it.

I don't know what they are so afraid of. Are they afraid members of the President's own party might vote to say those rules shouldn't go into effect? They did last summer. I compliment them for it. That is courage. I know the President and his Department of Labor want to drastically change our overtime laws. They want to do it through the regulatory process—not through the legislative process.

Quite frankly, the Bush administration thought they could put these new rules into effect quietly with no hearings before anyone knew what was going on. But they were wrong. They got caught with their hand in the cookie jar.

The fact is, public outrage over the proposed new overtime rules has gotten stronger and stronger as Americans learn more about the details. At this point, the administration has about as much credibility on the issue of overtime as they do on the weapons of mass destruction in Iraq. In other words, the administration has zero credibility on this issue.

The Department of Labor claims it simply wants to give employers clearer guidance as to who is eligible for overtime pay. But ordinary Americans are not buying this happy talk. They know the administration is proposing a radical rewrite of the Nation's overtime rules. American workers know these new rules will strip them of their right to fair compensation. So we will continue to press for a vote on this and on a couple of other issues.

Last week on the TANF bill, the temporary assistance to needy families, Senator BOXER of California offered the amendment to raise the minimum wage, now at $5.15 an hour, to $7 an hour over 2 years. The majority will not vote on that, either. So that bill has gone by the wayside, too, because they do not want to face the music and vote on whether we increase the minimum wage. Mr. President, $5.15 is the minimum wage now—mostly women, heads of households with children.

I point out again, since 1967, if the minimum wage had just kept pace with inflation, the minimum wage would be over $8 an hour right now. Yet we are only asking for $7 an hour.

I wonder what the hue and cry would be in this country if we had indexed CEO compensation the way we indexed the minimum wage increases since 1968. We would probably be better off in this country, to tell you the truth.

So we tried to bring up a minimum wage increase. We tried to stop these rules on overtime from going into effect to strip people of their overtime. We have tried to increase unemployment compensation, to get more unemployment compensation to workers whose unemployment benefits had run out. There are 1.1 million workers this last week who lost their unemployment benefits because of time running out. We want to extend that. The majority will not let us.

The administration is all for an economic stimulus when it involves tax breaks for people making more than $200,000 a year. When it comes to economic stimulus involving raising the income of people at the bottom of the economic ladder, whether by increasing the minimum wage or creating jobs directly, which is what the highway bill will do, the President is even threatening to veto the highway bill.

We passed a bipartisan highway bill in the Senate. The House passed something substantially less. The President has threatened to veto that. Actually, the House bill for my own State of Iowa would mean 12,000 jobs less than that passed by the Senate. Yet the President has threatened to veto even the House version.

There is a frustration among American workers right now. They know they are working harder. They know they are working longer. But something is wrong. They are not getting adequate compensation. As this chart indicates American workers are working longer hours per year than workers in any other industrialized country. In fact, since 1979, every single industrial country has reduced its work hours except one, the United States. In Japan, since 1979, they have gone down 286 hours a year. Germany has gone down 489 hours per year. Even Canada went down 31 hours a year. Australia went down 44 hours per year. But the United States went up an average of 32 hours per year. We are the only country increasing the number of hours worked per year.

Not only that, as we found out earlier—I quoted the New York Times Sunday article by Steven Greenhouse—unscrupulous businesses in America are cheating people out of their overtime. I may not have mentioned a guy by the name of Drew Pooters, retired member of the Air Force military police. He went to work in a Toys "R" Us store in Albuquerque. He was stunned by what he found his manager doing.

> . . . his manager was sitting at a computer and altering workers' time records, secretly deleting hours to cut their paychecks and fatten his store's bottom line.
>
> "I told him, 'That's not exactly legal,'" said Mr. Pooters, who ran the electronics department. Then he out-and-out threatened me to not talk about what I saw.

Mr. Pooters quit. Then he got a job managing a Family Dollar store, one of 5,100 in that discount chain. Top managers there ordered him not to let employee total hours exceed a certain amount each week. One day he said the district manager told him to use a trick to cut payroll, delete some hours electronically.

Experts on compensation say the illegal doctoring of hourly employees' time records is far more prevalent than most Americans believe. The practice, called "shaving time," is easily done and hard to detect with the simple matter of computer keystrokes.

I earlier had this article printed in the RECORD.

The article revealed in Toys "R" Us, in Dollar Stores, Taco Bell, Pep Boys, Wal-Mart employees, et cetera, workers are basically being cheated out of their fair compensation. Many are being cheated out of overtime.

Here is what the Wall Street Journal article said about this:

> While employees like overtime pay, a lot of employers don't. Violations are so common that the Employer Policy Foundation, an employer-supported think tank in Washington, estimates that workers would get an additional $199 billion a year if the rules were observed. That estimate is considered conservative by many researchers.

American workers are being cheated out of over $199 billion a year by unscrupulous employers.

Here we have the Department of Labor legally—trying to do it legally—taking away workers' rights to overtime pay. The Steven Greenhouse article in the New York Times showed on Sunday there is a rampage in this country of illegal activities taking away workers' rights to their adequate pay. Why isn't the Department of Labor focusing its time and energy in going after these unscrupulous employers, making an example of them so others will not be encouraged to do the same thing rather than trying to legally take away workers' rights to overtime?

That is why I say this Bush administration is committing economic malpractice.

You do not have to be from Iowa to know that you do not fertilize a tree from the top down. You fertilize the roots. That is how we need to stimulate the American economy, by applying stimulus directly to the roots. There are obvious ways to do this. One, instead of tax cuts for the wealthy, you focus tax cuts on working people. Secondly, you increase the minimum wage. You put more money in the pockets of hard-working people who, by necessity, have to spend every penny. Three, you extend benefits for the long-term unemployed, again, who, by necessity, are spending every dollar they receive. Four, you pass a highway bill that is as generous as possible.

We need to rebuild our Interstate Highway System in this country. Take a drive on any one of them. They are beat up. They are disintegrating. They are a patchwork here and there. They are causing delays in trucking. They are beating up our cars and taking away from the productivity of America. Our bridges need to be replaced. Sewer and water systems need to be upgraded.

These are good jobs. These are jobs that employ Americans. When you think about construction jobs in this country, that is what I call insourcing jobs rather than outsourcing jobs because, you see, if you are building a bridge or a highway, a sewer and water system, or maybe a new school, when you think about it, most of the products are made in America. Think about it. The cement is made here. The rebars, the rerods, and all that for construction are made here. When you put up a building, you put up wallboard. That is made here—and electrical wiring, electrical conduits, electrical switches, electrical lights, plumbing. When you think about all that goes into construction, most—the vast majority—of the products are made in this country.

Guess what else. All of the labor done is here in America. You do not outsource those jobs. Those are American jobs. What do you get out of it? You put a lot of people to work. You improve the productivity of America. You get a lasting benefit of things that last for a long time, and that helps us be a more productive and vibrant Nation.

It seems we can spend billions of dollars in Iraq and Afghanistan to rebuild those countries. We need to invest money like that here in America. For every $1 billion spent on these projects, we sustain or create more than 47,000 jobs for American workers. That is the direction we ought to be going, rather than more tax cuts for those who make over $200,000 a year.

I do not have it with me, but I saw a cartoon in the paper today that I thought said it all. There was a gasoline pump, with gas that cost about $1.90 a gallon. This American worker had obviously just filled his tank, and he was up at the window paying. In back of the window sat what looked like one of the Saudi Arabian princes saying, "Thank you," and taking our American worker's money. The caption below it was: There goes the tax cut.

How many American workers, who are told by this President they got a tax cut for this or that, are now seeing it go to pay for imported oil, to pay for the increased price of gasoline because this administration will not take their friends in Saudi Arabia to task to keep these prices low, will not let some of the oil out of our Strategic Oil Reserve right now to counter these increased prices? So we find whatever little money the worker may have gotten in a tax cut going to pay for the increased price of gasoline. Again, economic malpractice, economic malpractice by this administration.

So we can go to the medical malpractice bill. Quite frankly, again, we are focusing on medical malpractice and whether someone can sue for damages, and this and that. While there may be a reasonable compromise on this issue at some point, this bill is not it. But I wonder—I truly wonder—how many of the 43 million Americans who have no health insurance coverage whatsoever would think this is the major health care issue that we ought to be debating and voting on in the Senate Chamber. They are not interested in medical malpractice or suing. They just need health insurance. They need coverage for themselves and their families. Here we are talking about lawsuits, when what we ought to be talking about is how we are going to get health care coverage to people in America.

The other side can talk all they want about obstructionism and who is holding up what. We have said, time and time again, as I said on my overtime amendment—I am not obstructing anything. I will take a time agreement. We have already had enough discussion. In 15 minutes we can have a vote. In 15 minutes we can have a vote on the minimum wage. In 15 minutes we can have a vote on extending unemployment compensation.

Who is obstructing what around here? It is simply that the majority side does not want to have these votes under the time-honored tradition of the Senate to debate, discuss, and vote. It seems as if the majority side now wants to turn the Senate into just another House of Representatives—come out with a closed rule. I know that sounds kind of funny. What does that mean? What it means is the majority party brings out a bill. You cannot amend it. You cannot change it. You either have to vote for it the way it is or not vote. If they have the majority votes, they want to pass it.

That is not the way to run the Senate. It is not the way to debate and vote in the Senate. The way to do it is to have our debates, have our votes, and move on. Sometimes you win; sometimes you do not. But, to me, that is what the American people want us to do.

We are doing nothing in the Senate right now—nothing. The reason we are doing nothing is because the other side will not let us vote. So here we sit with bill after bill that is brought out, trying to game the system so we cannot have votes on these meaningful issues.

They say: Well, these are just political games. No, they are not political. When you are talking about taking away a worker's right to overtime pay; when you are talking about increasing the minimum wage for a single mother with kids to feed, who is being cheated out of her overtime pay; when you are talking about a family whose unemployment benefits have run out, and they do not know where to turn, it is not political. It is just focusing on the real needs of America—our working families—and not focusing on giving yet more tax breaks to those who already have too much in our society.

Mr. President, I will close my remarks—I see others want the floor—to say we will be back. I do not like to quote too much the present Governor of California but: I'll be back.

Time and time again, I will be back to offer this overtime amendment, until we have a vote on it, and until we can express ourselves on these onerous rules that the Department of Labor wants to foist on the American worker.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, tomorrow we will cast an important vote for our constituents. Once again we have come back to the Senate floor to press for legislative change on an issue that is critical to health care for all Americans. Time and again we have attempted to stop skyrocketing health care costs due to the runaway tort system under which trial lawyers abuse the court system with spurious claims that drive up insurance premiums for physicians and hospitals and drive them to practice expensive defensive medicine; in other words, performing costly and unnecessary procedures to be sure they won't be sued.

Last year I was a cosponsor of S. 11, the Patients First Act of 2003. The Democratic minority precluded us from completing work on that legislation. In February, we targeted a very narrow range of the medical profession to try to see if our colleagues would help us out in one area, the OB/GYN specialty, with S. 2061, called the Healthy Mothers and Healthy Babies Access to Care Act. Again the Democratic minority denied us cloture so we could not consider the bill.

It is time to stop this obstructionism. Here we are again. This time I hope my colleagues will join in voting for cloture so we may enact the needed reforms to the medical liability system.

This legislation addresses lawsuits for health care liability claims related to the provision of obstetrical, gynecological, emergency, or trauma care. With good reason, we again include the OB/GYN specialty. The dramatic increase in OB/GYN premiums—more than 160 percent over the last 16 years—has greatly outpaced the rate of inflation, and many physicians and hospitals have been unable to keep up with these escalating costs. In my

State of Arizona, OB/GYN practices face premiums averaging $67,000, up 16 percent in just 1 year's time. Think of this for a moment. I am not sure what the average salary or wage of an American earner is today, but it is nowhere close to $67,000. That is what your OB/GYN doctor has to pay before he or she can even think about delivering your baby. That is the cost we have driven up.

My colleague from Iowa talked about the large number of people who can't afford health insurance. This is one of the reasons they can't afford health insurance. We have so driven up the cost of practicing medicine and the cost of health care by virtue of this broken tort system that a lot of people can't afford insurance and, in fact, employers can't afford to provide insurance for them. Let's do something about it. This legislation does something about it.

I would like to share the account of a physician in Paradise Valley, AZ, a woman with whom I spoke about 3 or 4 weeks ago who told me the story of her desire from the time she was a preteen to deliver babies and how she worked hard all through school to get good grades so she could go to medical school and eventually complete her residency. She did that. She had started out as a little girl volunteering in the hospital. She always wanted to deliver babies. After hard work and her degree, she ultimately delivered more than 5,000 babies over the course of 17 years. By the way, the vast majority were without any complications, and she has one of the best reputations as a physician in our community.

On one occasion, much to the surprise and dismay of the labor and delivery team, a baby was delivered with complications and cerebral palsy. While a group of doctors conducted a peer review of the case and determined there was no fault on the part of any of the physicians, the doctor who delivered the baby—this woman of whom I speak—3 years after the incident got sued.

Initially the plaintiff requested $2 million which was her insurance policy limit. Deciding it was better to settle and avoid long, costly litigation, the insurance company persuaded her to offer to settle the case, which she did. But then the plaintiff asked for $10 million from the physician and another $5 million from the hospital. This highly competent, highly dedicated, and motivated physician found herself consciously practicing medicine differently. For instance, performing a lot more cesarean deliveries in order to lessen the risk of complications to the baby, just in case. She was filled with a new anxiety that had never been present before. Frankly, she said it took a lot of joy out of the work she had enjoyed so much for the previous 17 years.

Eventually she stopped delivering babies because of the skyrocketing insurance premiums due to the claim that had been filed against her and, candidly, because of the trepidation she felt now she had been sued and the fact she might be sued again. Incidentally, her case was ultimately settled for less than the policy limits. But here is a physician who was a tremendous contributor to the profession, to our community, to the health of mothers, and the health and viability of a lot of new babies. She is no longer practicing her profession because of the tort system. This physician's story is far too common. It needs to be addressed, and we can address it through the legislation before us.

In addition to the reforms for obstetricians and gynecologists, S. 2207 will cover physicians who treat patients in emergency circumstances—not just in the emergency room but in any emergency circumstance—from frivolous lawsuits. Many physicians find themselves distanced from what led them into the profession in the first place—their desire to help people, just as the physician I talked about. Emergency rooms and trauma centers are flooded with patients who need help from accidents and disasters, all very unfavorable situations. These professionals give their very best to try to address the patient regardless of the circumstance, without even asking whether they have the ability to pay, focused on stabilizing the patients and providing excellent care.

Imagine the effect on the physician and the hospital when after treating a patient in an emergency situation, they are faced with a lawsuit, particularly a lawsuit that does not have merit or seeks an excessive award. The result is frequently the emergency rooms are understaffed, sometimes even have to close. The trauma centers are losing specialists and, in some cases, closing. The physicians are not there to provide this kind of emergency care.

Since no one knows exactly whether and where an emergency will take place, this legislation covers emergency services anywhere, not just those that occur in the emergency room. For example, if a family practitioner assists a person in an emergency at a mall where somebody had a heart attack, the doctor would be subject to the protection of this bill. If an internist helps a person in an automobile accident at the side of the highway and assists that individual, that care would also be protected by this legislation.

The benefit of this legislation is while it makes specific reference to the OB/GYN doctors, it also addresses any emergency services, not just those performed by emergency room physicians or in a trauma center.

As with previous bills, this legislation will hold physicians and insurers accountable for medical expenses in instances when they are clearly wrong. S. 2207 will maximize returns to the patients instead of the trial lawyers by setting percentage caps on contingency fees. These are the fees the lawyers receive. The bill would allow lawyers to be well compensated for their work but not at the unfair expense of the plaintiffs. Patients would have 3 years from the date of injury to bring forth a claim. In the case of minors, that statute of limitations would be extended.

The bill will allow for unlimited awards of economic damages but place reasonable caps on the so-called noneconomic damages or pain and suffering damages. If we can pass S. 2207, we should therefore see tremendous benefits: a reduction in the backlog of these cases in our courts; a reduction and perhaps elimination of these excessive jury awards; a reduction in the amount of money paid by the insurance companies to settle the cases. They incur great expenses in defending the cases in court and even processing the claims for settlement. Even those that are dismissed cost money. Physicians spend a large amount of money to defend themselves even in those cases they win. A large number of these cases are settled out of court to prevent the so-called mega award, the big award that can bankrupt a practice.

But something else will happen if we pass this bill. As I said, my colleague from Iowa complained about too many people not having insurance and one of the reasons why is because it has been expensed beyond their ability to pay or their employer's ability to pay. Why? Because the insurance company has to take into account these malpractice awards, even the possibility a physician will be sued. Imagine this: When a physician has to pay $67,000 in premiums for the ability to deliver babies, think about how that additional cost has to be shifted to the beneficiaries, the patients, the people who receive the care, because the insurance companies have to make sure whatever happens, their costs are covered.

So if we are going to talk about making it easier for people to get insurance, making it easier for physicians to be able to continue their practices, for hospital emergency rooms to continue to stay open, and all of the other kinds of care to be provided, even that situation where you have a wreck on the side of the road and a doctor stops and renders emergency care to you—any one of those situations—then we need to deal with this bill tomorrow.

This has been around far too long, and tomorrow is our opportunity to right this wrong, vote for cloture, and enable us to take a final vote on the bill. We should not condone a system that literally forces physicians to retire early, as the physician from Paradise Valley I spoke of had to do. Sometimes they relocate to a different State with friendlier laws. We should not force that either. Sometimes they drop high-risk services or they go into teaching or hospital administration. We lose a lot of very competent physicians that way. This leads not just to improper staffing among physicians, obviously; more important, it compromises patient care.

We have heard the patient and physician stories and we have seen the charts about the skyrocketing costs. We know of the facilities that have had to close, emergency rooms and labor and delivery sections—all as a result of the high cost of a broken tort system. I ask my Senate colleagues to join me in support of S. 2207 so we can provide quality health care to citizens across this Nation.

Mr. President, our constituents deserve nothing less, and that is all we are asking for tomorrow—to give our constituents a chance to receive the best health care they can receive, the best health care our system can provide. That is not occurring today and, far worse, it is going to continue to deteriorate in the future if we allow the trial lawyers and those who serve the trial lawyers to continue to obstruct this commonsense legislation.

I urge my colleagues to end the obstructionism, end the partisan bickering. Our constituents sent us here to accomplish and work together for sound results. Everyone knows we need this kind of reform. The vote tomorrow is a vote to determine whether there will be a final vote on the bill. It only takes 40 Senators on the other side to say, no, we won't allow a vote to occur. That is a filibuster. That is obstructionism. That is a negative, partisan unwillingness to allow the will of the majority to work on behalf of the people of this country.

I urge my colleagues tomorrow to please support the cloture vote, which will enable us to get to a final vote on this important bill. If we do that, I think we can go home this fall and all be very proud, whether we are Democrats or Republicans, or others, tell our constituents we accomplished something for them in the area that perhaps, other than freedom, is most important for every one of us, and that is quality health care. We owe our constituents nothing less.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, the Pregnancy and Trauma Care Access Protection Act of 2004 that is now before the Senate is a matter of very real importance to real Americans. I have a good friend, an obstetrician, in Mobile, AL. We go to church together. He teaches Sunday school class. He is a former president of the State association, as I recall. He was talking to me at church a few months ago about a doctor who left the practice. His malpractice insurance was around $80,000, and he delivered around 80 children a year. That is $1,000 per delivery that doctor paid for malpractice insurance.

This is a reality. I was with a doctor I know from the group that treats my mother in Mobile, AL, just a week ago, and he told me people in the profession are retiring earlier and earlier because they are getting tired of the stress and strain of being micro-managed through litigation; that people do not have to do that after a number of years and good people are leaving the practice over this issue.

Everybody in this body will say we need to do something about it; it is time for us to fix it; there is a problem; and we need to do this and that. But there is a strong influence, I have to say, from the trial bar in the Senate. They are very active politically, everybody knows it. They are aggressive, and they contribute large sums of money. Just a very few lawyers contribute large sums of money to political campaigns, and so far they have been able to block reforms.

The Senator from Kentucky, the assistant majority leader, Mr. MCCONNELL, proposed legislation that would eliminate lawsuits against restaurants and food companies if somebody gets fat. You go to the store and you ask for Little Debbie's. They sell them to you. That is what you want, isn't it, for Heaven's sake? They want to sue the company that gave the customer what they wanted. It is legal, so there should not be a cause of action under any definition of law.

At that hearing, the premier witness, without a doubt, was Professor Schwartz, who is the editor of the most widely used textbook on torts in America. We got into a little bit of a philosophical discussion because some people suggest that it somehow is not legitimate that we in Congress should pass a law involving lawsuits; that it ought to be left to the sanctified courts; that they are somehow better than the political branch, and that we ought to never pass a law that affects the courts. Of course, that is hogwash. I asked him about that, and he said it plainly and we discussed it at some length.

Congress says what the statute of limitations is. If you file a lawsuit within 2 years, 5 years, 6 years, but 1 day late, you have no lawsuit; it is out; the statute of limitations runs. Congress sets that limitation. Every State has limitations on damages. We create causes of actions that have never existed before by explicit statutory action.

There is a law in the code that if somebody rolls back your odometer and you sue them, you get an automatic $1,500 if you can prove they rolled back your odometer. In Kentucky, I am sure they roll back some odometers. Most cars we get in Alabama are rolled back in Tennessee, Mr. President, and are shipped to the State. We created that cause of action—it never existed before—for actual damages, whatever would be sufficient. I filed a lawsuit under it one time.

I say all that to say Professor Schwartz is correct. We have every right to look at what is happening in America. I am not going to talk at length tonight, but I say we have a serious problem in this country that is impacting health care in America. It is reducing the number of physicians who are willing to practice, particularly to deliver babies.

I was in Ashland, AL, the hometown of Gov. Bob Riley of Alabama, in Clay County. I visited their hospital because our prescription drug bill did a lot for rural hospitals. We had a big meeting and everybody was there. They talked about how the year before they had given up the delivery of babies in Ashland, AL, at that hospital. They no longer deliver babies in the State. I have some numbers that were pretty dramatic to me that indicated how many of these hospitals had quit delivering children. Why? Because they get sued. The amount of malpractice it takes to do that is rather dramatic.

According to the Alabama Department of Public Health, only 58 hospitals in Alabama have labor and delivery services. That is down from 70 in 1999. Twelve hospitals since 1999 have quit delivering children. Only 14 of the hospitals that are left have full-time neonatologists and neonatal intensive care units. Those 14 are located in the five biggest cities: Birmingham, Montgomery, Mobile, Huntsville, and Tuscaloosa.

Those are big issues. Thirty-four of the 67 counties in the State do not have OB delivery services. That was not true 30 years ago. This is a recent trend. Sometimes it is better, I will admit, that a person go to a hospital, but we have a lot of people who believe in midwives because of the bonding and the personal attention a mother gets. They believe in that. I am not a believer in that. But a good doctor who knows the family, who knows the mother, maybe they go to church together, who cares about the family, used to deliver babies in a large way in Alabama. That kind of practice is going away today. We are creating a circumstance in which fewer and fewer people are willing to undergo that type of practice.

Health insurance is way up. The delivery of health care has been constricted as a result of unnecessary, oftentimes illegitimate lawsuits. In fact, it has almost gotten to the point where a physician who delivers a child is held to be a guarantor of the healthiness of that child.

If something is wrong, too often somebody looks around to find somebody to sue; the doctor who did it or the hospital in which it was delivered is the one who is sued.

Mr. McCONNELL. Will the Senator yield for a question?

Mr. SESSIONS. I would be delighted to.

Mr. McCONNELL. It occurs to the Senator from Kentucky, in listening to observations of the Senator from Alabama, what has evolved in America is that we believe we are a society of victims, everybody is a victim? If somebody is wrong in my life, if I have a bad outcome in my life, it must be somebody else's fault. So beyond the obvious abuse of the legal system, it encourages the notion that personal responsibility is no longer a factor in American life.

I ask my friend from Alabama if he is also disturbed about this growing notion that I have no responsibility for the outcomes in my life, if anything goes wrong it must be somebody else's fault and obviously the solution to that is to sue.

Mr. SESSIONS. I think the Senator from Kentucky is exactly correct. We do have far too much of that. We have a lawsuit lottery mentality, jackpot justice. People file suits and they seek huge amounts of money in hopes they will recover.

My daughter does some defense work in a law firm. She is a lawyer. She was telling me about a nursing home case, and a person had bed sores, and there was a big lawsuit. She said, you know what they discovered? They had learned in some way that Ronald Reagan had bed sores.

These kind of things can happen, but they were having to pay a large amount of money. Maybe they were negligent, maybe they deserved to pay, but I just say there is this mentality that if something goes wrong somebody has to pay. As the Senator from Kentucky knows, the one who pays is the one who has insurance. That means the hospital or the doctor normally. They are the ones who are getting whacked. It may be that nobody investigated to see if maybe the mother drank alcohol too much during the pregnancy or something. Any number of things could have occurred that would have caused that.

I conclude by saying I am pleased to see this legislation move forward. It is not insignificant. I am hearing from my physicians that they feel strongly that the quality of their lives, as well as the excellence of their practice, have been adversely impacted by litigation.

A doctor was in my office recently who is a leader in the medical association. He said, Jeff, I am telling you maybe as much as 50 percent of the medicine we practice is driven out of fear of lawsuits. We could reduce the cost of medicine by a tremendous degree if we could contain the threat of lawsuits.

There is no doubt that lawsuits have recompensed people who needed it for a wrong. When a person commits a wrong, they should pay. There is no doubt about it. I know the Presiding Officer and the Senator from Kentucky, in their law school there was a community standard of excellence.

Everybody is not expected to be the best surgeon in America. Everyone is not expected to be the best lawyer in America. Take somebody who is a professional and they were expected to give the best skilled work they could give under the circumstances. They should not be found negligent. They should not ignore a patient. They should not fail to give the kind of care that everybody knows ought to be given. But just because one person has a steadier hand or has more experience maybe and can do a surgery slightly better than another one does not mean, and never has meant under American law, that there is a liability question.

I think the Senator from Kentucky is correct. What has concerned me is the erosion of the standard of negligence and error. A physician or a hospital should commit an error, negligence, before they should be required to compensate someone who has had an unfortunate result in that hospital. We have gotten away from that.

This bill, of course, allows for full recompense for damages and injury for any cost for medical care; any cost for future treatment or hospitalization, which in a lifetime could be millions of dollars; $250,000 in pain and suffering, in addition to the compensatory costs; and $250,000 or twice the compensatory damages for punitive damages. Those things are allowed for in the bill; it just simply says there is a limit.

When a person can sue somebody for $50 million and get a jury—juries really have a difficult time deciding between $2 million and $30 million, and they come up with $15 million. How did they come up with that number? This says that one gets fully compensated for however much it costs, for any damages that are sustained as a result of the negligence of a physician. In addition to that, one can get punitive damages and pain and suffering, but it is limited. I think that would go a long way to making lawsuits settleable so both sides know the framework they are operating under. Then a lawsuit can be settled. Without a limit on the top, it is very difficult to settle that lawsuit.

I believe this is good legislation. I hope it can move forward. I hope we do not see it obstructed and blocked as we have others. I hope we can get an up-or-down vote.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. McCONNELL. Mr. President, before the Senator from Alabama leaves, I want to thank him again for the hearings he held on the Commonsense Consumption Act, not the bill before us today but another measure that makes, as the title implies, common sense. The common sense embedded in that bill is that it is improper to sue a food manufacturer or a distributor for damages claiming that the seller made you overweight. It is simple justice. It would not deny any of the traditional claims against a distributor or manufacturer of food, but it would prevent such a ridiculous lawsuit.

The American people overwhelmingly support this legislation by well up into the 80 percent. The legislation passed the House of Representatives by an overwhelming bipartisan vote and is at the desk in the Senate. Hopefully sometime this year we will get an opportunity to call that up and see if maybe the Senate will let us at least pass a very modest legal reform bill that deals with a problem that is beginning to evolve in our society of victimhood.

Mr. SESSIONS. If the Senator will yield, I would note that Professor Schwartz, as I said, the editor of the most utilized textbook on lawsuits and torts in America, strongly supports the legislation. He feels it is appropriate. I will ask the Senator, does he not agree, based on his experience as an attorney, that we have muddled over and glossed over the question of fault?

In the Senator's bill, if they sell food that is contaminated and a person gets sick, if they sell food that has a bug in it or something, somebody can still sue. If the food is unhealthy a person can sue, but if it is perfectly healthy food and it is the food one ordered they ought not to be able to bring a lawsuit. Is that not the intent of the Senator's legislation?

Mr. McCONNELL. The Senator from Alabama is correct. That is, of course, the underlying principle of this legislation. I thank him for having the hearing and for giving people an opportunity to come forward and have their say on this important legislation.

As I said, it is at the desk and we hope sometime during the course of the second session of this Congress we will have a chance to address it.

Mr. SESSIONS. One more question. Has not the question of fault always been the cornerstone of American law with regard to lawsuits and negligence and liability, that somebody has to be at fault, have done something beyond the standard of care to cause a damage? That is when there is a lawsuit. Is not getting away from that one of the reasons that we are having so much abuse in the legal system?

Mr. MCCONNELL. That is what we always were taught. As the Senator indicated, in school that is what tort law was about. If one was not negligent, if they did not cause the harm, they should not be held liable. We have gotten away from that in this country. It is a very dangerous trend. It is time for the Congress of the United States to begin to redress this imbalance. I thank my friend from Alabama.

Mr. President, on the matter before us upon which we will be voting cloture on the motion to proceed tomorrow, the Pregnancy and Trauma Care Protection Act introduced by Senator GREGG and Senator ENSIGN, this is our third attempt this Congress and our second attempt in 6 weeks to try to do something about the medical liability crisis that is forcing patients all across the country to go without critically important medical services. On both previous occasions, a majority of the Senate has voted to try to solve this problem.

Unfortunately, though, only one brave soul on the other side of the aisle voted to support even taking up such a measure.

But hope springs eternal and maybe the third time is a charm. So we come back to the Senate to try once again to give our colleagues on the other side of the aisle a chance to join us in implementing real reforms for a problem that is all too real for many of our fellow citizens.

As we did the last two times, we brought reform legislation to the floor. We are offering the American people a proven remedy—not a placebo. The bill we hope our colleagues will let us consider, like its two predecessors, is based upon California's successful MICRA reforms. The Pregnancy and Trauma Care Access Protection Act would allow plaintiffs to recover unlimited economic damages—up to a quarter of a million dollars in noneconomic damages and punitive damages up to the greater of a quarter million dollars or twice the economic damages.

We recognize the reluctance of some of our colleagues to implement MICRA's reform on a nationwide scale, proven though these reforms are. So rather than propose the comprehensive reform we tried to advance last year for all medical practitioners, we are attempting a modest first step. The provisions in S. 2207 would apply only to two of the medical specialties that are suffering the most in this crisis: OB/GYNs and emergency care services. That is all this bill would touch.

Though extremely modest in scope, this bill is crucial to protecting the doctors who practice in these two areas and the millions of American patients who rely on them. For example, OB/GYNs provide some of the most critical medical services. Sadly, they also bear the highest premiums. As a result, women and children across our country are placed in danger as they struggle oftentimes unsuccessfully to find even basic obstetrics care.

In addition, emergency room doctors are the primary care physicians for many Americans. According to the Alliance of Specialty Medicine, each year there are 110 million visits to emergency departments. More than 90 percent of these visits are patients who need to be seen in 2 hours or less. And approximately 28.3 million Americans visit the emergency room each year due to an accident or unintentional injury. Ninety-nine percent of those patients will recover after receiving lifesaving care from an ER or trauma center.

Thus, when ER doctors and trauma care physicians curtail their practices or go out of business altogether because of the medical liability crisis, the people who suffer the most obviously are the American families.

Let us turn to the crisis in Kentucky. This chart illustrates Kentucky's crisis in obstetric services.

Sixty percent of Kentucky's counties are without OB/GYNs.

This chart takes a look at the counties. The red counties, which the occupant of the Chair and our colleagues can see, are many counties. Sixty-nine of one hundred twenty counties in Kentucky have no OB/GYN.

In addition to that, the next chart illustrates the availability of emergency services in Kentucky. 43 percent of Kentucky's counties are without emergency room physicians. That is 52 of the 120 counties.

All of the red counties all across the Commonwealth of Kentucky have no ER doctor at all—none.

Another 21 percent of Kentucky counties have only one specialist in emergency medicine for the entire county.

So you can see in our State, the Commonwealth of Kentucky, there is a serious crisis—an absence of OB/GYN care and an absence of emergency room doctors. A principal reason for that, not surprisingly, is the medical malpractice crisis that we have in the Commonwealth of Kentucky.

This is a serious problem. We have county after county in crisis. Just to give you an example, Perry County in southeastern Kentucky technically has a practicing OB/GYN. But that one doctor stopped delivering babies during the last year. If you are in Perry County, it doesn't do you much good. They have an OB/GYN but she does not deliver babies.

Eighty-two of Kentucky's one hundred twenty counties don't have either an obstetrician or have one obstetrician.

This is a serious problem in the Commonwealth of Kentucky.

Six weeks ago, when we were asking our colleagues to consider the Healthy Mothers and Healthy Babies Access to Care Act—S. 2061— I discussed the crisis in obstetric and gynecological services in my home State of Kentucky.

Kentucky does not have liability reform. Not surprisingly, liability insurance rates for OB's in Kentucky, for example, increased 64 percent in just 1 year, from 2002 to 2003. Also not surprisingly, in just the last 3 years, Kentucky has lost one-fourth of its obstetricians. Moreover, Kentucky has lost nearly half its potential obstetric services during this time, when one factors in doctors who have limited their practices.

According to the Kentucky Medical Association, 60 percent of the counties in Kentucky do not have any OB/GYNs.

Other counties, such as Perry County in southeastern Kentucky, technically have a practicing OB/GYN, but that one doctor has stopped delivering babies within the last year. So if you are in Perry County, that doesn't do you much good.

Another 8 counties—like Greenup, Lawrence, and Johnson Counties in northeast Kentucky—have just one OB/GYN in each county.

So if you are a woman in these counties, you had better hope that there isn't another woman having a baby at the same time you are, or that the doctor is not out of town or busy with another patient. If that happens, then you are going to have to drive through the hills on the back roads of eastern Kentucky to try to find a doctor to deliver your baby.

All told, 82 of Kentucky's 120 counties have no OB's or have just one OB.

Now, you may be thinking that, although this is far from ideal, couldn't the women in these situations simply go to the emergency room and have an ER doctor deliver their baby? Maybe in the old days women could do this, but they can't do this anymore.

Another casualty in the medical liability crisis has been in the provision of emergency medical services. According to the Kentucky Medical Association, medical liability premiums for ER physicians increased, on average, an astounding 204% from 2001 to 2002!

The situation of Dr. David Stanforth is illustrative. He is a partner in an emergency medicine group serving three hospitals in Northern Kentucky. Dr. Stanforth had his malpractice insurance cancelled 3 years ago and then switched insurance policies to obtain coverage. His premiums have since tripled to $800,000 per year, even though there wasn't a malpractice award against his ER group during that period.

The result of situations like Dr. Stanforth's are all-too-predictable.

According to the Kentucky Department of Public Health, 43% of Kentucky counties do not have any doctors specializing in emergency medicine. Another 21% of Kentucky counties have only one emergency room physician. All told, then, 64% of Kentucky counties do not have any ER doctors or have only one ER doctor for the entire county.

To come back to the crisis in obstetric services that I was discussing, if you are a woman in eastern Kentucky who is delivering a baby, not only are you not going to be able to find an O.B. to delivery your baby. You are not going to be able to find an ER doctor to help you either. Instead, you are going to have to drive until you find some doctor—any doctor—if you're lucky, to help with your delivery.

Unfortunately, too many women are not so lucky. They end up delivering their babies in the backseat of a car or on the side of the road.

This situation cannot continue. I applaud Senators GREGG and ENSIGN for their determination to do something about this crisis. I hope my colleagues on the other side will let us try to solve this problem with meaningful reform and will vote to invoke cloture on the motion to proceed.

I thank the Chair.

I will conclude by saying the principal reason for the crisis is the rising cost of medical malpractice insurance, and the inability of these physicians, dedicated though they may be to public health and serving people in the Commonwealth of Kentucky, who simply can't afford to stay in business. They cannot make a living doing what they went to medical school to do and what they want to do with their lives, which is to take care of women and babies and to save people in the emergency rooms of the Commonwealth.

We will have an opportunity tomorrow, once again—as I said earlier, hopefully a third time will be a charm—to take the simple step of going to the bill and giving us an opportunity in the Senate of addressing what is indeed a national medical crisis.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On February 29, 2004, a transsexual man who was planning to undergo an operation to make him a woman, was found shot to death in his car parked outside his apartment in Georgia. The Atlanta Police are canvassing local bars seeking information from anyone who knew the victim.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

NATIONAL PUBLIC HEALTH WEEK

Mr. SARBANES. Mr. President, I recognize the American Public Health Association's 14th annual National Public Health Week. I specifically want to acknowledge and commend the Association on its theme this year: "Eliminating Health Disparities: Communities Moving from Statistics to Solutions."

Our public health practitioners affect all areas of life as they fulfill their mission of promoting health and preventing disease at the broader "population" level. The American Public Health Association is the oldest and largest organization of public health professionals and has had an enormous influence on public health priorities and policies for over 100 years.

As we begin National Public Health Week, it is clear how the Association's selection of a particular theme can make a significant difference in how we develop our health agenda as a nation. I think this year's choice will be no exception and that it will be an impetus for frank and thoughtful discussion about what should be one of the Nation's most critical priorities, the need to address health disparities.

The first NIH Working Group on Health Disparities defined health and health care disparities as "differences in the incidence, prevalence, mortality, and burden of diseases and other adverse health conditions that exist among specific population groups in the United States." I take a moment to highlight just a few of these differences.

Statistics from the Department of Health and Human Services Report entitled "National Health Care Disparities" bear out that minorities are less likely to be given appropriate cardiac medications or to undergo bypass surgery, and are less likely to receive kidney dialysis or transplants. The same study has shown that minorities are less likely to receive the most sophisticated treatments for HIV infection, which could forestall the onset of AIDS. Our minority communities are instead more likely to receive less desirable, non state-of-the-art procedures, such as lower limb amputations for diabetes and other conditions.

These disparities also put our children at significant risk. In my own State of Maryland, the Infant Mortality rate for African Americans is two times higher than for Caucasian Americans.

And these disparities do not only occur along racial lines. Healthy People 2010 and the National Health Care Disparities Report show that those who live in our more rural communities face similar inequitable treatment. Rural community residents have less contact and fewer visits with physicians, even though these residents tend to have a heightened need for health care. Indeed, injury rates in rural communities are 40 percent higher than in urban areas.

Women are 20 times more likely than men to die from a heart attack. Statistics from the Agency for Health Care Research and Quality reflect that women receive less aggressive treatment for heart related ailments than men, and are less likely to receive life saving drugs such as lidocaine, beta-blockers and aspirin for heart attacks.

Persons with disabilities face significant disparities in the care they are afforded as do the indigent; the list goes on and on. These are just a few examples of how this inequity affects our population.

The State of Maryland has engaged in a number of statewide and local initiatives to address health care disparities in our communities. At the Federal level, I have cosponsored S. 1833, the Healthcare Equality and Accountability Act, which seeks to eliminate racial and ethnic health disparities in health care. I hope we can use the momentum created by this week and redouble our efforts to ensure comprehensive quality health care for all of America's citizen's regardless of their race, ethnicity, socioeconomic status, gender, education level, geographic location, disability or sexual orientation.

Again, I commend the American Public Health Association for focusing the Nation's attention on this important issue and for serving to increase the dialogue to rid the country of these inequities. I hope my colleagues offer their support to this important effort as well.

OPERATION ENDURING LOVE

Ms. LANDRIEU. Mr. President, we all know that the war in Iraq is not without its controversies or detractors. But it is also important to note that the spirit of the American people is transcendent. Whether you supported the war in Iraq, as I did, or whether you opposed it, the people of this Nation are very conscious of the sacrifice that our military men and women are making for us all are grateful. I rise today to give one small example of the American people's spirit from Lafayette, LA.

The soldiers of the 256th Army National Guard Infantry Brigade were recently put on alert and notified that they could be heading to Iraq soon. As for any Guard unit, such deployments mean a tremendous disruption in the lives of the citizen soldiers who make up this brigade. They miss work, they miss graduations, they miss birthdays, they miss reunions, and sadly, for some, they miss weddings.

When the announcement went out that the 256th could be deploying, Spec. Jeremy Meyers and his fiancee, Amy Glorioso, decided that they needed to move up their wedding date. But as everyone knows, weddings are expensive, and food, flowers, and venues have to be reserved and paid for months in advance. Changes to wedding dates can mean thousands of dollars in additional costs.

But thanks to the organization and drive of Merilyn Crain, the owner of L'Eglise in Vermilion Parish, and the patriotism and dedication of businesses throughout the Lafayette region, seven couples will enjoy their dream weddings—earlier than planned—and for free.

This act of generosity is the perfect symbol of the deep appreciation and love that all Americans feel for their soldiers, sailors, airmen, and marines. The people of the Lafeyette region, and all of Louisiana should be proud of the example they have set in rallying around the men and women of the 256th. As the Bible teaches us, "No greater love hath any man than this, that he should lay his life down for another." It is therefore appropriate that we should repay the debt we owe our military, by assisting them with ceremonies that celebrate the love between two people.

Mr. President, I congratulate the businesses and individuals whose generosity made these efforts possible. I will have the privilege of meeting the members of the 256th and their families this coming Monday. I will also get a chance to thank some of the members of Operation Enduring Love personally. However, I wanted to take this opportunity to tell this inspiring story here on the Senate floor, and record for posterity the names of those businesses and performers who have participated. They are:

L'Eglise, Inc. of Abbeville, Let's Talk Dinner Personal Chef Service of Lafayette, Crystal Weddings of Lafayette, Occasions Cake Boutique of New Iberia, Sugar Art Wedding Cake, American Legion Post 69 988–0799 of Lafayette, Viet Nam Veterans of America, Acadiana Chapter No. 141 of Fontenot, Mary Ellen's Tux Shop of Lafayette, Antoinette's Bridals & Formals of Lafayette, Chef Bobby & Dot's Le Bon Manger Catering of Kaplan, Sugar Art, A La Carte of Lafayette, Tsunami of Lafayette, Schilling Distributing Co Inc. of Lafayette, Glazer's Companies of Lafayette, Quality Brands Inc. of Lafayette, Interior Plant Services of New Iberia, Paul's Jewelry of Lafayette, Spedale Spedale's of Lafayette, Beyond Flowers of Lafayette.

Cajun Cottage Gifts of Erath, Flowerland of Lafayette, The Gardenaire at River Ranch of Lafayette, Steve's Flowers of Lafayette, Floral Design Classes of ULL of Lafayette, Flower's Etc. of Lafayette, Sam's Club—Floral Dept. of Lafayette, Louisiana Wholesale Florists, Aveda Institute of Lafayette, JM French Skin Care Line of Rayne, Studio One 2 One of Lafayette, Royal Day Spa & Salon of Lafayette, The Client Salon & Day Spa of Abbeville, Creative Memories Photography, Robin May Photography of Lafayette, Ken Romero Photographer, Shane Falgout, Photographer, Dominick Cross Photography, Fast Forward Multi-Media of Lafayette, Regent Broadcasting of Lafayette.

Dr. Paul Baker, Beth Fontenot, Mike Vidallier, Lynn Broussard and Company, Kurt Boudreaux, Tommy Benoit String Quartet, Limousines Limited of Lafayette, Diamond Limousine Inc. of Lafayette, Gabriel's Jewelers, WHC, Inc., Shady Acres of Abbeville, Crystal Cottage of Lafayette, Armentor Jewelers of Abbeville, Jean's Bridal Accessories of Patterson, Jolie Mariee "Weddings By Anne," Best Western Hotel Acadiana of Lafayette, Right Angle of Lafayette, Special T Ice Company of Abbeville, and Pictage, Inc. of Torrance, CA.

ADDITIONAL STATEMENTS

COMMEMORATING HENRY MANCINI

• Mrs. FEINSTEIN. Mr. President, it is my pleasure to honor Henry Mancini, a fine composer, conductor, and arranger. Mr. Mancini was one of the most versatile musical talents and one of America's most celebrated musicians of the twentieth century. He lent his talents to many films and television series, the themes and melodies of which are recognizable to listeners the world over, even if they are unfamiliar with the name of the composer.

April 16 would have been Henry Mancini's 80th birthday. Even though Mr. Mancini passed away in 1994 after a long battle with cancer, his contribution to music and the arts has not been forgotten.

The United States Postal Service will unveil the Henry Mancini commemorative stamp next week. The unveiling ceremony on April 13 will take place at the Music Center Plaza in Los Angeles and will be hosted by our distinguished former colleague, John Glenn, a longtime friend of Mancini. Senator Glenn, it might be added, took a recording of Mancini's timeless classic, "Moon River," on his return to space in October 1998.

In his lifetime, Henry Mancini's masterful talents were recognized with 72 Grammy Award nominations and 20 Grammy wins, eighteen Academy Award nominations and four Oscar wins, and a Golden Globe.

While awards are a notable measure of talent, the scope of Mr. Mancini's work is more impressive than the nominations he received for that work. During the 1950s, Mr. Mancini had a hand in the scores of over 100 films produced by Universal-International Studios. It was also at Universal that Mr. Mancini met Blake Edwards, and together they worked on 26 films over 30 years. These collaborations produced some of Mancini's most popular and award-winning compositions, including the "Peter Gunn" television series, "Breakfast at Tiffany's," "The Pink Panther" films, and "Victor/Victoria."

In all, over 500 of Mr. Mancini's works were published. Mr. Mancini recorded over 90 albums with styles from jazz to classical, including eight albums certified gold by the Recording Industry Association of America. As an in-demand concert performer, he logged over 600 symphony performances, and conducted such symphony orchestras as the London Symphony Orchestra, the Israel Philharmonic, the Los Angeles Philharmonic, and the Royal Philharmonic Orchestra.

Andy Williams said at Mancini's 70th birthday celebration: "The wonders of Henry Mancini will be heard in every corner of the world right up to the minute this planet cools and shrinks to the size of an eighth note." But it is more than the music he composed that will be Henry Mancini's legacy.

In honor of Mancini's dedication to educating young musicians, the Henry Mancini Institute was founded in Los Angeles in 1997 by his longtime friend and fellow composer, Jack Elliott. The Henry Mancini Institute's mission is to nurture the future of music by providing comprehensive professional training and multilevel outreach programs that make a direct impact in people's lives. Mr. Mancini himself established scholarships and fellowships at the Nation's top music schools. Many of tomorrow's composers, conductors, and arrangers have benefited from Mancini programs at New York's Julliard School of Music his alma mater, and in Los Angeles at USC and UCLA.

I would also like to recognize the Mancini family, who has gracefully embraced Henry's legacy and allowed for future generations of musicians to celebrate his accomplishments and contributions. My good friend Ginny Mancini, whom he married in 1947, has relentlessly worked to bring about the creation of this stamp, as have their children: Christopher, Monica, and Felice.

Honoring Henry Mancini with this commemorative stamp will serve as a lasting tribute, just as his music is a lasting gift to the world.•

COMMITTEE ON VETERANS' AFFAIRS

• Mr. BUNNING. Mr. President, it is a pleasure to be here today with our colleagues from the House Veterans Affairs Committee and the members of the Veterans of Foreign Wars. The VFW has a rich tradition in enhancing the lives of millions through its community service programs and special projects, and I am proud to have their services in the Commonwealth of Kentucky.

The work of our committees is as important as ever because of the thousands of new wartime veterans leaving the service and the increasing needs of our aging veterans. We owe all our veterans a debt of gratitude and I am committed to making sure we provide them with ample benefits and quality medical care.

President Bush has proposed significant increases in spending for our veterans, but it is important to keep in mind that his budget is only a starting point. Each year he has requested increases in funding for the VA and Congress has provided even more beyond those requests.

The last 2 years Congress has provided unprecedented increases in funding for VA health care. I support another substantial increase for VA health care this year and I am confident we will deliver. In fact, the budget resolution currently before the Senate provides for an extra $1.3 billion for the VA and rejects the proposed co-pay increases and enrollment fees.

VA conducts some of the most specialized medical research in our Nation. That research is especially important to disabled veterans. I oppose the proposed cut in VA research. The Budget Committee rejected that cut and I added an additional $101 million for research, a 25 percent increase.

Now that the CARES process is wrapping up, VA can begin new construction projects. We will be watching to make sure the Secretary carefully considers all proposed closings. I look forward to seeing new hospitals and clinics opened in Kentucky and around the Nation.

Last year I told the Secretary that VA had come a long way in fixing its problems but there was still a long way to go. I am glad to say that the system is stronger this year, but we must not let up. We must keep working to make sure our veterans receive the assistance they need in a timely and convenient manner. I am committed to doing just that.

Finally, I recognize all the Kentucky veterans in the hearing room. I had a good visit with some of you in my office earlier this week. Thank you for making the trip today and thank you for your service to our Nation and your fellow veterans.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6984. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to prescribing, adjusting, and collecting fees incurred for activities under the Animal Welfare Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6985. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "17 CFR Part 1, Investment of Customer Funds (69 FR 6140, February 10, 2004)" (RIN3038–AC01) received on April 5, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6986. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of the authorization of officers to wear the insignia of brigadier general; to the Committee on Armed Services.

EC–6987. A communication from the Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Appeals and Hearings Procedures" (RIN0729–AA74) received on April 5, 2004; to the Committee on Armed Services.

EC–6988. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report involving exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–6989. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's Annual Report to Congress; to the Committee on Banking, Housing, and Urban Affairs.

EC–6990. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "12 C.F.R 702 Prompt Corrective Action" received on April 5, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6991. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency declared in Executive Order 13224 of September 23, 2001, with respect to persons who commit, threaten to commit, or support terrorism; to the Committee on Banking, Housing, and Urban Affairs.

EC–6992. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report relative to new foreign policy-based regional stability export controls on certain items on the Commerce Control List; to the Committee on Banking, Housing, and Urban Affairs.

EC–6993. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Railroad Locomotive Safety Standards: Clarifying Amendments; Headlights and Auxiliary Lights" (RIN2130–AB58) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6994. A communication from the Attorney, Office of the Chief Counsel, Transportation Security Administration, transmitting, pursuant to law, the report of a rule entitled "Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License" (RIN1652–AA17) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6995. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines); Corrections to Final Rule" (RIN2137–AD54) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6996. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Performance History of New Drivers" (RIN2126–AA17) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6997. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements" (RIN2126–AA08) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6998. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation of Household Goods; Consumer Protection Regulations" (RIN2126–AA32) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6999. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the National Park Service, Including the Park Roads and Parkways Programs" (RIN2125–AE52) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7000. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Suisun Bay, Concord California [COTP San Francisco Bay 04–006]" (RIN1625–AA00) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7001. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations (Including 7 Regulations): [CGD07–04–033], [CGD08–04–008], [CGD08–04–007], [CGD01–04–008], [CGD01–04–022], [CGD01–04–018], [CGD07–04–035]" (RIN1625–AA09) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7002. A communication from the Assistant Administrator for Fisheries, National

Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Establish Referendum Procedures and a Vote-Weighting Formula for a Gulf of Mexico Red Snapper Individual Fishing Quota Program" (RIN0648–AR48) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7003. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Remove Expiration Date of Regulations Implemented Under the AFA" (RIN0648–AR13) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7004. A communication from the Director, Office of White House Liaison, Department of Commerce, transmitting, pursuant to law, the report of a vacancy and nomination for the position of Deputy Secretary, Department of Commerce, received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7005. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule; Final 2004 Specifications for the Atlantic Deep-Sea Red Crab Fishery" (RIN0648–AR58) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7006. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Prohibiting Directed Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska" received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7007. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of Fishery for Loligo Squid for Quarter I" received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7008. A communication from the Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Advanced Technology Program" (RIN0693–ZA56) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7009. A communication from the Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Procedures for Implementation of the National Construction Safety Team Act" (RIN0693–AB53) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7010. A communication from the Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Summer Undergraduate Research Fellowships (SURF) Gaithersburg and Boulder Programs; Availability of Funds" (RIN0693–ZA53) received on April 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7011. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the Administration's report required by the FAA Reauthorization Act of 1996; to the Committee on Commerce, Science, and Transportation.

EC–7012. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Exxon and Stripper Well oil overcharge funds; to the Committee on Energy and Natural Resources.

EC–7013. A communication from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting, pursuant to law, the Department's revised Strategic Plan for Fiscal Years 2003 through 2008; to the Committee on Energy and Natural Resources.

EC–7014. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the status of the Commission's latest monthly report on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–7015. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the status of the Commission's latest monthly report on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–7016. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Passport Procedures—Amendment to Passport Regulations" (RIN1400–ZA05) received on April 5, 2004; to the Committee on Foreign Relations.

EC–7017. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Department of State Acquisition Regulation" (RIN1400–AB06) received on April 5, 2004; to the Committee on Foreign Relations.

EC–7018. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the prevention of nuclear proliferation; to the Committee on Foreign Relations.

EC–7019. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–7020. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's Inventory for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7021. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Publication of Revised Bylaws of the Interagency Security Classification Appeals Panel" received on April 5, 2004; to the Committee on Governmental Affairs.

EC–7022. A communication from the Secretary, Postal Rate Commission, transmitting, pursuant to law, a report of activities under the Government in Sunshine Act for calendar year 2003; to the Committee on Governmental Affairs.

EC–7023. A communication from the Acting Director, Office of Government Ethics, transmitting, pursuant to law, the Office's audited financial statements for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7024. A communication from the Acting Director, Office of Government Ethics, transmitting, pursuant to law, the Office's Annual Program Performance Report for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7025. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, the Commission's Annual Program Performance Report for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–7026. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 1D for Fiscal Years 2000 through 2003, as of June 30, 2003"; to the Committee on Governmental Affairs.

EC–7027. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Certification of the Fiscal Year 2004 Revenue Estimate in Support of the District's $173,995,000 General Obligation Bonds (Series 2003B) and $140,325,000 Multimodal General Obligation Bonds (Series 2003C and 2003D)"; to the Committee on Governmental Affairs.

EC–7028. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to child welfare outcomes; to the Committee on Health, Education, Labor, and Pensions.

EC–7029. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date" (RIN0905–AC81) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7030. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Skin Protectant Drug Products for Over-the-Counter Human Use, Astringent Drug Products; Final Monograph, Direct Final Rule; and Confirmation of Effective Date; Correction" (RIN0910–AA01) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7031. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Correction" (Doc. No. 2002N–0278) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7032. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Correction" (Doc. No. 2002N–0278) received on April 5, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7033. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards; Testing Laboratories" (RIN3245–AE78) received on April 5, 2004; to the Committee on Small Business and Entrepreneurship.

EC–7034. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards; Information Technology Value Added Reseller" (RIN3245–AE80) received on April 5, 2004; to the Committee on Small Business and Entrepreneurship.

EC–7035. A communication from the Director, Regulations Management, National Cemetery Administration, transmitting, pursuant to law, the report of a rule entitled "State Cemetery Grants" (RIN2900–AH46) received on April 5, 2004; to the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Nebraska (for himself and Mr. BROWNBACK):

S. 2284. A bill to expand the medicare rural community hospital demonstration program to include outpatient services; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2285. A bill to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself, Mrs. DOLE, and Mr. DEWINE):

S. 2286. A bill to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 2287. A bill to adjust the boundary of the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS:

S. 2288. A bill to amend the Public Health Service Act to assist States in establishing, maintaining, and improving systems to reduce the diversion and abuse of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SESSIONS:

S. 2289. A bill to amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD:

S. Res. 332. A resolution observing the tenth anniversary of the Rwandan Genocide of 1994; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 1316

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1316, a bill to treat payments under the Conservation Reserve Program as rentals from real estate.

S. 1411

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1549

At the request of Mrs. DOLE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1549, a bill to amend the Richard B. Russell National School Lunch Act to phase out reduced price lunches and breakfasts by phasing in an increase in the income eligibility guidelines for free lunches and breakfasts.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1948

At the request of Mr. REID, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1948, a bill to provide that service of the members of the organization known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 2072

At the request of Mr. CRAIG, the names of the Senator from Montana (Mr. BURNS) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2072, a bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses.

S. 2207

At the request of Mr. CORNYN, his name and the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2207, a bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

S. 2212

At the request of Ms. COLLINS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2212, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 2244

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2244, a bill to protect the public's ability to fish for sport, and for other purposes.

S. 2261

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. 2262

At the request of Mr. BINGAMAN, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from South Dakota (Mr. JOHNSON), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Arkansas (Mr. PRYOR) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2262, a bill to provide for the establishment of campaign medals to be awarded to members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom.

S. 2267

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. 2270

At the request of Mr. DEWINE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2273

At the request of Mr. MCCAIN, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Illinois (Mr. FITZGERALD), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. DORGAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2273, a bill to provide increased rail transportation security.

S. CON. RES. 83

At the request of Mr. BIDEN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Con. Res. 83, a concurrent resolution promoting the establishment of a democracy caucus within the United Nations.

S. RES. 221

At the request of Mr. SARBANES, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Georgia (Mr. MILLER), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 298

At the request of Mr. CAMPBELL, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Utah (Mr. HATCH) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. Res. 298, a resolution designating May 2004 as "National Cystic Fibrosis Awareness Month".

S. RES. 311

At the request of Mr. BROWNBACK, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

S. RES. 328

At the request of Mr. NELSON of Florida, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 328, a resolution expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

S. RES. 330

At the request of Mr. WYDEN, the names of the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Florida (Mr. NELSON), the Senator from Rhode Island (Mr. REED) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ('OPEC') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

AMENDMENT NO. 2918

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of amendment No. 2918 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2945

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of amendment No. 2945 proposed to H.R. 4, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Nebraska (for himself and Mr. BROWNBACK):

S. 2284. A bill to expand the medicare rural community hospital demonstration program to include outpatient services; to the Committee on Finance.

Mr. NELSON of Nebraska. Mr. President, today I introduce legislation to continue the relief to six hospitals in Nebraska that have been struggling financially under the current Medicare payment structure.

Local hospitals can best meet the unique needs of rural communities which is why I am committed to ensuring that these hospitals have the resources they need. Vital services like hospitals are increasingly important for the survival of our rural communities. Towns can't adequately serve residents—or attract new residents—without access to basic services. We need to focus on ensuring that hospitals and other vital services have the resources they need, so that communities will have the essential services they require.

Last year, Senator BROWNBACK and I proposed legislation to provide cost-based reimbursement for rural community hospitals. Rural Community Hospitals (RCH) are hospitals with between 25–50 beds. Those hospitals had been adversely affected by Medicare formulas that set rates for reimbursement nationwide. These rates did not take into account the higher costs of practicing medicine in rural areas as these areas do not have the benefits of volume that larger hospitals enjoy. RCHs are also too large to qualify for critical access designation given to hospitals with fewer than 25 beds.

I am pleased that provisions from this legislation were included in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 as a pilot program. The program provided cost-based reimbursements for inpatient services.

The legislation Senator BROWNBACK and I are introducing today will expand the pilot program to cover outpatient services as well. This legislation will again address a critical shortcoming in current reimbursement practices and help Rural Community Hospitals serve their communities and invest in the future of rural health care.

Six Nebraska hospitals would be affected by expanding the scope of the pilot program. Those hospitals are: Beatrice Community Hospital, Columbus Community Hospital, McCook Community Hospital, Jennie Melham Memorial Medical Center in Broken Bow, Phelps Memorial Health Center in Holdrege, and Tri County Hospital in Lexington.

We made some progress for our rural hospitals by creating the RCH pilot program last year. This legislation would expand on that victory by ensuring that all Medicare treatments, whether inpatient or outpatient, would receive cost-based reimbursement. Expanding this program will make a big difference to these hospitals and more importantly, the patients they serve.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2285. A bill to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce a bill that would direct the Secretary of the Interior to convey a parcel of property to Beaver County, UT. This bill would allow Beaver County in Southwestern Utah to obtain and maintain, without restrictions, the former Minersville State Park. In sum, this bill is necessary to allow County officials to sell a small portion of this land—which has essentially been under their control for over 40 years—in order to offset funding needed to maintain the remainder of the park.

Some history might be beneficial at this point. In 1961, Beaver County obtained a lease for 207 acres of land from the Bureau of Land Management (BLM) to develop a recreational locale under the Recreation and Public Purposes Act. In 1963, Beaver County turned over the acreage to the State for the development of a park. Over the course of nearly 40 years, the State of Utah spent about one million dollars to develop campsites, a boat ramp, a dock, and other camping amenities to turn this area into the Minersville Reservoir State Park. In 2002, in an endeavor to reduce operating costs, Utah State Parks transferred control of the area back over to Beaver County. As County officials stated during negotiations, in order for Beaver County to afford management of the day to day operations of the would-be county park, they would need to sell some of the property to private investors. However, it was not until after park management responsibility was transferred to the county that the BLM pointed out that the state had not yet acquired the property through the Recreation and Public Purposes Act process. The plan for Beaver County to sell some of the land to pay for park operation, however, is not allowed under the Recreation and Public Purposes Act lease, which only allows the property to be developed for recreation or other purposes. The only way for Beaver County to undertake responsibility for park is to remove the current Federal restrictions on the property.

Today, Beaver County faces financial constraints in operating this park that threaten its continued use. Due to the prevailing restrictions in the Recreation and Public Purposes Act lease, initiated more than 40 years ago, the good people of southern Utah and visitors to the area will not be able to access and enjoy this county park. The campsites would be littered and unkept. The boat ramp and the boat docks would have to be closed. The park would become a destitute recreation area, because there would be no one to administer park maintenance and upkeep. The only public access to Minersville Reservoir, which features a converted blue ribbon trout fishery, would go to waste because of the Federal government's current Recreation and Public Purposes Act lease restriction.

I don't believe that letting management of the park revert to the BLM is a viable option either. The intensive, day to day management this small park requires can be best accomplished to local officials. If Beaver County acquires the property, it will continue to make this park an excellent recreational refuge, a superb fishery, and a great place to visit. Beaver County will be able to provide a clean and safe park enjoyed by all who visit. That is why I am introducing this legislation this legislation that would convey the Minersville Park land to Beaver County.

I thank the Senate for the opportunity to address this issue today, and I urge my colleagues to support this legislation.

By Ms. COLLINS:

S. 2288. A bill to amend the Public Health Service Act to assist States in establishing, maintaining, and improving systems to reduce the diversion and abuse of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, the abuse of prescription drugs has reached epidemic proportions in this country. In many States, including my home State of Maine, deaths from prescription drug overdoses now exceed deaths from illicit drugs. Nationwide, emergency room visits for prescription drug problems more than doubled in the last decade.

The number of Americans who divert prescription drugs from their intended purposes and abuse them was estimated at 4 million in 1998. Today, the estimate is 11 million Americans. At a time when, according to the National Institute on Drug Abuse, our young people are turning away from marijuana, cocaine, ecstasy, and even alcohol, they unfortunately are turning to the medicine cabinet.

Nearly one in five of our Nation's high school juniors and seniors say they abuse prescription drugs.

The cost of drug abuse to our society in treatment, health care, lost productivity, crime, and incarceration exceeds $150 billion a year. The cost to its victims is incalculable. That is why today I am introducing the Prescription Drug Stewardship Act. I use the word "stewardship" to emphasize our responsibility as individuals and as a society to see that these beneficial medications are used for their intended purposes, not to cause addiction, disability, and even death.

This legislation attacks the spiraling cycle of diversion and abuse with three key stewardship activities:

First, computerized prescription drug systems to better track the flow of medications.

Second, ongoing practitioner training to help our busy medical professionals keep current with the trends in diversion treatment and abuse.

Third, and perhaps most important, public education to help our citizens better understand the dangers posed by the misuse of these drugs.

I have found in talking with experts in this field that many individuals who would never think of trying heroin, for example, will take leftover prescription drugs that may, in the long run, be equally addictive and just as harmful.

Combined with improved and more accessible substance abuse treatment programs, the legislation I am introducing would help to stem the rising tide of abuse and addiction that has swamped families and weakened communities in my State and across the country.

My bill would authorize per year for each of the next 3 years to fund prescription drug monitoring and education programs at the State level. It would create competitive grant programs which would be administered by the Substance Abuse and Mental Health Services Administration. They would require States to demonstrate their commitment to stewardship with matching funds and also to meet the privacy requirements under current law as they carry out these important activities.

What we have found is that the most abused medications are those that relieve pain and anxiety. For millions of legitimate patients suffering from illness or injury, these medicines are vital and their availability is proper and humane. They can make the difference between suffering and the ability to carry on with a normal life for people who are in serious pain or suffering from serious disease or injury. It is tragically clear, however, that these medications, many of them as powerful or as addictive as illegal drugs, increasingly are being diverted from their legitimate use to trafficking and abuse.

I want to emphasize that the problems is not with these medications when they are prescribed, dispensed, and consumed responsibly. In fact, we know that pain is still undertreated in this country, and that most physicians are extremely responsible in trying to relieve pain felt by their patients. The problem is what happens when the chain of responsibility breaks.

Oversight of the licensing and practices for prescribing and dispensing of these medications has long been a matter of State jurisdiction. As a former State regulator who was in charge of licensing boards for physicians and pharmacists, for example, I certainly have no desire to change that system. The States have not shirked their stewardship responsibility. They simply have been overwhelmed by this epidemic of diversion and abuse, and they need some Federal assistance, not to take over their programs, but to help them in a partnership to make them more effective.

This national calamity has hit rural States particularly hard. The Presiding Officer's home State of North Carolina is one of those States that has felt the devastating impact of this epidemic. Kentucky, Virginia, West Virginia all report prescription drug abuse at epidemic levels. But no State, unfortunately, has been hit harder than my State of Maine.

From 1997 to 2002, the number of accidental deaths in Maine from all drugs soared from 19 to 126, an increase of more than 500 percent, and prescription drugs were present in 60 percent of these deaths.

The 2002 Main Youth Drug and Alcohol Survey found that a disturbing 25 percent of my State's high school juniors and seniors abuse prescription drugs. That is an astonishing number and a very disturbing statistic. In the last 5 years, enrollment in Main clinics that treat opiate addiction has increased tenfold.

These shocking numbers from Main demonstrate that drug abuse and addiction is not longer a big-city problem. It is a problem that afflicts our citizens no matter where they live, whether it is Los Angeles, CA, or Calais, ME. In fact, a hearing I helped put together last year demonstrated that there is a terrible problem in Washington County in Downeast, ME. Some estimates are that as many as 1,000 of the citizens of this county of only

35,000 citizens are struggling with drug addiction and abuse. This was a hearing before the HELP Committee. It actually was 2 years ago. But last August, I chaired a committee meeting of the Governmental Affairs Committee in Bangor, ME, where we heard from law enforcement officers, from drug treatment counselors, and from many others who are expert in drug addiction and abuse. The picture they painted was a startling one. It showed that drug abuse, and abuse of prescription drugs in particular, is a problem throughout the entire State of Maine.

My legislation would provide States, such as Maine, with the resources to carry out three critical stewardship activities. The first would help States to monitor the flow of prescription drugs from practitioner to pharmacy to patient. We know that prescription drugs often find their way to the street when unscrupulous individuals obtain multiple prescriptions from multiple doctors. These so-called doctor shoppers operate in every State. Sometimes they act alone and sometimes they act in concert with organized gangs of criminals. Each can divert hundreds, even thousands, of pills per day. Many of these drugs have a street value 10 times the cost at the pharmacy.

Twenty States now have prescription tracking systems. Maine began operating such a system or putting it together just this summer. About half of these systems use the latest computer technology and have proven that illegal diversion can be curtailed without reducing access to these medications by legitimate patients and without breaching that essential doctor-patient confidentiality.

We want to make sure any system we put in place does not chill a doctor's ability to prescribe legitimate medication for patients who are suffering and need help with their pain.

These systems have also demonstrated an effective prescription drug system more than pays for itself by reducing the tremendous costs associated with drug abuse and addiction. Thirty States, however, have no system whatsoever for monitoring or tracking prescription drugs in a way that would help us identify and put a stop to doctor shopping. My legislation would provide the States with the resources to start up such a system to help improve its quality or to maintain it.

The testimony I heard last August in Bangor, ME, before the Governmental Affairs Committee, along with my colleague Senator SUNUNU, provided the basis not only for that provision of our bill but also for two others. The testimony we heard that day from those who are on the front lines, law enforcement, hospital emergency room physicians, and treatment clinic personnel, was alarming. They told us medical practitioners need our help. Our doctors, our physician assistants, our nurses are busy professionals, often far too busy. Many simply do not have the time to travel to seminars where they would receive information about the latest trends in drug abuse, learn how to recognize drug-seeking behavior, dependence, or addiction among their patients. The most effective and efficient way to provide that kind of training to medical personnel is to take the education to them through one-on-one small group mentoring in their offices or in their hospitals.

The second part of my legislation would provide grants for such mentoring projects so practitioners with special training in drug abuse issues can pass along this vital knowledge to their colleagues who are practicing in communities all over America. Experts also tell us a major reason so many Americans with no history of abusing illegal drugs now are abusing prescriptions drugs is many people have a terrible misconception that these prescription drugs are somehow safe to abuse, that it is safe to take someone else's prescription. After all, they think they are researched in high-tech laboratories, manufactured in modern factories, prescribed and dispensed by highly trained medical experts; therefore, they must be safe. When they are used properly, they are, but as the overdose and addiction statistics prove, when used improperly they can be fatal.

We need an aggressive public education campaign to warn our citizens about the dangers of abusing prescription drugs. The reduction in smoking rates, in illicit drug use, even in drunk-driving deaths is testament to the progress we can make with seemingly intractable problems when we commit the resources for public education campaigns in partnership with the States. I believe the same approach can help our citizens become better stewards of prescription medications.

I urge my colleagues to join me in support of the legislation I am introducing today to address the increasingly devastating problem of prescription drug abuse.

By Mr. SESSIONS:

S. 2289. A bill to amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes; to the Committee on the Judiciary.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Carriers and Mass Transportation Protection Act of 2004".

SEC. 2. ATTACKS AGAINST RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

"§ 1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

"(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

"(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

"(2) with intent to endanger the safety of any passenger or employee of a railroad carrier or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier—

"(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle; or

"(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier or mass transportation provider;

"(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

"(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment; or

"(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

"(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

"(5) with intent to endanger the safety of any passenger or employee of a railroad carrier or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment or a mass transportation vehicle;

"(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier or mass transportation provider that is used for railroad or mass transportation purposes;

"(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

"(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (8);

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

"(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

"(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(3) the railroad on-track equipment or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

"(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

"(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

"(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

"(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

"(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider or railroad carrier engaged in or affecting interstate or foreign commerce.

"(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

"(d) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

"(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

"(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

"(e) DEFINITIONS.—In this section—

"(1) the term 'biological agent' has the meaning given to that term in section 178(1);

"(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

"(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

"(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

"(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

"(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

"(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

"(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

"(9) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

"(10) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

"(11) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

"(12) the term 'serious bodily injury' has the meaning given to that term in section 1365;

"(13) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

"(14) the term 'State' has the meaning given to that term in section 2266 ;

"(15) the term 'toxin' has the meaning given to that term in section 178(2); and

"(16) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking "**RAILROADS**" in the chapter heading and inserting "**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**";

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

"1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.".

(2) The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

"97. Railroad carriers and mass transportation systems on land, on water, or through the air .... 1991".

(3) Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking "1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),";

(B) in section 2339A, by striking "1993,"; and

(C) in section 2516(1)(c) by striking "1992 (relating to wrecking trains)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 322—OBSERVING THE TENTH ANNIVERSARY OF THE RWANDAN GENOCIDE OF 1994

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 332

Whereas 10 years ago, during a 3-month period in 1994, 800,000 Rwandans were killed in an organized campaign of genocide that targeted ethnic Tutsis and political moderates;

Whereas the United Nations Assistance Mission for Rwanda was dramatically scaled back as the genocide occurred;

Whereas by mid-July 2004, 2,000,000 Rwandans became refugees and another 1,000,000 were internally displaced due to the genocide and civil war;

Whereas in 1994, the United Nations Security Council established the International Criminal Tribunal for Rwanda to hold accountable those responsible for the atrocities;

Whereas in March 1998, President William Jefferson Clinton acknowledged that "we in the United States and the world community did not do as much as we could have and should have done to try to limit what occurred in Rwanda in 1994";

Whereas in 1999, the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda found that "the failure by the United Nations to prevent, and subsequently, to stop the genocide in Rwanda was a failure by the United Nations system as a whole";

Whereas the Rwandan genocide and its aftermath played a significant part in the destabilization of the entire Great Lakes region over the last decade; and

Whereas today, the vast majority of Rwandan refugees have returned to their country, and the Government of Rwanda is working to address the backlog of genocide-related cases awaiting trial through the formal justice sector and through community-based gacaca courts: Now, therefore, be it

Resolved, That the Senate—

(1) solemnly observes the tenth anniversary of the Rwandan genocide of 1994;

(2) recognizes and is saddened by the failure of the international community, including the United States, to prevent the genocide;

(3) reaffirms its commitment to the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris on December 9, 1948;

(4) supports ongoing efforts to educate the people of the United States and of the world about the Rwandan genocide;

(5) commits to continuing efforts to strengthen institutions working to bring to justice those responsible for the genocide; and

(6) urges the President and the international community to seize on the occasion of this anniversary to focus attention on the future of Rwanda, and to support the people of Rwanda so that they may—

(A) be free from the fear of ethnic violence, mob violence, or state-sponsored violence;

(B) enjoy full civil and political rights and feel free to voice legitimate disagreements honestly and publicly without fear of violence or intimidation;

(C) have confidence in the independence of the judiciary and the rule of law in Rwanda; and

(D) experience sustained economic growth and development that improves the standard of living in Rwanda.

Mr. FEINGOLD. Mr. President, I rise today to submit a resolution commemorating the 10th anniversary of the 1994 Rwandan genocide. Ten years ago, a deliberate, centrally-planned, and organized campaign of violence was set in motion, and eventually it took the lives of some 800,000 Rwandans. The campaign targeted ethnic Tutsis, but also ethnic Hutus who espoused moderate political beliefs and paid for their commitment to equal rights for all Rwandans with their lives. Millions were displaced, and the institutions and infrastructure of the country were shattered.

As this horror unfolded, the international community, including the United States, failed to act. The United Nations Mission for Rwanda was scaled down when the massacres started rather than being reinforced. The U.S. engaged in semantic strategies of avoidance, referring to massacres and atrocities and finally "acts of genocide," but refusing to acknowledge the truth for fear it should make plain our responsibility.

If some of the Rwandan voices that will be heard during this time of commemoration and reflection sound angry, well, we have to accept that their anger is justified. The world had said "never again" to genocide. And then we abandoned the people of Rwanda to an unspeakable national nightmare.

Today, the people of Rwanda still struggle to cope with the legacy of the genocide, with the trauma of their national experience, and with the search for justice and accountability. And they still struggle with fear.

The United States can and should insist that those who devised and implemented the plan for genocide be held accountable for their actions. Four years ago I was proud to introduce legislation that extended the Rewards for Justice program, so that today the U.S. is helping to track down those who have been indicted by the International Criminal Tribunal for Rwanda and are still at large. In addition, we can and do assist the Government of Rwanda in strengthening its own capacity to address the backlog of genocide-related cases awaiting trial, sometimes through the formal justice system, and sometimes through the community-based gacaca courts.

But today I want to urge my colleagues to seize on this moment not only to reflect on the past, not only to honor the dead, but to think about the future and to care for the living. And the people of Rwanda today do need assistance. Too many Rwandans live in a context of crushing poverty. Approximately 9 percent of the adult population is HIV positive, and life expectancy is about 40 years. There is much development work yet to be done.

In Rwanda today, basic human rights are still not guaranteed. The most recent State Department human rights report on Rwanda makes reference to "politically motivated disappearances; arbitrary arrest and detention, particularly of opposition supporters."

No one with even a cursory grasp of Rwanda's history could fault the government for being sensitive to ethnically divisive forces. But, not all dissent is divisive, and history teaches us that imposing order alone is not enough to guarantee stability and security. Order without justice tends to crumble. Suppressing legitimate disagreements, allowing intimidation to silence citizens—these acts undermine security rather than enhance it. The people of Rwanda, including the leadership of the country, find themselves in a tremendously difficult position. I can imagine, but I cannot know, the challenges of governing in the wake of a tragedy of this magnitude. But I do know that those of us in the international community only compound our past mistakes when we do not interest ourselves in the future of the Rwandan people today, when we do not concern ourselves with freeing the next generation from fear.

I urge my colleagues to support this resolution of solemn commemoration. It acknowledges the terrible past, but it also expresses hope for the future. The people of Rwanda have picked themselves up and have set about rebuilding their lives and their country. The world failed them ten years ago. Let us resolve not to fail them again.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3016. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 3017. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3018. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3019. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3020. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3021. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3022. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3023. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3024. Mrs. CLINTON (for herself and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3025. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3026. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3027. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3028. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3029. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3030. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3031. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3032. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3033. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3034. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3035. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3036. Mr. BAUCUS (for himself and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3037. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3038. Mr. SANTORUM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3039. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3040. Mr. NICKLES (for himself and Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3041. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3042. Mr. WYDEN (for himself, Mr. COLEMAN, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3016. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. TEMPORARY DUTY REDUCTIONS FOR CERTAIN COTTON SHIRTING FABRIC.

(a) CERTAIN COTTON SHIRTING FABRICS.—

(1) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.52.08	Woven fabrics of cotton, all the foregoing certified by the importer as suitable for use in making men's and boys' shirts and as imported by or for the benefit of a manufacturer of men's and boys' shirts, subject to the quantity limitations contained in general note 18 of this subchapter (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2005
9902.52.09	Woven fabrics of cotton, all the foregoing certified by the importer as containing 100 percent pima cotton grown in the United States, as suitable for use in making men's and boys' shirts, and as imported by or for the benefit of a manufacturer of men's and boys' shirts (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2005".

(2) DEFINITIONS AND LIMITATION ON QUANTITY OF IMPORTS.—The U.S. Notes to chapter 99 are amended by adding at the end the following:

"17. For purposes of subheadings 9902.52.08 and 9902.52.09, the term 'making' means cutting and sewing in the United States, and the term 'manufacturer' means a person or entity that cuts and sews in the United States.

"18. The aggregate quantity of cotton fabrics entered under subheading 9902.52.08 from January 1 to December 31 of each year, inclusive, by or on behalf of each manufacturer of men's and boys' shirts shall be limited to 85 percent of the total square meter equivalents of all imported cotton woven fabric used by such manufacturer in cutting and sewing men's and boys' cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.".

(b) DETERMINATION OF TARIFF-RATE QUOTAS.—

(1) AUTHORITY TO ISSUE LICENSES AND LICENSE USE.—To implement the limitation on the quantity of imports of cotton woven fabrics under subheading 9902.52.08 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 18 to subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall issue licenses designating eligible manufacturers and the annual quantity restrictions under each such license. A licensee may assign the authority (in whole or in part) to import fabric under subheading 9902.52.08 of such Schedule.

(2) LICENSES UNDER U.S. NOTE 18.—For purposes of U.S. Note 18 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States, as added by subsection (a)(2), a license shall be issued within 60 days of an application containing a notarized affidavit from an officer of the manufacturer that the manufacturer is eligible to receive a license and stating the quantity of imported cotton woven fabric purchased during calendar year 2000 for use in the cutting and sewing men's and boys' shirts in the United States.

(3) AFFIDAVITS.—For purposes of an affidavit described in this subsection, the date of purchase shall be—

(A) the invoice date if the manufacturer is not the importer of record; and

(B) the date of entry if the manufacturer is the importer of record.

SEC. 502. COTTON TRUST FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Pima Cotton Trust Fund", consisting of $32,000,000 transferred to the Pima Cotton Trust Fund from funds in the general fund of the Treasury.

(b) GRANTS.—

(1) GENERAL PURPOSE.—From amounts in the Pima Cotton Trust Fund, the Secretary of Commerce is authorized to provide grants to spinners of United States grown pima cotton, manufacturers of men's and boys' cotton shirting, and a nationally recognized association that promotes the use of pima cotton grown in the United States, to assist such spinners and manufacturers in maximizing United States employment in the production of textile or apparel products and to increase the promotion of the use of United States grown pima cotton respectively.

(2) TIMING FOR GRANT AWARDS.—The Secretary of the Treasury shall, not later than 90 days after the date of enactment of this section, establish guidelines for the application and awarding of the grants described in paragraph (1), and shall award such grants to qualified applicants not later than 180 days after the date of enactment of this section. Each grant awarded under this section shall be distributed to the qualified applicant in 2 equal annual installments.

(3) DISTRIBUTION OF FUNDS.—Of the amounts in the Pima Cotton Trust Fund—

(A) $8,000,000 shall be made available to a nationally recognized association established for the promotion of pima cotton grown in the United States for the use in textile and apparel goods;

(B) $8,000,000 shall be made available to yarn spinners of pima cotton grown in the United States, and shall be allocated to each spinner based on the percentage of the spinner's production of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), from pima cotton grown in the United States in single and plied form during calendar year 2002 (as evidenced by an affidavit provided by the spinner), compared to the production of such yarns for all spinners who qualify under this subparagraph; and

(C) $16,000,000 shall be made available to manufacturers who cut and sew cotton shirts in the United States and that certify that they used imported cotton fabric during the period January 1, 1998, through July 1, 2003, and shall be allocated to each manufacturer on the bases of the dollar value (excluding duty, shipping, and related costs) of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased by the manufacturer during calendar year 2002 (as evidenced by an affidavit from the manufacturer) used in the manufacturing of men's and boys' cotton shirts, compared to the dollar value (excluding duty, shipping, and related costs) of such fabric for all manufacturers who qualify under this subparagraph.

(4) AFFIDAVIT OF SHIRTING MANUFACTURERS.—For purposes of paragraph (3)(D), an officer of the manufacturer of men's and boys' shirts shall provide a notarized affidavit affirming—

(A) that the manufacturer used imported cotton fabric during the period January 1, 1998, through July 1, 2003, to cut and sew men's and boys' woven cotton shirts in the United States;

(B) the dollar value of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased during calendar year 2002;

(C) that the manufacturer maintains invoices along with other supporting documentation (such as price lists and other technical descriptions of the fabric qualities) showing the dollar value of such fabric purchased, the date of purchase, and evidencing the fabric as woven cotton fabric of 80s or higher count and 2-ply in warp; and

(D) that the fabric was suitable for use in the manufacturing of men's and boys' cotton shirts.

(5) DATE OF PURCHASE.—For purposes of the affidavit required by paragraph (4), the date of purchase shall be the invoice date, and the dollar value shall be determined excluding duty, shipping, and related costs.

(6) AFFIDAVIT OF YARN SPINNERS.—For purposes of paragraph (3)(B), an officer of a company that produces ringspun yarns shall provide a notarized affidavit affirming—

(A) that the manufacturer used pima cotton grown in the United States during the period January 1, 2002, through December 31, 2002, to produce ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during 2002;

(B) the quantity, measured in pounds, of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002; and

(C) that the manufacturer maintains supporting documentation showing the quantity of such yarns produced, and evidencing the yarns as ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002.

(7) NO APPEAL.—Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(c) AUTHORIZATION.—There are authorized to be appropriated, and are appropriated out of the amounts in the general fund of the Treasury not otherwise appropriated, such sums as are necessary to carry out the provisions of this section, including funds necessary for the administration and oversight of the grants provided for in this section.

SA 3017. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN REACTOR VESSEL HEADS USED IN SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/2006" and inserting "12/31/2012".

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.84.03	Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00)	Free	No change	No change	On or before 12/31/2012	".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(2) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after January 1, 2005.

SA 3018. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. PLASMA DISPLAY PANELS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.85.23	Plasma display panels for use in plasma flat screen televisions (provided for in subheading 8529.90.53)	Free	No change	No change	On or before 12/31/2006	".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 3019. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. LCD PANEL ASSEMBLIES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.85.24	LCD panel assemblies for use in LCD projection type televisions (provided for in subheading 9013.80.90)	Free	No change	No change	On or before 12/31/2006	".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 3020. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of the instructions the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. ELECTRON GUNS FOR CATHODE RAY TUBES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.85.25	Electron guns actually used for cathode ray tubes (CRT's) with a high definition television screen aspect ratio of 16:9 (provided for in subheading 8540.91.50)	Free	No change	No change	On or before 12/31/2006	".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 3021. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place the following:

SEC. ____. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Clause (v) of section 72(t)(2)(A) is amended by inserting "(age 50 in the case of a distribution to a qualified public safety employee from a government plan (within the meaning of section 414(d)) which is a defined benefit plan)" before the comma at the end.

(b) DEFINITION OF QUALIFIED PUBLIC SAFETY EMPLOYEE.—Section 72(t) (relating to subsection not to apply to certain distributions) is amended by adding at the end the following new paragraph:

"(10) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this subsection, the term 'qualified public safety employee' means any employee of any police department or fire department organized and operated by a State or political subdivision of a State if the employee provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SA 3022. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the instruction insert the following:

SEC. ____. TAXATION OF CERTAIN SETTLEMENT FUNDS.

(a) IN GENERAL.—Subsection (g) of section 468B (relating to clarification of taxation of certain funds) is amended to read as follows:

"(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise.

"(2) EXEMPTION FROM TAX FOR CERTAIN SETTLEMENT FUNDS.—An escrow account, settlement fund, or similar fund shall be treated as beneficially owned by the United States and shall be exempt from taxation under this subtitle if—

"(A) it is established pursuant to a consent decree entered by a judge of a United States District Court,

"(B) it is created for the receipt of settlement payments as directed by a government entity for the sole purpose of resolving or satisfying one or more claims asserting liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

"(C) the authority and control over the expenditure of funds therein (including the expenditure of contributions thereto and any net earnings thereon) is with such government entity, and

"(D) upon termination, any remaining funds will be disbursed upon instructions by such government entity in accordance with applicable law.

For purposes of this paragraph, the term 'government entity' means the United States, any State or political subdivision thereof, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 3023. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions insert the following:

SEC. ____. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

"(i) EXTENSION FOR OTHER FACILITIES.—Notwithstanding subsection (f)(2), in the case of a facility for producing coke or coke gas which was placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2007, this section shall apply with respect to coke and coke gas produced in such facility and sold during the during the period—

"(1) beginning on the later of January 1, 2004, or the date that such facility is placed in service, and

"(2) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.".

SA 3024. Mrs. CLINTON (for herself and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place the following:

SEC. ____. TRANSMISSION OF PERSONALLY IDENTIFIABLE INFORMATION TO FOREIGN AFFILIATES OR SUBCONTRACTORS.

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, or venture established to make a profit.

(2) COUNTRY WITH ADEQUATE PRIVACY PROTECTION.—The term "country with adequate privacy protection" means a country that has been certified by the Federal Trade Commission as having a legal system that provides adequate privacy protection for personally identifiable information.

(3) HEALTH CARE BUSINESS.—The term "health care business" means any business enterprise or private, nonprofit organization that collects or retains personally identifiable information about consumers in relation to medical care, including—

(A) hospitals;

(B) health maintenance organizations;

(C) medical partnerships;

(D) emergency medical transportation companies;

(E) medical transcription companies;

(F) banks that collect or process medical billing information; and

(G) subcontractors, or potential subcontractors, of the entities described in subparagraphs (A) through (F).

(4) PERSONALLY IDENTIFIABLE INFORMATION.—The term "personally identifiable information" includes—

(A) name;

(B) bank account information;

(C) social security number;

(D) address;

(E) telephone number;

(F) passwords;

(G) mother's maiden name; and

(H) date of birth.

(b) TRANSMISSION OF INFORMATION.—

(1) IN GENERAL.—A business enterprise may transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is a country with adequate privacy protection in accordance with paragraph (2).

(2) CONSENT REQUIRED.—A business enterprise may not transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located outside of the United States unless—

(A) the business enterprise discloses to the citizen whether the country to which the information will be transmitted has been certified under subsection (d);

(B) the business enterprise obtains consent from the citizen, before a consumer relationship is established or before the effective date of this section, to transmit such information to such foreign affiliate or subcontractor; and

(C) the consent referred to in subparagraph (B) is renewed by the citizen within 1 year before such information is transmitted.

(3) LIABILITY.—A business enterprise shall be liable for any damages arising from the improper storage, duplication, sharing, or other misuse of personally identifiable information by the business enterprise or by any of its foreign affiliates or subcontractors that received such information from the business enterprise.

(4) RULEMAKING.—The Chairman of the Federal Trade Commission shall promulgate regulations through which the Chairman

may enforce the provisions of this subsection and impose a fine for a violation of this subsection.

(c) HEALTH CARE INFORMATION.—

(1) IN GENERAL.—A health care business shall be liable for any damages arising from the improper storage, duplication, sharing, or other misuse of personally identifiable information by the business enterprise or by any of its foreign affiliates or subcontractors that received such information from the business enterprise.

(2) NO OPT OUT PROVISION.—A health care business may not terminate an existing relationship with a consumer of health care services to avoid the consent requirement under subsection (b)(2).

(3) RULEMAKING.—The Secretary of Health and Human Services shall promulgate regulations through which the Secretary may enforce the provisions of this subsection and impose a fine for the violation of this subsection.

(d) CERTIFICATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Federal Trade Commission shall—

(A) certify those countries that have legal systems that provide adequate privacy protection for personally identifiable information; and

(B) make the list of countries certified under subparagraph (A) available to the general public.

(2) CERTIFICATION CRITERIA.—In determining whether a country should be certified under this subsection, the Federal Trade Commission shall consider the adequacy of the country's infrastructure for detecting, evaluating, and responding to privacy violations.

(3) EUROPEAN UNION DATA PROTECTION DIRECTIVE.—A country that has passed comprehensive privacy legislation that meets the requirements of the European Union Data Protection Directive shall be certified under this subsection unless the Federal Trade Commission determines that such legislation is not commonly observed within such country.

(e) EFFECTIVE DATE.—This section shall take effect on the date which is 90 days after the date of enactment of this Act.

SA 3025. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 662 of the instructions and insert the following:

SEC. 662. NONATTRIBUTION OF CERTAIN MANUFACTURING BY PERSONS OTHER THAN CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 954(d) (defining foreign base company sales income) is amended by adding at the end the following new paragraph:

"(5) NONATTRIBUTION OF CERTAIN MANUFACTURING ACTIVITIES.—For purposes of this subsection, in determining whether income of a controlled foreign corporation is foreign base company sales income, any manufacturing, production, or construction by a person other than an individual who is an employee of the corporation shall not be attributed to the corporation, and property manufactured, produced, or constructed by such person for the corporation pursuant to a contractual arrangement shall not be considered as property sold on behalf of another person by the corporation.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning on or after the date of the enactment of this Act, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) NO INFERENCE.—Nothing in the amendment made by this section shall be construed to infer the proper treatment of manufacturing, production, or construction for taxable years beginning before the date of the enactment of this Act.

SA 3026. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In the instructions strike section 662.

SA 3027. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause of the instructions and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Jumpstart Our Business Strength (JOBS) Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.

TITLE II—REDUCTION OF TOP CORPORATE TAX RATE

Sec. 201. Reduction in corporate income tax rate.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 301. Reduction in corporate AMT rate.
Sec. 302. Increase in exemption from AMT for small corporations.
Sec. 303. Foreign tax credit under alternative minimum tax.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 401. Clarification of economic substance doctrine.
Sec. 402. Penalty for failing to disclose reportable transaction.
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Sec. 404. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty on promoters of tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Corporate Governance Provisions

Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.

Subtitle C—Enron-Related Tax Shelter Provisions

Sec. 431. Limitation on transfer or importation of built-in losses.
Sec. 432. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 433. Repeal of special rules for FASITs.
Sec. 434. Expanded disallowance of deduction for interest on convertible debt.
Sec. 435. Expanded authority to disallow tax benefits under section 269.
Sec. 436. Modification of interaction between subpart F and passive foreign investment company rules.

Subtitle D—Provisions to Discourage Expatriation

Sec. 441. Tax treatment of inverted corporate entities.

Sec. 442. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 443. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 444. Reinsurance of United States risks in foreign jurisdictions.
Sec. 445. Reporting of taxable mergers and acquisitions.

Subtitle E—International Tax

Sec. 451. Clarification of banking business for purposes of determining investment of earnings in United States property.
Sec. 452. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 453. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 454. Effectively connected income to include certain foreign source income.
Sec. 455. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 456. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

Sec. 461. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 462. Application of earnings stripping rules to partnerships and S corporations.
Sec. 463. Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest.
Sec. 464. Modification of straddle rules.
Sec. 465. Denial of installment sale treatment for all readily tradeable debt.

PART II—CORPORATIONS AND PARTNERSHIPS

Sec. 466. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 467. Clarification of definition of nonqualified preferred stock.
Sec. 468. Modification of definition of controlled group of corporations.
Sec. 469. Mandatory basis adjustments in connection with partnership distributions and transfers of partnership interests.

PART III—DEPRECIATION AND AMORTIZATION

Sec. 471. Extension of amortization of intangibles to sports franchises.
Sec. 472. Class lives for utility grading costs.
Sec. 473. Expansion of limitation on depreciation of certain passenger automobiles.
Sec. 474. Consistent amortization of periods for intangibles.
Sec. 475. Reform of tax treatment of leasing operations.
Sec. 476. Limitation on deductions allocable to property used by governments or other tax-exempt entities.

PART IV—ADMINISTRATIVE PROVISIONS

Sec. 481. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 482. Extension of IRS user fees.
Sec. 483. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 484. Partial payment of tax liability in installment agreements.
Sec. 485. Extension of customs user fees.
Sec. 486. Deposits made to suspend running of interest on potential underpayments.
Sec. 487. Qualified tax collection contracts.

PART V—MISCELLANEOUS PROVISIONS

Sec. 491. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 492. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
Sec. 493. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 494. Definition of insurance company for section 831.
Sec. 495. Limitations on deduction for charitable contributions of patents and similar property.
Sec. 496. Repeal of 10-percent rehabilitation tax credit.
Sec. 497. Increase in age of minor children whose unearned income is taxed as if parent's income.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking "114 or".

(4) Section 275(a) is amended—

(A) by inserting "or" at the end of paragraph (4)(A), by striking "or" at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

"(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of"; and inserting:

"(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of", and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking "114, 164(a)," and inserting "164(a)".

(7) Section 999(c)(1) is amended by striking "941(a)(5),".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term "current FSC/ETI beneficiary" means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	**The phaseout percentage is:**
2004	80
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2004.—The phaseout percentage for 2004 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the FSC/ETI benefit for the taxpayer's taxable year beginning in calendar year 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term "FSC/ETI benefit" means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2004 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2004, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

TITLE II—REDUCTION OF TOP CORPORATE TAX RATE

SEC. 201. REDUCTION IN CORPORATE INCOME TAX RATE.

(a) IN GENERAL.—Subsection (b) of section 11 (relating to tax imposed on corporations) is amended by redesignating paragraph (2) as paragraph (6) and by striking paragraph (1) and inserting the following new paragraphs:

"(1) FOR TAXABLE YEARS BEGINNING AFTER 2009.—In the case of taxable years beginning after 2009, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 33% of the excess over $75,000.

"(2) FOR TAXABLE YEARS BEGINNING IN 2006, 2007, 2008, OR 2009.—In the case of taxable years beginning in 2006, 2007, 2008, or 2009, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 33.5% of the excess over $75,000.

"(3) FOR TAXABLE YEARS BEGINNING IN 2005.—In the case of taxable years beginning in 2005, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 34% of the excess over $75,000.

"(4) FOR TAXABLE YEARS BEGINNING IN 2004.—In the case of taxable years beginning in 2004, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000 but not over $10,000,000.	$13,750, plus 34% of the excess over $75,000.
Over $10,000,000	$3,388,250, plus 34.5% of the excess over $10,000,000.

"(5) PHASEOUT OF LOWER RATES FOR CERTAIN TAXPAYERS.—

"(A) GENERAL RULE.—In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under paragraph (1), (2), (3) or (4) for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,000 ($11,750 in the case of taxable years beginning before 2006 and $11,375 in the case of taxable years beginning after 2005 and before 2010).

"(B) HIGHER INCOME CORPORATIONS.—In the case of a corporation which has taxable income in excess of $15,000,000 for taxable years beginning in 2004, the amount of the tax determined under the foregoing provisions of this subsection shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $50,000.".

(b) CONFORMING AMENDMENTS.—

(1) Section 904(b)(3)(D)(ii) is amended to read as follows:

"(ii) in the case of a corporation, section 1201(a) applies to such taxable year.".

(2) Section 1201(a) is amended by striking "the last 2 sentences of section 11(b)(1)" and inserting "section 11(b)(5)".

(3) Section 1561(a) is amended—

(A) by striking "the last 2 sentences of section 11(b)(1)" and inserting "section 11(b)(5)", and

(B) by striking "such last 2 sentences" and inserting "section 11(b)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 301. REDUCTION IN CORPORATE AMT RATE.

(a) IN GENERAL.—Section 55(b)(1)(B)(i) (relating to amount of tentative tax for corporations) is amended by striking "20 percent" and inserting "19 percent (19.5 percent for taxable years beginning in 2004 or 2005)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 302. INCREASE IN EXEMPTION FROM AMT FOR SMALL CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 55(e) (relating to exemption for small corporations) is amended—

(1) by striking "$7,500,000" in the heading and the text of subparagraph (A) and inserting "$15,000,000",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 303. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking "and if section 59(a)(2) did not apply".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable To Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part,. the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) Required Disclosure Not Subject to Claim of Confidentiality.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) No claim of confidentiality against disclosure.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Certain Rules To Apply.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 415. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) Result Not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 422. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) In General.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) In General.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) Increase in Monetary Limitation for Underpayment or Overpayment of Tax Due to Fraud.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) Increase in Penalties.—

(1) Attempt to evade or defeat tax.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) Willful failure to file return, supply information, or pay tax.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) Fraud and false statements.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) Effective Date.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) Limitations on Built-In Losses.—

"(1) Limitation on importation of built-in losses.—

"(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) Property described.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

"(2) Limitation on transfer of built-in losses in section 351 transactions.—

"(A) In general.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) Effective Date.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 is amended by adding at the end the following new subsection:

"(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) Effective Date.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) Qualified reserve fund.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking "or a FASIT".

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing fasits.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by inserting "or equity held by the issuer (or any related party) in any other person" after "or a related party".

(b) Capitalization Allowed With Respect to Equity of Persons Other Than Issuer and Related Parties.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Capitalization allowed with respect to equity of persons other than issuer and related parties.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) Exception for Certain Instruments Issued by Dealers in Securities.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) Conforming Amendments.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(d) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

"(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Rules for application of subsection (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) Certain stock disregarded.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) Plan deemed in certain cases.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) Certain transfers disregarded.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) Special rule for related partnerships.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) Treatment of certain rights.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) Foreign incorporated entity.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) Foreign related person.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) Subsequent acquisitions by unrelated domestic corporations.—

"(A) In general.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) Requirements.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) Regulations.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) Information Reporting.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) Conforming Amendment.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) Transition Rule for Certain Regulated Investment Companies and Unit Investment Trusts.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) Exclusion for certain gain.—

"(A) In general.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) Cost-of-living adjustment.—

"(i) In general.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding rules.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election To Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) Deferred tax account.—For purposes of subparagraph (B)(ii)—

"(i) Opening balance.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) Increase for interest.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) Decrease for taxes previously paid.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) Allocable expatriation gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) Tax deducted and withheld.—

"(i) In general.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) Exception where failure to waive treaty rights.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) Disposition.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(i) Qualified trust.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) Vested interest.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) Nonvested interest.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) Coordination with retirement plan rules.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) Determination of beneficiaries' interest in trust.—

"(A) Determinations under paragraph (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) Other determinations.—For purposes of this section—

"(i) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) Termination of Deferrals, etc.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Imposition of Tentative Tax.—

"(1) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) Due date.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) Treatment of tax.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) Deferral of tax.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) Special Liens for Deferred Tax Amounts.—

"(1) Imposition of lien.—

"(A) In general.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) Deferred amount.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) Period of lien.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) Certain rules apply.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Inclusion in Income of Gifts and Bequests Received by United States Citizens and Residents From Expatriates.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) Gifts and Inheritances From Covered Expatriates.—

"(1) In general.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) Exceptions for transfers otherwise subject to estate or gift tax.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) Termination of united states citizenship.—

"(A) In general.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) Dual citizens.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) Ineligibility for Visa or Admission to United States.—

(1) In general.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) Former citizens not in compliance with expatriation revenue provisions.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) Availability of information.—

(A) In general.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) Disclosure to deny visa or admission to certain expatriates.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) Safeguards.—

(i) Technical amendments.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) Conforming amendments.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) Technical amendments.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) Application.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after January 1, 2004.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) Application.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after January 1, 2004.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after January 1, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) Due date for tentative tax.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) In General.—Subtitle D is amended by adding at the end the following new chapter:

"CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) Imposition of Tax.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) Value.—For purposes of subsection (a)—

"(1) In general.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) Date for determining value.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) Tax To Apply Only if Shareholder Gain Recognized.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) Exception Where Gain Recognized on Compensation.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

"(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

"(e) Definitions.—For purposes of this section—

"(1) Disqualified individual.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

"(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

"(2) Inverted corporation; inversion date.—

"(A) Inverted corporation.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

"(B) Inversion date.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) Specified stock compensation.—

"(A) In general.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) Exceptions.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or "(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

"(A) obligations of the United States, money, or deposits with—

"(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

"(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

"(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

"(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

"(A) subsection (a) and section 331 shall not apply to such distribution, and

"(B) such distribution shall be treated as a distribution to which section 301 applies.

"(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

"(i) which is a common parent of an affiliated group,

"(ii) stock of which is directly owned by the distributee foreign corporation,

"(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

"(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

"(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) of section 1504(b)).

"(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

"(4) Regulations.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.".

(b) Effective Date.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) Original Issue Discount.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Special rule for certain foreign entities.—

"(i) In general.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) Secretarial authority.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.".

(b) Interest and Other Deductible Amounts.—Section 267(a)(3) is amended—

(1) by striking "The Secretary" and inserting:

"(A) In general.—The Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) Special rule for certain foreign entities.—

"(i) In general.—Notwithstanding subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent such amount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) Secretarial authority.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.".

(c) Effective Date.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) In General.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

"Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) In General.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

"(D) Application to dispositions of stock in controlled foreign corporations.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.".

(b) Effective Date.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) In General.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) Minimum Holding Period for Withholding Taxes on Gain and Income Other Than Dividends etc.—

"(1) In general.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

"(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

"(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

"(2) Exception for taxes paid by dealers.—

"(A) In general.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

"(B) Qualified tax.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) Dealer.—For purposes of subparagraph (A), the term 'dealer' means—

"(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

"(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

"(D) Regulations.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

"(3) Exceptions.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

"(4) Certain rules to apply.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

"(5) Determination of holding period.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.".

(b) Conforming Amendment.—The heading of subsection (k) of section 901 is amended by inserting "on Dividends" after "Taxes".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) In General.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Stripped Interests in Bond and Preferred Stock Funds, etc.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) Cross Reference.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) Cross reference.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) Effective Date.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) In General.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

"(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

"(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.".

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Paragraph (3) of section 1092(d) (relating to definitions and special rules) is amended to read as follows:

"(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'personal property' includes—

"(i) any stock which is a part of a straddle at least 1 of the offsetting positions of which is a position with respect to such stock or substantially similar or related property, or

"(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

"(B) RULE FOR APPLICATION.—For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in subparagraph (A)(ii), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.".

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

"(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) In general.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) Brother-sister controlled group.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) Applicable provision.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) In General.—Section 754 is repealed.

(b) Adjustment to Basis of Undistributed Partnership Property.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking "**OPTIONAL**" in the heading.

(c) Adjustment to Basis of Partnership Property.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) Election To Adjust Basis for Transfers Upon Death of Partner.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**OPTIONAL**" in the heading.

(d) Conforming Amendments.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 755(c), as added by this Act, is amended by striking "section 734(b)" and inserting "section 734(a)".

(4) Section 761(e)(2) is amended by striking "optional".

(5) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(6) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(7) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) Repeal of section 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) In General.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) Conforming Amendments.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) Section 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) Gas Utility Property.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) Electric Utility Property.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-year property.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) Conforming Amendments.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 473. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) In General.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) Limitation on cost taken into account for certain passenger vehicles.—

"(A) In general.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) Sport utility vehicle.—For purposes of subparagraph (A)—

"(i) In general.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) Certain vehicles excluded.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) Start-Up Expenditures.—

(1) Allowance of deduction.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) Conforming amendment.—Subsection (b) of section 195 is amended by striking "Amortize" and inserting "Deduct" in the heading.

(b) Organizational Expenditures.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) Election to Deduct.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) Treatment of Organizational and Syndication Fees or Partnerships.—

(1) In general.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) Dispositions before close of amortization period.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) Conforming amendment.—Subsection (b) of section 709 is amended by striking "Amortization" and inserting "Deduction" in the heading.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 475. REFORM OF TAX TREATMENT OF LEASING OPERATIONS.

(a) Clarification of Recovery Period for Tax-Exempt Use Property Subject to Lease.—Subparagraph (A) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting "(notwithstanding any other subparagraph of this paragraph)" after "shall".

(b) Limitation on Depreciation Period for Software Leased to Tax-Exempt Entity.—Paragraph (1) of section 167(f) is amended by adding at the end the following new subparagraph:

"(C) Tax-exempt use property subject to lease.—In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3))."

(c) Lease Term To Include Related Service Contracts.—Subparagraph (A) of section 168(i)(3) (relating to lease term) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

"(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

"(II) which is with respect to the property subject to the lease or substantially similar property, and".

(d) Effective Date.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) In General.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

"SEC. 470. LIMITATIONS ON LOSSES FROM TAX-EXEMPT USE PROPERTY.

"(a) Limitation on Losses.—Except as otherwise provided in this section, a tax-exempt use loss for any taxable year shall not be allowed.

"(b) Disallowed Loss Carried to Next Year.—Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed under subsection (a) for any taxable year shall be treated as a deduction with respect to such property in the next taxable year.

"(c) Definitions.—For purposes of this section—

"(1) Tax-exempt use loss.—The term 'tax-exempt use loss' means, with respect to any taxable year, the amount (if any) by which—

"(A) the sum of—

"(i) the aggregate deductions (other than interest) directly allocable to a tax-exempt use property, plus

"(ii) the aggregate deductions for interest properly allocable to such property, exceed

"(B) the aggregate income from such property.

"(2) Tax-exempt use property.—The term 'tax-exempt use property' has the meaning given to such term by section 168(h) (without regard to paragraph (1)(C) or (3)(C) thereof and determined as if property described in section 167(f)(1)(B) were tangible property).

"(d) Exception for Certain Leases.—This section shall not apply to any lease of property which meets the requirements of all of the following paragraphs:

"(1) Property not financed with tax-exempt bonds.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from the proceeds of an obligation the interest on which is exempt from tax under section 103(a) and which (or any refunding bond of which) is outstanding when the lease is entered into. The Secretary may by regulations provide for a de minimis exception from this paragraph.

"(2) Availability of funds.—

"(A) In general.—A lease of property meets the requirements of this paragraph if (at any time during the lease term) not more than an allowable amount of funds are—

"(i) subject to any arrangement referred to in subparagraph (B), or

"(ii) otherwise reasonably expected to remain available,

to or for the benefit of the lessor or any lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease.

"(B) Arrangements.—The arrangements referred to in this subparagraph are—

"(i) a defeasance arrangement, a loan by the lessee to the lessor or any lender, a deposit arrangement, a letter of credit collateralized with cash or cash equivalents, a payment undertaking agreement, a lease prepayment, a sinking fund arrangement, or any similar arrangement (whether or not such arrangement provides credit support), and

"(ii) any other arrangement identified by the Secretary in regulations.

"(C) Allowable amount.—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'allowable amount' means an amount equal to 20 percent of the lessor's adjusted basis in the property at the time the lease is entered into.

"(ii) Higher amount permitted in certain cases.—To the extent provided in regulations, a higher percentage shall be permitted under clause (i) where necessary because of the credit-worthiness of the lessee. In no event may such regulations permit a percentage of more than 50 percent.

"(iii) Option to purchase.—If under the lease the lessee has the option to purchase the property for other than the fair market value of the property (determined at the time of exercise), the allowable amount at the time such option may be exercised may not exceed 50 percent of the price at which such option may be exercised.

"(3) Lessor must make substantial equity investment.—A lease of property meets the requirements of this paragraph if—

"(A) the lessor—

"(i) has at the time the lease is entered into an unconditional at-risk equity investment (as determined by the Secretary) in the property of at least 20 percent of the lessor's adjusted basis in the property as of that time, and

"(ii) maintains such investment throughout the term of the lease, and

"(B) the fair market value of the property at the end of the lease term is reasonably expected to be equal to at least 20 percent of such basis.

"(4) Lessee may not bear more than minimal risk of loss.—

"(A) In general.—A lease of property meets the requirements of this paragraph if there is no arrangement under which more than a minimal risk of loss (as determined under regulations) in the value of the property is borne by the lessee.

"(B) Certain arrangements fail requirement.—In no event will the requirements of this paragraph be met if there is any arrangement under which the lessee bears—

"(i) any portion of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were 25 percent less than its projected fair market value at the end of the lease term, or

"(ii) more than 50 percent of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were zero.

"(5) Regulatory requirements.—A lease of property meets the requirements of this paragraph if such lease of property meets such requirements as the Secretary may prescribe by regulations.

"(e) Special Rules.—

"(1) Treatment of former tax-exempt use property.—

"(A) In general.—In the case of any former tax-exempt use property—

"(i) any deduction allowable under subsection (b) with respect to such property for any taxable year shall be allowed only to the extent of any net income (without regard to such deduction) from such property for such taxable year, and

"(ii) any portion of such unused deduction remaining after application of clause (i) shall be treated as allowable under subsection (b) with respect to such property in the next taxable year.

"(B) Former tax-exempt use property.—For purposes of this subsection, the term 'former tax-exempt use property' means any property which—

"(i) is not tax-exempt use property for the taxable year, but

"(ii) was tax-exempt use property for any prior taxable year.

"(2) Disposition of entire interest in property.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property (or former tax-exempt use property), rules similar to the rules of section 469(g) shall apply for purposes of this section

"(3) Coordination with section 469.—This section shall be applied before the application of section 469.

"(f) Other Definitions.—For purposes of this section—

"(1) Related parties.—The terms 'lessor', 'lessee', and 'lender' include any related party (within the meaning of section 197(f)(9)(C)(i)).

"(2) Lease term.—The term 'lease term' has the meaning given to such term by section 168(i)(3).

"(3) Lender.—The term 'lender' means, with respect to any lease; a person that makes a loan to the lessor which is secured (or economically similar to being secured) by the lease or the leased property.

"(4) Loan.—The term 'loan' includes any similar arrangement.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section, including regulation which—

"(1) allow in appropriate cases the aggregation of property subject to the same lease, and

"(2) provide for the determination of the allocation of interest expense for purposes of this section."

(b) Conforming Amendment.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

"Sec. 470. Limitations on losses from tax-exempt use property."

(c) Effective Date.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) In General.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) In General.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) Effective Date.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) General Rule.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable penalty.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Voluntary offshore compliance initiative.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) Participation.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 31, 2004" and inserting "September 30, 2013".

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than as Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) USE OF DEPOSITS.—

"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84-58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

"SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

"(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

"(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

"(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

"(A) to locate and contact any taxpayer specified by the Secretary,

"(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

"(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

"(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

"(3) prohibits subcontractors from—

"(A) having contacts with taxpayers,

"(B) providing quality assurance services, and

"(C) composing debt collection notices, and

"(4) permits subcontractors to perform other services only with the approval of the Secretary.

"(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

"(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

"(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

"(f) CROSS REFERENCES.—

"(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

"(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).".

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting "6306," before "7651".

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

"Sec. 6306. Qualified Tax Collection Contracts.".

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

"SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

"(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

"(b) MODIFICATIONS.—For purposes of subsection (a)—

"(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

"(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

"(3) Such civil action shall not be an exclusive remedy with respect to such person.

"(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

"Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.".

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

"(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.".

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

"(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.".

(e) EFFECTIVE DATE.—The amendments made to this section shall take effect on the date of the enactment of this Act.

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "May 8, 2003".

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such

date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) In General.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) Property acquired in like-kind exchange.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.".

(b) Effective Date.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) In General.—Section 501(c)(15)(A) is amended to read as follows:

"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

"(i) the gross receipts for the taxable year do not exceed $600,000, and

"(ii) more than 50 percent of such gross receipts consist of premiums.".

(b) Controlled Group Rule.—Section 501(c)(15)(C) is amended by inserting ", except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) Conforming Amendment.—Clause (i) of section 831(b)(2)(A) is amended by striking "exceed $350,000 but".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 494. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) In General.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Insurance Company Defined.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 495. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) Deduction Allowed Only to the Extent of Basis.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,".

(b) Treatment of Contributions Where Donor Receives Interest.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) Special rules for contributions of patents and similar property where donor receives interest.—

"(A) Disallowance of deduction.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

"(B) Contributions with qualified interest.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

"(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

"(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

"(C) Qualified interest.—For purposes of this paragraph—

"(i) In general.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

"(ii) Secretarial authority.—

"(I) In general.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

"(II) Exceptions.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

"(iii) Limitation.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.".

(c) Reporting Requirements.—

(1) In general.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking "If" and inserting:

"(1) Dispositions of donated property.—If",

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

"(2) Payments of qualified interests.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

"(B) a description, and date of contribution, of the property to which the qualified interest relates,

"(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

"(D) the date and the amount of the payment pursuant to the qualified interest, and

"(E) a description of the terms of the qualified interest.".

(2) Conforming amendments.—

(A) The heading for section 6050L is amended by striking "**CERTAIN DISPOSITIONS OF**".

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking "certain dispositions of".

(d) Anti-Abuse Rules.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) Effective Date.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 496. REPEAL OF 10-PERCENT REHABILITATION TAX CREDIT.

Section 47 is amended by adding at the end the following new subsection:

"(e) Termination.—This section shall not apply to expenditures described in subsection (a)(1) incurred in taxable years beginning after December 31, 2003.".

SEC. 497. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) In General.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 3028. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. Frist to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions add the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. CUSTOMS SERVICES.

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended—

(1) by striking "(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2))," and inserting:

"(1) In general.—

"(A) Scheduled flights.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),"; and

(2) by adding at the end the following:

"(B) CHARTER FLIGHTS.—If an air carrier (as defined in section 40102(2) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the air carrier.".

SA 3029. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance Equity For Service Workers Act of 2004".

SEC. 512. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking "firm)" and inserting "firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)".

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (1), by inserting "or public agency" after "of the firm"; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking "like or directly competitive with articles produced" and inserting "or services like or directly competitive with articles produced or services provided"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

"(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (2), by inserting "or service" after "related to the article"; and

(C) in paragraph (3)(A), by inserting "or services" after "component parts";

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

"(C) Taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.".

(B) in paragraph (3)—

(i) by inserting "or services" after "value-added production processes";

(ii) by striking "or finishing" and inserting ", finishing, or testing";

(iii) by inserting "or services" after "for articles"; and

(iv) by inserting "(or subdivision)" after "such other firm"; and

(C) in paragraph (4)—

(i) by striking "for articles" and inserting ", or services, used in the production of articles or in the provision of services"; and

(ii) by inserting "(or subdivision)" after "such other firm"; and

(4) by adding at the end the following new subsection:

"(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

"(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

"(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.".

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$220,000,000" and inserting "$440,000,000".

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting "or public agency" after "of a firm"; and

(B) by inserting "or public agency" after "or subdivision";

(2) in paragraph (2)(B), by inserting "or public agency" after "the firm";

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

"(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

"(8) The term 'service sector firm' means an entity engaged in the business of providing services.".

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ", other than subchapter D".

SEC. 513. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting "or service sector firm" after "(including any agricultural firm";

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or service sector firm" after "any agricultural firm";

(ii) in subparagraph (B)(ii), by inserting "or service" after "of an article"; and

(iii) in subparagraph (C), by striking "articles like or directly competitive with articles which are produced" and inserting "articles or services like or directly competitive with articles or services which are produced or provided"; and

(C) by adding at the end the following:

"(e) BASIS FOR SECRETARY DETERMINATION.—

"(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "$16,000,000" and inserting "$32,000,000".

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking "For purposes of" and inserting "(a) FIRM.—For purposes of"; and

(B) by adding at the end the following:

"(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.".

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting "or service" after "new product".

SEC. 514. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking "The Secretary" and inserting "(a) MONITORING PROGRAMS.—The Secretary";

(B) by inserting "and services" after "imports of articles";

(C) by inserting "and domestic provision of services" after "domestic production";

(D) by inserting "or providing services" after "producing articles"; and

(E) by inserting ", or provision of services," after "changes in production"; and

(2) by adding at the end the following:

"(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

"(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity For Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

"(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.".

SEC. 515. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

In General.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

"(3) Eligibility.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

"(A) is covered by a certification under subchapter A of this chapter;

"(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

"(C) is at least 40 years of age;

"(D) earns not more than $50,000 a year in wages from reemployment;

"(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

"(F) does not return to the employment from which the worker was separated.".

(b) Conforming Amendments.—(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2) (A) and (B)) are amended by striking "paragraph (3)(B)" and inserting "paragraph (3)" each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)".

SEC. 516. CLARIFICATION OF MARKETING YEAR.

Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: ", or in the case of an agricultural commodity that has no marketing year, in a 12-month period for which the petitioner provides written justification".

SEC. 517. EFFECTIVE DATE.

(a) In General.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall take effect on October 1, 2004.

(b) Special Rule for Certain Service Workers.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 512(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before October 1, 2004.

(c) Special Rule for Taconite.—A group of workers in a firm, or subdivision of a firm, engaged in the production of taconite pellets who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm occurred on or after November 4, 2002 and before October 1, 2004.

Subtitle B—Data Collection

SEC. 521. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance Accountability Act".

SEC. 522. DATA COLLECTION; STUDY; INFORMATION TO WORKERS.

(a) Data Collection; Evaluations.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

"SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.

"(a) Data Collection.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

"(b) Performance Evaluations.—The Secretary shall establish an effective performance measuring system to evaluate the following:

"(1) Program performance.—A comparison of the trade adjustment assistance program before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002 with respect to—

"(A) the number of workers certified and the number of workers actually participating in the trade adjustment assistance program;

"(B) the time for processing petitions;

"(C) the number of training waivers granted;

"(D) the coordination of programs under this chapter with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(E) the effectiveness of individual training providers in providing appropriate information and training;

"(F) the extent to which States have designed and implemented health care coverage options under title II of the Trade Act of 2002, including any difficulties States have encountered in carrying out the provisions of title II;

"(G) how Federal, State, and local officials are implementing the trade adjustment assistance program to ensure that all eligible individuals receive benefits, including providing outreach, rapid response, and other activities; and

"(H) any other data necessary to evaluate how individual States are implementing the requirements of this chapter.

"(2) Program participation.—The effectiveness of the program relating to—

"(A) the number of workers receiving benefits and the type of benefits being received both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

"(B) the number of workers enrolled in, and the duration of, training by major types of training both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

"(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

"(D) reemployment rates and sectors in which dislocated workers have been employed;

"(E) the cause of dislocation identified in each petition that resulted in a certification under this chapter; and

"(F) the number of petitions filed and workers certified in each congressional district of the United States.

"(c) State Participation.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

"(1) State participation.—Participation by each State in the performance measurement system established under subsection (b).

"(2) Monitoring.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

"(3) Response.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

"(d) Reports.—

"(1) Reports by the secretary.—

"(A) Initial report.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Accountability Act, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

"(i) describes the performance measurement system established under subsection (b);

"(ii) includes analysis of data collected through the system established under subsection (b); and

"(iii) provides recommendations for program improvements.

"(B) Annual report.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clause (ii) of subparagraph (A).

"(2) State reports.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

"(3) Publication.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under subsection (b).".

(b) Conforming Amendments.—

(1) Coordination.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking "Departments of Labor and Commerce" and inserting "Departments of Labor, Commerce, and Agriculture".

(2) Trade monitoring system.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking "The Secretary of Commerce and the Secretary of Labor" and inserting "The Secretaries of Commerce, Labor, and Agriculture".

(3) Table of contents.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

"Sec. 250. Data collection; evaluations; reports.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 531. SHORT TITLE.

This subtitle may be cited as the “Trade Adjustment Assistance for Communities Act of 2004”.

SEC. 532. PURPOSE.

The purpose of this subtitle is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 533. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

“SEC. 271. DEFINITIONS.

“In this chapter:

“(1) Affected domestic producer.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

“(2) Agricultural commodity producer.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

“(3) Community.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

“(4) Community negatively impacted by trade.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

“(5) Eligible community.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

“(6) Fisherman.—

“(A) In general.—The term 'fisherman' means any person who—

“(i) is engaged in commercial fishing; or

“(ii) is a United States fish processor.

“(B) Commercial fishing, fish, fishery, fishing, fishing vessel, person, and United States fish processor.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

“(7) Job loss.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

“(8) Secretary.—The term 'Secretary' means the Secretary of Commerce.

“SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

“(a) Establishment.—Within 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2004, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

“(b) Personnel.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

“(c) Coordination of Federal Response.—The Secretary shall—

“(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

“(2) coordinate the Federal response to an eligible community—

“(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

“(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

“(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

“(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

“(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

“(A) identify serious economic problems in the community that are the result of negative impacts from trade;

“(B) integrate the major groups and organizations significantly affected by the economic adjustment;

“(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

“(D) diversify and strengthen the community economy; and

“(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

“(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

“(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

“(6) administer the grant programs established under sections 274 and 275; and

“(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

“SEC. 273. CERTIFICATION AND NOTIFICATION.

“(a) Certification.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

“(b) Determination That Community Is Eligible.—

“(1) Community described.—A community described in this paragraph means a community with respect to which on or after October 1, 2004—

“(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

“(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

“(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

“(D) an affected domestic producer is located in the community; or

“(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

“(2) Negatively impacted by trade.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

“(A) the number of jobs affected compared to the size of workforce in the community;

“(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

“(C) the income levels and the extent of underemployment in the community;

“(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

“(E) the unique problems and needs of the community.

“(c) Definition and Special Rules.—

“(1) Event described.—An event described in this paragraph means one of the following:

“(A) A notification described in paragraph (2).

“(B) A certification of a firm under section 251.

“(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

“(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

“(2) Notification.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

“(d) Notification to Eligible Communities.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

“(1) of the determination under subsection (b);

“(2) of the provisions of this chapter;

“(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

“(4) how to obtain technical assistance provided under section 272(c)(3); and

“(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

“SEC. 274. STRATEGIC PLANS.

“(a) In General.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

"(b) Requirements for Strategic Plan.—A strategic plan shall contain, at a minimum, the following:

"(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

"(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

"(3) A description of the projects to be undertaken by the eligible community.

"(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

"(5) A description of how the plan will achieve economic adjustment and diversification.

"(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

"(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

"(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

"(9) A description of the educational programs available for workforce training and future employment needs.

"(10) A description of how the plan will adapt to changing markets and business cycles.

"(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

"(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

"(c) Grants To Develop Strategic Plans.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

"(d) Submission of Plan.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

"SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

"(a) In General.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

"(b) Additional Grants.—

"(1) In general.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

"(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

"(B) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

"(2) Use as non-federal share.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

"(c) Rural Community Preference.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

"SEC. 276. GENERAL PROVISIONS.

"(a) Regulations.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

"(b) Supplement Not Supplant.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

"(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.".

SEC. 534. CONFORMING AMENDMENTS.

(a) Termination.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

"(3) Assistance for communities.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.".

(b) Table of Contents.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

"Chapter 4—Trade Adjustment Assistance for Communities

"Sec. 271. Definitions.
"Sec. 272. Community Trade Adjustment Assistance Program.
"Sec. 273. Certification and notification.
"Sec. 274. Strategic plans.
"Sec. 275. Grants for economic development.
"Sec. 276. General provisions.".

(c) Judicial Review.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking "section 271" and inserting "section 273".

SEC. 535. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2004.

Subtitle D—Office of Trade Adjustment Assistance

SEC. 541. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance for Firms Reorganization Act".

SEC. 542. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) In General.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

"SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

"(a) Establishment.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

"(b) Personnel.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

"(c) Functions.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.".

(b) Conforming Amendment.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

"Sec. 255A. Office of Trade Adjustment Assistance.".

SEC. 543. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) October 1, 2004.

TITLE VI—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 601. CLARIFICATION OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.

(a) In General.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting "(prior to the employment separation necessary to attain the status of an eligible individual)" after "9801(c)".

(b) Conforming Amendment.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting "(prior to the employment separation necessary to attain the status of an eligible individual)" after "1986".

(c) Effective Date.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 602. DISREGARD OF TAA PRE-CERTIFICATION PERIOD FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA Amendment.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

"(C) TAA-eligible individuals.—

"(i) Disregard of pre-certification period.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) Definitions.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).".

(b) PHSA Amendment.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

"(C) TAA-eligible individuals.—

"(i) Disregard of pre-certification period.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).".

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

"(D) TAA-ELIGIBLE INDIVIDUALS.—

"(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).".

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 603. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking "65" and inserting "75".

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking "65" and inserting "75".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 604. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM.

(a) IN GENERAL.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

"(e) EXPEDITED PAYMENT OF PRORATED FIRST MONTHLY PREMIUM.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the applicable percentage (as defined in section 35(a)(2)) of the prorated first monthly premium for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months upon receipt by the Secretary of evidence of payment of such premium by the certified individual.".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SA 3030. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions, add the following:

TITLE V—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance Equity For Service Workers Act of 2004".

SEC. 512. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking "firm)" and inserting "firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)".

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (1), by inserting "or public agency" after "of the firm"; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking "like or directly competitive with articles produced" and inserting "or services like or directly competitive with articles produced or services provided"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

"(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (2), by inserting "or service" after "related to the article"; and

(C) in paragraph (3)(A), by inserting "or services" after "component parts";

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

"(C) Taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.".

(B) in paragraph (3)—

(i) by inserting "or services" after "value-added production processes";

(ii) by striking "or finishing" and inserting ", finishing, or testing";

(iii) by inserting "or services" after "for articles"; and

(iv) by inserting "(or subdivision)" after "such other firm"; and

(C) in paragraph (4)—

(i) by striking "for articles" and inserting ", or services, used in the production of articles or in the provision of services"; and

(ii) by inserting "(or subdivision)" after "such other firm"; and

(4) by adding at the end the following new subsection:

"(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

"(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

"(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.".

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$220,000,000" and inserting "$440,000,000".

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting "or public agency" after "of a firm"; and

(B) by inserting "or public agency" after "or subdivision";

(2) in paragraph (2)(B), by inserting "or public agency" after "the firm";

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

"(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

"(8) The term 'service sector firm' means an entity engaged in the business of providing services.".

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ", other than subchapter D".

SEC. 513. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting "or service sector firm" after "(including any agricultural firm";

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or service sector firm" after "any agricultural firm";

(ii) in subparagraph (B)(ii), by inserting "or service" after "of an article"; and

(iii) in subparagraph (C), by striking "articles like or directly competitive with articles which are produced" and inserting "articles or services like or directly competitive with articles or services which are produced or provided"; and

(C) by adding at the end the following:

"(e) BASIS FOR SECRETARY DETERMINATION.—

"(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "$16,000,000" and inserting "$32,000,000".

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking "For purposes of" and inserting "(a) FIRM.—For purposes of"; and

(B) by adding at the end the following:

"(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.".

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting "or service" after "new product".

SEC. 514. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking "The Secretary" and inserting "(a) MONITORING PROGRAMS.—The Secretary";

(B) by inserting "and services" after "imports of articles";

(C) by inserting "and domestic provision of services" after "domestic production";

(D) by inserting "or providing services" after "producing articles"; and

(E) by inserting ", or provision of services," after "changes in production"; and

(2) by adding at the end the following:

"(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

"(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity For Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

"(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.".

SEC. 515. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

"(3) ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

"(A) is covered by a certification under subchapter A of this chapter;

"(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

"(C) is at least 40 years of age;

"(D) earns not more than $50,000 a year in wages from reemployment;

"(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

"(F) does not return to the employment from which the worker was separated.".

(b) CONFORMING AMENDMENTS.—(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2) (A) and (B)) are amended by striking "paragraph (3)(B)" and inserting "paragraph (3)" each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)".

SEC. 516. CLARIFICATION OF MARKETING YEAR.

Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: ", or in the case of an agricultural commodity that has no marketing year, in a 12-month period for which the petitioner provides written justification".

SEC. 517. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall take effect on October 1, 2004.

(b) SPECIAL RULE FOR CERTAIN SERVICE WORKERS.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 512(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before October 1, 2004.

(c) SPECIAL RULE FOR TACONITE.—A group of workers in a firm, or subdivision of a firm, engaged in the production of taconite pellets who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm occurred on or after November 4, 2002 and before October 1, 2004.

Subtitle B—Data Collection

SEC. 521. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance Accountability Act".

SEC. 522. DATA COLLECTION; STUDY; INFORMATION TO WORKERS.

(a) DATA COLLECTION; EVALUATIONS.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

"SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.

"(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

"(b) PERFORMANCE EVALUATIONS.—The Secretary shall establish an effective performance measuring system to evaluate the following:

"(1) PROGRAM PERFORMANCE.—A comparison of the trade adjustment assistance program before and after the effective date of the Trade Adjustment Assistance Reform Act of.2002 with respect to—

"(A) the number of workers certified and the number of workers actually participating in the trade adjustment assistance program;

"(B) the time for processing petitions;

"(C) the number of training waivers granted;

"(D) the coordination of programs under this chapter with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(E) the effectiveness of individual training providers in providing appropriate information and training;

"(F) the extent to which States have designed and implemented health care coverage options under title II of the Trade Act of 2002, including any difficulties States have encountered in carrying out the provisions of title II;

"(G) how Federal, State, and local officials are implementing the trade adjustment assistance program to ensure that all eligible individuals receive benefits, including providing outreach, rapid response, and other activities; and

"(H) any other data necessary to evaluate how individual States are implementing the requirements of this chapter.

"(2) PROGRAM PARTICIPATION .—The effectiveness of the program relating to—

"(A) the number of workers receiving benefits and the type of benefits being received both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

"(B) the number of workers enrolled in, and the duration of, training by major types of training both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

"(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

"(D) reemployment rates and sectors in which dislocated workers have been employed;

"(E) the cause of dislocation identified in each petition that resulted in a certification under this chapter; and

"(F) the number of petitions filed and workers certified in each congressional district of the United States.

"(c) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

"(1) STATE PARTICIPATION.—Participation by each State in the performance measurement system established under subsection (b).

"(2) MONITORING.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

"(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

"(d) REPORTS.—

"(1) REPORTS BY THE SECRETARY.—

"(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the

Trade Adjustment Assistance Accountability Act, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

"(i) describes the performance measurement system established under subsection (b);

"(ii) includes analysis of data collected through the system established under subsection (b); and

"(iii) provides recommendations for program improvements.

"(B) ANNUAL REPORT.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clause (ii) of subparagraph (A).

"(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

"(3) PUBLICATION.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under subsection (b).".

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking "Departments of Labor and Commerce" and inserting "Departments of Labor, Commerce, and Agriculture".

(2) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking "The Secretary of Commerce and the Secretary of Labor" and inserting "The Secretaries of Commerce, Labor, and Agriculture".

(3) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

"Sec. 250. Data collection; evaluations; reports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance for Communities Act of 2004".

SEC. 532. PURPOSE.

The purpose of this subtitle is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 533. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

"CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

"SEC. 271. DEFINITIONS.

"In this chapter:

"(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

"(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

"(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

"(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

"(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

"(6) FISHERMAN.—

"(A) IN GENERAL.—The term 'fisherman' means any person who—

"(i) is engaged in commercial fishing; or

"(ii) is a United States fish processor.

"(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

"(7) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT.—Within 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2004, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

"(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

"(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

"(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

"(2) coordinate the Federal response to an eligible community—

"(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

"(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

"(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

"(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

"(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

"(A) identify serious economic problems in the community that are the result of negative impacts from trade;

"(B) integrate the major groups and organizations significantly affected by the economic adjustment;

"(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

"(D) diversify and strengthen the community economy; and

"(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

"(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

"(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

"(6) administer the grant programs established under sections 274 and 275; and

"(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

"SEC. 273. CERTIFICATION AND NOTIFICATION.

"(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

"(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

"(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which on or after October 1, 2004—

"(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

"(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

"(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

"(D) an affected domestic producer is located in the community; or

"(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

"(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

"(A) the number of jobs affected compared to the size of workforce in the community;

“(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

“(C) the income levels and the extent of underemployment in the community;

“(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

“(E) the unique problems and needs of the community.

“(c) Definition and Special Rules.—

“(1) Event described.—An event described in this paragraph means one of the following:

“(A) A notification described in paragraph (2).

“(B) A certification of a firm under section 251.

“(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

“(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

“(2) Notification.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

“(d) Notification to Eligible Communities.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

“(1) of the determination under subsection (b);

“(2) of the provisions of this chapter;

“(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

“(4) how to obtain technical assistance provided under section 272(c)(3); and

“(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

“SEC. 274. STRATEGIC PLANS.

“(a) In General.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

“(b) Requirements for Strategic Plan.—A strategic plan shall contain, at a minimum, the following:

“(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

“(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

“(3) A description of the projects to be undertaken by the eligible community.

“(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

“(5) A description of how the plan will achieve economic adjustment and diversification.

“(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

“(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

“(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

“(9) A description of the educational programs available for workforce training and future employment needs.

“(10) A description of how the plan will adapt to changing markets and business cycles.

“(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

“(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

“(c) Grants To Develop Strategic Plans.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

“(d) Submission of Plan.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

“SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

“(a) In General.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

“(b) Additional Grants.—

“(1) In general.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

“(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

“(B) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

“(2) Use as non-federal share.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

“(c) Rural Community Preference.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

“SEC. 276. GENERAL PROVISIONS.

“(a) Regulations.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

“(b) Supplement Not Supplant.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

“(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.”.

SEC. 534. CONFORMING AMENDMENTS.

(a) Termination.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

“(3) Assistance for communities.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.”.

(b) Table of Contents.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

“Chapter 4—Trade Adjustment Assistance for Communities

“Sec. 271. Definitions.
“Sec. 272. Community Trade Adjustment Assistance Program.
“Sec. 273. Certification and notification.
“Sec. 274. Strategic plans.
“Sec. 275. Grants for economic development.
“Sec. 276. General provisions.”.

(c) Judicial Review.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking “section 271” and inserting “section 273”.

SEC. 535. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2004.

Subtitle D—Office of Trade Adjustment Assistance

SEC. 541. SHORT TITLE.

This subtitle may be cited as the “Trade Adjustment Assistance for Firms Reorganization Act”.

SEC. 542. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) In General.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

“SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

“(a) Establishment.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

“(b) Personnel.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

“(c) Functions.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.”.

(b) Conforming Amendment.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

“Sec. 255A. Office of Trade Adjustment Assistance.”.

SEC. 543. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) October 1, 2004.

TITLE VI—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 601. CLARIFICATION OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.

(a) IN GENERAL.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting "(prior to the employment separation necessary to attain the status of an eligible individual)" after "9801(c)".

(b) CONFORMING AMENDMENT.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting "(prior to the employment separation necessary to attain the status of an eligible individual)" after "1986".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 602. DISREGARD OF TAA PRE-CERTIFICATION PERIOD FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

"(C) TAA-ELIGIBLE INDIVIDUALS.—

"(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).".

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

"(C) TAA-ELIGIBLE INDIVIDUALS.—

"(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).".

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

"(D) TAA-ELIGIBLE INDIVIDUALS.—

"(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).".

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 603. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking "65" and inserting "75".

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking "65" and inserting "75".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 604. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM.

(a) IN GENERAL.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

"(e) EXPEDITED PAYMENT OF PRORATED FIRST MONTHLY PREMIUM.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the applicable percentage (as defined in section 35(a)(2)) of the prorated first monthly premium for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months upon receipt by the Secretary of evidence of payment of such premium by the certified individual.".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SA 3031. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—NON-REVENUE PROVISIONS

SEC. 501. CUSTOMS SERVICES.

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended—

(1) by striking "(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2))," and inserting:

"(1) IN GENERAL.—

"(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),"; and

(2) by adding at the end the following:

"(B) CHARTER FLIGHTS.—If an air carrier (as defined in section 40102(2) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the air carrier.".

SA 3032. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 85, line 20, strike all through page 146, line 23, and insert the following:

SEC. 201. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) IN GENERAL.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

"(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

"(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or".

(b) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

"(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

"(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

"(i) is a hedging transaction as defined in section 1221(b)(2), determined—

"(I) without regard to subparagraph (A)(ii) thereof,

"(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

"(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

"(ii) is clearly identified as such in accordance with section 1221(a)(7).

"(B) TREATMENT OF DEALER ACTIVITIES UNDER PARAGRAPH (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.".

(c) MODIFICATION OF EXCEPTION FOR DEALERS.—Clause (i) of section 954(c)(2)(C) is amended by inserting "and transactions involving physical settlement" after "(including hedging transactions)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

SA 3033. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. REPEAL OF CHECK-THE-BOX RULES.

(a) IN GENERAL.—Paragraph (3) of section 7701(a) (relating to corporation) is amended by inserting at the end the following new sentence: "The determination as to whether any foreign business entity is a corporation shall be made without regard to any election regarding the classification of the business form of such entity and shall be made under rules similar to the rules for determining the status of such entity on December 31, 1996 (except that any foreign business entity which is defined as a corporation under regulations on the date of the enactment of this sentence shall continue to be classified as a corporation).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning in calendar years beginning after the date of the enactment of this Act.

SA 3034. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. CREDIT FOR INVESTMENT IN TECHNOLOGY TO MAKE MOTION PICTURES MORE ACCESSIBLE TO THE HEARING IMPAIRED.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45G. EXPENDITURES TO PROVIDE ACCESS TO MOTION PICTURES FOR HEARING IMPAIRED INDIVIDUALS.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the motion picture accessibility credit for any taxable year shall be an amount equal to 90 percent of the qualified expenditures made by the eligible taxpayer during the taxable year.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is in the business of—

"(1) showing motion pictures to the public, or

"(2) producing such motion pictures.

"(c) QUALIFIED EXPENDITURES.—For purposes of this section, the term 'qualified expenditures' means amounts paid or incurred by the taxpayer for the purpose of making motion pictures accessible to hearing impaired individuals.

"(d) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

"(e) NO DOUBLE BENEFIT.—In the case of the credit determined under this section, no deduction or credit shall be allowed for such amount under any other provision of this chapter.".

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the motion picture accessibility credit determined under section 45G(a).".

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) in the case of property with respect to which a credit was allowed under section 45G, to the extent provided in section 45G(d).".

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF MOTION PICTURE ACCESSIBILITY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the motion picture accessibility credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45F the following new item:

"Sec. 45G. Expenditures to provide access to motion pictures for hearing impaired individuals.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 3035. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE V—HOUSING BOND AND CREDIT MODERNIZATION AND FAIRNESS PROVISIONS

SEC. 501. REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 143(a)(2) (defining qualified mortgage issue) is amended by adding "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) of such Code is amended by striking "(and clause (iv) of subparagraph (A))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments received after the date of the enactment of this Act.

SEC. 502. MODIFICATION OF PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 143(e) (relating to purchase price requirement) is amended to read as follows:

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

"(A) 90 percent of the average area purchase price applicable to the residence, or

"(B) 3.5 times the applicable median family income (as defined in subsection (f))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to financing provided, and mortgage credit certificates issued, after the date of the enactment of this Act.

SEC. 503. DETERMINATION OF AREA MEDIAN GROSS INCOME FOR LOW-INCOME HOUSING CREDIT PROJECTS.

(a) IN GENERAL.—Paragraph (4) of section 42(g) (relating to certain rules made applicable) is amended by striking the period at the end and inserting "and the term 'area median gross income' means the amount equal to the greater of—

"(A) the area median gross income determined under section 142(d)(2)(B), or

"(B) the statewide median gross income for the State in which the project is located."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

SA 3036. Mr. BAUCUS (for himself and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—WOOL TRUST FUND

SEC. 501. EXTENSION AND MODIFICATION OF PROVISIONS RELATING TO THE WOOL RESEARCH, DEVELOPMENT, AND PROMOTION TRUST FUND.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—

(1) HEADING 9902.51.11.—Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "2005" and inserting "2010"; and

(B) by striking "17.5 %" and inserting "10 %".

(2) Heading 9902.51.12.—Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended by striking "2005" and inserting "2010".

(3) Heading 9902.51.13.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking "2005" and inserting "2010".

(4) Heading 9902.51.14.—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking "2005" and inserting "2010".

(b) Modification of limitation on Quantity of Imports.—

(1) Note 15.—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "and" after "2002";

(B) by striking "year 2003" and all that follows through the end period and inserting the following: "years 2003 and 2004, and 5,500,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of men's and boys' suits.".

(2) Note 16.—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "and" after "2002"; and

(B) by striking "year 2003" and all that follows through the end period and inserting the following: "years 2003 and 2004, and 5,000,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of men's and boys' suits, and 2,000,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of worsted wool fabric suitable for use in men's and boys' suits.".

(3) Conforming amendments.—

(A) Sunset staged reduction requirement.—Paragraph (2) of section 501(a) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 299) is amended by adding before the period "for goods entered, or withdrawn from warehouse for consumption, before January 1, 2005".

(B) Allocation of tariff-rate quotas.—Subsection (e) of section 501 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 200) is amended—

(i) by inserting "for manufacturers of men's and boys' suits" after "implementing the limitation"; and

(ii) by inserting at the end the following new sentence: "In implementing the limitation for manufacturers of worsted wool fabric on the quantity of worsted wool fabrics under heading 9902.51.12 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 16 of subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall prescribe regulations to allocate fairly the quantity of worsted wool fabrics required under United States note 16 of such schedule to manufacturers who weave worsted wool fabric in the United States.".

(C) Sunset authority to modify limitation on quantity.—Subsection (b) of section 504 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 301) is repealed effective January 1, 2005.

(c) Extension of Duty Refunds and Wool Research Trust Fund.—

(1) In general.—The United States Customs Service shall make 5 additional payments to each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) during calendar year 2005, and that, not later than March 1 of each year of an additional payment, provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of that payment. Each payment shall be equal to the amount of the payment received for calendar year 2005 as follows:

(A) The first payment to be made after January 1, 2006, but on or before April 15, 2006.

(B) The second, third, fourth, and fifth payments to be made after January 1, but on or before April 15, of each of the following 4 calendar years.

(2) Extension of wool research, development, and promotion trust fund.—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 304) is amended by striking "2006" and inserting "2011".

(3) Commerce authority to promote domestic employment.—The Secretary of Commerce shall provide grants through December 31, 2010 to manufacturers of worsted wool fabric in the amount of $2,666,000 annually to manufacturers of worsted wool fabric of the kind described in heading 9902.51.12 of the Harmonized Tariff Schedule of the United States during calendar years 1999, 2000, and 2001, and $2,666,000 annually to manufacturers of worsted wool fabric of the kind described in heading 9902.51.11 of the Harmonized Tariff Schedule of the United States during such calendar years, allocated based on the percentage of each manufacturer's production of the fabric described in such heading for such 3 years compared to the production of such fabric for all such applicants who qualify under this paragraph for such grant category. Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(4) Special rule for successor-in-interest.—

(A) In general.—Any person that becomes a successor-in-interest to a manufacturer entitled to payment, under title V of the Trade and Development Act of 2002 (Public Law 106–200; 114 Stat. 299) or this title, shall be eligible to claim payments as if the successor-in-interest was the original claimant without regard to section 3727 of title 31, United States Code. The right to claim payment as a successor-in-interest under the preceding sentence shall be effective as if the right was included in section 505 of the Trade and Development Act of 2000.

(B) Status as successor-in-interest.—A person may become a successor-in-interest for purposes of subparagraph (A) pursuant to—

(i) an assignment of the claim for payment under title V of the Trade and Development Act of 2002;

(ii) an assignment of the original claimant's right to manufacture under the same trade name as the original claimant;

(iii) a reorganization; or

(iv) some other legally recognized manner.

(5) Authorization.—There is authorized to be appropriated and is hereby appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(6) Effective date.—The grants described in paragraph (3) shall commence on or after January 1, 2005, and before December 31, 2010.

(d) Effective Date.—The amendment made by subsection (a)(1)(B) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2005.

SEC. 502. LABELING OF WOOL PRODUCTS TO FACILITATE COMPLIANCE AND PROTECT CONSUMERS.

(a) In General.—Section 4 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b(a)) is amended by adding at the end the following new paragraph:

"(5) In the case of a wool product stamped, tagged, labeled, or otherwise identified in any one of the following subparagraphs, the average fiber diameter may be subject to a variation of 0.25 microns, and may be subject to such other standards or deviations as prescribed by regulation by the Commission:

"(A) 'Super 80's' or '80's' if the average fiber diameter thereof does not average 19.5 microns or finer.

"(B) 'Super 90's' or '90's' if the average fiber diameter thereof does not average 19.0 microns or finer.

"(C) 'Super 100's' or '100's' if the average fiber diameter thereof does not average 18.5 microns or finer.

"(D) 'Super 110's' or '110's' if the average diameter of wool fiber thereof does not average 18.0 microns or finer.

"(E) 'Super 120's' or '120's' if the average diameter of wool fiber thereof does not average 17.5 microns or finer.

"(F) 'Super 130's' or '130's' if the average diameter of wool fiber thereof does not average 17.0 microns or finer.

"(G) 'Super 140's' or '140's' if the average diameter of wool fiber thereof does not average 16.5 microns or finer.

"(H) 'Super 150's' or '150's' if the average diameter of wool fiber thereof does not average 16.0 microns or finer.

"(I) 'Super 160's' or '160's' if the average diameter of wool fiber thereof does not average 15.5 microns or finer.

"(J) 'Super 170's' or '170's' if the average diameter of wool fiber thereof does not average 15.0 microns or finer.

"(K) 'Super 180's' or '180's' if the average diameter of wool fiber thereof does not average 14.5 microns or finer.

"(L) 'Super 190's' or '190's' if the average diameter of wool fiber thereof does not average 14.0 microns or finer.

"(M) 'Super 200's' or '200's' if the average diameter of wool fiber thereof does not average 13.5 microns or finer.

"(N) 'Super 210's' or '210's' if the average diameter of wool fiber thereof does not average 13.0 microns or finer.".

(b) Effective Date.—The amendment made by this section shall apply to wool products manufactured on or after January 1, 2005.

SA 3037. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. Frist to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of paragraph (2) of section 42A(f) of the Internal Revenue Code of 1986 (as added by section 633 of the Amendment) insert the following:

"For purposes of the preceding sentence, the term 'county' includes any organized borough or unified municipality which is outside a metropolitan statistical area (as so defined) in Alaska and any census area in the unorganized borough of Alaska which is recognized by the Bureau of the Census.".

SA 3038. Mr. SANTORUM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization ruling on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the instructions add the following:

DIVISION B—CARE ACT

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "CARE Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1. Short title; etc.

TITLE I—CHARITABLE GIVING INCENTIVES

Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.
Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.
Sec. 103. Charitable deduction for contributions of food inventories.
Sec. 104. Charitable deduction for contributions of book inventories.
Sec. 105. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.
Sec. 106. Modifications to encourage contributions of capital gain real property made for conservation purposes.
Sec. 107. Exclusion of 25 percent of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.
Sec. 108. Tax exclusion for cost-sharing payments under Partners for Fish and Wildlife Program.
Sec. 109. Adjustment to basis of S corporation stock for certain charitable contributions.
Sec. 110. Enhanced deduction for charitable contribution of literary, musical, artistic, and scholarly compositions.
Sec. 111. Mileage reimbursements to charitable volunteers excluded from gross income.
Sec. 112. Extension of enhanced deduction for inventory to include public schools.
Sec. 113. 10-year divestiture period for certain excess business holdings of private foundations

TITLE II—PROPOSALS IMPROVING THE OVERSIGHT OF TAX-EXEMPT ORGANIZATIONS

Sec. 201. Disclosure of written determinations.
Sec. 202. Disclosure of Internet web site and name under which organization does business.
Sec. 203. Modification to reporting capital transactions.
Sec. 204. Disclosure that Form 990 is publicly available.
Sec. 205. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 206. Expansion of penalties to preparers of Form 990.
Sec. 207. Notification requirement for entities not currently required to file.
Sec. 208. Suspension of tax-exempt status of terrorist organizations.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

Sec. 301. Modification of excise tax on unrelated business taxable income of charitable remainder trusts.
Sec. 302. Modifications to section 512(b)(13).
Sec. 303. Simplification of lobbying expenditure limitation.
Sec. 304. Expedited review process for certain tax-exemption applications.
Sec. 305. Clarification of definition of church tax inquiry.
Sec. 306. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 307. Definition of convention or association of churches.
Sec. 308. Payments by charitable organizations to victims of war on terrorism and families of astronauts killed in the line of duty.
Sec. 309. Modification of scholarship foundation rules.
Sec. 310. Treatment of certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness.
Sec. 311. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.
Sec. 312. Matching grants to low-income taxpayer clinics for return preparation.
Sec. 313. Exemption of qualified 501(c)(3) bonds for nursing homes from Federal guarantee prohibitions.
Sec. 314. Excise taxes exemption for blood collector organizations.
Sec. 315. Pilot project for forest conservation activities.
Sec. 316. Clarification of treatment of Johnny Micheal Spann Patriot Trusts.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

Sec. 401. Restoration of funds for the Social Services Block Grant.
Sec. 402. Restoration of authority to transfer up to 10 percent of TANF funds to the Social Services Block Grant.
Sec. 403. Requirement to submit annual report on State activities.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Structure and administration of qualified individual development account programs.
Sec. 505. Procedures for opening and maintaining an individual development account and qualifying for matching funds.
Sec. 506. Deposits by qualified individual development account programs.
Sec. 507. Withdrawal procedures.
Sec. 508. Certification and termination of qualified individual development account programs.
Sec. 509. Reporting, monitoring, and evaluation.
Sec. 510. Authorization of appropriations.
Sec. 511. Matching funds for individual development accounts provided through a tax credit for qualified financial institutions.
Sec. 512. Account funds disregarded for purposes of certain means-tested Federal programs.

TITLE VI—MANAGEMENT OF EXEMPT ORGANIZATIONS

Sec. 601. Authorization of appropriations.

TITLE VII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 701. Clarification of economic substance doctrine.
Sec. 702. Penalty for failing to disclose reportable transaction.
Sec. 703. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 704. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 705. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 706. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 707. Disclosure of reportable transactions.
Sec. 708. Modifications to penalty for failure to register tax shelters.
Sec. 709. Modification of penalty for failure to maintain lists of investors.
Sec. 710. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 711. Understatement of taxpayer's liability by income tax return preparer.
Sec. 712. Penalty on failure to report interests in foreign financial accounts.
Sec. 713. Frivolous tax submissions.
Sec. 714. Regulation of individuals practicing before the Department of Treasury.
Sec. 715. Penalty on promoters of tax shelters.
Sec. 716. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 717. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 718. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Provisions

Sec. 721. Affirmation of consolidated return regulation authority.
Sec. 722. Signing of corporate tax returns by chief executive officer.

Sec. 723. Securities civil enforcement provisions.
Sec. 724. Review of State agency blindness and disability determinations.

TITLE VIII—COMPASSION CAPITAL FUND

Sec. 801. Support for nonprofit community-based organizations; Department of Health and Human Services.
Sec. 802. Support for nonprofit community-based organizations; Corporation for National and Community Service.
Sec. 803. Support for nonprofit community-based organizations; Department of Justice.
Sec. 804. Support for nonprofit community-based organizations; Department of Housing and Urban Development.
Sec. 805. Coordination.

TITLE IX—MATERNITY GROUP HOMES

Sec. 901. Maternity group homes.

TITLE I—CHARITABLE GIVING INCENTIVES

SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CONTRIBUTIONS TO BE ALLOWED TO INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions, to the extent that such contributions exceed $250 ($500 in the case of a joint return) but do not exceed $500 ($1,000 in the case of a joint return).”.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) the direct charitable deduction.”.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term ‘direct charitable deduction’ means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(m).”.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) the direct charitable deduction.”.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall study the effect of the amendments made by this section on increased charitable giving and taxpayer compliance, including a comparison of taxpayer compliance between taxpayers who itemize their charitable contributions and taxpayers who claim a direct charitable deduction.

(2) REPORT.—By not later than December 31, 2004, the Secretary of the Treasury shall report on the study required under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002, and before January 1, 2005.

SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

“(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

“(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

“(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term ‘qualified charitable distribution’ means any distribution from an individual retirement account—

“(i) which is made directly by the trustee—

“(I) to an organization described in section 170(c), or

“(II) to a split-interest entity, and

“(ii) which is made on or after—

“(I) in the case of any distribution described in clause (i)(I), the date that the individual for whose benefit the account is maintained has attained age 70½, and

“(II) in the case of any distribution described in clause (i)(II), the the date that such individual has attained age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such account is maintained, the spouse of such individual, or any organization described in section 170(c).

“(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

“(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

“(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts were distributed from all individual retirement accounts treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion on such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

“(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

“(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

“(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

“(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

“(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

“(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term ‘split-interest entity’ means—

“(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

“(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

“(iii) a charitable gift annuity (as defined in section 501(m)(5)).”.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

“SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION 4947(a)(2) OR CLAIMING CHARITABLE DEDUCTIONS UNDER SECTION 642(c).

“(a) TRUSTS DESCRIBED IN SECTION 4947(a)(2).—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

“(b) TRUSTS CLAIMING A CHARITABLE DEDUCTION UNDER SECTION 642(c).—

“(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

“(A) the amount of the deduction taken under section 642(c) within such year,

“(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

“(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

“(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

“(E) the total income of the trust within such year and the expenses attributable thereto, and

“(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

"(2) Exceptions.—Paragraph (1) shall not apply to a trust for any taxable year if—

"(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

"(B) the trust is described in section 4947(a)(1).".

(2) Increase in penalty relating to filing of information return by split-interest trusts.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(C) Split-interest trusts.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

"(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

"(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

"(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.".

(3) Confidentiality of noncharitable beneficiaries.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: "In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).".

(c) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to distributions—

(A) described in section 408(d)(8)(B)(i)(I) of the Internal Revenue Code of 1986, as added by this section, made after the date of the enactment of this Act, and

(B) described in section 408(d)(8)(B)(i)(II) of such Code, as so added, made after December 31, 2003.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2003.

SEC. 103. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORIES.

(a) In General.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

"(7) Application of paragraph (3) to certain contributions of food inventory.—For purposes of this section—

"(A) Extension to individuals.—In the case of a charitable contribution of apparently wholesome food—

"(i) paragraph (3)(A) shall be applied without regard to whether the contribution is made by a C corporation, and

"(ii) in the case of a taxpayer other than a C corporation, the aggregate amount of such contributions from any trade or business (or interest therein) of the taxpayer for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's net income from any such trade or business, computed without regard to this section, for such taxable year.

"(B) Limitation on reduction.—In the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of such property exceeds twice the basis of such property.

"(C) Determination of basis.—If a taxpayer—

"(i) does not account for inventories under section 471, and

"(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

"(D) Determination of fair market value.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

"(i) without regard to such internal standards or such lack of market and

"(ii) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

"(E) Apparently wholesome food.—For purposes of this paragraph, the term 'apparently wholesome food' has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.".

(b) Effective Date.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES.

(a) In General.—Section 170(e)(3) (relating to certain contributions of ordinary income and capital gain property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Special rule for contributions of book inventory for educational purposes.—

"(i) Contributions of book inventory.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

"(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

"(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

"(ii) Amount of reduction.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

"(iii) Qualified book contribution.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

"(iv) Identity of donee.—The requirement of this clause is met if the contribution is to an organization—

"(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

"(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

"(v) Certification by donee.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

"(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

"(II) the donee will use the books in its educational programs.

"(vi) Bona fide published market price.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

"(I) determined using the same printing and edition,

"(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

"(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.".

(b) Effective Date.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 105. EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.

(a) Scientific Property Used for Research.—

(1) In general.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(2) Conforming amendment.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembling" after "construction".

(b) Computer Technology and Equipment for Educational Purposes.—

(1) In general.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(2) Special rule extended.—Section 170(e)(6)(G) is amended by striking "2003" and inserting "2005".

(3) Conforming amendments.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 106. MODIFICATIONS TO ENCOURAGE CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) In General.—Section 170(h) (relating to qualified conservation contribution) is amended by adding at the end the following new paragraph:

“(7) ADDITIONAL INCENTIVES FOR QUALIFIED CONSERVATION CONTRIBUTIONS.—

“(A) IN GENERAL.—In the case of any qualified conservation contribution (as defined in paragraph (1)) made by an individual—

“(i) subparagraph (C) of subsection (b)(1) shall not apply,

“(ii) except as provided in subparagraph (B)(i), subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by treating references to 50 percent of the taxpayer's contribution base as references to the amount of such base reduced by the amount of other contributions allowable under subsection (b)(1)(A), and

“(iii) subparagraph (A) of subsection (d)(1) shall be applied—

“(I) by substituting ‘15 succeeding taxable years’ for ‘5 succeeding taxable years’, and

“(II) by applying clause (ii) to each of the 15 succeeding taxable years.

“(B) SPECIAL RULES FOR ELIGIBLE FARMERS AND RANCHERS.—

“(i) IN GENERAL.—In the case of any such contributions by a taxpayer who is an eligible farmer or rancher for the taxable year in which such contributions are made—

“(I) if the taxpayer is an individual, subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by substituting ‘the taxpayer's contribution base reduced by the amount of other contributions allowable under subsection (b)(1)(A)’ for ‘50 percent of the taxpayer's contribution base’ each place it appears, and

“(II) if the taxpayer is a corporation, subsections (b)(2) and (d)(2) shall be applied separately with respect to such contributions, subsection (b)(2) shall be applied with respect to such contributions as if such subsection did not contain the words ‘10 percent of’ and as if subparagraph (A) thereof read ‘the deduction under this section for qualified conservation contributions’, and rules similar to the rules of subparagraph (A)(iii) shall apply for purposes of subsection (d)(2).

“(ii) DEFINITION.—For purposes of clause (i), the term ‘eligible farmer or rancher’ means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is at least 51 percent of the taxpayer's gross income for the taxable year, and, in the case of a C corporation, the stock of which is not publicly traded on a recognized exchange.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 107. EXCLUSION OF 25 PERCENT OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

“SEC. 121A. 25-PERCENT EXCLUSION OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

“(a) EXCLUSION.—Gross income shall not include 25 percent of the qualifying gain from a conservation sale of a long-held qualifying land or water interest.

“(b) QUALIFYING GAIN.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying gain’ means any gain which would be recognized as long-term capital gain, reduced by the amount of any long-term capital gain attributable to disqualified improvements.

“(2) DISQUALIFIED IMPROVEMENT.—For purposes of paragraph (1), the term ‘disqualified improvement’ means any building, structure, or other improvement, other than—

“(A) any improvement which is described in section 175(c)(1), determined—

“(i) without regard to the requirements that the taxpayer be engaged in farming, and

“(ii) without taking into account subparagraphs (A) and (B) thereof, or

“(B) any improvement which the Secretary determines directly furthers conservation purposes.

“(3) SPECIAL RULE FOR SALES OF STOCK.—If the long-held qualifying land or water interest is 1 or more shares of stock in a qualifying land or water corporation, the qualifying gain is equal to the lesser of—

“(A) the qualifying gain determined under paragraph (1), or

“(B) the product of—

“(i) the percentage of such corporation's stock which is transferred by the taxpayer, times

“(ii) the amount which would have been the qualifying gain (determined under paragraph (1)) if there had been a conservation sale by such corporation of all of its interests in the land and water for a price equal to the product of the fair market value of such interests times the ratio of—

“(I) the proceeds of the conservation sale of the stock, to

“(II) the fair market value of the stock which was the subject of the conservation sale.

“(c) CONSERVATION SALE.—For purposes of this section, the term ‘conservation sale’ means a sale or exchange which meets the following requirements:

“(1) TRANSFEREE IS AN ELIGIBLE ENTITY.—The transferee of the long-held qualifying land or water interest is an eligible entity.

“(2) QUALIFYING LETTER OF INTENT REQUIRED.—At the time of the sale or exchange, such transferee provides the taxpayer with a qualifying letter of intent.

“(3) NONAPPLICATION TO CERTAIN SALES.—The sale or exchange is not made pursuant to an order of condemnation or eminent domain.

“(4) CONTROLLING INTEREST IN STOCK SALE REQUIRED.—In the case of the sale or exchange of stock in a qualifying land or water corporation, at the end of the taxpayer's taxable year in which such sale or exchange occurs, the transferee's ownership of stock in such corporation meets the requirements of section 1504(a)(2) (determined by substituting ‘90 percent’ for ‘80 percent’ each place it appears).

“(d) LONG-HELD QUALIFYING LAND OR WATER INTEREST.—For purposes of this section—

“(1) IN GENERAL.—The term ‘long-held qualifying land or water interest’ means any qualifying land or water interest owned by the taxpayer or a member of the taxpayer's family (as defined in section 2032A(e)(2)) at all times during the 5-year period ending on the date of the sale.

“(2) QUALIFYING LAND OR WATER INTEREST.—

“(A) IN GENERAL.—The term ‘qualifying land or water interest’ means a real property interest which constitutes—

“(i) a taxpayer's entire interest in land,

“(ii) a taxpayer's entire interest in water rights,

“(iii) a qualified real property interest (as defined in section 170(h)(2)), or

“(iv) stock in a qualifying land or water corporation.

“(B) ENTIRE INTEREST.—For purposes of clause (i) or (ii) of subparagraph (A)—

“(i) a partial interest in land or water is not a taxpayer's entire interest if an interest in land or water was divided in order to create such partial interest in order to avoid the requirements of such clause or section 170(f)(3)(A), and

“(ii) a taxpayer's entire interest in certain land does not fail to satisfy subparagraph (A)(i) solely because the taxpayer has retained an interest in other land, even if the other land is contiguous with such certain land and was acquired by the taxpayer along with such certain land in a single conveyance.

“(e) OTHER DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) a governmental unit referred to in section 170(c)(1), or an agency or department thereof operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A), or

“(B) an entity which is—

“(i) described in section 170(b)(1)(A)(vi) or section 170(h)(3)(B), and

“(ii) organized and at all times operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

“(2) QUALIFYING LETTER OF INTENT.—The term ‘qualifying letter of intent’ means a written letter of intent which includes the following statement: ‘The transferee's intent is that this acquisition will serve 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986, that the transferee's use of the property so acquired will be consistent with section 170(h)(5) of such Code, and that the use of the property will continue to be consistent with such section, even if ownership or possession of such property is subsequently transferred to another person.’

“(3) QUALIFYING LAND OR WATER CORPORATION.—The term ‘qualifying land or water corporation’ means a C corporation (as defined in section 1361(a)(2)) if, as of the date of the conservation sale—

“(A) the fair market value of the corporation's interests in land or water held by the corporation at all times during the preceding 5 years equals or exceeds 90 percent of the fair market value of all of such corporation's assets, and

“(B) not more than 50 percent of the total fair market value of such corporation's assets consists of water rights or infrastructure related to the delivery of water, or both.

“(f) TAX ON SUBSEQUENT TRANSFERS OR REMOVALS OF CONSERVATION RESTRICTIONS.—

“(1) IN GENERAL.—A tax is hereby imposed on any subsequent—

“(A) transfer by an eligible entity of ownership or possession, whether by sale, exchange, or lease, of property acquired directly or indirectly in—

“(i) a conservation sale described in subsection (a), or

“(ii) a transfer described in clause (i), (ii), or (iii) of paragraph (4)(A), or

“(B) removal of a conservation restriction contained in an instrument of conveyance of such property.

“(2) AMOUNT OF TAX.—The amount of tax imposed by paragraph (1) on any transfer or removal shall be equal to the sum of—

“(A) either—

“(i) 20 percent of the fair market value (determined at the time of the transfer) of the property the ownership or possession of which is transferred, or

“(ii) 20 percent of the fair market value (determined at the time immediately after the removal) of the property upon which the conservation restriction was removed, plus

“(B) the product of—

“(i) the highest rate of tax specified in section 11, times

“(ii) any gain or income realized by the transferor or person removing such restriction as a result of the transfer or removal.

“(3) LIABILITY.—The tax imposed by paragraph (1) shall be paid—

“(A) on any transfer, by the transferor, and

“(B) on any removal of a conservation restriction contained in an instrument of conveyance, by the person removing such restriction.

“(4) RELIEF FROM LIABILITY.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1)—

“(A) with respect to any transfer if—

“(i) the transferee is an eligible entity which provides such person, at the time of transfer, a qualifying letter of intent,

“(ii) in any case where the transferee is not an eligible entity, it is established to the satisfaction of the Secretary, that the transfer of ownership or possession, as the case may be, will be consistent with section 170(h)(5), and the transferee provides such person, at the time of transfer, a qualifying letter of intent, or

“(iii) tax has previously been paid under this subsection as a result of a prior transfer of ownership or possession of the same property, or

“(B) with respect to any removal of a conservation restriction contained in an instrument of conveyance, if it is established to the satisfaction of the Secretary that the retention of the restriction was impracticable or impossible and the proceeds continue to be used in a manner consistent with 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

“(5) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subsection shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.

“(6) REPORTING.—The Secretary may require such reporting as may be necessary or appropriate to further the purpose under this section that any conservation use be in perpetuity.”.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

“Sec. 121A. 25-percent exclusion of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges occurring after the date of the enactment of this Act.

SEC. 108. TAX EXCLUSION FOR COST-SHARING PAYMENTS UNDER PARTNERS FOR FISH AND WILDLIFE PROGRAM.

(a) IN GENERAL.—Section 126(a) (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following:

“(10) The Partners for Fish and Wildlife Program authorized by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after the date of the enactment of this Act.

SEC. 109. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

“The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 110. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by this Act, is amended by adding at the end the following new paragraph:

“(8) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

“(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

“(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

“(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

“(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term ‘qualified artistic charitable contribution’ means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

“(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

“(ii) the taxpayer—

“(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

“(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

“(iii) the donee is an organization described in subsection (b)(1)(A),

“(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

“(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

“(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

“(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

“(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

“(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

“(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

“(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

“(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term ‘artistic adjusted gross income’ means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

“(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

“(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

“(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

“(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 111. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139 the following new section:

“SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

“(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

“(1) by using the standard business mileage rate established under such section, and

“(2) as if the individual were an employee of an organization not described in section 170(c).

“(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

“(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

“(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Mileage reimbursements to charitable volunteers.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 112. EXTENSION OF ENHANCED DEDUCTION FOR INVENTORY TO INCLUDE PUBLIC SCHOOLS.

(a) In General.—Subparagraph (A) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended by striking "to an organization which is described in" and all that follows through the end of clause (i) and inserting "to a qualified organization, but only if—

"(i) the property is to be used by the donee solely for the care of the ill, the needy, or infants and, in the case of—

"(I) an organization described in section 501(c)(3) (other than an organization described in subclause (II)), the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501, and

"(II) an organization described in subsection (b)(1)(A)(ii), the use of the property by the donee is related to educational purposes and such property is not computer technology or equipment (as defined in paragraph (6)(F)(i));".

(b) Qualified Organization.—Paragraph (3) of section 170(e) of such Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Qualified organization.—For purposes of this paragraph, the term 'qualified organization' means—

"(i) an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), and

"(ii) an educational organization described in subsection (b)(1)(A)(ii).".

(c) Effective Date.—The amendments made by this section shall apply to contributions made after December 31, 2003.

SEC. 113. 10-YEAR DIVESTITURE PERIOD FOR CERTAIN EXCESS BUSINESS HOLDINGS OF PRIVATE FOUNDATIONS.

(a) In General.—Section 4943(c) (relating to excess business holdings) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) 10-year period to dispose of certain large gifts and bequests.—

"(A) In General.—Paragraph (6) shall be applied by substituting '10-year period' for '5-year period' if—

"(i) upon the election of a private foundation, it is established to the satisfaction of the Secretary that—

"(I) the excess business holdings (or increase in excess business holdings) in a business enterprise by the private foundation in an amount which is not less than $1,000,000,000 is the result of a gift or bequest the fair market value of which is not less than $1,000,000,000, and

"(II) after such gift or bequest, the private foundation does not have effective control of such business enterprise to which such gift or bequest relates,

"(ii) subject to subparagraph (C), the private foundation submits to the Secretary with such election a reasonable plan for disposing of all of the excess business holdings related to such gift or bequest, and

"(iii) the private foundation certifies annually to the Secretary that the private foundation is complying with the plan submitted under this paragraph, the requirement under clause (i)(II), and the rules under subparagraph (D).

"(B) Election.—Any election under subparagraph (A)(i) shall be made not later than 6 months after the date of such gift or bequest and shall—

"(i) establish the fair market value of such gift or bequest, and

"(ii) include a certification that the requirement of subparagraph (A)(i)(II) is met.

"(C) Reasonableness of plan.—

"(i) In general.—Any plan submitted under subparagraph (A)(ii) shall be presumed reasonable unless the Secretary notifies the private foundation to the contrary not later than 6 months after the submission of such plan.

"(ii) Resubmission.—Upon notice by the Secretary under clause (i), the private foundation may resubmit a plan and shall have the burden of establishing the reasonableness of such plan to the Secretary.

"(D) Special rules.—During any period in which an election under this paragraph is in effect—

"(i) section 4941(d)(2) (other than subparagraph (A) thereof) shall apply only with respect to any disqualified person described in section 4941(a)(1)(B),

"(ii) section 4942(a) shall be applied by substituting 'third' for 'second' both places it appears,

"(iii) section 4942(e)(1) shall be applied by substituting '12 percent' for '5 percent', and

"(iv) section 4942(g)(1)(A) shall be applied without regard to any portion of reasonable and necessary administrative expenses.

"(E) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 2003, the $1,000,000,000 amount under subparagraph (A)(i)(I) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2002' for '1992' in subparagraph (B) thereof. If the $1,000,000,000 amount as increased under this subparagraph is not a multiple of $100,000,000, such amount shall be rounded to the next lowest multiple of $100,000,000.".

(b) Effective Date.—The amendments made by this section shall apply to gifts and bequests made after the date of the enactment of this Act.

TITLE II—PROPOSALS IMPROVING THE OVERSIGHT OF TAX-EXEMPT ORGANIZATIONS

SEC. 201. DISCLOSURE OF WRITTEN DETERMINATIONS.

(a) In General.—Section 6110(l) (relating to section not to apply) is amended by striking all matter before subparagraph (A) of paragraph (2) and inserting the following:

"(l) Section Not To Apply.—

"(1) In general.—This section shall not apply to any matter to which section 6104 or 6105 applies, except that this section shall apply to any written determination and related background file document relating to an organization described under subsection (c) or (d) of section 501 (including any written determination denying an organization tax-exempt status under such subsection) or a political organization described in section 527 which is not required to be disclosed by section 6104(a)(1)(A).

"(2) Additional matters.—This section shall not apply to any—".

(b) Effective Date.—The amendment made by this section shall apply to written determinations issued after the date of the enactment of this Act.

SEC. 202. DISCLOSURE OF INTERNET WEB SITE AND NAME UNDER WHICH ORGANIZATION DOES BUSINESS.

(a) In General.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Disclosure of Name Under Which Organization Does Business and Its Internet Web Site.—Any organization which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

"(1) any name under which such organization operates or does business, and

"(2) the Internet web site address (if any) of such organization.".

(b) Effective Date.—The amendments made by this section shall apply to returns filed after December 31, 2003.

SEC. 203. MODIFICATION TO REPORTING CAPITAL TRANSACTIONS.

(a) Requirement of Summary Report.—Section 6033(c) (relating to additional provisions relating to private foundations) is amended by adding at the end the following new sentence: "Any information included in an annual return regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income shall also be reported in summary form with a notice that detailed information is available upon request by the public.".

(b) Disclosure Requirement.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act, is amended by adding at the end the following new sentence: "With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the Secretary.".

(c) Public Inspection Requirement.—Section 6104(d) (relating to public inspection of certain annual returns, applications for exemptions, and notices of status) is amended by adding at the end the following new paragraph:

"(9) Application to private foundation capital transaction information.—With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the private foundation in the form and manner of a request described in paragraph (1)(B).".

(d) Effective Date.—The amendments made by this section shall apply to returns filed after December 31, 2003.

SEC. 204. DISCLOSURE THAT FORM 990 IS PUBLICLY AVAILABLE.

(a) In General.—The Commissioner of the Internal Revenue shall notify the public in appropriate publications or other materials of the extent to which an exempt organization's Form 990, Form 990–EZ, or Form 990–PF is publicly available.

(b) Effective Date.—The amendments made by this section shall apply to publications or other materials issued or revised after the date of the enactment of this Act.

SEC. 205. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) In General.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Disclosure of proposed actions related to charitable organizations.—

"(A) Specific notifications.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

"(B) Additional disclosures.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) Procedures for disclosure.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(D) Disclosures other than by request.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

"(3) Disclosure with respect to certain other exempt organizations.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(4) Use in civil judicial and administrative proceedings.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) No disclosure if impairment.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(6) Definitions.—For purposes of this subsection—

"(A) Return and return information.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) Appropriate state officer.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".

(b) Conforming Amendments.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or any appropriate State officer who has or had access to returns or return information under section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18) or any appropriate State officer (as defined in section 6104(c))".

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(7) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 206. EXPANSION OF PENALTIES TO PREPARERS OF FORM 990.

(a) In General.—Section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsections:

"(h) Certain Omissions and Misrepresentations.—

"(1) In general.—Any person who prepares for compensation any return under section 6033 who omits or misrepresents any information with respect to such return which was known or should have been known by such person shall pay a penalty of $250 with respect to such return.

"(2) Exception for minor, inadvertent omissions.—Paragraph (1) shall not apply to minor, inadvertent omissions.

"(3) Rules for determining return preparer.—For purposes of this subsection and subsection (i), any reference to a person who prepares for compensation a return under section 6033—

"(A) shall include any person who employs 1 or more persons to prepare for compensation a return under section 6033, and

"(B) shall not include any person who would be described in clause (i), (ii), (iii), or (iv) of section 7701(a)(36)(B) if such section referred to a return under section 6033.

"(i) Willful or Reckless Conduct.—

"(1) In general.—Any person who prepares for compensation any return under section 6033 who recklessly or intentionally misrepresents any information or recklessly or intentionally disregards any rule or regulation with respect to such return shall pay a penalty of $1,000 with respect to such return.

"(2) Coordination with other penalties.—With respect to any return, the amount of the penalty payable by any person by reason of paragraph (1) shall be reduced by the amount of the penalty paid by such person by reason of subsection (h) or section 6694.".

(b) Conforming Amendments.—

(1) The heading for section 6695 is amended by inserting "**AND OTHER**" after "**INCOME TAX**".

(2) The item relating to section 6695 in the table of sections for part I of subchapter B of chapter 68 is amended by inserting "and other" after "income tax".

(c) Effective Date.—The amendments made by this section shall apply with respect to documents prepared after the date of the enactment of this Act.

SEC. 207. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

(a) In General.—Section 6033 (relating to returns by exempt organizations), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Additional Notification Requirements.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(2)(A)(ii) or (a)(2)(B)—

"(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

"(A) the legal name of the organization,

"(B) any name under which such organization operates or does business,

"(C) the organization's mailing address and Internet web site address (if any),

"(D) the organization's taxpayer identification number,

"(E) the name and address of a principal officer, and

"(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

"(2) upon the termination of the existence of the organization, shall furnish notice of such termination.".

(b) Loss of Exempt Status for Failure To File Return or Notice.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

"(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

"(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

"(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.".

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).".

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns) is amended by inserting "(other than subsection (i) thereof)" after "6033".

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(i).".

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

"(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(i).".

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(i) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(i) and of the penalty established under section 6033(j)—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(j) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2003.

SEC. 208. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

"(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

"(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

"(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) ERRONEOUS DESIGNATION.—

"(A) IN GENERAL.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

SEC. 301. MODIFICATION OF EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINDER TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 664 (relating to exemption from income taxes) is amended to read as follows:

"(c) TAXATION OF TRUSTS.—

"(1) INCOME TAX.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle.

"(2) EXCISE TAX.—

"(A) IN GENERAL.—In the case of a charitable remainder annuity trust or a charitable remainder unitrust which has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

"(B) CERTAIN RULES TO APPLY.—The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

"(C) TAX COURT PROCEEDINGS.—For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 302. MODIFICATIONS TO SECTION 512(b)(13).

(a) In General.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) Paragraph to apply only to excess payments.—

"(i) In general.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

"(ii) Addition to tax for valuation misstatements.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

"(I) such excess determined without regard to any amendment or supplement to a return of tax, or

"(II) such excess determined with regard to all such amendments and supplements.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to payments received or accrued after December 31, 2000.

(2) Payments subject to binding contract transition rule.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

SEC. 303. SIMPLIFICATION OF LOBBYING EXPENDITURE LIMITATION.

(a) Repeal of Grassroots Expenditure Limit.—Paragraph (1) of section 501(h) (relating to expenditures by public charities to influence legislation) is amended to read as follows:

"(1) General rule.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year.".

(b) Excess Lobbying Expenditures.—Section 4911(b) is amended to read as follows:

"(b) Excess Lobbying Expenditures.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year.".

(c) Conforming Amendments.—

(1) Section 501(h)(2) is amended by striking subparagraphs (C) and (D).

(2) Section 4911(c) is amended by striking paragraphs (3) and (4).

(3) Paragraph (1)(A) of section 4911(f) is amended by striking "limits of section 501(h)(1) have" and inserting "limit of section 501(h)(1) has".

(4) Paragraph (1)(C) of section 4911(f) is amended by striking "limits of section 501(h)(1) are" and inserting "limit of section 501(h)(1) is".

(5) Paragraphs (4)(A) and (4)(B) of section 4911(f) are each amended by striking "limits of section 501(h)(1)" and inserting "limit of section 501(h)(1)".

(6) Paragraph (8) of section 6033(b) (relating to certain organizations described in section 501(c)(3)) is amended by inserting "and" at the end of subparagraph (A) and by striking subparagraphs (C) and (D).

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 304. EXPEDITED REVIEW PROCESS FOR CERTAIN TAX-EXEMPTION APPLICATIONS.

(a) In General.—The Secretary of the Treasury or the Secretary's delegate (in this section, referred to as the "Secretary") shall adopt procedures to expedite the consideration of applications for exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 filed after December 31, 2003, by any organization that—

(1) is organized and operated for the primary purpose of providing social services;

(2) is seeking a contract or grant under a Federal, State, or local program that provides funding for social services programs;

(3) establishes that, under the terms and conditions of the contract or grant program, an organization is required to obtain such exempt status before the organization is eligible to apply for a contract or grant;

(4) includes with its exemption application a copy of its completed Federal, State, or local contract or grant application; and

(5) meets such other criteria as the Secretary deems appropriate for expedited consideration.

The Secretary may prescribe other similar circumstances in which such organizations may be entitled to expedited consideration.

(b) Waiver of Application Fee for Exempt Status.—Any organization that meets the conditions described in subsection (a) (without regard to paragraph (3) of that subsection) is entitled to a waiver of any fee for an application for exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 if the organization certifies that the organization has had (or expects to have) average annual gross receipts of not more than $50,000 during the preceding 4 years (or, in the case of an organization not in existence throughout the preceding 4 years, during such organization's first 4 years).

(c) Social Services Defined.—For purposes of this section—

(1) In general.—The term "social services" means services directed at helping people in need, reducing poverty, improving outcomes of low-income children, revitalizing low-income communities, and empowering low-income families and low-income individuals to become self-sufficient, including—

(A) child care services, protective services for children and adults, services for children and adults in foster care, adoption services, services related to the management and maintenance of the home, day care services for adults, and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(B) transportation services;

(C) job training and related services, and employment services;

(D) information, referral, and counseling services;

(E) the preparation and delivery of meals, and services related to soup kitchens or food banks;

(F) health support services;

(G) literacy and mentoring programs;

(H) services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to the intervention in, and prevention of, domestic violence; and

(I) services related to the provision of assistance for housing under Federal law.

(2) Exclusions.—The term does not include a program having the purpose of delivering educational assistance under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 305. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 306. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) In General.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or".

(b) Court Jurisdiction.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) Effective Date.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2002.

SEC. 307. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Convention or Association of Churches.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.".

SEC. 308. PAYMENTS BY CHARITABLE ORGANIZATIONS TO VICTIMS OF WAR ON TERRORISM AND FAMILIES OF ASTRONAUTS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) any payment made by an organization described in section 501(c)(3) of such Code to—

(A) a member of the Armed Forces of the United States, or to an individual of such member's immediate family, by reason of the death, injury, wounding, or illness of such member incurred as the result of the military response of the United States to the terrorist attacks against the United States on September 11, 2001, or

(B) an individual of an astronaut's immediate family by reason of the death of such astronaut occurring in the line of duty after December 31, 2002,

shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payment is made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATES.—This section shall apply to—

(1) payments described in subsection (a)(1)(A) made after the date of the enactment of this Act and before September 11, 2004, and

(2) payments described in subsection (a)(1)(B) made after December 31, 2002.

SEC. 309. MODIFICATION OF SCHOLARSHIP FOUNDATION RULES.

In applying the limitations on the percentage of scholarship grants which may be awarded after the date of the enactment of this Act, to children of current or former employees under Revenue Procedure 76-47, such percentage shall be increased to 35 percent of the eligible applicants to be considered by the selection committee and to 20 percent of individuals eligible for the grants, but only if the foundation awarding the grants demonstrates that, in addition to meeting the other requirements of Revenue Procedure 76-47, it provides a comparable number and aggregate amount of grants during the same program year to individuals who are not such employees, children or dependents of such employees, or affiliated with the employer of such employees.

SEC. 310. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Subparagraph (C) of section 514(c)(9) (relating to real property acquired by a qualified organization) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "; or", and by adding at the end the following new clause:

"(iv) a qualified hospital support organization (as defined in subparagraph (I)).".

(b) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—Paragraph (9) of section 514(c) is amended by adding at the end the following new subparagraph:

"(I) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—For purposes of subparagraph (C)(iv), the term 'qualified hospital support organization' means, with respect to any eligible indebtedness (including any qualified refinancing of such eligible indebtedness), a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 119(d)(4)(B) and with respect to which—

"(i) more than half of the organization's assets (by value) at any time since its organization—

"(I) were acquired, directly or indirectly, by testamentary gift or devise, and

"(II) consisted of real property, and

"(ii) the fair market value of the organization's real estate acquired, directly or indirectly, by gift or devise, exceeded 25 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness was incurred.

For purposes of this subparagraph, the term 'eligible indebtedness' means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such an eligible indebtedness (or the qualified refinancing of such an eligible indebtedness) is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be considered qualified if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred after December 31, 2003.

SEC. 311. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) EXPENSES PAID BY CERTAIN WHALING CAPTAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.—

"(1) IN GENERAL.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $10,000 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

"(2) AMOUNT DESCRIBED.—

"(A) IN GENERAL.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities.

"(B) WHALING EXPENSES.—For purposes of subparagraph (A), the term 'whaling expenses' includes expenses for—

"(i) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

"(ii) the supplying of food for the crew and other provisions for carrying out such activities, and

"(iii) storage and distribution of the catch from such activities.

"(3) SANCTIONED WHALING ACTIVITIES.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contributions made after December 31, 2003.

SEC. 312. MATCHING GRANTS TO LOW-INCOME TAXPAYER CLINICS FOR RETURN PREPARATION.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

"SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED RETURN PREPARATION CLINIC.—

"(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

"(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(2) CLINIC.—The term 'clinic' includes—

"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

"(c) SPECIAL RULES AND LIMITATIONS.—

"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (5) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A. Return preparation clinics for low-income taxpayers.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 313. EXEMPTION OF QUALIFIED 501(c)(3) BONDS FOR NURSING HOMES FROM FEDERAL GUARANTEE PROHIBITIONS.

(a) IN GENERAL.—Section 149(b)(3) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR QUALIFIED 501(C)(3) BONDS FOR NURSING HOMES.—

"(i) In general.—Paragraph (1) shall not apply to any qualified 501(c)(3) bond issued before the date which is 1 year after the date of the enactment of this subparagraph for the benefit of an organization described in section 501(c)(3), if such bond is part of an issue the proceeds of which are used to finance 1 or more of the following facilities primarily for the benefit of the elderly:

"(I) Licensed nursing home facility.

"(II) Licensed or certified assisted living facility.

"(III) Licensed personal care facility.

"(IV) Continuing care retirement community.

"(ii) Limitation.—With respect to any calendar year, clause (i) shall not apply to any bond described in such clause if the aggregate authorized face amount of the issue of which such bond is a part when increased by the outstanding amount of such bonds issued by the issuer for such calendar year exceeds $15,000,000.

"(iii) Continuing care retirement community.—For purposes of this subparagraph, the term 'continuing care retirement community' means a community which provides, on the same campus, a continuum of residential living options and support services to persons at least 60 years of age under a written agreement. For purposes of the preceding sentence, the residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds.".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 314. EXCISE TAXES EXEMPTION FOR BLOOD COLLECTOR ORGANIZATIONS.

(a) Exemption from Imposition of Special Fuels Tax.—Section 4041(g) (relating to other exemptions) is amended by striking "and" at the end of paragraph (3), by striking the period in paragraph (4) and inserting "; and", and by inserting after paragraph (4) the following new paragraph:

"(5) with respect to the sale of any liquid to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use, or with respect to the use by a qualified blood collector organization of any liquid as a fuel.".

(b) Exemption From Manufacturers Excise Tax.—

(1) In general.—Section 4221(a) (relating to certain tax-free sales) is amended by striking "or" at the end of paragraph (4), by adding "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use,".

(2) Conforming amendments.—

(A) The second sentence of section 4221(a) is amended by striking "Paragraphs (4) and (5)" and inserting "Paragraphs (4), (5), and (6)".

(B) Section 6421(c) is amended by striking "or (5)" and inserting "(5), or (6)".

(c) Exemption From Communication Excise Tax.—

(1) In general.—Section 4253 (relating to exemptions) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) Exemption for Qualified Blood Collector Organizations.—Under regulations provided by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a qualified blood collector organization (as defined in section 7701(a)) for services or facilities furnished to such organization.".

(2) Conforming amendment.—Section 4253(l), as redesignated by paragraph (1), is amended by striking "or (j)" and inserting "(j), or (k)".

(d) Credit for Refund for Certain Taxes on Sales and Services.—

(1) Deemed overpayment.—

(A) In general.—Section 6416(b)(2) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) sold to a qualified blood collector organization's (as defined in section 7701(a)(48)) for such organization's exclusive use;".

(B) Conforming amendments.—Section 6416(b)(2) is amended—

(i) by striking "Subparagraphs (C) and (D)" and inserting "Subparagraphs (C), (D), and (E)", and

(ii) by striking "(C), and (D)" and inserting "(C), (D), and (E)".

(2) Sales of tires.—Clause (ii) of section 6416(b)(4)(B) is amended by inserting "sold to a qualified blood collector organization (as defined in section 7701(a)(48))," after "for its exclusive use,".

(e) Definition of Qualified Blood Collector Organization.—Section 7701(a) is amended by inserting at the end the following new paragraph:

"(48) Qualified blood collector organization.—For purposes of this title, the term 'qualified blood collector organization' means an organization which is—

"(A) described in section 501(c)(3) and exempt from tax under section 501(a),

"(B) registered by the Food and Drug Administration to collect blood, and

"(C) primarily engaged in the activity of the collection of blood.".

(f) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to excise taxes imposed on sales or uses occurring on or after October 1, 2003.

(2) Refund of gasoline tax.—For purposes of section 6421(c) of the Internal Revenue Code of 1986 and any other provision that allows for a refund or a payment in respect of an excise tax payable at a level before the sale to a qualified blood collector organization, the amendments made by this section shall apply with respect to sales to a qualified collector organization on or after October 1, 2003.

SEC. 315. PILOT PROJECT FOR FOREST CONSERVATION ACTIVITIES.

(a) Tax-Exempt Bond Financing.—

(1) In general.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) Qualified forest conservation bond.—For purposes of this section, the term "qualified forest conservation bond" means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) Limitation on aggregate amount issued.—

(A) In general.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $2,000,000,000 for all projects (excluding refunding bonds).

(B) Allocation of limitation.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) Qualified project costs.—For purposes of this subsection, the term "qualified project costs" means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) Special rules.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) Treatment of current refunding bonds.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) Effective date.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) Items From Qualified Harvesting Activities Not Subject to Tax or Taken Into Account.— ,

(1) In general.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) Limitation.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to

make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "qualified harvesting activity" means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term "qualified conservation plan" means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term "qualified organization" means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) UNRELATED PERSON.—The term "unrelated person" means a person who is not a related person.

(5) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting "25 percent" for "50 percent" each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

SEC. 316. CLARIFICATION OF TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.

(a) CLARIFICATION OF TAX-EXEMPT STATUS OF TRUSTS.—

(1) IN GENERAL.—Subsection (b) of section 601 of the Homeland Security Act of 2002 is amended to read as follows:

"(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and meets the requirements described in subsection (c) shall be eligible to designate itself as a 'Johnny Micheal Spann Patriot trust'.".

(2) CONFORMING AMENDMENT.—Section 601(c)(3) of such Act is amended by striking "based" and all that follows through "Trust".

(b) PUBLICLY AVAILABLE AUDITS.—Section 601(c)(7) of the Homeland Security Act of 2002 is amended by striking "shall be filed with the Internal Revenue Service, and shall be open to public inspection" and inserting "shall be open to public inspection consistent with section 6104(d)(1) of the Internal Revenue Code of 1986".

(c) CLARIFICATION OF REQUIRED DISTRIBUTIONS TO PRIVATE FOUNDATION.—

(1) IN GENERAL.—Section 601(c)(8) of the Homeland Security Act of 2002 is amended by striking "not placed" and all that follows and inserting "not so distributed shall be contributed to a private foundation which is described in section 509(a) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and which is dedicated to such beneficiaries not later than 36 months after the end of the fiscal year in which such funds, donations, or earnings are received.".

(2) CONFORMING AMENDMENTS.—Section 601(c) of such Act is amended—

(A) by striking "(or, if placed in a private foundation, held in trust for)" in paragraph (1) and inserting "(or contributed to a private foundation described in paragraph (8) for the benefit of)", and

(B) by striking "invested in a private foundation" in paragraph (2) and inserting "contributed to a private foundation described in paragraph (8)".

(d) REQUIREMENTS FOR DISTRIBUTIONS FROM TRUSTS.—Section 601(c)(9)(A) of the Homeland Security Act of 2002 is amended by striking "should" and inserting "shall".

(e) REGULATIONS REGARDING NOTIFICATION OF TRUST BENEFICIARIES.—Section 601(f) of the Homeland Security Act of 2002 is amended by striking "this section" and inserting "subsection (e)".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 601 of the Homeland Security Act of 2002.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

SEC. 401. RESTORATION OF FUNDS FOR THE SOCIAL SERVICES BLOCK GRANT.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) was signed into law.

(2) In enacting that law, Congress authorized $2,800,000,000 for fiscal year 2003 and each fiscal year thereafter to carry out the Social Services Block Grant program established under title XX of the Social Security Act (42 U.S.C. 1397 et seq.).

(b) RESTORATION OF FUNDS.—Section 2003(c)(11) of the Social Security Act (42 U.S.C. 1397b(c)(11)) is amended by inserting ", except that, with respect to fiscal year 2004, the amount shall be $1,975,000,000, and with respect to fiscal year 2005, the amount shall be $2,800,000,000" after "thereafter.".

SEC. 402. RESTORATION OF AUTHORITY TO TRANSFER UP TO 10 PERCENT OF TANF FUNDS TO THE SOCIAL SERVICES BLOCK GRANT.

(a) IN GENERAL.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to amounts made available for fiscal year 2004 and each fiscal year thereafter.

SEC. 403. REQUIREMENT TO SUBMIT ANNUAL REPORT ON STATE ACTIVITIES.

(a) IN GENERAL.—Section 2006(c) of the Social Security Act (42 U.S.C. 1397e(c)) is amended by adding at the end the following: "The Secretary shall compile the information submitted by the States and submit that information to Congress on an annual basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to information submitted by States under section 2006 of the Social Security Act (42 U.S.C. 1397e) with respect to fiscal year 2003 and each fiscal year thereafter.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

SEC. 501. SHORT TITLE.

This title may be cited as the "Savings for Working Families Act of 2004".

SEC. 502. PURPOSES.

The purposes of this title are to provide for the establishment of individual development account programs that will—

(1) provide individuals and families with limited means an opportunity to accumulate assets and to enter the financial mainstream,

(2) promote education, homeownership, and the development of small businesses,

(3) stabilize families and build communities, and

(4) support continued United States economic expansion.

SEC. 503. DEFINITIONS.

As used in this title:

(1) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term "eligible individual" means, with respect to any taxable year, an individual who—

(i) has attained the age of 18 but not the age of 61 as of the last day of such taxable year,

(ii) is a citizen or lawful permanent resident (within the meaning of section 7701(b)(6) of the Internal Revenue Code of 1986) of the United States as of the last day of such taxable year,

(iii) was not a student (as defined in section 151(c)(4) of such Code) for the immediately preceding taxable year,

(iv) is not an individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year of the other taxpayer ending during the immediately preceding taxable year of the individual,

(v) is not a taxpayer described in subsection (c), (d), or (e) of section 6402 of such Code for the immediately preceding taxable year,

(vi) is not a taxpayer described in section 1(d) of such Code for the immediately preceding taxable year, and

(vii) is a taxpayer the modified adjusted gross income of whom for the immediately preceding taxable year does not exceed—

(I) $18,000, in the case of a taxpayer described in section 1(c) of such Code,

(II) $30,000, in the case of a taxpayer described in section 1(b) of such Code, and

(III) $38,000, in the case of a taxpayer described in section 1(a) of such Code.

(B) INFLATION ADJUSTMENT.—

(i) IN GENERAL.—In the case of any taxable year beginning after 2004, each dollar amount referred to in subparagraph (A)(vii) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section (1)(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, by substituting "2003" for "1992".

(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A)(v), the term "modified adjusted gross income" means adjusted gross income—

(i) determined without regard to sections 86, 893, 911, 931, and 933 of the Internal Revenue Code of 1986, and

(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term "Individual Development Account" means an account established for an eligible individual as part of a qualified individual development account program, but only if the written governing instrument creating the account meets the following requirements:

(A) The owner of the account is the individual for whom the account was established.

(B) No contribution will be accepted unless it is in cash, and, except in the case of any qualified rollover, contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual.

(C) The trustee of the account is a qualified financial institution.

(D) The assets of the account will not be commingled with other property except in a common trust fund or common investment fund.

(E) Except as provided in section 507(b), any amount in the account may be paid out only for the purpose of paying the qualified expenses of the account owner.

(3) PARALLEL ACCOUNT.—The term "parallel account" means a separate, parallel individual or pooled account for all matching funds and earnings dedicated to an Individual Development Account owner as part of a qualified individual development account program, the trustee of which is a qualified financial institution.

(4) QUALIFIED FINANCIAL INSTITUTION.—The term "qualified financial institution" means any person authorized to be a trustee of any individual retirement account under section 408(a)(2) of the Internal Revenue Code of 1986.

(5) QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM.—The term "qualified individual development account program" means a program established upon approval of the Secretary under section 504 after December 31, 2002, under which—

(A) Individual Development Accounts and parallel accounts are held in trust by a qualified financial institution, and

(B) additional activities determined by the Secretary, in consultation with the Secretary of Health and Human Services, as necessary to responsibly develop and administer accounts, including recruiting, providing financial education and other training to Account owners, and regular program monitoring, are carried out by the qualified financial institution.

(6) QUALIFIED EXPENSE DISTRIBUTION.—

(A) IN GENERAL.—The term "qualified expense distribution" means any amount paid (including through electronic payments) or distributed out of an Individual Development Account or a parallel account established for an eligible individual if such amount—

(i) is used exclusively to pay the qualified expenses of the Individual Development Account owner or such owner's spouse or dependents,

(ii) is paid by the qualified financial institution—

(I) except as otherwise provided in this clause, directly to the unrelated third party to whom the amount is due,

(II) in the case of any qualified rollover, directly to another Individual Development Account and parallel account, or

(III) in the case of a qualified final distribution, directly to the spouse, dependent, or other named beneficiary of the deceased Account owner, and

(iii) is paid after the Account owner has completed a financial education course if required under section 505(b).

(B) QUALIFIED EXPENSES.—

(i) IN GENERAL.—The term "qualified expenses" means any of the following expenses approved by the qualified financial institution:

(I) Qualified higher education expenses.

(II) Qualified first-time homebuyer costs.

(III) Qualified business capitalization or expansion costs.

(IV) Qualified rollovers.

(V) Qualified final distribution.

(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—

(I) IN GENERAL.—The term "qualified higher education expenses" has the meaning given such term by section 529(e)(3) of the Internal Revenue Code of 1986, determined by treating the Account owner, the owner's spouse, or one or more of the owner's dependents as a designated beneficiary, and reduced as provided in section 25A(g)(2) of such Code.

(II) COORDINATION WITH OTHER BENEFITS.—The amount of expenses which may be taken into account for purposes of section 135, 529, or 530 of such Code for any taxable year shall be reduced by the amount of any qualified higher education expenses taken into account as qualified expense distributions during such taxable year.

(iii) QUALIFIED FIRST-TIME HOMEBUYER COSTS.—The term "qualified first-time homebuyer costs" means qualified acquisition costs (as defined in section 72(t)(8)(C) of the Internal Revenue Code of 1986) with respect to a principal residence (within the meaning of section 121 of such Code) for a qualified first-time homebuyer (as defined in section 72(t)(8)(D)(i) of such Code).

(iv) QUALIFIED BUSINESS CAPITALIZATION OR EXPANSION COSTS.—

(I) IN GENERAL.—The term "qualified business capitalization or expansion costs" means qualified expenditures for the capitalization or expansion of a qualified business pursuant to a qualified business plan.

(II) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant, and equipment, inventory expenses, and attorney and accounting fees.

(III) QUALIFIED BUSINESS.—The term "qualified business" means any business that does not contravene any law.

(IV) QUALIFIED BUSINESS PLAN.—The term "qualified business plan" means a business plan which has been approved by the qualified financial institution and which meets such requirements as the Secretary may specify.

(v) QUALIFIED ROLLOVERS.—The term "qualified rollover" means the complete distribution of the amounts in an Individual Development Account and parallel account to another Individual Development Account and parallel account established in another qualified financial institution for the benefit of the Account owner.

(vi) QUALIFIED FINAL DISTRIBUTION.—The term "qualified final distribution" means, in the case of a deceased Account owner, the complete distribution of the amounts in the Individual Development Account and parallel account directly to the spouse, any dependent, or other named beneficiary of the deceased.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

SEC. 504. STRUCTURE AND ADMINISTRATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.—Any qualified financial institution may apply to the Secretary for approval to establish 1 or more qualified individual development account programs which meet the requirements of this title and for an allocation of the Individual Development Account limitation under section 45G(i)(3) of the Internal Revenue Code of 1986 with respect to such programs.

(b) BASIC PROGRAM STRUCTURE.—

(1) IN GENERAL.—All qualified individual development account programs shall consist of the following 2 components for each participant:

(A) An Individual Development Account to which an eligible individual may contribute cash in accordance with section 505.

(B) A parallel account to which all matching funds shall be deposited in accordance with section 506.

(2) TAILORED IDA PROGRAMS.—A qualified financial institution may tailor its qualified individual development account program to allow matching funds to be spent on 1 or more of the categories of qualified expenses.

(3) NO FEES MAY BE CHARGED TO IDAS.—A qualified financial institution may not charge any fees to any Individual Development Account or parallel account under a qualified individual development account program.

(c) COORDINATION WITH PUBLIC HOUSING AGENCY INDIVIDUAL SAVINGS ACCOUNTS.—Section 3(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(e)(2)) is amended by inserting "or in any Individual Development Account established under the Savings for Working Families Act of 2004" after "subsection".

(d) TAX TREATMENT OF PARALLEL ACCOUNTS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. TAX INCENTIVES FOR INDIVIDUAL DEVELOPMENT PARALLEL ACCOUNTS.

"For purposes of this title—

"(1) any account described in section 504(b)(1)(B) of the Savings for Working Families Act of 2004 shall be exempt from taxation,

"(2) except as provided in section 45G, no item of income, expense, basis, gain, or loss with respect to such an account may be taken into account, and

"(3) any amount withdrawn from such an account shall not be includible in gross income.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7528. Tax incentives for individual development parallel accounts.".

(e) COORDINATION OF CERTAIN EXPENSES.—Section 25A(g)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) a qualified expense distribution with respect to qualified higher education expenses from an Individual Development Account or a parallel account under section 507(a) of the Savings for Working Families Act of 2004.".

SEC. 505. PROCEDURES FOR OPENING AND MAINTAINING AN INDIVIDUAL DEVELOPMENT ACCOUNT AND QUALIFYING FOR MATCHING FUNDS.

(a) OPENING AN ACCOUNT.—An eligible individual may open an Individual Development Account with a qualified financial institution upon certification that such individual has never maintained any other Individual Development Account (other than an Individual Development Account to be terminated by a qualified rollover).

(b) REQUIRED COMPLETION OF FINANCIAL EDUCATION COURSE.—

(1) IN GENERAL.—Before becoming eligible to withdraw funds to pay for qualified expenses, owners of Individual Development Accounts must complete 1 or more financial education courses specified in the qualified individual development account program.

(2) STANDARD AND APPLICABILITY OF COURSE.—The Secretary, in consultation with representatives of qualified individual development account programs and financial educators, shall not later than January 1, 2004, establish minimum quality standards for the contents of financial education courses and providers of such courses described in paragraph (1) and a protocol to exempt individuals from the requirement under paragraph (1) in the case of hardship, lack of need, the attainment of age 65, or a qualified final distribution.

(c) PROOF OF STATUS AS AN ELIGIBLE INDIVIDUAL.—Federal income tax forms for the immediately preceding taxable year and any other evidence of eligibility which may be required by a qualified financial institution shall be presented to such institution at the time of the establishment of the Individual Development Account and in any taxable year in which contributions are made to the Account to qualify for matching funds under section 506(b)(1)(A).

(d) SPECIAL RULE IN THE CASE OF MARRIED INDIVIDUALS.—For purposes of this title, if, with respect to any taxable year, 2 married individuals file a Federal joint income tax return, then not more than 1 of such individuals may be treated as an eligible individual with respect to the succeeding taxable year.

SEC. 506. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) PARALLEL ACCOUNTS.—The qualified financial institution shall deposit all matching funds for each Individual Development Account into a parallel account at a qualified financial institution.

(b) REGULAR DEPOSITS OF MATCHING FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), the qualified financial institution shall deposit into the parallel account with respect to each eligible individual the following amounts:

(A) A dollar-for-dollar match for the first $500 contributed by the eligible individual into an Individual Development Account with respect to any taxable year of such individual.

(B) Any matching funds provided by State, local, or private sources in accordance with the matching ratio set by those sources.

(2) TIMING OF DEPOSITS.—A deposit of the amounts described in paragraph (1) shall be made into a parallel account—

(A) in the case of amounts described in paragraph (1)(A), not later than 30 days after the end of the calendar quarter during which the contribution described in such paragraph was made, and

(B) in the case of amounts described in paragraph (1)(B), not later than 2 business days after such amounts were provided.

(3) CROSS REFERENCE.—

For allowance of tax credit for Individual Development Account subsidies, including matching funds, see section 45G of the Internal Revenue Code of 1986.

(c) DEPOSIT OF MATCHING FUNDS INTO INDIVIDUAL DEVELOPMENT ACCOUNT OF INDIVIDUAL WHO HAS ATTAINED AGE 65.—In the case of an Individual Development Account owner who attains the age of 65, the qualified financial institution shall deposit the funds in the parallel account with respect to such individual into the Individual Development Account of such individual on the later of—

(1) the day which is the 1-year anniversary of the deposit of such funds in the parallel account, or

(2) the first business day of the taxable year of such individual following the taxable year in which such individual attained age 65.

(d) UNIFORM ACCOUNTING REGULATIONS.—To ensure proper recordkeeping and determination of the tax credit under section 45G of the Internal Revenue Code of 1986, the Secretary shall prescribe regulations with respect to accounting for matching funds in the parallel accounts.

(e) REGULAR REPORTING OF ACCOUNTS.—Any qualified financial institution shall report the balances in any Individual Development Account and parallel account of an individual on not less than an annual basis to such individual.

SEC. 507. WITHDRAWAL PROCEDURES.

(a) WITHDRAWALS FOR QUALIFIED EXPENSES.—

(1) IN GENERAL.—An Individual Development Account owner may withdraw funds in order to pay qualified expense distributions from such individual's—

(A) Individual Development Account, but only from funds which have been on deposit in such Account for at least 1 year, and

(B) parallel account, but only—

(i) from matching funds which have been on deposit in such parallel account for at least 1 year,

(ii) from earnings in such parallel account, after all matching funds described in clause (i) have been withdrawn, and

(iii) to the extent such withdrawal does not result in a remaining balance in such parallel account which is less than the remaining balance in the Individual Development Account after such withdrawal.

(2) Procedure.—Upon receipt of a withdrawal request which meets the requirements of paragraph (1), the qualified financial institution shall directly transfer the funds electronically to the distributees described in section 503(6)(A)(ii). If a distributee is not equipped to receive funds electronically, the qualified financial institution may issue such funds by paper check to the distributee.

(b) Withdrawals for Nonqualified Expenses.—An Individual Development Account owner may withdraw any amount of funds from the Individual Development Account for purposes other than to pay qualified expense distributions, but if, after such withdrawal, the amount in the parallel account of such owner (excluding earnings on matching funds) exceeds the amount remaining in such Individual Development Account, then such owner shall forfeit from the parallel account the lesser of such excess or the amount withdrawn.

(c) Withdrawals From Accounts of Noneligible Individuals.—If the individual for whose benefit an Individual Development Account is established ceases to be an eligible individual, such account shall remain an Individual Development Account, but such individual shall not be eligible for any further matching funds under section 506(b)(1)(A) for contributions which are made to the Account during any taxable year when such individual is not an eligible individual.

(d) Effect of Pledging Account as Security.—If, during any taxable year of the individual for whose benefit an Individual Development Account is established, that individual uses the Account, the individual's parallel account, or any portion thereof as security for a loan, the portion so used shall be treated as a withdrawal of such portion from the Individual Development Account for purposes other than to pay qualified expenses.

SEC. 508. CERTIFICATION AND TERMINATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) Certification Procedures.—Upon establishing a qualified individual development account program under section 504, a qualified financial institution shall certify to the Secretary at such time and in such manner as may be prescribed by the Secretary and accompanied by any documentation required by the Secretary, that—

(1) the accounts described in subparagraphs (A) and (B) of section 504(b)(1) are operating pursuant to all the provisions of this title, and

(2) the qualified financial institution agrees to implement an information system necessary to monitor the cost and outcomes of the qualified individual development account program.

(b) Authority To Terminate Qualified IDA Program.—If the Secretary determines that a qualified financial institution under this title is not operating a qualified individual development account program in accordance with the requirements of this title (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such institution's authority to conduct the program. If the Secretary is unable to identify a qualified financial institution to assume the authority to conduct such program, then any funds in a parallel account established for the benefit of any individual under such program shall be deposited into the Individual Development Account of such individual as of the first day of such termination.

SEC. 509. REPORTING, MONITORING, AND EVALUATION.

(a) Responsibilities of Qualified Financial Institutions.—

(1) In general.—Each qualified financial institution that operates a qualified individual development account program under section 504 shall report annually to the Secretary within 90 days after the end of each calendar year on—

(A) the number of individuals making contributions into Individual Development Accounts and the amounts contributed,

(B) the amounts contributed into Individual Development Accounts by eligible individuals and the amounts deposited into parallel accounts for matching funds,

(C) the amounts withdrawn from Individual Development Accounts and parallel accounts, and the purposes for which such amounts were withdrawn,

(D) the balances remaining in Individual Development Accounts and parallel accounts, and

(E) such other information needed to help the Secretary monitor the effectiveness of the qualified individual development account program (provided in a non-individually-identifiable manner).

(2) Additional reporting requirements.—Each qualified financial institution that operates a qualified individual development account program under section 504 shall report at such time and in such manner as the Secretary may prescribe any additional information that the Secretary requires to be provided for purposes of administering and supervising the qualified individual development account program. This additional data may include, without limitation, identifying information about Individual Development Account owners, their Accounts, additions to the Accounts, and withdrawals from the Accounts.

(b) Responsibilities of the Secretary.—

(1) Monitoring protocol.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and implement a protocol and process to monitor the cost and outcomes of the qualified individual development account programs established under section 504.

(2) Annual reports.—For each year after 2004, the Secretary shall submit a progress report to Congress on the status of such qualified individual development account programs. Such report shall, to the extent data are available, include from a representative sample of qualified individual development account programs information on—

(A) the characteristics of participants, including age, gender, race or ethnicity, marital status, number of children, employment status, and monthly income,

(B) deposits, withdrawals, balances, uses of Individual Development Accounts, and participant characteristics,

(C) the characteristics of qualified individual development account programs, including match rate, economic education requirements, permissible uses of accounts, staffing of programs in full time employees, and the total costs of programs, and

(D) process information on program implementation and administration, especially on problems encountered and how problems were solved.

(3) Reauthorization report on cost and outcomes of IDAs.—

(A) In general.—Not later than July 1, 2008, the Secretary of the Treasury shall submit a report to Congress and the chairmen and ranking members of the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on Education and the Workforce of the House of Representatives, in which the Secretary shall—

(i) summarize the previously submitted annual reports required under paragraph (2),

(ii) from a representative sample of qualified individual development account programs, include an analysis of—

(I) the economic, social, and behavioral outcomes,

(II) the changes in savings rates, asset holdings, and household debt, and overall changes in economic stability,

(III) the changes in outlooks, attitudes, and behavior regarding savings strategies, investment, education, and family,

(IV) the integration into the financial mainstream, including decreased reliance on alternative financial services, and increase in acquisition of mainstream financial products, and

(V) the involvement in civic affairs, including neighborhood schools and associations, associated with participation in qualified individual development account programs,

(iii) from a representative sample of qualified individual development account programs, include a comparison of outcomes associated with such programs with outcomes associated with other Federal Government social and economic development programs, including asset building programs, and

(iv) make recommendations regarding the reauthorization of the qualified individual development account programs, including—

(I) recommendations regarding reforms that will improve the cost and outcomes of the such programs, including the ability to help low income families save and accumulate productive assets,

(II) recommendations regarding the appropriate levels of subsidies to provide effective incentives to financial institutions and Account owners under such programs, and

(III) recommendations regarding how such programs should be integrated into other Federal poverty reduction, asset building, and community development policies and programs.

(B) Authorization.—There is authorized to be appropriated $2,500,000, for carrying out the purposes of this paragraph.

(4) Use of accounts in rural areas encouraged.—The Secretary shall develop methods to encourage the use of Individual Development Accounts in rural areas.

SEC. 510. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $1,000,000 for fiscal year 2004 and for each fiscal year through 2012, for the purposes of implementing this title, including the reporting, monitoring, and evaluation required under section 509, to remain available until expended.

SEC. 511. MATCHING FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS PROVIDED THROUGH A TAX CREDIT FOR QUALIFIED FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

“SEC. 45G. INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT CREDIT.

“(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the individual development account investment credit determined under this section with respect to any eligible entity for any taxable year is an amount equal to the individual development account investment provided by such eligible entity during the taxable year under an individual development account program established under section 504 of the Savings for Working Families Act of 2004.

“(b) APPLICABLE TAX.—For the purposes of this section, the term ‘applicable tax’ means the excess (if any) of—

“(1) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (Q) of section 26(b)(2)), over

“(2) the credits allowable under subpart B (other than this section) and subpart D of this part.

“(c) INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT.—For purposes of this section, the term ‘individual development account investment’ means, with respect to an individual development account program in any taxable year, an amount equal to the sum of—

“(1) the aggregate amount of dollar-for-dollar matches under such program under section 506(b)(1)(A) of the Savings for Working Families Act of 2004 for such taxable year, plus

“(2) $50 with respect to each Individual Development Account maintained—

“(A) as of the end of such taxable year, but only if such taxable year is within the 7-taxable-year period beginning with the taxable year in which such Account is opened, and

“(B) with a balance of not less than $100 (other than the taxable year in which such Account is opened).

“(d) ELIGIBLE ENTITY.—For purposes of this section, except as provided in regulations, the term ‘eligible entity’ means a qualified financial institution.

“(e) OTHER DEFINITIONS.—For purposes of this section, any term used in this section and also in the Savings for Working Families Act of 2004 shall have the meaning given such term by such Act.

“(f) DENIAL OF DOUBLE BENEFIT.—

“(1) IN GENERAL.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which—

“(A) is taken into account under subsection (c)(1)(A) in determining the credit under this section, or

“(B) is attributable to the maintenance of an Individual Development Account.

“(2) DETERMINATION OF AMOUNT.—Solely for purposes of paragraph (1)(B), the amount attributable to the maintenance of an Individual Development Account shall be deemed to be the dollar amount of the credit allowed under subsection (c)(1)(B) for each taxable year such Individual Development Account is maintained.

“(g) CREDIT MAY BE TRANSFERRED.—

“(1) IN GENERAL.—An eligible entity may transfer any credit allowable to the eligible entity under subsection (a) to any person other than to another eligible entity which is exempt from tax under this title. The determination as to whether a credit is allowable shall be made without regard to the tax-exempt status of the eligible entity.

“(2) CONSENT REQUIRED FOR REVOCATION.—Any transfer under paragraph (1) may be revoked only with the consent of the Secretary.

“(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including

“(1) such regulations as necessary to insure that any credit described in subsection (g)(1) is claimed once and not retransferred by a transferee, and

“(2) regulations providing for a recapture of the credit allowed under this section (notwithstanding any termination date described in subsection (i)) in cases where there is a forfeiture under section 507(b) of the Savings for Working Families Act of 2004 in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.

“(i) APPLICATION OF SECTION.—

“(1) IN GENERAL.—This section shall apply to any expenditure made in any taxable year ending after December 31, 2004, and beginning on or before January 1, 2012, with respect to any Individual Development Account which—

“(A) is opened before January 1, 2012, and

“(B) as determined by the Secretary, when added to all of the previously opened Individual Development Accounts, does not exceed—

“(i) 100,000 Accounts if opened after December 31, 2004, and before January 1, 2007,

“(ii) an additional 100,000 Accounts if opened after December 31, 2006, and before January 1, 2009, but only if, except as provided in paragraph (4), the total number of Accounts described in clause (i) are opened and the Secretary determines that such Accounts are being reasonably and responsibly administered, and

“(iii) an additional 100,000 Accounts if opened after December 31, 2008, and before January 1, 2012, but only if the total number of Accounts described in clauses (i) and (ii) are opened and the Secretary makes a determination described in paragraph (2).

Notwithstanding the preceding sentence, this section shall apply to amounts which are described in subsection (c)(1)(A) and which are timely deposited into a parallel account during the 30-day period following the end of last taxable year beginning before January 1, 2012.

“(2) DETERMINATION WITH RESPECT TO THIRD GROUP OF ACCOUNTS.—A determination is described in this paragraph if the Secretary determines that—

“(A) substantially all of the previously opened Accounts have been reasonably and responsibly administered prior to the date of the determination,

“(B) the individual development account programs have increased net savings of participants in the programs,

“(C) participants in the individual development account programs have increased Federal income tax liability and decreased utilization of Federal assistance programs relative to similarly situated individuals that did not participate in the individual development account programs, and

“(D) the sum of the estimated increased Federal tax liability and reduction of Federal assistance program benefits to participants in the individual development account programs is greater than the cost of the individual development account programs to the Federal government.

“(3) DETERMINATION OF LIMITATION.—The limitation on the number of Individual Development Accounts under paragraph (1)(B) shall be allocated by the Secretary among qualified individual development account programs selected by the Secretary and, in the case of the limitation under clause (iii) of such paragraph, shall be equally divided among the States.

“(4) SPECIAL RULE IF SMALLER NUMBER OF ACCOUNTS ARE OPENED.—For purposes of paragraph (1)(B)(ii)—

“(i) IN GENERAL.—If less than 100,000 Accounts are opened before January 1, 2007, such paragraph shall be applied by substituting “applicable number of Accounts’ for ‘100,000 Accounts’.

“(ii) APPLICABLE NUMBER.—For purposes of clause (i), the applicable number equals the lesser of—

“(I) 75,000, or

“(II) 3 times the number of Accounts opened before January 1, 2007.”.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking “plus” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, plus”, and by adding at the end the following new paragraph:

“(16) the individual development account investment credit determined under section 45G(a).”.

(c) NO CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

“(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the individual development account investment credit determined under section 45G may be carried back to a taxable year ending before January 1, 2004.”.

(d) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45G. Individual development account investment credit.”.

(e) REPORT REGARDING ACCOUNT MAINTENANCE FEES.—The Secretary of the Treasury shall study the adequacy of the amount specified in section 45G(c)(2) of the Internal Revenue Code of 1986 (as added by this section). Not later than December 31, 2009, the Secretary of the Treasury shall report the findings of the study described in the preceding sentence to Congress.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2004.

SEC. 512. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in any Individual Development Account of such individual and any matching deposit made on behalf of such individual (including earnings thereon) in any parallel account shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such Individual Development Account.

TITLE VI—MANAGEMENT OF EXEMPT ORGANIZATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Treasury $80,000,000 for each fiscal year to carry out the administration of exempt organizations by the Internal Revenue Service.

(b) IMPLEMENTATION OF SECTION 527.—There is authorized to be appropriated to the Secretary of the Treasury $3,000,000 to carry out the provisions of Public Laws 106–230 and 107–276 relating to section 527 of the Internal Revenue Code of 1986.

TITLE VII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 701. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701, as amended by this Act, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there is any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 15, 2004.

SEC. 702. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—The term 'high net worth individual' means, with respect to a transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 703. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 704. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A applies.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable To Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 15, 2004.

SEC. 705. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 706. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 707. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction, "(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) Effective Date.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 708. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Rescission Authority.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 709. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 710. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 711. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 712. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 713. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 714. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.".

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, Etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 715. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 716. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''.

(b) Effective Date.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 717. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 718. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2002, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Provisions

SEC. 721. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''.

(b) Result Not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) In General.—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

(b) Effective Date.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 723. SECURITIES CIVIL ENFORCEMENT PROVISIONS.

(a) Authority To Assess Civil Money Penalties.—

(1) Securities act of 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(g) Authority of the Commission To Assess Money Penalty.—

''(1) In general.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

''(2) Maximum amount of penalty.—

''(A) First tier.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

''(B) Second tier.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

''(C) Third tier.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

''(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

''(3) Evidence concerning ability to pay.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether the penalty is in the public interest. Such evidence may relate to the extent of the person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of that person and the amount of the assets of that person.''.

(2) Securities exchange act of 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(A) in paragraph (4), by striking ''supervision;'' and all that follows through the end of the subsection and inserting ''supervision.'';

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(1) In general.—In any proceeding''; and

(E) by adding at the end the following:

''(2) Other money penalties.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(3) Investment company act of 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(A) in subparagraph (C), by striking ''therein;'' and all that follows through the end of the paragraph and inserting ''supervision.'';

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(C) by inserting ''that such penalty is in the public interest and'' after ''hearing,'';

(D) by striking ''In any proceeding'' and inserting the following:

''(A) In general.—In any proceeding''; and

(E) by adding at the end the following:

''(B) Other money penalties.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.''.

(4) Investment advisers act of 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(A) in subparagraph (D), by striking ''supervision;'' and all that follows through the end of the paragraph and inserting "supervision.";

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(C) by inserting "that such penalty is in the public interest and" after "hearing,";

(D) by striking "In any proceeding" and inserting the following:

"(A) IN GENERAL.—In any proceeding"; and

(E) by adding at the end the following:

"(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.".

(b) INCREASED MAXIMUM CIVIL MONEY PENALTIES.—

(1) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by striking "$5,000" and inserting "$100,000"; and

(ii) by striking "$50,000" and inserting "$250,000";

(B) in subparagraph (B)(i)—

(i) by striking "$50,000" and inserting "$500,000"; and

(ii) by striking "$250,000" and inserting "$1,000,000"; and

(C) in subparagraph (C)(i)—

(i) by striking "$100,000" and inserting "$1,000,000"; and

(ii) by striking "$500,000" and inserting "$2,000,000".

(2) SECURITIES EXCHANGE ACT OF 1934.—

(A) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(i) in subsection (b), by striking "$100" and inserting "$10,000"; and

(ii) in subsection (c)—

(I) in paragraph (1)(B), by striking "$10,000" and inserting "$500,000"; and

(II) in paragraph (2)(B), by striking "$10,000" and inserting "$500,000".

(B) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1(a)(3)) is amended by striking "$1,000,000" and inserting "$2,000,000".

(C) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(i) in paragraph (1)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in paragraph (2)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in paragraph (3)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(D) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(i) in clause (i)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in clause (ii)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in clause (iii)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(3) INVESTMENT COMPANY ACT OF 1940.—

(A) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(B) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(4) INVESTMENT ADVISERS ACT OF 1940.—

(A) REGISTRATION.—Section 203(i)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(B) ENFORCEMENT OF INVESTMENT ADVISERS ACT.—Section 209(e)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(c) AUTHORITY TO OBTAIN FINANCIAL RECORDS.—Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking "(9)(A)" and all that follows through "(B) The" and inserting "(3) The";

(3) by inserting after paragraph (1), the following:

"(2) ACCESS TO FINANCIAL RECORDS.—

"(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

"(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

"(i) result in the transfer of assets or records outside the territorial limits of the United States;

"(ii) result in improper conversion of investor assets;

"(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

"(iv) endanger the life or physical safety of an individual;

"(v) result in flight from prosecution;

"(vi) result in destruction of or tampering with evidence;

"(vii) result in intimidation of potential witnesses; or

"(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.

"(C) TRANSFER OF RECORDS TO GOVERNMENT AUTHORITIES.—The Commission may transfer financial records or the information contained therein to any government authority, if the Commission proceeds as a transferring agency in accordance with section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), except that a customer notice shall not be required under subsection (b) or (c) of that section 1112, if the Commission determines that there is reason to believe that such notification may result in or lead to any of the factors identified under clauses (i) through (viii) of subparagraph (B) of this paragraph.";

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SEC. 724. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) at least 25 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2004; and

"(ii) at least 50 percent of all such determinations that are made in fiscal year 2005 or thereafter.

"(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.".

TITLE VIII—COMPASSION CAPITAL FUND

SEC. 801. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) Support for Nongovernmental Organizations.—The Secretary of Health and Human Services (referred to in this section as "the Secretary") may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) Support for States.—The Secretary—

(1) may award grants to and enter into cooperative agreements with States and political subdivisions of States to provide seed money to establish State and local offices of faith-based and community initiatives; and

(2) shall provide technical assistance to States and political subdivisions of States in administering the provisions of this Act.

(c) Applications.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) Limitation.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $85,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(f) Definition.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 802. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) Support for Nongovernmental Organizations.—The Corporation for National and Community Service (referred to in this section as "the Corporation") may award grants to and enter into cooperative agreements with nongovernmental organizations and State Commissions on National and Community Service established under section 178 of the National and Community Service Act of 1990 (42 U.S.C. 12638), to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) Applications.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State Commission, State, or political subdivision shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

(c) Limitation.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) Definition.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 803. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF JUSTICE.

(a) Support for Nongovernmental Organizations.—The Attorney General may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) Applications.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

(c) Limitation.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Attorney General) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $35,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) Definition.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 804. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Housing and Urban Development (referred to in this section "the Secretary") may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 805. COORDINATION.

The Secretary of Health and Human Services, the Corporation for National and Community Service, the Attorney General, and the Secretary of Housing and Urban Development shall coordinate their activities under this title to ensure—

(1) nonduplication of activities under this title; and

(2) an equitable distribution of resources under this title.

TITLE IX—MATERNITY GROUP HOMES

SEC. 901. MATERNITY GROUP HOMES.

(a) PERMISSIBLE USE OF FUNDS.—Section 322 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2) is amended—

(1) in subsection (a)(1), by inserting "(including maternity group homes)" after "group homes"; and

(2) by adding at the end the following:

"(c) MATERNITY GROUP HOME.—In this part, the term 'maternity group home' means a community-based, adult-supervised group home that provides young mothers and their children with a supportive and supervised living arrangement in which such mothers are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.".

(b) CONTRACT FOR EVALUATION.—Part B of the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by adding at the end the following:

"SEC. 323. CONTRACT FOR EVALUATION.

"(a) IN GENERAL.—The Secretary shall enter into a contract with a public or private entity for an evaluation of the maternity group homes that are supported by grant funds under this Act.

"(b) INFORMATION.—The evaluation described in subsection (a) shall include the collection of information about the relevant characteristics of individuals who benefit from maternity group homes such as those that are supported by grant funds under this Act and what services provided by those maternity group homes are most beneficial to such individuals.

"(c) REPORT.—Not later than 2 years after the date on which the Secretary enters into a contract for an evaluation under subsection (a), and biennially thereafter, the entity conducting the evaluation under this section shall submit to Congress a report on the status, activities, and accomplishments of maternity group homes that are supported by grant funds under this Act.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 388 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) in subsection (a)(1)—

(A) by striking "There" and inserting the following:

"(A) IN GENERAL.—There";

(B) in subparagraph (A), as redesignated, by inserting "and the purpose described in subparagraph (B)" after "other than part E"; and

(C) by adding at the end the following:

"(B) MATERNITY GROUP HOMES.—There is authorized to be appropriated, for maternity group homes eligible for assistance under section 322(a)(1)—

"(i) $33,000,000 for fiscal year 2003; and

"(ii) such sums as may be necessary for fiscal year 2004."; and

(2) in subsection (a)(2)(A), by striking "paragraph (1)" and inserting "paragraph (1)(A)".

SA 3039. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 632 and insert the following:

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

"(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) LIMITATIONS.—

"(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

"(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

"(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

"(B) hospitalization incident to such duty.

"(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following:

"(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting "45H(a)," after "45A(a),".

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

"Sec. 45H. Ready Reserve-National Guard employee credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after October 6, 2001, in taxable years ending after such date.

SA 3040. Mr. NICKLES (for himself and Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of the instructions, add the following:

SEC. . ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting ", and", and by adding at the end the following new clause:

"(v) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iv) the following:

"(E)(v) .... 30".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 3041. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3011 proposed by Mr. FRIST to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the instruction, insert:

SEC. . MANUFACTURER'S JOBS CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45G. MANUFACTURER'S JOBS CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturer's jobs credit determined under this section is an amount equal to the lesser of the following:

"(1) The excess of the W–2 wages paid by the taxpayer during the taxable year over the W–2 wages paid by the taxpayer during the preceding taxable year.

"(2) The W–2 wages paid by the taxpayer during the taxable year to any employee who is an eligible TAA recipient (as defined in section 35(c)(2)) for any month during such taxable year.

"(3) 22.4 percent of the W–2 wages paid by the taxpayer during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—If there is an excess described in paragraph (2)(A) for any taxable year, the amount of credit determined under subsection (a) (without regard to this subsection)—

"(A) if the value of domestic production determined under subsection (g)(2) for the taxable year does not exceed such value for the preceding taxable year, shall be zero, and

"(B) if subparagraph (A) does not apply, shall be reduced (but not below zero) by the applicable percentage of such amount.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any taxable year, the percentage equal to a fraction—

"(A) the numerator of which is the excess (if any) of the modified value of worldwide production of the taxpayer for the taxable year over such modified value for the preceding taxable year, and

"(B) the denominator of which is the excess (if any) of the value of worldwide production of the taxpayer for the taxable year over such value for the preceding taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) VALUE OF WORLDWIDE PRODUCTION.—The value of worldwide production for any taxable year shall be determined under subsection (g)(4).

"(B) MODIFIED VALUE.—The term 'modified value of worldwide production' means the value of worldwide production determined by not taking into account any item taken into account in determining the value of domestic production under subsection (g)(2).

"(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any taxpayer—

"(1) which has domestic production gross receipts for the taxable year and the preceding taxable year, and

"(2) which is not treated at any time during the taxable year as an inverted domestic corporation under section 7874.

"(d) DEFINITIONS.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 199 shall have the meaning given such term by section 199.

"(2) SPECIAL RULE FOR W–2 WAGES.—Notwithstanding paragraph (1), the amount of W–2 wages taken into account with respect to any employee for any taxable year shall not exceed $50,000.

"(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2005."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following:

"(16) the manufacturer's jobs credit determined under section 45G."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

"Sec. 45G. Manufacturer's jobs credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 3042. Mr. WYDEN (for himself, Mr. COLEMAN, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings of the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE V—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance Equity For Service Workers Act of 2004".

SEC. 512. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking "firm)" and inserting "firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)".

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (1), by inserting "or public agency" after "of the firm"; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking "like or directly competitive with articles produced" and inserting "or services like or directly competitive with articles produced or services provided"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

"(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (2), by inserting "or service" after "related to the article"; and

(C) in paragraph (3)(A), by inserting "or services" after "component parts";

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

"(C) Taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.".

(B) in paragraph (3)—

(i) by inserting "or services" after "value-added production processes";

(ii) by striking "or finishing" and inserting ", finishing, or testing";

(iii) by inserting "or services" after "for articles"; and

(iv) by inserting "(or subdivision)" after "such other firm"; and

(C) in paragraph (4)—

(i) by striking "for articles" and inserting ", or services, used in the production of articles or in the provision of services"; and

(ii) by inserting "(or subdivision)" after "such other firm"; and

(4) by adding at the end the following new subsection:

"(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

"(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

"(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.".

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$220,000,000" and inserting "$440,000,000".

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting "or public agency" after "of a firm"; and

(B) by inserting "or public agency" after "or subdivision";

(2) in paragraph (2)(B), by inserting "or public agency" after "the firm";

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

"(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

"(8) The term 'service sector firm' means an entity engaged in the business of providing services.".

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ", other than subchapter D".

SEC. 513. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting "or service sector firm" after "(including any agricultural firm";

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or service sector firm" after "any agricultural firm";

(ii) in subparagraph (B)(ii), by inserting "or service" after "of an article"; and

(iii) in subparagraph (C), by striking "articles like or directly competitive with articles which are produced" and inserting "articles or services like or directly competitive with articles or services which are produced or provided"; and

(C) by adding at the end the following:

"(e) BASIS FOR SECRETARY DETERMINATION.—

"(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "$16,000,000" and inserting "$32,000,000".

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking "For purposes of" and inserting "(a) FIRM.—For purposes of"; and

(B) by adding at the end the following:

"(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.".

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting "or service" after "new product".

SEC. 514. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking "The Secretary" and inserting "(a) MONITORING PROGRAMS.—The Secretary";

(B) by inserting "and services" after "imports of articles";

(C) by inserting "and domestic provision of services" after "domestic production";

(D) by inserting "or providing services" after "producing articles"; and

(E) by inserting ", or provision of services," after "changes in production"; and

(2) by adding at the end the following:

"(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

"(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity For Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

"(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.".

SEC. 515. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

"(3) ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

"(A) is covered by a certification under subchapter A of this chapter;

"(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

"(C) is at least 40 years of age;

"(D) earns not more than $50,000 a year in wages from reemployment;

"(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

"(F) does not return to the employment from which the worker was separated.".

(b) CONFORMING AMENDMENTS.—(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2) (A) and (B)) are amended by striking "paragraph (3)(B)" and inserting "paragraph (3)" each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)".

SEC. 516. CLARIFICATION OF MARKETING YEAR.

Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: ", or in the case of an agricultural commodity that has no marketing year, in a 12-month period for which the petitioner provides written justification".

SEC. 517. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall take effect on October 1, 2004.

(b) SPECIAL RULE FOR CERTAIN SERVICE WORKERS.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 512(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before October 1, 2004.

(c) SPECIAL RULE FOR TACONITE.—A group of workers in a firm, or subdivision of a firm, engaged in the production of taconite pellets who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm occurred on or after November 4, 2002 and before October 1, 2004.

Subtitle B—Data Collection

SEC. 521. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance Accountability Act".

SEC. 522. DATA COLLECTION; STUDY; INFORMATION TO WORKERS.

(a) DATA COLLECTION; EVALUATIONS.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

"SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.

"(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

"(b) PERFORMANCE EVALUATIONS.—The Secretary shall establish an effective performance measuring system to evaluate the following:

"(1) PROGRAM PERFORMANCE.—A comparison of the trade adjustment assistance program before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002 with respect to—

"(A) the number of workers certified and the number of workers actually participating in the trade adjustment assistance program;

"(B) the time for processing petitions;

"(C) the number of training waivers granted;

"(D) the coordination of programs under this chapter with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(E) the effectiveness of individual training providers in providing appropriate information and training;

"(F) the extent to which States have designed and implemented health care coverage options under title II of the Trade Act of 2002, including any difficulties States have encountered in carrying out the provisions of title II;

"(G) how Federal, State, and local officials are implementing the trade adjustment assistance program to ensure that all eligible individuals receive benefits, including providing outreach, rapid response, and other activities; and

"(H) any other data necessary to evaluate how individual States are implementing the requirements of this chapter.

"(2) PROGRAM PARTICIPATION .—The effectiveness of the program relating to—

"(A) the number of workers receiving benefits and the type of benefits being received both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

"(B) the number of workers enrolled in, and the duration of, training by major types of training both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

"(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

"(D) reemployment rates and sectors in which dislocated workers have been employed;

"(E) the cause of dislocation identified in each petition that resulted in a certification under this chapter; and

"(F) the number of petitions filed and workers certified in each congressional district of the United States.

"(c) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

"(1) STATE PARTICIPATION.—Participation by each State in the performance measurement system established under subsection (b).

"(2) MONITORING.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

"(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

"(d) REPORTS.—

"(1) REPORTS BY THE SECRETARY.—

"(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Accountability Act, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

"(i) describes the performance measurement system established under subsection (b);

"(ii) includes analysis of data collected through the system established under subsection (b); and

"(iii) provides recommendations for program improvements.

"(B) ANNUAL REPORT.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clause (ii) of subparagraph (A).

"(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

"(3) PUBLICATION.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under subsection (b).".

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking "Departments of Labor and Commerce" and inserting "Departments of Labor, Commerce, and Agriculture".

(2) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking "The Secretary of Commerce and the Secretary of Labor" and inserting "The Secretaries of Commerce, Labor, and Agriculture".

(3) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

"Sec. 250. Data collection; evaluations; reports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Trade Adjustment Assistance for Communities Act of 2004".

SEC. 532. PURPOSE.

The purpose of this subtitle is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 533. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

"CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

"SEC. 271. DEFINITIONS.

"In this chapter:

"(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

"(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

"(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

"(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

"(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

"(6) FISHERMAN.—

"(A) IN GENERAL.—The term 'fisherman' means any person who—

"(i) is engaged in commercial fishing; or

"(ii) is a United States fish processor.

"(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

"(7) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT.—Within 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2004, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

"(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

“(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

“(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

“(2) coordinate the Federal response to an eligible community—

“(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

“(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

“(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

“(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

“(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

“(A) identify serious economic problems in the community that are the result of negative impacts from trade;

“(B) integrate the major groups and organizations significantly affected by the economic adjustment;

“(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

“(D) diversify and strengthen the community economy; and

“(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

“(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

“(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

“(6) administer the grant programs established under sections 274 and 275; and

“(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

“SEC. 273. CERTIFICATION AND NOTIFICATION.

“(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

“(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

“(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which on or after October 1, 2004—

“(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

“(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

“(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

“(D) an affected domestic producer is located in the community; or

“(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

“(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

“(A) the number of jobs affected compared to the size of workforce in the community;

“(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

“(C) the income levels and the extent of underemployment in the community;

“(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

“(E) the unique problems and needs of the community.

“(c) DEFINITION AND SPECIAL RULES.—

“(1) EVENT DESCRIBED.—An event described in this paragraph means one of the following:

“(A) A notification described in paragraph (2).

“(B) A certification of a firm under section 251.

“(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

“(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

“(2) NOTIFICATION.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

“(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

“(1) of the determination under subsection (b);

“(2) of the provisions of this chapter;

“(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

“(4) how to obtain technical assistance provided under section 272(c)(3); and

“(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

“SEC. 274. STRATEGIC PLANS.

“(a) IN GENERAL.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

“(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

“(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

“(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

“(3) A description of the projects to be undertaken by the eligible community.

“(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

“(5) A description of how the plan will achieve economic adjustment and diversification.

“(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

“(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

“(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

“(9) A description of the educational programs available for workforce training and future employment needs.

“(10) A description of how the plan will adapt to changing markets and business cycles.

“(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

“(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

“(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

“(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

“SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

“(a) IN GENERAL.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

“(b) ADDITIONAL GRANTS.—

“(1) IN GENERAL.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

“(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or ,to provide assistance for public service projects; and

“(B) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

“(2) USE AS NON-FEDERAL SHARE.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

“(c) RURAL COMMUNITY PREFERENCE.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

“SEC. 276. GENERAL PROVISIONS.

“(a) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

“(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.”.

SEC. 534. CONFORMING AMENDMENTS.

(a) TERMINATION.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

“(3) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.”.

(b) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

“Sec. 271. Definitions.
“Sec. 272. Community Trade Adjustment Assistance Program.
“Sec. 273. Certification and notification.
“Sec. 274. Strategic plans.
“Sec. 275. Grants for economic development.
“Sec. 276. General provisions.”.

(c) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking “section 271” and inserting “section 273”.

SEC. 535. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2004.

Subtitle D—Office of Trade Adjustment Assistance

SEC. 541. SHORT TITLE.

This subtitle may be cited as the “Trade Adjustment Assistance for Firms Reorganization Act”.

SEC. 542. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

“SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

“(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

“(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

“(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

“Sec. 255A. Office of Trade Adjustment Assistance.”.

SEC. 543. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) October 1, 2004.

TITLE VI—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 601. CLARIFICATION OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.

(a) IN GENERAL.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting “(prior to the employment separation necessary to attain the status of an eligible individual)” after “9801(c)”.

(b) CONFORMING AMENDMENT.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting “(prior to the employment separation necessary to attain the status of an eligible individual)” after “1986”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 602. DISREGARD OF TAA PRE-CERTIFICATION PERIOD FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

“(C) TAA-ELIGIBLE INDIVIDUALS.—

“(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

“(ii) DEFINITIONS.—The terms ‘TAA-eligible individual’, and ‘TAA-related loss of coverage’ have the meanings given such terms in section 605(b)(4)(C).”.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

“(C) TAA-ELIGIBLE INDIVIDUALS.—

“(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary (or by any person or entity designated by the Secretary) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

“(ii) DEFINITIONS.—The terms ‘TAA-eligible individual’, and ‘TAA-related loss of coverage’ have the meanings given such terms in section 2205(b)(4)(C).”.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

“(D) TAA-ELIGIBLE INDIVIDUALS.—

“(i) DISREGARD OF PRE-CERTIFICATION PERIOD.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date the individual is certified by the Secretary of Labor (or by any person or entity designated by the Secretary of Labor) as being eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

“(ii) DEFINITIONS.—The terms ‘TAA-eligible individual’, and ‘TAA-related loss of coverage’ have the meanings given such terms in section 4980B(f)(5)(C)(iv).”.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 603. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking “65” and inserting “75”.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking “65” and inserting “75”.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 604. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM.

(a) IN GENERAL.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

“(e) EXPEDITED PAYMENT OF PRORATED FIRST MONTHLY PREMIUM.—The program established under subsection (a) shall provide for payment to a certified individual of an amount equal to the applicable percentage (as defined in section 35(a)(2)) of the prorated first monthly premium for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months upon receipt by the Secretary of evidence of payment of such premium by the certified individual.”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PRODUCTION AND PRICE COMPETITIVENESS

Mr. COCHRAN. Mr. President, I announce that the Subcommittee on Production and Price Competitiveness of the Committee on Agriculture, Nutrition, and Forestry will conduct a field hearing on April 13, 2004 in Smithfield North Carolina at 10 a.m. The purpose of this hearing will be to discuss the necessity of a tobacco quota buyout.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 7, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S. 1529, bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; and S. 1955, a bill to make technical corrections to laws relating to Native Americans, and for other purposes.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee Committee on Fisheries, Wildlife, and Water be authorized to meet on Tuesday, April 6, 2004 at 9:30 a.m. to conduct a hearing to evaluate chronic wasting and disease in our Nation's water.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that two members of my staff, Adam Aston and Tiffany Kebodeaux, be granted the privilege of the floor for the duration of the debate on S. 2207.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Jarret Heil and Trenton Norman be granted the privilege of the floor during the remainder of the debate on S. 1367.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 108–199, Title VI, Section 637, appoints the following individual to serve as a member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Steve K. Berry of Washington, D.C.

ORDERS FOR WEDNESDAY, APRIL 7, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 in the morning, Wednesday, April 7. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10:45 a.m. with the first half of that time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee; provided that at 10:45 the Senate resume consideration of the motion to proceed to Calendar No. 462, S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004, and the time until 12:45 be equally divided between the two leaders or their designees.

I further ask unanimous consent that the Senate recess from 12:45 until 2:15 for the weekly party luncheons; provided that at 2:15 the Senate proceed to the cloture vote on the motion to proceed to the consideration of S. 2207 as provided under the previous order; provided further that notwithstanding rule XXII, the mandatory quorum be waived prior to the vote on the motion to invoke cloture on the motion to recommit S. 1637, the FSC/ETI JOBS bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the motion to proceed to the consideration of the Pregnancy and Trauma Care Access Protection Act of 2004. At 2:15 the Senate will proceed to two back-to-back rollcall votes. The first vote will be on the motion to invoke cloture on the bill we have been discussing, the Pregnancy and Trauma Care Access Protection Act. That vote, regardless of outcome, will be immediately followed by a vote on the motion to invoke cloture on the motion to recommit S. 1637, the FSC/ETI JOBS bill. These two votes will be the first votes of the day.

In addition to those votes, the majority leader has repeated his desire to consider and complete the pension equity conference report prior to the Easter recess. That conference report is here and is available. We will be seeking an agreement, obviously, to finish that bill.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:29 p.m., adjourned until Wednesday, April 7, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 6, 2004:

THE JUDICIARY

MICHAEL H. WATSON, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO, VICE JAMES L. GRAHAM, RETIRING.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RICHARD J. BURLING JR., 1765
ROBERT L. TULLMAN, 9990

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CRAIG D. HARTRANFT, 2487

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 3064:

To be colonel

WILLIS C. HUNTER, 3940

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

DANA R. YETTON, 0528

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

TRAVIS R AVENT, 0101
GREGORY R BIEHL, 6053
FRANCIS J BOYER, 1187
DONALD F CARTER JR., 5241
MICHAEL R CIRILLO, 7216
JEFFREY S CLEMONS, 1583
SEAN J COLLINS, 4953
JERRY R COPLEY, 8868
BRIAN J CORRIS, 8117
CHARLES E DANIELS, 2857
RANDALL E DAVIS, 5159
DARREN R DEMYER, 0729
BILLY A DUBOSE, 3251
GREGG R EDWARDS, 8613
LLOYD E EDWARDS JR., 5342
KENNETH M ELIUK, 2137
ROBERT F EMMINGER, 7243
ARMAND J FRAPPIER, 0534
LAWRENCE P GOSHEN, 2141
WARREN A GRAHAM JR., 6215
JAMES E GRIFFITH, 0591
PATRICK T GROSSO, 5081
DANIEL E GUIMOND, 0590
SEAN P HEICHLINGER, 4156
BRUCE D HENDERSON, 3894
JAMES R HUBER III, 6290
STEVEN P HULSE, 2514
KELLY M JONES, 9441
CAMERON D KLUNDER, 2808
DONALD R KNOWLES, 5434
DIRK D KUNTZ, 8332
MICHAEL D LIPSCOMB, 0186
ANTHONY C LYONS, 6094
MICHAEL G MARCHAND, 2317
DAVID A MCCOVERY, 6765
KENNETHE R MCMILLAN, 1825
ROBERT J MEISINGER JR., 8934
CHRISTOPHER K MILLER, 6476
CLIFF D MRKVICKA, 2309
JOHN P MULLERY, 4931
JOHN F REYNOLDS JR., 9721
PAUL E RICHARD, 1831
JOSE L SADA, 3884
WILLIAM H TAPSCOTT, 5432
DOUGLAS M TAYLOR, 0166
WADE E WALLACE, 5784
MARK B WINDHAM, 2698

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant

MELISSA A. HARVISON, 0969

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED

STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be commander

VICTORIA T CRESCENZI, 5189
MARK A DESJARDINS, 2843
SUSAN L EATON, 7653
PAUL T HORAN, 4431
JACQUELINE KOVACS, 6149
JAMIN T MCMAHON, 8356
FERNANDO MORENO, 0864
THOMAS W SITSCH, 5522
STEVEN F VINCENT, 8684
JOHNNY WON, 3196

To be lieutenant commander

FELIX A BIGBY, 8519
LYNELLE M BOAMAN, 7890
EDWARD A BRADFIELD, 9738
GREGORY R CADLE, 4733
ROY D EVANS, 1424
GREGORY L GRADY, 8738
STELLA M HAYES, 5802
ROBERT L KENDALL, 0183
SUSANNE M LEMAIRE, 1079
JOEL A LOWTHER, 9056
WILLIAM D MAY, 7002
SEAN P MCDERMOTT, 4654
IAN G MCLEOD, 2288
JOHN M MYERS, 8431
TANYA M PONDER, 5093
GEORGE J SEMPLE, 0458
MARTHA L SIRUS, 5374
CHRISTOPHER T SOSA, 6674
ANTONIO TELLADO, 4822
RICHARD W THOMPSON, 3367
GALE R VANDEVENTER JR., 0594
DARREL G VAUGHN, 9415
MICHAEL W WENTWORTH, 6538
DEBORAH J WHITE, 9942

To be lieutenant

JEFFREY J ABBADINI, 9849
JOSEPH P ABBOTT JR., 2327
ROB L ABBOTT, 3430
LILLIAN A ABUAN, 5714
CHARLES F ADAMS, 3494
JASON W ADAMS, 9076
REBECCA M D ADAMS, 9897
TERRI D ADAMS, 3645
RICHARD S ADCOOK, 2757
MONICA AGARWAL, 6244
RYAN P AHLER, 5553
HYO S AHN, 0095
RECO L AIKENS, 2886
JAMES T AIKIN II, 7206
JAY P ALDEA, 1673
STEPHEN W ALDRIDGE, 2370
KENNETH D ALEXANDER, 2113
OSMEL ALFONSO, 6499
GERALD G ALFORD, 3621
JAMES ALGER, 0232
JEROME S ALINA, 6693
RODNEY ALLEN, 1957
TERESA W ALLMAN, 8671
CIELO I ALMANZA, 9273
GERVY J ALOTA, 9143
THOMAS M ALPERS, 2957
GALEN R ALSOP, 9539
LUIS A ALTAMIRANO, 5490
BRIAN S AMADOR, 8212
RICHARD H AMARAL, 0033
PETER AMENDOLARE, 1104
ERIK E ANDERSON, 1653
JOHN A ANDERSON, 0230
JUSTIN W ANDERSON, 6443
MARK A ANDERSON, 9418
MICHAEL R ANDERSON, 9210
SEAN M ANDREWS, 6232
BRADLEY J ANDROS, 8442
MARK A ANGELO, 3207
JAMES M ANSLEY, 9427
BRENDA K ANTHONY, 6598
MARC A ARAGON, 9480
JOHN W ARBUCKLE, 5545
JASON L ARGANBRIGHT, 3941
JOHN M ARMSTRONG, 8422
MATTHEW T ARMSTRONG, 8505
MELODY ARMSTRONG, 8634
JEFFREY C ARNESON, 7561
KEVIN W ARNEY, 6373
CHRISTOPHER W ARTIS, 0946
MARK S ASAHARA, 3502
AARON J ASCHENBRENNER, 4663
JARED T ASMAN, 8782
KENNETH M ATHANS, 6402
MICHAEL L ATWELL, 7081
STEPHEN A AUDELO, 8241
BRIAN L BABIN, 2329
JOHN A BACHMORE, 6191
JOSEPH C BACON, 0847
LUCELINA L BADURA, 5600
SHELBY Y BAECKER, 5431
JOSEPH A BAGGETT, 8271
SCOTT P BAILEY, 5172
CARMEN A BAKER, 4942
CHRISTOPHER P BAKER, 5146
JAMES A BAKER, 7670
JEFFREY D BAKER, 0158
JENNIFER S BAKER, 1454
JONATHAN M BAKER, 8817
WILLIAM C BAKER, 6946
KURT D BALAGNA, 6534
JESSE H BALBOA II, 7665
DEAN R BALCIRAK II, 3612
SUSAN M BALCIRAK, 5976
KATHLEEN M BALDWIN, 3735
JONATHAN R BALL, 3545
MICHAEL W BALL, 7221
THOMAS C BALL, 8236
TRAPPER J BALLARD, 1851
GREGORY BALLENGER, 4604
ANDREW J BALLINGER, 2508
ROLAN T BANGALAN, 0638
ROY L BARBER, 8582
ROBERTO A BARBOSA, 8669
KEVIN J BARCLAY, 4217
MARIA L BAREFIELD, 3173
BJORN S BARJA, 1406
RONNIE M P BARKER, 5938
AUDRA L BARKLEY, 8943
DAVID M BARKSDALE, 9973
ADAM W BARNES, 3573
CHRISTOPHER M BARNES, 6729
CHRISTOPHER R BARNES, 4175
MICHAEL A BARNES, 8426
RYAN C BARNES, 8218
DAVID D BARRINGTON, 4201
CHAN A BARRY, 9404
SCOTT D BARSCZEWSKI, 9006
JOHN R BARTAK, 9381
MICHAEL P BARTRAM, 8343
SCOTT A BARTRAM, 4810
LAURIE E BASABE, 0790
JOHN C BATCHELOR, 8202
KEVIN J BAUER, 5963
JASON M BAUMAN, 6955
ROMEO O BAUTISTA, 8410
JAYE A BAYLES, 8219
ROBERT L BAYLIS, 3557
JONATHAN R BEAR, 9203
QUINCY E BEASLEY, 9821
LOUIS A BECERRA II, 1500
JOHN R BECKER, 6666
TEPORA D BECKMAN, 5231
STEPHEN A BEEDE, 5339
ZACHARY A BEEHNER, 2034
EDWARD A BEHRENS, 0173
STEPHANIE L BELIM, 0336
CHARLES M BELL JR., 0493
KIM A BELLAMA, 5713
CHRISTIAN F BENARD, 4272
GREGORY BENARD, 0769
PAUL R BENISHEK, 0300
LEOPOLDO L BENITES, 8395
TODD H BENKE, 7658
JESSE W BENTON, 4371
LISA M BERBERICH, 8918
TARA A BERGER, 2418
JONATHAN V BERIS, 4376
JEFFREY S BERNHARD, 8858
RAMON J BERROCAL, 7185
WILLIAM J BERRYMAN, 6306
EDWARD P BERTUCCI, 6580
ISMAEL BETANCOURT, 8516
STEVEN M BETTNER JR., 7268
LARA L BEWLEY, 4479
NORMAN J BEZNOSKA III, 9201
MANUEL A BIASCOECHEA, 0755
DANIEL E BIBLE, 4560
JOSHUA D BIGHAM, 9847
BERNARD BILLINGSLEY, 5543
BRYAN J BILLINGTON, 9215
BRIAN A BINDER, 7279
FRANCIS T BISAGNI, 9885
BLAINE S BITTERMAN, 0370
NATHAN R BITZ, 3699
TRACY L BLACKHOWELL, 6190
DERRICK E BLACKSTON, 4142
MICHAEL S BLANKENSHIP, 3935
STEVEN T BLAZEJEWSKI, 5098
AMY L BLEIDORN, 9303
JOHN C BLEIDORN, 7053
R W BLIZZARD, 3157
KELLY M BOARDWAY, 9645
JAMES L BOCCI, 8965
DANIEL W BODEN, 0837
CATHERINE W BOEHME, 1258
TIMOTHY C BOEHME, 5841
JOHN A BOEHNKE, 5119
SHAWN B BOGDAN, 7999
ANDREW D BOGIE, 7435
MATTHEW A BOGUE, 3363
JOSHUA J BOHACH, 3217
RANDALL B BOHANON, 7838
ROBERT J BOLDIN, 5967
DANIEL A BOMAN, 5219
JOHN P BONENFANT, 5050
MATTHEW J BONZELLA, 7794
HASSAN M BOOKER, 3800
REBECCA A BOONE, 9703
CHARLES J BORGES, 4329
MICHAEL P BORRELLI, 4008
BRENDAN A BOSCH, 6707
LISA A BOSEMAN, 9369
PATRICK W BOSSERMAN, 3951
DOMENICA V BOSWELL, 3240
BRYAN J BOUDREAUX SR, 1511
EDWIN W BOUNDS, 6665
LEO S BOURQUE, 1797
SILAS L BOUYER II, 6688
DESOBRY E BOWENS, 0828
ROBERT F BOWLUS, 4359
DAWN M BOWMAN, 1114
JEFFREY M BOWMAN, 7461
JOHN A BOWMAN, 5721
ORLANDO S BOWMAN, 4771
DAVID W BOYANTON, 3986
ROBERT D BOYCE, 4922
STEVEN E BOYCOURT, 0673
SHARON C BOYD, 7646
JARED S BRADEL, 1253
BRIAN A BRADFORD, 3944
MATTHEW BRADSHAW, 5418
CHARLES B BRADY III, 2737
DEREK BRADY, 4074
JOHN C BRADY, 5729
DALLAS E BRAHAM, 7001
SEAN J BRANDES, 5323
VONDA L BRANDT, 0030
KEVIN M BRANSON, 4782
PAUL S BRANTUAS, 5576
THOMAS J BRASHEAR, 4687
KEVIN F BRAVOFERRER, 8227
WILBERT B BREEDEN, 5143
MICHAEL R BREEN, 5720
ANDREW F BRENNAN, 6402
PABLO C BREUER, 9594
MATTHEW J BRICKHAUS, 3791
JAMES F BRIDENSTINE, 5065
ANTHONY W BRINKLEY, 4644
KENNETH J BRITZ, 2741
SLADE R BROCKETT, 9722
JULIE A BROCKMAN, 2518
JOSEPH M BROMLEY, 5372
RANDALL D BROUSSARD, 0589
BRADLEY D BROWN JR., 2441
CHRISTA S BROWN, 7931
CHRISTOPHER A BROWN, 2948
CINDA L BROWN, 8581
EUGENE L BROWN, 6814
JOSEPH W BROWN, 1147
KENNETH R BROWN, 6543
MICHAEL A BROWN, 9635
NATHANIEL T BROWN, 7020
SARA B BROWN, 3503
EDWARD J BROWNE, 0404
MELIAH D BROWNE, 0360
BRIAN L BROWNING, 3064
JEREMY J BRUCH, 3650
TREVOR M BRUNER, 1213
TYSON J BRUNSTETTER, 2771
JAMES S BRUSKE, 7081
JILL N BRYON, 4514
GARLAND M BUCHANAN, 6417
TIMOTHY J BUCKLEY, 9457
JENNIFER J BUECHEL, 0134
THOMAS A BUECKER, 5051
HOMER E BUEN, 1791
THOMAS M BUI, 7844
ADAM K BURCH, 6586
JAY A BURGESS, 1472
CHAD W BURGESSER, 1464
JASON F BURK, 0091
BRYAN T BURKE, 4853
ERIC BURKE, 6347
JENNIFER A BURKE, 3270
MARK C BURKE, 1810
JOSHUA J BURKHOLDER, 5139
MICHAEL J BURKS, 1513
SARA C BURKS, 3367
JOSEPH P BURNEFF, 7134
ROCKY A BURNS, 5855
PATRICK BURRUS, 3860
HEATHER E BURWELL, 0220
ABE A BUSH III, 1601
JOHN R BUSH, 9219
JILLENE M BUSHNELL, 4879
CHRISTOPHER R BUTLER, 6195
DANIEL E BUTLER, 7792
LEBRON I BUTTS, 0150
KIMBERLY D BYNUM, 4885
ROGER L BYRON, 9954
NOEL J CABRAL III, 5297
BERNARD F CALAMUG, 8044
RUSSELL J CALDWELL, 6734
STEVEN C CALHOUN, 5386
JEREMY J CALLAHAN, 7734
JOHN H CALLAHAN, 2542
SHANNON L CALLAHAN, 3317
WILLIAM CALLAHAN, 6309
CLAUDINE CALUORI, 4680
HEATHER D CALVERT, 7143
ROBERT CALZADA, 6260
DAVID R CAMBURN, 9023
KENNETH D CAMERON, 1688
BRIAN M CAMPBELL, 7858
ROBERT A CAMPBELL, 6349
EILIS M CANCEL, 1542
BURT J CANFIELD, 5139
TIMOTHY D CANNADA, 6161
CHRISTOPHER L CANNIFF, 7457
LEO M CANONIZADO, 1940
CRAIG J CANTU, 5094
MARCOS D CANTU, 2268
KEVIN S CANTY, 2616
JING J CAO, 2044
REMIL J CAPILI, 6219
DARREL J CAPO, 0275
GEORGE R CARAMICO, 0073
PAOLO CARCAVALLO JR., 9894
MICHAEL S CARL, 6040
MARC J CARLIN, 0501
KEVIN L CARLISLE, 4682
ANNE E CARLSON, 4391

ANTONIO D CARMICHAEL, 5385
ROBERT C CARNELL, 7577
JESSE E CARPENTER, 9807
RUDY R CARRASCO, 1137
STEPHEN J CARRIER, 2800
JUSTIN M CARSTEN, 7462
CHRISTOPHER D CARTER, 3922
MARK A CARTER, 9291
WILLIAM D CARTER III, 9337
JEREMY T CASELLA, 2161
JORGE C CASTANON, 5788
CAREY F CASTELEIN, 8107
ARMANDO J CASTELLANOS, 6023
JOHN D CASTILLO, 6437
AARON B CASTLE, 6597
JANINE CASTORINA, 0325
ERNESTO CASTRO, 9726
ANDRE R CATALANO, 5556
JAMES A CAUDILL, 4599
GABRIEL B CAVAZOS, 7015
JAMES V CELANI JR., 5402
TULLIO I CELANO, 6465
CYNTHIA C CHAN, 9140
PAUL A CHANDLER, 6025
RONALD R CHAON JR., 9442
ERIC A CHAPMAN, 0211
MATTHEW E CHAPMAN, 3402
THOMAS R CHAPMAN III, 7721
JONATHAN N CHARBONNET, 6914
KEVIN K CHARLES, 4161
CHRISTOPHER CHARLEYSALE, 1056
MATTHEW R CHASTEEN, 9241
JONATHAN B CHAVANNE, 1070
TONY CHAVEZ, 0719
VICTOR C CHAVIS, 4452
ADAM G CHEATHAM, 2344
WARREN CHEN, 7854
JAMES C CHERRY, 9969
CHRISTINE M CHESAREK, 3121
JARED B CHIUROURMAN, 5059
JOON H CHO, 6342
BENJAMIN B CHRISTEN, 6417
ROMY V CHRISTENSEN, 6514
MATTHEW W CIESLUKOWSKI, 3126
SUZANNA G CIGNA, 2148
KYLE C CIPRA, 7912
BENJAMIN N CITTADINO, 7764
RODNEY L CLAGG, 7226
ROBERT A CLARADY, 0091
ANDREW J CLARENDON, 2515
DERRICK L CLARK, 2434
GILBERT E CLARK JR., 0793
KEVIN C CLARK, 3645
SCOTT R CLARK, 8402
TIMOTHY M CLARK, 0902
TYREE N CLARK, 4653
PAUL D CLARKE, 6403
ADAM C CLAYBROOK, 0317
RICHARD W CLEMENT, 4439
JAY W CLEMONS, 8848
MARK A CLOSE, 2103
MICHAEL S CLOUD, 0182
JEREMY L COBB, 5931
CHRISTOPHER A COCHRAN, 0207
SERAPHINE P CODINHA III, 5494
DAVID J COE, 3837
JASON W COFFEY, 9182
JEFFREY S COKER, 4347
JOHN D COKER, 2522
ERIC D COLE, 6288
PATRICK E COLE, 3949
JANY R COLLACO, 4350
JOSHUA J COLLAMER, 6815
PATRCK M COLLETTE, 1403
KRISTIN COLLINS, 9439
TEAGUE L COLLINS, 6469
STEPHEN C COLN, 0258
MATTHEW G COMPTON, 3533
JAMES R CONDINO, 1245
MICHAEL L CONRADY, 4208
ARWEN E CONSAUL, 0827
JOHN P CONZA, 5939
CHARLES O COOK, 3247
DAVID B COOK, 7693
JOSHUA B COOK, 0808
WILLIAM W COOK, 7011
TRAVIS C COOKE, 7867
WILLIAM H COOMBS, 0919
CHRISTOPHER E COOPER, 9750
NAKIA M COOPER, 2002
ALAN M COPELAND, 9630
PETER O COPELAND, 7942
ERIN M CORCORAN, 6427
SAMUEL F CORDERO, 7894
PATRICIA T CORKHILL, 3174
MARTIN W CORNETT, 2501
NOEL M CORPUS, 7476
JOHN C CORRELL, 1134
ANNE E COSSITT, 9192
KEVIN M COUGHLIN, 5248
MICHEL C COULOMBE, 7609
SHAWN M COWAN, 3985
CHRISTIAN B COWDREY, 5626
DAVID S COX, 8546
THORVALD S COX, 2284
TIMOTHY G CRAIG, 9857
BRADFORD P CRAIN, 6384
JASON R CRAIN, 3223
CLARKE S CRAMER, 6922
JAYSON L CRAMER, 8464
MARC D CRAWFORD, 7840
RUSSELL N CRAWFORD JR., 9994
JOHN J CREMINS, 7545
JOSHUA D CRINKLAW, 7026
JOHN R CROES, 0845
JUSTIN S CROSS, 4813
MICHAEL C CROUSE, 2156
KEVIN W CROWDER, 2383
DAVID M CROWE, 9859
CURTIS W CRUTHIRDS, 1110
ANGELA M CRUZ, 3073
DANNY H CRUZ, 4887
DOMINGO C CRUZ, 3725
MATTHEW A CRYER, 3894
JAMES H CULLEN, 2363
HAROLD V CULLY, 9213
ANNA M CULPEPPER, 4305
SEAN T CURTIN, 6396
BRIAN K CUSHMAN, 3204
KERI C CUSICK, 7211
MARK A CUTLER, 4665
CHRISTOPHER J DAHL, 1771
HAAKON B DAHL, 8730
THOMAS J DAIGNAULT, 0218
DONALD B DAILEY, 1330
CHARLES E DALE III, 4061
JASON C DALLEY, 7509
CHRISTINA L DALMAU, 7106
ADAM A DAMBROSIO, 0405
ROBERT B DANBERG JR., 2820
TUAN Q DANG, 3132
WILLIAM G DANIEL, 8787
BRENDAN P DANNA, 4195
BOBBY D DASHER JR., 0077
WESLEY S DAUGHERTY, 3467
WILLIAM A DAVEY, 8927
CARROLL B DAVIS JR., 3094
DWIGHT M DAVIS, 0081
JOSEPH S DAVIS, 1156
MARC E DAVIS, 6597
RYAN C DAVIS, 4788
TIMOTHY P DAVIS II, 4640
TREVOR W DAVIS, 9029
STACEY L DAWSON, 8281
JAMES W DAY, 8484
STUART M DAY, 5671
PHILLIP L DEBOE, 9537
DANIELLE C DEFANT, 4053
SARAH H DEGROOT, 3430
BRIAN S DEJARNETT, 2108
LUC D DELANEY, 9583
ISMAEL DELATEJERA, 0910
CHRISTOPHER H DELGADO, 9455
ARCANGELO P DELLANNO, 3160
WILLIAM G DELMAR, 9817
KRISTIAN F DEMONSI, 3737
MIGUEL M DENOSKYSMART, 5096
KENDRA M DEPPE, 0558
TAI A DESA, 6944
DAVID V DESANTIS, 7563
ANDREA M DESANTO, 7541
MICHAEL P DESMOND, 3233
CHARLES F DETWILER, 4339
TERESA J DEVITT, 6768
DIRK G DEWITT, 3816
PHILIP A DIANA, 7900
PETER J DICARO, 3682
DAMIAN S DICKERSON, 1738
DOUGLAS D DIEHL, 3896
TIMOTHY J DIERKS, 2363
RYAN T DILL, 6395
JOHN J DINH, 2936
TIMOTHY E DINSMORE, 0780
TAI A DO, 8863
KEITH G DOBBINS, 2844
MATTHEW W DODGE, 5004
TODD M DOMBROWSKI, 8399
MARK D DOMENICO, 4392
MICHAEL J DONIGER, 1380
BRIAN M DONOVAN, 6131
JAMES L DONOVAN, 8018
RICHARD A DOOLIN, 7677
MARK C DOREY, 9681
MATTHEW I DORNEY, 8515
JOHN M DOSANTOS, 9081
CHRISTOPHER D DOTSON, 2231
ANGELA M DOUGHERTY, 1619
KEITH P DOUGLAS, 3401
KENNETH S DOUGLAS, 1526
CLINTON L DOWNING, 5182
MICHAEL L DOXEY, 5531
MATTHEW E DOYLE, 6217
BRIAN M DRECHSLER, 0884
ROSS A DRENNING, 2800
TIMOTHY S DRILL, 9857
DERRICK A DUDASH, 8115
JEREMY L DUEHRING, 5658
BENJAMIN P DUELLEY, 6029
WILLARD E DUFF III, 2714
DENNIS M DUFFY II, 8900
DARREN T DUGAN, 9449
DANIEL P DUHAN, 5184
MATTHEW S DUKETTE, 7787
RAYMOND N DUMONT, 1556
PRESTON H DUNLOP, 9145
RYAN W DUPNICK, 1182
LUIS J DURAN, 3235
JOHN R DUTKA, 7943
BRANDON T DYE, 2304
PHILLIP A DYE, 3373
JEFFERSON D DYER, 4522
KATHERINE E DYNAN, 8793
BRENDAN R EAGAN, 6514
JENNIFER L EATON, 0723
LACEY F EDGE, 3417
ROY A EDGE, 5106
DALE J EDGECOMB, 1299
DAVID L EDGERTON, 3932
JAMES A EDMONDS, 5076
MARTIN L EDMONDS, 2067
SHANE J EISENBRAUN, 2956
BRIAN A EISENHUTH, 4345
KRISTOPHER C EISENRIETH, 6352
BRIAN J ELLIS JR., 2422
JASON B ELLIS, 7542
MATTHEW R ELLIS, 4860
STEPHANIE A ELLIS, 6746
TREVOR D ELLIS, 5336
CHRISTOPHER D ENG, 1103
LOUISE M ERB, 0581
RYAN D ERDMAN, 1853
JASON T ERICKSON, 9469
JOANNE M ERNST, 5733
CHRISTOPHER E ESCAJEDA, 4029
MICHAEL A ESPARZA, 4458
PEDRO H ESPINOZA, 9918
THEODORE E ESSENFELD, 6576
JOHN ESTERHAY, 3922
TRAVIS M ESTEVES, 3413
MARLON M ESTRADA, 4088
JOHN E ETHRIDGE II, 0895
RYAN C EUL, 6089
DAVE S EVANS, 5483
ROY C EVANS, 5045
VINSANT D EVANS, 8448
JOHN EVEGES III, 8260
RANDALL E EVERLY, 9348
JENNIFER L EWING, 8592
MELINDA R EWING, 2152
DAVID J EXTEROVICH, 9164
MICHAEL D EYMAN, 5021
MICHAEL J FAGAN, 5701
LOUIS A FAIELLA, 5114
WILLIAM P FALLON, 4084
JEFFREY A FARMER, 2714
MATTHEW T FARRELL, 2796
KELLEY C FARRIS, 3714
RYAN M FARRIS, 1201
ADAM T FAULK, 8108
STEVEN E FAULK, 1097
CHRISTOPHER T FEDOR, 3537
ASHTON F FEEHAN, 6166
JOSE A FELICIANO, 7949
CHAD A FELLA, 7074
RUSSELL N FELTS, 2779
TROY A FENDRICK, 6922
KEITH L FERGUSON, 4949
SEAN M FERGUSON, 0020
RODNEY C FERIOLI, 0417
PATRICE J P FERNANDES, 4345
MICHAEL P FERNS, 3907
ROY A FERREIRA, 4250
DONALD E FIELD, 1639
ARJUNA FIELDS, 0145
LUKAS FILLER, 5130
MICHAEL B FINN, 6259
PAUL F FISCHER, 3815
PHILIP J FISCHER, 4159
CHARLES E FISHER, 8290
STEPHEN E FISHER, 4725
ANDREW P FITZPATRICK, 8249
LYNN N FLEDDERJOHN, 4709
ADAM L FLEMING, 8579
JOHN K FLEMING, 3829
DAVID C FLETCHER, 6126
CYNTHIA A FLUCK, 1901
GRANT W FLYNN, 6802
MATTHEW C FLYNN, 0358
LYNN R FODREA, 8578
STEVEN W FOLEY, 3715
BENJAMIN J FOLKERS JR., 0249
JENNIFER L FORBUS, 1230
TONREY M FORD, 2050
MEGHAN B FOREHAND, 7480
DAVID S FORMAN, 1904
CARRIE M FORRESTER, 9836
PHILIP A FORSGREN, 9201
MARK T FORSTNER, 0353
REBECCA A FOSHA, 5375
BRIAN M FOSS, 1418
HANS A FOSSER, 8581
MICHAEL W FOURTE, 6255
JOEL A FRAGALE, 9172
DOMINIQUE I FRANCIS, 9652
TYLER D FRANCIS, 7116
MATTHEW S FRANK, 0113
JAMES F FRANKLIN, 7401
ARRON R FRANKUM, 5536
SARAH L FRANSON, 3750
LANCE R FREDRICKSON, 5951
MICHAEL E FREED, 4497
LUCAS L FREEMAN, 9113
MARK B FREITAG, 0144
BRIAN D FREMMING, 8804
TIMOTHY E FRENCH, 2220
JONAS FREY, 0550
MATTHEW C FREY, 6561
AARON J FRIEDRICK, 4227
ROSEMARY FRIESON, 8369
DUANE C FRIST, 4178
STEPHEN A FRONCKOWIAK, 4775
JOHN T FRYE, 2478
KIRK A FUGATE, 3978
ROBERT E FULKERSON, 7228
JAMES T FULLER, 0184
LORI A FUTERMAN, 5371

CARTER C GAFFNEY, 0030
STEPHAN K GAFFORD, 7316
DENNIS M GAINES, 4000
STEPHEN A GALAYDA, 3483
VERONICA A GALE, 1960
SEAN J GALLAGHER, 5187
PAUL A GALLOWAY, 0484
MARCUS B GALMAN, 0162
JOHN W GAMBLE, 2983
JOSHUA J GAMEZ, 9261
KELLY GANNON, 2498
NEAL T GARBETT, 0231
DANNY J GARCIA, 1127
MICHAEL J GARCIA, 2898
THOMAS J GARCIA, 2828
LELAND I GARDNER, 4702
SCOTT J GARDNER, 1737
LAURA L G GARLAND, 3673
ALLEN L GARNER, 2256
MARK S GARRETT, 8052
SHAINE L GARRISON, 7127
STEVEN P GARZA, 0493
MICAH J GASPARY, 4665
ERIC C GATLEY, 1576
FRANK L GATTO, 0918
DAVID E GAUGLER, 6140
MICHAEL R GAWLAS, 0424
GILBERT D GAY, 3607
JEFFERY J GAYDASH, 2685
WILLIAM T GEARY JR., 9904
SCOTT R GEBICKE, 9237
SHAWN C GEE, 7027
ALBERT H GEIS JR., 2535
GRANT C GEISEN, 0359
MATTHEW T GEISER, 6808
ROBERT J GELINAS, 2283
JAMES P GENNARI, 7233
CHAD E GEORGE, 1358
DANIEL F GERAGHTY, 7537
CHRISTOPHER M GIACOMARO, 0185
LOUISE J GIANNOTTI, 2391
ROBERT C GIBBS, 9778
ANTHONY A GIBERMAN, 2927
MICHAEL M GIBSON, 1857
CHRISTOPHER M GIGGI, 3916
CHRISTOPHER J GILBERTSON, 2866
MATTHEW J GILBREATH, 4548
TRACEY R GILES, 3259
DANIEL R GILLESKI, 9032
ANDREW J GILLESPY, 0058
CHRISTOPHER N GILMORE, 8828
CHRISTOPHER S GILMORE, 7063
JOHN GIUSEPPE, 4231
KJELL K GJOVIG, 1627
AARON N GLASS, 8356
TYLER J GLEASON, 1317
KATHRYN M GLYNN, 1322
TYLER L GOAD, 8115
ROGER A GOBIN, 7734
CARL W GOFORTH, 0116
TARA S GOLDEN, 3038
SIRARNOLD M GONZALEZ, 9558
JOSEPH A GOODWIN, 7469
PATRICK E GOODWIN, 1817
LEON GORDON, 9699
DEMIAN C GOUGH, 8385
ANTHONY R GRAHAM JR., 9061
CHAD W GRAHAM, 7101
LEIGH C GRAHAM, 1210
WILLIAM N GRANTHAM, 9033
DAVID B GRAY, 1821
DARREN L GRECO, 5595
COLIN W GREEN, 9416
JOHN T GREEN, 1936
WELLS W GREEN, 8447
MATTHEW S GREENAWALT, 3764
MICHAEL K GREGOIRE, 9435
JOHN R GREGORY, 8876
KEVIN M GREY, 6344
JAMES F GRIECO, 8747
EUGENE E GRIFFITH, 1023
ROBERT J GRIFFITH, 6564
ERIKS M GRIFFITHS, 7567
DANITA A GROSS, 1191
SCOTT B GROSSMAN, 0127
CHRISTOPHER C GROVES, 3650
JASON P GUIDRY, 5626
LUCAS B GUNNELS, 2929
CHRISTOPHER M GUOAN, 8336
KAITAN P GUPTA, 4633
JEROME A GUSSOW, 3210
ANDREW J GUSTAFSON, 0052
RICHARD C GUSTAFSON JR., 9215
JASON M GUSTIN, 9461
KORY D HAAG, 8891
ROBERT J HAAG, 1783
RICHARD W HAAS, 4739
DANIEL M HAASE, 9602
AARON R HAGER, 6842
BRIAN J HAGGERTY, 0508
MICHELLE G HAGLE, 5890
ERIC W HAHN, 1659
JOHN W HALE, 4321
ERIK W HALL, 0098
DANIEL H HALLOCK, 1393
PETER F HALVORSEN, 3094
JOHN H HAMILTON IV, 0638
JOHN T HAMITER JR., 7570
JOSHUA A HAMMOND JR., 7488
LAURA L HAMMOND, 3778
CHARLES W HANCOCK, 9890
DAVID J HANEY, 2495
MARK W HANEY, 3217
PATRICK T HANEY, 9065
EDWARD A HANLEY, 3909
JOHN B HANSEN, 9980
PETER L HANSEN, 4699
JOSEPH D HARDER III, 1703
BRENT L HARDGRAVE, 4363
MATTHEW T HARDING, 2809
NICOLE M HARDISTY, 0393
SUZANNE M HARKER, 7949
LARICO T HARLEY, 9924
DETRIK F HARMEYER, 0567
RANDALL E HARMEYER, 8333
GARY A HARRINGTON II, 4859
CHRISTOPHER W HARRIS, 2819
DAVID F HARRIS, 6116
ERIK T HARRIS, 4100
ROBERT HARRIS, 2401
ASHLEY E HARRISON, 0763
ROBERT E HART JR., 7435
STEPHANIE A HARTIN, 7765
STEPHEN D HARTMAN, 9607
MICHAEL P HARVEY II, 2476
WILLIAM W HASEGAWA, 9727
MATTHEW J HASIK, 3886
HEIDI D HASKINS, 4821
MATTHEW A HAUSWIRTH, 5159
AMANDA A HAWKINS, 5052
WILLIAM D HAWTHORNE, 9477
JOSHUA W HAYES, 0088
LYLE M HAYES, 8107
RYAN C HAYES, 9010
MARY K HAYS, 5297
SEAN P HAYS, 1661
CHRISTOPHER N HAYTER, 5965
JOSEPH S HEAL, 8359
DOUGLAS J HEALEY, 7220
GARETH J HEALY, 9209
PRESTON S HEARTLEY, 2179
MICHAEL T HEARY, 6189
STEVEN G HEATH, 3716
ROBERT A HEELY, 6252
TRACY L HEGGLUND, 4925
CRAIG W HEILMAN, 8095
KURT A HELGEMOE, 9613
JOSEPH S HENDERSON, 4801
KEITH A HENDERSON, 9329
KEVIN M HENDRICKS, 6154
JOHN E HENDRICKSON, 4552
MARK R HENDRICKSON, 1168
DUSTIN B HENDRIX, 8592
MATTHEW R HENNESSEY, 3278
NATALIA C HENRIQUEZ, 1287
IAIN D HENRY, 7327
ISAAC P HENRY, 2402
MICHAEL D HENRY, 5621
TIMOTHY S HENRY, 7356
SUSAN D HENSON, 0067
MARK P HENZEL, 8451
NORMAN K HEPLER JR., 5651
KEVIN L HERNANDEZ, 8085
JENNIFER C HERRINGTON, 8501
JON M HERSEY, 4057
EDWARD A HERTY IV, 6275
CHAD A HESTERS, 8273
CLARK H HICKINGBOTTOM, 2766
NATHAN W HICKS, 5082
JOSEPH A HIDALGO JR., 0747
JULIE A HIGGINS, 6122
ERIC P HIGGS, 3232
JEFFREY W HIGHERS, 9712
CHRISTOPHER J HIGHLEY, 8143
CHRISTOPHER G HILL, 2362
JOEL W HILL, 5958
LAWRENCE D HILTON, 8569
DARREN E HINDS, 4047
JUAN E HINES, 6907
SUSAN HLAD, 7747
CHRISTOPHER I HOAG, 3191
EDWARD A HOAK, 5911
CHRISTOPHER R HOBBS, 8649
JEFFREY E HOBERG, 2658
KEITH B HOEKMAN, 3927
KEVIN J HOFFMAN, 2995
SOPHIA S HOFFMAN, 6697
BRIAN P HOGAN, 8533
RONALD HOJNOWSKI, 3398
GEORFFREY D HOLLY, 9337
SEAN M HOLLY, 4266
HOLLY B HOLMBERG, 1963
CHRIS O HOLMES, 6698
PASCAL W HOLMES, 9954
RONALD M HOLMES, 8828
TODD H HOMAN, 9155
MAURICE C HOOD, 0707
STEVEN N HOOD, 9989
ANNE S HOPKINS, 3047
DAVID J HOPKINS, 3497
WILLIAM D HORCHER, 1408
CHRISTOPHER T HORGAN, 1957
KARL G HORNER III, 6466
JAMIE L HORNING, 8752
THOMAS G HOSKINS, 9221
PATRICK W HOURIGAN, 6092
KELLY W HOUSE JR., 8418
ERIC M HOWARD, 0132
MICHAEL P HOWE, 3980
DIANA L HOWELL, 0389
KEITH C HOWLAND, 0575
JAMES M HOYSRADT II, 5735
DAVID S HUGHES, 3264
GEOFFREY D HUGHES, 3209
CHRISTOPHER S HULITT, 2261
DAVID E HULTON, 4004
ROBERT C HUNSINGER, 3056
KEVIN W HUNT, 7393
JACKTHOMAS M HURLEY, 5700
JASON P HURLEY, 1949
DAVID P HURREN, 5702
ROBERT S HUSCHAK, 3107
THERESA A HUTCHINS, 2906
MARY A HUTCHINSON, 4476
ROBERT K HUTCHISON, 1043
SHAE A HUTTO, 1117
JASON HYND, 8698
ROLANDO R IBANEZ, 6930
MUZAFAR B ICSEL, 5039
ALAIN M ILIRIA, 6824
JEFFREY J IMMEL, 3060
JAMES W INGERSOLL, 5851
TRACY R ISAAC, 8849
STEVEN E ISOMURA, 4385
WADE A IVERSON, 8059
DAVID L JACK, 1293
BRANDY T JACKSON, 8651
MATTHEW T JACKSON, 1701
ROGER S JACOBS, 1709
MICHAEL L JACOBSON, 7987
JOHN J JALLETTE, 3134
MICHAEL A JAMES, 6723
CHARLES J JAMESON, 9946
JEFFREY D JASINSKI, 7578
CARLOS A JATIVA, 2603
JONATHAN A JECK, 7438
CHRISTINA M JENKINS, 3424
MICHAEL B JENKINS, 8759
PAUL K JENNINGS, 2641
ERIC J JENSEN, 2654
GORDON E JENSEN, 0081
KENNETH M JENSEN, 6706
IVAN A JIMENEZ, 4038
RAUL D JIMENEZ, 0311
BRANTON M JOAQUIN JR., 9508
CHRISTOPHER T JOHNSEN, 0750
ADAM K JOHNSON, 8753
ADAM L JOHNSON, 0250
CLIFTON D JOHNSON, 2730
FRANK JOHNSON, 2261
GABRIEL Y JOHNSON, 5924
JEFFREY F JOHNSON, 5827
LAWRENCE D JOHNSON, 4281
MARIO B JOHNSON, 5172
MARK A JOHNSON, 8177
MICHAEL R JOHNSON, 8327
ORRIN J JOHNSON, 4729
PATRICIA B JOHNSON, 1727
THEODORE R JOHNSON, 6005
SEBRINA C JOHNSONPOWELL, 7594
ADAM W JOHNSTON, 0979
GARTH A JOHNSTON, 6896
MITCHELL T JOHNSTON, 4219
RICHARD C JOHNSTON, 5815
RICHARD D JOHNSTON JR., 4334
RUSSELL W JOHNSTON, 1604
BRIAN M JONES, 0576
BRYAN H JONES, 8389
HOWARD L JONES, 3392
JAMES R JONES, 5337
JASON C JONES, 3640
JASON D JONES, 3189
KENT D JONES, 9434
STEPHEN L JONES, 6424
STEVEN C JONES, 6239
THOMAS J JONES, 3891
RENE L JULIEN JR., 6396
THOMAS J KAESS, 1754
WILLIAM M KAFKA, 5881
DAVID I KAISER, 5935
MARCUS A KAISER, 5293
MICHAEL E KALINSKI, 6769
MICHAEL D KAMPFE, 5622
JEREMY T KANE, 6302
JASON A KANTOLA, 9654
PETER H KARVOUNIS, 4676
BRANDON S KASER, 0257
QUENTIN R KASUBOSKI, 1280
KEITH C KAUFFMAN, 2062
REGINA P F KAUFFMAN, 9513
STEVEN P KAUFFMANN, 2715
BRIAN C KEARNS, 2939
CYNTHIA P KEATING, 0914
DANIEL J KEELER, 5860
JAMES A KEEN, 3415
PATRICK A KELLER, 8760
SHAWN M KELLEY, 9354
ANDREW P KELLOGG, 2361
DONALD G KEMLER, 4190
PETER K KENDALL, 4415
JOHN E KENNEDY, 7184
JOHN J KERLEE, 8655
KENNETH M KERR, 2632
STEPHEN J KERR, 4533
ROBERT A KERRIGAN, 7781
MARY E KESSLER, 7431
JEROD W KETCHAM, 9009
RYAN S KIGHT, 3407
COLLIN B KIGHTLINGER, 1679
DAVID K KILLIAN, 0268
STEVEN B KILLION, 9631
STEVEN A KIMBALL, 9704
ROBERT B KIMNACH III, 2507
CORLISS A KINARD, 4264
JAMES T KING, 8993
NATHAN J KING, 2688

TERENCE K KING, 6257
MICHAEL J KINSELLA, 4374
JASON D KIPP, 6036
VINCENT W KIRSCH, 3801
JOSEPH P KLAPATCH, 0948
DANIEL C KLEIBOEMER, 5239
THEODORE B KLEINBERG, 7288
KEN J KLEINSCHNITTGER, 3813
MICHAEL J KLEMANN, 5170
MATTHEW B KLOBUKOWSKI, 8363
WILLIAM C KLUTTZ, 0590
THOMAS J KNEALE JR., 5838
DAVID V KNEELAND, 2137
RICHARD A KNIGHT JR., 6518
MATTHEW W KNOWLES, 2891
RAYMOND T KOEMP, 8221
GRANT M KOENIG, 1337
DAVID E KOGER, 5333
WILLIAM D KOONE, 1767
JOHN C KOPPLIN, 9032
JEFFREY R KORZATKOWSKI, 1702
COLLEEN M KOSLOSKI, 0350
SANDRA L KOSLOSKI, 2644
JOSEPH M KOVACOCY, 6807
LINDA R KOWALSKI, 3245
ADAM G KRAUSE, 8105
CHRISTOPHER J KREIER, 3589
ROBERT W KREJCI, 2268
TIMOTHY F KRIPPENDORF, 2859
MICHAEL D KRISMAN, 7097
PAUL J KRUMHOLZ, 6937
WILLIAM C KUEBLER, 8319
STEVEN M KUHL, 3138
JAMES A KUHLMANN, 0347
SUNTI S KUMJIM, 9855
WILLIAM W KURTZ JR., 1011
KENNETH J KURZ, 3005
TODD I LADWIG, 5158
JOSHUA C LAFFERTY, 9805
CHRISTOPHER O LAKE, 3255
WILLIAM LAMPING III, 3345
OCTAVIS D LAMPKIN, 4904
MICHAEL L LANCASTER, 8490
TIFFANY H LANDIS, 9695
WILLIAM G LANE, 1418
JEREMY M LANEY, 9322
JENNA R M LANG, 7699
MARK R LANG, 0877
SYLVESTER E LANG, 2809
PAULA A LANGILLE, 3715
DEDAN C LANGSTON, 7854
MARK R LANSBERRY, 6976
BRIAN LARMON 7940
SCOTT W LARSON, 9423
PAUL D LASHMET, 4414
TREVOR W LAURIE, 6064
JASON P LAVARIAS, 003[illegible]
MICHAEL S LAVIELLE, 5692
BETH A LAWHORN, 8956
MICHAEL C LAWLOR, 6797
RYAN E LAWRENZ, 1306
LAY C LAY, 7845
PATRICK C LAZZARETTI, 7501
THOMAS J LEACH, 0327
DAVID N LEATHER, 2201
MATTHEW J LEDRIDGE, 5731
DUSTIN E LEE, 5353
KIRK A LEE, 7128
MICHAEL W LEE, 4609
PAUL LEE, 8930
SUMNER H LEE, 1511
BRYAN H LEESE, 5889
NICOLETTE A LEFLORE, 7542
JOHN R LEHMANN, 9849
TANYA D LEHMANN, 1839
KRISTI A LEHMKUHLER, 3771
JEREMY L LEIBY, 9530
KATHLEEN A LEMLEY, 8253
JOHN E LENAHAN, 1493
MICAH A LENOX, 8575
RUFUS A LENSEY, 0277
CHARLES LEONARD, 2070
KENT M LEONARD, 5452
JOSEPH P LEPORATI, 5496
JOSEPH L LEPPO, 5393
PATRICK B LESSARD, 9785
JON P LETOURNEAU, 0047
WILLIAM E LEUALLEN JR., 3941
BRETT M LEVANDER, 4348
BRYAN J LEVIN, 5806
SCOTT LEVKULICH, 3002
JOSEPH M LEVY, 7184
BENJAMIN M LEWIS, 3448
GORDON L LEWIS, 9929
KEVIN R LEWIS, 1708
MARY C LEWIS, 1226
MATTHEW C LEWIS, 4977
PAUL M LEWIS, 8905
FREDRICK LICUDINE, 0535
GWEN B LIEGEL, 1360
MATTHEW E LIGON, 9535
CAROLINE A LILL, 4148
TIMOTHY N LIMBERT, 3418
CONNIE E LIMBURG, 7903
HENRY H LIN, 9982
DUANE H LINN, 4187
JESSICA A LIPSKER, 3927
CHAD J LIVINGSTON, 1244
MICHAEL S LLENZA, 8190
KEVIN A LOBO, 7619
MARCUS J LOCKARD JR., 8268
JESSICA A LOCKWOOD, 0990
JAMES P LOMAX, 3206
JOHN M LONG, 3507
TIMOTHY J LONG, 6015
MICHAEL P LONGAZEL, 5879
RYAN LOOKABILL, 5024
DEBORAH M LOOMIS, 7959
MATTHEW F LOPES III, 2177
ANTHONY M LOPEZ, 9919
CHRISTOPHER J LORD, 7458
FERNANDO J LORENTE, 1554
LEE A LORIE, 9342
CHRISTOPHER A LOVELACE, 1568
DANYELLE M LOW, 7167
GABRIEL A LOWE, 1522
GEORGE M LOWE, 8301
STEVEN M LOWE, 5305
PAUL M LUCIA, 4044
WALTER S LUDWIG, 3704
HERNAN B LUISYPRADO, 9484
JOHN A LUKACS, 5070
MARC E LULEY, 0123
ERIC H LULL, 0133
HILARY LUMPKIN, 5911
LAURO LUNA, 9265
BARRY F LYDON, 9868
JOHN W LYNCH, 6832
JOSEPH K LYON, 7618
LAURA F MAASDAM, 3381
BRIAN K MABRY, 6775
NJUGUNA MACARIA, 4425
JAMES P MACDONALD, 6691
ADAM J MACKIE, 6543
DINA MACKINNON, 2219
KENDRICK R MACKLIN, 4441
JOSHUA D MACMURDO, 9904
MICHAEL E MADRID, 8762
ANGELA K MAGANZA, 2491
JOHN J MAGUIRE IV, 1414
MARTIN G MAHER, 2738
BRENDAN M MAHON, 7366
JAMES K MAIN, 7064
DAREN C MAINER, 8120
JAMES I MAIZE, 4221
GEORGE S MAJOR, 2461
GREGORY P MALANDRINO, 5366
SHAWN M MALONE, 8147
CARINA E MALONEY, 0891
MATTHEW J MALONEY, 4995
WILLIAM J MALPASS, 8780
DENNIS N MALZACHER JR., 4675
ANDRE V MANCL, 1935
JEFFERY S MANDREY, 1674
RACHEL S MANGAS, 0168
RICHARD MANGLONA, 2721
LARRY D MANNINGS, 1349
JOHN M MARBURGER, 8908
SHANE T MARCHESI, 5215
JOSEPH J MARCUS, 4640
JEREMY J MARKIN, 9507
CHRISTOPHER L MARKS, 4564
MICHAEL A MARQUEZ, 8206
MICHAEL MARRERO, 0818
CHARLES P MARRONE, 5170
HARRY L MARSH, 2450
MICHAEL J MARTHALER, 2390
FRANCES A MARTIN, 8655
JAMES R MARTIN, 3337
JEFFREY P MARTIN, 6898
RONALD R MARTIN, 9159
MIGUEL R MARTINEZ, 1555
RUBEN A MARTINEZ, 2246
STEPHEN A MARTY, 8074
JONATHAN A MARVELL, 3081
CHRISTOPHER E MARVIN, 6138
BENJAMIN J MASOG, 6811
CLAYTON E MASON, 2443
YOLANDA K MASON, 5657
BENJAMIN B MASSIGLIA, 6147
TODD M MASSOW, 0303
CHRISTINA E MATERN, 3557
DALE E MATHENY, 2470
CHRISTINA M MATOSBUCHER, 2466
WALLACE M MATTOS, 8761
MICAH D MATTSON, 3886
SCOTT A MATTSON, 5871
GABRIEL A MAULDIN, 3049
TREVOR L MAYNARD, 0633
LINCOLN D MAZZEI, 8910
MARYKAY MCALISTER, 3905
MARY C MCAVOY, 5877
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SCOTT A MCBRIDE, 4046
GEORGE J MCCAFFREY III, 8653
MITCHELL S MCCALLISTER, 6692
ANCELMO J MCCARTHY, 3728
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CARLTON J MCCLAIN, 6114
C MCCONNAUGHAY, 9974
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SAMUEL E MCGOWAN III, 8346
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BRIAN S MCKEEVER, 0440
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SIMON C MCKEON, 7350
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VANESSA S MELOFCHIK, 6837
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JOHN R MENTZER, 1527
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SCOTT W MILLS, 1175
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DAVID P NEWMAN, 8993
JAMES A NEWTON, 5682
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STEVEN A NILES, 0988
DARYL V NISBETT, 2575
CALVIN NOBLES, 7929
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JUDAH S NYDEN, 0961
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MICHAEL C OBERDORF, 1326
MARK J OBERLEY, 4710
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SEAN M OCONNOR, 1671
ANDREW R ODEA, 9737
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JULIE M ODOWD, 6071
DANIEL A OGDEN, 2870
THOMAS M OGDEN, 2110
PHILIP B OHLEMEIER, 6262
JEFFREY M OLD, 8143
KYLE OLECHNOWICZ, 3750
VICTOR D OLIVER, 2519
ERIC C OLSON, 3114
KARY N OLSON, 2146
NIELS H OLSON, 0109
WESLEY A OLSON, 4768
PATRICK H OMAHONEY, 0653
JACK B ONEILL II, 2286
MICHAEL P ONEILL, 2348
ROBERT M ORE, 7803
MANUEL A ORELLANA, 9638
JONATHAN D ORINGDULPH, 1714
SCOTT R ORLOFF, 9926
CHRISTOPHER D ORMSBY, 5422
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CHRISTOPHER M OSBORN, 8948
JENNIFER L OSICK, 7422
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ROBERT B OVERTURF, 5156
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JUAN C PALLARES, 8001
BRETT R PANTER, 3843
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MATT C PARRISH, 0128
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JOHN W PATE, 0061
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CHARLES R PATTERSON, 8037
DELIA D PATTERSON, 9946
JASON W PATTERSON, 7970
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BRIAN M PAUDERT, 1335
NATHAN R PAUKOVITS, 6276
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STEVEN M PEACE, 9598
NICOLE A PEARCE, 5640
THEODORE W PEARCE JR., 8107
JACOB C PEARSON, 2459
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BRIAN E PEDROTTY, 0931
DANIEL T PEEFF, 1096
ROBERT V PEELER JR., 3256
DOUGLAS J PEGHER, 8569
BRIAN J PELLETIER, 9059
WILLIAM P PEMBERTON, 1328
DANIEL W PENROD, 0781
NEIL R PENSO, 8589
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RAFAEL J PEREZ, 6957
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LESTER B PERSON, 1247
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RYAN C PHILLIPS, 8921
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GLEN L PICKENS, 3388
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LEIGHTON J PITRE, 4506
JASON C PITTMAN, 1355
JEFFREY D PIZANTI, 6470
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JESSICA E PLICHTA, 9035
WILLIAM J PLUMMER III, 4080
JAMES D POE, 7082
JACQUELINE L POLLOCK, 7994
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DALLAS L POPE, 8692
SHAWN P POPE, 7310
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JOHN D PORADO, 0325
WENDELL K PORTER, 6031
MICHAEL M POSEY, 8195
JOHN E POSS, 4777
MARK E POSTILL, 1273
JOSHUA R POTOCKO, 5559
JAMES A POTTER, 0420
KRIST E POTTORFF, 1845
JEREMY C POWELL, 3966
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REBECCA L PROVENCHER, 8561
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ROMMEL R PUCAN, 7440
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STEVEN R PUSKAR, 0353
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PETER P QUINN, 6533
JAMES W RACHAL, 8451
LUKE W RADLINSKI, 3720
JOHN E RAEL, 0515
JOSEPH A RAEZ, 4581
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DANIEL C RAPHAEL, 1448
DAVID E RASH JR., 1040
ABDUL K RASUL, 4365
JOHN C RATH, 7082
DONALD V RAUCH, 1002
SABRA S RAWLINGS, 7747
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JOSEPH E REAUME, 1567
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MICHAEL E REED, 9729
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ALVIN J REINAUER, 4038
LOREN S REINKE, 7945
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JAMES T REYNOLDS, 4054
ROBERT F REYNOLDS, 3078
RYAN I REYNOLDS, 5781
JASON M RHEA, 5569
JEFFREY D RHINEFIELD JR., 5610
DARREN E RICE, 1635
KEVIN S RICE, 3288
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DAVID E RICKETSON, 4081
JESSICA A RIDGLEY, 4337
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DARYL ROBBIN, 6684
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GARY G ROBERTS, 5448
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JASON M ROBINSON, 6748
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JOEL RODRIGUEZ, 5720
LUIS A RODRIGUEZ, 2631
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SARAH E ROLLINGS, 9969
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JASON J RUDRUD, 0673
MALCOLM J RUMPH, 8211
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LUKE A RUSSELL, 5016
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WILLIAM G RYHERD, 5274
BRIAN T SAAL, 0716
ERWIN R SABILE, 3338
CHRISTOPHER J SACRA, 0186
ANDRE T SADOWSKI, 8444
ERIC M SAGER, 5882
DAVID L SAGUNSKY, 3402
BENJAMIN N SALE, 4343
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ROBERTO F SANCHEZ, 1710
KARL S SANDER, 0742
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KENT L SANDERS, 4905
KEITH C SANDOVAL, 6540
TODD A SANTALA, 0461
JONATHAN P SANTANGELO, 2426
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ROLAND T SASAKI, 9443
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CHRISTOPHER M SAVAGE, 1711
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BRIAN J SAWICKI, 3385
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DANIEL G SCHLAFF, 3325
ADAM P SCHLISMANN, 9781
DUSTIN J SCHOUTEN, 7946
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BRYAN L SCHULTZ, 0997
CORNELIA E SCHULTZ, 2518
RICHARD W SCHULZ, 7630
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KENNETH E SCHWALBE, 6612
ANTHONY J SCHWARZ, 0702
STEVEN J SCHWENKLER, 6797
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RYAN L SEGGERTY, 6522
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SHAUN S SERVAES, 3977
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BENJAMIN C SIGURDSON, 4762
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ESAN O SIMON, 1016
RISA B SIMON, 0993
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BRIAN G SIMS, 3543
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MEGHAN K SMITH, 8326
MICAH D SMITH, 0592
MICHAEL W SMITH, 5435
NATHAN C SMITH, 4115
RANDAL C SMITH, 5120
ROBERT E SMITH, 3672
ROBERT K SMITH, 0002
JOSEPH W SMOTHERMAN, 6373
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TIMOTHY M SNOWDEN, 0284
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JEFFREY R SOWA, 8657
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WILLIAM H SPEAKS, 8447
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KARSTEN E SPIES, 3510
PETER J SPITALE, 0102
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ROBERT D STARKS JR., 8062
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GRIFFIN K STAUFFER, 1125
JEFFREY W STEBBINS, 4702
ANDREW T STEELE, 2420
MISTY N STEELE, 3186
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JUSTIN E STEENSON, 5872
MISTY R STEINBERGER, 9902
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MELISSA S STEPHENS, 8653
PHILLIP V J STEPHENSON, 0136
JASON T STEPP, 3649
BRADLEY D STEVENS, 6889
MARK S STEVENS, 7532
NATALIE R STEVENS, 1103
FREDERICK W STEVENSON, 9507
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ADAM C STIEVE, 3733
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JABALI R STJULIEN, 2858
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BRIAN P STRANAHAN, 9117
KAREN A STRANGE, 1146
JOSEPH V STRASSBERGER, 1832
JOEL R STRAUS, 9657
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TRAVIS K SUGGS, 5517
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GENE E SUND, 6600
SCOTT T SUNDEM, 2973
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DARREN M SWEENEY, 9326
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MARK A SYMMES, 2211
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FAITH K TABATSKO, 5921
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MANDY M TAIRA, 2201
BRIAN A TAKACS, 0988
LORENZO J TARPLEY, 8209
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CHRISTOPHER J TARSA, 3295
MANUEL K TATAVAK, 0840
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TODD D TAVOLAZZI, 0757
AARON J TAYLOR, 4913
ASA E TAYLOR, 2310
BRYAN P TAYLOR, 6739
DONALD O TAYLOR, 3708
ERIC L TAYLOR, 5280
GREGORY S TAYLOR, 6912
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ROBERT J TEAGUE, 6559
JASON D TEETER, 5878
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WILLIAM TERRILL, 9571
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DANIEL W TESTA, 8249
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JOHN P THOMAS, 4899
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JACINTO TORIBIO JR., 5011
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SUMMER S TOSCANO, 6532
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DAVID W TRUMAN, 2115
KATHLEEN M TSCHANZ, 3321
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BRANDON J TUCKER, 2523
BRIAN A TUIN, 9248
WILLIAM J TULL, 4862
PATRICK D TUMY, 5072
BRITTON E TURNER II, 2935
CHARLES W TURNER, 1068
KYLE M TWENTER, 0299
DEVIN R TYLER, 7975
TELICHA M TYLER, 3276
KURT C UHLMANN, 2244
ROBERT L UNDERHILL JR., 3688
GREGGORY M UNGER, 7476
WILLIAM R URBAN, 6938
ANDREW J URBANSKI, 7508
ROGELIO P VALENCIA II, 2481
MICHAEL T VALENZUELA, 2950
MICHAEL A VANCHERI, 1557
NICHOLAS A VANDEGRIEND, 7096
ADRIAN F VANDELLEN, 0605
JONATHAN K VANDERVELDE, 9079
BRIAN E VANDIVER, 7984
THOMAS M VANSCOTEN, 5976
BRIAN C VANYO, 9841
SAMIT K VARMA, 4793
DAVID C VARONA, 0910
RANDALL J VAVRA, 0749
CASE S VERNON, 0323
CODY B VERNON, 3087
TARAIL VERNON, 0947
MORRIS C VERVERS, 6919
DEREK A VESTAL, 3723
MARJORIE E VIGAL, 1331
THOMAS A VILEVAC, 7599
BLANDINO A VILLANUEVA, 4173
DAMIAN K VILTZ, 8458
JOHN W VINYARD III, 1184
MICHAEL A VIOLETTE, 9466
BURR M VOGEL, 1588
KENNETH E VOGEL, 0899
KYLE C VOSS, 3857
JAMES T WADDELL, 4521
DAVID B WAGNER, 9994
DAVID B WAIDELICH, 9480
ERIC G WALBORN, 1121
STEFAN L WALCH, 4322
MARGARET A WALKER, 5924
SHANNON W WALKER, 6881
BRIGITTE L WALLACE, 3911
KENNETH A WALLACE, 9781
JENNIFER C WALLINGER, 4199
KENNETH WALLS, 7112
GREGORY E WALTERS, 3832
JAMES E WALTERS JR., 4097
SCOTT S WALTERS, 6434
MARK L WALTON, 3355
MICHAEL J WANGER, 0317
CHRISTIAN W WANGSGARD, 6014
CAROL A L WARD, 7338
JASON L WARD, 8505
CHRISTOPHER J WARDEN, 1016
CLINTON J WARREN, 4372
PETER W WARREN, 2642
ANNETTE P WASHBURN, 0911
SHONDA D WASHINGTON, 8538
KENNETH D WASSON II, 6897
ARCHIBALD WATKINS, 5563
EDWARD T WATKINS, 7080
BRIAN M WEAVER, 1232
MICHAEL WEAVER, 9212
RICHARD A WEBB, 4999
ANGELA M WEBSTER, 0955
CURTIS E WEBSTER, 8003
AMY C WECAS, 1081
JASON E WEED, 9332
ORION P WELCH, 4268
WILFRED H WELLS, 4011
MICAH A WELTMER, 6228
CHRISTOPHER D WENDT, 5127
STEVEN C WESSNER, 6984
CEDRIC L WEST, 6541
MARK B WEST, 3075
WILLIAM D WESTMORELAND, 4962
PETER A WESTON, 9444
MARTIN L WEYENBERG, 9054
JEREMY M WHALEN, 4838
OMAR J WHEATLEY, 3497
SCOTT V WHELPLEY, 6483
BENJAMIN T WHITE, 2466
RAYMOND M WHITE, 2025
EDDIE F WHITLEY JR., 5360
ROBERT G WICKMAN, 8868
MATTHEW J WIDELSKI, 5658
ADAM D WIEDER, 9554
ROBERT C WIEDERIEN, 3893
WILLIAM W WIEGMANN, 4772
JOHN S WIGGINS, 8627
BLAKE D WILBURN, 5279
EVELYN K WILDMAN, 5248
THOMAS S WILKERSON, 7329
JOEL L WILLE, 7053
CHRISTOPHER G WILLIAMS, 0393
DANIEL E WILLIAMS, 2559
DONALD J WILLIAMS, 6240
ENNIS E WILLIAMS, 5815
JAMES C WILLIAMS, 2785
JENNIFER L WILLIAMS, 6367
JOHNATHAN L WILLIAMS, 4094
KATHYLYN B WILLIAMS, 9068
MARION O WILLIAMS III, 1182
MICHELLE M WILLIAMS, 5225
MORTEZ WILLIAMS, 6338
NATHAN A WILLIAMS, 3692
SAI G WILLIAMS, 7681
TASHA R WILLIAMS, 9322
ULRIC A WILLIAMS, 6993
MARK B WILLIAMSON, 6090
WALTER D WILLIAMSON, 4309
JOHN G WILLINK, 7528
BRANDON J WILLIS, 5946
DARRELL J WILSON, 1803
DAVID J WILSON JR., 4163
JAMES H WILSON, 8614
JASON A WILSON, 3641
SEAN A WILSON, 8770
DONALD M WINGARD, 8904
GREGORY V WINGER, 2614
DAVID W WINN, 7547
CRAIG M WINTERS, 2554
CHRISTOPHER J WISE, 3385
RICHARD A WISE, 3625
TERRY P WISE JR., 9276
BRIDGET B WISESANANTONIO, 4373
FREDERICK WISSEN, 8802
JONATHAN P WITHAM, 1037
SHAWN D WITHERSPOON, 4071
KIRT J WLASCHIN, 6688
SEAN Z WOJTEK, 6884
JEANINE B WOMBLE, 1328
JOHN I WOOD, 6181
WILLIAM R WOOD II, 1329
SCOTT R WOODEN, 8737
KEITH C WOODLEY, 1851
RENEE M WOODWORTH, 2583
AARON T WORKMAN, 1788

JEFFREY C WORTHLEY, 8662
JAKOB C WRIEDEN, 7051
DARREN B WRIGHT, 3946
GLENN A WRIGHT, 1566
JONATHAN L WRIGHT, 9441
KEVIN T WRIGHT, 8797
ERIC D WYATT, 9329
RAFE K WYSHAM, 9750
TIMOTHY J YANIK, 3752
PETER YAO, 8944
LAWRENCE J YATCH II, 8305
MARK E YATES, 1618
JARED H YEE, 3506
ANTHONY M YONNONE, 8649
BRADLY A YOUNG, 1493
BRIAN A YOUNG, 2295
CHARLES YOUNG, 1403
CURTIS E YOUNG, 0170
HEATHER K YOUNG, 4226
JASON P YOUNG, 3776
JAY A YOUNG, 7567
JODY K YOUNG, 4842
MATTHEW C YOUNG, 9878
DAVEY C YU, 7407
HOLLY A YUDISKY, 6195
MICHAEL L YUTESLER, 9894
JOHN T ZABLOCKI, 5329
JOSEPH M ZACK, 9279
MICHAEL J ZAIKO, 1562
TODD D ZENTNER, 1918
TRAVIS W ZETTEL, 1360
CHI ZHANG, 4977
AARON J ZIELINSKI, 9843
MATTHEW D ZIELINSKI, 2902
JONAS S ZIKAS, 0702
LUKE P ZIMMER, 5978
GREGORY M ZIMMERMAN, 7158
JOANNA ZUHOSKI, 3462
JOHN R ZURN, 5392

To be lieutenant junior grade

KEITH E CAMPBELL, 7856
JOHN P CARDIN, 1003
ANDREW M CENISEROZ, 8750
PETER P CHRAPKIEWICZ, 5709
BRIAN CONNETT, 5355
CHRISTOPHER M DRAGO, 5093
VINCENT V ERNO, 8118
DANILO S EVANGELISTA, 5396
SEAN M GREENAWAY, 8816
MICHAEL M HARMON, 3938
JASON D HUTCHERSON, 2929
CALVIN P JONES III, 3711
ANTHONY J JUNGBLUT, 8006
PETER T KELLEHER, 1229
SETH A LIEBMAN, 6496
ALLEN L MAXWELL JR., 6315
JEFFREY S MCCAFFREY, 9015
PATRICIA A MCGUIRE, 7942
ROBERT D MCLAUGHLIN, 8553
CRAIG A MIHALIK, 3771
GREGORY R MITCHELL, 8799
JAMES A MURDOCK, 5310
LEE A NICKEL, 5570
GILBERTO P PENSERGA, 6476
MATTHEW L PETTIS, 6309
STIG SANNESS, 0457
REYNALDO C SANTOS, 3901
BLAS A SARAS, 4342
NATHAN W SCHERRY, 5668
JEFFREY R SIMS, 9673
ANDREW J SONIER, 7740
JOSEPH M SPAGNOLI, 1461
HAZELANN K TEAMER, 0635
MARCUS A THIES, 2722
CARL R WARD, 5937
MCKINNYA J WILLIAMS, 5937
JOSEPH ZULIANI, 6380

SENATE—*Wednesday, April 7, 2004*

The Senate met at 9:45 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord our God, whose power and love destroyed the darkness of death and sin, thank You for hardships that keep us humble and for misfortunes that keep our minds on You. Rule our wills by the might of that love wherewith You have set us free. Keep us from untimely and self-made cares, as we continue to look to You, the author and finisher of our faith.

Support our Senators with Your grace. Give them faith to look beyond today's challenges and trials and to know that neither life nor death can separate them from Your love. Help each of us to prove our gratitude to You by selfless service for those who need our love and care. We pray this in the Name of our redeemer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 7, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. This morning, the Senate will conduct a period of morning business until 10:45 a.m. We may make some adjustments to that because we want a full hour of morning business. There will be some leader time used by myself and the Democratic leader. Morning business will be for an hour, with the first half under the control of the Democratic leader and the second half under the control of the majority leader.

Following that 1 hour of morning business, the Senate will begin 2 hours for debate with respect to the motion to proceed to the Pregnancy and Trauma Care Access Protection Act of 2004.

Following the debate, the Senate will recess until 2:15 for the weekly policy luncheons to occur. When the Senate reconvenes at 2:15, there will be a vote on invoking cloture on the motion to proceed to the consideration of the Pregnancy and Trauma Care Access Protection Act. This procedural vote will require 60 votes. Unfortunately, it became necessary due to objections from the other side of the aisle.

Following that vote, the Senate will conduct a second cloture vote relating to the FSC/ETI, the JOBS bill. This will be the second cloture vote with respect to this JOBS bill, the FSC/ETI bill. I hope we will be successful in invoking cloture and bringing this FSC/ETI issue to conclusion.

An issue we need to address this week is the pension equity conference report. That conference report has passed the House by a large margin, and it is now at the desk. We need to consider that measure prior to adjourning for the Easter recess. I will be talking to the Democratic leader after our statements this morning about reaching an agreement for a period of debate and a vote on the pension equity conference report.

I will briefly comment on the JOBS bill, the FSC/ETI bill. The progrowth policies this Senate, this body has passed in 2001 and 2003 are policies which keep more money in the hands of individuals and businesses and out of the grasp of Government. These policies have begun to pay dividends, dividends we have seen over the last several months, realized in the improvement in the economy and in the job creation numbers, which have steadied and now begun to increase.

The point is, we can, we should, and we will do more. Today, we have an opportunity to further enhance the creation of jobs which are so needed here at home, by taking positive action to move the JOBS bill—that is, the Jumpstart Our Business Strength Act, the FSC/ETI bill—through this whole maze of parliamentary obstacles that are currently handcuffing this bill. It is important for us to do. We absolutely must accomplish that this week.

As most know, this bill brings together our trade and tax laws. It brings them in compliance with our trade agreements. It will also create tens of thousands of new jobs over the next several years. Given that much of the benefit of that legislation goes to U.S. manufacturing firms, these jobs are likely to be high-wage, high-skill jobs that are necessary to ensure strong economic growth.

As many of my colleagues know, the Europeans are already imposing tariffs on our exports. The tariffs started last month, March 1, at 5 percent of the $4 billion authorized. They will increase 1 percent; that is, $40 million, each and every month that passes. The tariffs, in effect, are a European tax on U.S. manufacturers, and they are devastating U.S. businesses.

According to the American Forest and Paper Association, in the forest products industry alone, approximately 1,400 jobs are at risk due to these tariffs. It is time for us to act; it is causing real economic hardship.

There is a company with operations in both Ohio and Wisconsin called Robbins Sports Surfaces. Jonathan Turner is their director of purchasing. He wrote an e-mail that summarizes why we need to act and to act now:

> The estimated average value per year for all items that the EU has sanctioned has been about $300,000.00 for my company. . . . Because competition is so fierce in these markets, any import duty will likely cost us that business to a European competitor. With the initial import duty, we cannot compete effectively in Europe at this time. We need to sell our products to the EU and are in favor of discontinuing this duty. For 10 years we have exported to the EU and are in danger of losing that market if FSC/ETI is not resolved.

That is just one example—Jonathan Turner's words in an e-mail.

A vote against cloture is a vote in support of this Euro tax, whether it is on Jonathan Turner or Robbins Sports Surfaces or thousands of other companies also facing these tariffs. So I do hope my colleagues will join me and others in voting in favor of cloture this afternoon so we can move forward on this important bill.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I mentioned earlier that we do want our colleagues to have a full 60 minutes for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

morning business. So at this juncture, I ask unanimous consent that the morning business period be extended for the full 60 minutes, with the time divided as under the previous order.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the morning business allotted to the Democratic side be divided 15 minutes for the Senator from New Jersey, Mr. CORZINE, first; and 15 minutes for the distinguished Senator from Oregon, Mr. WYDEN, second.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF FSC/ETI

Mr. DASCHLE. Mr. President, I wanted to come to the floor to respond, if I could, to the comments made by the distinguished majority leader. He made a very good statement about the importance of the FSC/ETI bill. I do not know whether there is unanimous support for FSC/ETI, but I do know there is strong support for it. It passed by a large margin out of the Finance Committee, and I think there is a great deal of interest in passing it on the Senate floor. So this is not a question whatsoever about support for the bill.

We have been on the bill now for 7 days. This is the seventh day. We have actually had a vote on one amendment having to do with outsourcing—7 days, one vote. I am absolutely convinced if we had spent these 7 days working through the list of amendments—and I have the list in front of me—we would have finished this bill by now.

In fact, Mr. President, I ask unanimous consent that the list of amendments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1637, FSC/ETI BILL (2ND LIST)—UPDATED 1 P.M., MONDAY, MARCH 29, 2004

Bayh: (1) China trade laws; and (2) manufacturing.

Breaux/Feinstein: (1) Re-patriation.

Cantwell: (1) UI.

Corzine: (1) Trade barriers; (2) COBRA; and (3) trade enforcement.

Daschle: (1) Job creation package.

Dayton: (1) Strike all international provisions; (2) capturing tax credit; (3) housing; and (4) check the box.

Dorgan/Mikulski: (1) Runaway plants.

Feingold: (1) Buy America provisions.

Graham: (1) Strike international manufacturing and replace with job credit; (2) repeal of international title; and (3) relevant.

Harkin: (1) Overtime.

Harkin/Wyden: (1) No tax deduction for outsourcing.

Hollings: (1) Strike all international provisions.

Kennedy: (1) Family opportunity act; (2) strike some international provisions; and (3) notification (with Daschle).

Lautenberg: (1) Foreign subsidiaries doing business with terrorist nations.

Levin: (1) Tax shelters.

Miller: (1) Green bond.

Murray/Durbin: (1) Malpractice insurance tax credit.

Pryor: (1) IRA.

Reid/Dorgan/Coleman: (1) Production tax credit.

Schumer: (1) NY; and (2) China.

Stabenow: (1) Tax benefits for domestic production.

Wyden/Rockefeller: (1) TAA for services and health care.

Mr. DASCHLE. I have indicated to Senator FRIST that I feel strongly about the importance of working with him to try to finish deliberations on this bill. Instead, what we have gotten from some on the other side is just a lot of posturing.

This was the original bill: 378 pages. Well, they denied the Democrats the opportunity to vote on one amendment and came back with the second version; this has 567 pages. They denied the opportunity, once again, to offer Democratic amendments, but now they have 969 pages of new amendments. So what they are telling us this morning is that this amendment is OK, but Senate Democrats cannot offer any of their amendments that are relevant, that are certainly appropriate, but that would fall under cloture today.

I have urged my colleagues to reduce the number of amendments that they had intended to offer, and virtually every one of them has obliged. We started out with about 75 amendments. It came down to 40 amendments. Now it is down to around 25 amendments. If we had a finite list, I am sure we could work those down even more as we debated these amendments.

So I am troubled and, frankly, somewhat frustrated. Senator FRIST, since he has been majority leader, has had a very good managerial style, where he has come to the floor, he has allowed Democrats to offer their amendments, and we have worked through bill after bill, including a very complicated highway bill in a very short period of time. Well, this is not in keeping with that practice, and it is troubling to me.

About a week ago, I also indicated we would be prepared to finish the welfare bill this week if we could work through the amendments, and that was not possible either.

I hope people understand this has nothing to do with support of the bill. This has to do with support of having an opportunity to do what this Senate is supposedly known for, which is to have a vigorous debate in what is called the most deliberative body. Having one amendment in 7 days is not my idea of thoughtful deliberation. We have been hung up on procedure and hung up on issues that have nothing to do with the FSC/ETI bill as it relates to stopping—I would say obstructing—Democrats from offering these amendments.

I am hopeful that once we get beyond this cloture vote, we can lay the bill down and we can work through these amendments. I will work with the majority leader to ensure we have adequate cooperation on this side, as I have offered from the very beginning.

MEDICAL MALPRACTICE

Mr. DASCHLE. Mr. President, the second issue, that I just mention briefly, has to do with the cloture vote on the medical malpractice issue that will come before the Senate this afternoon.

This bill actually differentiates between those who walk in the front door of a hospital and those who get emergency care. We objected last time we voted on this because it differentiated between men and women. Men and women would be treated differently under the bill that cloture was voted on a few weeks ago. Now our Republican colleagues add to that people who walk into a hospital or are taken into a hospital via an emergency room.

This draws a distinction that I think is inexplicable. If you are injured in an emergency room, under this legislation, you have virtually no legal recourse. If you are injured by walking through the front door of a hospital, you still have all the recourses that are allowed under Federal law. Drawing that distinction, to me, is not an improvement. That is not reform. Yet that is what some of our Republican colleagues have said.

On more than one occasion, Senator LINDSEY GRAHAM and Senator DICK DURBIN have said they are prepared to work, in a bipartisan way, to allow us the opportunity to address meaningful malpractice reform, including the high cost of malpractice insurance. But that is what it is going to take.

Having cloture votes on bills that draw a distinction between two circumstances that have nothing to do with punitive damages, or with economic damages for that matter, is something I think will get us nowhere. This vote, as all the other votes, will not be accepted. It again reminds us how important it is that we work together to find a real solution to malpractice, as Senators GRAHAM and DURBIN are doing.

CONFERENCE PROCEDURES

Mr. DASCHLE. Finally, Mr. President, let me just add one other troubling aspect to this discussion this morning, and that is the pension bill.

Our caucus will be discussing this matter this afternoon. I am hopeful we can find some way to address the issue of pensions in a meaningful way. I have indicated to Senator FRIST how concerned we are with the way pensions have once again been addressed in conference. We used this conference as a test to see whether Senators, in a bipartisan way, can work together, but once again Democrats were locked out of the discussions in a way that brought about a very questionable result.

The Senate voted 85 to 14 to support multiemployer and single-employer pension plans. We went to conference. We had a tentative agreement that at least 20 percent of the multiemployer pension plans would be addressed. We felt that was a sufficient effort to address some of the real plans in crisis.

Unfortunately, the White House told the conferees that that was unacceptable to them and, without consultation and without any effort to resolve the matter in some form of bipartisan compromise, Democrats once again, as we saw last year with the Omnibus legislation, with the Medicare prescription drug benefit, and with other bills, got the same result. It is no wonder our colleagues are so reluctant to go to conference. Once again, as the pension bill proved, the conferences are not working as they should.

It is for that reason many of us are very concerned about what now to do with the pension bill as it is presented. We will have a good discussion about that in caucus today and make some decision as we go forward.

This is not the way conferences should work. It is deeply troubling to many of us that again we find ourselves in exactly the situation that I warned would cause further problems were it to happen again. It has. I regrettably feel as if conferences in the future are going to be very difficult, if not impossible.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Oregon.

OPEC

Mr. WYDEN. Mr. President, in the last few days, the Foreign Minister of Saudi Arabia has said—and it has been widely reported by our country's two largest wire services—that Saudi Arabia was not contacted by the Bush administration over OPEC's recent decision to cut oil production by 1 million barrels per day. I was very troubled by these comments by the Foreign Minister of Saudi Arabia. I want to read specifically what the Saudi Foreign Minister said when he was asked whether the United States had expressed its disappointment over OPEC's cut in oil production. The Foreign Minister of Saudi Arabia said:

> I didn't hear from the Bush administration. I'm hearing it from you that they are disappointed.

This ought to be troubling to every Member of the Senate. Up and down the west coast of the United States, our constituents are getting mugged by high gasoline prices. In community after community, citizens are paying more than $1.90 a gallon. The high driving season is just upon us, and escalating gasoline prices are going to be devastating to consumers and to our economy overall. We all understand consumer spending is a major driver of our economy today, and it is going to be harder and harder to grow the economy and create private sector jobs if these gasoline prices continue to skyrocket.

I am hopeful my colleagues on both sides of the aisle will support the resolution I have introduced urging that OPEC increase production. The reason I am hopeful for bipartisan support is that this resolution, in terms of its substance, is identical to one introduced on February 28, 2000, with our current Secretary of Energy, our friend, Spence Abraham, as one of the principal sponsors. Back then it was clear that our colleagues thought it was important, and we had a number of our colleagues who serve today, our friend Senator GRASSLEY, distinguished chairman of the Finance Committee, Senator SANTORUM, and others, all of whom said—and I share their view—that it is important for every administration to put the heat on OPEC in order to protect our consumers. It was important then to make it clear that it was the position of the U.S. Senate that OPEC boost oil production, and it is just as clear now.

At the time that resolution was adopted in March 2000, a resolution sponsored by then-Senators Abraham and Ashcroft, oil prices were in the $25-per-barrel range with a high of $27 per barrel in February of 2000. In recent weeks, oil prices have been in the range of $35 per barrel, spiking up to $38, a 13-year high, last month.

In 2000, then-candidate George W. Bush said it was important to put pressure on OPEC to boost oil production. I certainly share his sentiments. Yet with the comments of the Saudi Foreign Minister last week, it is clear that at best, there has not been a full court press in this administration on Saudi Arabia, on OPEC in order to increase gasoline production.

If ever there were an administration that had earned some bargaining chips to push Saudi Arabia to increase oil production, it is this administration. After 9/11, there was an effort to help the Saudis, a number of them, leave our country. When there was concern about charities and the role that charities had played in financing 9/11, it was difficult to get key Government documents declassified.

The fact is that Saudi Arabia keeps getting a free pass again and again. On this issue with respect to oil production, if ever there were an administration that had some bargaining chips to play in trying to get OPEC and the Saudis to increase oil production, it is certainly this administration. Now the Saudi Foreign Minister has said, just after OPEC announced another million-barrel-per-day production cut, it was not even contacted by the Bush administration to keep oil production high.

There are other troubling signs which have led me to introduce this resolution. When Secretary Powell was in Saudi Arabia about 2 weeks ago, he also had a chance to talk about the oil crunch and how it is so harmful to the American consumer. The press release that came from the U.S. Information Agency—this is another document coming from our Government—indicated that the Secretary and the Crown Prince and Foreign Minister talked about a number of subjects—terrorism, governmental reforms, a variety of issues—but not the question of oil prices and keeping oil production high.

I have said that OPEC is going to stand up for OPEC. Anybody who thinks OPEC is going to stand up for the American consumer thinks Colonel Sanders is going to stand up for the chickens. OPEC is doing what they think is in their self-interest. If you think they are going to stand up for the consumer, it is a delusion; it is not going to happen. But it is the job of our administration, just as it was in 2000, to stick up for the consumer who is getting clobbered with these gasoline prices.

When the Saudi Foreign Minister says he hasn't even been contacted on this question of boosting oil production, I say that is not good enough. That is not good enough, given the harm it has done to our economy and our consumers by these gasoline price hikes. It is certainly not good enough for the people of Oregon, where consistently we have paid some of the highest gasoline prices in our country.

The American people are entitled to some answers. Certainly, they are entitled to an administration, just as they were in 2000, that does what then-Governor George W. Bush says was important, and that was to push OPEC, put the heat on OPEC, have a full court press on OPEC to increase oil production. Instead, what we have learned from the Saudi Foreign Minister in recent days is that the administration has essentially sat on its hands with respect to this oil production issue.

I will tell you, I think what is coming on this gasoline situation is a perfect storm. The combination of the shenanigans by OPEC—the fact that we are filling the Strategic Petroleum Reserve at the wrong time, swiping oil from the private market, squirreling it away in the reserve at a time when we have enough for our national security needs; the fact that the Federal Trade Commission is not following up on anticompetitive practices—are the factors that are going to come together for a perfect storm with respect to this gasoline issue.

I think it is critically important this Senate go on record on an issue we can do something about, just as we did in 2000 when we were led by a number of our colleagues on the other side of the aisle in making an effort to boost oil production. We ought to do the same now and stand up for the American consumer.

I have introduced S. Res. 330, and I ask unanimous consent that Senator CARPER, Senator GRAHAM of Florida, and Senator DASCHLE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I also want to make sure our colleagues understand the timetable that is behind my resolution. On February 28, 2000, then-Senators Ashcroft and Abraham introduced a resolution calling on President Clinton to pressure OPEC to boost oil production before an OPEC meeting. That resolution passed the Senate by unanimous consent.

On June 22, 2000, then-candidate George Bush said:

> I would hope the administration would convince our friends at OPEC to open the spigots.

On February 10, 2004, our current Secretary of Energy said:

> [It is] very clear we are not going to beg OPEC for oil.

On April 1 of this year, at a White House press briefing by Scott McClellan, he said:

> Let me just continue to reiterate that we remain actively engaged in discussions with our friends at OPEC. . . . We continue to make our view known. The President certainly makes his views known when he meets with world leaders and when he talks with world leaders. High-level administration officials from Dr. Rice to Secretary Powell to Secretary Abraham are always in close contact with producers around the world to make our views known. And we continue to do so.

But given that timeline, on April 1 of this year—just a few days ago—the Foreign Minister of Saudi Arabia said he had not been contacted by the Bush administration over OPEC's decision to cut crude production by 1 million barrels a day. The Saudi Foreign Minister said:

> I didn't hear from the Bush administration. I am hearing it from you that they are disappointed.

That is a direct quote from the Saudi Foreign Minister. We have to have an administration that puts the heat on OPEC, that pushes them to increase oil production and, just as the Senate said in 2000, we ought to say it in 2004.

So given what I have just outlined, I now ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of OPEC and non-OPEC countries that participate in the cartel of crude oil-producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices; that the Senate proceed to its immediate consideration; that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Mr. President, reserving the right to object, this resolution has recently gone to the committee. It needs to go through the process. I certainly empathize with many of the things the Senator from Oregon has propounded. However, I must respectfully object.

The PRESIDING OFFICER. Objection is heard.

Mr. WYDEN. Mr. President, what is troubling about the objection of our distinguished colleague from Texas is that this resolution is, in its substance, identical to the resolution that was offered by those on the other side of the aisle in 2000. It is interesting that when I came to the floor first to discuss this resolution, the distinguished Senator from Kentucky, our friend Senator MCCONNELL, said that certainly if we applied a set of principles to the Clinton administration, we can look at it as it relates to the Bush administration. That is exactly what I am doing.

I will tell you, I listened to all of the arguments for the Bush administration's position. We hear about "quiet diplomacy," for example. Maybe it is quiet diplomacy, but apparently the Bush administration's brand of diplomacy was inaudible to the Saudi royal family. So I cannot understand why there would be an objection from the other side with respect to this resolution.

We have the Saudi Foreign Minister saying he had not been contacted by the Bush administration. I outlined the specific timeline of events between 2000 and 2004 that makes the case, in my view, why every Member of the Senate should want to support this resolution, which in terms of its substance is identical to the one passed in 2000. So I think it is very unfortunate that there has been an objection. I note that there has. I hope we will be able to take it up as expeditiously as possible.

Mrs. HUTCHISON. Will the Senator yield for an answer to his question?

Mr. WYDEN. Of course.

Mrs. HUTCHISON. Mr. President, with all due respect, I do sympathize with much of what the Senator from Oregon has said, and I am frustrated as well. But I think it is important that the Senator recognize we do have a process; that this is 2004; it is not 2000; and it is not 2002.

Furthermore, I say to the Senator from Oregon that we have many ways to increase the supply of oil in our country. Passing the Energy bill that has already passed the Senate, that went to conference and was held up by the Democratic side by two votes would give us the supply that we need to lower the cost of fuel in our country. We have at our disposal the capability to lower prices.

Mr. President, I think it is incumbent upon all of us not to just look at the cartel that is OPEC, but to look at our own resources and to control our own resources. We have the capability to do that and we are not because of the obstructionism on the Democratic side.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WYDEN. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WYDEN. Mr. President, first, the Energy bill would do absolutely nothing over the next few months to lower these gasoline prices. What will help to lower the prices is passing this resolution and pushing OPEC to increase crude oil production. In fact, Republicans have even asked, with respect to the Energy bill, what it would do to gasoline prices. There is no evidence that it will lower prices.

This resolution does something in conjunction with making sure we stop filling the Strategic Petroleum Reserve, making sure the Federal Trade Commission deals with these anticompetitive practices.

This resolution can make a difference by pushing OPEC to stand up for the consumer. It was good enough in 2000 when a number of our colleagues, led by current Secretary of Energy Abraham, said it made sense. I submit this is something, unlike the Energy bill, which can make a difference for the gasoline consumers getting hosed at the pump right now.

For that reason, I think it is unfortunate my colleagues have objected. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 15 minutes.

ECONOMIC SECURITY

Mr. CORZINE. Mr. President, I rise to speak on America's economic security—rather, I should say America's economic insecurity at the moment.

Before the Senator from Oregon leaves the floor, let me compliment him on bringing up one of those issues that absolutely must be addressed, one of those issues that is squeezing middle-class Americans: their gas prices—natural gas prices and gasoline prices.

The idea that we are unwilling, after we are committing so many resources to the Middle East, to try to bring stability and democracy in the Middle East and not use our diplomatic capital to accomplish what the Senator from Oregon is speaking about, to bring forth a response from OPEC, is just unfathomable. It is absolutely an abject failure in the context of economic policy management and certainly on diplomatic efforts.

I compliment the Senator for his efforts. I hope he will include me as a cosponsor of his resolution.

As I said, I wish to speak about America's economic security. We have certainly heard in the last 48 to 72 hours a lot of celebration and victory laps being taken with regard to 1 month's economic report on employment in the United States.

All of us are pleased to see that jobs have been created in the United States. We are glad to see they finally met something that looked like the expectations that have been talked about for the 38 months this administration's stewardship of the economy has been in place. It is positive for those who have found jobs, but it is failing to take into account something that I think is very important in the reality of people's lives and something that is not being celebrated on the ground among working men and women in the United States, and that is an incredible squeeze on moderate and middle-class families in this country across the board.

It is great to celebrate big-picture statistics, but the last time I checked, statistics are not how people live their lives. The reality is we have almost 8.5 million unemployed Americans. That number actually grew last month by about 180,000. For those folks and for many people who feel as if they are at the edge of whether their job will continue, the situation is really quite serious. Those kitchen-table issues actually make a difference in people's lives.

I will be specific. Just last month, we closed the next to the last auto production facility in New Jersey. Mr. President, 1,500 manufacturing jobs were eliminated in New Jersey. By the way, we have one last plant, which is scheduled to close in May of 2005. Then we will have the auto industry completely eliminated from the State of New Jersey. We have already had the textile industry eliminated. We have seen AT&T and Lucent lose literally tens of thousands of jobs over the last 2 to 2½ years in my home State.

When people lose in these contracting industries, we see a decline in the real standard of living when people are reemployed. The statistics show that the average loss, since the last recession, for people who lose jobs at $44,000 when they were working to their next job at $35,000 was 21-percent decline in their real earnings. That is what happens when people are part of that growing job set but, unfortunately, they are losing their manufacturing jobs, they are losing their white-collar jobs, and they are moving into service sector jobs that are dramatically less valuable for their families and their own economic well-being. It is a big hurt, and I know it is a big hurt on those folks I see and talk with in my home State.

Think about it: We have gone from 6.5 million unemployed to 8.4 million unemployed under this administration's stewardship of the economy. When people get jobs—it is good we see job growth—they come back at a lower earning capacity than before.

That is not the only place we are getting hurt. For most middle- and moderate-income families, they have to deal with trying to make ends meet with regard to health care costs and tuition that goes on in their State and, as we just heard very eloquently expressed by Senator WYDEN, increasing gas prices. These are items for which real dough is coming out of people's pockets. We have gone from earning $44,000 a year on jobs lost to $35,000 in jobs found, and we have income not keeping up with the cost of medical care.

We have seen an almost 15-percent increase in medical costs for individuals since 2001, while we are seeing less than 5 percent in real income growth. That is a huge gap. By the way, at the same time, there were 3.5 million, almost 4 million Americans who lost their insurance during that period of time, so these costs are actually real. They are coming right out of their pocketbooks. Those 3.5 million to 4 million people are having to pay those costs, and that is why I talk about economic insecurity. This is a reality in people's lives: lower income, higher costs, and they are having to deal with that around the kitchen tables across America.

We might have one great number out of 38 months of economic stewardship as far as job creation, but I do not think it is translating into reality in people's lives.

Let me use another example: increasing tuition costs. There has been a 14-percent increase in tuition costs last year alone. These numbers are up about 25 percent since the Bush administration came into office. We have seen Pell grants go from about 42 percent to about 35 percent. Income, relative to tuition costs for kids accessing the American promise through higher education, has just been a tragedy. We are seeing people not able to afford the kind of education that will allow them to grow their income.

The difference between having a college education and a high school education or high school dropout is a dramatic improvement in their real earnings. We are seeing incredible pressure being put on middle-class Americans in tuition, just as we are seeing in health care costs.

I could go through a whole laundry list of other expenses most Americans have to meet and discuss around the kitchen table. Property taxes in New Jersey have gone up 7 percent in the last 3 years. One of the reasons is we in Washington keep putting mandates on them, and all those mandates trickle down to the local level, the local school board. They have to meet No Child Left Behind standards and IDEA, special education mandates, and the only way to meet those mandates is to raise property taxes. It is wonderful that we are cutting taxes in Washington, but they are going up dramatically in the State and local governments. It is a very substantial hit, particularly for middle-class and moderate-income Americans.

Again, it is great that we saw 1 month of job growth, but what about these trendlines with regard to college tuition?

What about the trendlines with regard to medical expenses? What about the trendlines with regard to property taxes? Now we are seeing an explosion in gasoline prices. I think that is why there is a sense of economic insecurity among Americans.

It is great to take these victory laps and put all the spin that one wants to put on what is going on with regard to job growth, but it is not matching reality in people's lives. It is not matching with those 1,500 families who are losing their major wage earner at the Edison Ford plant in New Jersey. That is happening across the country, and I think it is a shame.

We will talk a little bit about the job deficit in a macro term. We like to talk about 300,000 jobs grown in a month, but the fact is this is the only administration since Herbert Hoover that is actually going to be overseeing 4 years in office without having any job growth, unless there is a miracle that we have a job growth of 300,000 a month between now and next January.

There has been roughly 2.6 million jobs lost in the private sector, 1.8 in the overall sector because somehow or another we seem to be growing Government for an administration that thinks Government is not a good thing. Anyway, we are seeing job losses where we have not seen it before, all the way back to the Depression. No other President is going to have overseen an actual shrinkage of jobs. By the way, just for comparison purposes, there were about 22 million jobs created in the previous administration. So when the Democrat presumed Presidential candidate talks about 10 million jobs, at least there is a record to run on.

History will show that if we want to see job creation in this country, and we want to have balanced policies with regard to taxes and budget deficits, then we have to make sure we are investing back in the American people in a way that makes a difference.

We have seen these manufacturing jobs leave America, which has shown a reduction in the quality of the jobs that are replacing them. We have seen a reduction in the number of jobs overall.

I think that to get so focused on 1 month's number in celebration is a little bit like some of the other things we have seen that I think undermine the credibility of those who claim everything is so wonderful. There are credibility gaps on all kinds of issues, not only with regard to jobs where there is a 7 million job deficit from the economic report of the President of 2002, post-9/11, projecting there were going to be 5.6 million jobs and there are actually 1.8 million less. That is a 7 million deficit relative to what was projected at that point in time.

We have promised we would cut taxes without using Social Security trust funds. Well, we used every penny of the Social Security trust fund to pay for both the tax cuts and the expenditures that we made in the country.

The claim that any deficits would be small and short term, well, we all know they have not been small. There are record deficits right now, $500 billion-plus this year. People are talking about as much as $5.6 trillion worth of deficits in the next 10 years. We are seeing a $10 trillion swing in cashflow of the Federal Government in the 10 years that encompass the President's timeframe and analysis. It is hard to believe $10 trillion. I have a hard time even figuring out what trillion means, but it is a lot of money.

I know each American had $18,000 worth of Federal debt assigned to them when this President came into office. It is $24,000 now and it will be $35,000 at the end of the term. We are creating an enormous amount of debt burden on every American as we go forward, and there is a credibility problem. One cannot say they are a fiscal conservative, that they are fiscally responsible, and have this kind of debtload laid on the American people.

There are also other small issues such as the $140 billion miss with regard to the Medicare prescription drug plan. That is why people are frustrated when they hear about the great news that we had great growth in jobs, which everybody is glad to see, but we do not see it tracking with the reality of the other activities that are going on.

I wanted to make the point that while we are hearing all of this celebration, all of this spinning about how good this is—and again it is good—there were 2.6 million private sector jobs lost, the worst record in history. The quality of the jobs that are replacing the ones that are lost is substantially less in actual real earnings. Real median income earnings last year for the Nation were actually negative for the first time in decades. Massive deficits are occurring at the very same time. We are seeing all of these rising costs on health care, tuition, property taxes, and gas prices in this country.

I think there is a serious credibility problem. We need a new President who will put America first, rebuild our economy, and address the real needs of the middle class and moderate-income elements of our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

ORDER OF PROCEDURE

Mr. REID. I ask if the Senator would yield for a unanimous consent request.

Mrs. HUTCHISON. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that during the debate time, with respect to the cloture motions today, that Senator BYRD be allowed up to 40 minutes of the Democratic time for the purpose of speaking as in morning business and that Senator DAYTON be allowed 10 minutes. Each side has an hour so this is our time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the 30 minutes of the majority time be equally divided, 10 minutes each, between myself, Senator COLEMAN, and Senator CHAMBLISS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask that we be notified when our 10 minutes is up.

SUPPORTING OUR TROOPS IN IRAQ

Mrs. HUTCHISON. Mr. President, this Friday, April 9, will mark the 1-year anniversary of the liberation of Iraq from the dictator Saddam Hussein and his corrupt regime. It was April 9, 2003, that Iraqis cheered when Saddam Hussein's statue fell in Baghdad.

When we began Operation Iraqi Freedom and as our troops were marching on Baghdad, we started the Senate every single day for at least 30 minutes talking about our troops, what they were doing, the successes they had, and the heartrending problems they faced. We let them know that not 1 day, not 1 hour, not 1 minute passed that we were not thinking of what they were doing for our country.

It is still the case today. Although Saddam Hussein's regime fell 1 year ago today, we are still fighting with the spirit and the heart that is personified by our troops on the ground in Iraq today.

At that time, we all talked about—and it was written in the newspapers and talked about on television—that it did not seem like that infamous Republican Guard had been there. We did not meet them on the way to Baghdad. We did not meet them in Baghdad, at least it did not seem like it. It seemed almost too easy.

This is one person's opinion, but this person believes that when history is written about this war, it will say that we are meeting the Republican Guard right now, that they faded into the woodwork and they strengthened their numbers and they are coming back. They have decided to make their last stand because we have a deadline of June 30 when we want the Iraqi people to take control of their governance, and we want the people to have a say. We set that deadline.

All of those who do not want freedom and democracy in Iraq, whether they be people who want control inside Iraq or whether they are people from outside Iraq who want to control the Middle East and make sure there is not a working democracy, all of those forces are now coming together against our coalition forces.

This is a very important time in our war on terrorism, and our hearts are with our troops on the ground. Our hearts are with their families right now.

Our hearts are with those brave civilians who have volunteered to go in to help stabilize the country of Iraq and to get an economy going there. We know they paid the price from the horrendous pictures we saw last week. Those volunteers who were trying to serve were not only murdered in cold blood, but their bodies were defiled. We will never forget those pictures, and we will never forget the pictures we have been seeing day after day out of Iraq.

We are here today to say how much we appreciate what they are doing. We are also here to say that every one of those who have died, they have not died in vain because we are not going to walk away from this battle. America will not cut and run and render those great losses meaningless. We will not do it because we have a President who is willing to stand firm in the face of adversity. Our President is supported by troops who are every bit as committed and dedicated as he is to the cause.

This is a very important time. I think it is so important that we should look at what is happening and make sure we are not doing anything which would hurt our cause while our troops are in harm's way.

I have to say I am troubled when I hear leaders say this is another Vietnam. We have troops on the ground in harm's way. Is it really productive for us to be labeling Iraq after 1 year as another Vietnam? Is it helpful to heap criticism on our President? Is it even helpful to be dissecting what happened in the run-up on the war on terrorism that began on September 11, 2001? Is it helpful to be saying who is at fault for bad information? Was it the Clinton administration or the Bush administration? Or was it before that? Is that what we ought to be talking about right now? I don't think so.

I think what we ought to be talking about right now is how we can come together as a country and make sure everyone in America understands the importance of this cause; that we support our Commander in Chief, and that we support our troops on the ground.

I have been to Iraq. Mr. President, you have been to Iraq. Our Commander in Chief has been to Iraq. We know a little bit about what it is like. We don't know everything because we are not there when the bombs go off. We are not there when the missiles are launched. But we have been there, and we know our troops are the best. They are committed. They are doing exactly what needs to be done to stabilize this country.

It is not going to be easy. But the one thing we must all do is be committed to the proposition we can't fail, and dividing our country in half over who was responsible for faulty intelligence is one way we could fail.

What we need to be doing is uniting our country. This is America's challenge. This is our coalition's challenge, that we will stay the course. We will make sure a constitution is in place in Iraq so the people who have been oppressed for so many years, so the girls in Afghanistan who have been abused and uneducated will have the chance for lives all of us dream for our children to have, so the people in Iraq who were raped, tortured, and mutilated by Saddam Hussein and his regime will no longer have to fear that kind of treatment because they will be in control of their own destiny. We will be there with the security to help them see this through.

What we need right now is a united country, not a country sniping at our President, whether it is on the Senate floor or out in the field.

My time is up. But I think it is not productive for us to be divisive at this point. We need to be united in support of our Commander in Chief and our troops on the ground.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

THE ECONOMY

Mr. COLEMAN. Mr. President, my colleague from Texas noted we need a united country. I want to briefly respond to my colleague from New Jersey who talked about the economy before I talk about the situation in Iraq.

We had great news: 308,000 new jobs were created in March. Yet my colleagues from across the aisle say, Great news, but; they talk about all the celebration, but; and all the spinning, but. But there is no spinning about 308,000 jobs. The spinning is in the light of good news at a time which we should celebrate.

Americans are worried and concerned about their economic future and job growth and opportunity. We have good news. Why can't we simply be united? Why do we have to take the "Chicken Little" approach and say "the sky is falling, the sky is falling"? We have 308,000 new jobs, but; Pell grants have risen, but; 308,000 jobs, but. We have challenges in Social Security; 308,000 jobs, but.

The reality is not only 308,000 jobs in March, but the Labor Department went back and recalculated the job growth in January and February. What we have is 500,000 jobs over the last 3 months.

Why can't we come together for a moment and try not to create darkness out of light? Why do we have to dim the hopes of the people of this country? Confidence makes a difference. Our economy runs on confidence. We should have confidence based on the facts, and based on all the evidence that has been there for many months about manufacturing growth, investment, and about consumer spending, and now about job growth. Why do we have to spin and twist and turn and create dark clouds for political purposes? I hope we can do better.

IRAQ

Mr. COLEMAN. Mr. President, I come to the floor today with many mixed emotions and with a firm conviction. Foremost among these emotions is a deep sympathy for the families who have lost loved ones during the recent surge of violence in Iraq. I believe there were 32 deaths of our servicemen in the last 96 hours. We lost one brave marine over the weekend who is from Minnesota. My thoughts and prayers are with his family and with others.

America will forever be in the debt of the brave men and women who volunteered. Every man and woman in uniform in Iraq and Afghanistan is a volunteer. Many have made the ultimate sacrifice. It is with a heavy heart I reflect on that. But my prayers are with them and my thoughts are with them. My admiration is with them, and the thanks of every Minnesotan and every American is with them for their sacrifice and their courage.

I am of the Jewish faith. We just celebrated the Passover tradition, celebration and commemoration of Israel's deliverance from Egypt and from slavery almost 6,000 years ago. One of the things about that holiday is in that service we have a dinner which is a ritual dinner, and we celebrate. We thank God for deliverance. But in that service we also talk about not only ourselves; it is not enough that God delivered us from slavery, but we need to exert ourselves in the deliverance of others. I think that is more than a Jewish tradition. It is more than an American President. Our President reminded us it is a universal principle; that freedom is not America's gift to the world, but it is God's gift.

This is also a solemn time to remember the genocide in Rwanda 10 years ago when we as a Nation stood by and over 1 million people were slaughtered.

This is the anniversary of the fall of Baghdad for which the whole civilized world should rejoice. It has been a year without new mass graves being filled. A half million Iraqis were slaughtered by Saddam Hussein, by the brutal tyrant. It has been a year in which the torture chambers and the rape rooms are now silent. It has been a year when the wealth of Iraq, a nation with millions of poor people, has not been plundered to sustain the obscene decadence of a sadistic dictator and his maniacal sons. It has been a year that kids returned to school and teachers actually got paid, hospitals reopened, and food and water restored. It has been a year in which clear intent to threaten the region and the world has been stopped.

The violence in the last several days has been grievous, but it only stands to confirm the truth of what America has been committed to for the last 3 years: the choice of this state for the uprising in terms that we were battling the remnants of a regime we went there to destroy.

The attacks in Spain a short time ago confirm our conviction that Iraq is a battle in the global war on terror. Why else would terrorists target Spain, except to undermine our coalition?

Let us never forget that terrorism at its heart, at its evil heart, is a psychological war. It endeavors to break the spirit and the resolve of those it attacks by creating a lose-lose situation. It uses deadly force. By using deadly force it creates a dilemma for its enemy. To not respond validates those attacks. To respond in kind, they believe, will create further unrest and cause for the next round of attacks. Our resolve is what they are attacking. We must show them no hint of resignation.

I must say, I felt a great sense of remorse over comments made yesterday by Members of this body who raised the specter of Vietnam. I will be direct: To raise the specter of Vietnam as 10 families learn of the deaths of young sons is regrettable. To attribute a political motive to the President's June 30 deadline to return control of Iraq is extreme. I know the target audience of these comments, but its unintended witnesses are those we fight against today in the global war on terror.

Am I the only person struck by the absurd irony of the last week's national debate? On the one hand, the President is being roundly criticized by those claiming he failed to act aggressively prior to September 11 and used only diplomatic efforts to combat terrorism. And, in almost the same breath, he is criticized for being far too aggressive after September 11 and not relying upon diplomacy enough. So he was supposed to be tougher on terror before the attack and easier afterwards? It is hypocrisy.

We have an all-sports radio station in the Twin Cities that pokes fun at itself by saying it is "the home of the best second-guessing." I don't think it can match this town of late. It is intellectually dishonest to look backwards with all the facts and judge the decisions that were made with almost none of the facts, or the facts that existed hidden in the normal cloud of endless speculation of what might happen. To compare perfect hindsight with imperfect foresight is unfair. The American people understand that.

I have heard the story about a woman who wrote many letters of advice to President Lincoln during the Civil War, giving him direction she received in a prayer of who to attack and who to defend, which general to keep and which to fire. Lincoln replied something to the effect: Don't you find it curious that the Almighty gave you all the answers and gave me the job?

It is easy to second-guess. It is easy to criticize, particularly in a political season. But to lead is something altogether different. The leader must live in the real world of the price that might be paid for the goal that has been set. Our young men and women are on the line today defending freedom, fighting terror. We are having discussion and debate about an April 30 deadline. One can raise questions about the plan. We should discuss that. But to call it arbitrary and unilateral, knowing there is an expectation of the Iraqis that we need to turn over political power—not leave, not cut and run. We are still in Germany 50 years later, in Kosovo, in South Korea, not to cut and run—hand over, get rid of the specter of occupation, which is what the international community wants. Yet there are those today who will criticize that second-guessing because you need something to second-guess. It should not work that way.

America awakened on September 11 to a harsh reality. After a decade of talking tough, diplomatic efforts, occasionally sending a cruise missile to blow up a factory, or camp in the desert and hoping terrorism would go away, we were brutally attacked. Our good will, our love of peace, and our broad oceans did not protect us. As much as some may want to return to the illusory sense of security we had before September 11, we cannot. Giving people false hope is the antithesis of leadership.

The prior judgment of those who attacked us was that America was weak, that we were corrupt, that we were divisible. The destruction of the Taliban in Afghanistan was lesson No. 1. They were wrong. The invasion of Iraq and the fall of Baghdad was lesson No. 2. The attempt to secure peace in Iraq is lesson No. 3.

The terrorists are making up their minds what we are made of. They tested the Spanish. They tested the British. They will test the Russians, the Poles, the Italians and every other nation that has been participating in the coalition and the multilateral effort to put Iraq back on its feet. No doubt they will test us. We will meet that test. We will show resolve. We will not cut and run. Terrorism will be defeated. Freedom will prevail.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I salute my colleague from Minnesota for his strong leadership on this issue and his great insight into what is happening today in a very complex world.

As I listened to the news yesterday and today and read the newspapers this morning, we are reminded again of several things. First, we are reminded of what a difficult and complex world it is in which we live. It is a world where we who want to be a peaceful nation and see peace throughout the world once again realize the type of peace we hope for and pray for may be a long and difficult road ahead.

We understand, also, from the standpoint of sacrifice, nothing comes easy. We are reminded once again that the freedom this Nation enjoys came at great sacrifice. We are seeing sacrifices around the world today, particularly of our brave men and women who are fighting for the freedom of the Iraqi people.

As I think about that and I think about what is going on in Iraq today and what is happening to an overwhelming majority of the Iraqi people who want to see peace and who want stability in that country and they are having to deal with a small number of insurgents who want to carry the day by using guns and violence, it disturbs me when I hear statements made by politicians in America, politicians who aspire to higher office, as well as politicians who have been in the realm of politics in our country for many years, statements that tend to incite the opposition and to put our men and women in greater harm's way.

When I was coming along as a young man, I played a lot of athletics. I have had the privilege of coaching Little League basketball and baseball for 25 years. When you play athletics or when you coach athletics, you want to be inspired as an athlete and as a coach. You want to inspire the opposition. Frankly, the statements I have seen in the last 24 hours relative to the comparison of Iraq to Vietnam are the type of statements a coach would take and plaster on the locker room wall when he wants to charge up his team and he tells the opponents, Look what is happening on the other side. Morale is decaying. We are winning.

That is simply the type of statement that is foolish and should never be made by anyone in the political realm in our country in a time of great crisis and great confrontation over the issue of freedom and democracy.

America has long been the leader of the free world. But we did not get there in an easy way. Likewise, Iraq is not going to get there in an easy way. No one ever said it would be easy making a democracy out of a country the size of California, that has no democratic traditions, is divided sometimes by religious and ethnic disputes, and has a history of internal repression.

When I think about our great country and the fact that a little over 225 years ago we declared our independence, what happened in our country when the citizens of America became free, it was not easy. We had great loss of life in order to ensure that America became free and independent. When we look at what has happened in America over the course of that 225-plus years, we have suffered great loss of life of brave men and women who fought for a cause, a cause of freedom and a cause of democracy, the simple cause of freedom that is being fought for in Iraq today.

America is providing the kind of leadership the world respects and the world has come to understand; that it is what America stands for. When Americans provide that kind of leadership, it is incumbent on all Americans to rally around the leadership of this country in times of great crisis in the world, when we are the leader of the free world, and not to try to incite the other side, not try to create a more difficult position for our brave men and women in the military, who today continue to be in harm's way and continue to suffer loss of life.

Speaking of that, I concur with my friend from Minnesota, our hearts go out to the families of those brave men and women—all 600-plus—who have suffered loss of life in Iraq as a result of their fight for the cause of freedom. In addition to that, we have a number of men and women who have been injured; and, again, it is for the right reason.

I had a great privilege about 2 weeks ago of visiting a number of military bases in my State. One of the bases I visited was Fort Gordon, GA. At Fort Gordon, right outside of Augusta, we had a tour of the base, the usual things that we do to see what is going on with respect to the missions at Fort Gordon. At the end of the day, I had the opportunity to participate in a very unique ceremony. It was a reenlistment ceremony, where 17 men and women were reenlisting in the U.S. Army.

Some of these men and women had been longtime members of the Armed Forces; some had only been in for a couple of years, but they were re-upping. Some of them had been to Iraq. Some of them had seen their fellow soldiers fallen to the ground injured or killed. Yet here they were raising their right hand and reenlisting in the U.S. Army.

I had the opportunity to visit with every single one of them, and for the most part, I asked the same question to each of them; and that is, Why are you doing this? Why are you reenlisting in the Army in these difficult times? I felt so great, No. 1, just to be in the presence of those true American heroes; but secondly, the response I got, in unison, from those individuals was that: I like my job. I enjoy what I am doing, and it is my opportunity to do something positive for America.

The ones who had been in Iraq had a very high morale about what is going on over there because they are the ones who were on the ground every day in Iraq. They know the feeling of the majority—the overwhelming majority—of the Iraqi people. They support the freedom and democracy that America is making the sacrifices for.

Some say this administration underestimated just how difficult and complex the job in Iraq would be. I will be honest, I have come to share that view. I think the administration would agree with that. But I believe, therefore, we need to learn from our tactical mistakes, and to ensure that our posture in Iraq is flexible and can adapt to fluid and developing circumstances. If this means finding new ways to ensure Shiite grievances are heard, so be it, as the cooperation of the Shiite majority in the transition ahead is essential to that transition success. But the CPA must also respond aggressively to aggression of any kind that is directed against our troops.

In talking about what we anticipated or what the administration expected in Iraq, let's talk also about some of the things we did not expect. We did not expect for clerics in that part of the world to come forward, and instead of preaching religion that you would expect them to be preaching, to be preaching and advocating hatred and violence towards Americans—Americans, who had given them the opportunity to stand in that mosque and express the words they were expressing, because without the Americans taking down Saddam Hussein, they would not have that freedom, they would not have the ability to carry out their disruptions and the violence that is ongoing over there today.

But removed from that, and behind the cloud of those robes of religion, clerics are hiding, and they are also hiding behind innocent women and children and shielding themselves by use of innocent people from the Americans who seek to arrest and prosecute them for the crimes they have carried out. Those are the types of things that no administration could anticipate and no administration should have expected when we freed the people of Iraq from the regime of Saddam Hussein.

There is one other aspect of the situation in Iraq that is just as personally, if not more personally, troubling to me; and that is the issue relative to our lack of intelligence gathering, the lack of the ability to use human assets on the ground inside of Iraq, to make sure we find out what is going on among these radical clerics who are advocating violence; what is going on with respect to the terrorist community and the terrorists themselves relative to attacks against Americans; what is going on with respect to the long-term plans of these terrorists as it applies to the American service people, as well as civilians who are on the ground in Iraq.

We are not doing the job of gathering intelligence that we need to be doing. As a member of the Intelligence Committee, I assure you, we are doing our oversight. We are going to be critical where we need to be critical because this is a phase of this war that must improve. We are going to do our job and make it improve so the people of Iraq will ultimately be free, the world will be safer, and America will be a safer country.

I yield back, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT OF 2004—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2207, which the clerk will report.

The assistant legislative clerk read as follows:

> Motion to proceed to the bill (S. 2207) to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

The PRESIDING OFFICER. Under the previous order, the next 2 hours shall be equally divided between the two leaders or their designees.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, we now return to the issue of how we make health care more affordable and accessible to the American people. This bill will try to reduce the liability, the insurance costs of doctors who deliver babies and doctors who work in emergency rooms, making the practice of those different disciplines more attractive to doctors and allowing, therefore, especially women who are having children more access to doctors. Especially in rural areas this is a huge problem because so many OB doctors have had to give up the practice of medicine because of the cost of their liability insurance. We return to that bill.

UNANIMOUS CONSENT REQUEST—H.R. 633

But before we go on to that bill, I think it is important that we address other legislation that could also significantly reduce the cost of health care in this country and improve its delivery. One such piece of legislation has been reported out of the committee which I have the privilege to chair, which is the Health, Education, Labor, and Pensions Committee. It was reported out unanimously—unanimously. It is the patient safety bill, and it basically is structured so that it does, for example, make information as to how errors occur within the medical profession more available within the medical profession so people in the medical profession can learn from these errors.

Today, regrettably, if you have an experience of doing a procedure inappropriately, having a medication which is inappropriately applied, or having an operating room that may not be set up correctly, and as a result errors result from that type of activity which lead to injury or problems for patients, that information is kept very close. It is not made available generally to the medical profession for the obvious reason that they will be sued.

What this bill does is essentially try to create a better atmosphere for allowing that information to be shared and, thus, reducing medical errors. We know, for example, that there is a huge number of people in this country every year who are impacted by medical errors and that there are 98,000 preventable deaths that occur as a result of medical errors. This information would significantly reduce those occurrences by allowing this information—the information of how these errors occur—to be shared within the medical community.

It would create a system for voluntary reporting of medical errors. It would establish Federal evidentiary privilege and confidentiality protections to promote the reporting of medical errors. It would produce better procedures, interventions, and safety protocols for eliminating errors and improving quality of care. It would permit safety data to be shared and disseminated nationally so other caregivers can learn from mistakes that have occurred without the fear of litigation.

It is excellent legislation, such strong legislation, in fact, that it was reported unanimously out of the committee which I have the privilege to chair. Yet it has been stopped on the floor for reasons I find difficult to understand. I know it has cleared our side of the aisle, that the Republican membership is willing to move on it. In fact, we are willing to move on it by a voice vote on this side of the aisle.

At this time I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 633, the Patients Safety Act, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Mr. President, I agree with the chairman of the committee. The committee has done a tremendously important job on this bill. It is something we need to do.

As indicated, this patient safety bill—I should say as indicated by the chairman—is something that is so vitally important. There are news articles about the fact of patients not being treated properly. One of the reasons is simply we don't have information from various institutions as to what has happened.

To make a long story short, we have a bill before us. There is an amendment. We have had a couple of Members on our side who want to simply look at the amendment. I am confident this is something that can be done in the near future. I look forward to working with the chairman and the other members of the committee to make sure we can move this as quickly as possible. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Mr. President, I would inquire of the assistant leader of the Democratic membership if there is a timeframe when we could bring this bill to the floor.

Mr. REID. I will meet sometime or visit with the ranking member, Senator KENNEDY, later today and try to get a timeframe. I think we can do this fairly quickly.

Mr. GREGG. That would be excellent. I appreciate the response of the Senator from Nevada.

Mr. REID. If the Senator will yield for a unanimous consent request, we have 10 minutes left on our side on the debate on the cloture motion. I yield that final 10 minutes to the Senator from Illinois, Mr. DURBIN.

Mr. GREGG. Mr. President, I have the floor, correct?

Mr. REID. We are just giving our final 10 minutes to the Senator from Illinois. Forty minutes to Senator BYRD, 10 to Mr. DAYTON, and now we are giving 10 minutes to the Senator from Illinois.

Mr. GREGG. At this time, I yield to the Senator from Nevada such time as he may consume.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the chairman of the HELP Committee for the work he has done to bring this legislation to the floor of the Senate, trying to get an up-or-down vote, or just trying to proceed to debate this bill.

For those people around the country who do not understand the way the Senate works, we have to have 60 votes to proceed to the bill on reforming our medical liability system. We have to have 60 votes to go to the bill, to amend it, and then to vote it up or down. It is a shame the Democratic side of the aisle is not even allowing us to have an up-or-down vote on this incredibly important legislation.

Today 19 States across the United States are in full-blown crisis, according to the American Medical Association, regarding medical liability. Only six States are stable because of the reforms they have in place. OB/GYNs, emergency room physicians, and trauma doctors are the hardest hit, but they are not the only ones. From 1982 to 1998, the average premium for OB/GYNs rose 167 percent. In 2002, the average premium for emergency room physicians rose by 56 percent. In Las Vegas, OB/GYNs have seen a 300- to 400-percent increase in their premiums as of late. Three years ago they paid around $40,000 a year; now they pay upwards of $200,000 a year.

To help curb the cost, OB/GYNs are limiting the number of babies they deliver, and some of them are no longer delivering babies at all and are only practicing gynecology. In fact, many of them are leaving our State altogether.

This crisis has now grown to affect our students in medical schools across the country. Nevada is really suffering because it is the fastest growing State in the country. Medical students are now avoiding high-risk specialties. Nevada's school of medicine had the lowest number of students entering obstetrics it has had since 1999. That number has decreased every year since 2000.

Nationally, half of all medical students indicate the liability crisis is a factor in their choice of specialty. For osteopathic students, the numbers are even worse. Eighty-two percent say cost and availability of insurance will influence their specialty choice. Eighty-six percent say cost and availability of insurance will determine where in the country they practice. With doctors leaving practice and no more entering the field, patients are suffering and will suffer more in the future.

Patients are what this debate is all about—not doctors or lawyers. Patients can't find access to care when they need it. For example, Nevada's only level I trauma center closed for 10 days in 2002. The center serves trauma victims over 10,000 square miles—in Nevada, parts of California, Utah, and Arizona. In 2002, this trauma center cared for 11,600 patients. Mainly, these patients suffer the most traumatic injuries such as severe car accidents, knife and gunshot wounds, and brain and spinal cord trauma.

This closure cost Jim Lawson his life on July 4, 2002. We have a picture of Jim. Jim lived in Las Vegas, and was just 1 month shy of his 60th birthday. He had recently returned from visiting his daughter in California. When he returned, he was injured in a severe car accident. Jim should have been taken to the university medical center's level I trauma center, but it was closed. Instead, Jim was taken to another emergency room to be stabilized and transferred to Salt Lake City's trauma center. Tragically, Jim never made it that far. He died that day due to cardiac arrest caused by blunt force from physical trauma.

Why was Nevada's only level I trauma center closed? Simple fact: There were not enough doctors available to provide care. There were not enough doctors because of skyrocketing medical liability premiums.

How do we know it was because of that reason? It is very simple. It reopened a week later when the State put the level I trauma center under its umbrella coverage where the maximum the State could be sued for is $50,000. The legislation we have before us caps non-economic damages at much more—$250,000—but allows recovery of economic damages to be unlimited. Remember, economic damages are for lost wages, medical bills, etc.

We have cases in California, where a law is in place that is almost identical to the legislation we are talking about today, where patients have been awarded millions of dollars in compensation. It is the out-of-control jury awards across the country that are dramatically raising our premiums.

I want to emphasize again, the level one trauma center in Las Vegas was reopened because the State of Nevada took it under its wing and said: We will protect any of the doctors who work there with a maximum liability coverage of $50,000 in damages.

Opponents on the other side argue that injured patients won't get what they need financially if malpractice occurs as determined by a jury. Let's remember that patients can recover damages in three different ways under our bill, and in only one case, non-economic damages, are we placing a distinct limit. Economic damages would be unlimited and punitive damages are available in the cases of gross malpractice. This bill would create strong medical liability reform where patients can actually get the kind of compensation they need and they can get it sooner because they can navigate through the courts much faster. Undoubtedly, the courts will work a lot more quickly because there won't be so many frivolous cases clogging up the civil justice system.

The cases we hear about, whether it is in the trauma centers or because there are no OB/GYNs available, are tragic. It is the patients who are being hurt every day. The other side says they are trying to stand up for the little guy—the little guy who gets hurt because of medical malpractice. And we definitely should stand up for those people because there are some very tragic cases.

Without a doubt they deserve just compensation. Unfortunately, our system has swung out of balance. It is too easy to sue these days because the threat of a lawsuit and the cost of that lawsuit is so exorbitant that medical providers and their insurance companies often settle out of court. It is an absolute fact that providers and their insurers settle even in those cases they probably could win just because of the enormous expense and time.

Adding to this broken cycle are these so-called "professional witnesses," for lack of a better term. When I say professional witnesses, I mean physicians who no longer are practicing. Some have practiced a little bit, but they all of a sudden become experts in fields they never practiced in. Our legislation says if someone is testifying as an expert, they need to be an expert in the field they are testifying about. In other words, you don't want somebody who is a family doctor testifying in the case that involves a pediatric neurosurgeon. You want somebody who is a specialist in pediatric neurosurgery and knows about the ins and outs of that specific practice of medicine.

Again, this legislation would allow those people who actually have had medical malpractice inflicted upon them to get through the court system faster, so maybe the ones who are truly hurt will get the compensation before they die. For many today, because the courts are so clogged up, it takes 6 to 10 years to get through the court system, and many of them die before they ever get compensation. Talk about a tragedy. So if people really want to stand up for the little guy and they want to say I want to fight for the little guy—if they want to fight for the person who actually gets hurt, let's pass legislation that allows the cases to get through the courts in a much more expeditious fashion.

Another benefit of this bill is most, if not all, of the reforms it contains will help lower the cost of health insurance in this country for everybody, so hopefully we will have more people with health insurance. If the costs are lower, more people can afford it, and we will have fewer uninsured in this country.

How many more doctors do we have to lose in Nevada and other States? Do we really want people who are not as qualified to go into some of these specialties? Do we want to start scraping the bottom of the barrel, or do we want the best and the brightest to go into these specialty fields? They always have in the past. Now they look out there and say, you know what, I am not going to be able to afford to practice. Why would the best and the brightest go into it when they say, I am going to go to 4 years undergraduate, 4 years medical school, and then I am going to do anywhere from 3 to 8 years, depending on the postgraduate training that is required in the specialty field, before I start making decent money. What people don't realize is even after these students graduate from medical school, they might make $30,000 to $40,000 doing "slave labor," working 100 hours a week, while they are learning their particular field of study.

We want the best people who are willing to sacrifice all of those years and all of those hours of hard work to be able to go into those fields. At the end, yes, they should be rewarded economically, just as anyone who works hard toward entering a specific field of work. But many of them will not do it for the simple fact they are not going to be able to afford the medical liability premiums. That is why it is so critical we pass medical liability reform.

Today, we have before us a bill we have limited to provide relief to two specialties. It only covers OB/GYNs and professionals involved in the practice of emergency medicine and/or trauma medicine. We have limited it to highlight two of the most high-risk and the most severely affected areas in our health care system today.

If you don't like portions of the bill and want to change it, fine. Let's have a healthy debate and amend the bill. Let's take amendments one at a time and amend the bill and then come out with a product that will actually fix the problems we have in this country. Right now the other side, the Democratic side of the aisle—it almost boggles my mind some of the points they argue against this bill—but they won't even let us have the bill brought to the floor where it can be amended. They won't let us have a fair debate where we can amend this bill. Sadly, they are obstructionists on so many pieces of legislation this year. But at least on the other pieces of legislation that they are obstructing they are not costing lives. On this legislation, they are costing lives. Unfortunately, more and more lives will be lost in the future. When there are not enough doctors to treat patients, it costs lives.

The providers covered in this bill—OBGYNs, ER and trauma doctors—if they are not available to care for patients, people are going to die. People are going to end up in a situation like Jim Lawson's who, as we showed earlier, needed the kind of specialty care only a trauma center can provide. Right now, the doctors are not there to be able to give the patients the kind of care they need. We have to ask ourselves, what if it were one of our loved ones—not ourselves, but one of our loved ones? For instance, down in Florida, Dr. Frank Schwerin's son was injured. He is an internist. His son is a 4-year-old named Craig. Craig struck his head on the side of a swimming pool. Within minutes, he became lethargic and began to vomit. He was rushed to North Collier emergency room. The ER physician paged the neurosurgeon on call. Unfortunately, neurosurgeons in Collier County were not able to treat pediatric patients because they were too high risk. The nearest pediatric neurosurgeon was 150 miles away. In neurological trauma, every minute counts. After an hour or so of receiving what care he could, Craig was eventually stabilized. But not every child is that lucky. No parent should have to go through that wondering, does my child have the best care they can get, simply because the specialist left their area because the medical liability premiums were too expensive. I cannot tell you how many doctors who are in this situation. By the way, it is not only doctors. We are also talking nurse-midwives, EMTs, emergency and fire personnel, you name it. Throughout the health care provider system, people are affected by the out-of-control medical liability costs. But the physicians I have talked to, anecdotally, in story after story, say people were sued for the first time in their life in a case they may have had very little to do with. They walked in, gave only a consultation to another physician who was the primary doctor on the case, and then they are sued because malpractice was committed somewhere down the line by someone else on the case. Even though it had nothing to do with them, they now have to spend literally thousands of dollars defending themselves.

The system is broken. It is out of control. Our system of justice swings like a pendulum. Right now, it has swung too far in one way—in the trial lawyer's favor. We have to bring it back in favor of the patients. The patients need to come first. That is what we are talking about today in this legislation—putting patients first instead of trial lawyers.

Mr. President, I will conclude with this. I want to talk about the States that have enacted reforms versus the States that have not. I wish to give a couple of examples to put this in dollar terms so people can get their arms around it.

This chart explains it very clearly. First of all, this is an example of internal medicine, general surgery, and OB/GYN. I will focus on the OB/GYNs to keep it simple because they are affected directly by this legislation.

L.A., Denver, New York, Las Vegas, Chicago, and Miami are listed on this chart. The population shares are relatively similar. This shows the medical liability premiums in the various cities. This is a 2002 survey. Mind you, the cities with the problems are in much worse shape in 2004 than they were in 2002.

An OB/GYN pays about $55,000 a year in L.A., and around $31,000 a year in Denver. California and Colorado are two States that have had good medical liability reforms passed at the State level, and these reforms have been in place for several years. If we go to New York, Las Vegas, Chicago, or Miami—take your pick—none of these States have good medical liability reform passed. In New York, they are paying $90,000; $108,000 in Las Vegas. That number is way low. At a minimum it is $140,000. Chicago, $102,000, and Miami is over $200,000 a year. That is why doctors are leaving their practices.

One can say doctors make so much money that they can afford this. The average OB/GYN in Las Vegas makes around $200,000 a year. When $108,000 is going for medical liability coverage, you can see there is not very much left for the provider. You raise this up to $140,000, $150,000, $160,000, as many are now experiencing in my state, and there is not a lot of room left. I would also mention that with the way these doctors are getting paid at fixed rates, through managed care, Medicaid, and the like, there is not a lot of room left to afford rising premium rates. The fact is they are leaving the practice or they are limiting the amount of babies they deliver simply because they cannot afford to deliver babies. In the fastest growing cities and metro areas, that is unacceptable.

This chart shows California versus U.S. premiums from 1976 to 2000. California has the model legislation we all look at. These are the premiums. This is California, the blue line, which is very stable. There has been an increase of about 167 percent over that time, a little more than inflation, but pretty close. Look at it for the rest of the country: 505 percent.

Is medical liability reform working in California? I think the answer is pretty obvious that it is. We need a national solution. We need to say to the trial lawyers: Listen, we respect the fact you went to law school and you want to make a lot of money, but I think the system has been abused enough. It is time to put the patients first.

Let's vote for cloture today. Let's get the 60 votes needed to at least go to debate on the bill. And if my colleagues do not like the provisions of the bill, let's amend it. Let's have up-or-down votes on amendments. Let's get to final passage where we can actually correct what is wrong with the health care system in the United States by eliminating abusive lawsuits, outrageous and unwarranted jury awards, and out-of-control medical liability premiums.

I yield the floor and reserve the remainder of our time.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the 10 minutes already allocated to me be increased to 20 minutes and include the time previously allocated to Senator DAYTON of Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I thank the Senator from Minnesota for yielding me the 10 minutes so I might speak to this important issue this morning. I thank the Senator from Nevada for illustrating to us a serious challenge that faces America. There is no doubt in my mind, nor in the minds of those who studied this issue nationwide, that we need to do something as a nation to deal with medical malpractice liability.

It is clear that in many parts of our country, in many parts of my State, the cost of medical malpractice insurance has gone up dramatically, to the point that some doctors are moving to other States and some are retiring. That is a reality. It is a reality in Illinois. It is a reality in other States. I believe we need to do what is necessary on a bipartisan basis to grapple with this issue.

Although it will be the first time in history the Federal Government would take on the question of civil procedure and medical malpractice cases in States, frankly, it may be the only way to approach it. So I agree with my colleagues on the other side of the aisle that inaction on our part will only make this problem worse. We need to move forward. But I come today to tell you the bill before us, S. 2207, is not the right approach.

I encourage my colleagues on both sides of the aisle to look at this bill carefully. I hope they will view, as I do, this bill as an honest attempt to identify a problem but a very inadequate attempt to solve it.

Let me say at the outset that a lot has been said about emergency rooms, which are covered by this bill. Some has been said about OB/GYNs delivering babies, and that is covered by this bill. But the sponsors of this bill have not mentioned the fact that it also exempts from full liability drug companies, medical product manufacturers, insurance companies, those who make vaccines that cause problems for children. They are also included in this bill.

So much has been argued about the doctors in the emergency rooms, but the full scope of the bill has not been described, at least as long as I have been on the floor.

Let me tell you what I think is wrong with this bill. Here is what the bill says: The bill says in cities and communities across America where we rely on a jury of your neighbors and friends to come together and decide what is fair and what is just, when it comes to those lawsuits involving injuries, coming out of, for example, an emergency room treatment, no longer will a local jury decide. The case will be decided on the floor of the Senate. One hundred Senators will decide today with this bill that regardless of what happens to you or your child when you go to an emergency room for treatment, regardless of the possibility that you brought your child in as an innocent victim seeking medical care at an emergency room, and that child, the love of your life, became the victim of medical malpractice, regardless of the circumstances, we will decide on the floor of the Senate, if that child is facing a lifetime of disability, a lifetime of disfigurement, a lifetime of pain and suffering, we, the jury of the Senate, will decide it will never be worth more than $250,000 for the pain and suffering, for the disfigurement, for the incapacity they will face. That is what the bill says.

When you look at it you think, why? Why would we decide that regardless of the lawsuit, someone could never receive more than $250,000 for pain and suffering, for noneconomic losses? The argument is, unless we put a cap on the possible recovery in a lawsuit, malpractice premiums will continue to rise and doctors will not be able to afford them. That is the premise. That is the argument of this bill.

So the first thing I would like to do is question that premise. Let's look at the facts.

Here we have OB/GYN insurance premiums in States with caps, with limitations on the amount a jury can award, and without caps. In California, with caps of $250,000, called for in this bill, we see a 54-percent increase in the year 2003 in medical malpractice premiums; Oregon, with no caps, 0 percent increase; California, a 15-percent increase versus the State of Washington, 0 percent; Colorado, a 29-percent increase where they have caps and limitations on jury verdicts, and in Georgia with no caps, a 10-percent increase; New Mexico, with caps on how much the jury can award, a 52-percent increase in malpractice premiums; Arizona, right next door with no caps, no limitations, only a 14-percent increase.

So the argument that caps will bring down premiums is illustrated here to just be wrong. The premise is wrong. The argument is wrong.

Take a look at the premiums and what has happened in States without caps between 1991 and 2002 and those with limitations on jury verdicts.

Arizona in this period of time of 10 or 11 years, 3-percent increase; New York, 6 percent; Georgia, 8 percent; Washington, 27 percent. These are States without caps. Then take a look at the States with caps, with limitations on jury awards, 50-percent increase in California; 60 percent in Kansas; 82 percent in Utah; 84 percent in Louisiana. The argument is made—and I heard it on the floor this morning—that it is because so much is being paid out in terms of verdicts, and that is why premiums have gone up.

There is little or no correlation between the amounts that are paid out in verdicts and settlements and what happens to premiums. One would think there would be a direct correlation, but look at this situation. The State of Hawaii, a 527-percent increase in 10 years in the amount paid out in medical malpractice suits, a 10-percent increase in premiums; Iowa, a 87-percent increase in payouts, a 12-percent decline in the premiums charged. The case is illustrated and goes on.

The point I wish to make is if the premise of this law is establishing caps will bring down malpractice premiums these two things we can be sure of: There is no evidence to support it in many of the States with the strictest caps and, secondly, if there is any benefit to be realized by establishing caps it will be years before it is realized. That just reflects the fact that lawsuits filed for malpractice are filed years after the event occurred. Frankly, if there is any benefit to be realized, doctors and hospitals today will not see it for a long time.

The second thing that I think cries out to be said when it comes to capping what a jury can award in a case involving medical malpractice is the fundamental injustice involved in this. Here we have to go beyond the theoretical, beyond the statistical, to the real world of what happens when people show up at emergency rooms for treatment.

This is a beautiful young girl, Shay Maurin, from Hartford, WI. She was the victim of medical malpractice. On March 5, 1997, her mother took her 5-year-old daughter Shay to a local clinic because she thought something was wrong. She was not sure what it was. The physician's assistants at the clinic thought Shay might have diabetes but did not perform any tests.

The mother then took her daughter to the emergency room, where she told the emergency room doctor that the clinic thought this little girl might have diabetes and maybe that was why she was sick. She was 5 years old.

Although her daughter was exhibiting signs and symptoms of diabetes, the emergency room did not administer the standard finger-stick test, the basic test that people suffering from diabetes go through regularly to monitor their blood insulin. Instead, this little girl and her mother were sent home from the emergency room.

This little girl died of diabetic ketoacidosis the following afternoon. That occurs when a person who has diabetes is not treated with insulin. The body's blood sugar builds up to extremely high levels. The body cannot metabolize what the person eats. The body becomes severely dehydrated. Acid buildup occurs, leading to swelling of the brain and death.

The emergency room which failed to administer the most basic test, after being told by the mother that they suspected she was suffering from diabetes, was found 88-percent responsible for her death and the clinic 12-percent responsible. If we pass this bill, we have decided that the jury of the Senate would say to this little girl's family: The maximum you can recover for the losses and pain and suffering for this little girl is $250,000.

Let me tell my colleagues a story of another young girl. This beautiful little girl is Lauren Meza. On January 2, 2000, Jennifer Meza took her 2½-year-old daughter Lauren to the emergency room at the recommendation of her pediatrician.

The baby's symptoms indicated that she may have had pneumonia. The child's father was being hospitalized for pneumonia at the time she developed the symptoms. The emergency room doctor refused to perform any tests, insisting to Ms. Meza that her daughter would be fine and she should go back home.

Two days later, Ms. Meza brought Lauren back to the pediatrician, who was alarmed at her deteriorating condition. The doctor determined she needed immediate emergency care and she was airlifted to another hospital where she was treated for a condition that left her body unable to expel toxic agents and waste products, forcing them into her bloodstream. As a result of the emergency room doctor's denial of care, she is facing dialysis and a kidney transplant before she turns 10 years of age.

What this bill says is that this little girl, Lauren Maza, facing a lifetime of dialysis and ultimately a kidney transplant, would never be allowed more than $250,000 for any pain and suffering which she sustained because of the clear negligence of the emergency room doctor.

Let me tell my colleagues about a case that involves a person who is somewhat older but illustrates this point again. On January 22, 2000, Barbara Jackson complained of chest pains. Her coworkers thought she might have had a heart attack. They called an ambulance. She is from Melrose Park, IL. The ambulance driver suspected a heart attack, but the emergency room personnel waited nearly an hour to do an EKG. More egregiously, they gave her drugs that actually precipitated the heart attack. The attack was so serious this woman lapsed into a coma. She is now in a vegetative state living with her sister who cares for her every single minute of every day.

Her family believes she is capable of feeling pain. Proper medical treatment, nursing treatment, and rehabilitation will cost more than $20 million if she lives to full life expectancy, which her doctors expect.

A mistake made in an emergency room, a woman in a vegetative state for the rest of her time on Earth, and the jury of the U.S. Senate has reached a verdict. For pain and suffering, in Barbara Jackson's case, no more than $250,000.

Not only do caps not work to bring down malpractice premiums in case after case, they are fundamentally unjust and unfair. There has to be a better way. We have to deal with a standard that will bring down malpractice premiums but not at the cost of fairness and justice.

It is a simple fact of life, and one which I wish were not the case, that more and more medical errors are being committed. We cannot expect doctors and hospitals to be perfect. They are human. There are times, unfortunately, when they are negligent, when they do not meet the standard of care which we can expect of every physician and every medical provider. In those instances, they should be held accountable, as all of us are held accountable for our wrongdoing.

That accountability means they should be held responsible for the real problems they create, the damages that are created by their misconduct.

We have had so many surveys of hospitals. A study recently found that injuries in U.S. hospitals in the year 2000 resulted in 32,600 deaths. Some have estimated some 98,000 people die each year from malpractice. Only a small percentage of these cases ever end up in a lawsuit, ever end up in a trial.

We need to address this issue at three levels. First, let us make the practice of medicine safer, and we can do that. Secondly, let us deal with tort reform. I have told my friends who are trial lawyers—and I practiced law myself before I came to the Senate—we have to step up to and accept responsibility for change that will reduce the number of frivolous lawsuits and give those truly deserving their day in court. Third, insurance companies have to be held accountable for their misconduct. If they are gouging, if they are overpricing, then we, as a government, need to stand up to that industry as well.

Three parts: Reducing medical errors, tort reform, and insurance reform are the way to approach it. I say to my colleagues on the other side of the aisle, join me in a bipartisan effort now to go beyond this issue of caps, which will not solve the problem, caps that are fundamentally unfair, and let us talk about real solutions.

Think about this bill that is before us for a moment. This bill says that if one is brought to an emergency room because they were in serious trouble and medical conditions are such that warrant it, they will be limited in how much money one can recover if they are an innocent victim of medical malpractice. However, if one is admitted to the hospital, through the front door and not the emergency room, these limitations would not apply.

Think of it as well from the OB/GYN point of view. It is true that OB/GYN premiums have gone up astronomically in some areas, and we have to zero in on that, but we are saying someone who is a victim of malpractice by an obstetrician gynecologist will have a limitation on how much they can recover while someone else in the same hospital being operated on by a doctor with a different specialty will not be subject to these limitations. That is just fundamentally unfair.

I think what we need to do is open the door for conversation, but first we need to close the door on this concept. This is not the right approach.

I have met over the last several months with scores of doctors and hospital administrators in my State, and I say to them in all seriousness and sincerity that we have a problem in Illinois, as well as a national problem.

I have invited Members to come to the table after this legislation is defeated today and sit down in an honest, bipartisan fashion to look for solutions that will solve this problem. I believe we can find it.

The Senator from South Carolina who is presiding has joined me in bipartisan legislation that really tries to approach this from a new innovative, creative, and positive point of view that does work. I think we can achieve that goal. But to achieve it we need to bring the medical professionals into the room along with those who are representing the victims of medical malpractice. Once that conversation takes place, if it takes place in good faith, I am confident we can come up with solutions.

I urge my colleagues to vote against the motion for cloture on proceeding to this bill. It has not been subjected to hearings. It includes things which were not talked about on the floor—protection for insurance companies, protection for pharmaceutical companies and medical device manufacturers. Let us get down to the business of trying to solve this problem and doing it in a fashion that is reasonable and effective and bipartisan.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I think we are actually making progress. I am delighted to hear the Senator from Illinois agree with what it sounded like the minority leader stated earlier, that they have some problems with this bill as written, and they acknowledge the problem of medical liability crisis exists and suggest we ought to try to find some way to address that crisis which they concede is very real.

Senator DURBIN said it is not the right approach. My question would be, Well, what is the right approach? Senator DASCHLE said there is no reason to differentiate between those who walk in the front door of a hospital and those who get emergency care. I will concede the good faith of that question. The problem is we offered that bill earlier and were unsuccessful in getting cloture so we could actually get to the merits of the bill and debate it. Of course, not until we get to that 60-vote hurdle where we can actually move the bill on to the floor can the bill be amended. Indeed, that is how the Senate does its work. But I wonder whether it is the intention of our friends on the other side of the aisle to have a good-faith debate about how to solve this problem.

For example, rather than take what I consider to be the constructive approach the Senator from Illinois and the Senate minority leader have taken to criticize the content of the bill but to acknowledge we have a problem so perhaps we can then get to a solution of that problem, the the ranking member of the Senate Judiciary Committee called it a partisan approach and then criticized the Senate leadership. He said, In my 29 years here in the Senate I have never seen so little accomplished.

I think the reason why we are not accomplishing any reform or any real solution to what is a very real problem is because our colleagues on the other side of the aisle simply won't let us call the bill up, have a debate, consider amendments, and try to solve what is a very real crisis in this country.

Even though we are calling this a medical liability reform bill, this is not something we are doing out of the goodness of our hearts for the medical profession. While I respect members of the medical profession who dedicate their lives to curing illness and addressing medical needs, as well as health care providers who run hospitals and a whole host of other allied health care facilities, that is not what drives me to see the need for this bill. The reason I think this bill needs to be passed, or some version of it after amendment if the Senate reaches consensus on a solution to the problem, is because I know everyone within the sound of my voice and literally everyone across the country who is alive today will at some point in their lives be a patient. They will need access to good quality health care.

What is happening today in this country because of this medical liability crisis is denying patients—that is the American people—access to health care they need in order to lead a good quality of life and in order to enjoy life for themselves and their children and their other loved ones.

I want to comment briefly on a suggestion I have heard from our colleagues on the other side of the aisle. They said that with this particular solution—that is a cap of $250,000 on noneconomic damages—people walk away with nothing when they go to court. The truth is, in California, which has a medical liability reform law very similar to what we are proposing here today, economic damages, including medical expenses, are compensated completely. Indeed, in December of 2002, in Alameda County, there was an $84 million award to a 5-year-old boy who has cerebral palsy and is a quadriplegic because of delayed treatment of jaundice after birth. That would only be possible because what is actually being compensated there is the very real economic loss suffered as a result of that horrendous injury, something we all regret.

The suggestion we are going to turn people out of court with nothing to show for it and we are not going to compensate people for their injuries received in the medical context caused by the fault of another is not true. I wonder how anyone can stand up and suggest we are somehow trying to deny people a remedy. That is certainly not the case.

We know this kind of law will have a positive impact. Even in the State of Texas, which I represent, where we passed not a $250,000 cap but indeed a higher cap on non-economic damages last September, we have seen one medical liability insurance company reduce its rates by 12 percent across the board, sort of a start. Another medical liability insurance carrier has cancelled an anticipated 19-percent increase. Obviously, we will see how this all plays out, but we already know it has a very real and positive impact as demonstrated by the evidence.

I see the Senator from Virginia and I want to make sure he has all the time he needs to speak. But I want to also comment on the effect of high medical liability insurance rates on the cost of health care and on the pressure being put on employers and others who provide health insurance to their employees to drop their employees from any sort of health coverage, exacerbating the crisis we have in this country of too many people who do not have access to health insurance and the fact we have many emergency rooms put on divert status with patients being redirected elsewhere in true emergencies because people who do not have health insurance have nowhere else to turn if they don't have money. They know they can be treated in an emergency room. They know they can't be turned away. But the fact is about 80 percent of the people who go to emergency rooms are being treated for medical conditions that could be treated in a clinic or a doctor's office much more cheaply, more humanely, and in a way that would help us address this crisis in access to good quality health care.

Finally, I know we have heard a lot of discussion on the floor of the Senate, as we should, about the concern of every person in this country who wants to work to find a good job so they can provide for themselves and their family. But the cost of health care in this country is killing our recovery. It is doing so from the standpoint of putting increased financial burdens on employers who want to provide health insurance to their employees but simply are not able to add new positions in their company because they know that in addition to salary they are going to have to pay benefits, including health care costs in many instances, and they are simply priced out of the market.

If our colleagues on the floor of the Senate want to do something about improving access to good quality health care, if they want to do something about the fact many people don't have health insurance and need health care coverage, if they want to do something about America's competitiveness in this global economy, and make sure we keep more jobs in this country rather than see them go to China, India, or anywhere else, they should vote to let this bill come forward and have a debate about what this bill ought to look like to address the medical liability crisis that even the Senator from Illinois and the minority leader admit we have in this country today.

I implore Members to reconsider their obstruction. By obstructing progress on this vote we are not solving any problems. People are maybe making political points, but it is hard to see what kind of political point you make by obstructing good, commonsense legislation like this. I implore them to reconsider their obstruction and ask that they vote for cloture so we can move on and begin to solve this very real problem on behalf of the American people.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Virginia.

Mr. WARNER. Madam President, I commend our distinguished colleague from Texas. He spoke from the heart on this measure. It is a matter of utmost seriousness.

I ask unanimous consent I be made a cosponsor on this pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, I rise again to join the Senator from Texas and many other Members on this side of the aisle in strong support of health care liability reform.

My father was a medical doctor. He was an obstetrician. I am grateful to so many doctors from whom I am hearing all across America about this crisis. My father had no great interest in politics. He voted regularly; I remember that. I think most physicians find little time to involve themselves in politics. But this is a political question. We have to look at it fair and square and call it as it is.

America is crying out from every corner of our land, from all 50 States, for relief from the oppressive number of lawsuits brought against the medical profession, a profession that is not interested in politics. They are only interested in caring for the citizens of this Nation.

I am proud to stand with the distinguished majority leader, Mr. FRIST, the distinguished Senator from New Hampshire, the Senator from Texas, the Senator from Nevada, and others, time and time again in this Senate to urge this body to rise above politics and extend a helping hand to the medical profession.

Early this year, I was pleased to offer my own amendment on health care liability reform. My amendment was called the Protect the Practice of Medicine Act, amendment No. 2624, but procedural impediments—I have to recognize we follow the rules around here—prevented the Senate from addressing that bill. My amendment was supported by the American Medical Association, the American College of Surgeons, and a number of other associations representing the men and women in our medical profession. Unfortunately, a procedural move by the opponents precluded the Senate from voting on this amendment.

I stand today in hopes there will be a vote on this measure. This measure is very much like the measure I put forth; indeed, the goals are common.

Opponents of health care liability reform have been using procedural tactics in the Senate to prevent an up-and-down vote on these issues for many years. The consequences are grave. Men and women continue to leave the practice of medicine due to the high cost of malpractice insurance, and patients continue to lose access to medical health care.

We have all heard the real stories from doctors about the rapidly increasing costs of medical malpractice insurance. In some States, malpractice insurance premiums have increased as much as 75 percent in 1 single year.

As have others in this body, I have received numerous letters from medical professionals from the Commonwealth of Virginia and across the Nation that share with me the very real difficulties they encounter with malpractice insurance and the consequences of this problem.

Let me read one of those letters sent to me by a doctor in Virginia. The doctor writes:

> I am writing you to elicit your support and advice for the acute malpractice crisis going on in Virginia. . . . I am a 48-year-old single parent of a 14 and 17 year old. After all the time and money spent training to practice OB/GYN—

That is obstetrics, my father's profession, or specialty—

> I find myself on the verge of almost certain unemployment and unemployability because of the malpractice crisis. I have been employed by a small OB/GYN group of doctors for the last 7 years. . . . Our malpractice premiums were increased by 60 percent in May of 2003. . . . The prediction from our malpractice insurance carrier is that our rates will probably double at our next renewal date in May 2004. The reality is we will not be able to keep the practice open and cover the malpractice insurance along with other expenses of medical practice.

Another letter writer from the Midwest:

> Due to the rapid increase of premiums, the crisis is one of affordability and availability of insurance for physicians. . . . The result of this is premature retirement, physicians moving to more favorable areas—

Moving from one State to another State—

> discontinuing high-risk procedures or finding other ways to make a living out of medicine. All of this, of course, affects the patients, who have increasing difficulty finding medical care.

Letter after letter are stories of the effect this crisis is having across America.

Time magazine and Newsweek have thoroughly detailed the crisis doctors are facing. I have the two recent issues entitled "Lawsuit Hell," and the second, "The Doctor is Out."

It is being discussed all across America. That is why it is so imperative this institution, the Senate, be given the opportunity to vote on this issue.

In June of 2003, Time magazine had a cover story on the effects of rising malpractice insurance rates. The story entitled "The Doctor is Out" discusses several doctors all across America who have had to either stop practicing medicine or had to take other action due to increased insurance premiums. One example cited in the Times article is the case of Dr. Mary-Emma Beres. Time reports:

> Dr. Mary-Emma Beres, a family practitioner in Sparta, N.C., has always loved delivering babies. But last year, Dr. Beres, 35, concluded that she couldn't afford the tripling of her $17,000 malpractice premium and had to stop. With just one obstetrician left in town for high-risk cases, some women who need C-sections now must take a 40-minute ambulance ride.

Dr. Beres' case makes clear that not only doctors are being affected by the medical malpractice crisis but patients, as well. With increased frequency due to rising malpractice rates, more and more patients are not able to find the medical specialists they need in their community or in a neighboring community and have to travel long distances or even go out of State, to other States, where there has been closer control on the types of lawsuits that generate these exorbitant fees.

Newsweek magazine had a cover story on the medical liability crisis. That cover story was entitled "Lawsuit Hell." I was struck by the feature in this magazine about a doctor from Ohio who saw his malpractice premiums rise in 1 year from $12,000 to $57,000. As a result, this doctor "decided to lower his bill by cutting out higher risk procedures like vasectomies, setting broken bones, and delivering babies"—even though obstetrics was his favorite part of practice. Now he glances wistfully at the cluster of baby photos still tacked to a wall in his office. 'I miss that terribly,' he says."

While these stories are compelling on their own, the consequence of this malpractice crisis can even be greater.

On February 11, 2003, a woman by the name of Ms. Leanne Dyess of Gulfport, MS, shared with both the HELP Committee—of which the distinguished chairman is present managing this bill—and the Judiciary Committee her very personal story about how this crisis has affected her.

She told us how, on July 5, 2002, her husband Tony was involved in a single-car accident. He was rushed to the hospital in Gulfport where he had head injuries and received medical attention. Tony could not be treated at the Gulfport hospital because they did not have the specialist necessary to take care of him. After a 6-hour wait, he was airlifted to the University Medical Center. Today, Tony is permanently brain damaged.

According to Mrs. Dyess, no specialist was on staff that night in Gulfport because rising medical liability costs had forced almost all of the brain specialists in that community to abandon their practices. As a result, Tony had to wait 6 hours before the only specialist left in Gulfport could treat Tony to reduce the swelling in his brain.

As you can see, without a doubt, the astronomical increases in medical malpractice insurance premiums are having wide-ranging effects. It is a national problem, and it is time for a national solution.

President Bush has indicated that the medical liability system in America is largely responsible for the rising costs of malpractice insurance. The American Medical Association and the American College of Surgeons agree with him, as does almost every doctor in Virginia with whom I have discussed the issue.

The President of the AMA, Dr. John Nelson, has publicly stated:

> We cannot afford the luxury of waiting until the liability crisis gets worse to take action. Too many patients will be hurt.

The American College of Surgeons concurs by stating:

> More and more Americans aren't getting the care they need when they need it. . . . The "disappearing doctor" phenomenon is getting progressively and rapidly worse. It is an increasingly serious threat to everyone's ability to get the care they need.

Let me state unequivocally that I agree with our President, with the AMA, with the American College of Surgeons, and with the vast majority of doctors all across Virginia.

While the amendment I offered earlier this year is somewhat different from the measure before us today—the goals are the same: to ensure that patients have access to quality health care and to protect the practice of medicine from frivolous lawsuits and runaway jury verdicts.

The legislation before us today is a commonsense solution to a serious problem, and it is time for us to vote up or down on this legislation.

Over the past several weeks, I have listened closely to my colleagues speak on the floor of the U.S. Senate about the importance of having an up-or-down vote on particular legislation. And, in response, I ask, how is this bill any different?

I, for one, intend to vote to end the filibuster on health care liability reform legislation. The consequences of continued dilatory tactics are too profound to patients and doctors in this country. I urge my colleagues to do the same.

Madam President, I hope this institution can live up to its responsibility as duly elected representatives of the people of this country and respond to the cries of the people of this country to address this situation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I congratulate the senior Senator from Virginia for his excellent statement, especially for reflecting on some of the specific personal events which this bill tries to address: People who have been actually impacted by the fact they have not had a doctor available because the doctor can no longer afford to practice the type of medicine which this bill addresses, the delivering of children and emergency room medicine.

Madam President, I ask unanimous consent that Senator HAGEL be added as a cosponsor of S. 2207.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, I wish to, once again, recite what this bill is about because there has been some I am afraid, coming from the other side in the representations that were made.

Basically, what we are dealing with is a bill that is going to try to make medicine more readily available to women who are having children.

In rural parts of this country today, for example, in northern New Hampshire, if a woman is having a child, she has to drive a long way to see a doctor because there is nobody practicing obstetrics in northern New Hampshire. The baby doctors in that part of the State have found their liability premiums so exceed what they can earn that they can no longer afford to practice medicine. So women are put at risk because they have to get in their car and drive a long way on snowy roads, and it is very difficult, especially as they move into the later terms of their pregnancy.

Secondly, this deals with people who walk into an emergency room, have an emergency and need to receive care. As was pointed out by the Senator from Tennessee, the majority leader, who is a doctor, there is a window of opportunity to care for people who have experienced trauma. If there isn't a doctor in that emergency room to take care of that individual, then you have a serious problem. This bill tries to address that by making affordable the practice of medicine in an emergency room.

Today, we have a problem. Doctors who practice in emergency rooms do not make a lot of money. They are not making enough money to cover the premiums for the liability insurance they have because of the massive amounts of lawsuits which are filed.

This bill will redress that issue. It will still give recovery to people. It will allow them to recover all the medical costs they have. It will allow them to recover all their compensation costs, and it will allow them to recover something for what is known as pain and suffering. But it will also allow doctors to practice their disciplines because it will make it possible for baby doctors and emergency room doctors to be able to afford the cost of the premium of their liability insurance—something many cannot do today, so they are getting out of the practice. It will, therefore, give women better care and people who experience trauma better care in this country.

Madam President, it is my understanding, at this time, the Senator from West Virginia is to be recognized. Is that correct?

The PRESIDING OFFICER. The Senator has 40 minutes under his control.

The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

IRAQ

Madam President, I have watched with heavy heart and mounting dread as the ever precarious battle to bring security to postwar Iraq has taken a desperate turn for the worse in recent days and hours. Along with so many Americans, I have been shaken by the hellish carnage in Fallujah and the violent uprisings in Baghdad and elsewhere. The pictures have been the stuff of nightmares, with bodies charred beyond recognition and dragged through the streets of cheering citizens. And in the face of such daunting images and ominous developments, I have wondered anew at President Bush's stubborn refusal to admit mistakes or express any misgivings over America's unwarranted intervention in Iraq.

During the past weekend, the death toll among America's military personnel in Iraq topped 600—including as many as 20 American soldiers killed in one 3-day period of fierce fighting. Think of it. Many of the dead, most, perhaps, were mere youngsters—mere youngsters—just starting out on the great adventure of life. But before they could realize their dreams, they were called into battle by their Commander in Chief, a battle that we now know was predicated on faulty intelligence and wildly exaggerated claims.

As I watch events unfold in Iraq, I cannot help but be reminded of another battle, at another place and another time, that hurtled more than 600 soldiers into the jaws of death because of a foolish decision on the part of their commander. The occasion was the Battle of Balaclava on October 25, 1864, during the Crimean war, a battle that was immortalized by Alfred Lord Tennyson in his poem "The Charge of the Light Brigade."

"Forward, the Light Brigade!"
Was there a man dismay'd?
Not tho' the soldier knew
Someone had blunder'd:
Their's not to make reply,
Their's not to reason why,
Their's but to do and die:
Into the valley of Death
Rode the six hundred.

Tennyson got it right—someone had blundered. It is time we faced up to the fact this President and his administration blundered as well when they took the Nation into war with Iraq without compelling reason, without broad international or even regional support, and without a plan for dealing with enormous postwar security and reconstruction challenges posed by Iraq. And it is our soldiers, our men and women, our own 600 and more who are paying the awful price for this administration's blunder.

In the runup to the war, this President and his advisors assured the American people we would be greeted as liberators in Iraq. Yes, this Vice President, Vice President CHENEY, assured the American people we would be greeted as liberators in Iraq. For a brief moment, that outcome seemed possible. One year ago this week, on April 9, 2003, the mood in many corners of the Nation was euphoric as Americans witnessed the fall of Baghdad and the jubilant toppling of a massive statue of Saddam Hussein. Less than 4 weeks later, President Bush jetted out to an aircraft carrier parked off the coast of California to cockily declare to the world the end of major combat operations in Iraq. For those with tunnel vision, the view from Iraq looked rosy. Then Baghdad had fallen, Saddam Hussein was on the run, and U.S. military deaths had been kept to a relatively modest number, a total of 138 from the beginning of combat operations through May 1, 2003.

But the war in Iraq was not destined to follow the script of some idealized cowboy movie of President Bush's youth, where the good guys ride off into a rose-tinted sunset, all strife settled and all wrongdoing avenged. The war in Iraq is real. And as any soldier can tell you, reality is messy and bloody and scary.

Nobody rides off into the sunset for fear the setting sun will blind them to the presence of the enemies around them. So the fighting continues in Iraq. It is going on right now, right this minute, long past the end of major combat operations, and the casualties have continued to mount even now, even this hour, even this minute. As of today, more than 600 military personnel have been killed in Iraq and more than 3,000 wounded.

Now after a year of continued strife in Iraq comes word that the commander of forces in the region is seeking options to increase the number of U.S. troops on the ground, if necessary. Surely I am not the only one who hears echoes of Vietnam in this development. I was here in this Chamber when the word went out in those days to send more, send more men. We will be out by Christmas, yes.

Surely this administration recognizes that increasing the U.S. troop presence in Iraq will only suck us deeper and deeper and deeper into the maelstrom, into the quicksand of violence that has become the hallmark of that unfortunate, miserable country. Starkly put, at this juncture, more U.S. forces in Iraq equates more U.S. targets in Iraq.

Again, Tennyson's words bespeak a cautionary tale for the present:

Cannons to the right of them,
Cannons to the left of them,
Cannons in front of them
Volley'd and thunder'd;
Storm'd at with shot and shell,
Boldly they rode and well,
Into the jaws of Death,
Into the mouth of Hell
Rode the six hundred.

Like Tennyson's Light Brigade, American military personnel have proved their valor, have proved their mettle, have proved their bravery in Iraq. In the face of a relentless and seemingly ubiquitous insurgency, they have performed with great courage and great resolve. They have followed the orders of their Commander in Chief, regardless of the cost. But surely some must wonder why it is American forces that are still shouldering the vast majority, the overwhelming majority of the burden in Iraq, 1 year after the liberation of the country.

Where are the Iraqis? Where are they? What has happened to our much-vaunted plans to train and equip the Iraqi police and Iraqi military to relieve the burden on U.S. military personnel? Could it be that our expectations exceeded our ability to develop these forces? Could it be that, once again, the United States underestimated the difficulty of winning the peace in Iraq?

Since this war began, America has poured $121 billion into Iraq for the military and for reconstruction. But this money cannot buy security; this money cannot buy peace; and $121 billion later, only 2,324 of the 78,224 Iraqi police are "fully qualified," according to the Pentagon. Nearly 60,000 of those same police officers have had no formal training—none. It is no wonder security has proved to be so elusive. The time has come for a new approach in Iraq.

The harsh reality is this: One year after the fall of Baghdad, the United States should not be casting about for a formula to bring additional U.S. troops to Iraq. The United States should instead be working toward an exit strategy. The fact that the President has alienated friend and foe alike by his arrogance in "going it alone" in Iraq and has made the task of internationalizing postwar Iraq an enormously difficult burden should not deter our resolve.

Pouring more U.S. troops into Iraq is not the path to extricate ourselves from that miserable and unfortunate country. We need the support and endorsement of both the United Nations and Iraq's neighbors to truly internationalize the Iraq occupation and take U.S. soldiers out of the crosshairs of angry Iraqis.

From the flood of disturbing dispatches from Iraq, it is clear that many Iraqis, both Sunni and Shiite, are seething under the yoke of the American occupation. The recent violent uprising by followers of a radical Shiite cleric is by far the most troubling development in months and could signal America's worst nightmare—a civil war in Iraq that pits moderate Shiites against radical Shiites. Layered over the persistent insurgency being waged by disgruntled Iraqi

Sunnis and radical Islamic operatives, a Shiite civil war could be the event that topples Iraq from instability into utter chaos.

As worrisome as these developments are in and of themselves, the fact that they are occurring as the United States hurtles toward a June 30 deadline to turn Iraq over to an interim Iraqi government—a government that has yet to be identified, established, or vetted—adds an element of desperation to the situation.

Where should we look for leadership? To this Congress? To this Senate? Should we look here?

This Senate, the foundation of the Republic, has been unwilling to take a hard look at the chaos in Iraq. Senators have once again been cowed into silence. Where are Senators on this issue? Where are they? They are of many different opinions, I am sure. Why are they not here to express them? Senators have once again been cowed into silence and support, not because the policy is right, but because the blood of our soldiers and thousands of innocents is on our hands.

Questions that ought to be stated loudly in this Chamber are instead whispered in the halls. Those few Senators with courage to stand up and speak out are challenged as unpatriotic and charged with sowing seeds of terrorism. It has been suggested that any who dare to question the President are no better than the terrorists themselves. Such are the suggestions of those who would rather not face the truth.

This Republic was founded in part because of the arrogance of a king who expected his subjects to do as they were told, without question, without hesitation. Our forefathers overthrew that tyrant and adopted a system of government where dissent is not only important, it is also mandatory. Questioning flawed leadership is a requirement of this Government. Failing to question, failing to speak out, is failing the legacy of the Founding Fathers.

When speaking of Iraq, the President maintains that his resolve is firm, and indeed the stakes for him are enormous. But the stakes are also enormous for the men and women who are serving in Iraq and who are waiting and praying for the day they will be able to return home to their families, their ranks painfully diminished but their mission fulfilled with honor and dignity.

The President sent these men and women into Iraq, and it is his responsibility to develop a strategy to extricate them from that troubled country before their losses become intolerable.

It is staggeringly clear that the administration did not understand the consequences of invading Iraq a year ago, and it is staggeringly clear that this administration has no effective plan to cope with the aftermath of the war and the functional collapse of Iraq. It is time—past time—for the President to remedy that omission and to level with the American people about the magnitude of mistakes made and lessons learned. America needs a roadmap out of Iraq, one that is orderly and astute, else more of our men and women in uniform will follow the fate of Tennyson's doomed Light Brigade.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I came to speak on medical malpractice. How much time is remaining on this side?

The PRESIDING OFFICER. There are 9 minutes remaining.

Mr. BOND. Madam President, I wish to save 3 minutes, if you will advise me. I believe another colleague is coming.

I do have to make one or two quick remarks about this subject of Iraq. When we went into Iraq, 77 Members of this body believed the intelligence, that there was a deadly force, a radical tyrant there who needed to be removed.

One may argue about the intelligence. The intelligence was not as good as it should have been, and that is why we on the Intelligence Committee have been looking into the evidence. But there is no question, what David Kay said afterward when he did the work of the Iraqi Survey Group, Iraq was a far more dangerous place than we even imagined it.

We heard from soldiers. I talked with soldiers who have been there. They know what we are doing. They know the atrocities that went on. They know Iraq was a place of weapons of mass destruction, that biological and chemical weapons had been manufactured before, with wide-open opportunities for terrorists in Iraq to get those weapons and to use them. This was a clear-cut danger, not only to the people of Iraq who were suffering every day—literally hundreds of thousands murdered, neighbors murdered—but also a harbor for terrorists in that country and around the world.

What we did in Iraq was dismember the Saddam Hussein regime and wipe out the terrorist holding pattern of government, wipe out the protective elements Afghanistan's Taliban government and Iraq's Saddam Hussein have given the terrorists.

Yes, there is deadly fighting going on. There are tragedies every day, and it was laid out by al-Zarqawi, the terrorist leader in northern Iraq who has been working there for years to attack not only American soldiers but Iraqi civilians. They are attacking those civilians, but they are aiming at the American public opinion. They are aiming at this body. They want to get this body to say we are going to cut and run so they can have the opportunity to run that country one more time.

I believe we cannot forsake and disregard the sacrifices made by the brave men and women who have deposed and captured Saddam Hussein and opened up the opportunity for a free and vibrant Iraq to flourish in the Middle East. I hope we will stay the course, and I think my colleagues will want to talk about it.

I wanted to address today the problem of medical malpractice insurance rates and how trial lawyers have driven them through the top of the roof.

Nineteen States are in a full-blown crisis, including my home State of Missouri. Premium increases in 2002 were 61 percent, on top of increases in the previous year of 22 percent.

Almost a third of the physicians in Missouri say they are considering leaving their practice altogether. It is happening in Missouri and across the country. But this is not only a problem for doctors. They are well educated. They can move elsewhere and resume their practice, as difficult and as unfair as that is. The real damage, the real pain, is being felt by their patients.

The headlines and the horror stories continue to accumulate, and patients continue to suffer in Missouri and across the country. The bill before us on which we are going to vote today is a narrow, targeted, short-term solution to a growing national crisis. This bill protects patient access to emergency and trauma care services, as well as access to care for women and babies.

I have come to this floor many times to talk about protecting access to care for pregnant women. It is a real problem in Missouri. Last year, Missouri lost a total of 33 obstetricians. Let me give a few examples of the compromised care in Missouri.

A St. Joseph, MO, practice, the only practice in northwest Missouri to accept Medicaid, lost one-third of its doctors after the insurance company would no longer offer insurance to OB/GYNs. St. Joseph now has only seven OB/GYNs serving its population.

A Missouri doctor who had been in private practice for 3 years experienced a 400-percent increase in liability premiums for the past 3 years. He got a quote of $108,000 for the current year. The OB/GYN is considering quitting obstetrics to find more affordable insurance to do something else.

A gynecological oncologist in Missouri left a group practice, eliminated a rural outreach clinic because of rising professional medical liability premiums. Women with gynecological cancers in Ste. Genevieve, Carbondale, and Chester now have to drive over 100 miles to see a gynecological oncologist.

On the eastern side of the State in St. Ann, MO, an OB/GYN was forced to close his practice last year because of medical liability costs that rose 100 percent. Previously, that practice had delivered about 400 babies a year.

Twelve doctors at the Kansas City Women's Clinic used to serve women in both Missouri and Kansas, but because of the rising medical liability insurance rates in Missouri, the clinic could not find a single company that would offer them a medical malpractice insurance policy they needed in their office in Missouri.

As a result, at the end of 2002, they closed their doors to Missouri patients. There were over 6,000 visits a year in their Missouri office. Now they have to go to Kansas to see an OB/GYN or someplace else.

Access to OB/GYN services is not the only care in jeopardy. This crisis threatens access to emergency and trauma services as well. To secure affordable medical liability insurance or to minimize their risk of lawsuits, many physicians, including neurosurgeons, orthopedic surgeons, cardiothoracic surgeons, obstetricians, and cardiologists are forced to stop serving "on call" to hospital emergency departments.

Today, in many hospitals there are no neurosurgeons available to treat patients with major head trauma or no orthopedic surgeon to care for patients with open fractures.

Patients suffering from head and spinal injuries, broken bones, gunshot wounds, or other major trauma are airlifted to other medical facilities. Critical lifesaving facilities are no longer available, and in many extreme cases trauma centers have been forced to shut down completely. This is a danger that speaks in volumes.

As my colleagues know, there is a "golden hour" that trauma patients have from the time they are injured to the time they get trauma care. Closing trauma centers increases the odds that patients won't get the care they need in that hour.

In Missouri the numbers speak volumes: 20 percent of all the neurosurgeons in Kansas City, MO have quit or moved out of the area in the past 12 months; 5 out of 25 neurosurgeons in private practice in St. Louis quit last year; 21 out of 79 neurosurgeons surveyed in Missouri are considering leaving the State; 2 trauma centers in Kansas City have closed in the past 12 months due to lack of physician coverage.

According to Dr. Steve Reintjes, a practicing physician at the KC Neurosurgery Group in Kansas City, "Patients are dying before they get to us because the trauma center's closed."

Patients are having a hard time getting the care they need and communities are losing their trusted doctors. We have a health care system that is in crisis in Missouri and across the country.

The bill before us today provides a sensible, short-term solution to a growing national crisis, and I urge my colleagues to support it.

Madam President, I see my colleague from Arizona has joined us. I yield the remainder of my time to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I thank my colleague from Missouri. I also paid close attention to his statement. I think it is a very important one.

Madam President, how much time is remaining?

The PRESIDING OFFICER. There are 2 minutes 45 seconds remaining.

Mr. McCAIN. I ask unanimous consent that I be allowed an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I thank the Chair.

IRAQ

Mr. McCAIN. Madam President, I take the floor to respond to comments made by Senator BYRD, but also to general comments that have been made over the last 48 hours as we all recognize this is a very difficult time for us in Iraq.

I do not have to review with any of my colleagues the events of the last few days and the tragedies in the loss of these brave young Americans who are fighting and sacrificing for someone else's freedom.

I have also heard a number of observers, including some Senators, who have compared events in Iraq to what we went through in Vietnam. I happen to know something about Vietnam, and I know we do not face another Vietnam. I need not go into the long history of our involvement in that nation, the reasons for our failure, but the realities on the ground in Iraq are clear.

There is no superpower that is backing these minority of Shias and Sunnis who are seeking to gain political power through the use of a gun, and there is no comparison as far as the sanctuary which this enemy has. We grant them no sanctuary.

Some have stated we are on the defensive. I would argue that, as we speak, in Fallajuh and other places, our Marines and Army are on the offensive, dedicated to the proposition that no group, no matter what their ethnic or religious beliefs are, will take control of Iraq.

Control of Iraq will be the result of a democratic process and a representative one, part of which is the turning over of power to the Iraqi people on June 30.

We have had this argument back and forth: Should we turn over power of the government to the Iraqis on June 30? I say yes, and I say yes recognizing two realities. One is that it will be a difficult process, and we have a lot more planning to do between now and June 30 for that transition to take place. The other reality, as far as the security situation is concerned, is that America's military will be there in force for a significant period of time, and the American people need to be told that.

This is a long, tough, hard struggle. It is hard for countries to adopt democracies. It is incredibly difficult when they have never known democracy and freedom in the past. A little later, I want to talk a little bit more about what happens if we fail, as well as what happens if we succeed in Iraq.

Again, in Vietnam there was superpower support. There were arms and political support. We did not have a clear plan for victory, and dare I mention that in Vietnam many times we had more casualties in a week, sometimes less than a week, than we have had in a year in Iraq.

To make these comparisons with the Tet offensive or the entire Vietnam conflict is not only uninformed but I think a bit dangerous because, of course, the specifics of our involvement in that conflict fade, as they should, in the memories of the American people.

What is happening in Iraq today is we have a Sunni insurgency that consists of ex-Baathists and Saddam loyalists. They obviously are the only people who were better off during Saddam Hussein's regime because they were the favored minority that were of the same religion as Saddam. They realize they will never run Iraq again because they are in the minority. Because they are in the majority, the Shia will probably dominate that government, but we also have a constitution in Iraq that guarantees the rights of minorities. We are there and a new government will be there to guarantee those same rights.

The realities are the Sunni minority will never control Iraq again. We have a small minority of Shias who are trying to grab some political power before the July 1 transition. There is very little doubt that Sadr's followers are in a distinct minority and the majority of Shias still owe allegiance and have allegiance to the Ayatollah Sistani, who has argued, perhaps not forcefully enough, that we do not have the kind of armed conflict that we are seeing today.

Is this a difficult political problem? Yes. Is it the time to panic, to cut and run? Absolutely not. The vast majority of Iraqi people are glad we are there and they state unequivocally that they are better off than they were under the regime of Saddam Hussein. Lest time dim our memory, let us remember the mass graves that we discovered, the 8- and 9-year-old boys coming out of prison in Baghdad, the despotic, incredibly cruel practices of his two sons. The people of Iraq and America and the world are better off with Saddam Hussein gone.

Now, we can argue about intelligence; we can argue about weapons of mass destruction. That is why we have commissions. That is why tomorrow, in an almost unprecedented fashion, the

National Security Adviser to the President will testify before the 9/11 Commission. I am confident she will perform admirably because she is an incredibly intelligent and capable individual.

The fact is, to argue that we should have left Iraq under the rule of this incredibly cruel person who used weapons of mass destruction, who had weapons of mass destruction in 1991, was continuing to attempt to acquire weapons of mass destruction, and if in power would continue to try to acquire those weapons, certainly flies in the face of the facts about Saddam Hussein's regime.

Senator BYRD says we should not have gone into Iraq in the first place and that we should not be there now. I respect the view. I strongly disagree with it, and I think the facts indicate that is not the case. We could argue for days about it, but right now at this moment we need to send a message not only to the Sunnis in Iraq and the minority of Shias in Iraq who are taking up arms and killing Americans that we are there to stay. We are there to stay and we will see it through. If we fail, if we cut and run, the results can be disastrous. Those results would be the fragmentation of Iraq, to start with, on ethnic and religious lines. The second result would be an unchecked hotbed of training ground and birthing of individuals who are committed to the destruction of the United States of America.

We will never solve the war on terror as long as there are millions of young men standing on street corners all over the Middle East with no hope, no job, no opportunities, no future. They are the breeding ground. They are the ones who are taken off the streets and taken into the madrasahs—funded by the Saudis, by the way—and taught to hate and kill, and who want to destroy America, the West, and all we believe in. Their hatred is not confined to the United States of America, as the citizens of Spain have found out, much to their dismay and tragedy.

What happens if we win? What happens if we see this thing through? It will be hard and it will be difficult and perhaps we need more troops. I have said for a long time that we needed more troops of certain types, but we have to see this thing through. And what will happen? What will happen is that we will affirm the profound and fundamental belief upon which this Nation was founded, that all men and women are created equal and endowed by their Creator with certain unalienable rights, and they are not just in the Western Hemisphere; they are not just in the United States of America; they are not just in Europe. The people in the Middle East have the same hopes, beliefs, and yearnings for freedom and democracy, and they have a right to determine their own future just as have our own citizens and citizens throughout the world.

When they achieve that—and it will be long and hard and difficult—it will send a message to every despotic regime, every religious extremist throughout the Middle East, their day is done because in a democratic, free, and open society the people want to live in peace with their neighbors and with the world.

So there is a lot at stake. I grieve every moment, as every American does, for the loss of these brave young Americans' lives. They have made a supreme sacrifice, and we will honor their memory, but at least their grieving families will know they sacrificed in the cause of freedom.

At this particular moment of crisis—and it is a crisis—I urge all of my colleagues and all Americans to join together in this noble cause. Yes, we are free to criticize; yes, we are free to make recommendations and suggestions; but the awesome responsibility lies with all of us, led by the President of the United States, as we attempt to carry out what is the most noble act that no country in the world has ever done besides the United States of America, and that is to shed our most precious blood and expend our treasure in defense of someone else's freedom in the hope that they may enjoy the fruits of a free and open society in a democracy that is guaranteed to all men and women by our Creator.

I yield the floor.

Mr. DOMENICI. Mr. President, I strongly support the Pregnancy and Trauma Care Access Protection Act of 2004.

I thank Majority Leader FRIST for proactively addressing this crisis. Across America, health care providers, especially health care providers that work in high-risk services such as obstetricians, gynecologists, and emergency personnel, have faced difficulty obtaining affordable medical liability coverage. Doctors are being hit with dramatic increases in the premiums they pay for liability insurance—if insurance is even available in their area.

These soaring costs are depriving patient's access to crucial medical care, especially in rural areas, where some services are already in short supply. In a number of instances, doctors are forced to relocate their practice as hospitals and physicians find it increasingly difficult to continue offering certain services. Without real reform, more and more Americans will find that health care services are simply going to disappear from their communities. And, in my opinion, this is unacceptable, especially when a reasonable solution is at hand.

There is a map I have seen in this chamber. This map is of the United States, and each of the States is color-coded: red if the State is in crisis, yellow if the State is showing problems, and white if the State is currently OK.

I am very proud that my State, New Mexico, is one of the six states that is white. New Mexico is OK because in 1976, the State legislature recognized there was a problem with medical malpractice, and they passed reform. Part of this reform included caps on non-economic damages. And, as the map shows, it has worked. States with realistic limits on noneconomic damages are faring better. Physicians in most states with caps on non-economic damages in medical malpractice cases pay lower insurance premiums. Reasonable caps keep premiums from rising quickly.

Unquestionably, truly injured parties must have access to our courts to adjudicate their claims. And injured patients must be compensated for their economic damages such as cost of future medical care and lost wages. However, trial lawyers have taken advantage of our civil justice system to further their own interests. The explosion of malpractice lawsuits and subsequent growth of astronomical jury awards have tremendously increased the costs of medical malpractice insurance. Premium increases have jumped as much as 81 percent over the last 2 years, according to some insurers. Frivolous lawsuits combined with excessive judgments are destroying the doctor-patient relationship and driving professionals out of medical practice all together. This reality has terrible consequences for all Americans.

The bill we are debating today is real reform. It provides an unlimited amount of damages for actual economic loss. It caps noneconomic damages, it has more reasonable punitive damages awards, a uniform statute of limitations, and it provides flexibility to States by allowing State laws to supercede Federal limits on damages.

This bill creates directives for a malpractice system that currently is unpredictable and largely random. The rising cost of medical malpractice insurance is a serious threat to the well being of American citizens and our Nation's healthcare system. It is time for Congress to pass meaningful legislation that will address our Nation's health care crisis.

Mr. BYRD. Mr. President, the Senate today is considering a procedural vote on a motion to recommit the Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) legislation. This is an effort to bring to the Senate a remodeled bill—one containing popular energy tax incentives—that will make a vote against it less politically palatable. This is much less about enacting good national policies than it is about producing campaign ads. This is less about creating jobs than it is about playing partisan politics. It is certainly less about the very important business of formulating a comprehensive national energy policy than it is about scoring points for the majority's campaign contributors. As the Members of this body know well, bipartisan energy legislation, including a very similar package of energy tax incentives, passed this body twice already—once in April 2002, in the 107th Congress, and again in July 2003, in the first session of this Congress.

I support, and have strongly advocated, many of these targeted energy tax provisions. In their totality, these incentives can be a helpful stimulus to get our Nation's energy policy back on track, and the Senate's proposal has had support in numerous industry sectors as well as among consumers. However, it is a rotten carrot that is dangling before us. This is yet another perverse, backdoor attempt to buy off Democratic votes by adding popular provisions to a Senate bill, while simultaneously preventing Democratic Senators from offering their own amendments on the floor and preventing them from protecting their interests during conferences.

The majority is preventing Democrats from getting votes on other very important policy matters. There are many things that this Senate must address, including passing these energy tax incentives, but the majority needs to stop playing games with its Democratic colleagues. The Senate deserves better.

The Senate finds itself handcuffed by the same authoritarian dictates from the Bush administration that have led to some of the fiercest partisan passions that this body has seen in decades. Gone is the traditional spirit of cooperation. Gone is the belief that the needs of the Nation stand above the ambitions of political party. It is a disheartening turn for this historic Chamber.

Despite its campaign-driven rhetoric, this lipservice and corporate coddling have been the sum total of this administration's economic, health care, energy, and so many other policies. From the beginning, the administration's tax cuts have primarily benefited the wealthy. Hope for a bipartisan Medicare prescription drug benefit was high, but all that was left was a prescription for protecting the pharmaceutical industry and a drug benefit that is a sham for America's seniors. Progress on an energy strategy for the country began cooperatively, but quickly dissolved as Democrats were locked out of conference negotiations, their seats filled by special interest lobbyists.

If the Republican majority wants to get something done in a closely divided Senate, it can, but it has to work with the other side of the aisle at all stages of the legislative process. That means respecting the committee process, respecting the rights of Senators to offer—and get votes on—amendments on the floor. It means truly including Democrats in conference deliberations, and defending the position of the Senate in conference negotiations—not buckling under pressure from the White House. I believe that, if the majority would do this, we would follow a better, more productive legislative path instead of voting on—and failing to invoke—cloture so often.

Mr. FEINGOLD. Mr. President, once again we are faced with an ill-advised medical malpractice bill coming to the Senate floor without any committee consideration. Some argue that we have a malpractice insurance "crisis" that is driving doctors from the practice of medicine, particularly in the field of obstetrics and gynecology, or OB/GYN. This is a serious issue and it deserves close examination. But we haven't yet explored the issue in the Senate at all. Nor have we examined the issue of how malpractice cases may be affecting the practice of emergency medicine. No committee has held hearings or marked up a bill on these topics.

In fact, no work has apparently been done behind the scenes since the Senate refused to invoke cloture on S. 2061. Instead, once again, an extreme and unbalanced proposal has been brought directly to the floor and Senators are expected to vote for it without any committee having looked into the facts or considered alternatives. That is not how the legislative process should work.

I would like very much for Congress to address the problem of malpractice insurance premiums once we understand the seriousness of the problem and the effectiveness of the proposed solutions. But by bringing this bill directly to the floor only 6 weeks after a nearly identical bill failed to achieve the necessary vote, the majority shows that it is not serious about addressing the problem. It appears that what is going on here is a cynical exercise, designed only to fail and to provide fodder for political attacks. This issue deserves better and I hope that there will be some effort to address it in a serious, bipartisan manner.

I will vote nay on cloture.

Mr. KENNEDY. Mr. President, today's vote on S. 2207 is a test of the Senate's character. In the past, this body has had the courage to reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in the Patients' Bill of Rights debate, the Bush administration and congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme tort reforms are not only unfair to the victims of malpractice, they do not result in a reduction of malpractice insurance premiums.

Once more, we must stand resolute.

We must not sacrifice the fundamental legal rights of seriously injured patients on the altar of insurance company profits. We must not surrender our most vulnerable citizens to the avarice of these companies.

This bill contains the same arbitrary and unreasonable provisions which were decisively rejected by a bipartisan majority of the Senate twice within the past year. The only difference is that the bill rejected in February took basic rights away only from women and newborn babies who are the victims of negligent obstetric and gynecological care, while this bill includes victims of negligent emergency trauma care as well. Broadening the bill does not make it more acceptable. On the contrary, it only expands the unfairness to an additional category of malpractice victims.

This legislation would deprive seriously injured patients of the right to recover fair compensation for their injuries by placing arbitrary caps on compensation for noneconomic loss in all obstetrical and gynecological cases and in all emergency and trauma care cases. These caps only serve to hurt those patients who have suffered the most severe, life-altering injuries and who have proven their cases in court.

They are babies who suffered serious brain injuries at birth and will never be able to lead normal lives. They are the women who lost organs, reproductive capacity, and in some cases even years of life. They are the children who are permanently injured when emergency room doctors fail to provide proper medical treatment after an accident. These are life-altering conditions. It would be terribly wrong to take their rights away. The Republicans talk about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

A person with a severe injury is not made whole merely by receiving reimbursement for medical bills and lost wages. Noneconomic damages compensate victims for the very real, though not easily quantifiable, loss in quality of life that results from a serious, permanent injury. It is absurd to suggest that $250,000 is fair compensation for a child who is severely brain injured at birth and, as a result, can never participate in the normal activities of day to day living; or for a woman who lost her reproductive capacity because of an OB/GYN's malpractice; or for a patient who suffered a devastating heart attack because a negligent emergency room doctor ignored his severe chest pains and sent him home.

This is not a better bill because it applies only to patients injured by malpractice in three medical categories.

That just makes it even more arbitrary.

The entire premise of this bill is both false and offensive. Our Republican colleagues claim that women and their babies must sacrifice their fundamental legal rights in order to preserve access to OB/GYN care, and that those seeking care in a hospital emergency room must leave their rights at the door. The very idea is outrageous. For those locales—mostly in sparsely populated areas—where the availability of specialists is a problem, there are far less drastic ways to solve it.

This bill is based on the false premise that the availability of OB/GYN and trauma care physicians depends on the enactment of draconian tort reforms. If that were accurate, States that have already enacted damage caps would have a higher number of OB/GYNs providing care. However, there is in fact no correlation. States without caps actually have 28.4 OB/GYNs per 100,000 women, while States with caps have 25.2 OB/GYNs per 100,000 women.

Nor is there any correlation between access to emergency trauma care and whether a State has enacted restrictions on the compensation that malpractice victims can receive. In fact, 7 of the top 10 States identified in the Journal of the American Medical Association, March 26, 2003, as having the highest number of level I and II trauma centers per million residents do not cap damages in malpractice cases. Five of the States with the best availability of trauma centers have actually been listed as malpractice "crisis" States by the AMA. That is worth repeating; 7 of the 10 States whose residents have the greatest access to emergency care do not limit damages. In contrast, four States that the AMA identifies as "doing OK," having satisfactory tort laws, fail to have an adequate number of trauma centers to serve their residents.

And that is only one of many fallacies in this bill. If the issue is truly access to OB/GYN and emergency care doctors, why has this bill been written to shield from accountability HMOs that deny needed medical care to a woman suffering serious complications with her pregnancy or to a child in need of emergency care after a serious accident, a pharmaceutical company that fails to warn of the dangerous side effects caused by its new drug, and a manufacturer that markets a medical device which can seriously injure the user. Who are the authors of this legislation really trying to protect?

In reality, this legislation is designed to shield the entire health care industry from basic accountability for the care it provides to women and their infant children and to patients in need of emergency treatment. It is the first step toward broader legislation which would shield the industry from accountability in all health care decisions involving all patients. While those across the aisle like to talk about doctors, the real beneficiaries will be insurance companies and large health care corporations. This legislation would enrich them at the expense of the most seriously injured patients; whose entire lives have been devastated by medical neglect and corporate abuse.

This legislation is attempting to use the sympathetic family doctor as a Trojan horse concealing an enormous array of special legal privileges for every corporation which makes a health care product, provides a health care service, or insures the payment of a medical bill. Every provision of this bill is carefully designed to take existing rights away from those who have been harmed by medical neglect and corporate greed.

In addition to imposing caps, this legislation would place other major restrictions on seriously injured patients seeking to recover fair compensation. At every stage of the judicial process, it would change long-established judicial rules to disadvantage patients and shield defendants from the consequences of their actions.

When will the Republican Party start worrying about injured patients and stop trying to shield big business from the consequences of its wrongdoing?

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose, what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less than two-thirds of 1 percent, 0.66 percent, of the Nation's health care expenditures each year. Malpractice premiums are not the cause of the high rate of medical inflation.

In this era of managed care and cost controls, it is ludicrous to suggest that the major problem facing American health care is "defensive medicine." The problem is not "too much health care," it is "too little" quality health care.

A CBO report released in January of this year rejected claims being made about the high cost of "defensive medicine". Their analysis "found no evidence that restrictions on tort liability reduce medical spending." There was "no statistically significant difference in per capita health care spending between States with and without limits on malpractice torts."

The White House and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But there is scant evidence to support their claim. In fact, there is substantial evidence to refute it. In the past few years, there have been dramatic increases in the cost of medical malpractice insurance in States that already have damage caps and other restrictive tort reforms on the statute books, as well as in States that do not. No substantial increase in the number or size of malpractice judgments has suddenly occurred which would justify the enormous increase in premiums which many doctors are being forced to pay. The reason for sky-high premiums cannot be found in the courtroom.

Caps are not only unfair to patients, they are also an ineffective way to control medical malpractice premiums. Comprehensive national studies show that medical malpractice premiums are not significantly lower on average in States that have enacted damage caps and other restrictions on patient rights than in States without these restrictions. Insurance companies are merely pocketing the dollars which patients no longer receive when "tort reform" is enacted.

Let's look at the facts. Based on data from the Medical Liability Monitor on all 50 States, the average liability premium in 2003 for doctors practicing in States without caps on malpractice damages, $35,016, was less than the average premium for doctors practicing in States with caps, $40,381. There are many reasons why insurance rates vary substantially from State to State. This data demonstrates that it is not a State's tort reform laws which determine the rates. Caps do not make a significant difference in the malpractice premiums which doctors pay. This is borne out by a comparison of premium levels for a range of medical specialties.

Focusing on premiums paid by OB/GYN physicians, the evidence is the same. Data from the Medical Liability Monitor shows that the average liability premium for OB/GYNs in 2003 was actually slightly higher in States with caps of damages, $63,278, than in States without caps, $59,224. It also showed that the rate of increase last year was higher in States with caps, 17.1 percent, than it was in States without caps, 16.6 percent.

This evidence clearly demonstrates that capping malpractice damages does not benefit the doctors it purports to help. Their rates remain virtually the same. It only helps the insurance companies earn even bigger profits. As BusinessWeek magazine concluded after reviewing the data, "the statistical case for caps is flimsy," March 3, 2003 issue.

If a Federal cap on noneconomic compensatory damages were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies, which created the recent market instability, will benefit.

Insurance industry practices are responsible for the sudden dramatic premium increases which have occurred in some States in the past few years. The explanation for these premium spikes can be found not in legislative halls or in courtrooms, but in the boardrooms of the insurance companies themselves.

Insurers make much of their money from investment income. Interest earned on premium dollars is particularly important in medical malpractice insurance because there is a much longer period of time between receipt of the premium and payment of the claim than in most lines of casualty insurance. The industry creates a "malpractice crisis" whenever its investments do poorly. The combination of a sharp decline in the equity markets and record low interest rates in recent years is the reason for the sharp increase in medical malpractice insurance premiums. What we are witnessing is not new. The industry has engaged in this pattern of behavior repeatedly over the last 30 years.

Last year, Weiss Ratings, Inc., a nationally recognized financial analyst conducted an in-depth examination of the impact of capping damages in medical malpractice cases. Their conclusions sharply contradict the assumptions on which this legislation is based. Weiss found that capping damages does reduce the amount of money that malpractice insurance companies pay out to injured patients. However, those savings are not passed on to doctors in lower premiums.

Between 1991 and 2002, the Weiss analysis shows that premiums rose by substantially more in the States with damage caps than in the States without caps. The 12-year increase in the annual malpractice premium was 48.2 percent in the States that had caps, and only 35.9 percent in the States that had no caps. In the words of the report: "On average, doctors in States with caps actually suffered a significantly larger increase than doctors in States without caps . . . In short, the results clearly invalidate the expectations of cap proponents."

Doctors, especially those in high risk specialties, whose malpractice premiums have increased dramatically over the past few years do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

Doctors and patients are both victims of the insurance industry. Excess profits from the boom years should be used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

There are specific changes in the law which should be made to address the abusive manner in which medical malpractice insurers operate. The first and most important would be to subject the insurance industry to the Nation's antitrust laws. It is the only major industry in America where corporations are free to conspire to fix prices, withhold and restrict coverage, and engage in a myriad of other anticompetitive actions. A medical malpractice "crisis" does not just happen. It is the result of insurance industry schemes to raise premiums and to increase profits by forcing antipatient changes in the tort law. I have introduced, with Senator LEAHY, legislation which will at long last require the insurance industry to abide by the same rules of fair competition as other businesses. Secondly, we need stronger insurance regulations which will require malpractice insurers to set aside a portion of the windfall profits they earn from their investment of premium dollars in the boom years to cover part of the cost of paying claims in lean years. This would smooth out the extremes in the insurance cycle which have been so brutal for doctors. Thirdly, to address the immediate crisis that some doctors in high risk specialties are currently facing, we should provide temporary premium relief. This is particularly important for doctors who are providing care to underserved populations in rural and inner city areas.

Unlike the harsh and ineffective proposals in S. 2207, these are real solutions which will help physicians without further harming seriously injured patients. Unfortunately, the Republican leadership continues to protect their allies in the insurance industry and refuses to consider real solutions to the malpractice premium crisis.

This legislation, S. 2207, is not a serious attempt to address a significant problem being faced by physicians in some States. It is the product of a party caucus rather than the bipartisan deliberations of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation. For that reason, it does not deserve to be taken seriously by the Senate.

Mr. McCAIN. Mr. President, when we first began the Senate debate on S. 1637 in March, the intended purpose of the measure was to resolve appropriately the controversy between the United States and the European Union over the extraterritorial income, ETI, exemption tax benefit for exports. Almost all of us recognize the critical need to pass legislation to bring the United States back into compliance with World Trade Organization, WTO, agreements and stop the burdensome tariffs now imposed on our manufacturers. Unfortunately, achieving the legislation's worthy purpose is in jeopardy due to a host of special interest tax provision add-ons. I do not support these latest add-ons and, as such, must vote against today's cloture vote.

When S. 1637 was presented to the Senate, it was a 378-page bill. Although only one roll call vote has occurred on an amendment during the floor consideration, the bill had grown to some 527 pages by the last cloture vote on March 22. I reluctantly voted for cloture, voicing my strong concerns about the direction the bill was going at the time. But instead of reigning in the special interest add-ons, they are only growing further. The bill has now grown to a 929-page Easter basket of goodies, but with almost no debate or votes on its provisions, including the latest addition of $13 billion in energy-related tax breaks.

I recognize the strong interest of the chairman of the Energy Committee and others to pass an energy bill. I wish that I could support the bill that the committee has developed, but in its current form I cannot. But I can assure the proponents of the energy legislation that to now shift $13 billion in costs from their bill to the JOBS bill is not the way to gain support for an energy bill. Instead, they need to develop an energy bill that is more evenly balanced between stimulating the supply of conventional fuels and promoting alternative fuels and energy efficiency.

If the Senate is to consider an energy tax incentive bill or an energy authorizing bill, we should be following regular order, and bringing legislation to the floor and debating in its own right. Instead, we are being asked to simply accept a 362-page energy bill add-on without debate or further amendments.

With our limited legislative time during this election year, the Senate would serve the American public far better if it stayed focused on accomplishing the intended purpose of legislating. Unfortunately, the JOBS bill, which is a much needed bill, is being dragged down with the unnecessary weight of billions of dollars in wasteful subsidies, tax breaks, and special exemptions for special interest industries. With the Nation facing a half-trillion dollar deficit, now is not the time for Congress to be enacting new tax credits and carving out sweet deals for special interests.

Mr. FRIST. Mr. President, today, we will be voting on a cloture motion to allow the Senate to proceed to debate S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004. I strongly urge my colleagues to vote for the motion to proceed.

It should be clear to all those following this debate that our medical litigation system is failing the American people. It is failing our communities, our hospitals, our doctors, our families and, most importantly, our patients. Unfortunately, this system hurts our most vulnerable patients the most—those needing help from highly trained medical specialists like neurosurgeons and obstetricians. Reform of this broken system is desperately needed, and we must act.

The upcoming vote will allow us to fully debate this critical issue. If Members have problems with certain parts of the bill that is fine. Let's move to the bill, offer amendments, and fully debate this needed reform.

But if action is delayed, we know what will happen: patients will suffer, women will suffer and babies will suffer. Those seeking care from emergency rooms and trauma centers will suffer. OB/GYNs will continue to flee their practices and drop obstetrical services, and more doctors will refuse to perform vitally needed emergency services.

I remind my colleagues that our current litigation system does more than simply threaten access to care. It indirectly costs the country billions of dollars every year in defensive medicine. The fear of lawsuits forces doctors to practice defensive medicine by ordering unneeded extra tests and procedures. Though the numbers are hard to calculate, well-researched reports predict savings from reform at tens of billions of dollars per year.

It directly costs the taxpayers billions. The CBO has estimated that reasonable broad reform will save the Federal Government $14.9 billion over 10 years through savings in Medicare and Medicaid.

It impedes efforts to improve patient safety. The threat of excessive litigation discourages doctors from discussing medical errors in ways that could dramatically improve health care and save hundreds or thousands of lives. I am a strong supporter of patient safety legislation which I hope we will pass this year. In addition to patient safety legislation, we need to address the underlying problem, our liability system.

We must reform this broken liability system. That is why I strongly support the Pregnancy and Trauma Care Access Protection Act. I thank my colleague Senator GREGG, who has skillfully led this debate, and I thank Senator ENSIGN, a leading proponent of reform, who has seen the current crisis in his own State of Nevada.

This legislation will protect access to care for our most vulnerable citizens and ensure that those who are negligently injured receive fair and just compensation. Again, I encourage my colleagues to move this legislation forward. We cannot afford further delay.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that I be recognized to make a statement and, upon the conclusion of my statement, the Senate recess until 2:15 as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

FSC/ETI

Mr. GRASSLEY. Mr. President, I am extremely disappointed that we have to be here today debating the FSC/ETI bill. The fact is, with America's economic health at risk, the bipartisan JOBS bill should have been debated and voted out of this body last month. Instead, attempts to move this jobs in manufacturing bill has been stymied. As a result, American manufacturing is not only being deprived of a competitive boost that it deserves at a time of no job creation in manufacturing but, in addition to that, U.S. exporters are stuck with a 6-percent European tax on our products going there.

This situation has festered for much too long. It has been several years since the World Trade Organization has ruled that the FSC/ETI regime did not meet our World Trade Organization obligations that this Senate and the other body agreed to a long time ago. Since then, we have known that. It is a fact. We have all known that unless we changed our current tax system, tariffs against our exports were looming.

To try to avoid these sanctions, Senator BAUCUS and I came together over a year ago and formed a bipartisan, bicameral working group to find a real, permanent solution to this problem.

The result is bipartisan. Remember that nothing gets done in the Senate that is not bipartisan. We have a jobs in manufacturing act before the Senate, and we will be voting on that today. This bill was passed out of my committee by a vote of 19 to 2. That means all Democrats voted for it. It provided a real and permanent solution to our FSC/ETI problems in a way which complies with our WTO obligations.

The bipartisan jobs in manufacturing act helps America's manufacturing sector. It helps us compete by giving an across-the-board 3-percentage point tax cut to all companies, large or small, that manufacture in the United States.

At a time when manufacturing is flat, this 3-percent tax cut can make a real difference to a company's bottom line perhaps bringing up enough capital and creating enough manufacturing growth to enable it or any company to hire in the manufacturing sector.

That is something every Senator would like to see. But because of political games and dilatory tactics by some in the Senate, this relief is not forthcoming.

I want Americans to understand that Senators on my side of the aisle are ready, willing, and able to provide a real shot in the arm to America's manufacturing sector. But after working so long in a bipartisan way, we are being blocked. We are blocked from providing the relief that American manufacturing deserves and needs.

In effect, this bill and the American manufacturing sector are being held hostage to Democratic demands to load this bipartisan legislation with a bunch of unrelated nongermane amendments. While some of these amendments are legitimate, others amount to nothing more than a wish list of political message amendments that have nothing to do with this very major piece of legislation. I, for one, am tired of watching us bide our time contemplating a wish list. American manufacturing needs solutions. It does not need a political wish list.

We have a good bipartisan bill before the Senate, a package that works for America's workers. But our plea for progress is met with nothing but demands for including one more item on some political wish list. You would think adults would make up their minds about what they want and that would be it.

It would be one thing if a political wish list did no harm, if it really didn't matter, or if the JOBS bill moved or not. But for manufacturing it does matter. Delay deprives American manufacturing of a much needed economic boost. Delay also inflicts real economic harm on innocent workers across the country.

The World Trade Organization has authorized the European Union to impose as much as $4 billion in tariffs in retaliation for our failure to bring our tax laws into compliance with international trade agreements that this body has already accepted—and accepted years ago.

Last month, on March 1, the European Union began implementing these sanctions by imposing an additional 5-percent tax on selected U.S. exports. This 5-percent Euro tax automatically increases by 1 percent for each month in which the United States of America remains out of compliance. Thus, when Members voted against stopping debate last month, the last time this bill was before this body, they contributed to a 20-percent increase in these tariffs because that additional 1 percent went into effect on April 1. Because of delay, then we have a 6-percent sales tax on our exports to Europe, making a lot of our businesses uncompetitive.

As you can see from this chart, these sanctions will continue to climb unless we act and act fast. In May, they rise another 1-percentage point to 7 percent and continue increasing until they reach a maximum of 17 percent in March of 2005. After that, then who knows what is going to happen. But by then we will have a lot of layoffs and people will wake up to the fact that harm is being done.

The European Union is not bound to cap retaliation at 17 percent. That is why I said: Who knows? In fact, they are scheduled to review the effectiveness of these retaliatory taxes at the end of 1 year. If the Europeans conclude that we are not in compliance, retaliation can escalate even further to a maximum of $4 billion a year.

If this sounds one sided, America wins more disputes in the World Trade Organization than we lose. We have won some major disputes against Europe. One time we won one about American beef being kept out of Europe. Europe still doesn't like to get some American beef. So we have imposed a tax on European exports coming into our country because that is the legal way of handling these disputes after it has been decided. I use that as an example. Europe has learned a lesson from the United States and they are doing to us what we have done to them. Why? Because in one case Europe did not want to abide by a decision, and in another case, we, up to now, have not abided by a decision. That is why we have the tax. It is quite obvious in most cases countries abide by these decisions. If they did not abide by these decisions, we would have chaos in international trade. We do not.

I make clear to the Members of this body: The effect of voting against stopping debate last month contributed strongly to raising tariffs on our exports by 2 percent. If cloture is not invoked this week, it is certain sanctions will escalate another percentage point, rising an overall level of 7 percent on selected U.S. exports. The core legislation should be very clear: A vote against stopping debate is a vote for higher taxes on our exports.

Which exporters will be hurt? All of them. No, not all of them, because the European Union was very careful in drawing up the sanctions list. In many cases, they chose to impose sanctions on U.S. exports that would most significantly feel the pain of the higher tax tariffs.

They are smart. Thus, highly competitive products with high profit margins are likely to find themselves on the list.

A press release from the American Forest and Paper Association dated March 2 of this year says this about European Union tariffs on wood product exports:

> This is a devastating development for an industry that has already closed more than 220 mills and laid off 120,000 workers since 1997.
>
> Our industry works on such tight profit margins that even a 5 percent tariff will likely price many U.S. wood and paper products out of our vital European markets. To have this happen just as United States wood and paper products are beginning to recover from a decade-long stump does irreparable harm to our industry.

The European Union has chosen products they could get from other countries, hoping that the higher tariffs on U.S. exports will price our products out of the European market, to be replaced by similar products from other foreign competitors. It is important for Members of the Senate to understand the effect of pricing U.S. exports out of the European market is not just temporary. Longstanding business relationships can be permanently disrupted as European buyers scramble to replace cost-prohibited U.S. products. Even if our price may go down, those relationships that are made because of this uncompetitive atmosphere for American exporters may go on and we never gain back that market. Once a replacement from another country is found, there is no guarantee the European buyer will ever buy from the U.S. producer again. In the end, the lost European export market can be lost forever. If the Senate votes down this motion to stop debate this month, the cancer of sanctions will not only continue, it will spread.

On May 1 of this year the European Union will take in 10 more member countries. These countries will be bound by the same import-export regime as France and other European Union countries. Thus U.S. exports to those 10 countries will also face higher tariffs as they try to compete in these markets.

Now we will look at another chart that shows the list of countries that will be become part of the European Union starting May 1, 2004: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia. I hope Senators who vote against stopping debate today appreciate they are voting not only to raise the Euro tax on sensitive U.S. exports but are also voting to have that tax applied to an even broader array of countries.

Some people might argue these sanctions only hurt big companies. Do not be fooled. They are big, people might argue, and they can absorb a hit of higher tariffs. The fact is, approximately 90 percent of U.S. exporters in 2001 were small businesses with 100 employees or less. These small exporters can ill afford the sting of sanctions on their bottom line. Products impacted include jewelry, horses, dairy, fruit and vegetables, toys and games, glass and glassware, animal feed, leather goods and handbags, textile products, carpets, footwear, soap and candles, wood products, and electric machinery. That is just a small list of 500 different products being hit. The American people are starting to take notice.

I read in part from a letter I received from the Carpet Rug Institute headquartered in Dalton, GA, stating:

> The United States carpet industry produces 45 percent of the world's carpet and is a $12 billion per year presence at the mill.
>
> The carpet industry is extremely competitive, both domestically and worldwide, with profit margins cut razor thin.
>
> The potential of an increased duty in the form of a punitive sanction may make the export of carpet and rug products by any United States manufacturer in the European Union market an economic impossibility. For the sake of the collection of an excess tariff an entire industry may be made to suffer.

And we are hearing:

> Voices from across the country are asking relief from the escalating Euro tax on our exports.

I will take a look at another letter signed by over 80 businesses and trade associations. These organizations that signed the letter want to emphasize the urgency of resolving the FSC/ETI export tax issue as soon as possible. Quick action on legislation is necessary to both comply with our WTO obligations and avoid or minimize retaliation against U.S. products.

> . . . the European Union has increased the retaliatory tariffs from 5 to 6 percent on as much as $4 billion per year of American products.
>
> These retaliatory tariffs are hurting the U.S. exports to Europe at a time when they are just beginning to rebound in the global economy and showing signs of renewed growth. Moreover, the tariffs negatively impact American workers.

The letter continues:

> We urge the Senate and House to pass FSC/ETI legislation immediately and proceed to conference as soon as possible thereafter.
>
> Thank you . . . for doing your part to send FSC/ETI bill to the President's desk without delay, thus minimizing the economically devastating trade sanctions on U.S. products and its impact on American workers who produce them.

These organizations span the entire Nation. This is not regional. Almost every State is going to be impacted by this vote this afternoon.

So let's go to the Northeast: the Virginia Forestry Association, the Associated Industries of Massachusetts, the Coalition of New England Companies for Trade, and the Greater Providence Chamber of Commerce.

From our part of the country, the Upper Midwest—the Presiding Officer is from Minnesota; I am from Iowa—we have the Detroit Regional Chamber of Commerce, the Minnesota Timber Producers Association, the Minnesota Agri-Growth Council, the Missouri Forest Products Association, and the Wisconsin Manufacturers and Commerce.

In the Pacific Northwest, we have the Pacific Coast Council of Custom Brokers and Freight Forwarders and the Softwood Export Council in the Pacific Northwest.

From the West, we have the Utah Manufacturers Association, the California Manufacturers and Technology Association, and the California Chamber of Commerce.

From the Plains States and the South, we have the Arkansas Forestry Association, the Louisiana Forestry Association, the Mississippi Forestry Association, and the Texas Forestry Association.

From the Southeast, we have the Alabama Forestry Association, the

Puerto Rico Manufacturers Association, the Tennessee Chamber of Commerce and Industry, and the North Carolina Forestry Association.

So as you can see, the entire country is impacted by this European tax on our exports to that part of the world. Some of the nationally impacted associations include the Agriculture Retailers Association, the American Architectural Manufacturers Association, the American Cotton Shippers Council, the American Farm Bureau Federation, the American Iron and Steel Institute, the American Peanut Council, the American Soybean Association, the American Textile Manufacturers Institute, the Manufacturing Jewelers and Suppliers of America, the National Association of Manufacturers, the National Corn Growers Association, and the National Cotton Council. And that is just a partial list.

What communication to Members of Congress is all about is businesses crying out for relief—not for the delay that we have already had for 1 month.

Let's be clear about what is at stake. American jobs are at stake because American competitiveness is at stake.

A vote against stopping debate is a vote against tax relief for America's beleaguered manufacturing sector—tax relief that goes beyond nullifying this European tax.

A vote against stopping debate is a vote to prolong the pain across America. A vote against stopping debate is a vote to increase the European tax on American exporters yet more than the 6 percent already there. A vote against stopping debate is a vote to deprive America's small exporters—because 90 percent of our exporters are small businesses of 100 employees or less—continued access to the European market, and access they may never regain.

If my colleagues vote against stopping debate, they might as well be telling American manufacturing that the United States is closed for business; that if you want access to the European export markets, you might as well go overseas and do your business because Members of this Congress have refused to give these manufacturers the tools they need to compete.

There is an answer. Stop—stop playing political games; stop pushing political wish lists; stop jeopardizing economic recovery. Instead, start supporting the ending of debate; start bringing this bill to finality; support stopping debate and start enhancing the economic recovery that is just around the corner in America's manufacturing sector if we do not snuff it out; support stopping debate and start the process that eliminates the European tax on our exports.

The choice is clear: Vote no, and you might make a few political points but I think just for a short period of time. As this Euro-tax goes up, people are laid off and you lose political points. Vote yes to stop debate and you are guaranteed to get economic progress.

So let's put aside our political games. Stop this debate. Move to finality. Consider legitimate amendments. That is what this place is all about—legitimate amendments, not just making political comment.

I summarize this way: This is like moving the goalposts. We have heard a lot from the Democratic leadership which claims they support this bipartisan bill. That is what we are hearing. I know that is what they are telling their constituents as well. I am afraid the actions of the Democratic leadership speak louder than their words. My sense is that there is a political priority to deny President Bush an opportunity to sign a bipartisan bill either this summer or this fall. It seems that the objective is to prevent that Rose Garden signing ceremony from occurring.

Of course, the victims of this strategy happen to be those companies and those workers who are hit by this Euro-tax as it ratchets up. I hope I am wrong. But the record gives me pause. I would hope that those on the other side would put the interests of firms and workers in their States above that of partisan Presidential campaign strategy. If you look at the record, you will see dramatic movements in terms of the demands of people on the other side of the aisle to promote their political message amendments, most often nongermane.

This chart draws from a favorite activity that we have in the Midwest, for example, every time Iowa plays Minnesota, and I am talking, obviously, about football. This jobs in manufacturing bill is near the Senate goal line. Unfortunately, it seems politics is driving the other side to move the goalposts.

When we came into session in January, Senator FRIST was criticized by the Democratic leadership for not moving right away this very bill, the jobs in manufacturing bill. At that time, the goalpost was clear—just 5 yards away. Then, after we were finished with the highway bill and a couple other bills, Senator FRIST attempted to go to this jobs in manufacturing bill.

Much to my surprise, we were ambushed by the leadership of the other side with unrelated amendments. I thought I had an understanding with the floor manager we were going to do amendments first that were related to the bill and then move to other amendments. That agreement was not carried out. That event caught me off guard. So a second goalpost appeared. It was the overtime amendment of my colleague from Iowa.

Now, it did not matter that we had voted on it previously. It did not matter that the amendment dealt with a proposed—not final but a proposed—Department of Labor regulation. None of that seemed to matter. That amendment was, and is still, a show-stopper to this bipartisan bill. So we are at the second goalpost, as it has been moved.

The demand of the leadership of the other side keeps changing. We were talking about just a single-digit list of amendments and, for the most part, hopefully germane amendments. We are not talking about that anymore. Now, since it looks like an overtime pay vote may be in the picture, there is a goalpost yet further away.

For the first time we are hearing of other amendments—not Finance Committee jurisdiction amendments—such as an increase in the minimum wage, that are new showstoppers.

You can't finish this bill, we are told, even though we are told the substance is great. Nobody seems to disagree on the substance of this. So why can't we get a bill to the President? Even though we don't disagree on the substance, there is still a new goalpost. Heaven help us how all that turns out.

There is a final goalpost way out there; that is, getting to conference. We may move through all the goalposts, but then we may be blocked on whether we get to conference. I hope I am proven wrong in a few minutes as we vote on this measure.

If we can't get cooperation from the other side, we have a couple alternatives: One, to go on with other business; two, to look at reconciliation in late spring. I don't want to go with either of those options because we can finish this bill now. There is always a time when the Senate has goodwill between the two parties represented. That goodwill hopefully will surface just as cream surfaces on milk.

Now it is time to get the job done. I hope we can pass this FSC/ETI legislation. It is bipartisan. That is the only way you get things done in the Senate. Consequently, because it is bipartisan, we ought to get it done. And because it is bipartisan, it deserves better treatment than it has received thus far.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 1:31 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore (Mr. SUNUNU).

PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT OF 2004—MOTION TO PROCEED—Continued

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will proceed to a vote on the motion to invoke cloture on the motion to proceed to the consideration of S. 2207.

Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 462, S. 2207, a bill to improve women's access to health care services and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such service.

Bill Frist, Orrin Hatch, Judd Gregg, John Ensign, Lamar Alexander, Peter Fitzgerald, Larry Craig, John Cornyn, Robert Bennett, Mike Enzi, Mitch McConnell, Ted Stevens, Norm Coleman, James Inhofe, Kay Bailey Hutchison, George Voinovich, Charles Grassley.

The ACTING PRESIDENT pro tempore. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "no."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—49

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Crapo
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Graham (SC)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Stabenow
Wyden

NOT VOTING—3

Kerry
Lieberman
Murray

The motion was rejected.

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 49 and the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Resumed

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending motion to Calendar No. 381, S. 1637.

Bill Frist, Charles Grassley, Gordon Smith, James Talent, John Ensign, John Cornyn, Wayne Allard, Olympia Snowe, Rick Santorum, Michael B. Enzi, Mike DeWine, Trent Lott, Christopher Bond, Thad Cochran, Kay Bailey Hutchison, Jim Bunning, Mitch McConnell.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the pending motion to Calendar No. 381, S. 1637, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The yeas and nays resulted—yeas 50, nays 47, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—50

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Inhofe
Lott
Lugar
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Talent
Thomas
Voinovich
Warner

NAYS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
McCain
Mikulski
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Sununu
Wyden

NOT VOTING—3

Kerry
Lieberman
Murray

The ACTING PRESIDENT pro tempore. On this vote the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The PRESIDING OFFICER. The Senator from South Carolina.

CHANGE OF VOTE

Mr. GRAHAM of South Carolina. Madam President, on rollcall vote 67 I voted "nay." It was my intention to vote "yea." Therefore, I ask unanimous consent I be permitted to change my vote since it will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. FRIST. Mr. President, I wanted to take a couple moments and update my colleagues on both sides of the aisle as to where we plan on going on a very important bill, the jobs in manufacturing bill that is before us.

The bill itself, first and foremost, is a critically important bill. We have used the almost mnemonic JOBS bill, but it really does affect workers, manufacturing, employment and, thus, it is critical. From talking to the Democratic leadership and our leadership and the chairman and ranking member, we all agree we need to do everything possible to complete this legislation in a timely way because it is important to the American people. We have a bill that passed out of the Finance Committee 19 to 2 which, by definition, means it enjoyed broad and bipartisan support.

Now we have had two cloture votes that have failed. Both of those cloture votes are signals to stop, to obstruct the bill. Yet in our conversations, everybody agrees we need to do everything possible—today, tonight, tomorrow, and tomorrow night—to complete this bill. First and foremost, it is an important bill. From a procedural standpoint and from what we do over the next hour or so, we are working hard to complete the list of amendments we will be addressing. We will hopefully be able to lock in that list at some point in time so we will have a pathway for completion of the legislation.

Thirdly, there is a particular amendment, the Harkin amendment on overtime, on which I have been clear. Once we have a plan to address all the potential scores of amendments in a reasonable way—hopefully staying on amendments that directly impact the content of the bill itself, that are germane, although the interpretation of germaneness varies on this floor—the overtime amendment will be considered and the Harkin amendment will be considered and voted upon. But what we ask is for a list of amendments and a glide path to completion of the bill. Let people vote up or down, yes or no, for or against the bill so that we can bring it to resolution.

First, this bill is important to workers. It is important to our economy. Second, we are completing how we can put together a glide path to finish the legislation. Third, there is the overtime vote and a companion vote that will be side-by-side votes that will take place on the overtime issue. We continue to work hard.

I withdraw the pending motion to proceed.

The ACTING PRESIDENT pro tempore. The motion is withdrawn.

The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EVENTS IN IRAQ

Mr. SMITH. Mr. President, a year ago come Friday, I remember watching with some emotion as the television recorded the events in Baghdad, and an American soldier crawled up a statue of Saddam Hussein and put a chain around its neck and, with the help of American equipment, pulled down that statue to the cheers of a throng of Iraqi people who had suffered for decades under the tyranny of this vicious man, this mass murderer, this fomenter and financier of world terrorism.

I saw that day people hungry for a chance at freedom, hungry for a chance to have a new beginning as a people and as a nation. I remember shedding some tears watching that scene. I reflected at the time that I was watching a piece of American history not unlike the fall of the Berlin Wall, not unlike the surrender of the empire of Japan on the battleship Missouri to General MacArthur, a moment in which I was seeing the values of American foreign policy displayed before the entire Earth.

As a Member of the Senate and as a student of American foreign policy history, I have always taken great pride in the fact that America does not seek the treasury or the territory of other neighbors and nations. But what we do say to the world is: We hold out and spread the values of our Bill of Rights, of our Constitution, of our Declaration of Independence. We hold out values such as democracy, human rights, freedom and liberty, the freedom of enterprise, the spreading of peace and prosperity, of domestic tranquility, of promoting the general welfare and providing for the common defense of our people and our friends. To me, that is what American foreign policy is about. I believe that is what it has always stood for.

So it is with particular sorrow that I reflect upon some of the commentary upon our current action in Iraq. I was a new Member of the Senate. I had been here 2 years when President Clinton came to this body and asked that we issue a resolution that called for regime change in Iraq.

President Clinton, after the expulsion of U.N. weapons inspectors, felt compelled to rain bombs on Baghdad for 4 days and 4 nights in order to hit those targets where we believed weapons were held because they had been declared, but not disclosed. President Clinton wisely warned that, based on the intelligence he and other nations had in common, we would fight them now or fight them later.

President Clinton's warnings took on greater urgency for this Senator and for many of my colleagues in the light of 9/11, when still declared but undisclosed weapons of mass destruction were in the hands of a terrorist nation and a sponsor of terrorism like Saddam Hussein. We felt compelled to pursue the policy we all voted upon, to change the regime in Iraq for the safety of the American people, for the safety of the free world.

As I recall that resolution, it was darn near unanimous, if not so. My pride in that vote is we did it together, Republicans and Democrats. Yet it is disappointing to me, as a Republican who stood with President Clinton on so much foreign policy during the 1990s, when President Bush, after 9/11, asked for support and following through on that resolution and 17 U.N. resolutions, this conflict has become increasingly politicized.

I think it is important in my comments and in those of my colleagues that we not question the patriotism of any of our colleagues who voted otherwise or any of our colleagues who believed this is not the right action. But I do think it appropriate to question the wisdom of those who would undermine this American initiative at a time when we need unity.

The comparison was made by one of my colleagues this is Vietnam again. I think it is important, if we want to make that comparison, we point out how many inconsistencies there are to Vietnam. But I think it is also well to remember Ho Chi Minh said the Vietnam war would not be won by them in the streets of Saigon, but in the streets of San Francisco, Chicago, New York, and Washington. The whole point of his comment at that time was the way you beat America is not to beat them militarily but to beat their will at home. I think that is what is being called into question.

What is our will? What are our purposes? For this Senator, my will is we must win. My vote has been for this action, both under President Clinton and now under President Bush. It is unfortunate that some now call for policies which amount to retreat and loss. I cannot think of a more devastating result for America's place and purpose in this world than for us to fail at this time.

We must win. We must not have the will of the American people broken to the naysayers of today. We have to continue to stand up for the values of freedom embodied in our founding documents, the values of democracy, the values of human rights, the values of enterprise and freedom. Those are the things we hold out to the people of Iraq.

I was stopped in the hall by a reporter who asked if in fact it was true American military forces fired a missile into a mosque in Baghdad. I did not know the answer until I inquired. Now it is all on the news and, in fact, there was a missile fired in the direction of a mosque. The reason it was is because five American soldiers were shot from that mosque as they tried to advance through the streets to secure the security of that area.

I say for the record murderers and terrorists must not find sanctuary behind the cloak of religion in any place. There should be no sanctuary for people such as these. So if the American forces made the decision to fire where they were being fired upon, I say: Well done and do it again. Let them find no sanctuary anywhere if their purpose is to deny the American forces the ability to provide security, if their purpose is to undo this Nation's effort in establishing democracy for the people of Iraq. They have suffered too long; they have suffered torture, maiming, rape rooms, weapons of mass destruction, at the hands of a brutal dictator. There are a few—I mean a decided minority—in Iraq who will not win from the values we enjoy because they won under the tyranny of Saddam Hussein. They must not be allowed to win now.

I plead with my colleagues, patriots all, be careful in the words we use, be wise in what we say, so we do not give aid and comfort to the enemies of that country, the fomenters of terrorism; that we do what we have set out to do, and that is to remove a regime that was bent on tyranny, fomenting terror, and financing it wherever it could; and that we follow through with the promises made by this Government and the previous one, President Clinton and President Bush, that democracy can have a new beginning—in fact, a first chance—on the streets of Arabia. This is our purpose, and may we win. We will win sooner if we watch our words and we weigh them on the scales of wisdom.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, what is the business before the Senate?

The ACTING PRESIDENT pro tempore. The pending business is S. 1637, the JOBS Act.

Mr. DODD. Mr. President, I ask unanimous consent that I may be allowed to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRATULATING THE MEN'S AND WOMEN'S UNIVERSITY OF CONNECTICUT BASKETBALL TEAMS

Mr. DODD. Mr. President, I rise with a strong note of celebration in my voice on behalf of my small State. The presiding officer lives in the same region of the country I do, so I suspect there is a sense of collective regional pride as well.

I am sorry my colleague Senator LIEBERMAN isn't here. He will be here tomorrow. Today is a religious holiday, so he could not be in the Senate today. I am sorry he is not here on one level; but on another level, every time one of the University of Connecticut teams wins, he does the UCONN cheer on the floor of the Senate, which causes his senior colleague a significant degree of embarrassment. He knows this, and I think he enjoys doing it when I am here. So, the one piece of good news I have is I won't have to listen to that cheer tomorrow because I myself will be away tomorrow.

I want to take a few minutes to recognize and celebrate a remarkable historical achievement that occurred both on Monday and Tuesday nights of this week. I speak of the men's and women's national collegiate basketball championships. Never before in history has a single university captured both of those titles in the same year, so my colleagues and others, I am sure, will understand the sense of pride we all feel in Connecticut for the tremendous historic accomplishments of these two wonderful teams—both the men's and women's teams. UCONN's achievement is stunning all the more because when you consider the previous four times in history a school sent both of its men's and women's teams to the Final Four in the same year, those schools failed to come away with so much as one national championship, let alone two in the same year.

Let me briefly recognize both of these teams. While it is certainly a university-wide celebration over the accomplishments of both, each deserves a moment of special recognition for their achievement.

I will begin with the men's team. Those who follow college basketball will recall on the cover of "Sports Illustrated," the University of Connecticut men's team was predicted to win the national championship.

They were the No. 1 ranked team in the country. Shortly thereafter, in November, they faced, ironically, a Georgia Tech team which handed them a rather significant defeat. Ironic I say because it was Georgia Tech that the University of Connecticut faced on Monday night for the national championship.

All told, the UConn Huskies would lose six games all season. For most teams, that would be reason to celebrate, having won 33 games and losing 6. In the Huskies' case, with each loss, more and more people around the country began to doubt whether the University of Connecticut's team had what it would take to go on to win a national title.

To make matters worse, throughout the season, the Huskies' outstanding center, Emeka Okafor, was troubled with a series of back injuries and spasms and was unable to play at his full measure of capability. He was certainly the heart and soul of the team. He scored points, grabbed rebounds, and blocked shots. He is the leader in the country in that last category.

His accomplishments went far beyond his statistics. His mere presence on the floor was fundamentally enough to alter the game. He is that much of a leader.

Even more impressive than Emeka's athletic credentials are his academic ones. We fail to promote academic success. Emeka Okafor is not only the No. 1 basketball player in the country, but he is also the Big East Scholar-Athlete of the Year and the National Academic All-American of the year.

While he was putting up impressive numbers on the basketball court, Emeka was an all-star in the classroom as well. He earned his degree in finance in 3 years with a GPA in excess of 3.8.

A lesser team might have given up hope after losing a player of Emeka Okafor's ability, but a pivotal series was the Big East Tournament where he had to sit out two games. Ben Gordon, a very talented guard for the University of Connecticut, took over the leadership role, along with Rashad Anderson, Taliek Brown, and others. They went on to win six straight games and capture the national title.

One of the most important games, of course, was the Saturday night game in which by a margin of 1 point, UConn defeated the Blue Devils—a very heated rivalry going back a number of years—facing a remarkable Duke team under the leadership of Mike Krzyzewski. We are all very appreciative of his abilities and the teams he put together, but beating Duke has a special significance in the UConn-Duke rivalry. We are very proud of the men's team. They had a terrific season. They certainly deserve some special recognition. Jim Calhoun, who is a good personal friend of mine—I am very proud of Jim's accomplishments. My only regret is that on Monday he was not selected to be in the Hall of Fame. I think he deserved it.

If it was up to my vote, he would have had it. His accomplishments over the years, both at Northeastern and the University of Connecticut, more than qualify him for a special place in the Basketball Hall of Fame. Being only one of three active coaches at the collegial level to have won two national championships, Jim Calhoun deserves a spot in the Hall of Fame. I am confident he will get one soon. I am sorry it did not occur on the day he won another championship, on Monday.

My congratulations to Jim for a wonderful season, a great leadership on that team. His assistant coaches, Tom Moore, George Blaney, and Clyde Vaughan—good friends of mine—and the players, Rashad Anderson, Hilton Armstrong, Jason Baisch, Josh Boone, Denham Brown, Taliek Brown, Justin Evanovich, Ben Gordon, Ed Nelson, I mentioned Emeka Okafor, Ryan Swaller, Ryan Thompson, Shamon Tooles, Charlie Villanueva, Marcus White, and Marcus Williams, all made significant accomplishments.

The women's team, of course, was also a great success. This is the third consecutive national championship they have won, really a remarkable record only having been achieved once before, ironically, by the Tennessee team they defeated last evening under the leadership of Pat Summitt.

Over the past decade or so, the UConn women's basketball team has become synonymous with excellence across the country. The numbers they have piled up are rather staggering: 5 national titles, 8 appearances in the Final Four, and a record winning streak of 70 consecutive games. Over the same period of time, women's basketball in America has experienced an enormous surge in popularity, and the University of Connecticut women are a major reason why. They have been an inspiration to young girls all across our Nation who dream of being basketball stars. Their combination of athletic skills, academic excellence, and good sportsmanship have made them role models for young men and young women across the country.

Things did not come easily for this women's team this year. Much like the men's team, the women's team had a tough run in the early days. On January 3, they lost a heartbreaker to Duke by 1 point. It was their first home loss in 4 years. For the second straight year, they were eliminated in the Big

East Tournament. This year, when the seedings were announced for the NCAA Tournament, UConn received the No. 2 seed, meaning they were not even favored to make it to the Final Four. But as they have done so many times in the past, this wonderful team of talented young women exceeded all expectations. They were led, once again, by the outstanding All-American senior, Diana Taurasi, the National Player of the Year. She is a remarkable athlete, a remarkable person, not unlike Emeka Okafor. She is a presence on the floor. Anyone who watched the game last evening, a wonderful game between Tennessee and the University of Connecticut, could see this remarkable young woman and the leadership she brought to her team.

The team has gone 22–1 in tournament games under Diana Taurasi's storied career. She is only the fifth player to win two Naismith Player of the Year awards.

She has scored the second most points of any player in the women's NCAA Tournament history. She was also named Outstanding Player of the Year in the Final Four.

It was a great game last evening against Tennessee. It has been a wonderful rivalry. Unlike the University of Connecticut and Duke rivalry, the University of Connecticut and Tennessee rivalry is a great one.

My friend from Tennessee, the majority leader, I point out very graciously, about 8:15 last evening, about 15 minutes prior to the UConn-Tennessee game, called and offered a polite wager. I am somewhat disturbed by it. I appreciate it. He offered to wager that if UConn won the game that he would supply me with as many spareribs as I could eat. For a heart surgeon, who happens to be the majority leader, to offer a Democratic member of the Chamber a pile of spareribs makes me wonder what his ultimate goal may have been in that wager.

I have won the wager. I offered him a high protein, very low caloric Connecticut River shad, of which the Presiding Officer is well aware. The Connecticut River provides a border of his State.

Connecticut River shad is high in protein, low caloric, the kind of proposal one would think a heart surgeon would propose. No, he offered spareribs—thick, juicy, fat-loaded spareribs—for this senior Senator from Connecticut to consume. I will share those with any good Republicans I can find in my State as part of those winnings.

I conclude by congratulating the women's coach Geno Auriemma, who is a wonderful friend, as well as Jim Calhoun. He has had a wonderful career at the University of Connecticut, and has been a wonderful role model for players, coaches, and others. He is very active in our State, as is Jim Calhoun. It goes beyond their leadership of the basketball programs. He is very active in philanthropic programs throughout our State, and is always willing to appear at various events on behalf of worthy causes.

My congratulations to Geno Auriemma for the terrific job he has done, his assistant coaches, Chris Dailey, a wonderful assistant coach over the years, Tonya Cardoza, and Jamelle Elliott. And the players: I mentioned Diana Taurasi, Ashley Valley, Kiana Robinson, Maria Conlon from Derby, CT, Stacey Marron, Morgan Valley, Nicole Wolff, Ashley Battle, Willnett Crockett, Jessica Moore, Barbara Turner, Liz Sherwood, and Ann Strother. Ann played a wonderful game last night, as did Maria Conlon, and also the forwards on that team, Barbara Turner and Willnett Crockett, were terrific as well.

Congratulations to these two great teams. I have taken a longer time. When you have two national champions at the same university in the same year, I hope my colleagues will accept my apologies for taking more time than would normally be the case. We have to export our sport allegiance. We have no professional teams in my State. As my colleague knows, in Connecticut you can almost tell where somebody lives by asking them whether they are a Red Sox or a Yankee fan, a Rangers or Bruin fan, a Knicks or Celtics fan. Connecticut is equally divided in its sports allegiance.

So all my life I have had to embrace teams outside of my own State. This wonderful collegiate athletic performance by the University of Connecticut has given us a wonderful sense of pride in our State. In the midst of otherwise bad news coming out of other parts of the world, I thought I would offer this tidbit of good news from a small corner of our country called Connecticut, with great pride for these wonderful athletes and their coaches, and fans at the University of Connecticut and throughout our State.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Minnesota.

Mr. DAYTON. Mr. President, I congratulate my colleague on the success of his two teams, both of which were truly outstanding. I particularly commend his women's basketball team because before their showdown with Tennessee, they beat an outstanding team from the University of Minnesota, which reached the semifinals and the final four for the first time in the team's history and was lead by two outstanding players, Lindsay Whalen from Minnesota and Janel McCarville from the neighboring State of Wisconsin, but we have adopted her as a Minnesotan now, and the two of them have achieved the distinction of being Kodak all-Americans. They led the team, which gave us enormous pride in Minnesota, until they met an outstanding Connecticut team. And they had an excellent game on Sunday night, which, unfortunately, from our standpoint, went Connecticut's way. But the Senator certainly has two teams of which to be very proud.

I also might note, as the Senator from Connecticut knows because we have had the occasion to be at the White House together, President Bush has very graciously the last years that I have been there invited the winners of the women's and men's basketball championships and the winners of the men's and women's hockey national championships to the White House for a ceremony.

I am pleased to say I will be joining the Senator from Connecticut again this year because the University of Minnesota women's hockey team won the national championship the weekend before and, in fact, the University of Minnesota-Duluth men's hockey team is in the Frozen Four which begins this Thursday night. So I am very hopeful we will have only Senators from two States attending that ceremony from Connecticut in basketball and Minnesota in hockey. But in either event, thanks to the outstanding performance of the Minnesota women's hockey team, which I must acknowledge as a Yale graduate defeated Harvard 6 to 2 in the finals, much to my enormous satisfaction, but just had a terrific year, it was rated No. 1 throughout the year and prevailed in the national championship. It shows, as the Senator noted, women's basketball is the same as women's hockey. Under the auspices of title IX and the opportunities now that have been given to women athletes starting as young girls, they have equal opportunity to play these sports. Their talents and skills are every bit as good as men's, and they are phenomenal athletes and delights to watch as they play these games with the highest level of proficiency. It is something that as Americans we should be proud of, the fact that we have made that advance and that girls are no longer relegated to being cheerleaders for men's sports or boys' sports, as they were when I was growing up, but now have shown themselves to be remarkable athletes in their own right far advanced to anything that I could have accomplished as a meager athlete back in my day.

So I will see the Senator at the White House.

Mr. DODD. If my colleague would yield, and I appreciate the comments and give congratulations, the Minnesota women's team is a great team. In fact, a mutual friend of ours, a former member of the other body and I, Rick Nolan, who my colleague knows very well, talked the other night, and after the game he told me that Geno Auriemma, coach of the women's team, was quoted extensively in the Minnesota newspapers and radio stations on commending the Minnesota team. He said it reminded him very much of an earlier UConn women's basketball team when they were starting out. I cannot tell the Senator how impressed I was with Miss Whalen and Miss McCarville. They are great players. I love their tenacity and emotion. Your coaches—you have had three coaches in 3 years—have had some difficult times to go through. I thought the game between Minnesota and Duke was one of the great women's basketball teams of all time. I suspect we are going to hear a lot more from Minnesota not only in hockey but in basketball as well.

I am glad my colleague mentioned title IX. I meant to mention it as well. Back in January, I invited a former colleague of ours, Birch Bayh of Indiana, to come to Connecticut to a women's basketball game. The reason I invited our former colleague and the father of our present colleague, EVAN BAYH, was because in 1972, Birch Bayh was the author of title IX. There were a lot of other Members involved; I do not want to suggest he was the only one, but he was the principal author of title IX. I thought he might like to come and watch what a change he had made in America.

It was not solely because of Birch Bayh, but he certainly deserves to be recognized for authoring that bill. To give my colleague some idea, about 15 years ago a national championship game for the women's basketball game drew maybe 1,500 people. Last night, there were 19,000 people in New Orleans to watch the game. I suspect millions across the country were tuned in to watch Tennessee and the University of Connecticut play.

So we brought Birch Bayh to Connecticut on that day when the University of Connecticut was playing Notre Dame. We had about 15,000 people on hand that afternoon, and at halftime we had some of the leaders of the women's teams over the years. We had a group of younger women just starting out at center court. Birch Bayh received a standing ovation from 15,000 people in Connecticut because he made a difference in this sport.

As my colleague has said, to see fathers and daughters, fathers and granddaughters, young boys and sisters coming to watch these young, remarkable women athletes, created a change in our country for the better. I look forward to the day when we will gather at the White House—I am confident President Bush will do this again because of his great love of sport—when he invites the men's and women's basketball teams from the University of Connecticut. Let me go on record today inviting, as well, not only the women's hockey team from Minnesota but the men's hockey team from Minnesota.

I thank my colleague for his nice compliments about Connecticut.

Mr. DAYTON. I thank my colleague. I think we are in a position where we can come to an agreement on that. I am not sure many of our colleagues would agree, but the Senator is right. In fact, I read over the weekend that the women's semifinal basketball games outdrew the men's in the national televised audience. That is not to say anything disparaging about the men because they had an outstanding tournament as well. It shows the popularity of the sport among all Americans. Certainly, the skill level to which it is played is something that anybody, even a couch potato like this Senator, can enjoy.

The Senator is right, also, that the President has been extremely gracious in hosting these teams. I think he recognizes how much of a thrill it is for the teams that have dedicated themselves all year to this level of national proficiency to be able to be recognized by the President of the United States; it is a great achievement for all of them. I look forward to the President's invitation. He has been very gracious in the past, and I look forward to joining my friend, the Senator from Connecticut.

Mr. President, I yield the floor.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE ACT

Mr. DURBIN. Mr. President, I rise today to urge my colleagues to cosponsor S. 1709, the Security and Freedom Ensured Act, the SAFE Act, which Senator LARRY CRAIG and I have introduced with several of our colleagues from both sides of the aisle.

The SAFE Act is a narrowly tailored bill that would revise several provisions of the USA PATRIOT Act. It would safeguard the rights of innocent Americans without impeding law enforcement's ability to fight terrorism. The SAFE Act is supported by a broad coalition of organizations and individuals from across the political spectrum.

I challenge any of my colleagues to find the broad base of political support for virtually any bill that we have found for the SAFE Act.

I voted for the PATRIOT Act. I believed then and I still believe that the act made many reasonable and necessary changes in the law. However, the PATRIOT Act contains several provisions that do not adequately protect innocent Americans from unwarranted Government surveillance. The FBI now has broad authority to obtain a "John Doe" roving wiretap which does not identify the person or place being tapped. The FBI has authority now to conduct sneak-and-peek searches and to seize personal records.

The PATRIOT Act was passed at a critical moment in the history of the United States. It was a moment of tragedy and fear. Now with more than 2 years of hindsight and experience, it is time to revisit this law.

I can recall—and I am sure all who followed this debate can remember—how we felt after September 11. Just a few steps away from this Chamber, I was meeting in a room with Senator DASCHLE and a group of Senators and we saw on television the images which every American has seared in their memory. Then someone suggested a bomb had gone off at the Pentagon. We gathered by the windows and looked down this beautiful Mall toward the Washington Monument and saw black smoke billowing across the Potomac, unaware at that moment another airplane had struck that building, killing many innocent Americans.

It was a time of great concern and great anxiety and great unity. The administration came to us and said to the Congress, Give us the tools to find the people responsible for this terrible American tragedy. Give us what we need to protect Americans and to fight the war on terrorism.

In a rare showing of bipartisan support, Democrats and Republicans came together and addressed some of the most difficult and complicated questions about Government authority and individual freedom we have had to address in our history. I am proud to say in a short period of time there was a bipartisan consensus, a consensus which tried to work out the best way to meet the requirements of the administration and to make America safe.

Many of these provisions were worrisome. We were not certain whether we had gone too far in giving the Government more authority and Americans fewer freedoms than necessary. So we included in the PATRIOT Act sunset provisions. Basically, what that means is that over some period of time, a year or two, these provisions would expire and be subject to renewal and reapproval by Congress. Of course, at that point we would be forced to assess their impact.

Interestingly, since that day, from some quarters, the volume has grown in support of basically eliminating the sunset provisions and saying this will be permanent law and we will not revisit it. However, many have looked at the PATRIOT Act, including Senator CRAIG and myself, and feel there are four specific areas of the Act that should be amended by our SAFE Act. Senator CRAIG, a Republican, and myself, as a Democrat, reached across the partisan divide to work together on this bill. It is quite an unusual political marriage. Senator JOHN SUNUNU, also a cosponsor, joked that when Senator CRAIG and Senator DURBIN introduce a bill together, it proves one thing: One of them must not have read it.

Well, that is not true. We have both read the SAFE Act. Our cooperation on this piece of legislation speaks volumes about the need to make changes in the PATRIOT Act.

Some claim because we are at war, the American people want the Government to keep them safe, no matter what. I think they are wrong. The American people care very deeply about their freedoms. They are watching Congress carefully and they are concerned that perhaps in some areas we went too far in passing the PATRIOT Act. I have heard from a lot of my constituents. 275 communities in 39 states have passed resolutions expressing concern about the provisions of the PATRIOT Act. These communities represent close to 50 million Americans. Almost one out of every six Americans has, through their elected representatives in their communities, expressed some concern about the provisions of the PATRIOT Act.

Let me be very frank about the bill itself. The PATRIOT Act was over 130 pages long. It is very complicated. Most Americans have not read every word of it. Many Americans who may not be able to explain the exact details of the PATRIOT Act still are concerned it is restricting their freedoms unnecessarily.

Some argue this means we should not take the American people so seriously because they cannot cite specific sections of the bill. I disagree. There is no reason to dismiss these public concerns. And this is no excuse for inaction. The burden of proof is not on the American people when the Government seeks to take away their rights and liberties. The burden of proof is on the Government.

What is clear is the American people want us to strike a balance, give the FBI and law enforcement and intelligence agencies the powers they need to fight terrorism but also to protect American liberty. That is what the SAFE Act would do.

An unusual thing has occurred with the introduction of this bill. I have been on Capitol Hill for over two decades working in the House and in the Senate. I have never seen this happen before. The Bush administration announced with the introduction of the bill they would veto it. The bill has not been considered before a committee. It has not been subject to amendment in committee. It has not been debated in committee. It has not come to the floor of the House or the Senate, nor has it been subject to debate and amendment there. There is no final work product, only the initial offering by Senator CRAIG and myself.

Based on that and that alone, the Bush administration has said they are going to oppose this bill and they are going to veto this bill. I have never seen anything quite like that.

The Justice Department argues our bill would eliminate some PATRIOT Act powers and make it even more difficult to effectively fight terrorism. Frankly, these objections do not hold water. The SAFE Act neither repeals any provision of the PATRIOT Act nor amends pre-PATRIOT Act law. In fact, the SAFE Act retains the expanded powers created by the PATRIOT Act while placing important checks on these powers.

Senator CRAIG and I wrote a letter responding in detail to the Justice Department's objections to the bill and their threat to veto the bill, which has not even passed either the House or the Senate.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 23, 2004.

Hon. ORRIN G. HATCH,
Chairman, Senate Committee on the Judiciary, Hart Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We write to request that you schedule a hearing in the Judiciary Committee as soon as possible on S. 1709, the Security and Freedom Ensured (SAFE) Act, a narrowly-tailored, bipartisan bill that would amend several provisions of the USA PATRIOT Act (P.L. 107-56). We would also like to take this opportunity to respond to concerns the Justice Department has raised regarding the SAFE Act.

We voted for the PATRIOT Act and believe now, as we did then, that the PATRIOT Act made many reasonable and necessary changes in the law. However, the PATRIOT Act contains several provisions that create unnecessary risks that the activities of innocent Americans may be monitored without adequate judicial oversight.

This concern is shared by a broad coalition of organizations and individuals from across the political spectrum. In fact, 257 communities in 38 states—representing approximately 43.5 million people—have passed resolutions opposing or expressing concern about the PATRIOT Act. Groups as politically diverse as the ACLU and the American Conservation Union have also endorsed changes in the law.

In his State of the Union address, the President called for reauthorization of the PATRIOT Act. Given the bipartisan concerns about the most controversial provisions of the law, however, this will not happen unless these provisions are revisited. Congress, in fact, made oversight of the PATRIOT Act implicit by sunsetting over a dozen sections of the bill at the time of its passage.

S. 1709, the SAFE Act, was drafted with this oversight ,in mind. It was drafted to clarify and amend in a minor way the PATRIOT Act's most troubling provisions so that whole or even piecemeal repeal of the law would be unnecessary. It was drafted to safeguard the liberties of law-abiding citizens while preserving the law enforcement authorities essential to a successful war on terror.

The Administration unfortunately has threatened to veto the SAFE Act. The Justice Department argues that the SAFE Act would "eliminate" some PATRIOT tools and "make it even more difficult to mount an effective anti-terror campaign than it was before the PATRIOT Act was passed."

We respectfully disagree with the Justice Department's objections to our reasoned and measured effort to mend the PATRIOT Act. The SAFE Act neither repeals any provision of the PATRIOT Act, nor impedes law enforcement's ability to investigate terrorism by amending pre-PATRIOT Act law. Rather, the SAFE Act retains the expanded powers created by the PATRIOT Act while restoring important checks and balances on powers including roving wiretaps, "sneak and peek" warrants, compelled production of personal records, and National Security Letters.

ROVING WIRETAPS

The SAFE Act would place reasonable checks on the use of roving wiretaps for intelligence purposes. Normally, when the government seeks a warrant authorizing a wiretap, its application must specify both the target (the individual) and the facilities (the telephone or computer) that will be tapped. Roving wiretaps, which do not require the government to specify the facilities to be tapped, are designed to allow law enforcement to tract targets who evade surveillance by frequently changing facilities. Before the PATRIOT Act, roving wiretaps were only permitted for criminal, not intelligence, investigations. The PATRIOT Act authorized the FBI to use roving wiretaps for intelligence purposes for the first time.

Using roving wiretaps for intelligence purposes is important. Unfortunately, the PATRIOT Act did not include sufficient checks to protect innocent Americans from unwarranted government surveillance. Under the PATRIOT Act, the FBI is not required to determine whether the target of the wiretap is present at the place being wiretapped, as it is for criminal wiretaps.

The Intelligence Authorization Act of 2002 made another dramatic change in the law. The FBI is now permitted to obtain a "John Doe" roving wiretap for intelligence purposes, an authority not authorized in any other context. A "John Doe" roving wiretap does not specify the target of the wiretap or the place to be wiretapped. In other words, the FBI can obtain a wiretap without saying whom they want to wiretap or where they want to wiretap.

The Justice Department defends this authority by noting that even if the target of the wiretap is not identified, a description of the target is required. The law does not require the description to include any specific level of detail, however. It could be as broad as, for example, "white man" or "Hispanic woman." Such a general description does not adequately protect innocent Americans from unwarranted government surveillance.

The SAFE Act would retain the PATRIOT Act's authorization of roving wiretaps for intelligence purposes but impose reasonable limits on this authority. Law enforcement would be required to ascertain the presence of the target before beginning surveillance and identify either the target of the wiretap or the place to be wiretapped. The FBI would not be able to obtain "John Doe" roving wiretaps, thereby ensuring that the government does not surveil innocent Americans who are not the target of the wiretap.

The Justice Department argues that "John Don" roving wiretaps are necessary because there may be circumstances where the government knows a target's physical description but not his identity. If the government is tracking a suspect closely enough to utilize a wiretap, it is unlikely his or her identity will be unknown to them. In this unusual circumstance, the SAFE Act would permit the issuance of a "John Doe" wiretap which would not identify the target but rather the facilities to be wiretapped. If the government wished to obtain a roving wiretap, they could do so by identifying the target. It is important to note that the government is not required to identify the target by his or her actual name. The government, for example, could identify the target by an alias. This level of detail should be required to make clear who is being targeted to prevent innocent people with no relationship to the target from being spied upon.

"SNEAK AND PEEK" SEARCHES

The SAFE Act would impose reasonable limits on the issuance of delayed notification (or "sneak and peek") search warrants. A sneak and peek warrant permits law enforcement to conduct a search without notifying the target until sometime after the search has occurred. The Justice Department argues that sneak and peek warrants for physical evidence "had been available for decades before the PATRIOT Act was passed," but such warrants were never statutorily authorized before the passage of the PATRIOT Act. Too, though some courts have permitted sneak and peek warrants in limited circumstances, the Supreme Court has never ruled on their constitutionality.

In codifying sneak and peek warrants, Section 213 of the PATRIOT Act did not adopt limitations on this authority that courts had recognized. For example, courts have required a presumptive seven-day limit on the delay of notice. Section 213 requires notice of the search within "a reasonable period," which is not defined. According to the Justice Department, this has resulted in delays of up to 90 days, and of "unspecified duration lasting until the indictment was unsealed."

Section 213 authorizes issuance of a sneak and peek warrant where it finds that providing immediate notice of the warrant would have an "adverse result," as defined by 18 U.S.C. Section 2705. Section 2705, which allows delayed notice for searches of stored wire and electronic communications, defines adverse result very broadly, including any circumstances "otherwise seriously jeopardizing an investigation or unduly delaying a trial." This catch-all provision could arguably apply in almost every case. A sneak and peek search of a home involves a much greater degree of intrusiveness than a seizure of wire or electronic communications, so this broad standard for delaying notice is inappropriate. Section 213 also does not limit delayed notification warrants to terrorism investigations, and unlike many surveillance-related PATRIOT Act provisions, does not sunset.

Last year, an overwhelming majority in the House of Representatives voted to repeal Section 213. The SAFE Act would not go nearly this far. It would place modest limits on the government's ability to obtain sneak and peek warrants, while still permitting broad use of this authority.

The SAFE Act would still authorize a sneak and peek warrant in a broad set of specific circumstances: where notice of the warrant would endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant. Importantly, it would eliminate the catch-all authorization of sneak and peek authority in any circumstances "otherwise seriously jeopardizing an investigation or unduly delaying a trial." It would require notification of a covert search within seven days, but would authorize unlimited additional seven-day delays so long as any circumstance that would justify a delay of notice continues to exist. According to the Justice Department, "the most common period of delay" under Section 213 is seven days, so a seven-day limit with court-authorized extensions is not overly onerous but would prevent abuse.

The Justice Department states that the SAFE Act imposes restrictions on the issuance of sneak and peek warrants that could tip off terrorists, and "thus enable their associates to go into hiding, flee, change their plans, or even accelerate their plots." To the contrary, the SAFE Act would authorize issuance of a sneak and peek warrant in all of these circumstances. If notice of the warrant could lead terrorists or their associates to hide or flee, a court could delay notice to prevent flight from prosecution. If notice of the warrant could lead terrorists or their associates to change or accelerate their plots, a court could delay notice to prevent the resulting danger to life or physical safety. The Constitution protects the sanctity of our homes, and we should only allow this sanctity to be breached in such serious circumstances.

COMPELLED PRODUCTION OF PERSONAL RECORDS

The SAFE Act would place reasonable checks on the government's authority to compel production of library and other personal records. Section 215 of the PATRIOT Act permits law enforcement to obtain such records without individualized suspicion and with minimal judicial oversight. Before the PATRIOT Act, FISA authorized the FBI to seek a court order for the production of records from four types of businesses: common carriers, public accommodations facilities, physical storage facilities, and vehicle rental facilities. In order to obtain such records, the FBI was required to state specific and articulable facts showing reason to believe that the person to whom the records relate was a terrorist or a spy. If a court found that there were such facts, it would issue the order.

Under FISA as modified by Section 215, the FBI is authorized to compel production of "any tangible things (including books, records, papers, documents, and other items)" not just records, from any entity, not just the four types of businesses previously covered. The FBI is only required to certify that the records are "sought for" an international terrorism or intelligence investigation, a standard even lower than relevance. The FBI need not show that the documents relate to a suspected terrorist or spy. If the FBI makes the required certification, the court no longer has the authority to examine the accuracy of the certification or ask for more facts to support it; the court "shall" issue the order. Defenders of Section 215 frequently assert that the issuance of an order for records requires court approval, but this type of court approval amounts to little more than a rubber stamp. The PATRIOT Act gives the government too much power to seize the personal records of innocent Americans who are not suspected of involvement in terrorism or espionage.

The SAFE Act retains the PATRIOT Act's expansion of the business records provision to cover "any tangible things" and any entity. It would reinstate the pre-PATRIOT Act standard for compelling production of business records, which requires individualized suspicion. The FBI would be required to certify that there are specific and articulable facts giving reason to believe that the person to whom the records relate is a terrorist or a spy. A court would be required to issue the order if it found that there are such facts. The SAFE Act would thus prevent broad fishing expeditions which waste scarce government resources, are unlikely to produce useful information, and can infringe upon privacy rights.

The Justice Department argues that this standard is inappropriate because it is higher than the relevance standard under which federal grand juries can subpoena records. This ignores some crucial distinctions. The recipient of a grand jury subpoena can challenge the subpoena in court and tell others, including those whose records are sought, about the subpoena. In contrast, the recipient of a Section 215 subpoena cannot challenge the subpoena in court and is subject to a gag order. The scope of a federal grand jury is limited to specific crimes, while an intelligence investigation is not so limited.

Finally, it is very important to note that, in the more than two years since the passage of the PATRIOT Act, Section 215 has never been used. If the authority has never been used during this time of great national peril, it is difficult to understand how imposing some reasonable checks on it could cripple the war on terrorism. Indeed, the government offers no examples, real or imagined, in which the SAFE Act's revisions of Section 215 would hinder counterterrorism efforts.

NATIONAL SECURITY LETTERS

The SAFE Act would impose reasonable limits on the issuance of National Security Letters (NSLs). Section 505 of the PATRIOT Act allows the FBI to use NSLs to obtain personal records without individualized suspicion. An NSL is a document signed by an FBI agent requiring disclosure of financial, credit and other personal information and requiring the recipient not to disclose the request to the individual whose records are being sought. It does not require judicial or grand jury approval.

Before the PATRIOT Act, the FBI could issue an NSL to obtain records from a wire or electronic communication service provider by certifying that it had reason to believe that the person to whom the records relate is a terrorist or a spy. The approval of FBI headquarters was required.

Section 505 of the PATRIOT allows the FBI to issue an NSL simply by certifying that the records are "sought for" a terrorism or intelligence investigation, regardless of whether the target is a suspect. Headquarters approval is no longer required. Unlike many other surveillance-related PATRIOT Act provisions, the expanded NSL authority does not sunset.

The SAFE Act would retain the PATRIOT Act's lower standard for the issuance of NSLs and its delegation of issuing authority to field offices. It would simply clarify that a library is not a "wire or communication service provider," which from the plain meaning of the words, it is not. The FBI could still obtain information regarding e-mails or other communications that took place at libraries by issuing an NSL to the library's wire or communication service provider.

The Justice Department states that the SAFE Act would "extend a greater degree of privacy to activities that occur in a public place than to those taking place in the home." We disagree. The SAFE Act would simply ensure that the FBI issues the NSL to the service provider, which is the appropriate recipient, rather than a community library, which is ill-equipped to respond to such a request.

EXPANDING THE SUNSET CLAUSE

The SAFE Act would expand the sunset clause of the PATRIOT Act to ensure Congress has an opportunity to review provisions of the bill that greatly expand the government's authority to conduct surveillance on Americans. Many of the PATRIOT Act's surveillance provisions sunset on December 31, 2005. The SAFE Act would sunset four additional surveillance provisions: Sections 213, 216, 219, and 505.

We have already discussed Sections 213 (sneak and peek warrants) and 505 (national security letters). Section 216 allows the use of surveillance devices known as pen registers and trap and trace devices to gather transactional information about electronic communications (e.g., e-mail) if the government certifies the information likely to be gathered is "relevant" to an ongoing criminal investigation. The information the government gathers is "not to include the contents" of communications, but content is not defined. Section 219 permits a federal judge in any district in the country in which "activities related to terrorism may have occurred" to issue a nationwide search warrant in a terrorism investigation. The target of such a search warrant has no ability to challenge the warrant in their home district. The SAFE Act would simply give Congress an opportunity to assess the effectiveness of these four provisions before deciding whether or not to reauthorize them.

The Justice Department argues that Congress should not expand the sunset to these authorities because they will all be needed by the FBI for "the foreseeable future."' Even if this is true, it is no reason not to give Congress the chance to review the usefulness of these powers. If they are needed for the fight on terrorism, we will surely renew them.

Throughout American history, during times of war, civil liberties have been restricted in the name of security. We therefore have the responsibility to proceed cautiously. During the Civil War, President Lincoln suspended habeas corpus, and during World War II, President Roosevelt ordered the detention of Japanese Americans in internment camps. We must be vigilant in our defense of our freedoms. But we also must ensure that law enforcement has sufficient authority to combat the grave threat of terrorism. We must strike a careful balance between the law enforcement power needed to combat terrorism and the legal protections required to safeguard American liberties. That is what the SAFE Act would do.

While we are disappointed that the Administration has expressed disagreement with the SAFE Act, we view this as an opportunity for increased public discussion of one of the most important issues of our day. Accordingly, we request that you schedule a hearing on the SAFE Act as soon as possible. Thank you for your time and consideration.

Sincerely,

LARRY E. CRAIG,
U.S. Senator.
RICHARD J. DURBIN
U.S. Senator.

Mr. DURBIN. Mr. President, let me cut through some of the rhetoric and tell you what the SAFE Act does.

The SAFE Act would place reasonable checks on what are known as roving wiretaps. Typically, when the Government seeks a warrant authorizing a wiretap, its application must specify the individual and the phone that will be tapped. A recommendation on roving wiretaps came to us in the PATRIOT Act because of the obvious: There was a time and place in America when people had one telephone at work, one telephone at home, and if the Government sought to tap that telephone to find out what was going on, it was pretty obvious which telephone lines needed to be tapped. Now we live in a different world where people carry around phones in their pockets. People may have several phones.

So the Government asked for additional authority to focus on those who were engaged in telephone conversations on numerous different telephone lines. Roving wiretaps do not require the Government to specify the phone being tapped. They are designed to allow law enforcement to track targets that evade surveillance by frequently changing phones.

Before the PATRIOT Act, they were only permitted for criminal investigations, not intelligence investigations. The PATRIOT Act authorized the FBI to use roving wiretaps for intelligence purposes for the first time. I supported this. I thought it was a reasonable expansion of wiretap authority because it is important that intelligence investigators have that authority.

Unfortunately, the PATRIOT Act did not include the same limits on these powers that exist for criminal investigations. These limits would have protected innocent Americans from unjustified surveillance. It is a basic tenet of law that if you are going to tap a conversation, the Government has to be specific enough so as to protect innocent people. We should not allow the Government at any given time to impose a wiretap on a phone that anybody might use. The Government should be specific, protecting in the process the privacy of innocent people, while clearly targeting those with a wiretap who could be guilty of a crime or guilty of activities that are treasonous.

Under the PATRIOT Act, the FBI is not required to determine whether the target of the wiretap is physically present at the location being wiretapped before beginning the wiretap, as it is for criminal wiretaps. The ascertainment requirement, as it is known, ensures innocent Americans are not wiretapped unnecessarily, especially when the FBI wiretaps a public telephone.

The FBI is now permitted to obtain a John Doe roving wiretap for intelligence purposes, a sweeping authority never before authorized by Congress. A John Doe roving wiretap does not specify the person or the phone to be wiretapped. In other words, the FBI can obtain a wiretap without telling a court whom they want to wiretap and where they want to wiretap. This is a virtually limitless power.

The SAFE Act, which we have introduced, would continue to authorize roving wiretaps for intelligence purposes but would impose reasonable limits, the same limits that exist for criminal investigations. Law enforcement would be required to determine whether the target of the wiretap is physically present before beginning the wiretap. The FBI would not be able to obtain "John Doe" roving wiretaps. These protections would ensure that the Government does not wiretap innocent Americans.

Secondly, the SAFE Act would impose reasonable limits on sneak-and-peek searches. Sneak-and-peek searches are conducted secretly by the FBI with no notice to the target until some time after the search.

You have all seen the scene on television—maybe you are familiar with it from your community—where there is a knock on the door and a law enforcement official says: I have a warrant to search your home. Well, that is the usual course of events in criminal investigations. It is much different when it comes to sneak-and-peek searches.

The Justice Department argues that warrants for sneak-and-peek searches "had been available for decades before the PATRIOT Act was passed," but such warrants were never authorized by Congress before the passage of the PATRIOT Act. Some courts permitted sneak-and-peek warrants in limited circumstances, although the Supreme Court has never ruled on their constitutionality.

In authorizing sneak-and-peek warrants, section 213 of the PATRIOT Act did not include checks and limitations on the power of the Government so as to protect innocent Americans. Courts have required the FBI to notify the target of the search within 7 days of the search. Section 213 of the PATRIOT Act, however, requires notice of the search only within "a reasonable period," which is not defined. According to the Justice Department, this has resulted in delays of notice of up to 90 days, and of "unspecified duration."

Section 213 authorizes sneak-and-peek searches where a court finds that providing immediate notice of the search would have an adverse result. "Adverse result" is defined broadly. It includes circumstances "seriously jeopardizing an investigation or unduly delaying a trial." This catch-all provision could arguably apply in almost every case.

Unlike many other PATRIOT Act provisions that give new surveillance powers to the FBI, the sneak-and-peek authority does not sunset. It is permanent law.

According to a recent poll, 71 percent of Americans disapprove of the current sneak-and-peek provision in the PATRIOT Act. Last year, an overwhelming, bipartisan majority in the House of Representatives voted to repeal this section of the PATRIOT Act. The SAFE Act that we introduce would not go nearly that far. It would place reasonable limits on the FBI's ability to conduct sneak-and-peek searches, while still permitting broad use of this authority.

The SAFE Act would still authorize sneak-and-peek searches in a broad set of specific circumstances. However, it would eliminate the catch-all provision that allows sneak-and-peek searches in any circumstances.

The SAFE Act would require notification of a covert search within 7 days but would authorize a court to allow unlimited additional 7-day delays upon application by the Government. According to the Justice Department, "the most common period of delay" under section 213 is 7 days, so this limit that we establish is not unreasonable.

The SAFE Act would also sunset the sneak-and-peek authority, giving Congress an opportunity to take a hard look at a provision in the law that is so widely unpopular in the United States.

The third area has received a lot of attention, and it relates to the compelled production of library and personal records.

The SAFE Act would place reasonable limits on the FBI's authority to compel production of library and personal records. Before the PATRIOT Act, the FBI was authorized to seek a court order for the production of records from four types of businesses—common carriers, such as airlines and trains and buses; public accommodations, such as hotels and restaurants; storage facilities; and car rental companies. In order to obtain records, the FBI was required to convince a court it had reason to believe that the person to whom the records related was a terrorist or a spy.

Under section 215 of the PATRIOT Act, the FBI can compel production of "any tangible things," not just records, from any entity, not just the four types of businesses previously covered. The FBI, under the PATRIOT Act, is only required to certify that the records are "sought for" a terrorism or intelligence investigation, a standard even lower than relevance. The FBI is not required to show that the documents relate to a suspected terrorist or spy.

Now, those who defend section 215 frequently claim the FBI must obtain court approval to compel production of records, but if you read section 215, you will see that the type of court approval which is authorized is a rubber stamp.

The PATRIOT Act gives the Government too much power to seize the personal records of innocent Americans who are not suspected of involvement in any terrorism or espionage. This could lead to broad fishing expeditions which waste scarce Government resources, are unlikely to produce useful information, and can infringe upon privacy rights.

The SAFE Act would retain the PATRIOT Act's expansion of the records provision to cover "any tangible things," as I said earlier, and any entity. But it would reinstate the pre-PATRIOT Act standard for obtaining records, which requires individualized suspicion and increased judicial oversight. The FBI would be required to convince a court that it has reason to believe that the person to whom the records relate is a terrorist or a spy. This would protect innocent Americans and prevent fishing expeditions by the Government.

It is very important to note that in the more than 2 years since the passage of the PATRIOT Act, section 215—compelling records, as I have described—has never been used. If the authority has never been used during this time of great national concern and peril, it is difficult to understand how imposing some reasonable checks could harm the war on terrorism.

The fourth and last section of the SAFE Act relates to national security letters. The SAFE Act would impose reasonable limits on the issuance of these letters. An NSL, as they are known, is a document signed by an FBI agent requiring disclosure of financial, credit, or other personal information. It can be issued to a wire or electronic communication provider. The recipient of an NSL is subject to a gag order and cannot disclose the request to the individual whose records are being sought. An NSL does not require judicial or grand jury approval.

Before the PATRIOT Act, the FBI could issue such a letter to obtain records by certifying it had reason to believe that the person to whom the records relate is a terrorist or spy. The approval of FBI headquarters was required.

Section 505 of the PATRIOT Act allows the FBI to issue a national security letter by certifying that the records are "sought for" a terrorism or intelligence investigation, regardless of whether the target is a suspect. FBI headquarters approval is no longer required.

Unlike many other surveillance-related PATRIOT Act provisions, this expanded NSL authority does not sunset under the law of the PATRIOT Act.

The SAFE Act would retain the PATRIOT Act's lower standard for the issuance of NSLs and its delegation of issuing authority to FBI field offices.

It would simply clarify that a library is not a "wire or communication service provider," which, from the plain meaning of the words, it is not. The FBI could still obtain information regarding e-mails and other communications originating from library computers by issuing a national security letter to the library's wire or communication service provider.

The SAFE Act would simply ensure that the FBI issues the national security letter to the service provider, which is the appropriate recipient, rather than a community library, which is not equipped to respond to such a request.

We would also sunset this NSL authority, giving Congress another opportunity to take a look at it.

We have the responsibility to give the Government the power it needs to keep us safe, but at the same time we have a responsibility to the Constitution, which we have all sworn to uphold and defend, to zealously protect the personal freedoms and liberties of American citizens.

Geoffrey Stone, a professor and former dean at the University of Chicago Law School, made this observation:

> In time of war . . . we respond too harshly in our restriction of civil liberties, and then, later, regret our behavior. It is, of course, much easier to look back on past crises and find our predecessors wanting, than it is to make wise judgments when we ourselves are in the eye of the storm. But that challenge now falls to us.

We must meet this challenge head on. As we reflect on the course of history, there has hardly been a time in the history of the Nation when we faced great threats to our safety and security when the Government did not overreach.

The greatest President, I think, who ever served us, Abraham Lincoln, from my State of Illinois, during the course of the Civil War, suspended the writ of habeas corpus, basically gathering into prison suspects without any charges. It was clearly in violation of the language of the Constitution. It was a power he assumed as Commander In Chief, and many have questioned it in the years that have followed.

During World War I, when there was real concern about outside threats to our country, we established the Alien and Sedition Acts, laws passed by Congress and signed by the President which, on reflection, went too far.

In World War II, we had the Japanese internment camps. We took perfectly innocent Japanese Americans, simply because of their ancestry, and put them in these settlement camps for lengthy periods of time, even while the children would leave the camps to serve in the Armed Forces.

During the cold war, a war that went on for decades and cost this Nation billions of dollars and created great anxiety, the McCarthy hearings and the questions of patriotism that were raised indicate that again we had gone entirely too far. The list continues. Sadly, it continues when we reflect on what we have done since September 11.

There is always a tension in our society between security and freedom. Those who want more security often argue that the Government needs more power and more authority, and individuals must give up those freedoms. Many of us believe that in surrendering our freedoms, we are surrendering our heritage to the terrorists. The freedoms which were so carefully guarded and so zealously pursued by so many generations, freedoms which we have won with the lives of Americans in conflict time and time again, should be carefully guarded as well.

I hope we will understand that the burden of proof is not on individual Americans to come forward and prove to the Government they have a right to their freedoms and liberties. When the Government seeks to take away the freedom and liberty of an American citizen, it is the burden of the Government to prove that is necessary.

With the SAFE Act, Senator CRAIG and I have taken four very specific and discrete elements of the PATRIOT Act and we have said that by changing these, we will still keep America safe, but we will prevent intrusive Government activity into the privacy of individuals.

We can search the Constitution from the beginning to the end, through every amendment, and never see the word "privacy" in it, but courts have said repeatedly that that is what government should be all about—protecting our privacy, only invading it in times when it is absolutely necessary to protect our safety in our community or our security as a Nation. The PATRIOT Act ended up being an allocation of power to the Government that went far beyond what was necessary for the security of our Nation and in fact invaded our rights and liberties.

We need to meet this challenge head on. It is possible to combat terrorism and to protect our freedoms. We can be safe and free. The SAFE Act demonstrates that. I urge my colleagues to join Senator CRAIG and myself as cosponsors.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF JUSTICE FLORENCE K. MURRAY

Mr. REED. Mr. President, on Sunday, March 28, 2004, Rhode Island, the judicial community and the entire Nation lost a great pioneer who was a superb jurist and a powerful inspiration. Retired Supreme Court Associate Justice Florence Kerins Murray passed away after decades of breaking new ground for women in the United States. She was 87 years old.

Justice Murray, the first woman appointed to the Rhode Island Superior and Supreme Courts, was a lifelong resident of Newport.

The daughter of John and Florence Kerins, Murray attended Rogers High School in Newport and went on to attend Syracuse University, where she would later serve on the Board of Trustees and was the only woman in the 1942 graduating class at Boston University Law School where she would become a member of the board of visitors.

Throughout her life Justice Murray sought ways to serve the community. She began her professional career as a teacher in a one-room schoolhouse on Prudence Island, in Narragansett Bay. Later, she joined the Women's Army Corps and was promoted to lieutenant colonel before leaving the service in 1947. Again, Murray broke ground when she was the youngest woman to achieve that rank at the time.

Upon leaving the Army, she opened a one-woman law firm above a grocery store on Thames Street. She was the only female lawyer in Newport when she opened her firm. She later practiced law with her now-deceased husband, Paul F. Murray, who went on to serve as U.S. Attorney for Rhode Island from 1977 to 1981. Paul and Florence had a son Paul M. Murray.

Continuing her traditions of giving back to her community and public service, Murray served as both a State Senator from Newport and member of the city's School Committee.

Murray was the only woman in the Rhode Island Senate during her years in the State House from 1948–1956.

While there, she sponsored legislation to abolish wage differences based on gender and for equal pay for teachers throughout the State. She also introduced a bill making it easier for a parent to get child support if a former spouse leaves the State, and another that led to the creation of State facilities for the care and treatment of alcoholics.

In 1956, Murray was sworn in as the State's first female superior court judge. She became the first female chief judge of the superior court in 1978, and when she was elected by the General Assembly to the State Supreme Court in November 1979, she became the first woman on that bench. She authored more than 500 opinions during her time on the Supreme Court before retiring in 1996.

Supreme Court Justice Maureen McKenna Goldberg, who was appointed to Murray's seat on the high court upon her retirement, praised her "for having broken down so many barriers that were previously closed to women. I believe her greatest accomplishment is that, before she boldly marched into uncharted territory, she paused, turned around and beckoned the rest of us to follow."

During her four decades on the bench, Murray displayed an incredible work ethic and modest demeanor. In a 1997 interview with the Providence Journal she spoke about how she approached her job, "I haven't got any special attributes. I just do a job as well as I can do it, and I seek to keep myself well-informed about whatever my field of work is."

When she was not at work, Murray found dozens of other ways to contribute. She was a member of the Rhode Island Heritage Hall of Fame, a recipient of a Citizen of the Year Award from the Rhode Island Trial Lawyers Association, and a Judge of the Year Award from the National Association of Women Judges.

The American Bar Association honored her in 2002 for pioneering work, in the late 1950s, that led to the establishment of Rhode Island's Family Court.

She served on numerous judicial and civic boards over the years, among them, Salve Regina College and Bryant College and she founded the Newport Girls Club.

In her retirement, Murray was appointed by President Clinton to serve on the board of directors of the State Justice Institute and remained active in National Judicial College affairs.

Murray was honored in 1990 when the Newport Court House was renamed the Florence K. Murray Judicial Complex. It was an excellent and fitting way to honor a great woman.

And when we honor Justice Murray, we must remember to honor the greatness of her achievements. Not because she was a woman, but because her accomplishments were spectacular for any person, man or woman.

My deepest condolences go out to her friends and family, especially her son, Paul. Justice Murray was an incredible woman who was bound by no barriers. She was a patriot and a pioneer, a public servant and a mother. In her quest to improve herself, she improved the world around her. We will miss her dearly.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, are we on particular legislation at this moment?

The PRESIDING OFFICER. We are on a motion to recommit S. 1637, the JOBS bill.

Mr. CRAIG. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE ACT

Mr. CRAIG. Mr. President, I have come to the floor, as my colleague from Illinois did a few moments ago, to talk about the USA PATRIOT Act and where we are with this issue that the American people have recognized as important for a variety of reasons.

We all know that following the attack on American soil on September 11, 2001, we produced the USA PATRIOT Act to allow the law enforcement and intelligence communities of this country to move forward and do a variety of things. For the first time, we stepped into some arenas of law that many citizens of our country looked at at the time and said, be careful if you go there for you may well be intruding upon what are fundamental and constitutional rights of privacy with the American people.

I voted for the PATRIOT Act at that time, and I did so speaking to the fact that I thought it was necessary that we move expeditiously to allow our law enforcement community to operate for the purpose of national security. I said at that time that this was not a perfect law. In fact, 253 communities and 37 States later, representing approximately 43.5 million people, have passed resolutions opposing or expressing concern about the PATRIOT Act. Groups as politically diverse as the ACLU and the American Conservative Union endorse changes in the law.

In his State of the Union Address, the President called for reauthorization of the PATRIOT Act. Given the bipartisan opposition to the law at this moment as it currently stands, there are many of us who believe it is necessary to make some adjustments in the law as we move toward reauthorization. Congress, in fact, made oversight of the PATRIOT Act implicit by sunsetting over a dozen sections of the bill at the time of its passage.

The Senator from Illinois and I drafted S. 1709 with this oversight in mind. It was drafted to clarify and amend in a minor way the PATRIOT Act's most troubling provisions so that the whole or even piecemeal repeal of the law would be unnecessary. It was drafted to safeguard the liberties of law-abiding citizens while preserving the law enforcement authorities essential to a successful war on terror.

Late last month, however, the Department of Justice issued a letter objecting to the very legislation, objecting to it before there had even been a hearing on it. Specifically, they objected to the SAFE Act on grounds that it would "eliminate" some PATRIOT tools and even "make it more difficult" to fight terrorism than before enactment of the PATRIOT Act.

Let me be emphatic: the SAFE Act in no way repeals any provision of the PATRIOT Act, nor impedes law enforcement's ability to investigate terrorism by amending pre-PATRIOT Act law. My name would not be on a bill that accomplished those things.

What the SAFE Act does do is clarify and slightly modify several provisions, particularly those related to the use of surveillance and the issuance of search warrants, to restore the judicial oversight requisite to healthy law enforcement.

Specifically, the SAFE Act would impose two reasonable safeguards on the use of roving wiretaps for intelligence purposes.

Before the PATRIOT Act, roving wiretaps were only permitted for criminal, not intelligence, investigations. The PATRIOT Act authorized the FBI to use roving wiretaps for intelligence purposes for the first time.

The Intelligence Authorization Act of 2002 further permitted the FBI to obtain "John Doe" wiretaps in an intelligence investigation without specifying either the target or the location of the wiretap.

Law enforcement is only required to provide a physical description of the target, such as 5'7", Middle Eastern descent or something else equally as vague, so as to, in my opinion, be meaningless. In order to protect the private conversations of people wholly unrelated to the investigation, the SAFE Act simply requires that law enforcement specify either the target or the location of the wiretap and ascertain the presence of the target before initiating the surveillance.

Far from eliminating the roving wiretap, S. 1709 only makes the requirements for a roving wiretap for intelligence surveillance conform to the requirements for roving wiretaps under the criminal code. Does this tie law enforcement's hands in the way the Justice Department so described it? Hardly so.

In the case of sneak-and-peek warrants, before the PATRIOT Act, there was no statutory authority for delayed notice warrants for physical evidence, although covert searches of oral and wire communications for intelligence purposes were allowed. The Supreme Court never ruled on the constitutionality of sneak-and-peek warrants for physical evidence, and the Federal circuit courts were divided on the issue.

Despite this, the PATRIOT Act granted Federal law enforcement broad authority to obtain sneak-and-peek warrants for physical evidence where a court finds "reasonable cause" that providing immediate notice of the warrant would have an adverse result, including seriously jeopardizing an investigation or unduly delaying a trial,"—a very broad standard.

The SAFE Act, our amendment to the PATRIOT Act, reasonably limits when a court may issue a sneak-and-peek warrant for physical evidence to situations where notice of the warrant would:

(1) endanger the life or physical safety of an individual;

(2) result in flight from prosecution; or,

(3) result in the destruction of or tampering with evidence sought under the warrant.

Though the Department of Justice argues that scenarios such as a suspect's associates fleeing, going into hiding, or accelerating their plots would be excluded from the sneak-and-peek authority, these clearly fall within the reasonable limits of the SAFE Act.

The Department of Justice also misrepresents the authority of the sneak-and-peek provision when it says that the SAFE Act would "restrict the ability of courts to extend the period of delay" for a delayed-notice warrant. Although S. 1709 requires notice of a covert search within 7 days rather than a reasonable period, it authorizes unlimited 7-day delays if the court finds that notice of a warrant would continue to endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.

Far from restricting the courts, the SAFE Act restores what I believe is the proper level of judicial oversight in the process.

I believe the Department of Justice also misrepresented the modifications the SAFE Act would make to section 215 of the PATRIOT Act, which permits law enforcement to obtain a vast array of business records with minimal judicial oversight.

Before the PATRIOT Act, FISA search orders were available for only certain travel-related "business" records—not library or personal records—where the FBI had "specific and articulable facts" connecting the records to a foreign agent.

These orders are available for any and all records, including library records, by simply certifying that the records are sought for an international terrorism or intelligence investigation, a standard even lower than relevance. The court does not even have the authority to reject this certification under current law.

Though the Department of Justice describes the SAFE Act standard as a "much more rigorous" standard, FISA search orders would still be available for any and all records, but only when the FBI has "specific and articulable facts" connecting the records to a foreign agent.

Far from "raising the standard" to a new level, S. 1709 reinstates the proper pre-PATRIOT standard for obtaining a FISA order for business records, and even maintains the PATRIOT Act's expanded definition of business records.

Likewise, the Department of Justice argues that section 5 of the SAFE Act would impose an "entirely new limitation" on the use of National Security Letters.

Before the PATRIOT Act, the FBI could issue a National Security Letter to obtain personal records by certifying that it had reason to believe that the person to whom the records relate is a foreign power or agent of a foreign power.

Current law allows the FBI to obtain sensitive personal records, without judicial approval, simply by certifying that they are sought for a terrorism or intelligence investigation, regardless of whether the target is a suspect.

While national security letters are only to be used to obtain name, address, length of service, and local and long distance toll billing records, available information indicated that the Justice Department is using them to obtain other kinds of records, including library records. Contrary to the assertions of the Department of Justice, the SAFE Act maintains the greatly expanded definition of "financial records," and even makes such records available without individual suspicion. S. 1709 only reasonably exempts libraries and Internet terminals from National Security Letter orders.

While I am disappointed that the Administration has expressed disagreement with the SAFE Act, I view this as an opportunity to increase the public discussion on one of the most important issues of the day.

I know Attorney General John Ashcroft. John and I are personal friends. I am not worried about how John Ashcroft will enforce the law. But administrations change. The law lasts, and it is imperative that it embodies a smooth balance of liberty and justice.

I am not seeking to repeal any provision of the PATRIOT Act but rather to salvage it by making necessary, albeit minor, amendments to it in order to safeguard individual liberties while preserving the very important law enforcement authorities it grants. Privacy is a hallmark of our constitutional system—the right of the individual within that system—and what we attempt to do by the SAFE Act, S. 1709, is to assure that when we reauthorize the PATRIOT Act, we guarantee that those rights are preserved.

I yield the floor.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator CRAIG and Senator DURBIN in calling for hearings on this important legislation to amend the PATRIOT Act.

After the vicious attacks of September 11, there was a broad consensus in Congress about what needed to be done. We all recognized the need to give law enforcement and intelligence officials stronger powers to investigate and prevent terrorism, to provide officials with effective ways to stop terrorists from entering our country, and to achieve greater coordination between the law enforcement and the intelligence communities. At the same time, we understood the critical importance of protecting the basic rights and liberties of our citizens and others residing legally in the United States and maintaining America's long tradition of welcoming immigrants from around the world.

The challenge we faced, then as now, was how to strike the right balance between law enforcement and civil liberties.

Many of us were concerned that some of the changes initially requested by the administration did not strike the right balance. We made significant improvements to the PATRIOT Act during Senate negotiations, but we also recognized the need to follow the implementation of these new powers carefully. That is why the 4-year sunset provision is such an important part of the legislation. By passing the sunset provision, Congress committed itself to revisiting the PATRIOT Act after 4 years, in a non-election year, and making a new and better-informed assessment of which powers should be retained, which should be revised, and which should be eliminated.

Since the enactment of this law, there has been increasing bipartisan concern about its effect on civil liberties in this country. Two hundred fifty-seven communities in 38 States representing over 40 million citizens, have passed resolutions opposing or expressing concern about the PATRIOT Act.

Clearly, we must do more to protect the basic rights and civil liberties of law-abiding Americans. The bipartisan Security and Freedom Ensured Act is narrowly written to correct some of the PATRIOT Act's most controversial provisions: it would protect innocent people from surveillance, by requiring "roving wiretap" warrants to identify either the target of the wiretap or the place to be wiretapped; it would impose reasonable limits on the Government's ability to carry out "sneak and peek" search warrants, by requiring notice of such a covert search to be given within 7 days after the search, unless the notice would endanger a person's life or result in the destruction of evidence or a suspect's flight from prosecution; and it would protect library and bookstore records from "fishing expedition" searches of the records, while still allowing the F.B.I. to follow up on legitimate leads.

None of these changes would amend pre-PATRIOT Act law in any way. None would impede the ability of law enforcement and intelligence officials to investigate and prevent terrorism. To the contrary, the SAFE Act would retain the expanded powers created by the PATRIOT Act, while restoring the constitutional safeguards that are indispensable to our democracy. These safeguards are a continuing source of our country's strength, not luxuries or inconveniences to be jettisoned in times of crisis.

Unfortunately, the administration does not agree. Our proposal has not yet received a hearing in the Judiciary Committee, yet the administration has already threatened to veto it. Rather than comply with the sunset provision specifically written into the PATRIOT Act itself, President Bush has sought to make an election-year issue out of it by calling on Congress to reauthorize the Act now. Rather than seek to promote understanding, the Attorney General and other officials have chosen to defend the PATRIOT Act by speaking only before audiences sympathetic to their views. In Boston and other cities, citizens with questions and concerns about the PATRIOT Act have been shut out.

I urge my colleagues not to accept this cynical election-year strategy. In the House, Chairman SENSENBRENNER has rejected calls for reauthorizing the PATRIOT Act this year, and we should do the same in the Senate. We should conduct additional hearings in the Judiciary Committee on the many important civil liberties issues that have been raised since September 11, including the administration's unprecedented and troubling "enemy combatant" policy, under which U.S. citizens are incarcerated without counsel or judicial review. Attorney General Ashcroft should appear to defend these and other policies. And we should hold hearings specifically on the bipartisan SAFE Act proposed by Senator CRAIG and Senator DURBIN.

We should also hold hearings on the need for legislation to protect the civil liberties of immigrants. The detention provisions in the PATRIOT Act have led to the unfair detention of innocent people. Massive registration programs have fingerprinted, photographed and interrogated over 80,000 innocent Arab and Muslim students, visitors, and workers. "Voluntary interview" programs have made criminal suspects out of Muslims legally residing in the U.S. In our pursuit of terrorist suspects, our Government cannot be allowed to ride roughshod over the basic rights and liberties of immigrants.

In a speech in 1987, Justice William Brennan observed that the United States had repeatedly failed to preserve civil liberties during times of national crisis—from the Alien and Sedition Acts of 1798, to the internment of Japanese Americans during World War II—only to later realize "remorsefully . . . that the abrogation of civil liberties was unnecessary." As we continue to face the crisis of terrorism today, we should do all we can to avoid the errors of the past. The administration and Congress should work together in a spirit of bipartisanship and shared purpose, to bring terrorists to justice, to enhance our security, and to preserve and protect our Constitution.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Pennsylvania is recognized.

PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT

Mr. SPECTER. Madam President, I support legislation which would address certain serious problems faced today by doctors, hospitals, and other medical professionals who provide obstetrical and gynecological services and emergency or trauma care services, and at the same time provide balance to fairly treat people who are injured in the course of such medical treatment.

While most of the attention has been directed to OB/GYN and ER malpractice verdicts, the issues are much broader involving medical errors, insurance company investments, and administrative practices.

I support caps on noneconomic damages so long as they do not apply to situations such as the paperwork mixup leading to the double mastectomy of a woman or the death of a 17-year-old woman in a North Carolina transplant case where there was a faulty blood type match, or comparable cases in OB/GYN or the ER trauma services area.

An appropriate standard for cases not covered could be analogous provisions in Pennsylvania law which limit actions against governmental entities in the limited tort context which exclude death, serious impairment of bodily functions, and permanent disfigurement or dismemberment.

Beyond the issue of caps, I believe there could be savings on the cost of OB/GYN or ER trauma malpractice insurance by eliminating frivolous cases by requiring plaintiffs to file with the court a certification by a doctor in the field that it is an appropriate case to bring to court. This proposal, which is now part of Pennsylvania State procedure, could be expanded federally, thus reducing claims and saving costs.

While most malpractice cases are won by defendants, the high cost of litigation drives up malpractice premiums. The proposed certification would reduce plaintiffs' joinder of peripheral defendants and cut defense costs.

Further savings could be accomplished through patient safety initiatives identified in the report of the Institute of Medicine.

On November 29, 1999, the Institute of Medicine issued a report entitled "To Err Is Human: Building a Safer Health System." The IOM report estimated that anywhere between 44,000 and 98,000 hospitalized Americans die each year due to avoidable medical mistakes. However, only a fraction of these deaths and injuries are due to negligence. Most errors are caused by system failures.

The Institute of Medicine issued a comprehensive set of recommendations, including the establishment of a nationwide mandatory reporting system, incorporation of patient safety standards in regulatory and accreditation programs, and the development of a nonpunitive culture of safety and health care organizations. The report called for a 50-percent reduction in medical errors over 5 years.

The Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I chair, held three hearings to discuss the Institute of Medicine's findings and explore ways to implement the recommendations outlined in the IOM report. For fiscal year 2001, the subcommittee bill contained $50 million for a patient safety initiative and directed the Agency for Health Care Research and Quality to develop guidelines on the collection of uniform error data; establish a competitive demonstration program to test best practices, and to research ways to improve provider training. In fiscal year 2002 and 2003, $55 million was included to continue these initiatives. In this year, fiscal year 2004, we increased the amount provided for patient safety to $79.5 million.

We have received an interim report informing us the creation of a positive safety culture at hospital and health care facilities in which employees believe they would not be punished for reporting errors has caused reporting rates of such errors to increase. The emerging positive culture also includes the involvement of key leaders, both administrative and clinical, in patient safety procedures. This has helped professionals move ahead to improve patient safety and the establishment of patient safety committees, development and adoption of safe protocols and procedures and enhanced technology as a tool where carefully implemented to reduce errors and approve safety, for example, through the use of computerized physician order entry.

There is evidence that increased OB/GYN and ER trauma insurance premiums have been caused at least in part by insurance company losses, the decline in the stock market of the past several years, and the general ratesetting practices of the industry. As a matter of insurance company calculations, premiums are collected and invested to build up an insurance reserve where there is considerable timelag between the payment of the premiums and litigation which results in a verdict of settlement. When the stock market has gone down, for example, that has resulted in insufficient funding to pay claims and the attendant increase in insurance premiums. A similar result occurred in Texas on homeowners insurance where cost and availability of insurance premiums became an issue because companies lost money in the market and could not cover the insured losses on their accounts.

In structuring legislation to put a cap on jury verdicts, due regard should be given to the history and development of trial by jury under the common law where reliance is placed on average men and women which comprise a jury to reach a verdict resulting from the values and views of the community.

Jury trials in modern tort cases descend from the common law jury trial in trespass, drawn from and intended to be representative of the average members of the community in which the alleged trespass occurred. This coincides with the incorporation of negligence standards of liability into trespass actions.

This representative jury right in civil actions was protected by consensus among the State drafters of the United States Constitution's Bill of Rights. The explicit trial-by-jury safeguards in the seventh amendment to the Constitution were an adaptation of these common-law concepts harmonized with the sixth amendment clause that local juries be used in criminal trials. Thus, from its inception in common law through inclusion in the Bill of Rights today, the jury in tort negligence cases is meant to be representative of the judgment of average members of the community, not of elected representatives.

The right to have a jury trial to decide one's damages has been greatly circumscribed in recent decisions by the U.S. Supreme Court. An example is the analysis the Court has recently applied to limit punitive damage awards. In recent cases, the Court has shifted its seventh amendment focus away from two centuries of precedent in deciding Federal appellate review of punitive damage awards will be decided on a de novo basis and a jury's determination of punitive damages is not a finding of fact for purposes of the reexamination clause of the seventh amendment which provides "no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

Thus, in the year 2003, the Court reasoned that any ratio of punitive damages to compensatory damages greater than 9 to 1 would likely be considered unreasonable and disproportionate, although that is subject to certain exceptions and constitutes an unconstitutional deprivation of property in nonpersonal injury claims. Plaintiffs will inevitably face a vastly increased burden to justify a greater ratio and appellate courts have far greater latitude to disallow or reduce such awards, although increased awards can be permitted under the Supreme Court decision. These decisions may have already, in effect, placed caps on some jury verdicts in malpractice cases which may involve punitive damages.

Consideration of the many complex factors on the Senate floor on the pending legislation will obviously be very difficult in the absence of a markup in committee or the submission of a committee report and a committee bill. The pending bill is the starting point for analysis, discussion, debate, and amendment. I am prepared to proceed with the caveat there is much work to be done before the Senate would be ready, in my opinion, for the consideration of final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I wish to speak as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE ACT

Mr. SUNUNU. Madam President, I rise to speak on the issue of the PATRIOT Act and to follow up on the remarks earlier this afternoon by Senator CRAIG of Idaho. I have joined Senator CRAIG in cosponsoring the SAFE Act, a piece of legislation that would make certain modifications to the PATRIOT Act. I will not go into all of the details of the legislation, as Senator CRAIG did. However, I do want to highlight a couple of the main provisions of the legislation to outline our thinking in crafting these provisions and underscore why I think we need to take a step back, look at the PATRIOT Act in its totality and try to make it work better and try to strike a better balance the protection of the civil liberties we all cherish as Americans and the tools we do believe are necessary for law enforcement and intelligence agencies to conduct the war against terror.

It is unfortunate some people have come out with a knee-jerk reaction calling for the repeal of the PATRIOT Act. Before the PATRIOT Act our laws did not reflect or foresee a day and age with cellular phones, satellite phones, and a high-speed Internet. There are a lot of very important provisions of the PATRIOT Act that do update our law enforcement capabilities in a way that reflects changes in technology. Protecting civil liberties while giving law enforcement the ability to operate as technology and new threats to our security emerge is critical to winning the global war on terror.

We can draw an appropriate line to protect civil liberties in a few specific areas. First, let's look at sneak-and-peek warrants, or a delayed notification search warrant. Senator CRAIG spoke at length about the provision in the SAFE Act that would modify the PATRIOT Act to say instead of requiring notification within a reasonable amount of time, which is clearly an arbitrary definition. Instead, we ought to have a set time limit that notification of a search warrant executed without notice has to be provided within 7 days of the execution of the warrant.

Now, if there is a threat to safety, or risk of flight, or a risk of damage to the investigation, the SAFE Act allows law enforcement officials to go back to the judge and extend that notification another 7 days. And that can continue indefinitely. This approach—specifying a time limit on the warrant and providing for more judicial review—is much clearer and more respectful of civil liberties. For anyone to suggest adding clarity in the law for notification undermines the capacity of law enforcement to continue to do their job, I think, is a level of rhetoric that does not serve an important debate such as this very well.

Second, we added clarification to the provision in the PATRIOT Act that deals with a roving wiretap. The SAFE Act would require law enforcement to specify either the suspect to be put under surveillance through a roving wiretap—an order that follows that suspect as they use different cell phones, and other means of communication—or specify a particular location to be monitored. Specify the suspect or specify the location. Changing the PATRIOT Act to require such specification would add clarity to ensure the PATRIOT Act is not misused and minimizes the likelihood that innocent parties would be unknowingly tapped. And again, such a change would only improve the PATRIOT Act as it would protect those who are not targets of investigation but it still give law enforcement the ability to conduct this kind of a roving wiretap.

Third, another provision of the SAFE Act applies sunset provisions to a number of different sections of the PATRIOT Act that do not sunset over time. When we talk about a sunset provision in the U.S. Congress, we are talking about a specific period during which the legislation is in force, but after that period—it might be a 2-year or 3-year or 4-year period—the law sunsets, and it needs to be reenacted or reauthorized by Congress.

I think sunsets are healthy. They are good because they force Congress to rethink and reargue a piece of legislation and examine how the legislation has been used and problems that might exist with it. I think we are much more likely to make improvements to legislation if we have to reauthorize it at different periods in the future.

I do not understand why anyone would say a sunset provision weakens legislation. It does not. It simply requires us to renew them at a future date. I do not know why law enforcement would be afraid of a sunset provision. I do not know why the Justice Department would be afraid of a sunset provision. If there is value to the law, it is helping law enforcement do their job, and all the while it is appropriately protecting civil liberties, the law will be reauthorized and improved over time.

I cannot think of any reason the provisions of the SAFE Act that add clarity to the time frame for notification and judicial review of a sneak and peak warrant, that add specification to the person or place targeted for a wiretap, or that sunset provisions to a law—should be opposed on the grounds that they somehow threaten our ability to conduct the war on terrorism. Quite to the contrary, the provisions of the SAFE Act go a long way toward ensuring individual civil liberties are protected, that the ability to misuse or abuse the law is minimized, that law enforcement continues to have what it needs to prosecute the war on terrorism and that Congress has to affirm and reauthorize legislation over time. I only see the SAFE Act as strengthening the PATRIOT Act.

So I join with Senator CRAIG, Senator DURBIN, Senator FEINGOLD, Senator CRAPO, other members of the Senate and the wide range of citizen groups who have all endorsed and supported the SAFE Act. I hope when we begin deliberations and discussions about renewing and extending the PATRIOT Act, these substantive yet modest, thoughtful modifications are a vital part of that debate that is undertaken in this Chamber.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, what is the pending business?

The PRESIDING OFFICER. The motion to recommit the JOBS bill is pending.

Mr. DAYTON. Thank you, Madam President. I will speak to that motion, please.

Madam President, today, we voted actually a second time on that motion to invoke cloture to recommit this pending bill to the Finance Committee—a vote that failed. So, in other words, we essentially voted not to recommit the bill to the committee of origin.

I emphasize that fact because in my State of Minnesota Democrats are being accused of blocking action on this bill. That simply is not true. We are ready and willing to act on this legislation right now, in fact, as we were last week before it was pulled off the floor by the Republican leader.

So people watching might ask themselves, why was it pulled back then? Why have we been faced with these repeated attempts to send the bill back to committee? The reason is because the Republican caucus does not want to have to vote on the pending amendment, which is the Harkin amendment, which would protect the rights to overtime pay for some 8 million Americans—police officers, firefighters, nurses, laborers; hard-working Americans who want to continue to receive overtime pay when they work their extra hours, whether it be for the sake of public safety, whether it is needed to fill shifts on hospital wards in order to keep them open to patients, or whether it is in order to earn extra income to improve their own lives and the lives of their families.

These 8 million Americans are not asking for any special favors, such as are provided in the underlying bill. They are not trying to get special tax breaks or avoid paying taxes on their foreign income, as are the beneficiaries of the underlying bill. They simply want to be able to earn the American dream, by working harder, by working longer hours, paying their taxes but then coming out ahead because of the overtime provisions.

But this administration has said no, the same administration that wants to eliminate taxes on so-called unearned income, dividend income. They settled for cutting the rate in half but wanted to eliminate it initially. In other words, they want to make not working more lucrative and also want to make working harder less lucrative.

Now, what kind of family value is that? You work more and you earn less because the Bush administration cares more about the corporations that want to add to their profits by paying their workers less money. That is why they moved millions of American jobs overseas. That is why they have eliminated millions of American jobs.

Madam President, 8.5 million of our fellow Americans are out of a job today. And now these same corporations, which have, by the way, been enjoying record high-profit increases in each of the last 2 years, want to make even more money by paying less money to the people who are still working. And the administration is going to help them do it.

In fact, the Secretary of Labor unilaterally, by herself, revoked the overtime benefit protections for 8 million Americans. We, their elected representatives, are not even being allowed to vote on that matter to express our approval or disapproval—in this case, my strong disapproval—of that revocation of their overtime benefit protections.

Why not? Why can't we vote on protecting 8 million American workers? Well, the Republican Conference leader said: Where is the discernible gain to our Members from voting on this and other Democratic amendments?

I don't know about the gain to colleagues who don't want to support overtime pay, but I will tell you about the gain or the loss to those 8 million American workers, depending on whether this measure passes or fails.

That is their overtime pay that has been taken away by the unilateral action of the Secretary of Labor. That is their earned income that has been taken away. That is their new home, their college education, family vacation, prescription drugs they need to buy for elderly relatives.

We in the U.S. Senate are being denied even the right to vote because it is politically inconvenient for some of the Republican caucus.

There is also a huge gain or loss for millions of other Americans who are out of work by the fate of another Democratic amendment to extend unemployment benefits to the 1.1 million Americans who have exhausted theirs at the present time. That number includes an estimated 20,000 of my fellow Minnesotans. They are also hard-working men and women who, through no fault of their own, lost their jobs and have been looking for work and unable to find it in the terrible jobs climate of the last couple years.

Two-thirds of those out-of-work adults have children. An estimated 622,000 children are affected in those families that have exhausted their unemployment benefits. When that happens, it is estimated that over two-thirds of those families lose their health coverage, so the children do not have health care coverage any longer. Over half those families, it is estimated, fall below the poverty level as a result of losing their unemployment benefits. It is unbelievably heartless and cruel to deny them this extension. Yet again we are unable to get a vote in the Senate on extending unemployment benefits to those Americans.

Since we are unable to get these votes on our amendments to this JOBS Act, you might ask yourself, what is so precious about this bill, what is so perfect about it that the leader is denying us a chance to change it in any way? You would naturally assume that because it is called the JOBS bill, it is about actually providing jobs to fellow Americans, but that is not the case.

This is about providing $114 billion in tax breaks to large and mostly profitable American corporations, to very wealthy American investors. Thirty-nine billion of these tax breaks would go to their foreign business operations to allow them to reduce taxes paid in this country on foreign profits, to allow them to postpone the payment on earned income abroad; in other words, to provide them with additional tax breaks for expanding their foreign business operations and providing jobs overseas.

Some of those jobs might in fact be American jobs taken away from people in this country and sent elsewhere or they might be jobs that are going to be created through an expanded business operation that could have been created here in the United States except for the advantages of doing so elsewhere—meaning again that foreign workers get those jobs rather than Americans at a time when we have 8.5 million Americans who are out of work and another million and a half Americans who are so-called marginally attached to the labor force, who have given up looking for work, and another 4.5 million Americans who are working part time not by choice but because it is the only work they can find.

In other words, over 10 percent of our workforce is either unemployed or underemployed right now, and we are providing foreign tax breaks worth $39 billion, additional foreign tax breaks, in this measure to these companies or to the investors in them.

I will have an amendment I will offer that would address this matter and take these foreign tax breaks out of the bill, because if we are going to provide tax incentives, as other parts of the bill do, let's at least provide those incentives to American companies for producing jobs in the United States. Let's tie every single one of the tax advantages in this legislation to the provision of new jobs, ideally manufacturing jobs but provable new or additional jobs in the United States to Americans now, not as the measure provides for tax breaks that are going to accelerate in the years 2009 to 2012. Those are not going to result in the creation of new jobs in this country now. We are giving tax advantages to companies, some of which can certainly benefit from it, but many have been part of the 20-percent increases in corporate profitability in each of the last 2 years.

I am glad American corporations are profitable. We need them to be profitable in order to create jobs. But the fact is that at least in the manufacturing sector—and up until now in just about any other sector—improved profitability has not resulted in new job creation in the last couple of years. It didn't result in new job creation last month. So if we are going to provide tax reductions for U.S. manufacturing companies or anyone else, let's make darn sure those reductions are going to result in jobs, the creation of new jobs or the adding of jobs where formerly people had been laid off or cut back. Let's translate those tax breaks into what this bill calls itself, a JOBS Act, jobs for Americans.

Finally, I want to address the fact that as part of this gambit today to supposedly recommit the bill to the committee where it already was referred out, one of the ways in which we were supposedly going to be induced to do so was some part of the former Energy bill, we were told, was going to be added to the bill that reappeared out of the Finance Committee. I appreciate very much the work that has been done by that committee, in particular by Chairman GRASSLEY of Iowa, who has been stalwart in terms of providing additional tax incentives for energy production, particularly the biofuels, ethanol, and biodiesel fuels. He was instrumental also in changing the formula on the highway trust fund that penalized States such as Minnesota for their ethanol consumption. I would like to join with the majority leader and others who would like to advance this Energy legislation forward.

Since the bill was not recommitted to the Finance Committee, I have drafted an amendment I intend to introduce to add some of the energy provisions to the pending bill, ones that would reinstate the renewable fuels standard Senator DASCHLE, the Democratic leader, was instrumental in adding and keeping through the conference committee a year ago, legislation to expand the American consumption of ethanol and biodiesel fuels over the next 10 years, the electric reliability section, which is beneficial to smaller utilities throughout Minnesota and elsewhere in the Nation, and then the package of tax incentives which Chairman GRASSLEY, ranking member BAUCUS, and others voted out of the Senate Finance Committee that provide alternative fuel incentives, the small ethanol producer tax credit, the tradability of these credits by those co-ops and others that otherwise can't take advantage of them, the tax credit for biodiesel that parallels the credit provided for ethanol production.

These are important measures that would do what the bill itself purports to do, which is to add jobs and provide enormous economic benefits to a State such as Minnesota, to farmers in terms of income, to the production plants for ethanol and biodiesel fuels.

Those are real jobs amendments, real jobs provisions, those that are going to provide tax credits for business activities, those that are going to result directly in additional jobs for America and in an alternative fuel for America that can reduce our dependence on foreign oil; that can take some of the $115 billion a year we send out of the country to foreign countries such as Saudi Arabia and elsewhere to import foreign oil into this country; $115 billion that, if it were going into the pockets of American farmers and multiplying those dollars throughout communities, would result in an economic revitalization of rural America the likes of which we have not seen in decades and which we couldn't create any other way, not through all the Government programs you want to imagine, just through the free market, through increased profitability for American agriculture, through the creation of cleaner burning fuels that are available right now and could be produced right now in quantities to significantly replace the gasoline that is consumed all over this country.

That is a real jobs amendment, one I will be introducing and hope we can consider as part of the JOBS Act, so we can make that bill live up to its name, one that will actually provide jobs for Americans rather than corporate tax giveaways for those who don't need them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Madam President, I want to comment on the remarks of the Senator from Minnesota this evening before the Senate and indicate many of us who voted against the Harkin amendment were also as concerned about some of the things the Senator of Minnesota talked about, in terms of the benefits that accrued to working men and women in the United States of America.

I made it clear at that time, when I voted against the Harkin amendment, I felt the Department of Labor should be able to move forward with their recommendations on a law that hasn't been changed since 1978, and that if what my colleagues on the other aisle have indicated is true, many of us would join them in having those rules overturned by the Members of the Senate.

I am pleased to say those rules have been finished by the Department of Labor and they are now at OIRA, which is in the Office of Management and Budget, being reviewed by John Graham. I am hopeful they will be back to the Department of Labor within the next 30 days, so we will know specifically what it is those rules are going to recommend in terms of changes in the law. Hopefully, they are not going to reflect what I have heard on the floor of the Senate over the last couple of months about eliminating overtime for 8 million workers.

The other thing I want to point out is there are many of us on this side of the aisle who are very much in favor of extending unemployment benefits, and I joined with many colleagues to try to get cloture on that amendment several weeks ago. I hope in the next couple of weeks we will be able to get that passed on the Senate floor. There are hundreds of workers in my State—and I am sure also in Minnesota—anxiously waiting for those benefits. In my State, we have too many people who are unemployed. Quite frankly, too many people in my State are worried about whether they are going to have a job. So some of the things the Senator talked about, I hope, will be dealt with during the next couple of weeks.

Mr. DAYTON. If the Senator will yield, I thank the Senator for the update on the overtime situation. I look forward to improved provisions from the Secretary of Labor. I thank the Senator also for his involvement and support to extend unemployment benefits. I know people in his State of Ohio, my State of Minnesota, and many States desperately need that. So I thank him.

Mr. VOINOVICH. Madam President, I also share the Senator's enthusiasm about the ethanol guarantee in the Energy bill. There are many other provisions in that bill many of us are concerned about. I think it represents the first real energy policy this country has had. Again, hopefully, we can work it out so that can get done along with the other provisions. He is right; that bill has some real job-creation aspects to it, particularly in the area of ethanol. We have several companies now that are thinking about building ethanol plants in Ohio, and I think one of the things the American public doesn't understand is it is going to provide less reliance on foreign oil and, in addition, it will limit some of the environmental problems we have from gasoline, with some other very good and important aspects to all of our brothers and sisters.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

(The remarks of Mr. VOINOVICH pertaining to the introduction of S. 2292 are printed in today's RECORD under "Introduction of bills and joint resolutions.")

Mr. VOINOVICH. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECURITY AND FREEDOM ENSURED ACT

Mr. FEINGOLD. Madam President, I join my colleagues Senators CRAIG and DURBIN in urging the administration and Congress to support the SAFE Act. The SAFE Act is a much needed bill that amends a few provisions of the USA PATRIOT Act in a reasonable way to preserve our constitutional rights and protections while still protecting our Nation against terrorism.

More than 2 years after the PATRIOT Act passed so overwhelmingly, without close scrutiny by Congress, I am delighted that there is now growing support for close examination of application of the law and for changes to the law to ensure that, as we fight terrorism, we also protect the civil liberties of Americans.

There is reason for hope. In Congress and in communities across the country, the American people are beginning to realize that the PATRIOT Act went too far.

In Congress, there is bipartisan support for changes to the law. I am pleased to join my Republican colleagues, Senators CRAIG, CRAPO, SUNUNU, and MURKOWSKI, as a cosponsor of the SAFE Act.

Over 275 communities and four States have now passed resolutions expressing opposition to certain provisions of the PATRIOT Act.

Mr. President, the attacks of September 11, 2001, presented a new and unique challenge to this country. I can think of nothing more important than responding to that terrible challenge and protecting Americans against terrorism. As I said during debate on the PATRIOT Act and continue to say today, I believe most of the Act's provisions were necessary and proper, such as increasing the number of border patrol agents and allowing the FBI access to voicemails as a part of wiretaps.

But we must be sure that, in conducting the fight against terrorism, the country's highest priority, we also respect the civil rights and liberties of all Americans. History shows that

America should not let fear, however justified, cause us to sacrifice our liberty or the liberty of others in the name of national security. The Palmer raids, the McCarthy hearings, the internment of Japanese-Americans, these are all events that have been judged poorly through the lens of history. Today, we are again faced with a grave threat but we can and must face it without potentially abusing the power of the Federal Government or trampling fundamental constitutional rights and protections.

I am pleased that Members of Congress and the American people are beginning to realize the values at stake. There is healthy debate across the country in city councils, State legislatures, town hall gatherings, and in Congress, on how best to preserve a free and open society and to protect our Nation against future terrorist attacks.

In contrast, the administration does not seem interested in engaging in a good faith dialogue with the American people and Members of Congress about our legitimate concerns and reasonable proposals.

Instead, the President has prematurely called for lifting the sunset on certain provisions of the PATRIOT Act that are due to expire. Congress has a responsibility to exercise oversight and demand accountability from the agencies using authority granted to them by Congress. Nearly 2 years before some provisions of the PATRIOT Act will sunset, the administration should be engaging in good faith discussions and negotiations on how it is using the powers it has and how best to protect our country from terrorism while also protecting the civil liberties of our citizens.

I am pleased that both Senator HATCH and Representative SENSENBRENNER, the Chairmen of the Senate and House Judiciary Committees, respectively, have disagreed with the President and have stated that close scrutiny of the PATRIOT Act will be undertaken before Congress will consider lifting the sunset provisions. I commend them for taking this position. It is the right thing to do and the proper role of Congress.

In addition to prematurely calling for lifting the sunset provisions, the administration has already threatened to veto the SAFE Act if it is enacted. That is unfortunate, and very unusual. The administration has issued a veto threat of a bill that was introduced just a few months ago and has not even had a hearing yet. Thousands of bills are introduced each year. The administration could spend a lot of time issuing veto threats for every one it disagrees with. Obviously, it is worried about this one. But veto threats at this early stage do not contribute to a productive dialogue, and they certainly will not deter the growing bipartisan interest in reevaluating the PATRIOT Act.

I would like to take a moment to talk about the SAFE Act and why it is a reasonable proposal.

As my colleagues Senators CRAIG and DURBIN have discussed, the SAFE Act makes important modifications to enhance judicial review of the FBI's roving wiretap and so-called "sneak and peek" search activities.

I would like to comment on another important modification to the PATRIOT Act contained in the SAFE Act, the section 215, or business records, fix.

Prior to the PATRIOT Act, the Government could compel the production of only certain business records in connection with a counter-intelligence or international terrorism investigation, namely, hotel, rental car, airline, and storage facility records. This was a narrow set of records, and so it made sense to change the law. I agree with that change, to allow the FBI access to more categories of business records.

But the PATRIOT Act went too far because it also weakened the ability of the courts to exercise their proper role as a check on the executive branch, and it took away the requirement of individualized suspicion. The PATRIOT Act changed the standards for allowing the FBI access to such records. Prior to the PATRIOT Act, investigators had to state, in their application to the secret FISA court, specific and articulable facts giving reason to believe that the person to whom the records pertained was a suspected terrorist or spy. If a court agreed, it would issue the order.

The PATRIOT Act, however, vastly expanded this power so that investigators no longer have to show "specific and articulable facts." Now, investigators need only state that the records are "sought for" a counter-intelligence or international terrorism investigation. Upon receiving the application for a court order, the judge must—must—issue the order. He or she does not have discretion. The judge cannot review the merits of the request. For example, a judge cannot review facts to determine whether the scope of the request is reasonable. So long as the FBI asserts that the records are "sought for" a foreign intelligence investigation, the judge must issue the order.

The SAFE Act sponsors and I, as well as librarians, privacy advocates, and an increasing number of Americans, believe this provision of the PATRIOT Act goes too far. We recognize that there is enormous potential for abuse if the FBI is allowed access to personal information, such as medical records, library records, or newspaper or magazine subscription records, all with no meaningful judicial review and without a requirement of some showing that the records pertain to a suspected terrorist or spy.

The SAFE Act would simply re-insert a pre-PATRIOT Act standard so that he role of the judge as a check on the executive branch is real and effective. Like the standard prior to the PATRIOT Act, under the SAFE Act the FBI would need to state specific and articulable facts to support its application. The SAFE Act simply restores the judicial oversight that existed prior to the PATRIOT Act, giving the court the power to ensure that the Federal Government is not engaging in a fishing expedition at the expense of innocent Americans. This is a reasonable response to protect both our security and our privacy.

The administration has not shown how this prudent safeguard would harm the fight against terrorism or impair its ability to get access to information it needs to protect the country.

I might add that according to the administration, as of last September, almost 2 years since enactment of the PATRIOT Act, the administration claims it had not yet used section 215 of the PATRIOT Act. It is unclear whether they have used it since that time, and I have recently sent the Attorney General a letter asking him whether it has been used. But regardless of whether it has been used zero times or a handful of times, it is nevertheless difficult to understand how reinserting an important judicial check would harm the fight against terrorism.

I urge the administration to reconsider its position on the SAFE Act. The American people have thoughtfully expressed their fears and wishes. They want the Federal Government to protect them against terrorism, but they also want the Federal Government to be respectful of the Constitution every step of the way.

With passage of the SAFE Act, we can reassure the American people that we are working to protect their rights and liberties, as well as their safety. I urge my colleagues and the administration to support the SAFE Act.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. FRIST. I thank the Chair.

(The remarks of Mr. FRIST and Mr. HATCH pertaining to the introduction of S. 2290 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I will withhold at the request of the leader.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Florida. This will only take a moment, but I yield the floor to accommodate the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I thank our colleague from Florida. He has been sitting patiently. I already interrupted another Senator, but this will be very brief.

Mr. President, over the next few minutes, I want to outline what the plans will be over tonight and tomorrow, briefly.

UNANIMOUS CONSENT AGREEMENT—H.R. 3108

First, Mr. President, I ask unanimous consent that at 11 a.m., on Thursday, April 8, the Senate proceed to the conference report to accompany H.R. 3108, the pension equity bill. I further ask consent that there then be 4 hours equally divided for debate between the two leaders or their designees. Finally, I ask unanimous consent that following the use or yielding back of time, the Senate proceed to vote on adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, tomorrow we will have morning business. We will say more about that. Then at 11 o'clock, we will proceed to this conference report for up to 4 hours. I am not sure we will use that entire 4 hours, but there will be up to 4 hours equally divided on this very important bill, followed by a vote.

On a separate issue we have been addressing all day—actually the last several weeks—the FSC/ETI or JOBS bill, we are making real progress. As mentioned shortly after the vote earlier this afternoon, we are working on a list of amendments, a finite list of amendments, that would be agreed to by both the Democratic side and the Republican side.

We made real progress. I was very hopeful we would be able to, around this time, come back and say: This is the list; this is exactly how we are going to handle it. But we will continue to work over the next several hours and do want to announce that progress. We will have more to say either later tonight but more probably early first thing in the morning.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I want to confirm what the majority leader has reported. I think we have made real progress. We are not quite there, but I think we will be there. I can say, with great pride and satisfaction, I appreciate very much the cooperation of virtually every member of our caucus. I thank them for that cooperation and would hope perhaps by sometime tomorrow morning we will be able to reach an agreement.

I ask the majority leader if he anticipates any more rollcall votes tonight, given where we are with regard to the current schedule.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in response, through the Chair, we will have no more rollcall votes tonight. Assuming we will be able to reach an agreement on a finite list on the FSC/ETI bill, I would expect we would not have votes on Friday of this week either.

Again, I thank our colleague from Florida. That will be the last interruption, I promise.

The PRESIDING OFFICER. The Senator from Florida.

COST OF PRESCRIPTION DRUG BENEFIT

Mr. GRAHAM of Florida. Mr. President, there is a recurring pattern in this town. An issue comes to our attention. It is red hot. It creates a great deal of controversy. Two months later it is forgotten. My effort tonight is going to be to resurrect one of those issues because I think is it not only extremely important, but it is also urgent that we give it attention.

The issue is the administration's cost estimate of the Medicare Modernization and Improvement Act and the circumstances surrounding the failure to release that cost estimate to the Congress. As I said, this is old news, but let me just refresh some people's memories.

As early as the summer of 2003, the administration's actuaries, the people who work for the administration in the Department of Health and Human Services, projected that the 10-year cost of the Medicare legislation, which among other things provided a prescription drug benefit, would be $534 billion over a 10-year period. It is also old news that Mr. Rick Foster, Chief Actuary of the Medicare Program, was ordered by the administrator of the Centers for Medicare and Medicaid Services—at that time Mr. Thomas Scully—to withhold critical actuarial data from Congress and that failure to abide by this order might well result in Mr. Foster being fired.

What is yet to be news are the reasons for the months' long delay in disclosing that estimate to the American public and to the Congress. It has now been 10 weeks since we found out the Medicare bill that we had represented to us as costing $400 billion over 10 years would actually cost $534 billion, according to the administration's own actuaries—10 weeks. We have had no explanation for the reasons for the delay, despite the following quote by Secretary Thompson, the Secretary of the Department of Health and Human Services, on March 16 of this year. What did the Secretary say?

> There seems to be a cloud over this department because of this. We have nothing to hide. So I want to make darn sure that everything comes out.

Along with other members of the Finance Committee, I have asked the chairman and the ranking member to hold a hearing on the cost estimate and the reasons for its late disclosure. Given his strong track record on Medicare oversight, I am confident these two fine Senators will do so.

I want to be clear about a couple of things:

One, it is not the cost per se that is troubling to me. In a moment of full disclosure, I voted for a prescription drug benefit that cost more than $400 billion. I voted for a prescription drug benefit that cost more than $534 billion. But I was voting for a prescription drug benefit that would at least provide a reliable Buick-style benefit to our seniors. What has now happened is we have learned that we passed a Yugo-like prescription drug benefit and are now paying Cadillac prices for it.

The second thing I wish to be clear about, some of my colleagues have suggested that the only estimate that matters is the Congressional Budget Office because Congress is legally required to rely on the CBO numbers. You may recall, as a youth, reading some Charles Dickens books, including possibly Oliver Twist. In that book, when confronted with a similar argument, Mr. Bumble said:

> If the law supposed that, the law is an ass, an idiot.

Mr. Bumble's perspective on the law aside, it is indeed true that Congress uses CBO numbers as our official scorekeeper, and I am not suggesting that at this point we alter that process. At the same time I don't think anyone would disagree that it is in America's best interest and the best interest of Congress to have as much information as possible before we vote on significant pieces of legislation. That would clearly include the insights of the person most knowledgeable about the likely cost of this program—the actuary of the very department that will have the responsibility for administering the program.

In fact, it seems information was deliberate, purposefully withheld from the Congress. That action of withholding was contrary to past practices. Moreover, it appears to directly violate the spirit of the Balanced Budget Act of 1997 which confirmed the independence of the Chief Actuary and the desire of Congress to have access to his relevant cost projections.

The fact that the official cost has appropriately been determined by CBO is not the point, nor is the point the fact that there was a difference in the cost estimates between the Congressional Budget Office and the Department's actuaries. We know that different analysts will frequently arrive at different conclusions. The point is this: the enormous magnitude of the difference and the efforts apparently taken by this administration to keep that huge difference hidden from public and congressional scrutiny. That is the point.

The point is the Chief Actuary had information that would have been valuable to us, Republicans and Democrats alike, in our deliberations long before we took our vote on the final conferenced version of the Medicare prescription drug legislation. This information was deliberately withheld.

The fact is, if the White House had released to the public and the Congress its own actuary's estimate of the cost of this Yugo prescription drug benefit, the legislation would clearly not have passed.

The Finance Committee has a particular obligation to investigate this deception. As a member of that committee, I understand we have an obligation to seniors who are depending on an affordable, quality prescription drug benefit. We have an obligation to taxpayers who will be paying for that benefit. We have an obligation to our fellow colleagues to whom we declared, we represented that this plan would not cost more than $400 billion, cross my heart and hope to die.

We have an obligation to get answers to these questions:

What did the President know regarding the much higher cost estimated by his own actuaries and when did he know it? For someone from Tennessee, that might be a familiar question.

If the President did not know that one of his stated priorities was estimated by his actuaries to far exceed the cost ceiling for this Medicare change—$400 billion over 10 years—who within his administration failed to notify him of this extraordinary cost overrun?

Third, what actions, if any, were taken by the Department of Health and Human Services, the Office of Management and Budget, or the White House itself to prevent the timely and accurate reporting of information to Congress on the cost of this Medicare bill?

Finally, who has the President held accountable for this deception and what sanctions have been imposed?

These are "rational, critical, important to the Congress and the public to know the answers" questions. One of the immediate impacts we are going to have because of this withholding is that the Congress, the Senate, now the House, have recently passed budget resolutions. These budget resolutions cover fiscal year 2005, which begins October 1 of this year, running through fiscal year 2009. In that budget resolution, as passed by the Senate, the baseline cost of the new Medicare prescription drug provisions and other matters that were included in that legislation is $165 billion over 5 years. The number, as determined by the administration's own Office of the Actuary in the Department of Health and Human Services, is $231 billion.

Mr. President, what are we going to do when we face the question of funding this prescription drug benefit—what I suspect to be likely closer to its true cost, $231 billion, as opposed to $165 billion, CBO's number. Are we going to have to have a point of order with 60 votes every time we exceed the clearly inadequate number in order to provide the benefit that we are now running millions of dollars worth of television ads telling the seniors of America they are about to get a new benefit, without any changes in the Medicare Program?

The Finance Committee needs to closely examine these different numbers. I suggest a couple of places to start. Approximately 25 percent of the difference between CBO and the actuaries is in one area, and that is what will be the effect of increasing the number of persons who are enrolled in health management organizations. This legislation not only dealt with prescription drugs, but it also substantially increased the funding for HMOs and insurance companies in order to create an atmosphere that would induce new Medicare beneficiaries to change their form of service from fee for service to traditional Medicare and to join an HMO.

In fact, the CBO estimated it would cost an additional $14 billion to do that. The administration estimates it will cost $46 billion. You might ask why does it cost more. I thought the purpose of using an HMO for Medicare beneficiaries was it would save money. It was supposed to get people into a more organized health care system; it was supposed to encourage HMOs to provide preventive services so people would not get as sick, and they would have a higher quality of life and less health care costs.

Well, I am shocked, and I am certain most Members of Congress are shocked, to find the administration finds it will cost $46 billion more to provide health care services to those persons who are induced by the benefits of this legislation to join an HMO than if they stayed where they were. So one question we need to know is, why are we scaring seniors into HMOs, when this is clearly harmful to the financial structure of the Medicare Program?

The second point I hope the Finance Committee will review is the prohibition inserted into this legislation against the administrator of the program and the Secretary of the Department of Health and Human Services, negotiating on behalf of Medicare beneficiaries to get the best possible prices for prescription drugs. We have an almost analogous situation, except the circumstances are reversed. The Secretary of the Veterans' Administration is directed to negotiate for the prescription drugs his largest hospital system in the world provides. Guess what. He has negotiated so well the cost of prescription drugs in a VA hospital is less than half of what it would be if you bought the same drugs at retail at a local drugstore.

Can you believe the Congress of the United States has passed a provision that prohibits the head of Health and Human Services from getting the same good prices for our seniors?

Let me say, as an aside, we have seen some extremely distressing numbers from the trustees of the Medicare Program. In fact, they released a report within the last 30 days which indicated there has been a 7-year shortening in the term—the years in which Medicare will go insolvent. As recently as last year, it was estimated the program would go insolvent in 2026. In 1 year, they have reduced that to 2019. So we have a system that, we are being told by our best experts, in a little more than 15 years is going to be insolvent. It seems to me there ought to be a sense of urgency to get every possible relief we can to this program so we do not deny the promise that has been made to the American people, to the working men and women, when they reach retirement age.

I believe one thing we can do immediately, in addition to reviewing this issue of health maintenance organizations, is to give to the Secretary of HHS and the administrator of the Medicare Program the authority to negotiate for the hospital portion of prescription drugs. We have passed a new prescription drug benefit for outpatients. But since the beginning of Medicare, Medicare has paid for prescription drugs that were dispensed in a hospital setting. We ought to do everything we can, in light of the fact that 100 percent of the trust funds for Medicare goes for part A—the hospital part—to lower the cost of the hospitals. One immediate way we can do it is by assisting the hospitals in the same way VA assists its hospitals, to lower the cost of their prescription drugs.

I am hopeful the Finance Committee will hold a hearing on this important issue before the Memorial Day recess. This would give us an opportunity to fully understand the differences between the two estimates, the implications of those differences, and the process by which we learned at such a late date the administration was going to project such an enormous difference. And most important, as a Congress, we need to understand what happened and how the Congress can correct the consequence of this deception.

JOBS ACT

Ms. SNOWE. Mr. President, I rise today to support the Jumpstart Our Business Strength Act, a bill that provides much-needed tax relief to our Nation's manufacturing base in a manner that will not only protect but will create jobs. Without question, passing this bipartisan legislation will provide a major boost to the manufacturing sector of our economy.

Indeed, this legislation is necessary because our country's manufacturers are in desperate need of help. Not only has America been hard hit by slow worldwide growth, but also has sustained significant job losses during the last few years.

Although the economic statistics for March are a positive improvement, there remains cause for concern when one considers the profound erosion of U.S. manufacturing jobs in recent years. The damage this sector has sustained is nothing short of stunning. From July 2000 through July 2003, nearly 2.8 million U.S. manufacturing jobs were eliminated. Incredibly, New England lost more than 214,000 manufacturing jobs in the decade between June 1993 and June 2003.

According to the National Association of Manufacturers, between January 2001 through January 2004, manufacturing employment in our Nation declined by 16 percent. In New England, there was a 20 percent decrease in manufacturing employment during that same time period. This means that between January 2001 and January 2004, New England's manufacturing sector employment declined by an alarming 28 percent faster rate than it did nationally.

My home State of Maine has been shedding manufacturing jobs at an alarming rate over the past decade—and all the more so in the past two years. From January 1993 through June 2003, a 10½ year period, Maine lost 18,900 manufacturing jobs. More specifically, from July 2000 to June 2003, Maine has lost 17,300 manufacturing jobs—the highest loss of any State during that time period.

In addition to passing this legislation to reverse these trends, we are also here to replace the Foreign Sales Corporation/Extraterritorial Income, FSC/ETI, rules. Congress enacted these rules to make U.S. exporters more competitive overseas by reducing their maximum income tax rate on export income from 35 percent to about 29.75 percent. This incentive is necessary to offset the disadvantage that U.S. exporters face vis-a-vis foreign competitors who benefit from a territorial tax regime. Nevertheless, the World Trade Organization, WTO, determined that the FSC/ETI rules provide an impermissible export subsidy, meaning Congress must repeal those rules or face over $4 billion in trade sanctions. Those sanctions began to take effect March 1.

At the same time, repealing these rules will result in a nearly $50 billion tax increase on the manufacturing sector over the next ten years. Consequently, we need to replace the FSC/ETI regime with an appropriate substitute that not only complies with WTO rules but, more importantly, protects our own manufacturing base.

Our objectives should therefore be clear: not only must we pass legislation to comply with international trade law, but more importantly, we need to offer our country's manufacturers with a solution that will jumpstart their production and create jobs, and we must do so right now. Were we to neglect this duty to ensure that our nation's manufacturers are simply given the chance to compete on a level playing field with foreign competitors, we would only be compounding the current situation—a result with which I am sure very few persons, particularly those workers who have lost their jobs would be pleased.

Our task, then, is to identify the best way to "reallocate" the $50 billion in revenues that replacing the FSC/ETI rules will generate and ensure that those funds continue to benefit their original beneficiary—namely our manufacturers. For that reason, I am pleased that the main component of this bill provides direct tax relief to the manufacturing sector of our economy. By permitting manufacturers to exclude from tax a portion of their income earned directly from manufacturing operations that employ U.S. workers and are located in the United States, we will continue to ensure that our Nation's manufacturers are on a level playing field with foreign competitors, and we will accelerate the overall economic recovery that is so desperately needed and that is already underway.

This legislation, therefore, provides poignant, targeted tax relief directly into the sector of our nation's economy that needs it most. In short, this income tax rate reduction for manufacturers will reduce their cost of doing business and increase their ability to compete in a global economy. Consequently, these businesses will be able to reinvest this savings directly into their operations, thereby increasing productivity and creating jobs.

To achieve these results, it is essential that this tax relief must be available for all manufacturers—regardless of entity classification. As such, I along with several Senators worked hard during the Finance Committee's markup to insist that this bill apply to small businesses that operate in the form of S-corporations, partnerships, limited liability companies, and sole-proprietorships. With small business manufacturers constituting over 98 percent of our Nation's manufacturing enterprises, employing 12 million people, and supplying more than 50 percent of the value-added during U.S. manufacturing, it is imperative that we not turn our backs on these hard working taxpayers.

Despite the significance that small businesses play in our country's economy, and despite the fact that not every manufacturer operates as a corporation, some contend that in place of this bill's targeted manufacturing relief, a more appropriate course of action would be to provide an across-the-board 2 percent tax cut for all domestic corporations—regardless if they are manufacturers.

I find this alternative problematic for two reasons. First, this proposition forgets the reason why we are here in the first place—namely to reallocate tax cuts that Congress provided specifically for domestic manufacturers in an effort to maintain their international competitiveness. Doesn't it make sense to ensure that all manufacturers, which are the primary beneficiaries of the FSC/ETI rules, continue to be the primary beneficiary of its replacement legislation, particularly when the manufacturing sector of our economy is already struggling to compete and preserve jobs?

After all, the main goal of this bill is to increase the competitiveness of our manufacturing base and stop the current job loss trend, meaning legislation that is not necessarily focused exclusively on manufacturing sector might fall short of this goal. Rather, the focus must remain on promoting domestic job creation, and the legislation before us accomplishes this task much more effectively than would an across-the-board tax cut that is exclusive to corporations.

In addition, an across-the-board corporate rate cut limits this tax relief to only corporations—something that is simply unacceptable as small businesses, many of which are S-corporations, limited liability companies, partnerships, and sole-proprietorships, are the true engine that drives this economy and are responsible for a majority of domestic job creation. Indeed, small businesses account for 97.5 percent of Maine businesses . . . 98 percent of America's manufacturing enterprise . . . and contribute three-quarters of all new jobs nationwide. It is therefore imperative that this legislation, which is intended to "Jumpstart Our Business Strength," include all manufacturers, particularly all small businesses, so that we continue this upward trend and reinvigorate America's entrepreneurial spirit.

Along those lines, I am also pleased that Chairman GRASSLEY incorporated several other of my provisions during the Finance Committee's markup of this bill. For example, current law permits small businesses to expense, rather than depreciate, up to $100,000 spent on equipment used in their trade or business. While this provision encourages capital investments and stimulates economic growth, the current phase-out limits the number of small businesses that can qualify.

My provision already in this bill increases the phase out threshold—thereby increasing the number of eligible small businesses for this much-needed tax relief. In turn, these taxpayers will be provided with greater incentive to expand their operations that will not only increase productivity but ultimately create jobs.

Another one of my provisions included in this legislation is based on my bill S. 885—The Small Business Investment Company Capital Access Act of 2003. In short, this bill provides that certain government-guaranteed debt capital of Debenture Small Business Investment Companies, SBICs, is excluded from the definition of "debt" for purposes of the unrelated businesses taxable income rules.

This change is necessary because under current law, potential tax-exempt investors such as pension funds and universities are dissuaded from investing in small businesses due to the tax liability that would result from the SBICs. By eliminating this problem and expanding the capital available for SBICs to invest in the nation's small businesses at the modest rate of $1 million per year, this provision has the potential to result in $500-$600 million of new capital investments in SBICs, which in turn will create thousands of jobs each year.

Furthermore, this bill includes specific provisions at my urging that will benefit greatly many taxpayers in my home State of Maine. In committee, I worked to ensure that the tax relief in this bill was extended to "unprocessed softwood timber." The Softwood Lumber industry, like paper and steel, has faced unfair trade from countries that subsidize their products and dump them on the U.S. market. For that reason, combined with the fact that this legislation is intended to benefit manufacturers in general and not only exporters, it is essential that this legislation extend this tax relief to the timber industry.

Similarly, I urged Chairman GRASSLEY to include a provision in this legislation that would classify gains resulting from the sale or exchange of timber as capital rather than ordinary. The crux of this provision is to change the way in which capital gains are calculated for timber by taking the amount of gain and subtracting three percent for each year the timber was held. This change is necessary because although individuals pay a maximum capital gains rate of 15 percent, corporations must still pay a 35 percent rate. As such, this change will reduce the rate of tax for corporations that sell timber, therefore making the U.S. forest products industry more competitive internationally and preserving domestic jobs.

In addition to these provisions that already are included in the bill, I am working with Chairman GRASSLEY on an amendment that I have filed that will not only spur economic growth but that will also go a long way in bolstering our national security. Currently, navy shipbuilders are treated unfairly by the tax code because they are required to pay tax based on an expected percentage of their profits. This treatment is problematic because oftentimes, they do not receive payment for several years, meaning the income tax has an overly burdensome effect on their cash flow and their overall production.

My amendment would change this treatment by placing navy shipbuilders on equal treatment with commercial shipbuilders in allowing them to pay 40 percent of their estimated income tax during the contract and the remaining 60 percent upon completion of the contract so long as the contract does not exceed 8 years. Importantly, this amendment does not in any way affect the amount of tax that navy shipbuilders will pay; rather, it simply affords a more equitable payment schedule to allow these taxpayers to satisfy more of their tax obligation at a time in which they have cash in hand. I hope that in working with the chairman, we will find a way to address this unfair disparity that is harming our Nation's naval shipbuilders.

Accordingly, I believe that the bill before us strikes the proper balance of providing needed tax relief to the taxpayers in our economy who need it most. It has taken a great deal of work to get us where we are today, yet I firmly believe that providing targeted, affordable tax relief to the manufacturing sector of our economy is certainly the right path to choose in repealing the FSC/ETI rules.

The key here is that this bill simply reallocates the revenue that repealing the FSC/ETI rules will raise and distributes it directly to the primary beneficiaries of those rules—our country's manufacturers, which is indeed appropriate as the manufacturing base is in dire need of help.

While the legislation also simplifies the international tax code and contains other miscellaneous tax cuts designed to create jobs, it does so without increasing the federal budget deficit because it contains tax offsets that will thwart taxpayers' participation in illegal tax shelters and abusive leasing transactions. Consequently, unlike previous tax bills, this legislation is revenue neutral. Therefore, not only is this bill affordable, but it is much needed in order to bolster our manufacturing base and enhance the competitiveness of the U.S. based businesses.

Thank you, Mr. President.

MEDICAL LIABILITY REFORM

Mr. CHAFEE. Mr. President, earlier today I voted in favor of invoking cloture on the motion to proceed to S. 2207, the Pregnancy and Trauma Care Access Protection Act. My vote was not an endorsement of S. 2207 as it was introduced in the Senate. In fact, I have concerns about various aspects of the bill—including the $250,000 cap on noneconomic damages—and I anticipate supporting amendments to S. 2207 if the Senate has an opportunity to fully debate this legislation.

However, I do believe that reform of the medical liability system should be considered as part of a comprehensive response to surging medical malpractice premiums that endanger Americans' access to quality medical care by causing doctors to leave certain communities or to cease offering critical services, such as obstetrical care. For this reason, I voted for cloture on S. 2207 in an effort to move the debate forward.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO FLORA ALLEN

Mr. MCCONNELL. Mr. President, I rise today to honor the life of a noted Kentuckian and inspiring educator, Ms. Flora Allen. I also take this opportunity to extend my condolences to her daughters, Nora Ruth Jenkins and Margaret Cornelison, her five grandchildren, and all who knew and loved this remarkable woman.

Ms. Allen knew she wanted to be a teacher at a very early age. What she didn't know was the amazing impact she would have on the students she taught.

After moving to Berea, KY in 1946, she earned her bachelor's degree in teaching from Berea College and her masters from Eastern Kentucky University. She taught Kentucky history, social studies and science for 32 years. In addition to the traditional lessons, Ms. Allen also taught life lessons, such as how to behave and treat others.

When Ms. Allen was away from the classroom, she was busy in her community. She was a member of the Lioness Club, Berea Retired Teachers Association, Progress Club, Delta Kappa Gamma, and Berea Baptist Church where she taught Sunday school and Bible school. Ms. Allen spent her summers and remaining spare time working in the flower shop she owned with her husband, Allen's Flowers. Even with all this activity, Ms. Allen's best and most admirable attributes can be seen through the lives she touched.

It has become cliché to say that teachers inspire. Undoubtedly, informed of such a happening, Ms. Allen would simply have smiled and stated that it had been her goal all along. What is not cliché is the fact that she instilled in her students a desire to learn, to know, and to understand. Not all of her former students went on to be historians. However, it is certain that a great many of them who were inspired by her have become better citizens.

I ask each of my colleagues to join me in paying tribute to Flora Allen; for all that she gave to her community, her students, and to her family. She will be missed.

UNR RIFLE TEAM

Mr. REID. Mr. President, I rise today to congratulate the rifle team from the University of Nevada Reno on its terrific season this past year.

The Wolf Pack finished the regular season undefeated, making it one of only eight squads eligible for the NCAA Rifle Championships in both the air rifle and small bore disciplines. The Wolf Pack finished third and fourth respectively in these two categories and placed second overall in the two-day competition.

Developing excellence in marksmanship requires countless hours of practice and tremendous skill. The UNR rifle team's accomplishments reflect a lot of hard work and dedication by the individual members and their coach Fred Harvey. The university and the State can take great pride in their achievements.

Once again, congratulations to the Wolf Pack Rifle Team on a tremendous year, and best wishes for continued success next season.

HONORING OUR ARMED FORCES

PFC JOHN D. AMOS II

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Valparaiso, IN. Private First Class John Amos II, 22 years old, died in the northern city of Kirkuk, Iraq on April 4, 2004, during an attack when the military vehicle he was riding in was struck by an improvised explosive device.

After graduating from Valparaiso High School in 2002, John joined the Army and was assigned to the C Company, 1st Battalion, 21st Infantry Regiment, 2nd Brigade, 25th Infantry Division, Schofield Barracks, HI. According to his mother, John was serving as the rear guard during a patrol at the time of his death. His deployment began when he joined the efforts in Iraq only 2 months ago. With his entire life before him, John chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

John was the 26th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his father, John; his mother, Susan; his grandfather, Hank Amos; grandparents Doug and Lucy Whitehead; his sister, Rebecca; and his two half brothers Hunter and Tyler. May John's siblings grow up knowing that their brother gave his life so that young Iraqis will some day know the freedom they enjoy.

Today I join John's family, his friends, and the entire Valparaiso community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of John, a memory that will burn brightly during these continuing days of conflict and grief.

When looking back on the life of her late son, John's mother, Susan, told the Gary Post-Tribune that her son "was a fun-loving kid and a lot of fun." Today and always, John will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while serving his country.

As I search for words to do justice in honoring John's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of John's actions will live on far longer than any record of these words."

It is my sad duty to enter the name of John D. Amos II in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like John's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless America.

RETIREMENT OF OFFICER JOHNNY WILSON FROM THE U.S. CAPITOL POLICE

Mr. ROBERTS. Mr. President, I rise today to recognize the distinguished service of Officer Johnny Lee Wilson of the U.S. Capitol Police. Officer Wilson has been posted at the Senate Select Committee on Intelligence for the past 14 years. Regrettably, on April 30, 2004, Officer Wilson will retire from the Capitol Police after more than 27 years of dedicated service.

Officer Wilson was born in Shelby, NC, on November 5, 1945. Following a move to Washington, DC, he finished high school. He then served in the Armed Forces, where he saw combat in an Army infantry unit in Vietnam in the late 1960s. At the conclusion of his tour, he was decorated for outstanding performance.

Officer Wilson then returned to Washington, DC, to pursue his college degree. In 1975, he graduated from Washington, DC's Howard University with a bachelor of science degree.

In April 1977, Officer Wilson began his service with the U.S. Capitol Police. For nearly three decades, he has dedicated himself to protecting the lives of visitors, staff, and Members as they go about their daily business here on Capitol Hill. It is a job which has become increasingly stressful since the terrorist attacks of 9/11. Despite the added threats, Officer Wilson has performed his duties superbly. His patience, discipline, and attention to detail have made him an asset to the Capitol Police and to the Intelligence Committee.

Officer Wilson's tireless dedication to the U.S. Capitol Police should serve as an inspiration to everyone in law enforcement. He is a tremendous officer and a great friend to many in the U.S. Senate. He will be truly missed as he enjoys his well-earned retirement.

Congratulations Officer Wilson, you are a fine public servant and a man of integrity and character. I extend my best wishes to your wife Weddie and your children—Gina and John-Paul. Good luck to you in retirement and thanks again for your fine service.

Mr. ROCKEFELLER. I add my voice to the comments of my colleague, Senator ROBERTS, concerning the contributions and outstanding performance of Officer Johnny Wilson from the United States Capitol Police. Officer Wilson is a 27-year veteran of the Capitol Police who is scheduled to retire in a few days. He has spent the past 14 years posted outside the offices of the Senate Intelligence Committee. During that time, we came to think of Johnny as part of our staff and part of our family. It will be both odd and disappointing not seeing him outside our door every morning.

Officer Wilson, a Vietnam veteran, joined the Capitol Police on April 4, 1977, and has dedicated his career to protecting the lives of Members of Congress, their staffs and the thousands of tourists who visit Capitol Hill each year. He is a fine example of the professionalism, dedication and work ethic of the men and women of the United States Capitol Police.

But what sets Johnny apart is the way in which he carries out his duties. He is outgoing and upbeat, with a hello and a kind word for anyone who crosses his path. Everyone that passes through the second floor corridor outside the Intelligence Committee Hart Building offices knows Johnny and he knows them—if he doesn't he makes them think he does. At the same time he is unflappable when confronting tense situations and approaches his responsibilities with complete seriousness.

In an era of technological advancements in biometrics and other enhanced security identification methods, there is absolutely no substitute for a professional law enforcement officer on the first line of defense. With Officer Wilson on the job, we all knew we were well protected.

Officer Wilson's dedication to the United States Capitol Police has been proven on many occasions and he has been an excellent example of someone raising the bar of excellence for his peers. He has been a great friend to many in the United States Senate and he truly will be missed. I congratulate this fine public servant, a man of integrity and character, and I wish him well in his impending retirement.

WORLD HEALTH DAY

Mr. DORGAN. Mr. President, I come to the Senate floor today to talk about an issue that is very important to me personally, but one that is also quickly becoming a concern across the globe: traffic crashes and the resulting fatalities and injuries.

Today is World Health Day. World Health Day is celebrated every year on April 7, focusing each year on a different public health problem. For the first time ever, in response to the growing number of traffic deaths worldwide, the World Health Organization chose the theme of "Road Safety" for World Health Day 2004. The goal is to raise awareness of traffic safety in hopes of reducing the staggering number of traffic related fatalities and injuries that occur worldwide each year. Efforts are being launched today in the U.S. and worldwide to encourage action in policy, programs, funding and research on traffic safety.

Consider these statistics: Every year, nearly 1.2 million people die worldwide in motor vehicle crashes and an estimated 10 to 15 million people are injured. In the U.S. alone, almost 43,000 people are killed each year and nearly 3 million are injured. Traffic crashes are the leading cause of death for people ages 1–34 and are one of the top ten causes of death for all ages. In North Dakota, it is estimated that motor vehicle crashes cost our citizens $290 million in 2000, or $452 per person. Sadly, experts predict that road traffic fatalities will double by the year 2020.

Today in Washington, the Pan-American Health Organization, PAHO, along with the National Highway Traffic Safety Administration, AAA, and many other organizations are emphasizing the importance of safety belt use as part of the efforts for World Health Day. Seat belts are the single most effective means of reducing the risk of death in a crash and have saved approximately 135,000 lives and prevented 3.8 million injuries in the last 26 years in the U.S. If everyone consistently wore a seat belt, more than 7,000 American deaths could be prevented each year.

This initiative coincides with our efforts in Congress to reauthorize the transportation bill. I supported passage of the Senate bill, which would provide a needed boost in funding and policy support for important safety initiatives, and offered an amendment to crack down on an important traffic safety issue, states that allow driving with an open container of alcohol.

I applaud the World Health Organization, PAHO, AAA and all the individuals and organizations that are working today and throughout the year to draw attention to the growing problem of traffic crashes. We need to sound the alarm—43,000 deaths in the U.S. and 1.2 million worldwide are too many.

Mr. DEWINE. Mr. President, today I recognize World Health Day, which is celebrated every year on April 7 in order to bring awareness to a specific health issue of global significance. This year, the World Health Organization has selected "Road Safety" as the theme for World Health Day.

Road safety is an imperative public health challenge that needs to be addressed. Every year, nearly 1.2 million people die in motor vehicle crashes worldwide and an estimated 10 to 15 million people are injured. In the United States, nearly 43,000 people die each year from motor vehicle crashes, making auto fatalities the number one killer of those between the ages of 4 and 34. Despite these already tragic and staggering statistics, some experts predict that motor vehicle fatalities will double by the year 2020, thus becoming the third greatest global health challenge, jumping from its current ranking of ninth.

The goal of World Health Day 2004 is to raise public awareness of traffic safety in hopes of reducing these motor vehicle fatalities and injuries worldwide. Wearing a seat belt continues to be the most effective means of reducing the risk of death in a crash and the implementation of a national primary seat belt law could save thousands of lives each year. Other important traffic and vehicle safety actions, such as greater consumer awareness of vehicle safety, stronger emphasis of safety with regard to vehicle design, stronger driver education programs, and the identification and disclosure of dangerous roads and intersections would greatly improve road safety and save lives. We have made some progress on these important issues here in the Senate, but we have a long way to go.

I would like to thank the World Health Organization, AAA, the Pan-American Health Organization, the National Highway Traffic Safety Administration, and other important organizations all over the world that have worked tirelessly to confront this global epidemic of motor vehicle fatalities. Their work is saving lives.

Mrs. MURRAY. Mr. President, since 1948, countries all over the world have recognized April 7 as World Health Day as a way to raise awareness of a specific health issue that has global significance. In previous years, World Health Day focused on issues such as the importance of creating healthy environments for children, addressing emerging infectious diseases, and reducing the stigma associated with mental health treatment. The theme for this year is road safety which is perhaps not something that is often thought of as a public health risk. However, each year motor vehicle crashes have a devastating and tragic impact on millions of families all over the world.

In 2002, motor vehicle crashes killed nearly 1.2 million people worldwide and injured as many as 50 million more. If the current trend continues, the World Health Organization estimates that by the year 2020, road traffic deaths and disabilities will become the third leading contributor to the global burden of disease and injury ahead of strokes, tuberculosis and HIV.

The toll of these crashes is no less significant here in the United States. Over 42,800 people were killed and nearly 3 million people were injured on our own country's roads and highways in 2002. That's one person—a parent, child, friend, or colleague—killed in a car crash every 12 minutes of every single day. Beyond the overwhelming emotional impact that these deaths and injuries wreak on our communities, they also cost our economy over $230 billion a year.

Today as countries around the globe put a spotlight on the issue of road safety, it is equally important to examine what we are doing here in our own country to prevent these crashes.

As the former chairman and now as the ranking member of the Transportation Appropriations Subcommittee, I have worked to improve transportation safety over the years and I would like to talk about some of the ways we can save lives and prevent injuries.

To look at this in a very basic way, there are three categories of events that can go wrong on the road and have deadly consequences. First, there can be hazardous road conditions such as poor weather, narrow lanes or dangerous curves. Second, there can be a catastrophic failure in the vehicle such as a blown tire or worn out brakes. And finally, the driver's own behavior can mean the difference between life and death on the road, whether it is neglecting to wear a seat belt; driving while intoxicated; speeding; or, falling asleep at the wheel.

The investments that we make in our roads, the standards that we set for vehicles and the laws that we enact to change driver behavior all can help reduce the number of fatalities on our Nation's roads and highways.

Often when we talk about transportation funding, we focus on the highway construction jobs that will be created and the congestion that will be relieved. We also must mention how our transportation investments improve safety on our roads and highways. I would like to take the occasion of World Health Day to highlight two areas, in particular, where we hope our transportation investments will help change driver behavior.

The Omnibus appropriations bill that passed the Senate a few months ago increased funding for the National Highway Traffic Safety Administration's drunk driving program by more than 40 percent. These funds will help States develop and implement a tracking system for those repeat offenders who drive drunk time and time again. They will also help better educate the judges and prosecutors that handle drunk driving cases so that sanctions will be applied in a consistent manner.

It is well known in the highway safety community that the best way to deliver the message about the perils of drinking and driving is through high visibility enforcement programs. On the Transportation Appropriations Subcommittee, I have worked with Senator SHELBY to include funding for a national paid media campaign for NHTSA's "You Drink and Drive. You Lose" program. This media campaign, which coincides with impaired driving safety mobilization efforts, delivers the message to drivers that law enforcement is out in force conducting sobriety checkpoints and that if you are caught driving under the influence, there will be serious legal consequences.

The Omnibus appropriations bill included $14 million for paid advertising; $2.75 million to support State-impaired driving mobilization efforts; and $3 million to pilot new and innovative strategies to combat impaired driving. This funding, in combination with strong State laws, provides us with an opportunity to reverse the unfortunate upward trend in the number of alcohol-related fatalities.

Another contribution that the Omnibus appropriations bill made toward transportation safety is in the area of seat belts. The most important thing you can do to protect yourself in the event of a car crash is to wear your seat belt. In fact, in 2002, the year for which we have the most recent data, seat belts saved over 14,000 lives. The FY 2004 bill included $14 million for the "Click It or Ticket" program, which is a national paid media campaign similar to the impaired driving effort I just mentioned, however, its focus is on getting families to buckle up.

This is the third year in a row that Congress has provided funding for "Click It or Ticket," and we are seeing some positive results. Last year, NHTSA estimated that seat belt use had risen to 79 percent nationally, its highest use rate ever. My State of Washington led the country with nearly 95 percent of our citizens wearing their seat belts.

Our efforts to reduce drunk driving and increase seat belt use are just two examples of the steps we are taking to address the safety challenges we face on our Nation's highways. As a member of the Transportation Appropriations Subcommittee, I will continue to work to provide funding for programs that tackle these issues and take the opportunity on occasions such as this to highlight the importance of safety on our Nation's roads.

CAPT RONALD H. HENDERSON

Mr. KENNEDY. Mr. President, it is a privilege to pay tribute to an impressive leader who has dedicated his life to the service of our Nation. CAPT Ronald H. Henderson, Jr. has served with great distinction as a fighter pilot in the United States Navy for over 27 years, and was recently nominated for promotion to the rank of Rear Admiral.

During his career, Captain Henderson has served as a Strike Operations Officer and a Tactical Action Officer aboard the USS *Enterprise*; an F/A–18 Strike Fighter Pilot, a Department Head with Strike Fighter Squadron 25; and Commanding Officer of Strike Fighter Squadron 146, the "Blue Diamonds," where his squadron was honored with the Estocin Award, as the best F/A–18 squadron in the entire U.S. Navy. The award is named for CAPT Michael J. Estocin, a fighter pilot in the Vietnam conflict who was posthumously awarded the Congressional Medal of Honor for remaining in the target area on a bombing mission even though his aircraft was badly damaged.

Captain Henderson has had over 3,800 flying hours and over 600 carrier landings, and has earned the Defense Superior Service Medal, the Legion of Merit, the Bronze Star, three Meritorious Service Medals, the Air Medal, three Navy Commendation Medals, and numerous unit and campaign awards.

Captain Henderson has participated in Operation Desert Shield, Operation Southern Watch, Operation Allied Force, and most recently in Operation Enduring Freedom where he commanded the aircraft carrier named after my brother, the USS *John F. Kennedy*, CV–67.

Captain Henderson brought the ship and crew back home safely in August 2002 and was greeted by 10,000 supporters for a well-deserved homecoming in Mayport, FL.

Captain Henderson will soon turn over his command of the carrier to assume his new responsibilities. I am sure my brother would be proud of his leadership, and I wish him well in the years ahead as he continues his brilliant career in the Navy.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO MS. KELSEY TAMAYO

● Mr. BUNNING. Mr. President, I would like to take a moment today to congratulate Ms. Kelsey Tamayo of Radcliff, KY, for her selection to the From the Top radio showcase.

Ms. Tamayo was chosen to represent the Hardin County Schools and the Commonwealth of Kentucky in this national recognition program. Though she is only 15 years old, Ms. Tamayo is an accomplished percussionist. For this showcase, she traveled to Emory University in Atlanta to tape her performance and interview along with other accomplished musicians from around the country.

In November, Ms. Tamayo was named one of six winners of the Young Classical Artists Competition sponsored by the School of Music at the University of Louisville.

While Ms. Tamayo plays more than 20 instruments, she choose to play the Vibraphone in both the University of Louisville competition and on the From the Top broadcast.

Public Radio International's From the Top is a weekly radio series that showcases the nation's most exceptional pre-college age classical musicians. This show has been broadcast since January of 2000 and currently reaches 130 public radio stations and over 240 stations nationwide. The show's slogan is celebrating ordinary kids who do extraordinary things. I would like to congratulate the show and public radio for highlighting the musical successes of our youth.

Congratulations again, Ms. Tamayo, on being selected to perform on From the Top. You are truly an inspiration for all of us throughout the Commonwealth of Kentucky. We all look forward to your continued success and achievement.●

WE THE PEOPLE PROGRAM

● Mr. CAMPBELL. Mr. President, I would like to take a moment to recognize an important civic education program that is available to many youngsters within this country: We the People. This program, administered by the Center for Civic Education and funded by the U.S. Department of Education by act of Congress, is an extensive educational program that was developed specifically with the purpose to educate youngsters about the U.S. Constitution and Bill of Rights. And, this year, from May 1 through 3 more than 1,200 students from across the United

States will visit Washington, DC, to take part in the national finals of We the People: The Citizen and the Constitution.

I recognize the six schools that participated in the We the People Colorado State competition and the more than 15 lawyers, judges, professors, and community leaders who judged these competitions. Thank you for your hard work and dedication to such an important topic. And, I am proud to announce that the class from East High School from Denver will represent the great State of Colorado in this prestigious national event. By displaying their knowledge of the U.S. Constitution, these outstanding youngsters won the statewide competition and earned a chance to come to our Nation's capital and compete at the national level.

I truly believe that a thorough understanding and knowledge of our Nation's founding documents will help folks understand and appreciate the sacrifices that our forefathers made, and this will inspire them to stand up for what is right and just.

I wish the students from East High School the best of luck at this year's We the People national finals and I applaud their achievement.•

CONGRATULATIONS TO ELSIE ATHERTON

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Elsie Atherton on her reception of the 2004 Champion for the Aging award given to her by ElderServe of Louisville, KY.

Ms. Atherton has dedicated herself to helping improve the lives of senior citizens in Kentucky. Her devotion to this cause was put to great work during her time at Metro United Way and United Way of Kentucky. She has done a wonderful public service through her efforts to combat elder abuse and financial exploitation of seniors. She has also been active in delivering meals to homeland senior citizens.

The citizens of Kentucky are fortunate to have the leadership of Elsie Atherton. Her example of dedication, hard work and compassion should be an inspiration to all throughout the Commonwealth.

She has my most sincere appreciation for this work and I look forward to her continued service to Kentucky.•

WILEY DOBBS RECOGNIZED FOR INVOLVEMENT IN THE IDAHO CONGRESSIONAL AWARD PROGRAM

• Mr. CRAIG. Mr. President, education is the fundamental base that enables our youth to transition to adulthood. The basic principles students learn provide them with the necessary skills to become productive and responsible citizens. In Idaho we view education as an investment not to be taken lightly. It is essential our students are well prepared so that the journey through the halls of our schools will end at the doorway to success.

The preparation for this passage is intense. Not only must our students understand the basics of science, civics, and communication, but they are expected to defend themselves in the face of peer pressure and poor choices. In order the achieve this, we look to those who serve on the front lines of our education system. It is our teachers who will help students aspire to greatness. In Idaho, our teachers do more than expected by expressing to our students the importance of giving back to our communities. They show our students an avenue through which to improve themselves and the cities and towns from which they come. Teachers who encourage community service ought to be thanked.

I thank all the administrators, staff, and teachers in Idaho schools for helping our students visualize their self-worth, thus enabling them to achieve greatness. In addition, today I would like to single out one educator in particular for his dedication and commitment to our local community.

Wiley Dobbs has served in nearly every level of the education system over his tenure in southern Idaho. From time spent as a student at Morningside Elementary school, to his current position as superintendent of the Twin Falls School District, Wiley Dobbs has had a positive impact on the lives of others every step of the way. The standard of excellence set by Wiley is one for which all Idaho educators should strive.

Wiley began his higher educational endeavor at the College of Southern Idaho where he received an associates degree. He later went on to receive two bachelors degrees in social science and health and physical education from Boise State University. Wiley began his career as a teacher in Montpelier, ID who he taught five subjects and coached three sports. He then moved to Twin Falls and taught at both O'Leary Jr. High School and Twin Falls High School. During his time in the high school he taught courses in Government and English, coached wrestling, and worked toward receiving his master's degree in education from Albertson College of Idaho.

After receiving his master's degree, Wiley made the transition from educator to administrator. Despite the shifting role, Wiley positive impact on students only improved. As principal of the Magic Valley Alternative High School, he increased enrollment from 40 to over 125 students in only 2 years. Wiley also served as Principal of O'Leary Junior High School in Twin Falls. His outstanding work with both the students and faculty in he southern Idaho school district was recognized not only by the local community, but by the state, as well. In 1999, the Idaho Associates of Secondary School Administrators, MetLife, and the National Association of Secondary Principals named him Idaho's Secondary Principal of the Year. In 2001, Wiley was named the State Middle Level Educator of the Year.

Wiley's work is also recognized on the national level. His involvement on the Idaho Congressional Award Board has raised the number of Idaho recipients to one of the highest in the nation. Students receive the honor by registering on the national level, and then completing hundreds of hours of community service in four separate categories: volunteer public service, personal development, physical fitness, and expedition exploration. Those students receiving the Gold Medal will have completed at least 700 hours of community service over a 2–3 year period. Wiley has advised and helped approximately a third of Idaho's Gold Medal recipients since the beginning of his involvement in 1993 when he was named to the post by Congressman MIKE CRAPO.

Wiley Dobbs has been the driving force behind the Idaho Congressional Award Program. He has inspired, motivated, and encouraged hundreds of Idaho's youth to receive the national honor. His efforts have solidified Idaho's presence in the national program, and it is his investment in Idaho's students that will benefit all our local communities. I hope all of us, especially those involved in our education system, will look to the example set by Wiley Dobbs. His leadership and dedication to our children are an inspiration to us all.•

TRIBUTE TO CHAD BENHAM

• Mr. BUNNING. Mr. President, I rise today to pay tribute to Chad Benham of Brandenburg, KY. Recently Mr. Benham has been named as the national winner of the Agricultural Mechanics Energy Systems-Entrepreneurship/Placement Proficiency Award for the Future Farmers of America.

The Proficiency Awards recognize achievement by students who have excelled in developing specialized skills that will apply toward a career goal in agriculture. The awards also consider community service and leadership activities of a student.

The citizens of Brandenburg, KY are fortunate to have Mr. Benham living and learning in their community. His example of hard work and determination should be followed by all in the Commonwealth of Kentucky.

I would like to congratulate Mr. Benham for his success. But also, I want to congratulate all his peers, teachers, administrators, and his parents for their support and sacrifices they have made to help Mr. Benham reach his goal and fulfill his dreams.•

REVEREND AND MRS. CHARLES CHATMAN

• Mr. TALENT. Mr. President, I rise today to honor Reverend and Mrs. Charles Chatman, who are the founders of the Charles Chatman Evangelistic Association. Reverend Chatman accepted the call into ministry at the age of 16 in 1958. He and Jean were married in 1960 and have ministered together for the last 44 years. Reverend Chatman served as the senior pastor in churches throughout Missouri until he and Jean entered into full time evangelistic work in 1975.

Since that time, the Chatmans have traveled to many countries leading mission teams and crusades. They have ministered in Haiti, Dominican Republic, Mexico, Trinidad and India.

In over 29 years of work in Haiti, the Chatmans' ministry has built 30 churches, one medical clinic and a children's orphanage. Immanuel Orphanage, in the village of Bombardopolis, is home to 250 children. The Chatmans have led over 3,000 people from across the United States on mission trips overseas. The Chatmans are committed to bringing hope to all those they encounter. Reverend Chatman and his wife Jean are dedicated to the glorious service of their Lord and Savior.

Charles and Jean Chatman are proud parents of Darla, husband Brian, Cindy, husband Dan, and Bryan. They have five wonderful grandchildren: James, Ashley, Brandy, Jessica, and Wilna.

I commend Reverend Chatman and his wife Jean for their outstanding years of service. Their message of hope is an inspiration and blessing to all of us. I am honored to share their successes with my colleagues, and I wish them the best for the future.•

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

PETITIONS AND MEMORIALS

POM–378. A resolution from the Wisconsin Commercial Ports Association relative to funding for lock and dam infrastructure on the Mississippi and Illinois Rivers; to the Committee on Commerce, Science, and Transportation.

POM–379. A resolution adopted by the Board of Commissioners of Ferry County of the State of Washington relative to federal lands in Ferry County, Washington; to the Committee on Energy and Natural Resources.

POM–380. A resolution adopted by the Council of the City of Warrensville Heights of the State of Ohio relative to the Breast Cancer Patient Protection Act of 2003 and The Retirement Income Security Act of 1974; to the Committee on Health, Education, Labor, and Pensions.

POM–381. A resolution adopted by the Council of the City of Mayfield Heights of the State of Ohio relative to the Breast Cancer Protection Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

POM–382. A resolution adopted by the Council of the City of Brook Park of the State of Ohio relative to the Breast Cancer Patient Protection Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

POM–383. A resolution adopted by the Council of the City of Mayfield Village of the State of Ohio relative to the Breast Cancer Patient Protection Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

POM–384. A resolution adopted by the Board of Trustees of the Village of Oak Park of the County of Cook of the State of Illinois relative to the Patriot Act; to the Committee on the Judiciary.

POM–385. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the Healthy Marriage Initiative; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 215

Whereas, marriage, one of our most fundamental institutions, strengthens our society when two people enter a mutual, lifelong agreement to support each other in sickness, difficult financial times, and old age; and

Whereas, marriage enriches the couple, their children, and the community around them by providing opportunities to extend love, support, understanding, and mutual cooperation; and

Whereas, couples and children blessed with healthy marriages tend to engage in less risky behavior, enjoy better physical and mental health, be more financially secure, and attain higher levels of education and employment; and

Whereas, President George W. Bush has announced a Healthy Marriage Initiative to highlight programs teaching marriage skills and education, promote marriage mentoring and enrichment programs, reduce disincentives to marriage, and promote the value of marriage to our culture; and

Whereas, because the President launched the Health Marriage Initiative, the Michigan House of Representatives and the Michigan Senate appropriated $750,000 to fund a marriage initiative in Michigan; and

Whereas, marriage is both a personal, private relationship and a public commitment licensed by the state of Michigan; and

Whereas, many of the expenditures by the state are closely tied to people harmed by failed or never formed marriages, and any long-term strategy for reducing dependency on state social services and ensuring economic growth must include a strategy for encouraging healthy marriages; and

Whereas, February 7–14, 2004, is being celebrated throughout the nation as Marriage Week USA; now, therefore, be it

Resolved by the Senate, That we hereby call on the President of the United States, elected officials at every level, and citizens of all walks of life to determine during Marriage Week USA, and particularly on Valentine's Day, to consider ways they can strengthen their own marriages and support the marriages of others throughout the state of Michigan and across the country; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–386. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the Protection of Lawful Commerce in Arms Act; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 184

Whereas, citizens have a right, protected by the Second Amendment to the United States Constitution, to keep and bear arms; and

Whereas, lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended. These lawsuits seek monetary damages and other relief for the harm caused by the misuse of firearms by third parties; including criminals; and

Whereas, the manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by federal, state and local laws. Such federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act; and

Whereas, businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition that has been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended; and

Whereas, the possibility of imposing liability on an entire industry for harm that is solely caused by others in an abuse of the legal system, erodes public confidence in our nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes a reasonable burden on interstate and foreign commerce of the United States; and

Whereas, the purpose of S. 659, the Protection of Lawful Commerce in Arms Act, is to prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended; and

Whereas, S. 659 will also preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting. It will also guarantee a citizen's rights, privileges, and immunities, as applied to the states, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment. The Protection of Lawful Commerce in Arms Act will prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce; and

Whereas, this legislation is intended to protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the government for a redress of their grievances; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact S. 659, the Protection of Lawful Commerce in Arms Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. INHOFE for the Committee on Environment and Public Works.

*Gary Lee Visscher, of Maryland, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

*Stephen L. Johnson, of Maryland, to be Deputy Administrator of the Environmental Protection Agency.

*Charles Johnson, of Utah, to be Chief Financial Officer, Environmental Protection Agency.

*Ann R. Klee, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

*Benjamin Grumbles, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. FRIST, Mr. MILLER, Mr. DEWINE, Mr. VOINOVICH, Mr. ALLEN, Mr. CHAMBLISS, Mr. HAGEL, and Mr. DOMENICI):

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; read the first time.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 2291. A bill to redesignate the facility of the United States Postal Service located at 14-24 Abbott Road in Fair Lawn, New Jersey, as the "Mary Ann Collura Post Office Building"; to the Committee on Governmental Affairs.

By Mr. VOINOVICH:

S. 2292. A bill to require a report on acts of anti-Semitism around the world; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself and Mr. WYDEN):

S. 2293. A bill to provide for the orderly termination of the United States Court of Federal Claims, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 2294. A bill to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCAIN (for himself, Mr. KYL, Mr. DORGAN, Mr. SCHUMER, Mrs. CLINTON, and Mrs. BOXER):

S. 2295. A bill to authorize appropriations for the Homeland Security Department's Directorate of Science and Technology, establish a program for the use of advanced technology to meet homeland security needs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BUNNING:

S. 2296. A bill to require the Secretary of Veterans Affairs to give the Commonwealth of Kentucky the first option on the Louisville Department of Veterans Affairs Medical Center, Kentucky, upon its conveyance, lease or other disposal by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself and Ms. SNOWE):

S. 2297. A bill to improve intermodal shipping container transportation security; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX:

S. 2298. A bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 2299. A bill to strengthen the national security by encouraging and assisting in the expansion and improvement of educational programs to meet critical needs at the elementary, secondary, and higher education levels; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. BINGAMAN, Mrs. BOXER, Mr. PRYOR, Mr. HOLLINGS, Mr. CORZINE, Mr. EDWARDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DURBIN, and Ms. STABENOW):

S. 2300. A bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program and to reduce excessive payments to health maintenance organizations and other private sector insurance plans; to the Committee on Finance.

By Mr. INOUYE:

S. 2301. A bill to improve the management of Indian fish and wildlife and gathering resources, and for other purposes; to the Committee on Indian Affairs.

By Mr. CONRAD (for himself and Mr. BROWNBACK):

S. 2302. A bill to improve access to physicians in medically underserved areas; to the Committee on the Judiciary.

By Mr. EDWARDS:

S.J. Res. 31. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EDWARDS:

S.J. Res. 32. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. Res. 333. A resolution commending the Huskies of the University of Connecticut for winning the 2004 Division I Men's and Women's NCAA Basketball Championships; considered and agreed to.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. JOHNSON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 59

At the request of Mr. INOUYE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 188

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 188, a bill to impose a moratorium on the implementation of datamining under the Total Information Awareness program of the Department of Defense and any similar program of the Department of Homeland Security, and for other purposes.

S. 448

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 448, a bill to leave no child behind.

S. 622

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 622, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 859

At the request of Mr. CORZINE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

S. 976

At the request of Mr. WARNER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1374

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1374, a bill to provide health care professionals with immediate relief from increased medical malpractice insurance costs and to deal with the root causes of the current medical malpractice insurance crisis.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1793, a bill to provide for college quality, affordability, and diversity, and for other purposes.

S. 1873

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 2106

At the request of Mr. BUNNING, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2106, a bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works.

S. 2130

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2130, a bill to contain the costs of the medicare prescription drug program under part D of title XVIII of the Social Security Act, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2200

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2200, a bill to extend nondiscriminatory treatment (normal trade relations treatment) to the products of Laos.

S. 2207

At the request of Mr. WARNER, his name was added as a cosponsor of S. 2207, a bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

At the request of Mr. GREGG, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2207, supra.

S. 2208

At the request of Mr. ROCKEFELLER, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2208, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reduce the amounts of reclamation fees, to modify requirements relating to transfers from the Abandoned Mine Reclamation Fund, and for other purposes.

S. 2236

At the request of Ms. CANTWELL, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2236, a bill to enhance the reliability of the electric system.

S. 2238

At the request of Mr. BUNNING, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2238, a bill to amend the National Flood Insurance Act of 1968 to reduce loses to properties for which repetitive flood insurance claim payments have been made.

S. 2258

At the request of Mr. HATCH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2258, a bill to revise certain requirements for H-2B employers for fiscal year 2004, and for other purposes.

S. 2267

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. 2268

At the request of Mr. BUNNING, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2268, a bill to provide for recruiting, training, and deputizing persons for the Federal flight deck officer program.

S. 2270

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2286

At the request of Mr. VOINOVICH, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 2286, a bill to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia.

S.J. RES. 30

At the request of Mr. ALLARD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S.J. Res. 30, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 72

At the request of Mr. DASCHLE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Con. Res. 72, a concurrent resolution commemorating the 60th anniversary of the establishment of the United States Cadet Nurse Corps and voicing the appreciation of Congress regarding the service of the members of the United States Cadet Nurse Corps during World War II.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from Illinois (Mr.

DURBIN) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 326

At the request of Mr. HAGEL, his name was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

S. RES. 328

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 328, a resolution expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

S. RES. 332

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 332, a resolution observing the tenth anniversary of the Rwandan Genocide of 1994.

AMENDMENT NO. 2649

At the request of Mr. BAYH, the names of the Senator from Maine (Ms. COLLINS), the Senator from Montana (Mr. BAUCUS) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of amendment No. 2649 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3022

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of amendment No. 3022 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3023

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 3023 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. FRIST, Mr. MILLER, Mr. DEWINE, Mr. VOINOVICH, Mr. ALLEN, Mr. CHAMBLISS, Mr. HAGEL, and Mr. DOMENICI):

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; read the first time.

Mr. FRIST. Mr. President, I rise today to introduce with my colleague, the chairman of the Judiciary Committee, Mr. HATCH, a bill relating to an issue I talked a lot on the floor about this morning and yesterday, and that is the issue of asbestos litigation reform.

This is an issue I have taken great pain to outline over the last several weeks because it is an issue that has been addressed in committee. It is an issue we looked at, debated, talked about, and discussed in a bipartisan way since that point in time. It is now time to take some action to continue the progress that has been made today.

It is on asbestos—an asbestos injury resolution act. Today, we introduce a substitute bill to S. 1125, which is the Fairness in Asbestos Injury Resolution Act, which was reported out of the Judiciary Committee.

I thank my colleague, Chairman HATCH, for getting S. 1125 through the Judiciary Committee last July where, among many other successes, he led a major bipartisan solution in committee on the linchpin criteria issue of the medical criteria. S. 1125, as reported out of committee, provided a solid, reasonable solution to the asbestos litigation crisis. It had numerous consensus-building changes all made at the request of people both on the committee, Democrats, and also representatives of organized labor.

Since that time, there have been continued negotiations, and there have been more agreements in improving the bill as reported.

Special thanks go to a whole number of people, including Senator SPECTER and Judge Edward Becker who have both greatly improved and addressed the many issues on the administrative side of this bill.

I thank many Members. I thank the ranking minority member, Senator LEAHY, and the efforts of my Democratic colleagues and many stakeholders who have contributed greatly to the underlying bill with discussions and negotiations since that point in time. All have been very involved in improving the legislation.

I believe it is time—indeed, we are taking this action today—to further the effort of putting forward a constructive bill which addresses many of the concerns that people are talking about but now we will have it as a bill.

To postpone this any longer, even though people keep coming forward and saying, I have another idea, I don't think will bring this to conclusion, and thus we introduce the bill today.

To push toward a solution, we are providing a substitute bill even though we will not bring this bill to the floor until after the April recess.

We, of course, welcome further discussions—myself, the chairman, and others—with regard to how we might further improve the bill.

What has emerged from the collective efforts to date is a proposal that retains the key elements of the original S. 1125 and includes some of the crucial modifications that address concerns raised since its passage in committee by stakeholders.

The goal is a bipartisan agreement. With the goal of a bipartisan agreement in mind, a couple of the additional improvements I should mention—improvements of the bill that is being introduced versus the original S. 1125.

First, we provide more compensation to the victims.

Second, we revise the funding provisions to help protect the solvency of the fund while ensuring that any risk of shortfall rests on defendants and insurers and not the claimants.

Third, we incorporated a new administrative system agreed to by various stakeholders that is easier for claimants to use and can begin processing and paying claims more quickly.

I mention these three only to highlight a few of the significant changes that we believe improve S. 1125 as reported—changes that were made in good faith to address the concerns raised by Democrats and that are aimed at ensuring the program established under S. 1125 was the most fair to the victims, the intended beneficiaries.

S. 1125 represents an important piece of legislation. We must not forget the provisions of banning asbestos proposed by Senator MURRAY, revised and adopted by the Judiciary Committee.

The ban on asbestos is necessary to ensure that the dangers associated with asbestos exposure can be eliminated.

We also have a duty to our veterans, many of whom were exposed to substantial amounts of asbestos while serving our Nation during World War II and on ships, who have limited means of obtaining compensation for asbestos-related illnesses.

The revised S. 1125—which will now be S. 2290—represents an easier and a faster avenue for the men and women of the armed services to receive fair and just compensation while still keeping intact their veterans benefits.

Residents and workers of Libby, MT, also need this legislation to obtain full and adequate compensation. We must move forward on S. 2290.

There no doubt will be constructive proposals from Senators on both sides of the aisle to further refine and improve this bill. By introducing this bill today, we encourage that process. It is my hope the process will be useful and not result in any further delays or in postponing us addressing this true crisis today.

I believe a fair and a reasonable solution in a bill that can pass this body is possible. I believe this is another major step forward to accomplish that goal.

In closing, I thank the chairman of the Judiciary Committee who has been instrumental from day 1 on this bill and who has worked closely with both sides of the aisle in developing this product we introduce today.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am grateful for the distinguished majority leader's remarks and for the tremendous work he has done in helping to bring this bill to the floor at this time, without which I don't think we would be this far. I have to say this is one of the most important bills in our country at this time. I am very grateful to him, and grateful to all of those who worked on this bill.

I rise today, along with the distinguished majority leader, to introduce S. 2290, the Fairness in Asbestos Injury Resolution Act—the FAIR Act—of 2004. This is a substitute bill that Senators FRIST, DEWINE, VOINOVICH, MILLER, ALLEN, CHAMBLISS, HAGEL, DOMENICI, and I have spent a great deal of time developing. I particularly want to commend Senator SPECTER and Judge Becker of the Third Circuit Court of Appeals for their efforts in bringing interested parties together to discuss the further development of this legislation. We are pleased to include many agreements from that mediation process in this bill.

Let me start by noting that the United States Supreme Court has sadly but appropriately characterized the asbestos litigation system in our country as "an elephantine mass." The Wall Street Journal aptly called it "a job-eating asbestos blob."

Without question, we face a crisis of epidemic proportions.

First, our asbestos system is inequitable. In our lottery-like system, juries award enormous damages to a special few, many of whom are not impaired at all and have never suffered a day of sickness. In other words, our system makes millionaires out of people who are not sick and who may never become sick. Meanwhile, people who are truly sick from asbestos receive little or nothing.

Let me illustrate this point. In a recent Mississippi case, six plaintiffs who were not sick—not one day of sickness—were awarded a total of $150 million. The plaintiffs did not claim to have ever missed a day of work because of asbestos injury. They did not claim any medical expenses related to asbestos, and they did not have asbestos-related physical impairment. Meanwhile, truly sick asbestos victims under the Johns-Manville bankruptcy trust receive a mere 5 cents on the dollar. A jackpot justice system like the one we have is unfair, and it is unjust. That is happening all over because about 10 percent of the plaintiffs bar, the personal injury lawyers, I think to the irritation of the 90 percent, are forum shopping these bills in jurisdictions where they can get big verdicts for bad cases. Frankly, what is happening today on asbestos compensation should not take place in this great country of America.

In addition to the gross inequities with respect to who gets compensated, the system is so overwhelmed by claims that truly sick people can wait years and die before even getting their day in court.

The fact is, our courts are simply unable to handle the volume of asbestos litigation. Unless Congress acts to end the delays and the distortions caused by these voracious personal injury lawyers—as I say, only about 10 percent, maybe less than that, of the personal injury bar—our system will remain broken.

Another unacceptable feature of our current system is that most of the money that should be going to compensate the truly injured, guess where it goes? It goes into the pockets of the lawyers. One actuarial firm estimates personal injury lawyers bringing these cases will siphon more than $60 billion out of asbestos litigation before it is over, and that is a conservative estimate.

As unfair as the system is today, the future is even more grim. Excessive damage awards, along with the transaction costs associated with the lawsuits, deplete the financial resources of the defendant companies and send more and more of them into bankruptcy. Many of these businesses are union businesses. These union workers lose their jobs because we have not resolved this problem. As legal and financial resources are exhausted by those who are not sick, those who truly are afflicted with asbestos-caused diseases are less and less likely to be compensated.

According to the Rand Institute for Civil Justice, a very prestigious institute, "about two thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill."

Our asbestos system does not only burden unfairness on the truly sick; it is also devastating to our economy. According to Rand, the number of claims continues to rise, with over 600,000 claims already filed. Typically, claimants filed against dozens of defendants; more than 8,500 companies have been named as defendants in asbestos litigation. With only a handful of the original asbestos manufacturing companies, the ones that are really liable, remaining today, new industries are being targeted for lawsuits.

For instance, it has been reported that the big three automakers "are defending approximately 15,000 cases based on claims alleging injury due to exposure to asbestos in brakes and clutches."

Even nonmanufacturers, businesses that just supply asbestos, are now facing claims. These include plumbing, heating, and automotive supply stores. As funds from asbestos companies continue to dry up, we can expect the enterprising personal injury bar to continue to target companies that have tangential relations to the claims and little or no real culpability.

One company is one of the large insurance companies that has never insured for asbestos, never had anything to do with asbestos. Basically it has never had a claim for asbestos up until recently, but they have been dragged into 60,000 cases because they were one of the early medical teams that came to the conclusion that mesothelioma comes from asbestos exposure. They did medical evaluations that concluded and helped to make the cases for those who truly are suffering, people who now are getting five cents on a dollar. They have been dragged into 60,000 cases that they should not have been dragged into. They will win every one of those cases, no question about it. That last case they tried—and they did win it, by the way—cost $2 million just in defense fees alone. Times that by 60,000 and you get an idea of the nightmare that insurance company is going through all because of voracious—I think in some cases, dishonest, small percentage of the personal injury bar—personal injury lawyers who are bringing these cases.

Now, as funds from the asbestos companies continue to dry up, we can expect the enterprising personal injury bar to continue to target companies that have tangential relations to the claims but little or no real culpability or liability. Rest assured, without congressional action, the problem will not go away. Last year, a record 100,000 asbestos claims were filed. At least 70 companies have already gone into bankruptcy due to asbestos liability. By the way, many of those companies were union companies. Many union members lost their jobs.

Does anyone wonder why manufacturing may be going down in America? Blame those who are always on the side of the personal injury lawyers, just to mention one corruption of the law.

Of course, each bankruptcy does bring with it lost jobs, lost pensions, and weaker financial markets. The nonpartisan American Academy of Actuaries reports "bankruptcies in corporate asbestos defendants have affected 47 states resulting in the loss of 52,000 to 60,000 jobs. With each displaced worker losing 25,000 to 50,000 in wage and 25 percent of their 401(k)." In other words, their pensions.

Rand estimates this litigation will eventually result in a staggering 430,000 lost jobs. Where are our colleagues on the other side when it comes to jobs? Here is a way of saving 430,000 manufacturing jobs and most of them will vote against this bill. Why? I will get into that in a few minutes.

The Supreme Court repeatedly called upon Congress to take action, but years have slipped by and we have not resolved the problem. Unless we act now, three things are certain. One, there won't be enough money to compensate people who are truly sick from asbestos exposure; two, hundreds of thousands of working Americans are going to lose their jobs and their pensions as these businesses go bankrupt; and three, personal injury lawyers will continue to get richer and richer.

I am not against them getting rich when they bring honest cases. I am not against them doing well when they earn the money. But this is like rolling off the log the way the current tort system is so broken and out of whack.

We need a comprehensive solution that is fair and we need it now. That is why we are introducing the Fairness Asbestos Injury Resolution Act of 2004, called the FAIR Act, the Hatch-Frist-Miller Act. I am pleased we have been able to make changes in this bill from the bill we reported out of the Judiciary Committee. This bill will address the concerns that have been raised. This legislation offers a fair and efficient solution. The bill provides a clear net monetary gain for legitimate victims with faster and more certain compensation. In addition, the legislation is important to our economy by providing certainty to American businesses, retirement savings, and it will preserve jobs, as well.

The Americans injured by asbestos have waited long enough for a fair system of fair compensation. Many of them would not have to wait any longer once this bill passes.

Nor can American workers afford to wait around while they lose their jobs and their pensions and while they die from mesothelioma and other asbestos-related diseases. The only people who can afford to wait are those who profit from the sick and from the hard-working Americans.

S. 1125, the Fairness and Asbestos Injury Act, the FAIR Act, as reported out of the Senate Judiciary Committee, represented an unprecedented advance on a workable solution to the complex and difficult issues that have stalled previous attempts at similar legislation. Landmark agreements were reached on asbestos injury compensation cases such as medical criteria, and over 50 consensus-building changes were adopted overall. Nonetheless, a number of issues were left open for further discussion and additional concerns were raised that were not satisfactorily addressed by the committee. We did our best but we needed to make some of these changes, so we have.

Since the bill was recorded out of committee, various State courts and members of both parties have continued working.

The Hatch-Frist-Miller substitute bill being introduced reflects agreements on some of these difficult issues reached during these negotiations and attempts to address a number of concerns that have been raised but have not yet been subject to widespread agreement. In particular, the Hatch-Frist-Miller bill raises claims values. It streamlines the administrative system to be up and running quickly. It increases liquidity and upfront funding for faster compensation of claims, and if a fund runs out of money, that risk will be on the defendants and the insurers, not on the claimants.

These are some of the highlights of the numerous changes made to make a fairer system for claimants. I fully expect that passing this legislation is going to be an uphill battle due to the strong grip of the powerful personal injury bar. Personal injury lawyers, by the way, have already been well compensated with respect to asbestos litigation having already taken an estimated $20 billion for themselves so far in legal fees.

I have faith in the fairness and common sense of Americans. I believe they can see through the self-interest of personal injury lawyers who want to maintain a system that unduly benefits them. Americans will understand that without reform true victims of asbestos exposure, as well as businesses, employees and pensioners will pay the price.

I look forward to debating and further refining this important bill when we return from the April recess. This bill, as most bills, is not perfect. No piece of legislation is without some imperfection in the eyes of someone or some special interest. But if there is ever a case for not letting the perfect become the enemy of the good—and the very good, at that—it is this asbestos bill.

I am aware some will argue strongly this bill is too big, it is too costly. I am also aware some will argue this bill is too small and does not go far enough. But the truth is, if either of these perspectives fail, we will be left with the undesirable status quo. Unless we adopt something very close to what we are proposing, the victims of asbestos and those being asked to provide a fair level of compensation will continue to suffer—probably without anybody benefiting except the personal injury bar, and then a very small percentage of them.

When we take up this bill in the next few weeks, let us strive to achieve a proper balance between the interests of those afflicted and those individuals and firms who are called upon to provide the compensation for this important program.

Some say—I think somewhat cynically—many of our colleagues on the other side are not going to vote for this bill because no amount of money is going to make them satisfied because two of their major constituencies are against the bill, and have been, so far, against any bill. Some have said they are afraid the personal injury bar will not put up at least $50 million for JOHN KERRY in this election if they vote for this bill. Others are saying without that money, they might not be able to elect JOHN KERRY President. I think that is a pretty cynical approach, of course. But if it is true, or there is any truth to it, then it is pretty pathetic that they would let these hundreds of thousands of people go down the drain without just compensation, which we have in this bill, because of politics.

By the way, the other reason is because the AFL–CIO has not signed onto this bill. That is not quite true. There are a few unions that are for this bill. They know it is important. They know they are going to lose jobs, they are going to lose pensions, they are going to lose opportunities if these companies keep going bankrupt. About 70,000 jobs, it is estimated now, have been lost.

These are two very large constituencies of the Democratic Party. I cannot blame Democrats for at least considering that they are concerned about this bill. But I think the union leaders know this is an important bill, and they know it is a good bill. Frankly, they do not want to have to make that decision during an election year.

Well, I do not care whether it is an election year or nonelection year; we cannot wait any longer. If we do not pass this bill and do the best we can do for these workers and for these companies, and for all concerned, in the way we have, these companies are going to have to come up with this whopping amount of money in this bill. They are the ones who are going to have to do it.

I saw yesterday in the Wall Street Journal they thought the Government was going to have to come up with lots of money. Well, some actually make a pretty good argument the Government should. We have made it very clear the Government is not going to. This is not going to be part of our deficit burden we have in this country. Let some make their effective arguments the Government knew asbestos was harmful, yet imposed it by regulation in our ships and in so many other ways. Be that as it may, we are not imposing this on Government. These companies are going to have to come up with this money. It has been a monumental effort by those of us who have fought this through to bring together enough money to be able—according to those who analyze the economics of this, those who are honest and decent in analyzing it—to pay the claims we have under the medical criteria in this bill. And the medical criteria happen to be fair as well.

Let me close. First of all, I hope that is not the reason why our colleagues vote against this bill. Unfortunately, I believe that probably is the reason—those two reasons. There may be others as well, but they are not justified after all the hard work that has been done by both Democrats and Republicans in bringing the bill this far.

Let me close by thanking the majority leader, Senator FRIST, for the work he has done, and especially thank Senator SPECTER for his Herculean efforts in bringing the bill to its present form, and Judge Becker, for whom I have the utmost of respect and affection. I urge my colleagues to support this fair solution to a broken system that has languished far too long.

Mr. President, I yield the floor.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 2291. A bill to redesignate the facility of the United States Postal Service located at 14–24 Abbott Road in Fair Lawn, New Jersey, as the "Mary Ann Collura Post Office Building"; to the Committee on Governmental Affairs.

Mr. CORZINE. Mr. President, I am honored to introduce a bill on behalf of Senator FRANK LAUTENBERG and myself to authorize the renaming of the main post office in Fair Lawn, NJ as the Mary Ann Collura Post Office.

Mary Ann Collura was the first female police officer in Fair Lawn, where she served the people in her community as an outstanding officer and role model for eighteen years. On April 17, 2003, Officer Collura was fatally shot while attempting to arrest three men after a car chase. She was the first Fair Lawn police officer ever killed in the line of duty.

The idea for naming the Fair Lawn post office in honor of Officer Collura came from a Fair Lawn high school student, which is indicative of the admiration the people of Fair Lawn have for her. She was known for her courage, kindness, and genuine caring for others. Officer Collura was also a pioneer in Fair Lawn. She started a program to protect trick-or-treaters on Halloween by giving them glow sticks, which has expanded and is now a countywide program.

Senator LAUTENBERG and I are proud to be joining Representative STEVEN ROTHMAN and the entire New Jersey congressional delegation in the effort to rename the Fair Lawn post office in honor of Mary Ann Collura. By naming the main post office in town after such a brave woman, we pay her the respect she earned, and memorialize her in a way befitting a person of her stature. She is a true hero and will be missed.

I ask by unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The facility of the United States Postal Service located at 14–24 Abbott Road in Fair Lawn, New Jersey, and known as the Fair Lawn Main Post Office, shall be known and designated as the "Mary Ann Collura Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Mary Ann Collura Post Office Building".

By Mr. VOINOVICH:

S. 2292. A bill to require a report on acts of anti-Semitism around the world; to the Committee on Foreign Relations.

Mr. VOINOVICH. Madam President, during the last several years, I have been deeply concerned with the rise of antisemitism in countries throughout the world, including countries that have traditionally been among the world's strongest democracies.

Today, as Jewish people across the world celebrate Passover, a festival of freedom and redemption, I rise to again call attention to growing antisemitism and to urge a renewed effort to combat this serious problem, both at home and abroad.

Although some of my colleagues might not be aware, I have had the opportunity to visit the State of Israel seven times, as mayor of Cleveland, Governor of Ohio, and as a Member of the Senate. I will always remember visiting Yad Vashem on my first visit in 1980, and again on several other visits, and the Diaspora Museum in Tel Aviv in 1982. That experience truly brought home to me the horrors of the Holocaust and the role antisemitism played in leading to the Holocaust.

I vowed I would do everything in my power to make sure it would not happen again. Frankly, I never thought during my lifetime I would have to try to keep that vow. Unfortunately, antisemitism's deadly, ugly head is rising again. Working with other groups, I am determined to do everything I can do to stop it. There must be zero tolerance of antisemitism.

In May of 2002, following a disturbing number of antisemitic incidents in Europe, I joined members of the Helsinki Commission in a hearing to examine the rise of antisemitic violence in Europe. I was shocked by the reports I heard. Now, nearly 2 years later, the news is not much better. The first 3 months of 2004 have seen numerous acts of antisemitism abroad.

For example, in Toulon, France, on March 23, 2004, a Jewish synagogue and community center were set on fire. In St. Petersburg, Russia, on February 15, 2004, vandals desecrated approximately 50 gravestones in a Jewish cemetery, painting them with swastikas and antisemitic graffiti.

Antisemitic incidents are not unique to Europe. In Australia, on January 5 of this year, antisemitic slogans and symbols were burned into the lawns of Tasmania's Parliament House.

In Toronto, Canada, over the weekend of March 19, 2004, vandals attacked a Jewish school, cemetery, and area synagogues, painting swastikas and antisemitic slogans on the walls of the synagogue and on residential property in a predominantly Jewish neighborhood nearby.

This alarming trend has not gone unnoticed. The high number of antisemitic incidents in Europe and other parts of the world has caused the United States, working with our allies and international organizations such as the Organization for Security and Cooperation in Europe, to take action.

Efforts to highlight growing antisemitism began in earnest following the Helsinki Commission hearing in May 2002, to which I have just referred. During that hearing, I called on the OSCE to conduct a separate session on antisemitism during the annual meeting of the OSCE parliamentary assembly in Berlin in July 2002. I was pleased this did in fact take place. Delegates to this meeting also unanimously passed a resolution calling attention to the dangers of antisemitism, which I cosponsored. I was honored to be in Berlin for the meeting, joining Representative CHRIS SMITH, who serves as chairman of the Helsinki Commission and continues to be a great leader on this issue. We are very fortunate to have CHRIS SMITH heading the Helsinki Commission in the House of Representatives. He is doing a wonderful job. Work continued upon our return with letters to the President and Secretary of State, underscoring the importance of a strong U.S. commitment to the fight against global antisemitism.

Last June, former New York City Mayor Rudy Giuliani led the U.S. delegation to the first conference of the OSCE dedicated solely to the issue of antisemitism.

The conference took place in Vienna, bringing together parliamentarians, officials, and private citizens from all 55

OSCE participating states. This conference was the product of much hard work and would not have been a reality without the strong support of Secretary of State Colin Powell, Under Secretary of State for Political Affairs Mark Grossman, and our Ambassador to the OSCE, Stephan Minikes. Stephan Minikes, by the way, I think is the most outstanding ambassador the United States has sent to the OSCE in a very long time.

The Vienna conference was a step in the right direction. I believe Mayor Giuliani best captured the significance of the event when he remarked:

> The conference represents a critical first step for Europeans who have too frequently dismissed anti-Semitic violence as routine assaults and vandalism. Antisemitism is anything but routine. When people attack Jews, vandalize their graves, characterize them in inhumane ways, and make salacious statements in parliaments or to the press, they are attacking the defining values of our societies and our international institutions.

While the Vienna conference provided a solid foundation, followup to the meeting is absolutely essential. As such, the OSCE will convene a second conference on antisemitism in Berlin later this month. I believe this meeting is urgently needed, and I am pleased Secretary Powell has asked me to serve as a member of the U.S. delegation to this critical gathering.

Again, this meeting in Vienna would not have happened without the strong support of our Secretary of State and his team at the State Department.

In Berlin, our goal is to ensure we move beyond rhetoric and move forward to institutionalize the fight against antisemitism in the OSCE. We hope to put in place an action plan to formalize a process to identify, monitor, and measure efforts to combat antisemitism in each of the 55 OSCE participating states, including the United States.

Too often, as the Presiding Officer knows, there is a lot of talk at these meetings but no action. If we are to be successful in our effort, we must establish a commitment to action—action that can be monitored. This is the message I have continued to stress.

Last July, I wrote to those individuals who joined Mayor Giuliani as members of the U.S. delegation to the Vienna conference, including Abraham Foxman of the Anti-Defamation League, Mike Levin of the National Conference on Soviet Jewry, David Harris of the American Jewish Committee, and Dave Mariaschin of B'nai B'rith, asking them for recommendations for action, things that can be done to encourage tangible steps rather than just dialog. They came back to me with recommendations for the Berlin conference which I then sent to Secretary of State Colin Powell.

Madam President, I ask unanimous consent that my letter to Secretary Powell, including the proposed agenda for the Berlin conference, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, DC, February 6, 2004.

Hon. COLIN L. POWELL,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR SECRETARY POWELL: I would like to take this opportunity to thank you for your continued leadership on efforts to combat anti-Semitism abroad. The United States has played an important role in highlighting the need to take action on this issue, both through our bilateral relationships and interaction with international organizations such as the Organization for Security and Cooperation in Europe (OSCE).

Significant progress has been made during the last year on efforts to raise awareness of the rise in anti-Semitic violence in Europe and other parts of the world. The Vienna Conference on Anti-Semitism convened by the OSCE last June was an important step in the right direction; however, I believe that the follow-up to this meeting is critical. As such, I was pleased that you, and others, expressed support for a second meeting on anti-Semitism during the OSCE Ministerial in Maastricht.

As the United States prepares for this follow-up meeting, scheduled to take place in Berlin this April, I believe that we should work together to establish clear objectives and outline a solid agenda. It is in this spirit that I would like to share with you the attached recommendations for action items that have been outlined by a number of non-governmental organizations with a long-standing interest in the issue of anti-Semitism. I hope that you find them useful as planning for the Berlin conference continues.

Again, thank you for ongoing work to raise awareness of this serious problem. I look forward to working with you in the months leading to this important event.

Sincerely,

GEORGE V. VOINOVICH,
United States Senator.

JANUARY 21, 2004.

Hon. GEORGE V. VOINOVICH,
U.S. Senate,
Washington, DC.

DEAR SENATOR VOINOVICH: On behalf of our organizations, we commend you for your leadership in the domestic and global fight against anti-Semitism, particularly your role in gaining the attention and commitment of European governments. We are writing to respond to your request for actionable steps the United States can take to facilitate concrete responses to anti-Semitism in the OSCE region.

In anticipation of the upcoming April 2004 OSCE anti-Semitism conference in Berlin, we have compiled the following points for your consideration. We also take this opportunity to reiterate the important role that you and other Senators are playing in this process, and the indispensable diplomatic campaign by the U.S. Government.

BERLIN OSCE CONFERENCE

1. Program should include plenary speeches and workshops in the areas of:

Governmental/Parliamentary action;

Law Enforcement: monitoring, hate crimes response, anti-bias education;

Education: Making anti-bias education a component of education from an early age;

The role of the media in setting a tone for tolerance in the public debate.

Following the opening plenary, multiple concurrent workshops would enable the program to cover more ground and make the two days as productive as possible for delegation members from law enforcement, educational and other areas.

2. Governments should be encouraged to:

Reflect the seriousness and sense of urgency with which the OSCE views the problem by appointing high-level government delegations;

Appoint delegations which also include officials from agencies outside the foreign ministry who are poised to play a role in implementing relevant programs against anti-Semitism (e.g., interior, education, justice, police, parliament), which should also be a consideration in assembling the U.S. delegation;

Include non-governmental leaders in their national delegations, reflecting interdenominational, human rights and Jewish community perspectives;

Utilize the conference as a forum to bring to light best practices from their country where relevant, including governmental as well as community examples;

Report on progress toward implementing Holocaust-related and other tolerance education, with reference to the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research;

Publicly repudiate incitement and other efforts to turn political grievances into appeals to ethnic hatred, anti-Semitism and the denial of Holocaust history;

Counter Middle Eastern sources of anti-Semitic and other hate material.

3. Preparation and Follow-Up:

In Berlin, announce the establishment of ministerial working groups or task forces in the areas such as education, monitoring, and law enforcement. These tracks would work together to monitor implementation of recommendations and convene follow-up meetings of experts to assess progress on implementation and exchange strategies. The United States, Germany and the Bulgarian OSCE Chairmanship should communicate now with counterparts to interest key players and recruit ministers in advance who would be willing in Berlin to announce their involvement and assume specific responsibilities (e.g., German Interior Minister Otto Schily, French Minister of Interior Nicolas Sarkozy and Education Minister Luc Ferry).

Craft an agenda for the working groups, and establish ongoing interface with the OSCE Office for Democratic Institutions and Human Rights (ODIHR), including the annual OSCE Human Dimension Implementation Meeting (HDIM) in Warsaw.

4. A joint declaration and program of action against anti-Semitism should be developed in advance consultations and unveiled in Berlin by the consenting governments.

OSCE MONITORING OF ANTI-SEMITISM

ODIHR should craft a data collection model. A visit to the United States and other relevant OSCE countries by Ambassador Strohal and his team would enable vital consultations with hate-crime monitoring experts in and out of government.

In addition to collecting and analyzing data, ODIHR needs to implement its new mandate by working with OSCE member states to promote in-country programs and legislation. ODIHR should also begin evaluating and developing recommended standards for reporting and classifying of incidents.

OSCE law-enforcement programs should include an anti-bias unit where possible.

A session in the October HDIM should be devoted to a status report on this and related initiatives.

As you know, Senator, our organizations are in close coordination with the United States Government, with each other and with other governments and interested parties to maximize the possibilities for Berlin and beyond. We appreciate your initiative in soliciting our input on this timely and vital matter, and look forward to continuing our work with you and your Senate colleagues.

Sincerely,

MARK B. LEVIN,
Executive Director, NCSJ: Advocates on behalf of Jews in Russia, Ukraine, the Baltic States & Eurasia
DANIEL S. MARIASCHIN,
Executive Vice President, B'nai B'rith International
MALCOLM HOENLEIN,
Executive Vice Chairman, Conference of Presidents of Major American Jewish Organizations
ABRAHAM H. FOXMAN,
National Director, Anti-Defamation League
HANNAH ROSENTHAL,
Executive Director, Jewish Council for Public Affairs
DAVID A. HARRIS,
Executive Director, American Jewish Committee.

Mr. VOINOVICH. Madam President, I am pleased the State Department has taken these suggestions into consideration in working to prepare the agenda for the Berlin conference. There has been a great deal of effort to ensure this conference meets my expectations and others', and it is my sincere hope this meeting will help move toward the goal of zero tolerance for antisemitism in the world today. While I believe we must do all we can to encourage our allies and partners abroad, as well as our international organizations, such as the OSCE, the United Nations, and the EU to combat antisemitism, it is important we redouble our efforts at home to call attention to this problem.

Tomorrow the Senate Foreign Relations Committee will conduct a hearing to examine antisemitism in Europe. This continues discussion on the issue following a hearing that took place last October. While this is significant, we can and we ought to do more.

Today I introduce legislation calling attention to the growing problem of antisemitism abroad. This bill, called the Global Antisemitism Review Act of 2004, urges the United States to continue to strongly support efforts to highlight antisemitism through bilateral relationships and interaction with international organizations, such as the Organization for Security and Cooperation in Europe.

Further, the legislation requires the Secretary of State to submit to Congress an annual report on acts of antisemitism worldwide. The report will include a description of the following for each foreign country; in other words, we are going to have a report on each one of the 55 members of the OSCE.

First, a description of physical violence against or harassment of Jewish people or community institutions, such as schools, synagogues, or cemeteries, that occurred in that country; second, the response of the government of that country to such attacks; third, actions by the government of that country to enact and enforce laws relating to the protection of the rights to religious freedom with respect to Jewish people; and finally, the efforts made by that government to promote antibias and tolerance education.

The last point I think is so important. If we are truly to be successful, it is imperative we work to promote tolerance and bring about a change in the hearts and minds of those people responsible for acts of antisemitism and other hate crimes. We can do something about their mouths, their hands, and their feet, but the real challenge for us is to change their minds and their hearts.

Last year, both the Senate and the House of Representatives passed resolutions calling on the State Department to thoroughly document acts of antisemitism worldwide. This bill would take it one step further. I believe it is essential, and I urge my colleagues to join me in supporting swift passage of this legislation which will underscore the high priority Congress and the U.S. Government have given to zero tolerance of global antisemitism.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Anti-Semitism Review Act of 2004".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Acts of anti-Semitism in countries throughout the world, including some of the world's strongest democracies, have increased significantly in frequency and scope over the last several years.

(2) During the first 3 months of 2004, there were numerous instances of anti-Semitic violence around the world, including the following incidents:

(A) In Australia on January 5, 2004, poison was used to ignite, and burn anti-Semitic slogans into, the lawns of the Parliament House in the state of Tasmania.

(B) In St. Petersburg, Russia, on February 15, 2004, vandals desecrated approximately 50 gravestones in a Jewish cemetery, painting the stones with swastikas and anti-Semitic graffiti.

(C) In Toronto, Canada, over the weekend of March 19 through March 21, 2004, vandals attacked a Jewish school, a Jewish cemetery, and area synagogues, painting swastikas and anti-Semitic slogans on the walls of a synagogue and on residential property in a nearby, predominantly Jewish, neighborhood.

(D) In Toulon, France, on March 23, 2004, a Jewish synagogue and community center were set on fire.

(3) Anti-Semitism in old and new forms is also increasingly emanating from the Arab and Muslim world on a sustained basis, including through books published by government-owned publishing houses in Egypt and other Arab countries.

(4) In November 2002, state-run television in Egypt broadcast the anti-Semitic series entitled "Horseman Without a Horse," which is based upon the fictitious conspiracy theory know as the Protocols of the Elders of Zion. The Protocols have been used throughout the last century by despots such as Adolf Hitler to justify violence against Jews.

(5) In November 2003, Arab television featured an anti-Semitic series, entitled "Ash-Shatat" (or "The Diaspora"), which depicts Jewish people hatching a plot for Jewish control of the world.

(6) The sharp rise in anti-Semitic violence has caused international organizations such as the Organization for Security and Cooperation in Europe (OSCE) to elevate, and bring renewed focus to, the issue, including the convening by the OSCE in June 2003 of a conference in Vienna dedicated solely to the issue of anti-Semitism.

(7) The OSCE will again convene a conference dedicated to addressing the problem of anti-Semitism on April 28–29, 2004, in Berlin, with the United States delegation to be led by former Mayor of New York City Ed Koch.

(8) The United States Government has strongly supported efforts to address anti-Semitism through bilateral relationships and interaction with international organizations such as the OSCE, the European Union, and the United Nations.

(9) Congress has consistently supported efforts to address the rise in anti-Semitic violence. During the 107th Congress, both the Senate and the House of Representatives passed resolutions expressing strong concern with the sharp escalation of anti-Semitic violence in Europe and calling on the Department of State to thoroughly document the phenomenon.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States Government should continue to strongly support efforts to combat anti-Semitism worldwide through bilateral relationships and interaction with international organizations such as the OSCE; and

(2) the Department of State should thoroughly document acts of anti-Semitism that occur around the world.

SEC. 4. REPORT.

Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on acts of anti-Semitism around the world, including a description of—

(1) acts of physical violence against, or harassment of, Jewish people, and acts of violence against, or vandalism of, Jewish community institutions, such as schools, synagogues, or cemeteries, that occurred in each country;

(2) the responses of the governments of those countries to such actions;

(3) the actions taken by such governments to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people; and

(4) the efforts by such governments to promote anti-bias and tolerance education.

By Mr. DOMENICI:

S. 2294. A bill to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOMENICI. Mr. President, today I rise to introduce an uncontroversial piece of legislation that I hope will receive prompt committee action and will make its way quickly to the President's desk for his signature.

I would first like to familiarize the Senate with the important mission and related work of the Chihuahuan Desert Nature Park in Las Cruces, NM. The Chihuahuan Desert is the largest desert in North America and contains a great diversity of unique plant and animal species. The ecosystem makes up an indispensable part of southwest's treasured ecological diversity. As such, it is important that we teach our young ones an appreciation for New Mexico's biological diversity and impart upon them the value of this ecological treasure.

The Chihuahuan Desert Nature Park is a non-profit institution that has spent the past six years providing hands-on science education to K–12th graders. To achieve this mission, the Nature Park provides classroom presentation, field trips, schoolyard ecology projects and teacher work shops. The Nature Park serves more than 11,000 students and 600 teachers annually. This instruction will enable our future leaders to make informed decisions about how best to manage these valuable resources. I commend those at the Nature Park for taking the initiative to create and administer a wonderfully successful program that has been so beneficial to the surrounding community.

The Chihuahuan Desert Nature Park was granted a 1,000 acre easement in 1998 at the southern boundary of USDA–Agriculture Research Service (USDA–ARS) property just north of Las Cruces, NM. This easement will expire soon. It is important that we provide them a permanent location so that they are able to continue their valuable mission.

The bill I introduce today would transfer an insignificant amount of land: 1,000 of 193,000 USDA acres to the Desert Nature Park so that they may continue their important work. The USDA–ARS has approved the land transfer, noting the critically important mission of the Desert Park. I have no doubt that senators on both sides of the aisle will recognize the importance of this land transfer.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jornada Experimental Range Transfer Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD.—The term "Board" means the Chihuahuan Desert Nature Park Board.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LAND TO CHIHUAHUAN DESERT NATURE PARK BOARD.

(a) CONVEYANCE.—The Secretary may convey to the Board, by quitclaim deed, for no consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) consists of not more than 1000 acres of land selected by the Secretary—

(1) that is located in the Jornada Experimental Range in the State of New Mexico; and

(2) that is subject to an easement granted by the Agricultural Research Service to the Board.

(c) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the condition that the Board pay—

(A) the cost of any surveys of the land; and

(B) any other costs relating to the conveyance;

(2) any rights-of-way to the land reserved by the Secretary;

(3) a covenant or restriction in the deed to the land described in subsection (b) requiring that—

(A) the land may be used only for educational purposes;

(B) if the land is no longer used for the purposes described in subparagraph (A), the land shall, at the discretion of the Secretary, revert to the United States; and

(C) if the land is determined by the Secretary to be environmentally contaminated under subsection (d)(2)(A), the Board shall remediate the contamination; and

(4) any other terms and conditions that the Secretary determines to be appropriate.

(d) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (c)(3)(A)—

(1) the land shall, at the discretion of the Secretary, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States, the Secretary shall—

(A) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(B) if the Secretary determines that the land is environmentally contaminated, the Board or any other person responsible for the contamination shall remediate the contamination.

By Mr. McCAIN (for himself, Mr. KYL, Mr. DORGAN, Mr. SCHUMER, Mrs. CLINTON, and Mrs. BOXER):

S. 2295. A bill to authorize appropriations for the Homeland Security Department's Directorate of Science and Technology, establish a program for the use of advanced technology to meet homeland security needs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, I am pleased to be joined today by a number of my colleagues representing southern and northern border States, including Senators KYL, DORGAN, SCHUMER, CLINTON, and BOXER in introducing the Border Security and Technology Integration Act of 2004. This bill was developed together with my fellow Arizonan, Congressman KOLBE, who has introduced the House companion to this bill. It is designed to identify and address gaps in border infrastructure and enforcement and promote our Nation's security efforts.

As estimated one million people enter this country illegally every year. Last year, more than 300 people died illegally crossing the border separating the United States and Mexico—and over 200 of those deaths occurred in the Arizona desert. Although the vast majority of these individuals do not intend to harm our Nation, we must recognize our vulnerability to security threats and take action to address identified safety and security lapses. Improving enforcement along our porous borders, as proposed in this legislation, would be one very important step in our efforts to promote national security.

While I commend the Department of Homeland Security (DHS) for its many actions taken over the past year, much remains to be done to secure our Nation. We do not have sufficient control of our Nation's borders, and that fact represents a serious threat to our Nation's security. The solution is two part. We must couple comprehensive immigration reform with improvements in infrastructure and enforcement in the border region—one without the other will never solve this problem. Last summer I introduced comprehensive immigration reform legislation to address our broken immigration system. The Border Security and Technology Integration Act of 2004 would address the other half of the border security equation—improving technology, infrastructure, and coordination in the border region.

The Border Security and Technology Integration Act is intended to improve security along the vast expanses of land between ports of entry along our Nation's northern and southern borders. It would direct the Department of Homeland Security (DHS) to conduct comprehensive vulnerability and threat assessments throughout Bureau of Customs and Border Protection field offices to determine what technology and equipment are needed to improve security. The bill would establish two new border technology pilot programs, one to address aerial surveillance and another to address ground surveillance, that together, will comprehensively evaluate technologies that can improve security along the borders.

With jurisdiction along the border divided among a number of Federal, State, local, and tribal government agencies, coordination and communication between entities too often falls short. To address this problem, this bill would direct DHS to develop plans to improve coordination, communications integration, and information sharing among the various governmental agencies.

The bill also would provide additional direction to the Science and Technology (S&T) Directorate within the DHS. The S&T Directorate is responsible for coordinating research, development, testing, and evaluation activities for all elements of DHS. It also has distinct program areas dedicated to addressing each major category of weapons of mass destruction, such as chemical, biological, radiological, nuclear, and high-explosives. In fiscal year 2004, DHS received $1.04 billion in research and development (R&D) funding, with $874 million appropriated to the S&T Directorate.

The Border Security and Technology Integration Act is intended to improve the coordination and integration of R&D needs and priorities managed by the S&T Directorate. Although most of Department's R&D activities are within the S&T Directorate, other directorates within DHS also include an R&D component. The lack of consolidatoin of R&D activities raises concern about the potential for duplication and misuse of R&D funds. The FY 2005 budget request recognizes the need to consolidate research funds, and to assist with this effort, this bill would direct DHS to identify all R&D activities outside of the S&T Directorate and consolidate these activities within the Directorate to minimize waste and duplication of efforts.

Technology transfer, which is defined as "a process by which technology developed in one organization, in one area, or for one purpose is applied in another organization, in another area, or for another purpose" is an essential component of the new S&T Directorate. This legislation will direct the Undersecretary of the S&T Directorate to establish a Technology Transfer and Licensing Office to facilitate the transfer of technologies into and out of the S&T Directorate and to handle licensing activities for the S&T Directorate. It also would direct DHS to conduct a study to determine the feasibility of establishing a nonprofit government-sponsored enterprise for investing in private sector enterprises that develop new technologies that show promise for homeland security applications.

Again, border security and immigration reform represent national security issues for all Americans and matters of life and death for many living along the border. Since January, over 2,000 suspected smugglers and well over 155,000 undocumented immigrants have been apprehended across Arizona.

The Federal Government's inability to adequately secure our borders perpetuates a state of lawlessness, shifting substantial financial and social burdens to residents of the border region. Violent crimes in Phoenix, alone, have risen 400 percent over the past year, largely due to human smugglers. Across the Nation, hospitals spend well over $200 million a year providing uncompensated care to undocumented immigrants, forcing many hospitals along the border to close their doors or dramatically reduce services. Cash-strapped local law enforcement officials spend millions of dollars covering the cost of incarcerating undocumented immigrants. Frustrated by this situation, some residents have taken the law into their own hands, forming vigilante groups to patrol the border.

While DHS has recently launched several initiatives, including Operation ICE Storm and the Arizona Border Control Initiative, which I hope will substantially improve security in the Arizona border region, we must do more. Manpower alone can never secure the border. We need a comprehensive border-wide security approach that involves people, infrastructure, and technology.

I urge may colleagues to support our efforts to address border security in a reasoned and responsible manner. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Infrastructure and Technology Integration Act of 2004".

TITLE I—BORDER SECURITY

SEC. 101. VULNERABILITY AND THREAT ASSESSMENT.

(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico, including an assessment of the optimal Border Patrol strength for those borders. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2005 through 2010 to carry out any such recommendations from the first study conducted under subsection (a).

SEC. 102. DISCRETIONARY ACCOUNTS FOR FIELD OFFICES.

(a) IN GENERAL.—The Secretary of Homeland Security may provide up to $15,000 per fiscal year to any field office of the Bureau of Customs and Border Protection to be used by that office in developing innovative techniques and technologies to carry out its duties with respect to the inspection of articles and individuals entering the United States. Financial assistance provided to a field office under this subsection shall be in addition to any amounts made available to that office under any other provision of law.

(b) APPLICATIONS.—To receive funding provided under subsection (a) a field office shall submit an application to the Secretary, at such time and in such manner as the Secretary may require, describing the purpose for which the additional funding is requested in sufficient detail to permit the Secretary to determine whether the additional funding is necessary and appropriate.

(c) REPORTS.—

(1) INFORMATION-SHARING.—Not later than 30 days after the head of a field office implements a new technique or technology developed in whole or in part with funding provided under subsection (a), the head of the field office shall submit a report to the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security, the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Science and Technology, and the heads of the other field offices regarding the technique or technology in order for successful techniques and technologies to be replicated by other offices.

(2) CONTENTS.—The report shall include—

(A) a description of the technique or technology developed or implemented with funds provided under subsection (a); and

(B) information on—

(i) how the technique or technology was employed to enhance border security;

(ii) the effectiveness of the technique or technology for enhancing border security; and

(iii) the need for future development or implementation of additional techniques or technology;

(C) accounting for expenditures of funds received under subsection (a);

(D) requesting more funding under subsection (a) if the head of the field office believes it necessary to improve or further develop the technique or technology, or to develop additional techniques or technologies; and

(E) providing an explanation of the need for such additional funding and a justification for the amount requested.

SEC. 103. USE OF AERIAL SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland

Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Secretary of Defense, and the Administrator of the Federal Aviation Administration shall develop a pilot program to utilize, or increase the utilization of, aerial surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider current and proposed aerial surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that can be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

(b) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall include the utilization of a variety of aerial surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) USE OF UNMANNED AERIAL VEHICLES.—The aerial surveillance technologies utilized in the pilot program shall include unmanned aerial vehicles.

(c) IMPLEMENTATION.—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) REPORT.—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

SEC. 104. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

(b) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—The pilot program shall include the utilization of a variety of ground surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of such technologies for border security; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) TECHNOLOGIES.—The ground surveillance technologies utilized in the pilot program shall include the following:

(A) Video camera technology.

(B) Sensor technology.

(C) Motion detection technology.

(c) IMPLEMENTATION.—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) REPORT.—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

SEC. 105. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local government agencies, and Indian tribal agencies on such matters.

(b) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security.

SEC. 106. BORDER SECURITY COORDINATION.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall work with Federal, State, local, and tribal agencies on law enforcement, emergency response, or security-related responsibilities for areas on or adjacent to the United States borders with Canada and Mexico to develop and implement a plan to ensure that border security is not compromised—

(1) when jurisdiction over an area or facility passes from one agency to another;

(2) in areas of shared jurisdiction; or

(3) when one Federal agency relinquishes jurisdiction to another pursuant to a memorandum of understanding.

(b) KEY ELEMENTS OF PLAN.—In developing the plan, the Under Secretary shall focus particularly on—

(1) the coordination of emergency responses to border security events;

(2) improved data-sharing and communications among the responsible agencies; and

(3) research and development relating to technology and systems for improved coordination among the responsible agencies.

(c) REPORT.—Not later than 1 year after implementing the plan under subsection (a), the Under Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Select Committee on Homeland Security, and other appropriate committees of Congress on the development and implementation of the plan. The report shall include information on Federal agency response times to calls for assistance on immigration-related matters from State and local government agencies.

SEC. 107. MONITORING FOR BORDER AREA BIOTERRORISM ATTACKS.

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of Health and Human Services shall execute a memorandum of understanding between the Department of Homeland Security and the Department of Health and Human Services establishing a system—

(1) to monitor hospitals along the United States borders with Canada and Mexico for signs of potential health threats or bioterror attacks; and

(2) to ensure cooperation and information-sharing between the departments with respect to such threats or attacks.

(b) REPORT.—Not later than 1 year after the memorandum of understanding is executed and annually thereafter, the Secretaries shall transmit a joint report to the Congress on the system established under subsection (a) during the preceding calendar year. The report shall include a description of measures taken to deal with any problems reported, proposals for improving the system, and recommendations (including legislative recommendations if appropriate), to improve or expand the system.

TITLE II—DEPARTMENT OF HOMELAND SECURITY DIRECTORATE OF SCIENCE AND TECHNOLOGY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) Fiscal year 2005.—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology $1,039,350,000 for fiscal year 2005 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) $129,300,000 shall be for radiological/nuclear countermeasures;

(2) $407,000,000 shall be for biological countermeasures;

(3) $62,700,000 shall be for chemical and high explosives countermeasures;

(4) $39,700,000 shall be for the standards and State and local program;

(5) $34,000,000 shall be for the Conventional Missions/Components Program;

(6) $30,000,000 shall be for university programs;

(7) $21,000,000 shall be for emerging threats;

(8) $76,000,000 shall be for the Rapid Prototyping Program;

(9) $101,900,000 shall be for threat and vulnerability testing and assessment;

(10) $61,000,000 shall be for Counter MANPADS/Critical Infrastructure Protection;

(11) $52,600,000 shall be for salary and expenses; and

(12) $24,150,000 shall be for Research and Development Consolidation transferred funds.

(b) Fiscal Year 2006.—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology $1,045,656,000 for fiscal year 2006 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) $133,179,000 shall be for radiological/nuclear countermeasures;

(2) $419,210,000 shall be for biological countermeasures;

(3) $64,581,000 shall be for chemical and high explosives countermeasures;

(4) $40,891,000 shall be for the standards and State and local program;

(5) $35,020,000 shall be for the Conventional Missions/Components Program;

(6) $30,900,000 shall be for university programs;

(7) $21,630,000 shall be for emerging threats;

(8) $78,280,000 shall be for the Rapid Prototyping Program;

(9) $104,957,000 shall be for threat and vulnerability testing and assessment;

(10) $62,830,000 shall be for Counter MANPADS/Critical Infrastructure Protection; and

(11) $54,178,000 shall be for salary and expenses.

(c) Fiscal Year 2007.—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology $1,077,025,680 for fiscal year 2007 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) $137,174,370 shall be for radiological/nuclear countermeasures;

(2) $431,786,300 shall be for biological countermeasures;

(3) $66,518,430 shall be for chemical and high explosives countermeasures;

(4) $42,117,730 shall be for the standards and State and local program;

(5) $36,070,600 shall be for the Conventional Missions/Components Program;

(6) $31,827,000 shall be for university programs;

(7) $22,278,900 shall be for emerging threats;

(8) $80,628,400 shall be for the Rapid Prototyping Program;

(9) $108,105,710 shall be for threat and vulnerability testing and assessment;

(10) $64,714,900 shall be for Counter MANPADS/Critical Infrastructure Protection; and

(11) $55,803,340 shall be for salary and expenses.

(d) Fiscal Year 2008.—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology $1,109,336,450 for fiscal year 2008 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) $141,289,601 shall be for radiological/nuclear countermeasures;

(2) $444,739,889 shall be for biological countermeasures;

(3) $68,513,983 shall be for chemical and high explosives countermeasures;

(4) $43,381,262 shall be for the standards and State and local program;

(5) $37,152,718 shall be for the Conventional Missions/Components Program;

(6) $32,781,810 shall be for university programs;

(7) $22,947,267 shall be for emerging threats;

(8) $83,047,252 shall be for the Rapid Prototyping Program;

(9) $111,348,881 shall be for threat and vulnerability testing and assessment;

(10) $66,656,347 shall be for Counter MANPADS/Critical Infrastructure Protection; and

(11) $57,477,440 shall be for salary and expenses.

SEC. 202. RESEARCH NEEDS AND PRIORITIES REPORT.

(a) In General.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Under Secretary of Homeland Security for Science and Technology shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security a report on research and development needs and priorities identified for all elements of the Department of Homeland Security.

(b) Content.—The report shall include a description of—

(1) the research and development needs in support of the Department's missions;

(2) priorities established for directing, funding, and conducting research and development activities of the Department;

(3) the Directorate of Science and Technology's efforts and priorities to meet the research and development needs of the Department;

(4) the progress that the Science and Technology Directorate has made in its efforts to meet the needs described in paragraph (1); and

(5) strategies to coordinate and integrate all research, development, demonstration, testing, and evaluation activities of the Department.

SEC. 203. NATIONAL ACADEMY OF SCIENCES.

(a) Review.—Not later than 60 days after the initial report is submitted under section 202, the Under Secretary of Homeland Security for Science and Technology shall contract with the National Academy of Sciences to conduct a review of the Science and Technology Directorate's research and development needs and priorities described in the report. The review shall include—

(1) an assessment of the Directorate's ability to meet the research and development needs of the Department of Homeland Security;

(2) a review of the process used to determine research priorities;

(3) a review of the grant proposal evaluation process; and

(4) a review of the technology transfer process.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security on the results of the review conducted under subsection (a).

SEC. 204. RESEARCH AND DEVELOPMENT ACTIVITIES REPORTS.

Not later than 60 days after the initial report is submitted under section 202, the Secretary of Homeland Security shall—

(1) identify all research and development activities in the Department of Homeland Security that are not conducted within the Directorate of Science and Technology; and

(2) consolidate those activities so as to eliminate needless duplication of effort.

SEC. 205. PERSONNEL PLAN.

Not later than 3 months after the date of enactment of this Act, the Under Secretary of Homeland Security for Science and Technology shall submit a personnel staffing plan for the Science and Technology Directorate to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science. The plan shall include information on recruitment procedures, compensation arrangements, and the number and qualifications of employees required for the Directorate.

SEC. 206. HOMELAND SECURITY INSTITUTE.

Section 312 of the Homeland Security Act of 2002 (6 U.S.C. 192) is amended by striking subsection (g).

SEC. 207. TECHNOLOGY TRANSFER AND LICENSING OFFICE.

(a) Establishment of the Office.—The Under Secretary of Homeland Security for Science and Technology shall establish a Technology Transfer and Licensing Office within the Directorate of Science and Technology. The Office shall—

(1) facilitate the transfer of technologies into and out of the Directorate of Science and Technology; and

(2) handle the licensing activities for the Directorate of Science and Technology.

(b) Technology Transfer Plan.—Not later than 180 days after the date of enactment of this Act, the Under Secretary shall develop and implement a technology transfer plan for the Directorate. The technology transfer plan shall include—

(1) a framework of oversight and administrative requirements for carrying out technology transfer activities;

(2) a description of how the Office will identify, assess, license, and monitor research and development projects that the Department and its related facilities determine have a potential for public and commercial application; and

(3) procedures for the dissemination of information on Federally owned or originated products, processes, and services to interested parties.

(c) Plan and Report.—The Under Secretary shall transmit a copy of the plan, together with recommendations (including legislative recommendations) if any, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security within 1 year after the plan is implemented.

SEC. 208. HOMELAND SECURITY TECHNOLOGY INVESTMENT STUDY.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall initiate and complete a study to determine the feasibility of funding a nonprofit government-sponsored enterprise for the purpose of investing in private sector enterprises to support research and development of new technologies that show promise for homeland security applications.

(b) REPORT.—The Secretary shall transmit a report, with the Secretary's findings, conclusions, and recommendations (including legislative recommendations, if appropriate), within 120 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security.

By Mrs. HUTCHISON (for herself and Ms. SNOWE):

S. 2297. A bill to improve intermodal shipping container transportation security; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Intermodal Shipping Container Security Act".

SEC. 2. NATIONAL TRANSPORTATION SECURITY STRATEGY.

In carrying out section 114(f) of title 49, United States Code, the Under Secretary of Homeland Security for Border and Transportation Security shall take into account the National Maritime Transportation Security Plan prepared under section 70103 of title 46, United States Code, by the Secretary of the department in which the Coast Guard is operating when the plan is prepared in order to ensure that the strategy for dealing with threats to transportation security developed under section 114(f)(3) of title 49, United States Code, incorporates relevant aspects of the National Maritime Transportation Security Plan and addresses all modes of commercial transportation to, from, and within the United States.

SEC. 3. COMPREHENSIVE STRATEGIC PLAN FOR INTERMODAL SHIPPING CONTAINER SECURITY.

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a strategic plan for integrating security for all modes of transportation by which intermodal shipping containers arrive, depart, or move in interstate commerce in the United States that—

(A) takes into account the security-related authorities and missions of all Federal, State, and local law enforcement agencies that relate to the movement of intermodal shipping containers via air, rail, maritime, or highway transportation in the United States; and

(B) establishes as a goal the creation of a comprehensive, integrated strategy for intermodal shipping container security that encompasses the authorities and missions of all those agencies and sets forth specific objectives, mechanisms, and a schedule for achieving that goal.

(2) UPDATES.—The Secretary shall revise the plan from time to time.

(c) IDENTIFICATION OF PROBLEM AREAS.—In developing the strategic plan required by subsection (a), the Secretary shall consult with all Federal; State, and local government agencies responsible for security matters that affect or relate to the movement of intermodal shipping containers via air, rail, maritime, or highway transportation in the United States in order to—

(1) identify changes, including legislative, regulatory, jurisdictional, and organizational changes, necessary to improve coordination among those agencies;

(2) reduce overlapping capabilities and responsibilities; and

(3) streamline efforts to improve the security of such intermodal shipping containers.

(d) ESTABLISHMENT OF STEERING GROUP.—The Secretary shall establish, organize, and provide support for an advisory committee, to be known as the Senior Steering Group, of senior representatives of the agencies described in subsection (c). The Group shall meet from time to time, at the call of the Secretary or upon its own motion, for the purpose of developing solutions to jurisdictional and other conflicts among the represented agencies with respect to the security of intermodal shipping containers, improving coordination and information-sharing among the represented agencies, and addressing such other, related matters, as the Secretary may request.

(e) ANNUAL REPORT.—The Secretary, after consulting the Senior Steering Group, shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the activities of the Senior Steering Group and the Secretary under this section, describing the progress made during the year toward achieving the objectives of the plan, and including any recommendations, including legislative recommendations, if appropriate for further improvements in dealing with security-issues related to intermodal shipping containers and related transportation security issues.

(f) BIENNIAL EXPERT CRITIQUE.—

(1) EXPERT PANEL.—A panel of experts shall be convened once every 2 years by the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure to review plans submitted by the Secretary under subsection (a).

(2) MEMBERSHIP.—The panel shall consist of—

(A) 4 individuals selected by the chairman and ranking member of the Senate Committee on Commerce, Science, and Transportation and by the chairman and ranking member of House of Representatives Committee on Transportation and Infrastructure, respectively; and

(B) 1 individual selected by the 4 individuals selected under subparagraph (A).

(3) QUALIFICATIONS.—Individuals selected under paragraph (2) shall be chosen from among individuals with professional expertise and experience in security-related issues involving shipping or transportation and without regard to political affiliation.

(4) COMPENSATION AND EXPENSES.—An individual serving as a member of the panel shall not receive any compensation or other benefits from the Federal Government for serving on the panel or be considered a Federal employee as a result of such service. Panel members shall be reimbursed by the Committees for expenses, including travel and lodging, they incur while actively engaged in carrying out the functions of the panel.

(5) FUNCTION.—The panel shall review plans submitted by the Secretary under subsection (a), evaluate the strategy set forth in the plan, and make such recommendations to the Secretary for modifying or otherwise improving the strategy as may be appropriate.

SEC. 4. SHIPPING CONTAINER INTEGRITY INITIATIVE.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended

(1) by redesignating section 70117 as section 70118; and

(2) by inserting after section 70116 the following:

"§ 70117. Enhanced container-related security measures.

"(a) TRACKING INTERMODAL CONTAINER SHIPMENTS IN THE UNITED STATES.—The Secretary, in cooperation with the Under Secretary of Border and Transportation Security, shall develop a system to increase the number of intermodal shipping containers physically inspected (including noninstrusive inspection by scanning technology), monitored, and tracked within the United States.

"(b) SMART BOX TECHNOLOGY.—Under regulations to be prescribed by the Secretary, beginning with calendar year 2007 no less than 50 percent of all ocean-borne shipping containers entering the United States during any calendar year shall incorporate 'Smart Box' or equivalent technology developed, approved, or certified by the Under Secretary of Homeland Security for Border and Transportation Security. Beginning with calendar year 2009, any such container that does not incorporate 'Smart Box' or equivalent technology may not enter the United States.

"(c) DEVELOPMENT OF INTERNATIONAL STANDARD FOR SMART CONTAINERS.—The Secretary shall—

"(1) develop, and seek international acceptance of, a standard for 'smart' maritime shipping containers that incorporate technology for tracking the location and assessing the integrity of those containers as they move through the intermodal transportation system; and

"(2) implement an integrated tracking and technology system for such containers.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70117 and inserting the following:

"70117. Enhanced container-related security measures.

"70118. Civil penalties.".

SEC. 5. ADDITIONAL RECOMMENDATIONS.

Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report that contains the following:

(1) Recommendations about what analysis must be performed and the cost to develop

and field a cargo container tracking and monitoring system within the United States which tracks all aviation, rail, maritime, and highway cargo containers equipped ,with smart container technology.

(2) Recommendations on how the Department of Homeland Security could help support the deployment of such a system.

(3) Recommendations as to how current efforts by the Department of Homeland Security and other Federal agencies could be incorporated into the physical screening or inspection of aviation, rail, maritime, and highway cargo containers within the United States.

(4) Recommendations about operating systems and standards for those operating systems, to support the tracking of aviation, rail, maritime, and highway cargo containers within the United States that would include the location of regional, State, and local operations centers.

(5) A description of what contingency actions, measures, and mechanisms should be incorporated in the deployment of a nationwide aviation, rail, maritime, and highway cargo containers tracking and monitoring system which would allow the United States maximum flexibility in responding quickly and appropriately to increased terrorist threat levels at the local, State, or regional level.

(6) A description of what contingency actions, measures, and mechanisms must be incorporated in the deployment of such a system which would allow for the quick reconstitution of the system in the event of a catastrophic terrorist attack which affected part of the system.

(7) Recommendations on how to leverage existing information and operating systems within State or Federal agencies to assist in the fielding of the system.

(8) Recommendations on co-locating local, State, and Federal agency personnel to streamline personnel requirements, minimize costs, and avoid redundancy.

(9) An initial assessment of the availability of private sector resources which could be utilized, and incentive systems developed, to support the fielding of the system, and the maintenance and improvement as technology or terrorist threat dictate.

(10) Recommendations on how this system that is focused on the continental United States would be integrated into any existing or planned system, or process, which is designed to monitor the movement of cargo containers outside the continental United States.

SEC. 6. IMPROVEMENTS TO CONTAINER TARGETING SYSTEMS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Com merce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary plan for strengthening the Bureau of Customs and Border Protection's container targeting system. The plan shall identify the cost and feasibility of requiring additional non-manifest documentation for each container, including purchase orders, shipper's letters of instruction, commercial invoices, letters of credit, or certificates of origin.

(b) REDUCTION OF MANIFEST REVISION WINDOW.—Within 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall issue regulations under which the time period for revisions to a container cargo manifest submitted to the Bureau of Customs and Border Protection shall be reduced from 60 days to 45 days after arrival at a United States port.

(c) SUPPLY CHAIN INFORMATION.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a system to share threat and vulnerability information with all of the industries in the supply chain that will allow ports, carriers, and shippers to report on security lapses in the supply chain and have access to unclassified maritime threat and security information such as piracy incidents.

SEC. 7. INCREASE IN NUMBER OF CUSTOMS INSPECTORS ASSIGNED OVERSEAS.

(a) IN GENERAL.—The Secretary of Homeland Security shall substantially increase the number of United States Customs Service inspectors assigned to duty outside the United States under the Container Security Initiative of the United States Customs Service with responsibility for inspecting intermodal shipping containers being shipped to the United States.

(b) STAFFING CRITERIA.—In carrying out subsection (a) the Secretary of Homeland Security shall determine the appropriate level for assignment and density of customs inspectors at selected international port facilities by a threat, vulnerability, and risk analysis which, at a minimum, considers—

(1) the volume of containers shipped;

(2) the ability of the host government to assist in both manning and providing equipment and resources;

(3) terrorist intelligence known of importer vendors, suppliers or manufactures; and

(4) other criteria as determined in consult with experts in the shipping industry, terrorism, and shipping container security.

(c) MINIMUM NUMBER.—The total number of customs inspectors assigned to international port facilities shall not be less than the number determined as a result of the threat, vulnerability, and risk assessment analysis which is validated by the Administrator of the Transportation Security Administration within 180 days after the date of enactment of this Act.

(d) PLAN.—The Secretary shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, with timelines, for phasing inspectors into selected port facilities within 180 days after the enactment of this Act.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 2299. A bill to strengthen the national security by encouraging and assisting in the expansion and improvement of educational programs to meet critical needs at the elementary, secondary, and higher education levels; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I rise to speak about the need for legislation to help attract the most highly skilled Federal workforce. To help reach that goal, we need an education system that will ensure that every young person has the tools needed to succeed in the 21st century.

I have spoken many times about the fall of 1957, when the Soviet Union launched Sputnik into orbit. We were caught off guard as a Nation. The start of the space race revealed to us that major changes had to be made to preserve our national security and to pull ahead in scientific and technological innovation.

One year later, Congress passed landmark legislation—the National Defense Education Act. The purpose of the act was "to strengthen the national defense and to encourage and assist in the expansion and improvement of educational programs to meet critical national needs." The National Defense Education Act provided assistance to State and local school systems to strengthen instruction in science, math, foreign languages, and other critical subjects. It also created low-interest student loan programs and fellowships to open the door to higher education to a greater number of young people.

This coordinated national effort helped our Nation meet its goals. By 1969, Americans had landed on the moon. The United States became the most technologically advanced nation in the world. A new generation of highly skilled mathematicians, scientists, and technology experts were hired to staff laboratories, universities, and Federal agencies. Colleges and universities also established centers for foreign language study and research.

Sadly, this Nation received another wake-up call on September 11, 2001.

The week after the attacks, FBI Director Robert Mueller made a public plea for Arabic and Farsi speakers to assist as translators, signaling the alarming deficiency in fluent speakers of languages crucial to our national security needs. It does our Nation little good to have sophisticated weapons programs if we don't have the scientists to back them up. It does our Nation no good to have expanded intelligence gathering capabilities if what we retrieve sits untranslated. The United States must have the brainpower to match its firepower.

Today I join Senator AKAKA to introduce a bill to make investments in our future as a Nation through investments in our education system.

The Homeland Security Education Act will fund partnerships between local school districts and foreign language departments in institutions of higher education. These new foreign language partnerships will provide intensive professional development opportunities for foreign language teachers at every level from Kindergarten to 12th grade. The partnerships will foster contact and communication between university faculty and K–12 teachers in order to improve teachers' knowledge of the languages they teach as well as their teaching skills. Partnerships will also use grant funds to recruit foreign language majors to the classroom. Our bill will give priority to partnerships that include high-need school districts and that put a focus on languages that are critical for our future security needs.

Our bill will encourage more undergraduates to complete degrees in mathematics, science, engineering, and the less-commonly taught, critical foreign languages by establishing a program to forgive the interest on a borrower's student loans if he or she earns a degree in one of these subjects. This will provide an incentive for students who are interested in language, math or science to study them in depth.

The bill establishes grants for partnerships between school districts and private entities to help schools improve science and math curriculum, upgrade laboratory facilities, and purchase scientific equipment. The private sector partner will donate technology or equipment to the school district; provide scholarships for students to study math, science or engineering in college; establish internship or mentoring opportunities for students; or sponsor programs targeted to young people who are under-represented in the fields of math, science and engineering.

In order to stay on top of innovations in science and technology, more professionals in these fields will need to be proficient also in a foreign language. This is imperative to our national security—even some scientific documents and articles in the public domain are beyond the translation capabilities of our government. The Homeland Security Education Act will make grants available to colleges and universities to establish programs in which students take courses in science, math and technology taught in a foreign language. Funds will also support immersion programs for students to take science and math courses in a non-English speaking country.

The Homeland Security Education Act authorizes $20 million for the National Flagship Language Initiative, which was authorized in the last Congress. The funds will be used to provide institutional grants to universities to graduate specific numbers of students with the foreign language proficiencies needed by the government and will allow the universities to operate foreign language immersion programs overseas. Participating institutions will make available a negotiated number of slots to student applicants who are Federal employees.

With this legislation, we hope to address some of the gaps in homeland security that have been identified by numerous experts and panels, including the Hart-Rudman Commission on National Security in the 21st Century. We must do everything possible to ensure that our intellectual preparedness is equal to our military preparedness. I urge my colleagues to join us in cosponsoring this important legislation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeland Security Education Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress makes the following findings:

(1) American elementary and secondary schools need more qualified teachers in mathematics and science.

(2) American colleges and universities must place new emphasis on improving the teaching in areas of disciplines that are critical to the interests of the United States.

(3) American elementary and secondary schools need the equipment and resources to improve education in science and mathematics.

(4) Foreign language proficiency is crucial to the economic competitiveness and national security of the United States. Significant improvement in the quantity and quality of foreign language instruction offered in United States elementary and secondary schools is necessary.

(5) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

(b) Purpose.—It is the purpose of this Act to ensure national security through increasing the quantity, diversity, and quality of the teaching and learning of subjects in the fields of science, mathematics, and foreign language.

TITLE I—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

SEC. 101. SUBSIDIZED INTEREST LOANS TO STUDENTS.

(a) In General.—The Secretary of Education shall establish and implement a program under the guaranteed and direct student loan program provisions of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) to cancel the obligation of loan borrowers who are United States citizens, United States nationals, permanent legal residents, or citizens of the Freely Associated States (as defined in section 103(16)(b) of the Higher Education Act of 1965), to pay interest on a loan provided for under such title in order to serve as an incentive for students to obtain degrees in science, engineering, mathematics, or a foreign language.

(b) Guaranteed Student Loans.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by inserting after section 428K the following:

"SEC. 428L. STUDENT LOAN INTEREST FORGIVENESS.

"(a) Purpose.—It is the purpose of this section to forgive interest payments on student loans under this part for a selected borrower in repayment status who has obtained an undergraduate degree in science, mathematics, engineering, or a foreign language in order to provide additional incentives for undergraduate students to pursue and obtain degrees in these subjects.

"(b) Program Authorized.—

"(1) In general.—From the sums appropriated pursuant to subsection (d), the Secretary shall carry out a program, through the holder of the loan, assuming the obligation to repay the interest on a loan amount for a loan made under this part in accordance with subsection (c), for a borrower who—

"(A) is in need of the amount of the loan to pursue a course of study at an accredited institution of higher education;

"(B) is in good academic standing and is capable, in the opinion of the institution of higher education involved, of maintaining good standing in such course of study;

"(C) will obtain a bachelor's degree in science, mathematics, engineering, or a foreign language;

"(D) has completed at least half of the course requirements necessary to receive such degree; and

"(E) is not in default on a loan for which the borrower seeks forgiveness of interest payments.

"(2) Selection of recipients.—The Secretary shall, by regulation, establish a formula that ensures fairness and equality for applicants in the selection of borrowers for loan interest repayment under this section, based on the amount available pursuant to subsection (d).

"(c) Terms.—After a borrower has obtained a bachelor's degree in science, mathematics, engineering, or a foreign language, the Federal Government shall assume any interest payments due for as long as the borrower is in loan repayment status, except that in failing to meet any of the obligations set forth in this section, the borrower will reimburse the Federal Government for the amount of the assistance provided including interest, at a rate and schedule to be determined by the Secretary.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(e) Definitions.—In this section:

"(1) Foreign language.—The term 'foreign language' includes the languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any language identified by the National Security Education Program as a critical foreign language need.

"(2) Science.—The term 'science' means any of the natural and physical sciences including, but not limited to, chemistry, biology, physics, and computer science. Such term shall not include any of the social sciences.".

(c) Direct Student Loans.—Part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended by adding at the end the following:

"SEC. 460A. STUDENT LOAN INTEREST FORGIVENESS.

"(a) Purpose.—It is the purpose of this section to forgive interest payments on student loans under this part for a student in repayment status who has obtained an undergraduate degree in science, mathematics, engineering, or a foreign language in order to provide additional incentives for undergraduate students to pursue degrees in these subjects.

"(b) Program Authorized.—

"(1) In general.—From the sums appropriated pursuant to subsection (d), the Secretary shall cancel the obligation to pay interest on a loan amount, in accordance with subsection (c) for a loan under this part, for a borrower who—

"(A) is in need of the amount of the loan to pursue a course of study at an accredited institution of higher education;

"(B) is in good standing and is capable, in the opinion of the institution of higher education involved, of maintaining good standing in such course of study;

"(C) will obtain a bachelor's degree in either science, mathematics, engineering, or a foreign language;

"(D) has completed at least half of the course requirements toward such degree; and

"(E) is not in default on a loan for which the borrower seeks forgiveness of interest payments.

"(2) SELECTION OF RECIPIENTS.—The Secretary shall by regulation, establish a formula that ensures fairness and equality for applicants in the selection of borrowers for loan interest repayment under this section, based on the amount available pursuant to subsection (d).

"(c) TERMS.—After a borrower has obtained a bachelor's degree in science, mathematics, engineering, or a foreign language, the Federal Government shall assume any interest payments due for as long as the borrower is in loan repayment status, except that in failing to meet any of the obligations set forth in this section, the borrower will reimburse the Federal Government for the amount of the assistance provided including interest, at a rate and schedule to be determined by the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(e) DEFINITIONS.—In this section:

"(1) FOREIGN LANGUAGE.—The term 'foreign language' includes the languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any language identified by the National Security Education Program as a critical foreign language need.

"(2) SCIENCE.—The term 'science' means any of the natural and physical sciences including, but not limited to, chemistry, biology, physics, and computer science. Such term shall not include any of the social sciences.".

SEC. 102. REPORT TO CONGRESS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall propose regulations to carry out this title and submit to the appropriate committees of Congress a report on how the Secretary of Education plans to implement the programs under the amendments made by section 101 and advertise such programs to institutions of higher education and potential applicants. Not later than 6 months after the date on which the comment period for the regulations proposed under the preceding sentence ends, the Secretary of Education shall promulgate final regulations to carry out this title.

TITLE II—STRENGTHENING SCIENCE AND MATHEMATICS INSTRUCTION AT ELEMENTARY AND SECONDARY SCHOOLS

SEC. 201. FEDERAL GRANTS TO PUBLIC SCHOOLS.

Title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7201 et seq.) is amended by adding at the end the following:

"PART E—STRENGTHENING SCIENCE AND MATHEMATICS INSTRUCTION

"SEC. 5701. FEDERAL GRANTS TO PUBLIC SCHOOLS.

"(a) GENERAL AUTHORITY.—

"(1) GRANT PROGRAM.—The Secretary shall establish a demonstration program under which the Secretary shall award grants to eligible local educational agencies to enable such agencies to develop programs that build or expand mathematics and science curriculum, upgrade existing laboratory facilities, and purchase equipment necessary to establish such programs.

"(2) PROGRAM REQUIREMENTS.—The program described in paragraph (1) shall be designed to provide students with a rich standards-based course of study in mathematics and science.

"(b) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—A local educational agency shall be eligible to receive a grant under this section if the agency—

"(1) provides assurances that it has executed conditional agreements with representatives of the private sector to provide services and funds described in subsection (c); and

"(2) agrees to enter into an agreement with the Secretary to comply with the requirements of this section.

"(c) PRIVATE SECTOR PARTICIPATION.—The conditional agreements referred to in subsection (b)(1) shall describe participation by the private sector in programs carried out under this section, including—

"(1) the donation of technology tools;

"(2) the establishment of internship and mentoring opportunities for students who participate in a mathematics or science program, paying particular attention to those students who are members of traditionally under-represented groups in these fields; or

"(3) the donation of scholarship funds for students to pursue or continue a study of mathematics or science at accredited institutions of higher education.

"(d) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an eligible local educational agency (as described in subsection (b)) shall submit an application to the Secretary in accordance with guidelines established by the Secretary pursuant to paragraph (2).

"(2) GUIDELINES.—

"(A) REQUIREMENTS.—The guidelines referred to in paragraph (1) shall require, at a minimum, that the application include—

"(i) a description of proposed activities consistent with the uses of funds and program requirements under subsection (a);

"(ii) a description of programs involving innovative experience learning such as laboratory experience;

"(iii) a description of any applicable higher education scholarship program, including criteria for selection, duration of scholarships, number of scholarships to be awarded each year, and funding levels for scholarships; and

"(iv) evidence of private sector participation and support in cash or in kind as specified under subsection (c).

"(B) GUIDELINE PUBLICATION.—Not later than 6 months after the date of enactment of this section, the Secretary shall issue and publish proposed guidelines under subparagraph (A). Not later than 6 months after the date on which the period for comment concerning the proposed guidelines ends, the Secretary shall issue final guidelines under such subparagraph.

"(3) SELECTION.—The Secretary shall select a local educational agency to receive a grant under this section on the basis of merit, as determined after the Secretary has conducted a comprehensive review, and in accordance with subsection (e).

"(e) PRIORITY.—The Secretary shall give special priority in awarding grants under this section to eligible high need local educational agencies (as such term is defined in section 201(b) of the Higher Education Act of 1965).

"(f) CONDITIONAL AGREEMENT.—In this section, the term 'conditional agreement' means an arrangement between representatives of the private sector and local educational agencies to provide certain services and funds, such as the donation of computer hardware and software, the donation of science laboratory equipment suitable for students in kindergarten through grade 12, the establishment of internship and mentoring opportunities for students who participate in mathematics, science, and information technology programs, and the donation of scholarship funds for use at institutions of higher education by eligible students who have participated in the mathematics, science, and information technology programs.

"(g) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, $75,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"SEC. 5702. SCIENCE AND MATHEMATICS EDUCATION STUDY.

"(a) IN GENERAL.—The Secretary, in cooperation with the Director of the National Science Foundation, shall conduct a study of how mathematics and science efforts at the National Science Foundation and the Department of Education relating to students in kindergarten through grade 12 are coordinated, and if such coordination does not exist, how such entities plan to coordinate such efforts.

"(b) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the findings made with respect to the study conducted under subsection (a).

"SEC. 5703. DEFINITION.

"In this part, the term 'science' means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.".

SEC. 202. NATIONAL MATHEMATICS AND SCIENCE NEEDS ASSESSMENT.

(a) IN GENERAL.—The Secretary of Education, jointly with the Director of the National Science Foundation, shall conduct an assessment of the long-term mathematics and science needs of the national security workforce and of the larger Federal workforce of which the national security workforce is a part.

(b) REPORT.—Not later than 18 months after the date of enactment of this section, the Secretary of Education shall prepare and submit to the appropriate committees of Congress a report concerning the findings made with respect to the assessment conducted under subsection (a).

TITLE III—PROMOTING FOREIGN LANGUAGE EDUCATION

SEC. 301. FINDINGS.

Congress makes the following findings:

(1) Foreign language skills and area expertise are integral to, or directly support, every foreign intelligence discipline and are essential factors in national security readiness, information superiority, and coalition peacekeeping or warfighting missions.

(2) Federal intelligence and defense agencies have been reporting shortfalls in language capability.

(3) Communicating in languages other than English and understanding and accepting cultural and societal differences are vital to the success of peacetime and wartime military operations.

(4) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation.

(5) Foreign language study can increase children's capacity for critical and creative thinking skills, and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

(6) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests in reading, language arts, and mathematics than children who have not studied a foreign language.

(7) Proficiency levels required to perform national security functions have been raised, and what was once considered proficiency is no longer the case. The ability to comprehend and articulate technical and complex information has become critical.

(8) Languages taught in universities are often not the languages that address national security needs. The top languages the United States Defense Language Institute requires are Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, and Serbian-Croatian. Existing foreign language proficiency in nontargeted languages also provides a foundation for subsequent foreign languages, even if unrelated.

(9) Immersion through work or schooling abroad is very beneficial for developing needed language proficiencies.

(10) Federal agencies have identified the need for employees proficient in foreign languages who have diverse skills including cryptography, translation (particularly with technical documents), debriefing, and interrogation.

SEC. 302. ENCOURAGING EARLY FOREIGN LANGUAGE STUDIES.

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended by adding at the end the following:

"PART E—ENCOURAGING EARLY FOREIGN LANGUAGE STUDIES

"SEC. 2501. ENCOURAGING EARLY FOREIGN LANGUAGE STUDIES.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that—

"(A) shall include—

"(i) a foreign language department of an institution of higher education; and

"(ii) a local educational agency; and

"(B) may include—

"(i) another foreign language or teacher training department of an institution of higher education;

"(ii) another local educational agency, or an elementary or secondary school;

"(iii) a business;

"(iv) a nonprofit organization of demonstrated effectiveness, including a museum;

"(v) heritage or community centers for language study;

"(vi) language resource centers authorized under part A of title VI of the Higher Education Act of 1965; or

"(vii) the State foreign language coordinator or State educational agency.

"(2) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term 'high need local educational agency' has the meaning given the term in section 201(b) of the Higher Education Act of 1965.

"(3) LESS-COMMONLY TAUGHT FOREIGN LANGUAGES.—The term 'less-commonly taught foreign languages' includes the languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any other language identified by the National Security Education Program as a critical foreign language need.

"(4) SUMMER WORKSHOP OR INSTITUTE.—The term 'summer workshop or institute' means a workshop or institute, conducted during the summer, that—

"(A) is conducted for a period of not less than 2 weeks;

"(B) provides for a program that provides direct interaction between students and faculty; and

"(C) provides for followup training during the academic year that—

"(i) except as provided in clause (ii) or (iii), shall be conducted in the classroom for a period of not less than 3 days, which may or may not be consecutive;

"(ii) if the program described in subparagraph (B) is for a period of not more than 2 weeks, shall be conducted for a period of more than 3 days; or

"(iii) if the program is for teachers in rural school districts, may be conducted through distance education.

"(b) PURPOSE.—It is the purpose of this section to improve the performance of students in the study of foreign languages by encouraging States, institutions of higher education, elementary schools, and secondary schools to participate in programs that—

"(1) upgrade the status and stature of foreign language teaching by encouraging institutions of higher education to assume greater responsibility for improving foreign language teacher education through the establishment of a comprehensive, integrated system of recruiting and advising such teachers;

"(2) focus on education of foreign language teachers as a career-long process that should continuously stimulate teachers' intellectual growth and upgrade teachers' knowledge and skills;

"(3) bring foreign language teachers in elementary schools and secondary schools together with linguists or higher education foreign language professionals to increase the subject matter knowledge and improve the teaching skills of teachers through the use of more sophisticated resources that institutions of higher education are better able to provide than the schools; and

"(4) develop more rigorous foreign language curricula that are aligned with—

"(A) professional accepted standards for elementary and secondary education instruction; and

"(B) the standards expected for post-secondary study in foreign language.

"(c) GRANTS TO PARTNERSHIPS.—

"(1) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of carrying out the authorized activities described in this section.

"(2) DURATION.—The Secretary shall award grants under this section for a period of 5 years.

"(3) FEDERAL SHARE.—The Federal share of the costs of the activities assisted under this section shall be—

"(A) 75 percent of the costs for the first year that an eligible partnership receives a grant payment under this section;

"(B) 65 percent of such costs for the second such year; and

"(C) 50 percent of such costs for each of the third, fourth, and fifth such years.

"(4) NON-FEDERAL SHARE.—The non-Federal share of the costs of carrying out the authorized activities described in this section may be provided in cash or in kind, fairly evaluated.

"(5) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible partnerships—

"(A) that include high need local educational agencies; or

"(B) that emphasize the teaching of the less-commonly taught foreign languages.

"(d) APPLICATIONS.—

"(1) IN GENERAL.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"(2) CONTENTS.—An application under paragraph (1) shall include—

"(A) an assessment of the teacher quality and professional development needs of all the schools and agencies participating in the eligible partnership with respect to the teaching and learning of foreign languages;

"(B) a description of how the activities to be carried out by the eligible partnership will be based on a review of relevant research, and an explanation of why the activities are expected to improve student performance and to strengthen the quality of foreign language instruction; and

"(C) a description of—

"(i) how the eligible partnership will carry out the authorized activities described in subsection (e); and

"(ii) the eligible partnership's evaluation and accountability plan as described in subsection (f).

"(e) AUTHORIZED ACTIVITIES.—Eligible activities to be conducted by an eligible partnership shall be related to elementary schools or secondary schools and shall include—

"(1) creating opportunities for enhanced and ongoing professional development that improves the subject matter knowledge of foreign language teachers;

"(2) recruiting university students with foreign language majors for teaching;

"(3) promoting strong teaching skills for foreign language teachers and teacher educators;

"(4) establishing foreign language summer workshops or institutes (including followup training) for teachers;

"(5) establishing distance learning programs for foreign language teachers;

"(6) designing programs to prepare a teacher at a school to provide professional development to other teachers at the school and to assist novice teachers at such school, including (if applicable) a mechanism to integrate experiences from a summer workshop or institute; and

"(7) developing instruction materials.

"(f) EVALUATION AND ACCOUNTABILITY PLAN.—Each eligible partnership receiving a grant under this section shall develop an evaluation and accountability plan for activities assisted under this section that includes strong performance objectives. The plan shall include objectives and measures for—

"(1) increased participation by students in advanced courses in foreign language;

"(2) increased percentages of secondary school classes in foreign language taught by teachers with academic majors in foreign language; and

"(3) increased numbers of foreign language teachers who participate in content-based professional development activities.

"(g) REPORT.—Each eligible partnership receiving a grant under this section shall annually report to the Secretary regarding the eligible partnership's progress in meeting the performance objectives described in subsection (f).

"(h) TERMINATION.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the performance objectives described in subsection (f) by the end of the third year of a grant under this section, the grant payments shall not be made for the fourth and fifth year of the grant.

"(i) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, **$50,000,000** for fiscal year 2005, and such sums as may be necessary for each subsequent fiscal year.".

SEC. 303. SCIENCE AND TECHNOLOGY ADVANCED FOREIGN LANGUAGE EDUCATION GRANT PROGRAM.

(a) PURPOSE.—It is the purpose of this section to support programs in colleges and universities that encourage students—

(1) to develop an understanding of science and technology;

(2) to develop foreign language proficiency; and

(3) to foster future international scientific collaboration.

(b) DEVELOPMENT.—The Secretary of Education shall develop a program for the awarding of grants to institutions of higher education that develop innovative programs for the teaching of foreign languages.

(c) REGULATIONS AND REQUIREMENTS.—The Secretary of Education shall promulgate regulations for the awarding of grants under subsection (b). Such regulations shall require institutions of higher education to use grant funds for, among other things—

(1) the development of an on-campus cultural awareness program by which students attend classes taught in the foreign language and study the science and technology developments and practices in a non-English speaking country;

(2) immersion programs where students take science or technology related coursework in a non-English speaking country; and

(3) other programs, such as summer workshops, that emphasize the intense study of a foreign language and science or technology.

(d) GRANT DISTRIBUTION.—In distributing grants to institutions of higher education under this section, the Secretary of Education shall give priority to—

(1) institutions that have programs focusing on curriculum that combines the study of foreign languages and the study of science and technology and produces graduates who have both skills; and

(2) institutions teaching the less-commonly taught languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any language identified by the National Security Education Program as a critical foreign language need.

(e) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—In this section, the term "institution of higher education" has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) SCIENCE.—The term "science" means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.

(f) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, **$15,000,000** for fiscal year 2005, and such sums as may be necessary for each subsequent fiscal year.

SEC. 304. NATIONAL FLAGSHIP LANGUAGE INITIATIVE.

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended—

(1) in section 802(i)(1), by inserting ", including those establishing, operating, or improving foreign language immersion programs and activities at sites overseas," after "activities"; and

(2) in section 811, by striking "**$10,000,000**" and inserting "**$20,000,000**".

SEC. 305. STUDY ON THE FEASIBILITY OF A NATIONAL LANGUAGE FOUNDATION.

(a) IN GENERAL.—The Secretary of Education shall enter into an agreement with the National Research Council to conduct a study on the feasibility of establishing a National Language Foundation whose mission would include—

(1) research and development of teaching and learning curriculum and software;

(2) the establishment or advancement of standards to be used in the performance of language instruction and testing;

(3) service as a national resource center and provider for both public and private sectors in language education and training;

(4) the development of, and advocacy for, national policy and programs to improve the skills and certify the qualification of language teachers;

(5) the development of, and advocacy for, national policy and programs related to the development of foreign language capabilities and expansion of country and regional studies;

(6) the development of, and advocacy for, national professional criteria for qualification, employment, and adequate compensation for language services; and

(7) the development of a better understanding of the changing level of language proficiency and language needs of the Federal Government. .

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Education shall transmit to the Committee on Governmental Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Education and the Workforce of the House of Representatives a report setting forth the findings, conclusions, and public policy recommendations of the National Research Council relating to the creation of a National Language Foundation.

Mr. AKAKA. Mr. President, today I rise to join my good friend from Illinois, Senator DURBIN, in reintroducing the Homeland Security Education Act. Our legislation would improve science, math, and foreign language education in the United States by offering incentives for students to study these subjects and provide much needed funding to elementary, secondary, and post secondary institutions to improve educational programs in these critical subject areas.

As my colleagues know, the demand for individuals with technical and language expertise is growing. In 2001 the United States Commission on National Security/21st Century, also known as the Hart-Rudman Commission, concluded that America's need for many skilled people in science, math, computer science, and engineering is not being met. If we do not address this problem, America's position as a global leader would be challenged. With the acceleration of the internationalization of science and technology activities, assets, and capabilities, U.S. advantages in many critical fields are shrinking and may be eclipsed in the years ahead.

While science, math, and engineering skills are especially critical for the defense and homeland security industries, expertise in these fields is also critical to the United States' success in the global economy. America's ability to lead depends particularly on the depth and breadth of its scientific and technical communities. Our education system must produce significantly more scientists and engineers to meet demand and maintain our global leadership in science and technology. We need to develop more qualified math and science teachers and provide educational incentives to encourage students to pursue careers in these fields. However, there will not be enough qualified workers to perform new technology jobs including those jobs critical to maintaining national security. It is more important than ever that we prepare the children of today with the skills necessary to succeed tomorrow.

Also critical for success in today's world is proficiency in foreign languages. The terrorist attacks of September 11, 2001, placed renewed emphasis on the need for individuals possessing critical language skills. Shortly after the terrorist attacks, FBI Director Robert Mueller made a public plea requesting speakers of Arabic and Farsi to translate intelligence documents, left untranslated due to the lack of foreign language speakers.

The investigations surrounding the attacks underscore how critical foreign language proficiency is to our national security. The joint Congressional Intelligence Committee inquiry into the terrorist attacks found that prior to September 11, the Intelligence Community was not prepared to handle the challenge of translating the volumes of foreign language counter-terrorism intelligence it had collected. Agencies within the Intelligence Community experienced backlogs in material awaiting translation, a shortage of language specialists and language-qualified field officers, and a readiness level of only 30 percent in the most critical languages used by terrorists. These backlogs still exist.

Our foreign language needs have grown significantly over the past decade with increasing globalization and a changing security environment. Foreign language skills are needed to support traditional diplomatic efforts and public diplomacy programs, military and peacekeeping missions, intelligence collection, counter-terrorism efforts, and international trade.

Unfortunately, the United States faces a critical shortage of language proficient professionals governmentwide. According to the General Accounting Office, agencies have shortages in translators and interpreters and an overall shortfall in the language proficiency levels needed to carry out their missions. Our national security would be enhanced if our law enforcement officers, intelligence officers, scientists, military personnel, and other federal employees could decipher and interpret information from foreign sources, as well as interact with foreign nationals.

America needs people who are fluent in local languages and who understand foreign cultures. The stability and economic vitality of the United States and our national security depend on American citizens who are knowledgeable about the world. We need civil servants, area experts, diplomats, business people, educators, and other public servants with the ability to communicate at an advanced level in foreign languages and understand the cultures of the people with whom they interact.

The good news is that there has been a recent jump in enrollment in foreign language courses at the university level, according to the Modern Language Association. A total of 1.4 million students enrolled in foreign language classes in the Fall of 2003. This is a 17.9 percent jump since 1998 and represents the highest foreign language enrollment ever.

At the same time, many foreign language programs at the elementary school level have suffered deep cuts. Many school districts are responding to funding shortages by reducing or eliminating their foreign language programs. In some districts, French and German programs have been cut to save Spanish programs, while less commonly taught languages, such as Russian and Japanese, are being phased out altogether. Although my own state of Hawaii leads the nation in cutting edge foreign language immersion programs for elementary school students and is one of the top nine states in the nation in the percentage of public primary schools offering foreign language immersion programs, more must be done.

Experts tell us we should develop long-term relationships with people from every walk of life all across the world, whether or not the languages they speak are considered "critical" at the time. Experts also tell us that an ongoing commitment to maintaining these relationships and language expertise helps prevent crises from occurring and provides diplomatic and language resources when needed.

They are right. We cannot afford to seek out foreign language skills after a terrorist attack occurs. The failures of communication and understanding have already done their damage. We must provide an ongoing commitment to language education and encourage knowledge of foreign languages and cultures.

In 2001, my good friend and former colleague, the late Senator Paul Simon said, "In every national crisis, our nation has lamented its foreign language shortfalls. But then the crisis goes away, and we return to business as usual. One of the messages of September 11 is that business as usual is no longer an acceptable option." Senator DURBIN and I are reintroducing this important legislation today in order to reaffirm our ongoing commitment to foreign language and science education.

In addition to the legislation we are introducing today, I have also introduced, with Senator DURBIN and several of our colleagues, S. 589, the Homeland Security Federal Workforce Act, to address these skill shortfalls in the federal government. The Senate passed S. 589 in November, and the bill is pending before the House. However, we must now ensure that we not only provide incentives to recruit individuals with these skills, but also ensure that there is a talented applicant pool from which to recruit. This new bill, the Homeland Security Education Act, will do just that.

The Homeland Security Education Act would provide incentives for students to obtain degrees in science, math, and foreign languages by offering to repay the interest on their student loans. Our legislation would also strengthen science and math instruction in elementary and secondary schools and promote foreign language education at all levels of study by encouraging greater training of foreign language teachers and the development of more rigorous foreign language education. These measures could have a significant impact on strengthening our nation's expertise in areas critical to national security.

I urge my colleagues to support this important legislation and improve our science, math, and foreign language education programs.

By Mr. KENNEDY (for himself, Mr. BINGAMAN, Mrs. BOXER, Mr. PRYOR, Mr. HOLLINGS, Mr. CORZINE, Mr. EDWARDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DURBIN, and Ms. STABENOW):

S. 2300. A bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program and to reduce excessive payments to health maintenance organizations and other private sector insurance plans; to the Committee on Finance.

Mr. KENNEDY. Mr. President, senior citizens expected the Congress and the President to work together to provide prescription drug benefits under Medicare. Instead, Republicans in Congress and President Bush rammed through a radical right-wing proposal to privatize Medicare and force senior citizens into HMOs. Their program is a giveaway to special interests at the expense of senior citizens. It is a dress rehearsal for privatizing social security. And it is wrong.

Just a few weeks ago, the Medicare Trustee's report announced that Mecicare's financial position had deteriorated substantially, with the projected date of Hospital Insurance Trust Fund Insolvency slipping from 2026 to 2019. In part, the shakier status of the trust fund was due to the Bush administration's mismanagement of the economy, which has reduced payroll tax collections. But a major part of the weakened status of the Trust Fund is the excessive payments to HMOs, PPOs and other alternatives to conventional Medicare. These excess payments not only weaken Medicare, but they raise premiums for senior citizens and add to the deficit.

Today, we are introducing legislation—the Defense of Medicare Act—to repeal the parts of the prescription drug bill that are designed to undermine Medicare. Senior citizens have earned their Medicare with a lifetime of hard work—and they deserve the program they have been promised.

President Bush's original strategy was to deny senior citizens any drug benefit unless they joined an HMO or other private insurance plan. That proposal was a non-starter, so the White House and Republicans in Congress developed a more devious way to achieve the same goal.

The Bush administration privatizes Medicare in three ways. First, it overpays private plans by $1,200 per beneficiary—and throws in a $12 billion dollar slush fund to boot. Let me repeat that. Every time a senior citizen joins an HMO it costs Medicare $1,200 more than it would cost to cover that same senior citizen under the regular Medicare program. The goal—to make Medicare unable to compete.

According to the Medicare actuary, the excess payments to private plans as the result of the new bill will cost the Medicare program $46 billion dollars—money that could be used to improve the inadequate drug benefit or to address the discrimination that will cause three million senior citizens to lose their good private retiree drug coverage or to reduce beneficiary premiums.

Those big new checks are already flowing to Medicare HMOs. Every senior citizen—and every American family—should understand what this means. The Bush administration is using senior citizens' own Medicare money to undermine the Medicare program they depend on. The Bush administration has put the interests of HMOs and the insurance industry first—and the interests of senior citizens last.

The second way the Republican Medicare bill forces senior citizens into HMOs is by specifying that if just one private stand-alone drug plan offers drug coverage, the only way a senior citizen can get a drug benefit is by joining an HMO or other private insurance plan. Think about that. If the insurance plan charges premiums that are too high or doesn't cover the drugs your doctor prescribes, your only choice if you want a drug benefit at all is to join an HMO. That's the Bush administration's original plan.

Finally, the bill forces up to seven million senior citizens into a so-called demonstration program that will punish senior citizens with higher premiums unless they join an HMO or other private insurance plan.

The Bush administration is spending twenty-three million dollars of Medicare money to convince senior citizens that the Republican bill means, in the words of one of their commercials, "Same Medicare. More Benefits." This use of Medicare funds to advance the Bush re-election effort is probably illegal. It is certainly unethical. But most of all it is false. If this bill is allowed to stand, senior citizens won't have the same Medicare. Instead, they will have a debased, devalued program and financially less secure program that will require them to give up the doctors they trust to get the affordable medical care they have been promised.

Our legislation will repeal the provisions of the bill that squander Medicare money on fattening the profits of HMOs and the insurance industry. It will preserve Medicare for today's and tomorrow's senior citizens. It is a test of the conscience of the Senate, and we will insist on its consideration.

By Mr. INOUYE:

S. 2301. A bill to improve the management of Indian fish and wildlife and gathering resources, and for other purposes; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a discussion draft bill that has been developed by Indian tribal governments to provide for the improvement of the management of Indian fish and wildlife resources and to reaffirm that tribal governments are the principal managers of natural resources on tribal lands.

The introduction of this discussion draft bill is intended to advance the process of consultation with Indian tribal governments, as well as tribal and Alaska Native organizations.

I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Fish and Wildlife Resources Management Act of 2004".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.

TITLE II—TRIBAL FISH AND WILDLIFE PROGRAMS

Sec. 201. Management of Tribal Fish and Wildlife Programs.
Sec. 202. Education in Tribal Fish and Wildlife Resource Management.
Sec. 203. Tribal Fish Hatchery Assistance Program.

TITLE III—ALASKA NATIVE FISH AND WILDLIFE PROGRAMS

Sec. 301. Management of Native Fish and Wildlife Programs in Alaska.
Sec. 302. Subsistence Resources and Management Planning.
Sec. 303. Alaska Native Seafood and Resource Marketing Assistance Program.

TITLE IV—TRIBAL SEAFOOD AND RESOURCE MARKETING ASSISTANCE PROGRAM

Sec. 401. Establishment of Tribal Seafood and Resource Marketing Assistance Program.
Sec. 402. Market Development Loan and Grants Program.

TITLE V—TRIBAL BUFFALO CONSERVATION AND MANAGEMENT [to be developed]

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Authorization of Appropriations.
Sec. 602. Regulations.
Sec. 603. Savings.
Sec. 604. Severability.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

Congress finds that—

(1) the United States and Indian tribes have a government-to-government relationship;

(2) Indian tribes exercise governmental authority over their citizens and their lands, and retain all aspects of their inherent sovereignty not explicitly ceded to the United States;

(3) the wise use and sustainable management of tribal fish and wildlife resources has a direct effect on the economic security and health and welfare of Indian tribes;

(4) Indian tribes retain the sovereign governmental authority to exercise some aspects of civil jurisdiction over non-members on their reservations, including the exercise of some aspects of civil jurisdiction on non-trust lands;

(5) Federal canons of construction require that any modification of a treaty must be expressly provided for by the Congress;

(6) the United States has a trust responsibility to protect, conserve, and manage tribal natural resources, including fish and wildlife and gathering resources, consistent with the rights reserved by Indian tribes as reflected in treaties and other agreements with the United States, and judicial decrees;

(7) the United States' trust responsibility extends to all Federal agencies and departments, and absent a clear expression of Congressional intent to the contrary, the United States has a duty to administer Federal fish and wildlife conservation laws and resource management programs in a manner consistent with its fiduciary obligation to honor and protect the rights reserved by Indian tribes as reflected in treaties and other agreements with the United States, and judicial decrees;

(8) Federal statutes and regulations affecting tribal fish and wildlife resources and management activities shall be interpreted in accordance with long-standing principles of Federal-Indian law, statutes, and judicial decrees which inform the relationship between Indian tribal governments and the United States;

(9) the United States recognizes that fish and wildlife resources located on tribal lands, in regional tribal resource management areas, and in ceded territory in which hunting, fishing and gathering rights reserved by Indian tribes in treaties and other agreements with the United States, and in judicial decrees, continue to provide sustenance, cultural enrichment, and economic stability for Indian tribes through employment in resource management occupations;

(10) Indian tribal governments retain sovereign governmental authority and jurisdiction to regulate hunting and fishing activities on tribal lands as well as governmental authority to regulate the hunting and fishing activities of tribal citizens on lands outside of reservation boundaries;

(11) Indian tribal governments serve as co-managers of fish and wildlife resources with governments of other tribes, States, and the United States, sharing management responsibilities for fish and wildlife resources pursuant to treaties and agreements with the United States, statutes, and judicial decrees;

(12) since time immemorial, Indian cultures, religious beliefs and customs have centered around their relationships with fish, wildlife and gathering resources, and Indian people have relied on these resources for food, shelter, clothing, tools and trade;

(13) Indian fish and wildlife resources are renewable and manageable natural resources that are among the most valuable tribal assets and which are vital to the well-being of Indian people;

(14) Indian lands contain millions of acres of natural lakes, woodlands, and impoundments, thousands of perennial streams, and tens of millions of acres of wildlife habitat;

(15) Indian and Alaska Native fish and wildlife programs contribute significantly to the conservation and enhancement of fish, wildlife and gathering resources, including those resources which are classified as threatened or endangered,

(16) Federal, State, and tribal fish hatcheries produce tens of millions of salmon, steelhead, walleye, and other fish species annually, benefitting both Indian and non-Indian sport and commercial fisheries in the United States and Canada, and serving Indian subsistence and ceremonial needs;

(17) Indian reservations and Alaska Native communities continue to suffer from the highest rates of unemployment in the nation, and the current economic infrastructure and capital base of many tribes and Native communities does not provide adequate support to take advantage of economic opportunities;

(18) comprehensive and improvement management of Indian fish and wildlife resources will yield greater economic returns, enhance Indian self-determination, strengthen tribal self-governance, promote employment opportunities, and improve the social, cultural, and economic well-being of Indian and neighboring communities;

(19) the United States has a responsibility to provide assistance to Indian tribes to—

(a) enable integrated management and regulation of hunting, fishing, trapping and gathering activities on tribal lands, including the protection, conservation, and enhancement of resource populations and habitats upon which the meaningful exercise of Indian rights depend;

(b) develop integrated resource management plans, cooperative management agreements, and regulations addressing hunting, fishing, trapping and gathering activities on tribal lands, including the protection, conservation, and enhancement of resource populations and habitats upon which the meaningful exercise of subsistence activities depend;

(c) maintain fish hatcheries and other facilities and structures required for the prudent management, enhancement and mitigation of fish and wildlife resources; and

(d) assist Indian tribal governments in developing and enhancing economic opportunities associated with the conservation and management of fish and wildlife resources;

(20) the United States is committed to the goal of supporting and enhancing tribal self-government, tribal self-sufficiency and the economic development of Native communities as expressed through numerous Federal statutes; and

(21) while the existing network of Federal laws and programs provide a framework for the protection and management of Indian fish and wildlife resources, gathering resources, and the operation and maintenance of Indian fish production programs and facilities, an integrated and comprehensive approach to these programs will help to ensure the coordination of Federal agency activities with those of Indian tribal governments as well as the efficiency and effectiveness of Federal and tribal government programs.

SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to reaffirm and protect Indian hunting, fishing, trapping and gathering rights, and to provide for the conservation, prudent management, enhancement, orderly development and wise use of the resources upon which the meaningful exercise of Indian tribal rights depend;

(2) to enhance and maximize tribal capability and capacity to meaningfully participate in managing fish and wildlife resources for the continuing benefit of Indian people, and in co-managing shared resources for the benefit of the Nation, in a manner consistent with the exercise of tribal hunting, fishing, trapping and gathering rights and the United States' trust responsibility to protect the rights reserved by Indian tribes in treaties with the United States and tribal resources;

(3) to support the Federal policy of Indian self-determination and tribal self-governance by authorizing and encouraging government-to-government relations and cooperative agreements amongst Federal, State, local and tribal governments, as well as international agencies and commissions responsible for multi-jurisdictional decision-making regarding fish and wildlife resources;

(4) to authorize and establish an Indian Fish Hatchery Assistance Program that may be administered by Indian tribal governments to address Indian hatchery needs and fulfill tribal co-management responsibilities;

(5) to authorize and establish an Indian Fish and Wildlife Resource Management Education Assistance and Cooperative Research Unit Program to promote and develop full tribal technical capability and competence in managing fish and wildlife resource programs and to authorize the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture and other Federal agencies to enter into cooperative agreements with Indian tribal governments and tribal organizations, colleges, universities and nonprofit organizations for the administration of tribal fish and wildlife cooperative research units;

(6) to establish a buffalo conservation and management program; and

(7) to authorize and establish an Indian Seafood and Resource Marketing Assistance Program within the Department of Commerce, to provide assistance to and support for the efforts of tribal governments to develop and enhance domestic and international markets for seafood, seafood products, and other natural resources.

SEC. 103. DEFINITIONS.

For purposes of this Act—

(1) The term "Bureau" means the Bureau of Indian Affairs within the U.S. Department of the Interior.

(2) The term "ceded territory" means land ceded by an Indian tribe or tribes in a treaty with the United States upon which the tribe or tribes retain hunting, fishing and gathering rights.

(3) The terms "co-management" or "cooperative management" mean a process involving two or more governments or governmentally-chartered entities jointly exercising their respective jurisdiction over or responsibilities for the management or use of a fish or wildlife resource during some phase of the life cycle of that resource.

(4) The term "cooperative agreement" means a written agreement entered into by two or more governments or parties agreeing to work together to actively protect, conserve, enhance, restore or otherwise manage fish and wildlife resources.

(5) The term "Indian fish hatchery" means any single-purpose or multi-purpose facility in which the spawning, hatching, rearing, holding, caring for or stocking of fish takes place including related research and diagnostic fish health facilities, and which is—

(A) owned or operated by an Indian tribal government, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service on Indian lands;

(B) owned or operated by any government agency pursuant to Federal statute and has as one of its purposes the mitigation, compensation, restoration or recovery of fish resources subject to reserved tribal treaty rights and for which an Indian tribe has entered into a cooperative agreement or for which an Indian tribe has petitioned the administering agency to enter into a cooperative agreement for the co-management of fish resources;

(C) owned or operated by a State government or a State institution of higher education, and for which an Indian tribe or tribes have entered into a cooperative management agreement.

(6) The term "fish hatchery maintenance" means work that is required at periodic intervals to prolong the life of a fish hatchery, hatchery components and associated equipment, in order to prevent the need for premature replacement or repair.

(7) The term "fish hatchery rehabilitation" means non-cyclical work that is required to address the physical deterioration and functional obsolescence of a fish hatchery building, structure or other facility component, or to repair damage, or to repair damage resulting from aging, natural phenomena and other causes, including work to repair, modify, or improve facility components to enhance their original function, the application of technological advances, and the replacement or acquisition of capital equipment, such as, among others, fish distribution tanks, vehicles, and standby generators.

(8) The term "forest land management activity" has the same meaning given to such term in section 304(4) of the Indian Forest Resources Management Act (25 U.S.C. 3103(4)).

(9) The term "Indian" means a member of an Indian tribe as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(10) The term "Indian fish and wildlife organization" means a commission, authority or other entity chartered by one or more Indian tribal governments for the purpose of representing or coordinating tribal interests in pursuing resource management or rights protection goals and strategies.

(11) The term "Indian fish and wildlife" means any species of animal or plant life for which Indians have a right to fish, hunt, trap, or gather for subsistence, ceremonial, recreational or commercial purposes, or for which an Indian tribal government has management or co-management responsibilities.

(12) The term "Indian lands" means all land within the limits of any Indian reservation which is held in trust by the United States, a former Indian reservation in the State of Oklahoma, dependent Indian communities within the borders of the United States whether within or without the limits of a state, and all Indian allotments for which there is a restriction against alienation.

(13) The term "Indian reservation" means any reservation of land for an Indian tribe established pursuant to treaties, Acts of Congress or Executive Orders, public domain Indian allotments, former Indian reservations in Oklahoma, and dependent Indian communities within the borders of the United States whether within or without the limits of a state.

(14) The term "Indian tribe" means an Indian tribe as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(15) The term "integrated resource management plan" means a plan developed pursuant to the process used by a tribal government to assess resources and to identify comprehensive management objectives including the quality of life, production goals and landscape descriptions of all designated resources that may include, but are not limited to, water, fish, wildlife, forestry, agriculture, minerals, recreation, community and municipal resources, and may include tribal codes and plans related to such resources.

(16) The term "regional resource management areas" means those areas in which an Indian tribal government as a right to fish, hunt, gather or trap for subsistence, ceremonial or commercial purposes, or in which an Indian tribal government has management or co-management responsibilities.

(17) The term "reserved rights" means those rights and authorities of an Indian tribal government retained by the Indian tribe in treaties with the United States, including the right to continue to harvest natural resources within ceded lands and customary use areas and the access necessary to exercise those rights.

(18) The term "resource management activities" means all activities performed in managing tribal fish, wildlife, gathering, and related outdoor recreation and resources, including but not limited to—

(A) the conduct of fish and wildlife population and life history investigations, habitat investigations, habitat mitigation, enhancement, rehabilitation and restoration projects and programs, harvest management, and use studies;

(B) the development and implementation of surveys, inventories, geographic information system programs, and integrated resource management plans for Indian lands, regional resource management areas or traditional use areas;

(C) fish production and hatchery management;

(D) the development, implementation, and enforcement of tribal fish and wildlife codes, ordinances and regulations;

(E) the development of tribal conservation programs, including employment and training of tribal conservation enforcement officers;

(F) judicial services;

(G) public use and information management and general administration; and

(H) participation in joint or cooperative management of fish and wildlife resources on a regional basis with Federal, State, tribal, local or international authorities.

(19) The term "Secretary" means the Secretary of the U.S. Department of the Interior.

(20) The term "seafood" means any plant or animal that may be gathered, collected, or harvested in marine or fresh water.

(21) The term "traditional use area" means lands that Indian tribes and their members have historically, culturally, and geographically used for spiritual, social, political, economic an sustenance purposes.

(22) The term "tribal co-management" means the sharing of decision-making, resource information, and management responsibilities with one or more governments in local, regional, national and international fish and wildlife resource management processes.

(23) The term "tribal government" means the governing body of an Indian tribe.

(24) The term "tribal organization" has the meaning given to such term in section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b), including tribal fish and wildlife organizations.

TITLE II—TRIBAL FISH AND WILDLIFE PROGRAMS

TRIBAL MANAGEMENT OF INDIAN FISH, WILDLIFE, AND GATHERING RESOURCES

SEC. 201. MANAGEMENT OBJECTIVES.

(a) Consistent with provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), the Secretary shall support tribal administration of Indian fish and wildlife resource management activities to achieve the following objectives—

(1) to carry out the government-to-government relationship between Indian tribal governments and the United States in the management of Indian fish and wildlife resources;

(2) to protect Indian hunting, fishing, and gathering rights reserved by Indian tribe in treaties with the United States, or guaranteed to Indian tribes by the United States through statute, Executive Order or court decree;

(3) to provide for the development and enhancement of the capacities of Indian tribal governments to manage Indian fish and wildlife resources;

(4) to protect, conserve and enhance Indian fish and wildlife resources that are important to the subsistence, cultural enrichment, and economic development of Indian communities;

(5) to promote the development and use of Indian fish and wildlife resources for the maximum benefit of Indian people, by managing tribal resources in accordance with tribally-developed integrated resource management plans which provide for the comprehensive management of all natural resources;

(6) to selectively develop and increase production of certain fish and wildlife resources;

(7) to support the inclusion of tribal co-management or cooperative activities in local, regional, national or international decision-making processes and forums; and

(8) to develop and increase the production of fish, wildlife and gathering resources so as to better meet tribal subsistence, ceremonial, recreational and commercial needs.

(b) Management Program.—

(1) In order to achieve the objectives set forth in subsection (a), the Secretary, in full consultation with Indian tribal governments and tribal organizations, shall establish the Tribal Fish and Wildlife Resource Management Program which shall be administered consistent with the provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.);

(2) The Secretary shall promote tribal management of tribal fish, wildlife, trapping and gathering resources, and implementation of this Act, through contracts, cooperative agreements, or grants under the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), or other Federal laws;

(3) Upon the request of an Indian tribal government or tribal organization, the Secretary shall enter into a contract, cooperative agreement, or a grant under the Indian Self-Determination and Educational Assistance Act with the tribal government or tribal organization to plan, conduct, or administer any program of the Department of the Interior, or portion thereof, which affects tribal fish and wildlife resources and which is currently administered by the Secretary without regard to the agency or office of the Department of the Interior or the organizational level within the Department.

(4) Upon the request of an Indian tribal government or tribal organization, the Secretary shall enter into a cooperative agreement with the tribal government or tribal organization to address management issues affecting tribal fish and wildlife resources.

(c) Management Activities.—Tribal fish and wildlife resource management activities carried out under the program established in subsection (b) may include, but shall not be limited to—

(1) the conduct of fish and wildlife population and life history investigations, habitat investigations, habitat mitigation, enhancement, rehabilitation and restoration projects and programs, harvest management, and use studies;

(2) the development and implementation of integrated resource management plans for tribal lands or regional resource management areas, surveys, and inventories;

(3) fish production and hatchery management;

(4) the development, implementation, and enforcement of tribal fish and wildlife codes, ordinances, and regulations;

(5) the development of tribal conservation programs, including employment and training of tribal conservation enforcement officers;

(6) judicial services;

(7) public use and information management and general administration; and

(8) participation in joint or cooperative management office and wildlife resources on a regional basis with Federal, State, tribal, and local or international authorities.

(d) Survey and Report.—

(1) Upon the request of an Indian tribal government, the Secretary shall cause to be conducted a survey for the reservation of that tribal government, which shall include but not be limited to—

(A) a review of existing tribal codes, ordinances, and regulations governing the management office and wildlife resources;

(B) an assessment of the need to update and revise tribal codes, ordinances, and regulations governing tribal fish and wildlife resource protection and use;

(C) a determination and documentation of the needs for tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer tribal fish and wildlife resources management programs;

(D) an assessment of the need to provide training to and develop curricula for tribal fish and wildlife resource personnel, including tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer tribal fish and wildlife resource management programs;

(E) an assessment of the need for training of Federal agency staff in matters pertaining to Federal-tribal relations and the significance of fish and wildlife to tribal communities;

(F) an assessment of the effects of Federal resource management activities on tribal fish and wildlife resources; and

(G) a determination and documentation of the condition of tribal fish and wildlife resources.

(2) The Secretary is authorized to enter into contracts or provide grants to Indian tribal governments or tribal organizations under the authority of the Indian Self-Determination and Educational Assistance Act for the purpose of carrying out the survey.

(3) Within one year of the date of enactment of this Act, the Secretary shall submit to the Congress a report on the results of the survey conducted under the authority of subsection (1) of this section.

(e) Tribal Fish and Wildlife Resource Management Plans.—

(1) In order to fulfill the management objectives set forth in subsection (a), a tribal fish and wildlife resource management plan shall be developed and implemented in the following manner—

(A) pursuant to a self-determination contract or self-governance compact under the authority of the Indian Self-Determination and Education Assistance Act, an Indian tribal government may develop or implement a tribal fish and wildlife management plan.

(B) Subject to the provisions of subparagraph (C), the tribal government shall have broad discretion in designing and carrying out the planning process.

(C) If a tribal government elects not to contract for the development or implementation of a tribal fish and wildlife management plan, the Secretary shall develop and implement the plan in consultation with the affected tribal government.

(D) Whether developed directly by the tribal government or by the Secretary, the plan shall—

(i) determine the condition of fish and wildlife resources and habitat conditions;

(ii) identify specific tribal fish and wildlife resources goals and objectives;

(iii) establish management objectives for fish and wildlife resources;

(iv) define critical values of the tribal government and its members and provide for comprehensive management objectives;

(v) be developed through public meetings;

(vi) use the public meeting records, existing survey documents, reports, and other research from Federal agencies and tribal colleges, state or community colleges, or other tribal education or research institutions; and

(vii) be completed within three years of the initiation of activity to establish the plan.

(2) Tribal fish and wildlife management plans developed and approved under this section shall govern the management and administration of tribal fish and wildlife resources by the Bureau of Indian Affairs and the Indian tribal government.

(f) Tribal Management in Regional Resource Management Areas.—

(1) Review.—To achieve the objectives set forth in section 210(a), the Secretary and the Secretaries of Commerce and Agriculture shall review existing programs involving the multi-jurisdictional management of fish, wildlife and gathering resources in regional resource management areas, for the purpose of determining the need for Indian representation, program adequacy and staffing needs to appropriately represent the interests of member tribes.

(2) Contracts or grants.—The Secretary is authorized to enter into contracts or provide grants to Indian tribal governments or tribal organizations under the authority of the Indian Self-Determination and Educational Assistance Act for the purpose of completing this review.

(3) Report.—Within one year of the date of enactment of this Act, the Secretary, in consultation with the Secretaries of Commerce and Agriculture, shall submit a report to the Congress based upon the review conducted under subsection (1) of this section assessing fish and wildlife program adequacy and staff needs, and the condition of fish and wildlife resources in regional resource management areas.

(g) Assistance.—The Secretary is authorized to provide financial and technical assistance to enable Indian tribal governments to—

(1) update and revise tribal codes, ordinances, and regulations governing tribal fish and wildlife resource protection and use;

(2) employ tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer Indian fish and wildlife resource management programs;

(3) providing training for tribal fish and wildlife resource personnel including tribal conservation officers under a curriculum that incorporates law enforcement, fish and wildlife conservation, identification and resource management principles and techniques; and

(4) enable tribal governments and tribal conservation agencies to enter into cooperative law enforcement agreements, which may include provisions for additional training and cross-deputization of tribal law enforcement staff, with local, state and Federal jurisdiction for the enforcement of laws and regulations pertaining to fish and wildlife resources.

(h) Federal Activities.—

(1) Consultation and coordination.—In conducting management activities under their respective authorities, the Secretary, in coordination with the Secretaries of Commerce and Agriculture, shall—

(A) consult with and seek the participation of Indian tribal governments on matters affecting tribal fish and wildlife resources in a manner consistent with the United States' trust responsibility and the government-to-government relationship between Indian tribal governments and the United States;

(B) ensure that Federal agency staff are adequately trained in issues pertaining to impacts of agency actions on tribal fish and wildlife resources;

(C) investigate opportunities for Indian tribal governments to perform land management activities on Federal land which affect tribal fish and wildlife resources;

(D) develop a formal, written assessment of how Federal resource management activities are affecting tribal use of and access to tribal fish and wildlife resources;

(E) include rights reserved by tribal governments in treaties with the United States in assessments of environmental baselines.

(2) Protection of information.—Notwithstanding any other provision of law, the Secretary shall not disclose, nor cause the disclosure of any information conveyed to an agency under the Secretary's administrative responsibilities pursuant to this Act to any person, party, or entity, including other Federal agencies, that is made available to the Secretary by an Indian tribal government or a member of an Indian tribe and which is—

(A) related to the administration of the United States' trust responsibility for Indian lands and resources; and

(B) declared by the tribal government or individual member of an Indian tribe to be culturally-sensitive, proprietary, or in any manner confidential.

(3) Fees and access.—Upon the request of an Indian tribal government, the Secretary and the Secretary of Agriculture are authorized to—

(A) provide fish and wildlife resources to an Indian tribal government from Federal lands administered by agencies under their respective administrative responsibility without permit or charge to the Indian tribe having an historical relationship to such lands, so long as—

(i) an agreement is entered into between the Indian tribal government and the Secretary or Secretary of Agriculture which contains sufficient information and conditions regarding the location, quantity, timing, and methods associated with the provision of fish and wildlife resources to ensure compatibility with applicable agency management plans; and

(ii) the request does not adversely affect the ability of the agency to carry out its responsibilities under the applicable management plan;

(B) provide access to Federal lands under their respective administrative responsibility for tribal traditional cultural or customary purposes without permit or fee;

(C) temporarily close to general public use, one or more specific portions of Federal lands under their respective administrative responsibility in order to protect the privacy of the activities referenced in subsection (B), provided that any such closure shall be limited to the smallest practicable area for the minimum period necessary in a manner consistent with the purpose and intent of the American Indian Religious Freedom Act (42 U.S.C. 1996);

(4) Effect on existing rights.—Nothing in this section shall be construed to limit, modify, or amend existing rights of any Indian tribal government under treaty, statute or other agreement to access and use fish and wildlife resources.

SEC. 202. EDUCATION IN TRIBAL FISH AND WILDLIFE RESOURCE MANAGEMENT.

(a) Cooperative Research and Training Program.—

(1) The Secretary, the Secretary of Agriculture, the Secretary of Commerce, or other Federal agencies as appropriate, are authorized to enter into cooperative agreements with colleges and universities, tribal community colleges, Indian tribal governments and tribal organizations, and with nonprofit organizations, for the establishment of cooperative research and training units.

(2) In order to facilitate the full development of research and training units and to support the educational objectives of this title, the Secretary, and the Secretaries of Agriculture and Commerce, as well as other Federal agencies, shall—

(A) assign appropriate scientific personnel to serve at the cooperative unit, through the agreement of the cooperating parties;

(B) apply Indian preference in hiring policies;

(C) provide financial assistance, including reasonable compensation, for the work of researchers on fish and wildlife ecology and resource management projects funded under this Act or other authorizing legislation;

(D) supply equipment for the use of cooperative unit operations;

(E) provide for the incidental expenses of Federal personnel and employees of cooperating tribal governments and tribal organizations associated with cooperative units; and

(F) integrate cooperative research unit programs with the training and educational opportunities and programs of Indian community colleges to the greatest extent possible.

(b) Scholarship Program.—

(1) The Secretary is authorized to provide natural resource management scholarships to Indians enrolled as full-time students in accredited programs for post-secondary and graduate natural resource management related fields of study;

(2) A natural resource management scholarship recipient shall be required to enter into an obligated service agreement in which the recipient agrees to accept employment, following the completion of the recipient's course of study, with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service for one year for each year the recipient receives scholarship assistance.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited post-secondary or graduate institution.

(c) Fish and Wildlife Education Outreach.—The Secretary shall conduct, with the full and active participation of Indian tribal governments, a natural resource education outreach program to explain and stimulate interest in all aspects of tribal natural resource management and to generate interest in natural resource management careers, such as fisheries or wildlife biologists or in natural resource management.

(d) Postgraduate Recruitment.—The Secretary shall establish and maintain a program to attract professional Indian fish and wildlife biologists, as well as professionals in other natural resource management fields, who have graduated from post-secondary institutions or graduate schools for employment by Indian tribal governments, tribal organizations, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service, in exchange for the Secretary's assumption of all or a portion of the professional's outstanding educational loans, depending upon the period of employment.

(e) Fish and Wildlife Biologist Intern Program.—

(1) The Secretary shall, with the full and active participation of Indian tribal governments, establish a Fish and Wildlife Resources Intern Program for at least 20 Indian fish and wildlife resources intern positions.

(A) Intern positions shall be in addition to the forester intern positions authorized in section 314(a) of the National Indian Forest Resources Management Act (25 U.S.C. 3113(a)).

(B) Individuals selected to participate in the intern program shall be enrolled full-time in approved post-secondary institutions or graduate schools in curricula leading to advanced degrees in natural resource management-related fields.

(C) The Secretary shall pay all costs of tuition, books, fees, and living expenses incurred by Indian interns in natural resource management programs-while attending approved study programs.

(D) An Indian fish and wildlife resources intern shall be required to entered into an obligated service agreement to served in a professional fish or wildlife resources management-related capacity with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or a U.S. Fish and Wildlife Service program serving tribal fish and wildlife resources management objectives, for one year for each year of education for which the Secretary assumes the intern's educational costs under subsection (2).

(E) An Indian fish and wildlife resources intern shall be required to report for service to the employing entity during any break in the intern's course of study of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service.

(f) Cooperative Education Program.—

(1) The Secretary shall maintain a cooperative education program for the purpose of recruiting promising Indian students who are enrolled in secondary schools, tribal colleges, community colleges, and other post-secondary institutions or graduate schools for employment as professional fisheries or wildlife biologists or other resource management related professional positions with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or with the U.S. Fish and Wildlife Service serving or benefitting Indian lands.

(2) The Secretary shall pay all costs for tuition, books, and fees of an Indian student who is enrolled in a course of study at an educational institution with which the Secretary has entered into a cooperative agreement, and who is interested in pursuing a career with an Indian tribal government, tribal organization, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service serving or benefitting Indian lands.

(3) Financial need shall not be a requirement to receive assistance under the program authorized in paragraph (1).

(4) A recipient of assistance under the program authorized in paragraph (1) shall be required to enter into an obligated service agreement to serve as professional fish or wildlife biologist or other resource management related professional with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service, for one year for each year that the Secretary assumes the recipient's educational costs pursuant to paragraph (2).

(g) Public Education Regarding Tribal Fish and Wildlife Resources.—

(1) The Secretary is authorized to establish within the Secretary's office the position of Tribal Education Coordinator to—

(A) enhance communications between Indian tribal governments and the United States relating to the management of tribal fish and wildlife resources or the role of tribal governments in the co-management of fish and wildlife resources;

(B) implement a program to educate the public about the sovereign status of Indian tribal governments and the rights reserved by tribal governments in treaties with the United States, as well as the benefits of constructive relations among tribal governments, state and local governments, and Federal agencies;

(2) The responsibilities and duties of the Tribal Education Coordinator shall include—

(A) the development of an educational program for local and state governments and Federal agencies regarding the United States' obligations to support and implement treaties, statutes, executive orders and court decrees related to the management of fish and wildlife resources;

(B) encouraging Federal agencies and state governments to establish and pursue cooperative and collaborative government-to-government relationships with Indian tribal governments in the management of natural resources; and

(C) providing reports to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives by September 30th of each year on the progress of the Tribal Education Coordinator in carrying out these activities.

(h) Adequacy of Programs.—The Secretary shall provide administrative oversight of the programs described in this section until a sufficient number of Indian personnel are available to administer tribal fish and wildlife resource management programs on tribal lands and resource management areas.

(i) Obligated Service; Breach of Contract.—

(1) Obligated service.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this section, the Secretary shall promulgate such regulations as are necessary to provide for an offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(2) Breach of contract.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided to the individual by the Secretary, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury.

SEC. 203. TRIBAL FISH HATCHERY ASSISTANCE PROGRAM.

(a) Program.—The Secretary, in consultation with the Secretary of Commerce, and with the full and active participation of Indian tribal governments, shall establish and administer a Tribal Fish Hatchery Assistance program for the production and distribution of fish of the species, strain, number, size, and quality to assist Indian tribal governments to develop tribal hatcheries and enhance fishery resources on tribal lands to meet tribal resource needs, including but not limited to tribal subsistence, ceremonial and commercial fishery needs.

(b) Report.—Within one year of the date of enactment of this Act, the Secretary, in consultation with the Secretary of Commerce, and with the full and active participation of Indian tribal governments, shall submit a report to the Congress which shall—

(A) identify the facilities that comprise the Tribal Fish Hatchery Program;

(B) the maintenance, rehabilitation and the construction needs of such facilities;

(C) identify criteria and procedures to be used in evaluating and ranking fish hatchery maintenance and rehabilitation project proposals submitted by Indian tribal governments; and

(D) provide a plan for the administration and cost-effective operation of the Tribal Fish Hatchery Assistance Program.

(c) Contracts.—The Secretary, and the Secretary of Commerce, are authorized to enter into a contract or annual funding agreement under the authority of the Indian Self-Determination and Educational Assistance Act with an Indian tribal government to plan, conduct and administer the Tribal Fish Hatchery Program, or any portion of the Program.

(d) Fish Hatchery Operating Agreements.—Upon the petition of an Indian tribal government or a tribal organization seeking to co-manage a facility or complex of facilities, the Secretary, and the Secretary of Commerce, are authorized to enter into agreements with entities owning or operating hatcheries defined under section 103(5)(B) of this Act and an Indian tribal government or tribal organization which provides for the manner in which each hatchery facility is to be operated so as to mitigate or recover tribal fish resources subject to rights reserved by the tribal government in treaties with the United States.

TITLE III—ALASKA NATIVE FISH AND WILDLIFE PROGRAMS

SEC. 301. DEFINITIONS.

For purposes of this title—

(1) The term "Alaska Native" means a citizen of the United States who is a person of one fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community) Eskimo, or Aleut blood, or combination thereof, including, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is, or, if deceased, was regarded as an Alaska Native by any village or group, as defined in section 1602(b) of the Alaska Native Claims Settlement Act.

(2) The term "Native village" means "any tribe, band, clan, group, village, community, or association in the State of Alaska listed in sections 1610 and 1615 of this title, and which the Secretary determines was, on the 1970 census enumeration date, composed of twenty-five or more Natives" as defined in section 1602(c) of the Alaska Native Claims Settlement Act.

(3) The term "Regional Corporation" means an Alaska Native Regional Corporation established under the laws of the State of Alaska as defined in section 1602(g) of the Alaska Native Claims Settlement Act.

(4) The term "Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or non-profit corporation to hold, invest, manage, and/or distribute lands, property, funds, and other rights and assets for and in behalf of a Native Village as defined in section 1602(j) of the Alaska Native Claims Settlement Act.

(5) The term "Alaska Native fish and wildlife organization" means a commission, authority or other entity chartered for the primary purpose of assisting in the development of tribal natural resource management capacity and technical capabilities.

SEC. 302. MANAGEMENT OF ALASKA NATIVE TRIBAL GOVERNMENT INDIAN FISH AND WILDLIFE RESOURCE MANAGEMENT PROGRAMS IN ALASKA.

(a) MANAGEMENT OBJECTIVES.—Consistent with provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), the Secretary shall support tribal administration of Indian fish and wildlife resource management activities to achieve the following objectives:

(1) to carry out the government-to-government relationship between Indian tribal governments and the United States in the management of Indian fish and wildlife resources;

(2) to provide for the development and enhancement of the capacity of Indian tribal governments to participate in management of Indian fish and wildlife resources;

(3) to protect, conserve and enhance Indian fish and wildlife resources;

(4) to promote the development and use of Indian fish and wildlife resources for the maximum benefit of Alaska Native people, by managing Indian fish and wildlife resources in accordance with tribally-developed integrated resource management plans which provide for the cooperative management of all natural resources within tribal lands;

(5) to selectively develop and increase production of certain Indian fish and wildlife resources;

(6) to support the inclusion of Alaska Native tribal co-management or cooperative activities in local, regional, state, national or international decision-making processes and forums; and

(7) to develop and increase the production of fish, wildlife and gathering resources so as to better meet Alaska Native subsistence, ceremonial, recreational and commercial needs.

(b) MANAGEMENT PROGRAM.—

(1) In order to achieve the objectives set forth in subsection (a), the Secretary, in full consultation with Indian tribal governments and Alaska Native fish and wildlife organizations, shall establish the Alaska Native Fish and Wildlife Resource Management Program which shall be administered consistent with the provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.);

(2) The Secretary shall promote meaningful Indian tribal government involvement in the management of Indian fish and wildlife resources, and implementation of this Act, through contracts, compacts, cooperative agreements, or grants under the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), or other Federal laws;

(3) Upon the request of an Indian tribal government or Alaska Native fish and wildlife organization, the Secretary shall enter into a contract, compact, cooperative agreement, or a grant under the Indian Self-Determination and Educational Assistance Act with the Indian tribal government or Alaska Native fish and wildlife organization to plan, conduct, or administer any program of the Department of the Interior, or portion thereof, which affects Indian fish and wildlife resources, and which is currently administered by the Secretary without regard to the agency or office of the Department of the Interior or the organizational level within the Department.

(4) Upon the request of an Indian tribal government or Alaska Native fish and wildlife organization, the Secretary shall enter into a cooperative agreement with the tribal government or Alaska Native fish and wildlife organization to address management issues affecting Indian fish and wildlife resources.

(c) MANAGEMENT ACTIVITIES.—Indian fish and wildlife resource management activities carried out under the program established in subsection (b) may include, but shall not be limited to:

(1) the conduct of fish and wildlife population and life history investigations, habitat investigations, habitat mitigation, enhancement, rehabilitation and restoration projects and programs, harvest management, and use studies;

(2) the development and implementation of integrated resource management plans for tribal lands or traditional use areas,

(3) fish and other aquatic species production and hatchery management;

(4) the development, implementation, and enforcement of Indian tribal government fish and wildlife codes, ordinances, and regulations;

(5) the development of Indian tribal government conservation programs, including employment and training of tribal conservation enforcement officers;

(6) judicial services;

(7) public use and information management and general administration; and

(8) participation in joint or cooperative management of fish and wildlife resources on a regional basis with Federal, State, tribal, and local or international authorities.

(d) SURVEY AND REPORT.—

(1) Upon the request of an Indian tribal government, the Secretary shall cause to be conducted a survey of the traditional use area of that tribal government, which shall include but not be limited to:

(A) a review of existing Indian tribal government codes, ordinances, and regulations governing their members and others in relation to the management of Indian fish and wildlife resources;

(B) an assessment of the need to update and revise Indian tribal government codes, ordinances, and regulations governing Indian fish and wildlife resource protection and use;

(C) a determination and documentation of the needs for tribal conservation officers, tribal fisheries and wildlife biologists, tribal fisheries and wildlife technicians, and other professionals to administer and implement Indian fish and wildlife resources management programs;

(D) an assessment of the need to provide training to and develop curricula for tribal fish and wildlife resource personnel, including tribal conservation officers, tribal fisheries and wildlife biologists, tribal fisheries and wildlife technicians, and other professionals to administer and implement tribal fish and wildlife resource management programs. Such curricula shall include the incorporation of traditional ecological knowledge as well as the traditional;

(E) an assessment of the need for training of Federal agency staff in matters pertaining to the relations between the United States and Indian tribes and the significance of Indian fish and wildlife to Native villages;

(F) an assessment of the effects of Federal and state resource management activities on Indian fish, and wildlife resources; and

(G) a determination and documentation of the condition of those Indian fish and wildlife resources.

(2) The Secretary is authorized to enter into contracts, compacts, or provide grants to Indian tribal governments or Alaska Native fish and wildlife organizations under the authority of the Indian Self-Determination and Educational Assistance Act for the purpose of carrying out the survey.

(3) Within one year of the date of enactment of this Act, the Secretary shall submit to the Congress a report on the results of the survey conducted under the authority of subsection (1) of this section.

(e) INDIAN FISH AND WILDLIFE RESOURCE MANAGEMENT PLANS.—

(1) In order to fulfill the management objectives set forth in subsection (a), an Indian fish and wildlife resource management plan shall be developed and implemented in the following manner:

(A) pursuant to a self-determination contract or self-governance compact under the authority of the Indian Self-Determination and Education Assistance Act, an Indian tribal government or an Alaska Native fish and wildlife organization may develop or implement an Indian fish and wildlife management plan.

(B) Subject to the provisions of subparagraph (C), the Indian tribal government shall have broad discretion in designing and carrying out the planning process.

(C) If an Indian tribal government elects not to contract for the development or implementation of a tribal fish and wildlife management plan, the Secretary shall develop and implement the plan in consultation with the affected tribal government.

(D) Whether developed directly by the tribal government or by the Secretary, the plan shall—

(i) determine the condition of Indian fish and wildlife resources and habitat conditions;

(ii) identify specific Indian fish and wildlife resources goals and objectives;

(iii) establish cooperative management objectives for Indian fish and, wildlife resources;

(iv) define critical values of the Indian tribal government and its members and provide for comprehensive management objectives;

(v) be developed through a public meeting process;

(vi) apply the public meeting records, existing survey documents, reports, and other research from Federal and state agencies, community colleges, or other education or research institutions; and

(vii) be completed within three years of the initiation of activity to establish the plan.

(2) A Indian fish and wildlife management plans developed and approved under this section shall govern the management and administration of Indian fish and wildlife resources by the Bureau of Indian Affairs and the tribal government.

(f) TRIBAL MANAGEMENT IN TRADITIONAL USE AREAS.—

(1) REVIEW.—To achieve the objectives set forth in section 302(a), the Secretary and the Secretaries of Commerce and Agriculture shall review existing programs involving the management of Indian fish and wildlife resources in the traditional use areas of Indian tribal governments, for the purpose of determining the need for the meaningful involvement of tribal governments, program adequacy and staffing needs to appropriately represent the interests of tribal governments.

(B) CONTRACTS OR GRANTS.—The Secretary is authorized to enter into contracts, compacts, or provide grants to Indian tribal governments or Alaska Native fish and wildlife organizations under the authority of the Indian Self-Determination and Educational Assistance Act for the purpose of completing this review.

(C) REPORT.—Within one year of the date of enactment of this Act, the Secretary, in consultation with the Secretaries of Commerce and Agriculture, shall submit a report to the Congress based upon the review conducted under subsection (1) of this section assessing fish and wildlife program adequacy and staff needs, and the condition of Indian fish and wildlife resources in the traditional use areas of tribal governments.

(g) ASSISTANCE.—The Secretary is authorized to provide financial and technical assistance to enable Indian tribal governments to—

(1) update and revise tribal government codes, ordinances, and regulations governing Indian fish and wildlife resource protection and use;

(2) employ tribal conservation officers, tribal fisheries and wildlife biologists, tribal fish and wildlife technicians, and other professionals to administer and implement Indian fish and wildlife resource management programs;

(3) provide training for tribal fish and wildlife resource personnel including tribal conservation officers under a curriculum that incorporates law enforcement, fish and wildlife conservation, identification and resource management principles and techniques. Such curricula shall also include the incorporation of traditional ecological knowledge as well as the traditional management strategies and techniques of Alaska Native people; and

(4) enable tribal governments and Alaska Native fish and wildlife organizations to enter into cooperative law enforcement agreements, which may include provisions for additional training and cross-deputization of tribal law enforcement staff, with local, state and Federal jurisdiction for the enforcement of laws and regulations pertaining to Indian fish and wildlife resources.

(h) FEDERAL ACTIVITIES.—

(1) CONSULTATION AND COORDINATION.—In conducting management activities under their respective authorities, the Secretary, in coordination with the Secretaries of Commerce and Agriculture, shall—

(A) consult with and seek the participation of Indian tribal governments on all matters affecting Indian fish and wildlife resources in a manner consistent with the United States' trust responsibility,

(B) ensure that Federal agency staff are adequately trained in issues pertaining to impacts of agency actions on Indian fish and wildlife resources;

(C) investigate opportunities for Indian tribal governments to perform cooperative land management activities on Federal and other lands that affect Indian fish and wildlife resources;

(D) develop a formal, written assessment of how Federal resource management activities are affecting tribal use of and access to Indian fish and wildlife resources and the traditional use areas of Indian tribal governments;

(2) PROTECTION OF INFORMATION.—Notwithstanding any other provision of law, the Secretary shall not disclose, nor cause the disclosure of any information conveyed to an agency under the Secretary's administrative responsibilities pursuant to this Act to any person, party, or entity, including other Federal agencies, that is made available to the Secretary by an Indian tribal government or a member of an Indian tribe and which is—

(A) related to the administration of the United States' trust responsibility for Indian lands and resources; and

(B) declared by the tribal government or individual member of an Indian tribe to be culturally-sensitive, proprietary, or in any manner confidential.

(3) FEES AND ACCESS.—Upon the request of an Indian tribal government, the Secretary and the Secretary of Agriculture are authorized to—

(A) provide fish and wildlife resources to an Indian tribal government from Federal lands administered by agencies under their respective administrative responsibility without permit or charge to the Indian tribe having an historical, cultural, or geographical relationship to such lands, so long as—

(i) an agreement is entered into between the Indian tribal government and the Secretary or Secretary of Agriculture which contains sufficient information and conditions regarding the location, quantity, timing, and methods associated with the provision of Indian fish and wildlife resources to ensure compatibility with applicable agency management plans; and

(ii) the request does not adversely affect the ability of the agency to carry out its responsibilities under the applicable management plan;

(B) provide access to Federal lands under their respective administrative responsibility for tribal traditional cultural or customary purposes without permit or fee;

(C) temporarily close to general public use, one or more specific portions of Federal lands under their respective administrative responsibility in order to protect the privacy of the activities referenced in subsection (B), provided that any such closure shall be limited to the smallest practicable area for the minimum period necessary in a manner consistent with the purpose and intent of the American Indian Religious Freedom Act (42 U.S.C. 1996);

(4) EFFECT ON EXISTING RIGHTS.—Nothing in this section shall be construed to limit, modify, or amend existing rights of any Indian tribal government under statute or other agreement to access and use Indian fish and wildlife resources.

SEC. 303. ALASKA NATIVE TRIBAL GOVERNMENT SEAFOOD AND RESOURCE MARKETING ASSISTANCE PROGRAM.

(a) The Secretary of Commerce shall establish an Alaska Native Seafood and Resource Marketing Assistance Program to enable participating Indian tribal governments and Alaska Native fish and wildlife organizations to develop the necessary infrastructure and marketing systems to effectively promote their products domestically and internationally.

(b) Within one year of the date of enactment of this Act, working with participating Indian tribal governments, the Secretary of Commerce shall develop and submit a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation to provide subsidies and other Federal support, permissive taxing and coordinated training, promotions, and Alaska Native Tribal product labeling as well as other initiatives, that hold the potential to significantly enhance the ability of tribal governments to assure that fair and equitable prices are associated with seafood, bison, reindeer, muskox, yak and other produced and harvested natural resources related products.

(c) Within one year of the date of enactment of this Act, the U.S. Food and Drug Administration, in consultation with Indian tribal governments, shall prepare a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation that would enable Indian tribal governments to be recognized as competent processing authorities as well as recommendations for the provision of technical assistance to tribal enterprises so as to ensure that seafood, buffalo, reindeer, muskox, yak, and other harvested natural resource products are safe for consumption.

TITLE IV—TRIBAL SEAFOOD AND RESOURCE MARKETING ASSISTANCE PROGRAM.

SEC. 401. ESTABLISHMENT.

(a) The Secretary of Commerce shall establish a Tribal Seafood and Resource Marketing Assistance Program to enable participating Indian tribal governments and tribal organizations to develop the necessary infrastructure and marketing systems to effectively promote their products domestically and internationally.

(b) Within one year of the date of enactment of this Act, working with participating Indian tribal government, the Secretary of Commerce shall develop and submit a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation to provide subsidies and other Federal support, permissive taxing and coordinated training and promotions, as well as other initiatives, that hold the potential to significantly enhance the ability of tribal governments to assure that fair and equitable prices are associated with harvested natural resources and seafood products.

(c) Within one year of the date of enactment of this Act, the U.S. Food and Drug Administration, in consultation with Indian tribal governments, shall prepare a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation that would enable Indian tribal government to be recognized as competent processing authorities as well as recommendations for the provision of technical assistance to tribal enterprises so as to ensure that seafood and other harvested natural resource products are safe for consumption.

(d) Health Issues. [to be developed]

SEC 402. MARKETING DEVELOPMENT GRANTS AND LOAN PROGRAM. [to be developed]

(a) GRANTS FOR MARKET RESEARCH AND PILOT PROGRAMS.

(b) LOANS FOR INFRASTRUCTURE DEVELOPMENT.

TITLE V—TRIBAL BISON CONSERVATION AND MANAGEMENT [to be developed]

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. REGULATIONS.

Except as other provided by this Act, the Secretary shall promulgate final regulations for the implementation of this Act within 18 months of the date of enactment of this Act with the full and active participation of Indian tribal governments.

SEC. 602. SEVERABILITY.

If any section or provision of this Act is held invalid, it is the intent of the Congress that the remaining sections or provisions shall continue in full force and effect.

SEC. 603. SAVINGS.

(a) Nothing in this Act shall be construed to—

(1) diminish or expand the United States' trust responsibility for tribal fish and wildlife resources, or any legal obligation or remedy arising out of the United States' trust responsibility;

(2) alter, abridge, repeal, or affect any valid, existing agreement between an agency of the United States and an Indian tribal government;

(3) alter, abridge, diminish, repeal, or affect the reserved rights of any Indian tribal government established by treaty, executive order, or other applicable laws or court decrees;

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. CONRAD (for himself and Mr. BROWNBACK):

S. 2302. A bill to improve access to physicians in medically underserved areas; to the Committee on the Judiciary.

Mr. CONRAD. Mr. President, today I am joined by Senator BROWNBACK in introducing important legislation aimed at ensuring that our medically underserved communities have access to the doctors they need. This bill reauthorizes the popular Conrad State 30 program for 5 years, satisfies the initial intent of the program to let states decide for themselves about how best to fulfill their health care shortage needs, and clarifies existing law to ensure that Conrad State 30 waivers are exempt from the H–1B visa cap.

The Conrad State 30 J–1 visa waiver program has been a great asset over the last decade, bringing crucially-needed doctors to serve medically underserved areas throughout our country. Forty-nine states now participate in the program, accounting for 1027 doctors in 2003. Each of these doctors is serving patients that might otherwise not be served, providing valuable medical services to communities that otherwise might have to go without.

Unfortunately, today's reality is that many areas of the country, especially rural communities, have a very difficult time recruiting American doctors. These health facilities have had no other choice but to turn to foreign medical graduates. J–1 visa waivers allow foreign physicians to practice in medically-underserved communities after their J–1 status has expired without first returning to their home countries. These waivers allow foreign physicians to receive nonimmigrant, H–1B status for three years. In order to receive the waiver, the physician undergoes numerous background and security checks, and must agree to serve a medically-underserved community for three years. If he or she fails to fulfill that commitment, the physician is subject to immediate deportation.

Prior to the creation of the State 30 program, J–1 visa waivers exclusively involved finding an "interested federal agency" to coordinate the request. This was found to be a long, cumbersome, and bureaucratic process. By allowing states to directly participate in the process of obtaining waivers, the program relieves some of the burdens on participating Federal agencies and allows decisions regarding a state's health care needs to be made at the state level by the people who know best. Since 1994, the program has been reauthorized a number of times; the most recent reauthorization expires in June 2004.

The bill Senator BROWNBACK and I introduce today contains 3 parts. First and foremost, it contains a 5-year reauthorization. Five years is a reasonable amount of time for Congress to be able to reassess the physician needs of the country and to take appropriate steps in the course of an additional reauthorization.

Second, consistent with the original intent of the Conrad State 30 program to provide states flexibility, the bill would allow states to decide for themselves where their health care shortages are and how best to use their 30 spots. Currently, states can only place these doctors in shortage areas as designated by the Federal government. States, however, can and should be able to make these decisions for themselves. Instead of Washington, DC, telling a state where there is a physician shortage, a state under this bill could do so for itself.

Third, the bill erases any ambiguity about whether Conrad State 30 doctors are exempt from the H–1B visa cap. Through legislation in the 106th Congress, Conrad State 30 waivers were specifically exempted from the H–1B visa cap. Unfortunately, there is now ambiguity about whether this provision still applies. Our current bill clarifies the original intent of this previous legislation, clearly making Conrad State 30 doctors exempt.

In concluding, I want to thank Senator BROWNBACK for his help and support in developing this bill. Our bill is a modest one; it is limited and it is targeted. However, this does not diminish the importance of retaining and improving the Conrad State 30 program. The vitality of hundreds of communities and, most importantly, the health of thousands of patients across our country depend on it. I urge my colleagues to support this legislation.

By Mr. EDWARDS:

S.J. Res. 31. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EDWARDS:

S.J. Res. 32. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

Mr. EDWARDS. Mr. President, I rise today to introduce two joint resolutions to fight predatory mortgage lending. The resolutions would strike down the Office of the Comptroller of the Currency's recent regulations that put millions of families in the sights of predatory lenders.

The middle class—the foundation of our country—is sinking. In the last generation, families have gone from saving for the future to borrowing just to get by. Home foreclosure rates have tripled in the last 25 years. This year, more middle-class children will see their parents declare bankruptcy than will see their parents get divorced.

Working families are vulnerable. They cannot save because they must spend more for housing, health care, child care, and college tuition. These expenses are not luxuries. They are the necessities. Without savings, a bump in the road—a lost job or sudden illness—could become the end of the road.

There is a lot of work to be done to help families get ahead and build a secure future. The legislation I am introducing today deals with just one aspect of the problem, but it is an important one: the fight against predatory mortgage lenders.

There are mortgage companies that cheat people, plain and simple. Excessive fees leave families on a treadmill, forcing them to make large mortgage payments while draining the wealth they have saved in their home. Many families lose their home altogether. All told, predatory lending costs homeowners an estimated $9 billion a year.

I am proud that my State of North Carolina is a leader in fighting predatory lending. The strong law it passed in 1999 is saving consumers $100 million a year, while mortgage credit remains widely available.

Unfortunately, the Federal Government is not doing as well. In fact, we are losing ground. In January, the Office of the Comptroller of the Currency in the U.S. Department of the Treasury issued new regulations exempting national banks—which hold more than half of bank assets—from State predatory lending laws.

Strong consumer protection laws have been States' responsibility for more than a century. The new rules ignore that tradition, which has served our country well, to create a safe haven for predatory lenders in national banking law. They also create an incentive for State-chartered banks to escape tough laws by converting to national banks.

The resolutions that I am introducing today would strike down the OCC rules that preempt State law. It would restore States' ability to enforce their predatory lending laws within their boundaries and protect their homeowners against abusive loans.

These protections are badly needed. About half of subprime borrowers are paying extra interest and fees, when they qualify for better rates. That's hundreds of thousands of Americans who are each paying thousands of dollars more than they should for their homes. Even worse, some families see their loans refinanced again and again, their equity diminished time and again, until one day they lose their home.

It is offensive, but predatory lenders target African-American and other minority communities. If you are an upper-income African-American family, you are twice as likely to get a subprime loan than a lower-income white family is. Think about that: even though you are doing better, you get a worse loan if you are African-American.

That is dead wrong. We need a strong national law to fight predatory lending. We don't need a prohibition of the strong State laws now on the books with weak national rules. I urge my colleagues to support these resolutions.

I ask unanimous consent that the text of the resolutions be printed in the RECORD.

There being no objection, the joint resolutions were ordered to be printed in the RECORD, as follows:

S.J. RES. 31

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That Congress disapproves the rule submitted by the Office of the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1895 (2004), and such rule shall have no force or effect.

S.J. RES. 32

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That Congress disapproves the rule submitted by the Office of the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1904 (2004), and such rule shall have no force or effect.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 333—COMMENDING THE HUSKIES OF THE UNIVERSITY OF CONNECTICUT FOR WINNING THE 2004 DIVISION I MEN'S AND WOMEN'S NCAA BASKETBALL CHAMPIONS

Mr. DODD (for himself and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

S. RES 333

Whereas the University of Connecticut has become the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year;

Whereas the University of Connecticut men's basketball team capped a remarkable season by defeating an outstanding Georgia Tech team 82 to 73, to win its second national championship in 6 seasons;

Whereas the Husky men finished with a record of 33 wins and only 6 losses and is the first team since 1996 to be ranked first in the preseason and to win the national title in the same season;

Whereas the Husky men established themselves as the dominant team in the Big East Conference by winning the Big East Tournament championship;

Whereas UConn's Emeka Okafor distinguished himself in the championship game and throughout the season as 1 of the premier players in all of college basketball, winning awards as the Big East scholar-athlete of the year, defensive player of the year, and player of the year, and closing out a spectacular performance in the NCAA tournament by being named the most outstanding player of the Final Four;

Whereas the national title was made possible by the contribution of the entire team including: Rashad Anderson, Hilton Armstrong, Jason Baisch, Josh Boone, Denham Brown, Taliek Brown, Justin Evanovich, Ben Gordon, Ed Nelson, Emeka Okafor, Ryan Swaller, Ryan Thompson, Shamon Tooles, Charlie Villaneueva, Marcus White, and Marcus Williams;

Whereas UConn men's coach Jim Calhoun instilled in his players an unceasing ethic of dedication and teamwork in the pursuit of excellence and is now 1 of only 3 active Division I men's basketball coaches with multiple NCAA titles, with the help of his assistant coaches Tom Moore, George Blaney, and Clyde Vaughan;

Whereas the University of Connecticut women's basketball team won its fifth overall and third straight national championship by defeating a superb team from the University of Tennessee, by the score of 70 to 61;

Whereas the Lady Huskies became only the second women's basketball team ever to win 3 consecutive national women's basketball titles;

Whereas Diana Taurasi distinguished herself as the number 1 player in women's college basketball, being chosen as the national women's player of the year, becoming only the fifth player to win 2 such awards, scoring the second most points of any player in women's NCAA Tournament history, scoring 17 points in the final game to lead UConn to victory, and being named outstanding player of the Final Four for the second year in a row;

Whereas the national championship was made possible by the contribution of the entire team including: Ashley Valley, Diana Taurasi, Kiana Robinson, Maria Conlon, Stacey Marron, Morgan Valley, Nicole Wolff, Ashley Battle, Wilnett Crockett, Jessica Moore, Barbara Turner, Liz Sherwood, and Ann Strother;

Whereas Lady Huskies Coach Geno Auriemma is in his 18th season coaching the Huskies and has led them to 18 winning seasons and 5 national titles with the help of his assistant coaches Chris Dailey, Tonya Cardoza, and Jamelle Elliott; and

Whereas the University of Connecticut's unparalleled success continues to bring enormous pride to the people of Connecticut and sports fans across the country: Now, therefore, be it

Resolved, That the Senate commends the University of Connecticut for—

(1) winning the 2004 NCAA Division I Men's Basketball Championship;

(2) winning the 2004 NCAA Division I Women's Basketball Championship; and

(3) becoming the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3043. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 344, expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3043. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 344, expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Government Reorganization Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States;

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are indigenous, native people of the United States;

(3) the United States has a special political and legal responsibility to promote the welfare of the native people of the United States, including Native Hawaiians;

(4) under the treaty making power of the United States, Congress exercised its constitutional authority to confirm treaties between the United States and the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii;

(B) accorded full diplomatic recognition to the Kingdom of Hawaii; and

(C) entered into treaties and conventions with the Kingdom of Hawaii to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(5) pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside approximately 203,500 acres of land to address the conditions of Native Hawaiians in the Federal territory that later became the State of Hawaii;

(6) by setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Hawaiian Homes Commission Act assists the members of the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii;

(7) approximately 6,800 Native Hawaiian families reside on the Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Hawaiian Home Lands are on a waiting list to receive assignments of Hawaiian Home Lands;

(8)(A) in 1959, as part of the compact with the United States admitting Hawaii into the Union, Congress established a public trust (commonly known as the "ceded lands trust''), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians;

(B) the public trust consists of lands, including submerged lands, natural resources, and the revenues derived from the lands; and

(C) the assets of this public trust have never been completely inventoried or segregated;

(9) Native Hawaiians have continuously sought access to the ceded lands in order to establish and maintain native settlements and distinct native communities throughout the State;

(10) the Hawaiian Home Lands and other ceded lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival and economic self-sufficiency of the Native Hawaiian people;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii;

(12) on November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the ''Apology Resolution'') was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii;

(13) the Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

(14) the Apology Resolution expresses the commitment of Congress and the President—

(A) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii;

(B) to support reconciliation efforts between the United States and Native Hawaiians; and

(C) to consult with Native Hawaiians on the reconciliation process as called for in the Apology Resolution;

(15) despite the overthrow of the government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a distinct native community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency;

(16) Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency—

(A) through the provision of governmental services to Native Hawaiians, including the provision of—

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

(x) native language immersion schools from kindergarten through high school;

(xi) college and master's degree programs in native language immersion instruction;

(xii) traditional justice programs, and

(B) by continuing their efforts to enhance Native Hawaiian self-determination and local control;

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources;

(18) the Native Hawaiian people wish to preserve, develop, and transmit to future generations of Native Hawaiians their lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, to control and manage their own lands, including ceded lands, and to achieve greater self-determination over their own affairs;

(19) this Act provides a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct, indigenous, native community to reorganize a Native Hawaiian governing entity for the purpose of giving expression to their rights as native people to self-determination and self-governance;

(20) Congress—

(A) has declared that the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) has identified Native Hawaiians as a distinct group of indigenous, native people of the United States within the scope of its authority under the Constitution, and has enacted scores of statutes on their behalf; and

(C) has delegated broad authority to the State of Hawaii to administer some of the United States' responsibilities as they relate to the Native Hawaiian people and their lands;

(21) the United States has recognized and reaffirmed the special political and legal relationship with the Native Hawaiian people through the enactment of the Act entitled, ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4), by—

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held as a public trust for 5 purposes, 1 of which is for the betterment of the conditions of Native Hawaiians; and

(B) transferring the United States' responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands that comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act;

(22) the United States has continually recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the indigenous, native people of a once-sovereign nation with whom the United States has a political and legal relationship; and

(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States; and

(23) the State of Hawaii supports the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States as evidenced by 2 unanimous resolutions enacted by the Hawaii State Legislature in the 2000 and 2001 sessions of the Legislature and by the testimony of the Governor of the State of Hawaii before the Committee on Indian Affairs of the Senate on February 25, 2003.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means people whom Congress has recognized as the original inhabitants of the lands that later became part of the United States and who exercised sovereignty in the areas that later became part of the United States.

(2) ADULT MEMBER.—The term ''adult member'' means a Native Hawaiian who has attained the age of 18 and who elects to participate in the reorganization of the Native Hawaiian governing entity.

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150, (107 Stat. 1510), a Joint Resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

(4) COMMISSION.—The term ''commission'' means the Commission established under section 7(b) to provide for the certification that those adult members of the Native Hawaiian community listed on the roll meet the definition of Native Hawaiian set forth in section 3(8).

(5) COUNCIL.—The term ''council'' means the Native Hawaiian Interim Governing Council established under section 7(c)(2).

(6) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(7) INTERAGENCY COORDINATING GROUP.—The term ''Interagency Coordinating Group'' means the Native Hawaiian Interagency Coordinating Group established under section 6.

(8) NATIVE HAWAIIAN.—For the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity, the term ''Native Hawaiian'' means—

(A) an individual who is one of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous, native people who—

(i) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(ii) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or

(B) an individual who is one of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or a direct lineal descendant of that individual.

(9) NATIVE HAWAIIAN GOVERNING ENTITY.—The term ''Native Hawaiian Governing Entity'' means the governing entity organized by the Native Hawaiian people pursuant to this Act.

(10) Office.—The term "Office" means the United States Office for Native Hawaiian Relations established under section 5(a).

(11) Secretary.—The term "Secretary" means the Secretary of the Department of the Interior.

SEC. 4. UNITED STATES POLICY AND PURPOSE.

(a) Policy.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct, indigenous, native people with whom the United States has a special political and legal relationship;

(2) the United States has a special political and legal relationship with the Native Hawaiian people which includes promoting the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution, including but not limited to Article I, section 8, clause 3, to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86-3, 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian governing entity; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) Purpose.—The purpose of this Act is to provide a process for the reorganization of the Native Hawaiian governing entity and the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) Establishment.—There is established within the Office of the Secretary of the United States Office for Native Hawaiian Relations.

(b) Duties.—The Office shall—

(1) continue the process of reconciliation with the Native Hawaiian people in furtherance of the Apology Resolution;

(2) upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States, effectuate and coordinate the special political and legal relationship between the Native Hawaiian governing entity and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian governing entity by providing timely notice to, and consulting with, the Native Hawaiian people and the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Interagency Coordinating Group, other Federal agencies, the Governor of the State of Hawaii and relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; and

(5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.

(a) Establishment.—In recognition that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group to be known as the "Native Hawaiian Interagency Coordinating Group".

(b) Composition.—The Interagency Coordinating Group shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that administers Native Hawaiian programs, establishes or implements policies that affect Native Hawaiians, or whose actions may significantly or uniquely impact Native Hawaiian resources, rights, or lands; and

(2) the Office.

(c) Lead Agency.—

(1) In general.—The Department of the Interior shall serve as the lead agency of the Interagency Coordinating Group.

(2) Meetings.—The Secretary shall convene meetings of the Interagency Coordinating Group.

(d) Duties.—The Interagency Coordinating Group shall—

(1) coordinate Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government that may significantly or uniquely affect Native Hawaiian resources, rights, or lands;

(2) ensure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States, consultation with the Native Hawaiian governing entity; and

(3) ensure the participation of each Federal agency in the development of the report to Congress authorized in section 5(b)(5).

SEC. 7. PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY AND THE REAFFIRMATION OF THE POLITICAL AND LEGAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) Recognition of the Native Hawaiian Governing Entity.—The right of the Native Hawaiian people to reorganize the Native Hawaiian governing entity to provide for their common welfare and to adopt appropriate organic governing documents is recognized by the United States.

(b) Commission.—

(1) In general.—There is authorized to be established a Commission to be composed of nine members for the purposes of—

(A) preparing and maintaining a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certifying that the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(2) Membership.—

(A) Appointment.—Within 180 days of the date of enactment of this Act, the Secretary shall appoint the members of the Commission in accordance with subclause (B). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(B) Requirements.—The members of the Commission shall be Native Hawaiian, as defined in section 3(8), and shall have expertise in the determination of Native Hawaiian ancestry and lineal descendancy.

(3) Expenses.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(4) Duties.—The Commission shall—

(A) prepare and maintain a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certify that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(5) Expiration.—The Secretary shall dissolve the Commission upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States.

(c) Process for the Reorganization of the Native Hawaiian Governing Entity.—

(1) Roll.—

(A) Contents.—The roll shall include the names of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity and are certified to be Native Hawaiian as defined in section 3(8) by the Commission.

(B) Formation of roll.—Each adult member of the Native Hawaiian community who elects to participate in the reorganization of the Native Hawaiian governing entity shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition of Native Hawaiian in section 3(8).

(C) Documentation.—The Commission shall—

(i) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of Native Hawaiian in section 3(8);

(ii) establish a standard format for the submission of documentation;

(iii) publish information related to subclauses (i) and (ii) in the Federal Register;

(D) Consultation.—In making determinations that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8), the Commission may consult with Native Hawaiian organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descendancy.

(E) Certification and submittal of roll to Secretary.—The Commission shall—

(i) submit the roll containing the names of the adult members of the Native Hawaiian community who meet the definition of Native Hawaiian in section 3(8) to the Secretary within two years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(F) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of Native Hawaiian in section 3(8), the Secretary shall publish the roll in the Federal Register.

(G) APPEAL.—The Secretary may establish a mechanism for an appeal for any person whose name is excluded from the roll who claims to meet the definition of Native Hawaiian in section 3(8) and to be 18 years of age or older.

(H) PUBLICATION; UPDATE.—The Secretary shall—

(i) publish the roll regardless of whether appeals are pending;

(ii) update the roll and the publication of the roll on the final disposition of any appeal;

(iii) update the roll to include any Native Hawaiian who has attained the age of 18 and who has been certified by the Commission as meeting the definition of Native Hawaiian in section 3(8) after the initial publication of the roll or after any subsequent publications of the roll.

(I) FAILURE TO ACT.—If the Secretary fails to publish the roll, not later than 90 days after the date on which the roll is submitted to the Secretary, the Commission shall publish the roll notwithstanding any order or directive issued by the Secretary or any other official of the Department of the Interior to the contrary.

(J) EFFECT OF PUBLICATION.—The publication of the initial and updated roll shall serve as the basis for the eligibility of adult members of the Native Hawaiian community whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

(2) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(A) ORGANIZATION.—The adult members of the Native Hawaiian community listed on the roll published under this section may—

(i) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(ii) determine the structure of the Council; and

(iii) elect members from individuals listed on the roll published under this subsection to the Council.

(B) POWERS.—

(i) IN GENERAL.—The Council—

(I) may represent those listed on the roll published under this section in the implementation of this Act; and

(II) shall have no powers other than powers given to the Council under this Act.

(ii) FUNDING.—The Council may enter into a contract with, or obtain a grant from, any Federal or State agency to carry out clause (iii).

(iii) ACTIVITIES.—

(I) IN GENERAL.—The Council may conduct a referendum among the adult members of the Native Hawaiian community listed on the roll published under this subsection for the purpose of determining the proposed elements of the organic governing documents of the Native Hawaiian governing entity, including but not limited to—

(aa) the proposed criteria for citizenship of the Native Hawaiian governing entity;

(bb) the proposed powers and authorities to be exercised by the Native Hawaiian governing entity, as well as the proposed privileges and immunities of the Native Hawaiian governing entity;

(cc) the proposed civil rights and protection of the rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities of the Native Hawaiian governing entity; and

(dd) other issues determined appropriate by the Council.

(II) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based on the referendum, the Council may develop proposed organic governing documents for the Native Hawaiian governing entity.

(III) DISTRIBUTION.—The Council may distribute to all adult members of the Native Hawaiian community listed on the roll published under this subsection—

(aa) a copy of the proposed organic governing documents, as drafted by the Council; and

(bb) a brief impartial description of the proposed organic governing documents;

(IV) ELECTIONS.—The Council may hold elections for the purpose of ratifying the proposed organic governing documents, and on certification of the organic governing documents by the Secretary in accordance with paragraph (4), hold elections of the officers of the Native Hawaiian governing entity pursuant to paragraph (5).

(3) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—Following the reorganization of the Native Hawaiian governing entity and the adoption of organic governing documents, the Council shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(4) CERTIFICATIONS.—

(A) IN GENERAL.—Within the context of the future negotiations to be conducted under the authority of section 8(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the three governments, not later than 90 days after the date on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) establish the criteria for citizenship in the Native Hawaiian governing entity;

(ii) were adopted by a majority vote of the adult members of the Native Hawaiian community whose names are listed on the roll published by the Secretary;

(iii) provide authority for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(iv) provide for the exercise of governmental authorities by the Native Hawaiian governing entity; including any authorities that may be delegated to the Native Hawaiian governing entity by the United States and the State of Hawaii following negotiations authorized in section 8(b)(1) and the enactment of legislation to implement the agreements of the three governments;

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian governing entity without the consent of the Native Hawaiian governing entity;

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities by the Native Hawaiian governing entity; and

(vii) are consistent with applicable Federal law and the special political and legal relationship between the United States and the indigenous, native people of the United States; provided that the provisions of Public Law 103-454, 25 U.S.C. 479a, shall not apply.

(B) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (A).—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part of the documents, do not meet all of the requirements set forth in subparagraph (A), the Secretary shall resubmit the organic governing documents to the Council, along with a justification for each of the Secretary's findings as to why the provisions are not in full compliance.

(ii) AMENDMENT AND RESUBMISSION OF ORGANIC GOVERNING DOCUMENTS.—If the organic governing documents are resubmitted to the Council by the Secretary under clause (i), the Council shall—

(I) amend the organic governing documents to ensure that the documents meet all the requirements set forth in subparagraph (A);

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with this paragraph.

(C) CERTIFICATIONS DEEMED MADE.—The certifications under paragraph (4) shall be deemed to have been made if the Secretary has not acted within 90 days after the date on which the Council has submitted the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(5) ELECTIONS.—On completion of the certifications by the Secretary under paragraph (4), the Council may hold elections of the officers of the Native Hawaiian governing entity.

(6) REAFFIRMATION.—Notwithstanding any other provision of law, upon the certifications required under paragraph (4) and the election of the officers of the Native Hawaiian governing entity, the political and legal relationship between the United States and the Native Hawaiian governing entity is hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.

SEC. 8. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS; CLAIMS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled (An Act to provide for the admission of the State of Hawaii into the Union approved March 18, 1959 (Public Law 86-3, 73 Stat. 5) is reaffirmed.

(b) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity, the United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement addressing such matters as—

(A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;

(C) the exercise of civil and criminal jurisdiction;

(D) the delegation of governmental powers and authorities to the Native Hawaiian governing entity by the United States and the State of Hawaii; and

(E) any residual responsibilities of the United States and the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States, the State of Hawaii, and the Native Hawaiian governing entity, the parties shall submit—

(A) to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives, recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the three governments; and

(B) to the Governor and the legislature of the State of Hawaii, recommendations for proposed amendments to State law that will enable the implementation of agreements reached between the three governments.

(c) CLAIMS.—

(1) IN GENERAL.—Nothing in this Act serves as a settlement of any claim against the United States.

(2) JURISDICTION; STATUTE OF LIMITATIONS.—The U.S. District Court for the District of Hawaii shall have original jurisdiction over any existing claim against the United States arising under Federal law existing on the date of enactment of this Act and relating to the legal and political relationship between the United States and the Native Hawaiian governing entity provided that the claim is filed in the district court within 20 years of the date of enactment of this Act, and provided further that the Court of Federal Claims shall continue to have exclusive jurisdiction over any claim otherwise within the jurisdiction of that court.

SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) INDIAN GAMING REGULATORY ACT.—Nothing in this Act shall be construed to authorize the Native Hawaiian governing entity to conduct gaming activities under the authority of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) BUREAU OF INDIAN AFFAIRS.—Nothing contained in this Act provides an authorization for eligibility to participate in any programs and services provided by the Bureau of Indian Affairs for any persons not otherwise eligible for the programs or services.

SEC. 10. SEVERABILITY.

If any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions shall continue in full force and effect.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, April 7, 2004, at 2 p.m. to conduct a hearing on "The Review of the National Bank Preemption Rules."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 7, at 2 p.m. to consider EPA nominations and other business.

The business meeting will be held in S–128 (Appropriations) in the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 7, 2004, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on "Strategies To Improve Access to Medicaid Home and Community Based Services."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at 9:30 a.m. to hold a hearing on UN Oil for Food.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at 2:30 p.m. to hold a hearing on Fighting HIV/AIDS in Africa; A Progress Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, April 7, 2004, at 10 a.m. for a hearing titled "Postal Reform: The Chairmen's Perspectives on Governance and Rate-Setting."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 7, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S. 1529, a bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; and S. 1955, a bill to make technical corrections to laws relating to Native Americans, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 7, 2004 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on "Improving the Administration of Justice: A Proposal to Split the Ninth Circuit" on Wednesday, April 7, 2004, at 10 a.m. in room 226 of the Dirksen Senate Office building.

Witness List

Panel I: The Honorable Diarmuid F. O'Scannlain, U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Portland, OR; the Honorable Mary M. Schroeder, Chief U.S. Circuit Judge, U.S. Court of Appeals of the Ninth Circuit, Phoenix, AZ; the Honorable Richard C. Tallman, U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Seattle, WA; and the Honorable J. Clifford Wallace, Senior U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, San Diego, CA.

Panel II: The Honorable Gerald B. Tjoflat, U.S. Circuit Judge, U.S. Court of Appeals for the Eleventh Circuit, Jackson, FL; and the Honorable John C. Coughenour, Chief U.S. District Judge, U.S. District Court for the Western District of Washington, Seattle, WA.

The PRESIDING OFFICER. Without Objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet to conduct a hearing on "Crude Oil: The Source of Higher Gas Prices?" on Wednesday, April 7, 2004, at 2:30 p.m. in room 226 of the Dirksen Senate Office Building.

Witness List: Mr. William Kovacic, General Counsel, Federal Trade Commission; Dr. John Felmy, Chief Economist and Director, American Petroleum Institute; Dr. Justine Hastings, Assistant Professor, Yale University

Department of Economics; Mr. George Bermann, Walter Gellhorn Professor of Law, Columbia University School of Law; and Dr. Mark Cooper, Director of Research, Consumer Federation of America.

The PRESIDING OFFICER. Without Objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Wednesday, April 7, 2004 at 2 p.m. for a hearing entitled, "Legislative Hearing on S. 346, a Bill to Amend the Office of Federal Procurement Policy Act to Establish a Government-Wide Policy Requiring Competition in Certain Procurements from Federal Prison Industries."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISHERIES, WILDLIFE AND WATER

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Wednesday, April 7th at 2:30 p.m. to hold an oversight hearing on the detection of lead in the District of Columbia drinking water.

The business meeting will be held in S–128 (Appropriations) in the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OCEANS, FISHERIES, AND COAST GUARD

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation, Subcommittee on Oceans, Fisheries, and Coast Guard, be authorized to meet on Wednesday, April 7, 2004, at 2 p.m., in SR–428A, for a hearing on Coast Guard oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation, Subcommittee on Science, Technology, and Space, be authorized to meet on Wednesday, April 7, 2004, at 2:30 p.m., in SR–253, for a hearing on near earth objects.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on April 7, 2004, at 10 a.m., in open and closed session to receive testimony on defense intelligence programs and lessons learned in recent military operations, in review of the Defense Authorization Request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. FEINGOLD. Madam President, I ask unanimous consent that Jeff Wax, an intern on my Judiciary Committee staff, be granted the privilege of the floor for the duration of my remarks on the SAFE Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 2290

Mr. FRIST. Madam President, I understand that S. 2290, which was introduced earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2290) to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Mr. FRIST. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, object to further proceedings on this matter.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

225TH ANNIVERSARY OF THE AMERICAN REVOLUTION COMMEMORATION ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1108, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1108) to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1108) was read the third time and passed, as follows:

S. 1108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "225th Anniversary of the American Revolution Commemoration Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the American Revolution, inspired by the spirit of liberty and independence among the inhabitants of the original 13 English colonies, was an event of global significance having a profound and lasting effect on the government, laws, culture, society, and values of the United States;

(2) the years 2000 through 2008 mark the 225th anniversary of the American Revolution;

(3) citizens of the United States should have an opportunity to understand and appreciate the continuing legacy of the American Revolution;

(4) the 225th anniversary of the American Revolution provides an opportunity to enhance public awareness and understanding of the impact of the American Revolution on the lives of citizens of the United States;

(5) although the National Park Service administers battlefields, historical parks, historic sites, and programs that address elements of the story of the American Revolution, there is a need to establish partnerships that link those sites and programs with sites and programs of other Federal and non-Federal entities to place the story of the American Revolution in the broad context of the causes, consequences, and significance of the American Revolution; and

(6) a national program of the National Park Service that links historic structures and sites, routes, activities, community projects, exhibits, and multimedia materials in a manner that is unified and flexible is the best method of conveying to citizens of the United States the story and significance of the American Revolution.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the enduring importance of the American Revolution to the lives of citizens of the United States; and

(2) to authorize the National Park Service to coordinate, connect, and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the American Revolution, including the significance and relevance of the American Revolution to the shape and spirit of the Government and society of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) PROGRAM.—The term "Program" means the 225th Anniversary of the American Revolution Commemoration Program established under section 4(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. 225TH ANNIVERSARY OF THE AMERICAN REVOLUTION COMMEMORATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish within the National Park Service a program to be known as the "225th Anniversary of the American Revolution Commemoration Program".

(b) ACTIVITIES.—In carrying out the program, the Secretary shall—

(1) produce and distribute to the public educational materials relating to the American Revolution, such as—

(A) handbooks;

(B) maps;

(C) interpretive guides; and

(D) electronic information;

(2) enter into appropriate cooperative agreements and memoranda of understanding to provide technical assistance under subsection (d);

(3) assist in the protection of resources associated with the American Revolution;

(4) enhance communications, connections, and collaboration among units and programs of the National Park Service relating to the American Revolution;

(5) expand the research base for interpretation of and education on the American Revolution; and

(6)(A) create and adopt an official, uniform symbol or device for the theme "Lighting Freedom's Flame: American Revolution, 225th Anniversary"; and

(B) promulgate regulations for the use of the symbol or device.

(c) COMPONENTS.—The Program shall include—

(1) units and programs of the National Park Service relevant to the American Revolution, as determined by the Secretary;

(2) other governmental and nongovernmental—

(A) sites and facilities that are documented to be directly related to the American Revolution; and

(B) programs of an educational, research, or interpretive nature relating to the American Revolution; and

(3) through the Secretary of State, the participation of the Governments of the United Kingdom, France, the Netherlands, Spain, and Canada.

(d) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTANDING.—To achieve the purposes of this Act and to ensure the effective coordination of the Federal and non-Federal components of the Program with National Park Service units and programs, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—

(1) the heads of other Federal agencies, States, units of local government, and private entities; and

(2) in cooperation with the Secretary of State, the Governments of the United Kingdom, France, the Netherlands, Spain, and Canada.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this Act $500,000 for each of fiscal years 2004 through 2009.

COMMENDING THE HUSKIES OF THE UNIVERSITY OF CONNECTICUT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 333, submitted earlier today by Senators DODD and LIEBERMAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 333) commending the Huskies of the University of Connecticut for winning the 2004 Division I Men's and Women's NCAA Basketball Championships.

The PRESIDING OFFICER. Is there objection to proceeding to the resolution?

Mr. REID. Mr. President, reserving the right to object, you would think——

Mr. FRIST. I appreciate the reservation being made over there because it was going to come quickly over here.

Mr. REID. Mr. President, the situation we have here is just like Las Vegas. This resolution is 333, just by chance. This is the third year in a row the women have won the national championship. Those two teams have been so lucky, maybe they should spend a little time in Las Vegas.

Mr. FRIST. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, my smile is because it was just yesterday about this time that the distinguished Presiding Officer and myself—actually, it was a little earlier than this—were in the Chamber hoping this resolution would not ever make it to the floor, given the fact that our Lady Vols were about to play. This was about 24 hours ago.

As the distinguished Senator from Connecticut said earlier today, it was a fantastic game, and to be able to watch last night two outstanding women's basketball teams compete in the very best spirit—which is what sports is all about, which is what competition is all about, which is what hard work is all about—was a great thrill to us all.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

The resolution (S. Res. 333) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 333

Whereas the University of Connecticut has become the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year;

Whereas the University of Connecticut men's basketball team capped a remarkable season by defeating an outstanding Georgia Tech team 82 to 73, to win its second national championship in 6 seasons;

Whereas the Husky men finished with a record of 33 wins and only 6 losses and is the first team since 1996 to be ranked first in the preseason and to win the national title in the same season;

Whereas the Husky men established themselves as the dominant team in the Big East Conference by winning the Big East Tournament championship;

Whereas UConn's Emeka Okafor distinguished himself in the championship game and throughout the season as 1 of the premier players in all of college basketball, winning awards as the Big East scholar-athlete of the year, defensive player of the year, and player of the year, and closing out a spectacular performance in the NCAA tournament by being named the most outstanding player of the Final Four;

Whereas the national title was made possible by the contribution of the entire team including: Rashad Anderson, Hilton Armstrong, Jason Baisch, Josh Boone, Denham Brown, Taliek Brown, Justin Evanovich, Ben Gordon, Ed Nelson, Emeka Okafor, Ryan Swaller, Ryan Thompson, Shamon Tooles, Charlie Villaneueva, Marcus White, and Marcus Williams;

Whereas UConn men's coach Jim Calhoun instilled in his players an unceasing ethic of dedication and teamwork in the pursuit of excellence and is now 1 of only 3 active Division I men's basketball coaches with multiple NCAA titles, with the help of his assistant coaches Tom Moore, George Blaney, and Clyde Vaughan;

Whereas the University of Connecticut women's basketball team won its fifth overall and third straight national championship by defeating a superb team from the University of Tennessee, by the score of 70 to 61;

Whereas the Lady Huskies became only the second women's basketball team ever to win 3 consecutive national women's basketball titles;

Whereas Diana Taurasi distinguished herself as the number 1 player in women's college basketball, being chosen as the national women's player of the year, becoming only the fifth player to win 2 such awards, scoring the second most points of any player in women's NCAA Tournament history, scoring 17 points in the final game to lead UConn to victory, and being named outstanding player of the Final Four for the second year in a row;

Whereas the national championship was made possible by the contribution of the entire team including: Ashley Valley, Diana Taurasi, Kiana Robinson, Maria Conlon, Stacey Marron, Morgan Valley, Nicole Wolff, Ashley Battle, Wilnett Crockett, Jessica Moore, Barbara Turner, Liz Sherwood, and Ann Strother;

Whereas Lady Huskies Coach Geno Auriemma is in his 18th season coaching the Huskies and has led them to 18 winning seasons and 5 national titles with the help of his assistant coaches Chris Dailey, Tonya Cardoza, and Jamelle Elliott; and

Whereas the University of Connecticut's unparalleled success continues to bring enormous pride to the people of Connecticut and sports fans across the country: Now, therefore, be it

Resolved, That the Senate commends the University of Connecticut for—

(1) winning the 2004 NCAA Division I Men's Basketball Championship;

(2) winning the 2004 NCAA Division I Women's Basketball Championship; and

(3) becoming the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year.

ORDERS FOR THURSDAY, APRIL 8, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, April 8. I further ask that following the prayer and pledge, the morning hour be deemed expired and the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, and the second 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate begin consideration of the conference report to accompany H.R. 3108, the pension reform bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning, following morning business, the Senate will begin consideration of the conference report to accompany the pension reform bill. Under the unanimous consent agreement, there will be up to 4 hours for debate equally divided. Following the use or yielding back of time, the Senate will vote on the conference report. In addition to the pension reform conference report, the Senate may resume consideration of the FSC/ETI or JOBS bill.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senators STABENOW and DOLE.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, first, I very much appreciate the Senate coming in when it is. We have a very important meeting at 9 o'clock with Secretary Rumsfeld. I appreciate that. I say that on behalf of the entire Senate.

Senator STABENOW wishes to speak for 20 minutes tonight, just so everyone understands. I do not know how long the Senator from North Carolina is going to speak.

Mrs. DOLE. About 8 minutes.

Mr. REID. Mr. President, does the Senator from Michigan mind if the Senator from North Carolina goes ahead of her?

Ms. STABENOW. No.

The PRESIDING OFFICER. The Senator from North Carolina.

STAYING THE COURSE IN IRAQ

Mrs. DOLE. Mr. President, a few years may have passed since I had the pleasure of serving President Ronald Reagan, but I can still remember the liberal naysayers attacking him for his fixed resolve in fighting the cold war. They questioned President Reagan's reasoning, they questioned his strategy, and they questioned America's chances of coming away victorious in a battle to free the Soviet Union and other countries from the grasp of communism. President Reagan rejected communism, he rejected the Iron Curtain, and he refused to concede that freedom could not prevail.

While the Soviet Union was extending its influence and doctrine throughout the world, President Reagan had a different idea for the course of history. He knew that the enemy must be defeated, not tolerated. So in the face of severe criticism, Ronald Reagan did just that. Of course, we now know Reagan was right in his actions to eradicate communism. Millions were freed, and a global threat no longer exists.

Does this kind of skepticism have a familiar ring? It should. It is frighteningly similar to the opposition our current President is facing. In fact, some of the faces are even the same. They were wrong then, and they are wrong now.

As did Reagan, President Bush determined that terrorism must not be tolerated. It must be defeated.

Since declaring a global war on terror, the United States has succeeded in two operations against countries that harbored known terrorists. We have captured a brutal dictator in Saddam Hussein, immobilized Osama bin Laden, destroyed al-Qaida's base, and Iraq now has a constitution built on democratic principles. We are also seeing positive signs from known sponsors of terrorists.

After years of successfully hiding from United Nations inspectors, Libya has now relinquished its nuclear weapons program. Libya, as well as other rogue terrorist regimes, knows this President means business. Does this sound like a record that deserves criticism and skepticism?

Since liberating Iraq, the coalition forces have made tremendous progress, but insurgents remain who do not wish to embrace freedom but instead choose violence and terror. Coalition forces are presently seeking cleric al-Sadr. He is an individual who has a lot in common with Saddam Hussein. Much like Saddam, he is inciting criminals and loyalists of the old regime to take up arms against peace and freedom. Much like Saddam, he is hiding somewhere while others fight his battle—this time in a mosque, not a hole. And much like Saddam, he and other rogue supporters will be brought to justice by our forces.

We are blessed with brilliant and hard-working men and women, under Paul Bremer's leadership, who have sacrificed their way of life in the United States to aid the Iraqi people in the transition to democracy. Our men and women in uniform have done and are doing a phenomenal job of bringing stability to nations previously under the reign of terror. Sadly, there are casualties still occurring abroad, and it is heartbreaking.

I have personally visited with our men and women in uniform, as well as their families, and have seen firsthand their unwavering commitment. They underscored how strongly they felt about their mission and the need to see it through to completion. Just this week, President Bush was in my home State of North Carolina where he met privately with the family of 26-year-old Army Specialist Christopher Hill. Christopher was killed in Iraq when his vehicle fell victim to a roadside bomb and exploded.

During the tear-filled meeting, an emotional President Bush spent time with Christopher's young widow, Cheryl Hill, and her 14-month-old daughter. Cheryl Hill was unyielding in her support of President Bush as our Commander in Chief. Amidst her prayers for her family, Cheryl told the President she not only supports him 100 percent, she prays for him as well.

I conclude with a story that pulled at my heartstrings this week. A soldier in Iraq was gravely injured when his vehicle was hit by a rocket-propelled grenade while on patrol. His driver and gunner were killed. He suffered extensive burns on his legs, back, and face and permanent nerve damage to his left leg.

After undergoing rehabilitation and several skin grafts in Germany, he told his commander to send him back to Iraq or he would not reenlist. He went through tests to ensure he was still mission capable and was ultimately sent back to Iraq to resume his post. When this seriously injured soldier was asked why he returned to Iraq after that kind of ordeal, he simply responded, "The job is not done."

Simple words, but how powerful and how poignant. Our job is not done, but I know we have men and women capable of completing it. May God bless each and every one of them and may God continue to bless those who yearn for freedom around the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to speak about a very important topic this evening. But I first want to commend and concur with the Senator from North Carolina in terms of our support for our troops. I think this is such a critical time. It is such a challenging, dangerous time for our men and women who are serving us now, particularly in Iraq and Afghanistan. All of us, 100 percent of this body, and I know the House, as well as the administration, join together in saluting, commending, and sending our prayers to them every single day.

I also wish to give my respect and honor and support to all of our men and women who are serving us.

MEDICARE AND PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise today to speak about a subject that I have certainly spoken about before on the Senate floor. This is an issue of great concern, an issue that is near and dear to my heart, and that is the question of Medicare. Right now, though, too many people are calling the new Medicare law that we passed "Medigate" because of all of the issues that have come forward, both in implementing the new law and in issues that relate to what we knew, what was withheld from us, all of the information and inaccuracies in fact that have come forward since passing this legislation.

I am very concerned, as I have indicated on many occasions, that the new law includes provisions that would undermine Medicare as we know it; that many beneficiaries would be worse off, either losing their coverage or paying more under the new Medicare law. To add insult to injury, this new law does nothing to lower the cost of prescription drugs.

Every day, as we look more closely at what some are calling Medigate, over and over again we find there are new concerns about the Medicare bill. Senator BOB GRAHAM spoke earlier, and I commend him as a champion of protecting Medicare. Throughout his tenure in the Senate, he has been a thoughtful and passionate champion on this issue.

He spoke about Richard Foster, who was threatened that if he told us the real numbers on what it would cost, he would be fired. Now we see charges and countercharges, questions being raised about what is happening.

Sadly, we have heard this same story repeated over and over again in different ways about people who had the courage to stand up and disagree with the current administration, or, in this case, a career public servant who was just trying to do his job and give us the information to which we had the right and, in fact, needed to know before we passed this Medicare bill.

As I have indicated in expressing my concerns, we started out with a bill that would provide a real, comprehensive prescription drug benefit for seniors, a bill that would lower prices for everyone, and we ended up with neither of those things. Instead, we ended up with a bill that is focused on helping the pharmaceutical industry increase their profits and on helping the insurance industry.

This bill is a bad bill for Americans. It is a bad law for American seniors, the disabled, and for our families. So I have chosen to put together what I call the ABCs on Medicare in terms of what has happened and what the concerns are in the areas that we need to work together to change before this takes effect in 2006. I call it the ABCs of the new Medicare plan.

First, A is for the attacks on Medicare through privatization in this bill. Secondly, it is a bad benefit. It is not a good benefit for seniors. There is a large gap in coverage. There are high out-of-pocket costs. There are uncertain premiums. We know the premiums will be going up.

Coverage loss is another issue. We know that 2.7 million retirees will lose prescription drug coverage in private plans. These are people who had plans; they worked hard all their lives; they retired; they may have given up a pay raise in order to make sure they had retiree health care coverage. We know that 2.7 million of them or 1 out of 4 people with private retirement plans right now will lose them. They will be dropped from coverage because of the way this benefit is designed.

We also know the discount cards are of little help. I will speak more on that in a moment, but one piece that I thought was going to actually help people was a discount card, a discount of anywhere between 10 percent and 25 percent. Now there are serious questions being raised about whether there will be any real discount for people in the end.

Finally, this law eliminates provisions to lower prices.

When we look at this privatization of Medicare with bad benefits—some people lose their coverage, the discount cards are not what were advertised, and the fact that we see no provisions to lower prices—I suggest we ought to start over and make sure we get it right. We have time to do that.

The attacks on Medicare through privatization—what does that mean? We know a couple of things. We know what will happen in 6 short years. Mr. President, 2010 sounds like a long time away. It is 6 years from now. In 2010, for people in 10 different demonstration areas—we don't know where they will be, but in 10 areas around the country—if folks want to stay in traditional Medicare they are going to end up paying more. In fact, in those areas, we find that CBO says it could cost up to 25 percent more to stay in traditional Medicare. Others will be forced into private HMOs.

How is this going to work? In 2010, for people who are in this demonstration area, Medicare will change from a defined benefit to a defined contribution. What does that mean? It means instead of having the same Medicare wherever you go—which, by the way, is what the ad says, "same Medicare, more benefits"—it will not be true for people in these areas. The Secretary of Health and Human Services indicated he did not know if the ad would be true: Same Medicare, more benefits.

In fact, it is not true for people in these areas around the country because what will happen is instead of having your same Medicare with the same premium and copay anywhere you live anywhere within Michigan, whether it is Upper Peninsula, Grand Rapids, Detroit, or Lansing, or Mississippi, Texas, or Minnesota, instead of knowing what you have and being able to pick your own doctor, for folks in these demonstration areas this will become a defined contribution.

Essentially, they will be given the equivalent of a voucher for a certain amount of money; then Medicare beneficiaries can decide whether they want to go to an HMO, whether they want to go to a private insurance company, or whether they want to stay in traditional Medicare. If the costs go up of going into a private plan, the individual would have to pay the difference. If the person stays in traditional Medicare, again it is anticipated that the costs will go up by 25 percent.

Why is that? If you are healthy, you are younger, wealthier, so you don't mind taking a risk that your costs are going to go up. You probably can get a deal in a private plan, particularly if you are healthier and younger, so you will get a better rate.

Folks who are older, more disabled, sicker won't be able to get a very good rate from private insurance companies. Instead they will stay in traditional Medicare. Fewer people in traditional Medicare, the cost is not spread as far, the risk pool is not as big—therefore, costs go up.

What we see is an effort, in just 6 short years, to demonstrate in 10 areas around the country a different kind of system that puts the risk and the possibility of increased costs on the senior citizen, on the disabled. It begins to unravel Medicare as we know it.

I believe that is by design. I believe when Newt Gingrich said we can't directly eliminate Medicare but we are going to let it "wither on the vine," when he made those comments a number of years ago, I think that is exactly the kind of thing he was talking about in these demonstration projects. As I have indicated, we know the costs of Medicare will go up by about 25 percent as a result of this.

Why would we want to do this? The reality is Medicare costs less to administer in terms of health services than private plans. We know that. The Congressional Budget Office says it costs 13.2 percent more money to go through an HMO right now, or private plan, than it does to stay in traditional Medicare. We also know Medicare is more cost efficient. Only 2 percent of Medicare expenditures are used for administrative costs. The private sector spends about 15-percent administrative costs.

We have a system that works; it is efficient; it doesn't cost much to administer; and everybody gets covered. This is a great thing. Medicare is a great American success story. If you are 65 or older or you are disabled in this country, we have set as a priority, as an American value, that we want to make sure our people have health care in this country. We want to make sure we don't forget our seniors, forget those who are disabled. A system was put together that worked.

Instead of celebrating that system, there is an effort now to dismantle it, unravel it, and to help do that in this bill. This bill would overpay private plans by $46 billion so they can compete more easily. Right now, most people aren't picking private HMOs through Medicare+Choice. To make them more attractive, $46 billion that could be spent to lower prescription drug prices is being given to private companies and HMOs so they can more effectively compete with Medicare.

There is also a slush fund of $12 billion for private companies in this bill. It doesn't go to paying for prescription drugs; it goes to subsidize the insurance industry so they can compete more effectively, even though right now we know we would save money if we put a prescription drug benefit through Medicare as we know it and beefed up a system that is already working.

Second, this is a bad benefit. In fact, I wish this was a good benefit. We all want to have the very best benefit possible for our seniors. Unfortunately, we are in a situation where, first of all, those with a very low income, who are under Medicaid right now and will be moved over to Medicare, may actually find themselves paying more because the copays are higher. Think about that. Folks who are choosing between food and medicine, the folks we have all talked about when we went home under this bill, actually may pay more than staying with the current system we have right now.

There are some folks who will receive some assistance, but first they will need to pay $35 a month in premiums, in fees. In order to be exempt from that, that person will have to qualify as low income and have less than $6,000 in assets. Think about that. That is not that much money. Someone would have to have less than $6,000 in assets to be able to qualify for the low-income benefit and not have to pay the premiums or the copays.

But assuming someone is having to pay, assuming $35 a month, a $250 deductible, then after someone has paid $250 they would have a 25-percent copay on any prescription drugs they purchased up until a total of $2,250.

But after you have spent $2,250 in prescription drug costs out of your pocket, you have to continue to pay the premium but get no help paying for your medicine until you reach $5,100 in drug spending. That is a huge gap. Some call it a donut hole. It is a huge gap. You have to continue to pay. You don't get any help.

What does that mean in the end? It means in the end you are paying $4,050 out of pocket when you have a prescription drug bill totaling $5,100. So your drug bills are $5,100 and of that you are paying $4,050. You are still paying 80 percent. We can do better than that. That is a bad benefit for our seniors.

Let me also speak about the loss of coverage. We have 2.7 million retirees who will lose coverage because they have a private retiree coverage right now through their business, and the way it is designed it will not allow that to continue. The incentive will not be there for the business to continue this even though folks have worked their whole lives to make sure they had coverage when they retired. That was part of their benefit plan, part of their salary, and what they have worked for their entire life.

Mr. DURBIN. Mr. President, will the Senator from Michigan yield for a question?

Ms. STABENOW. Yes. I will gladly yield to my friend from Illinois.

Mr. DURBIN. On the point she just made, as I traveled about the State of Illinois over the last several days, I have run into retirees who talked to me about having the rug pulled out from under them. After having worked for years, they expect to receive retirement income and certain benefits. Then because of a company's change in policy, these retirees find they will lose their health care benefits.

But the Senator from Michigan is saying under the new prescription drug plan supported by the Bush administration, you anticipate when this goes into effect over 2½ million retirees across this country will find these companies basically dumping the coverage they already provided and instead trying to replace it with their plan. Is that what the Senator anticipates as the outcome here?

Ms. STABENOW. Yes. What we are finding—and certainly when we started, we wanted the baseline to do no harm. We shouldn't have people worse off than they are now after we passed this. Yet 1 out of 4 retirees, or 2.7 million retirees, will find themselves in that situation, according to the estimates.

Mr. DURBIN. If the Senator from Michigan will further yield for a question, it is my understanding as well if a retiree in America wanted to sign up for President Bush's prescription drug plan but then realizes, as the Senator described earlier, there is a big gap in coverage, for example, that the language of the law itself prohibits that retiree from buying in addition to this plan their own private health insurance coverage to fill in the gap in the plan. So it basically takes away the power of the senior, the choice of the senior to try to cover their own expenses by expressly prohibiting that senior from purchasing insurance to supplement President Bush's prescription drug plan.

Ms. STABENOW. It is stunning, actually. I am so glad the Senator raised that issue. My mother raised it with me after listening to the debate. The first thing she said to me after this was passed was, You are telling me I can't have my Medigap policy. There is a huge hole in the middle of it. There is no coverage. This particular law says under your own choice you cannot voluntarily go out and buy a Medigap policy. It makes absolutely no sense.

Mr. DURBIN. If the Senator will further yield for a question, one of the fundamental issues with the President's prescription drug plan is—as I am sure the Senator has mentioned, or will in the course of her remarks—there is no mechanism in place in this plan for Medicare itself as an insurance program that Americans are familiar with, that seniors trust; there is no provision in this bill for Medicare to offer this prescription drug coverage and bargain with the drug companies to reduce costs for seniors. There is an express prohibition for Medicare offering that kind of prescription drug benefit. Is that not correct?

Ms. STABENOW. That is correct. There is only one group that benefits from that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senator from Michigan be recognized for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. STABENOW. Thank you, Mr. President.

What we have in this new law adds insult to injury. Not only could we keep the system which everybody knows about, which is the traditional Medicare, we could have done a traditional prescription drug benefit through Medicare. It is less expensive. It is more efficient. We could have provided a better benefit. But on top of that, Medicare is not allowed to use their clout to negotiate lower prices. The VA does it.

We know if we were to negotiate on behalf of 40 million Medicare beneficiaries, we could dramatically bring down the price. The problem is the pharmaceutical industry knows that, too, and they were successful, unfortunately, with their six lobbyists for every one Member of the Senate to get that language in this bill.

Mr. DURBIN. Will the Senator from Michigan respond to this question? Why is it if this plan does not offer Medicare, the option to help pay for prescription drugs for seniors, and if this plan has so many gaps in it where people won't receive coverage, and this plan expressly prohibits seniors from buying Medigap coverage to help fill the gaps, that an organization like the American Association for Retired Persons would support this plan? Does the

Senator from Michigan know if the members of that organization were surveyed as to whether they supported this plan?

Ms. STABENOW. That is one of the things that disappoints me more than anything else about what happened. I certainly have not heard from Michigan AARP members saying they support this plan. In fact, after local chapters in Michigan found out the details, they have been writing letters to the national AARP indicating they do not support this.

This is something that in no way, in my humble opinion, should have ever been supported by the AARP.

Mr. DURBIN. If the Senator will further yield for a question, if I am not mistaken, the polling I have seen says over 60 percent of AARP members oppose President Bush's prescription drug plan. But their leadership, Mr. Novelli, appeared at a press conference and endorsed it. I notice he has had a few things to say lately. He dislikes drug companies, but it is a little late for that conversation.

As you take a look at their prescription drug plan, isn't it interesting to the Senator when President Lyndon Johnson created Medicare and the bill was passed, he only needed 8 months to put the Medicare Program in place to cover seniors, and this President says he needs more than 2 years before he can actually offer the benefits of his prescription drug program. Does the Senator from Michigan have any idea why this takes so long and why the President wants to wait?

Ms. STABENOW. First of all, it is very simple, I think. They don't want people to know the real facts about this new law. They want to be able to put ads on television that say same "Medicare, but more benefits" when, in fact, it is not the same Medicare, and certainly by 2010 it is not the same Medicare with more benefits. Some people won't be able in fact to be able to get those additional benefits. They are pushing out 2 years the implementation hoping they can campaign now and people will not really see what is taking effect.

Mr. DURBIN. I thank the Senator from Michigan for yielding the floor.

Mr. President, I ask unanimous consent after the Senator from Michigan has completed her remarks that the Senator from Minnesota be recognized to speak for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Mr. President, the Senator from Minnesota said I could speak before him. I would ask to have 10 minutes right now.

Mr. DAYTON. Mr. President, I will take my time after the Senator from Iowa.

Ms. STABENOW. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Michigan has the floor, and has 11 minutes.

Ms. STABENOW. Thank you very much. I thank my friend from Illinois.

I would simply also go on to say one of the things I find deeply disturbing is while seniors have to wait for whatever meager benefits are in this bill, $46 billion has begun to be spent and given to HMOs to subsidize this effort now. Money is being spent from the Medicare bill we passed, but it is not being spent on helping people be able to pay for their medicine, which is another outrage, frankly, in this legislation.

Let me speak to one other issue. It is true, we see nothing in here that will allow Medicare to negotiate group prices.

There is one thing we thought was going to be helpful this year, a discount card. We were told it would provide from a 10-percent to 25-percent discount on prescription drugs. These are going to be available in the next couple of months.

As the Wall Street Journal has reported, the prescription drug provision for our seniors and the disabled increased 3.5 times faster than the overall rate of inflation in 2002. The prices for prescription drugs has increased more than 3.5 times the rate of inflation in the last year and a half. In fact, Families USA has done a study looking at the price increases that have occurred since the passage of the bill.

This is of great concern to me because it appears seniors may get some help. But will they really? Let me demonstrate why I wonder. I will show the savings in two ways.

We were told it would be either a 10-percent savings through a discount card or up to 25 percent. If we start with 10 percent, we have seen an increase in Celebrex of 23 percent. A 10-percent decrease with a discount card, you still see a price increase of 13 percent.

Seniors are asked to pay $30 for this discount card and they can only change it once. Deeply disturbing to me, a senior may decide: I take Celebrex and I need as much of a discount as I can receive. I will pay my $30 for this year. But the folks administering this can change which drugs are on the discount list every 7 days. So somebody pays their $30, scrapes that together in order to be able to get some meager help, and then they find out next week Celebrex is not on the list. Or next week Lipitor is not on the list, or Zoloft or Zocor. So the seniors are locked in but those administering the program are not locked in.

For whom is this bill written? For whom are the regulations written? I argue, not our seniors but for the prescription drug industry.

If it is a 10-percent discount, given the increases that have been going on—anywhere from 15, 16, 19, to 23 percent—seniors are not really getting a discount if it is a 10-percent discount. That is like right before a sale, the store you go to buy your tires from increases the cost of the tires 25 percent, then they put a sign in the window that says 10 percent off. That is what we are concerned about.

Now, if it is a 25-percent discount, which would be much better, even with a 25-percent discount card, if Celebrex has gone up 23 percent, it means seniors are really getting only a 2-percent discount. Or Lipitor, going up 19 percent, you are getting only a 6-percent discount. On and on and on.

There is another area Families USA raised which is of great concern. First, they say it is difficult to know what kind of a discount you are getting if you do not know the base price. That is what we are seeing. We are seeing the base price go up so it is tougher to get a real discount.

Second, we know under the discount card program the sponsors of the cards are required to pass along to our seniors only a position of the share of the rebate they get from the drug manufacturers. Let's say they negotiate a 30-percent discount. They do not have to pass all of that on to the senior. Instead, they can use that as profits to them.

There are a lot of issues that relate to this, a lot of concerns. In fact, Senator DASCHLE has introduced a bill, which I cosponsored, that requires that savings be passed on to the senior.

The regulations under this discount card foster a number of bait-and-switch schemes by the sponsors that I talked about before. They are locked in, they cannot change, or they can only change once, yet every 7 days the product being discounted can change.

There is a positive aspect, a $600 credit for low-income seniors and people with disabilities who are placed on the discount card. If you qualify, you get essentially up to $600 which you can use to purchase prescription drugs. That is a positive feature. However, my concern is, given the regulations and the certification process to qualify for low income, and the fact you have to have less than $6,000 in assets, too many people will not qualify for something that was put in place to help.

There is something we could do, something that was not in this bill, something that would make a difference. There is bipartisan support. Instead of dealing with the discount cards and the prescription drug prices that are going up three and four times the rate of inflation, meaning there is not a real discount, real help for people, if we join together, colleagues on both sides of the aisle are supporting this, and allow the pharmacist at the local drugstore in Lansing, Detroit, or Grand Rapids, or Marquette, to be able to do business with a local pharmacist in Canada or other countries that have similar safety provisions as the United States, we could really drop prices in half on Celebrex.

Instead of figuring out these discount cards, seniors having to pay a $30 fee in order to receive them, we simply do what should have been done sometime ago, something that can be done safely, if we had simply allowed the local pharmacist to be able to do business with a pharmacist in Canada.

I talk about Canada because that is the easiest and closest for me in Michigan. I have taken a number of bus trips with seniors to Canada. We could drop prices 50 percent. We could drop the price of Lipitor 40 percent; Zoloft, 37 percent; Prevacid, 50 percent; Zocor, 47 percent.

For women with breast cancer, and I had the opportunity to take a number of women to Canada who are on Tamoxifen, this is most startling. It costs $340 in the United States for a month of breast cancer medication. Women can receive that same drug in Canada for $39. There are things we can do.

In conclusion, while I believe the Medicare law passed did not end up being a bill in the best interests of our seniors, the disabled, or the taxpayers of this country because of the inability to lower prices, I do believe there are things we can do. There are things we can do together. One of those would be to open the opportunity for local pharmacists to bring down prescription drug prices at a huge discount for our seniors. I am hopeful we will bring that up together in the Senate. I believe we can get that done while we are in the process of fixing this Medicare law.

The PRESIDING OFFICER. The Senator from Iowa.

PRESCRIPTION DRUGS

Mr. GRASSLEY. Mr. President, as chairman of the Senate Finance Committee that had jurisdiction over the prescription drug bill for seniors, and as one of those who worked on the final product as a member of the conference committee, as one who is very happy we have this piece of legislation passed, as one, after having 36 town meetings in my State since the first of the year, who has come to the conclusion that seniors are beginning to look at this program and see it as something very beneficial to them, I wish to take a few minutes to respond to the exchange that was recently put on by the Senator from Michigan and the Senator from Illinois—not to address the enlarged picture they just talked about but to address some misconceptions that can come from parts of their statements.

I would start, first, with the issue of the provision in the bill that deals with the Federal Government not negotiating the price of drugs. That was put in there for a very specific purpose. That specific purpose was, we know what the situation is with the Veterans' Administration negotiating drug prices. Yes, prices are lower for drugs because they are doing that, but we have found that the Veterans' Administration will not pay for every particular drug that a doctor might want to prescribe.

I had this brought home to me very clearly in my Des Moines town meeting, where the first question I had was from a constituent who was mad because her doctor prescribed a drug for which the VA was not going to pay. We do not want the Government bureaucrat in the medicine cabinet of the senior citizens of America. We do not want the Government bureaucrat coming between the doctor and the patient. We see that in the VA program.

What we have done in the legislation is to build upon a 40-year practice of the Federal Government, and all health care, but particularly for prescription drugs for Federal employees, through the Federal Employees Health Benefits Plan. We do not pretend to duplicate that plan, but there is some good experience of those plans negotiating with drug companies to bring down the price of drugs. So we do not have to have the Federal Government negotiating drugs. In fact, as I said, we specifically do not want it negotiating it. We do not want the bureaucrat in your medicine cabinet because we have plans that have been set up in this bill to negotiate with drug companies to bring down the price of drugs, exactly the same way the plans for the Federal employees bring down the price of drugs. They are very well thought out and a very good practice, but, most importantly, we do not want to duplicate the shortcomings of the Veterans' Administration program.

The second point I would give further explanation to is the exchange that went on belittling the AARP for backing this legislation. I compliment the AARP because we would not have a bill without the AARP backing this legislation, because the AARP had the capability of helping us get a bipartisan coalition. Without them, we would not have had a bipartisan coalition, and you do not get anything done in the Senate that is not done in a bipartisan way.

Now, what is odd about Democrats finding fault with the AARP backing this bipartisan bill is that the year before, in 2002, the AARP was backing Senator KENNEDY's bill. So it seems to me that for Democrats the AARP is OK if they are backing a Democrat bill, but if they want to back a bipartisan bill, it is a sin for the AARP to do such a thing.

The AARP is looking at individual pieces of legislation, looking out for the greater good of their members, and helping get a product as opposed to, presumably, people on the other side of the aisle who want an issue rather than a product. So I think the AARP has done very well. I compliment them for doing that. We would not have a bill without them.

What Democrats have to get over is that the senior citizens of America are not Democrat property. They are individual Americans, and they ought to be seen as individual Americans, and they and their organizations not be denigrated because the Democrats think they have a grip on all seniors of America; they do not. But that is the resentment toward the AARP.

Another issue I want to explain is the impression that we have given the bureaucracy 2 years to institute the permanent program for the reason that we wanted to get way beyond the next election. It was said that maybe the first Medicare Program, in 1965, was implemented in 8 months. I was told it was a little over a year. So, to me, 2 years—38 years later—to do the first major improvement to Medicare in 38 years, to do it right—and it was not the President who decided it would take 2 years, as was indicated. Way back when we were dealing with the tripartisan bill, in the year 2002, I and my staff asked the bureaucracy: We want this done right. How much time should we give you to implement it? These nonpolitical people, being honest with us, said about 2 years. So we gave 2 years for the implementation of it. It had nothing to do with the President of the United States. It had nothing to do with the upcoming election. It is just our desire that if you are going to implement the first improvement in Medicare in 38 years, you ought to do it right. It was not our judgment of how much time it takes but a nonpolitical judgment of how much time it takes. That is what we were told, and that is what we did.

We do not wait for 2 years for this program to kick in. We have the temporary program that starts June 1, the discount card, and the subsidy for low-income people to get $600 this year and $600 next year to help them buy drugs while we are waiting to get the permanent program in place. Congress made that decision to take 2 years, not the President of the United States.

Now, there was also, throughout this discussion we heard, all sorts of insinuations that somehow this is a bill to benefit pharmaceuticals. Well, let me tell you, if the pharmaceutical companies had their way, there would not be any bill. But they knew there was going to be a bill. The drug companies that patent prescription drugs do not want generics out there. A very major provision of this bill to bring down the cost of drugs is that provision that does away with the legal subterfuge by which drug companies extend the life of their patent by making arrangements today with generic companies to keep their drug off the market, and they pay them to do it, so that, effectively, the patent is extended beyond 17 years. We did away with that. The pharmaceutical companies did not want that provision changed but we did that.

Another impression that is misleading has to do with the true cost of this bill. We hear the Congressional Budget Office says it is $395 billion. Then a month or two later the Center for Medicare Services says it is $535 billion.

Mr. President, is my time up?

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. GRASSLEY. Would the Senator from Minnesota allow me to have 2 more minutes?

The PRESIDING OFFICER. I think the Senator had 15 minutes in his original request, so he has 5 more minutes.

Mr. GRASSLEY. I thank the Chair.

The bottom line is, we have these accusations about what the true costs are. So I want to respond to those accusations we have heard that the "true costs" of the Medicare bill were somewhat hidden from Congress before the final vote. This is simply political, election year hyperbole. The opponents of the drug benefit are making this claim because the final cost estimate from the CMS Office of the Actuary was not completed before the vote took place.

Let me be very clear. The cost estimate was not withheld from Congress because there wasn't a final cost estimate from CMS to withhold. Their cost estimate wasn't even completed until after December 23, long after the House and Senate vote.

Let me also be clear we did have the official cost estimate on the Medicare bill before the vote, and that is the one from the Congressional Budget Office. As I have said, as both Senators from Minnesota know, the Congressional Budget Office is God when it comes to Congress having to go by a figure of what something costs. It doesn't matter what the Treasury Department says, OMB, or even CMS. The Congressional Budget Office is what we go by. If you don't go by it, you are subject to a point of order. That point of order takes an extraordinary majority to overcome.

No government official should ever be muzzled for providing critical information to Congress. If that happened last year, that was wrong. These accusations about whether information was withheld have raised questions as to whether Congress had access to a valid and thorough cost estimate for the prescription drug bill before the final vote. It should also be made clear that while the cost analysis by the Office of Actuary is perhaps helpful, it is not the cost analysis Congress relies upon but that of the Congressional Budget Office, as I have already said. It is their cost estimate we use to determine whether legislation is within authorized budget limits.

For Congress, if there is a true cost estimate, it is by the Congressional Budget Office. The Congressional Budget Office cost estimate is the only one that matters. When Congress approved a $400 billion reserve fund to create a Medicare prescription drug benefit, this meant $400 billion, according to the Congressional Budget Office, not according to the Center for Medicare Services.

With all due respect to the dedicated staff working at the Center for Medicare Services Office of the Actuary, their cost estimates were irrelevant to the process. The Congressional Budget Office worked closely with the conferees to the prescription drug bill and the staff to ensure a full analysis of the projected costs was complete. The conferees and staff regularly and constantly consulted with the CBO throughout the development of the Senate bill and in preparation of the conference agreement. The Congressional Budget Office worked nearly around the clock and on weekends for months to complete an extremely thorough and rigorous cost analysis of the prescription drug bill. That cost estimate, the official cost estimate, was available to every Member of Congress before the measure was presented to the House or Senate for a vote.

It is also pretty disingenuous for the opponents of the Medicare bill—on the other side of the aisle, especially—to suggest the price tag for the Medicare bill causes them concern. The fact is, they supported proposals that cost hundreds of billions more than what we ended up passing last year. The House Democratic proposal last year would have cost nearly $1 trillion, and the Senate Democratic proposal in 2002 cost $200 billion more than the bill that was enacted into law.

Further, there were more than 50 amendments offered on the floor of the Senate during the debate on the Senate bill that would have increased the cost of the bill by tens of billions of dollars.

The bottom line is, there should be no doubt in anyone's mind we had a true cost estimate for the prescription drug bill last year, and everyone had access to it before the vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

ETHANOL PENALTY IN HIGHWAY TRUST FUND FORMULA

Mr. DAYTON. Mr. President, I welcome the opportunity to express, on my behalf and that of my colleague and certainly the people of Minnesota, my gratitude to the Senator from Iowa, chairman of the Finance Committee, our distinguished neighbor to the south, for his phenomenal efforts in changing the ethanol penalty in the highway trust fund formula that will provide enormous benefit in the Senate bill to Minnesota and to his own State of Iowa. I have also been working with my colleague, the Senator from Minnesota, to try to do our best in our small way to support that effort and to be vigilant on the floor with regard to our caucuses. I certainly want to give credit where credit is due to the distinguished chairman of the Finance Committee for using his leadership position, and it is an enormous benefit to the State of Minnesota.

I express my gratitude and the gratitude of all Minnesotans to the Senator from Iowa for his initiative and leadership.

PENSION CONFERENCE REPORT

Mr. DAYTON. Mr. President, I thank my colleague from Minnesota, the Presiding Officer, for a letter I just signed with him to the employees of Northwest Airlines and also the steel companies in northeastern Minnesota on his initiative. This letter indicates both of us support the pension conference report which, fortunately, is going to be voted upon tomorrow in the Senate. I thank the Senator for his initiative on that, his calls imploring me to do what is in the best interest of important companies in Minnesota and the thousands of employees whose pensions depend upon those companies. I concur with my colleague and appreciate his giving me the opportunity to send that joint communication out to the thousands of Minnesotans for whom we will be acting tomorrow, in a bipartisan way, to protect for the future.

IRAQ

Mr. DAYTON. Mr. President, I want to take this opportunity to concur with the sentiments that have been expressed earlier by a couple of my colleagues regarding the heroism of our Armed Forces in Iraq. However, I also want to point out our proper admiration for their extraordinary patriotism and courage and our sad but necessary condolences to the families of those Americans who are still losing their lives in increasing numbers in Iraq or who are suffering serious life-threatening and lifelong disabling injuries from those battles, those appropriate tributes and condolences and our unanimous bipartisan support in this body for our troops—who continue to risk their lives there and in Afghanistan and Bosnia and Kosovo—should not prevent us from questioning the Bush administration's policies or lack of policies which are exposing those courageous Americans to those continuing attacks and ask what are the administration's plans to respond to the present escalation of attacks in Iraq. What are the administration's plans to bring all of our courageous men and women home with their victory secured?

In fact, we owe it to them, those whose lives are on the line on our behalf, whose families are enduring every day and night the fear it could be their loved one who will be next to give up his or her life in the service of their country or their bodies, we owe it to them, those serving, and to their families to ask the hard questions of the administration and not hide behind platitudes.

I am, for one, tired of sitting in secret and top-secret briefings, either as a Member of this Senate or as a member of the Senate Armed Services Committee, and being told how well everything is going over in Iraq, given the chorus line again and again, just to find out, often the next day, that that is not true.

Last Tuesday a week ago, late afternoon, then Wednesday morning in Iraq, I was given those same kind of assurances by representatives of the highest level of the administration, the Department of Defense, and our military officials. Hours later, American contractors were ambushed in Iraq and bodies mutilated and displayed in obscene ways in that country. And hours after that, American marines were attacked and, in fact, were surprised, so that if it had not been for the intervention of U.S. commandoes, private security forces, even worse casualties could have occurred.

In the next few days, the escalating attacks in Iraq have caused the largest number of Americans to be killed of any time in this last year since the war began. It seems clear, based on the information I have been provided, that our military intelligence was unable to anticipate those attacks or to forewarn our Armed Forces of their imminence, their severity, which also resulted in additional casualties.

I am deeply troubled by reports in the press that the administration has been intentionally trying to downplay the seriousness of those insurrections. Last Wednesday, as Americans were being mutilated, the only public event on the President's schedule was a meeting with members of the Baseball Hall of Fame. That night, he conducted a fundraiser for his reelection. Last Monday, as other Americans were losing their lives, including a Minnesota soldier who was 19 years old, from Moose Lake, MN, giving his life in Iraq, the President threw out the opening pitch at the baseball game in St. Louis, MO. That night, he held another fundraiser for his reelection that raised $1.5 million. Then he flew on to, according to reports, his ranch in Crawford, TX, for the rest of the week.

I don't think you can downplay, or should try to downplay, the seriousness of these attacks. I think we should face the realities that are occurring, and the Congress and the American people should be told what is happening, why it is happening, and how it is we are going to respond to these atrocities without any greater loss of American life. That is absolutely essential. We are heading to a weekend of great religious significance, following a weekend of great religious significance to many of our citizens, and at this time what we are doing there is something that is deeply troubling to this Senator, as I know it is to many of the people I represent in Minnesota. We want to see a victory there. We want to see the sacrifices that have been made by American troops justified, and we want it preserved as a victory that will last. But we want to know from this administration what the plan is, what the timetable is, what is going to happen, and what we are doing to forestall these events and warn our forces so they are not ambushed or caught unaware and lose their lives.

We in Congress deserve to get the facts and the truth. Starting tomorrow morning, when we have a briefing from the Secretary of Defense and others in the military command, it is time to give us the facts, the truth, the real situation, and not put on any whitewash or window dressings but to tell us what we as elected representatives of the people of this country have a right to know, and what the people of America have a right to know. What is happening? Why is it becoming more severe? What are the consequences to the troops? And what are the administration's intentions to deal with them?

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until tomorrow, Thursday, April 8, at 10 a.m.

Thereupon, the Senate, at 8:08 p.m., adjourned until Thursday, April 8, 2004, at 10 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 8, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 21

9:30 a.m.

Indian Affairs

To hold hearings to examine S. 297, to provide reforms and resources to the Bureau of Indian Affairs to improve the Federal acknowledgement process.

SR–485

10 a.m.

Joint Economic Committee

To hold hearings to examine the economic outlook.

SH–216

11:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

2 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the nominations of Romolo A. Bernardi, of New York, to be Deputy Secretary of Housing and Urban Development, Dennis C. Shea, of Virginia, to be Assistant Secretary for Policy Development and Research, and Cathy M. MacFarlane, of Virginia, to be Assistant Secretary for Public Policy, both of the Department of Housing and Urban Development.

SD–538

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign assistance and to combat international terrorism.

SD–124

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold an oversight hearing to examine the implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.

SD–366

APRIL 27

10 a.m.

Energy and Natural Resources

To hold an oversight hearing to examine sustainable, low emission, electricity generation.

SD–366

APRIL 28

9:30 a.m.

Indian Affairs

To hold hearings to examine S. 2172, to make technical amendments to the provisions of the Indian Self Determination and Education Assistance Act relating to contract support costs.

SR–485

MAY 11

10 a.m.

Energy and Natural Resources

To hold hearings to examine the impacts and costs of last year's fires, focusing on the problems faced last year and what problems agencies and the land they oversee may face next season, including aerial fire fighting assests and crew, and overhead availability.

SD–366

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Thursday, April 8, 2004*

The Senate met at 10:01 a.m. and was called to order by the Honorable WAYNE ALLARD, a Senator from the State of Colorado.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rev. William Vanderbloemen, from Houston, TX.

PRAYER

The guest Chaplain offered the following prayer:

Shall we pray.

Gracious God, we begin another day in this great country, and we seek You for help. We look for You to fulfill Your promises, for You have promised to be our guide. You promised that we will know Your voice, and that we will listen to it. So lead us to decisions that would make this Nation an even greater one. We pray for ears to hear that mighty voice, and the courage to follow the path to which it leads.

You promised to be our protector. You have said that You are a shield about us, the One who goes before us, and our rear guard. Guard us on every side and at every border. Be our protection. Watch over our troops in battle, our colleagues in the House, in the courts, our President, and the people of this great country. Defend them from every enemy, and grant the peace that only You can grant. At a word, You calmed the storms that raged on the sea. Use that same power, O God, to still the storms that rage throughout this world. May we be a beacon of that peace today.

Lord, You have promised to be our inspiration. You have said that You are like a morning dew that brings new life to the buds of spring. On this spring day, rain down Your renewal on us. Stoke the flames of courage, vision, and life in us as leaders and in the hearts of our country men and women today. Be for us that higher power, that mystical calling, the Voice that moves us to become more than we currently are and more than we ever dreamed we could be.

When we think of the great task to which You have called us, all we can do is humbly ask for Your help. And we know that You will grant it because You are the God who keeps all of Your promises. Be who You have said You will be. Fulfill Your promises. Hear us in Your great Name we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 8, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WAYNE ALLARD, a Senator from the State of Colorado, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ALLARD thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business for up to 60 minutes, with the first half under Republican control and the second half under Democratic control. Following morning business, at approximately 11 a.m., the Senate will begin consideration of the conference report to accompany H.R. 3108, the pension reform bill. Under an agreement reached last night, there will be up to 4 hours of debate on the conference report prior to a vote on its adoption. If all time is used, that vote will occur at approximately 3 p.m. today. The vote on the conference report will be the first vote of the day.

Following the disposition of the pension reform conference report, the Senate will resume consideration of the JOBS bill, the FSC/ETI bill. We have been working with the Democratic leadership to lock in a final list of amendments to the bill. We will be continuing that effort over the course of this morning.

I have related repeatedly on the floor of the Senate the importance of this bill, the importance of finishing this bill. I do hope Members on both sides of the aisle will show restraint as we put together a number of amendments to be considered on the FSC/ETI bill.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, and the second 30 minutes under the control of the Democratic leader or his designee.

Who seeks recognition?

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I believe I have time reserved under the majority leader's time to speak this morning in morning business.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. REID. If the Senator will withhold, Senator DASCHLE wishes to give a speech. He has said to go ahead.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, I thank the Senator from Nevada for the thoughts he put forward.

MARRIAGE

Mr. BROWNBACK. Madam President, what I wish to talk about this morning is the overall issue of marriage, and I will go through some charts, factual information, and some data. It is a current topic. It is one of great interest in the country. What I want to do is back up and say, Why is this institution even significant to us as a country? Why would a governing body be interested in marriage at all? Isn't this just simply a private matter?

What I want to do is go through, on a factual basis, and outline and make clear why marriage is so important to a government. At the end of the day, it comes back to raising children in a society to be productive, good, strong, healthy citizens, and the best setting to do that in is between two married biological parents, if at all possible, male and female. That is what all the statistical studies show. That is what the sociological studies show. I want to go through that because it lays the groundwork for why we are interested in marriage in a governmental body.

It turns out that if you have strong families, at the end of the day you are going to need less government infrastructure and support for them. If you

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

have a very weakened family structure, you are going to need a lot more governmental structure to surround that child to make up for the lack of two dedicated male-female biological parents.

This is not to say people cannot raise good children outside of that setting, because people do, and they struggle sometimes heroically to get it done, and they get it done. I want to recognize and honor them as well.

I want to talk about the macropicture as a broad society. As a society of millions of people, why are we interested in it? The reason is that, by and large, it produces stronger, more capable citizenry.

In the wake of all the recent debates about defending marriage from some of the new and unique challenges it faces and promoting marriage as an essential component in addressing some of our more intractable social problems in this country, I think it is important we come back to some fundamental questions: What is marriage? Why is it important to the health and continuance of our society? Why is the Government interested in marriage at all?

The answers to these fundamental questions are no longer so obvious or self-evident, as is apparent from the fact that many today question our civilization's traditional understandings of the institution of marriage, its purpose, its necessity for society, and its role in preventing social breakdown.

Before we can argue fruitfully about what marriage is not, we have to have a good understanding of what it is, why it is valuable, and why it must be defended as an essential bulwark of this great Nation of ours. The stronger the marriages we have between a man and woman in this country, bonded together for life, the stronger the country is going to be.

Marriage has been central to the understanding of family in Western culture from the beginning, and central to our historical concept of marriage has been the rearing of and orientation toward children. It is in this setting that children have the most likelihood of coming out successfully. This traditional understanding is a far cry from a postmodern deconstruction of marriage by a large number of sociologists and academics today, many of whom hold that the unique character of marriage is simply "public approval and recognition." In other words, marriage is whatever controlling public authority says it is, whatever current public opinion is.

Our civilization's historical understanding of marriage and the consequent recognition by the State of the unique nature of this one relationship reflect the fact that the public recognition of the institution of marriage is not primarily about the granting of rights and liberties but about the imposition of burdens.

Under the law, marriage limits rather than increases individual freedom. As family scholar Allan Carlson points out, marriage laws commonly mandate the sharing of earnings and debts, compelling obligations of mutual support, and limit rights to terminate the relationship. These are all limitations on the two people involved.

Why is it that governments leave all other relationship between individuals free but continue to register and in a sense burden these heterosexual unions? The answer—and I will go through this in a number of charts and statistics—is children, beings at once highly vulnerable and essential for the future of every community. Strong and stable marriages receive public approbation because it is a source of citizens able to practice ordered liberty. So children are the key to the puzzle about the unique treatment of heterosexual unions and traditional marriage.

As author Maggie Gallagher has written:

> Marriage is the place where having children is not only tolerated but welcomed and encouraged, because it gives children mothers and fathers.

That should seem very basic. This is not to say that marriage is not important to society for a host of other reasons as well. Traditional marriage is a boon to society in a variety of ways, and Government has a vital interest in encouraging and providing the conditions to maintain as many traditional marriages as possible.

Marriage has economic benefits, not only for the spouses but for the economy at large. Even in advanced industrial societies such as ours, economists tell us that the uncounted but real value of home activities, such as childcare, home carpentry, and food preparation, is still at least as large as that of the official economy. Not least of the reasons marriage is a positive social good is the fact that in the married state, adults of both sexes are vastly healthier, happier, safer, wealthier, and live longer.

Here is an instance where social science, viewed honestly, confirms what common wisdom has always told us: Traditional marriage between a man and a woman is a good thing. It is not only good for the spouses, it is absolutely vital for the children.

Now again, we know from study after study that the children of intact traditional marriages are also much healthier in body, spirit, and mind, more successful in school and life, and much less likely to use illegal drugs, abuse alcohol, or engage in crime. That is not to say people cannot raise healthy children in other settings. They can and they do, and they struggle mightily to get it done. This is the best setting.

As a result, though, one can always confidently conclude that traditional marriage is also a social good because it dramatically reduces the social costs associated with dysfunctional behavior. Supporting and strengthening marriage significantly diminishes public expenditures on welfare, raises Government revenues, and produces a more engaged responsible citizenry.

On the other hand, as seen today, most dramatically in modern societies such as ours, where the institution of marriage has been threatened and under attack for decades, with high rates of divorce and cohabitation, combined with low birthrates, there is a real question about the vibrancy of future societies that do not uphold traditional marriage. It is ironic, then, that the very governments that benefit from intact traditional unions have in recent years seemed determined to follow policies that have the effect of weakening marriage.

There is a clear consensus about the benefits of stable marriages to children, and that consensus is growing. Child Trends, a mainstream child welfare organization, has noted that:

> Research clearly demonstrates that family structure matters for children, and the family structure that helps the most is a family headed by two biological parents in a low-conflict marriage. Children in single-parent families, children born to unmarried mothers, and children in stepfamilies or cohabiting relationships face higher risks of poor outcomes. . . .

Not that they do not have in many cases very good outcomes, but they face higher risk of poor outcomes.

> There is thus value for children in promoting strong, stable marriages between biological parents.

It is not just any relationship between any two adults that provides children with the stability and nurture they need to thrive; it is a strong, stable marriage between biological parents. Again, social science seems to confirm what our common sense tells us: Children need a mom and a dad.

We cannot lose sight of the importance of fathers in this discussion of marriage. While it has become fashionable to champion a wide variety of alternative family forums, it is abundantly clear that children are much less likely to thrive in the absence of their biological father. Children who grow up without their fathers are two to three times more likely to fail at school and two to three times more likely to suffer from an emotional or behavioral problem. They are five times more likely to be poor. Nearly 80 percent of all children suffering long-term poverty come from broken or never-married families.

This is the first chart I wanted to show about developmental problems are less common in two-parent families, the red chart being single-parent families and the second one being two-parent families. Virtually half the level, the lower half of class academically, developmental delay, emotional or behavioral problems—all of those problems are nearly cut in half in a two-parent family.

I want to show next, on the child poverty issue, nearly 80 percent of all children suffering long-term poverty come from broken or never-married families. This is the number of children, total population, that are in the situation of poverty. Twenty-two percent are children of intact married couples, and the rest in the various other areas are children born in marriage subsequently divorced; children born out of wedlock, mother subsequently marries; children of never-married mothers. Virtually 80 percent are those involved in poverty.

The crisis of child poverty in this country is, in large degree, a crisis of marriage. That is why in the welfare reform bill there has been so much push on the issue of marriage, because with marriage comes a much better chance that this child is not going to be in a situation of poverty. It is not saying that is going to be in all circumstances; it is not. But the odds get much improved. The percentage of children of intact families living in poverty is very small compared to those in families where the father is not present.

Marriage has the effect of lifting families and children out of poverty. After the birth of a child out of wedlock, only 17 percent of poor mothers and children remain poor if the mother marries the child's father. More than half of those mothers and children remain poor if the mother remains single.

I am saying this, and some people may be uneasy about what the facts say, but this is what the situation is. We have had this vast social experiment of fathers being removed from families or leaving families in an increasing amount over the past number of decades and we have the data now. It is important for governments that we have a two-biological-parents traditional family.

This chart indicates the impact of marriage on poverty based on the nonmarried father's actual earnings, percentage of mothers and children who are poor. If the mother remains single, it is 55 percent; if the mother marries the child's father, it is 17 percent. Divorce, on the other hand, impoverishes families and children. It has been estimated the average income of families with children declines by 42 percent after divorce. Divorce has hit my family. It has hit many families—most families across this country. I know the impact of it, in siblings in my family.

Children who grow up fatherless are also at a much increased risk of serious child abuse. A child whose mother cohabits with a man who is not the child's father is 33 times more likely to suffer abuse than a child living with both biological parents in an intact marriage. What a tough situation for that child.

Married mothers are also half as likely to be victims of domestic violence than mothers who have never been married. As teenagers, fatherless children are more likely to commit crime, engage in early and promiscuous sexual activity, and to commit suicides.

It is clear both children and societies as a whole pay an enormous price for fatherless homes. The American people realize this. There is a Gallup poll from several years ago that showed almost 80 percent of the public agrees with the proposition that "the most significant family or social problem facing America is the physical absence of the father from the home."

It is a problem that requires urgent attention in our country. Nearly 25 million children today reside in a home where the father is absent—25 million children. Half of these children have never stepped foot in their father's home—12.5 million have never stepped foot in their father's home.

Less than half of all teenagers currently live with their married biological mothers and fathers. On this chart, that is the point I just made: Less than half of all teenagers live with their married biological mothers and fathers.

This year, approximately 1 million children will endure the divorce of their parents and an additional 1.2 million will be born out of wedlock. Altogether the proportion of children entering broken families has more than quadrupled since 1950.

This is a crisis for both our children and our country, the fact that so many children are growing up without dads. It has been exacerbated by the decline of the institution of marriage.

In the year 2000, the proportion of never-married women between the ages of 25 to 29 reached 39 percent; in 1965 it was less than 10 percent. Among men, the proportion who have never married from that age group went from 18 percent to 44 percent in the same time period. According to the Census Bureau, the number of cohabiting couples has increased from half a million to almost 5 million in the last 30 years. The number of households with neither marriage nor children present has gone from about 7 million in 1960 to just under 41 million in 2000. While married-couple families were 76 percent of all households in 1960, they constitute barely 50 percent today. Divorce rates have doubled every decade between 1960 and 1990, and while now they appear to have leveled off, they are still at historically high levels.

This is the percentage of adults in the population that is married compared to the percentage of the population that is divorced. You can see what it was in 1970: married 72 percent, divorced 3 percent; in 2002, 59 percent married, 10 percent divorced.

Public policy must focus on reinforcing the institution of marriage if we are to make progress in addressing many of the most difficult problems we face as a society. While welfare reform, for instance, has been an undeniable success in cutting half the caseloads, it is clear the next step must include addressing what is the core issue, the decline of marriage and the absence of fathers from families. We certainly cannot mandate the involvement of biological fathers with their families, but we can do everything possible to support the most proven and effective pathway to responsible parental engagement, and that is marriage. We must continue to work to change the policies that in effect punish the decision to marry, such as welfare rules that make it more difficult for married couples with children to qualify in comparison to single-parent families.

We must work to address the decline of traditional marriage. Unless we provide, as a society, cultural reinforcement for the often difficult path of loyal, committed, monogamous, heterosexual unions, we should not expect to see the institution of marriage thrive.

If society says the family structure does not matter, what is the incentive to get or to stay married when the road gets rough, which it often does? As one marriage expert has said, "If marriage is just a way of publicly celebrating private love, then there is no need to encourage couples to stick it out for the sake of children. If family structure does not matter, why have marriage laws at all? Do adults or do they not have a basic obligation to control their desires so that children can have mothers and fathers?"

That, my colleagues, is the real question in the marriage debate. That is why we have a vital interest in defending the institution of traditional marriage from attempts to define it out of existence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent the period for morning business be extended by 10 minutes on each side.

Mr. REID. Madam President, reserving the right to object, the Democratic leader wanted to speak. He yielded to the Senator from Kansas. If the Senator from Texas will withhold for a minute, he should be coming here.

Mr. CORNYN. I am sorry, Madam President, is there objection?

Mr. REID. Yes, there is, until the Democratic leader gets here.

The PRESIDING OFFICER. Objection is heard. The Senator from Texas has the floor.

Mr. REID. How much time is remaining on——

The PRESIDING OFFICER. There are 7 minutes, 15 seconds that remain.

Mr. REID. I would say, Madam President, we have no objection.

The PRESIDING OFFICER. Does the Senator from Texas yield?

Mr. CORNYN. For a question? May I ask how much time we have remaining?

The PRESIDING OFFICER. There are 7 minutes remaining.

Mr. CORNYN. There was an objection to the request for extension on each side for morning business?

The PRESIDING OFFICER. Yes, that objection was heard.

Mr. CORNYN. There was objection.

The PRESIDING OFFICER. Yes.

RICHARD CLARKE ALLEGATIONS

Mr. CORNYN. Madam President, I want to say a few words regarding some of the accusations we have seen in recent times coming out of the 9/11 hearing and the Richard Clarke allegations in his book. I think it is important, through all the clutter, for the American people to understand one point, if they understand anything, about all the debate and the politics and the political rhetoric and posturing that is going on surrounding this issue. That is a question that was asked during the course of the Commission hearing by Commissioner Gorton.

I think it is absolutely critical for the American people to understand both this question and this answer by Mr. Clarke. The question is from Commissioner Gorton of the 9/11 Commission, inquiring into the causes and circumstances giving rise to 9/11:

> . . . Assuming that the recommendations that you made on January 25th of 2001 . . . which had been an agenda item at this point for 2½ years without any action . . . assuming that that had all been adopted say on January 26th, [when President Bush came to office] year 2001, is there the remotest chance that it would have prevented 9/11?

Mr. Clarke answered, "No."

I believe the American people need to understand that Mr. Clarke is not assigning blame to President Bush or his administration for what happened on 9/11, nor could he. As a matter of fact, we had seen, during the preceding years of the Clinton administration when Mr. Clarke held the role of counterterrorism chief, a number of attacks against the United States of America and against our soil.

In 1993, Osama bin Laden directed al-Qaida's first successful terrorist attack on U.S. soil, blowing up a car bomb in the basement garage of the World Trade Center in New York City killing 6 and wounding 1,000. In 1996, there was another attack on the U.S. Air Force's Khobar Towers barracks in Saudi Arabia killing 19 Americans and wounding 515 Americans and Saudis. In 1998, U.S. embassies in Kenya and Tanzania were attacked by al-Qaida suicide bombers who killed 234 people and wounded more than 5,000. In 2000, al-Qaida attacked the USS *Cole* killing 17 American sailors and wounding 39.

So it is clear that during the preceding 8 years that Osama bin Laden had been terrorizing America and taking American lives in the process.

It is simply unfair for Mr. Clarke, or anyone else for that matter, to suggest that during the 8 months President Bush was in office that he should have or could have somehow done anything more than was done to try to prevent the events of 9/11. And, indeed, Mr. Clarke in a flash of candor through all of the attempts he has made to try to promote his new book—and, by the way, he has been very successful; I see on Amazon.Com his book is the No. 1 or No. 2 most ordered book. He has been very successful in promoting his book—but in a flash of amazing candor, we see that he now admits there is nothing the Bush administration could have done in 8 months that the Clinton administration had not done in 8 years to prevent the tragic events of 9/11.

Some in Washington, DC, I guess we have all come to learn, are world-class second guessers. Now armed with the benefit of hindsight, there are those who want to pick through the rubble, through e-mails, and through memos to try to assign blame.

But we ought to be clear about this: The blame for what happened on 9/11 lies squarely with Osama bin Laden and al-Qaida—not on the American people, not on President Clinton and his administration, and not on the President or his administration. These are good, patriotic Americans who I am confident were doing everything they knew of that they could possibly do to prevent the terrible tragedy this Nation suffered on 9/11.

It is insulting that anyone would suggest this administration or the previous administration, now with the benefit of 20-20 hindsight, might have done something to stop this unfathomable horror.

It is important to place responsibility where it lies; and that is with al-Qaida and Osama bin Laden.

We also find ourselves in a strange new dimension where on the one hand President Bush is criticized for acting too decisively to take out al-Qaida, to take down the Taliban government in Afghanistan and then remove a bloodthirsty tyrant in Saddam Hussein, and now, on the other hand, these same critics want to complain that he should have done more.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. Madam President, I was told that the Senator from Texas didn't understand what I said. What I said earlier was that Senator DASCHLE wanted to speak and that is why I objected. I ask unanimous consent that the time on both sides be extended for an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CORNYN. Madam President, I thank the Senator from Nevada.

We ought to be very clear about where the blame lies for the events of September 11.

But I point out one thing: President Bush has acted as decisively as any leader could have possibly acted in removing the Taliban from Afghanistan, by disrupting the training camps of al-Qaida in that country and then acting decisively against Saddam Hussein. The United Nations issued 14 different resolutions threatening him with the use of force if he did not comply with those resolutions, which he had never complied with during the entire course of the post-gulf-war period from 1991.

I think most Americans would be a little surprised to learn we never had a peace treaty after 1991, because Saddam Hussein continued to defy the United Nations and the free world by his continued acts of avoiding United Nations inspections. He played a game of cat and mouse. Just when he thought we were developing the courage—the United Nations and others—to take him to task, he would relent temporarily only to kick the inspectors out and continue to defy the United Nations inspections.

My final point is there are some, including the Senator from Massachusetts, who have called the war in Iraq "another Vietnam." The Senator from Arizona, Mr. McCAIN, I think did as good a job as possibly could have been done—certainly a person who has enormous credibility on that issue, having served so ably in Vietnam and, unfortunately, having been a prisoner of war there for a time—I think he did a very good job of refuting that and really showing the truth about that sort of scurrilous accusation. It is the kind of speech I worry has the possibility of a tremendously negative effect on our war on terror.

Our enemies should not be confused about our commitment to follow through, win the war on terror and crush our enemies in the process.

I grew up during the course of the Vietnam war. I remember what it was like in this country when our men and women in the field returned to this country only to find the American people did not support them as they should have and where America lost its resolve and strength of will. We should never let that happen again. It was a terrible American tragedy. For anyone to suggest that America is going to suffer loss of will or resolve in winning this war on terror is simply wrong.

I think we should not be fooled into thinking when Senators or any government official or anyone stands up and equates what is happening in Iraq and what is happening in Afghanistan and what is happening generally in the war on terror with Vietnam—they are providing fodder for our enemies. They are encouraging our enemies to think that perhaps we will lose our resolve and give rise to, I think, increased attacks against our troops on the ground and undermining our war effort generally.

I certainly don't suppose anyone is doing that intentionally. But I think we need to be careful about the words we use.

I know a short time remains in our morning business. I see the distinguished majority whip on the floor.

I would say in closing that words are important. Words have meaning. The words that are said today won't be remembered just in the context of election year and partisan politics; they will stand in history for future generations to read and study with a critical eye. In the end, we must focus on the battle with our common foe and not on each other.

I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Madam President, on our side we have 40 minutes, with the first 15 minutes yielded to the Senator from Connecticut and the second 15 minutes to the Senator from Vermont, Mr. JEFFORDS. My counterpart is in the Chamber and wishes to speak. The Republicans have the first division of time this morning. Thank you for yielding.

Mr. MCCONNELL. How much time remains on this side?

The PRESIDING OFFICER. Five minutes eleven seconds on the Republican side.

Mr. MCCONNELL. Madam President, I am not certain I can finish in 5 minutes. I wonder if it would be all right with the other side to have 10 minutes instead of 5.

Mr. REID. No objection. That would be yielded on both sides.

The PRESIDING OFFICER. The Senator from Kentucky.

TERRORISM

Mr. MCCONNELL. Madam President, there is no question the terrorists are at war with us. Unfortunately, it is becoming increasingly apparent in Washington we are at war with each other.

The September 11 Commission is holding hearings right now. It has an admirable goal of investigating the reasons that our immigration, intelligence, law enforcement, military, and legal systems failed to prevent 19 Islamic radicals from hijacking planes and using them as weapons of terror so we can prevent such lapses in the future.

Already the Bush administration and Congress have acted to reform numerous agencies and procedures to deter and to prevent future terrorist attacks on our country. What have we done? We have responded to terrorism vigorously by attacking the terrorists where they live and confronting the regimes that support them, rather than by lobbing a few cruise missiles at an empty desert tent.

We created the Department of Homeland Security to put all domestic security agencies under one roof. We overwhelmingly passed the USA PATRIOT Act which provides law enforcement agencies the tools they need to monitor, apprehend, and convict terrorists. We have cracked down on terrorists' financing at home and abroad by shuttering sham charities that fund terror and by freezing terrorists' assets. We have streamlined and reformed the intelligence agencies and are working to improve coordination among the many agencies responsible for protecting America.

Hopefully, the Commission will identify additional methods to improve U.S. security, but forgive me for not being terribly optimistic. I fear the Commission has lost sight of its goal and has become a political casualty of the electoral hunting season.

Sadly, the Commission's public hearings have allowed those with political axes to grind, such as Richard Clarke, to play shamelessly to the partisan gallery of liberal special interests seeking to bring down the President. These special interest groups have undeniably exploited the Commission for political gain. Moveon.org, for example, the ultra liberal organization that opposed America's liberation of both Iraq and Afghanistan—Moveon.org opposed the liberation of Afghanistan as well as Iraq—is funding TV ads that use Clarke's voice to accuse President Bush of not doing enough to stop terrorism. Moveon.org will launch a $200,000 ad campaign that restates this claim during CNN's coverage of Dr. Rice's testimony before the Commission this morning.

Clarke himself, publicly and under oath, has said he believes that even had the President implemented every single one of the suggestions he made to the President when he came into office, we would still not have been able to prevent the September 11 attacks. Let's take a look at that again. Mr. Clarke himself has said that even if President Bush had done everything he recommended to the President, we could not have prevented the September 11 attacks.

Before deciding to profit from his revisionist history, Clarke argues persuasively that President Bush's policy to combat terrorism was more aggressive than that of his predecessor. Clarke noted that President Bush expressed frustration with the previous policy of "swatting at flies" and that the President authorized a fivefold increase for covert operations against terrorists in Afghanistan.

The Washington blame game has distracted us from the important task at hand: Winning the war against the terrorists. The only entity responsible for September 11 was al-Qaida. We need a real debate in America about how to prosecute the war against terrorism because there are two fundamentally different schools of thought about how to win this war, two fundamentally different philosophies about how to win this war.

On the one hand, there are the President's critics who define terrorism so narrowly as to include only the terrorists directly responsible for September 11, and not the many other terrorist groups currently plotting attacks against America and her allies. They believe this war can be fought under the auspices of the U.N., if only America would yield to the French or the Russians or the Chinese. They are unwilling to act alone when others refuse to confront by force those who choose death over life and violence over peace.

On the other hand, there are those who believe that al-Qaida is merely one head of the hydra and that to kill the beast of terrorism you must drain the swamp in which the beast lives and the terrorists thrive. We have done that in Afghanistan, we are doing that in Iraq, and we must do it everywhere terrorism thrives.

Some critics, such as the junior Senator from Massachusetts, have argued that the war in Iraq is a distraction and that the global war on terrorism has actually been set back as a result of draining the swamp in Iraq. Senator KERRY's reversal on Iraq was wrong and his refusal to support $87 billion for U.S. troops for reconstruction in Iraq and Afghanistan stands as a stark rebuttal to President John F. Kennedy's call to "pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and success of liberty."

This war is not an isolated fight against al-Qaida but a global competition with a shadowy evil that lurks on every continent. It is a fight against the very enemies of freedom. We must never ever shrink from that fight. Terrorists do not reside in Afghanistan alone. It would be dangerously irresponsible to focus single-mindedly on al-Qaida while neglecting the other real threats facing our Nation. There is no doubt that terrorists reside in Iraq. We see evidence of this fact every single day on television.

Those who claim that Iraq is a distraction in the war against terrorism have very short memories, conveniently short memories. They have already forgotten that the Clinton administration State Department listed Iraq as a state sponsor of terrorism—that is the Clinton administration: Iraq as a state sponsor of terrorism—and that Saddam Hussein provided safe haven to international terrorists. We all know he made cash payments to families of suicide bombers among Palestinians.

Now the terrorists are currently making a desperate stand to prevent the establishment of an oasis of freedom in the heart of the Middle East. If we fail to eradicate the terrorists in Iraq, we will fail to defeat terrorism anywhere.

Waffling on our commitment to Iraq would convince the terrorists that America is little more than a paper tiger, and it would undermine our global efforts to deter other rogue states, such as Iraq and North Korea, from supporting terrorism.

We must not allow Iraq to become another Somalia. Going home early is the surest way to embolden the terrorists and to ensure the failure of our efforts to bring peace and security to the Middle East.

It was said the other day that Iraq is Bush's Vietnam. Nothing could be further from the truth. It may be Japan or Germany or Korea, but it is not Vietnam. We face lingering threats and challenges in those conflicts, but by staying the course we heralded in decades of freedom and prosperity in places such as Japan, Germany, and Korea. That is what will be done in Iraq.

Victory in Iraq is now central to our war against terrorism, and not only because it is preferable to fighting terrorists in Iraq rather than in New York. A free Iraq represents a mortal blow to the terrorists' goal of a radicalized Middle East.

Until you change the politics of the Middle East, Islamic fundamentalists are going to keep trying to kill Americans, and not even the best defenses will be able to prevent every conceivable attack against us here at home.

Establishing a democratic and economic beachhead in the backyard of radical Islam is itself a major success in the war against terrorism. Indeed, that is precisely why foreign terrorists are so committed to preventing the Iraqis from building a democracy in the heart of the Middle East.

The war against terrorism must be fought outside of Afghanistan, and it must continue after bin Laden is dead or behind bars; otherwise, we will find ourselves as vulnerable as we were on September 10. We cannot keep America safe by distinguishing between terrorists who have attacked us and terrorists who want to attack us.

In conclusion, I close with a quote from Michael Kelly, who died a year ago in Iraq while covering the war from the tip of the spear as an embedded journalist with the Third Infantry Division. He wrote in February before our liberation of Iraq about our cause in Iraq and the challenges we would face. Here is what Michael Kelly had to say:

> There is risk; and if things go terribly wrong it is a risk that could result in terrible suffering. But that is an equation that is present in any just war, and in this case any rational expectation has to consider the probable cost to humanity to be low and the probable benefit to be tremendous. To choose perpetuation of tyranny over rescue from tyranny, where rescue may be achieved, is immoral.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Nevada.

IRAQ

Mr. REID. Madam President, I would say I agree with my friend that the situation in Iraq is not a Vietnam. But it is Iraq. I would hope the comparisons made to Korea and Japan and Germany do not apply. We, of course, in Korea lost 55,000 troops there who died, with hundreds of thousands wounded and in Japan and Germany there were over half a million dead.

I agree with my friend from Kentucky that we have to do what we can to come out of the situation we have in Iraq. We certainly are there. We have to give our troops everything they need. They are under tremendous pressure. The situation there in the past week has been very difficult. We have to, as a Congress, do everything we can to let them know we support everything they are doing, and to make sure they have all the equipment and supplies they need to do the very best they are trained to do.

JOBS ACT

Mr. REID. Madam President, we have worked very hard on this side of the aisle to pass S. 1637, which is the bill to amend the Internal Revenue Code to comply with World Trade Organization rulings, the so-called FSC bill. I want everyone to understand on our side of the aisle and on the other side of the aisle that Senator DASCHLE made to the majority leader, last night, I think, a proposal that should have been accepted last night; that is, from the 75 amendments that have been proposed on our side, that has been reduced to approximately 20 amendments, with very short time agreements on the 20, nothing more than 30 minutes, and one amendment is for as little as 5 minutes.

I also suggest that if we look at what has happened with this piece of legislation, there has been nothing on our side that has been dilatory. We have wanted to move forward on this bill, but in the entire time we have worked on this bill we have voted once. If you go back to years past, when a tax bill comes before the Senate, it is not unusual to have more than 100 amendments offered and disposed of here in the Senate.

I think the good-faith offer made by the Democratic leader to the Republican leader is something that should be accepted. This is a proposal that would be good for the country, and it is in keeping with what we have tried to do on this piece of legislation—let the Senate act in accordance with the traditions of the Senate. It is a far cry from what we should have been doing this past 2 weeks. We could have worked our way through all of these amendments, but that has not been done.

I would suggest it would be in the best interests of the country that the offer made by the Democratic leader to the Republican leader be accepted at the earliest possible date.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

(The remarks of Mr. LIEBERMAN pertaining to the introduction of S. 2305 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont is recognized for 15 minutes.

THE ENVIRONMENT

Mr. JEFFORDS. Madam President, in 2 weeks, this Nation will celebrate Earth Day. The first Earth Day was in 1970, 34 years ago. For three and a half decades, people from all walks of life have gathered on April 22 to celebrate the environment.

Since the first Earth Day, our Nation has had seven Presidents, including our current leader, President Bush. Four of the six former Presidents were Republicans: President Nixon, President Ford, President Reagan, and former President Bush.

Each of these former Presidents has left their mark on our Nation's environment. For the next 10 minutes, I want to review the major policy and legislative accomplishments—and there were many—of these former Presidents.

At the same time, I will point out what the administration—the current Bush administration—is doing to that legacy left by four former Presidents.

That contrast is stark. Many of you would be surprised to learn that President Nixon's lasting policy legacy may well be on the environment. President Nixon signed into law some of the most comprehensive and sweeping environmental laws. Here is a list on this chart: National Environmental Protection Act, which was the basis for a lot of these situations; the Clean Air Act; the Clean Water Act; Endangered Species Act; Marine Mammal Protection Act; and the Safe Drinking Water Act.

We would all agree this is an impressive list. For the sake of time, I will not read the list for each of the subsequent three Republican Presidents. But the list is, in some cases, equally impressive.

Let's look at President Ford. The chart shows his greatest environmental accomplishment may be the Resource

Conservation and Recovery Act. The bill helped reduce our Nation's solid waste output and has increased reuse and recycling.

Now let's go to President Reagan's list on this chart. This is amazing to some of us who didn't think we necessarily were doing much. The list includes: the Endangered Species Act; Safe Drinking Water Act; Clean Water Act reintroduced; Hazardous and Solid Waste Act, amending RCRA; Safe Drink Water Act amended; Superfund Amendments and Reauthorization Act; Nuclear Waste Policy Act; Water Resources Development Act, and the Lacy Act amended.

They all built great environmental records that make all of us proud. I was Republican at the time, and we were proud of the environmental record these Presidents produced.

Now I want to go back to President Bush, senior, for a moment. His list was fairly solid. His greatest environmental achievement may have been the Clean Air Act. Being on that committee at the time, I was involved in negotiating these changes. It wasn't easy. Sometimes we all have to give a little to get a lot. But there were results from his efforts.

Now we come to the current President Bush. Remember, we are simply looking at Republican Presidents and their significant environmental records. We are not going to the Democratic Presidents. Let's look at his chart. There it is. There is nothing there. It is blank. There is not one legislative accomplishment of importance on the environmental issue. None.

I bet you would like to know what they have been doing for the last 4 years on environmental policy. Or maybe you would not. I will tell you anyway.

The Bush administration has been at war with the Clean Air Act. The Bush administration has proposed to gut the Clean Water Act. The Bush administration has bankrupted Superfund, ending the cleanup of toxic waste sites. The Bush administration has slashed funding for drinking water and wastewater. The Bush administration has slowed and almost shut down environmental enforcement.

The next chart—need I continue?

Here is President Bush's record. What are these on the chart? These are environmental rollbacks. If we can take a look at this chart, it says: Weakening the new source review section of the Clean Air Act; no Federal oversight on the cleanup of nearly 300,000 miles of rivers and 5 million acres of lakes; delays in requiring national pollutant discharge elimination system permits; opens more public land for toxic waste dumps; loosens regulations on mercury emissions; exempts Pentagon from the ESA and MMPA rules; exemptions from Montreal Protocol for the pesticide methylbromide; withdrew the TMLL rule set to take effect under the Clean Water Act; increased fuel efficiency standards by a mere 1.5 miles per gallon over 3 years; capped wilderness designation at 22.8 million acres nationwide, no more; Clear Skies plan curbs mercury emissions to only 2 to 14 tons reduction by 2010; does not pursue legal investigations of polluting facilities accused of violating Clean Air Act and water standards; also, they have underfunded Superfund.

The administration has a growing credibility gap, maybe even a credibility chasm on air pollution policy and environmental policy in general. I believe the President has lost the trust of the American people when it comes to the environment.

There are opportunities for him to rebuild this trust, but I doubt that any of the suggestions that have been given will be taken seriously.

When this President came into office, I had the greatest hopes that we could all work together to solve the problems facing the American public. But to put it mildly, I have been greatly disappointed.

The former Presidents I mentioned earlier built a legacy of environmental progress. This legacy is being dismantled. We can only hope that a future President will look back and work to rebuild our environmental protections to make sure this Nation can go on to a better and a healthier future.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, what is the parliamentary situation?

The PRESIDING OFFICER. The minority controls just under 11 minutes in morning business.

Mr. LEAHY. I thank the distinguished Presiding Officer. As always, it is good to see her, a longtime friend of our family, and I appreciate her service to this body.

THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2004

Mr. LEAHY. Madam President, we have had months of bipartisan negotiations on legislation to enact a national trust fund for victims of asbestos-related diseases. I am concerned that our distinguished majority leader and Senator HATCH have now introduced a partisan asbestos bill. We all agreed over the past couple of years of hard work on this issue that only a bipartisan bill will pass.

I held the first hearing on the problem of asbestos litigation a couple years ago. We worked closely with Republicans and Democrats, and I had hoped the bipartisan dialog over the past year would yield a fair and efficient compensation system that we could, in good conscience, offer to those suffering today from asbestos-related diseases and also to victims yet to come. But I am afraid the Senate majority has decided to walk away from those negotiations and to report to unilateralism by introducing a partisan bill.

I have offered, as has Senator DASCHLE, to work very hard on this issue. When I heard one was going to be introduced yesterday, I actually tried very hard to see if I could get a copy of it. Hours after it was introduced, we were finally given one.

We have all learned a great deal about the harms wreaked by asbestos exposure since that first Judiciary Committee hearing I talked about that I convened in September of 2002.

Asbestos is the most lethal substance ever widely used in the workplace. Between 1940 and 1980, more than 27.5 million workers in this country were exposed to asbestos on the job. Nearly 19 million of them had high levels of exposure over long periods of time. Even with all that, unbelievably, asbestos is still used today.

What we face is an asbestos-induced disease crisis—hundreds of thousands of workers and their families have suffered debilitating disease and death due to asbestos exposure. These are the real victims of the asbestos nightmare, and they must be the first and foremost focus of our concern and effort in this body. These are people who, by simply showing up for work, now must endure lives of extreme pain and suffering and often early death.

Not only do the victims of asbestos exposure continue to suffer, and their numbers to grow, but the businesses involved in the litigation, along with their employees and retirees, are suffering from the economic uncertainty created by this legislation.

More than 60 companies have filed for bankruptcy, and their bankruptcies have a devastating human and economic effect. Those victims who deserve fair compensation, of course, cannot get it from a bankrupt company.

I worked with Senators DASCHLE, DODD, FRIST, HATCH, and SPECTER. We asked representatives from organized labor, from the trial bar, from industry to help us reach a consensus on our national trust fund to fairly compensate asbestos victims and to provide financial certainty for asbestos defendants and their insurers.

A successful trust fund—one that will give fair and adequate compensation, would bring reasonable financial certainty to defendant companies and insurers—includes four essential components: appropriate medical criteria, fair award values, adequate funding, and an efficient expedited system for processing claims.

During the markup session of the first FAIR Act, we unanimously adopted the Leahy-Hatch amendment on medical criteria. During the mediation process established by Senator SPECTER and Judge Edward Becker, the interested stakeholders focused on crafting a streamlined administrative process and both Judge Becker and Senator SPECTER deserve credit for the enormous amount of work they put in on this. But we have not reached consensus on two other essential components: fair award values and adequate funding.

Although the changes made to a few award values by Senator FRIST moved in the right direction, the bill introduced last night does not move far enough. In fact, seriously ill victims will receive less compensation, on average, under the current version of the FAIR Act than they would in the tort system.

Actually, the FAIR Act, as I say on this chart, is not fair. Victims with asbestos-related lung cancer with at least 15 weighted years of asbestos exposure could receive only $25,000 in compensation, basically a crude joke of the victims, especially given most lung cancer victims are going to die within 2 years. It is a cruel joke also on their families.

Not only that, we find they may have their awards reduced or even eliminated to repay insurance companies. That is so contrary to most existing compensation programs. For example, the Radiation Exposure Compensation Act, the Energy Employees Occupational Illness Compensation Program Act, and the Ricky Ray Hemophiliac Relief Fund Act all contain strong antisubrogation language to protect awards to victims under these compensation programs.

Our bipartisan medical criteria have already eliminated what businesses contended were the most troublesome claims. We all say we need to compensate the truly sick, but fair compensation is not free compensation.

Our bipartisan agreement on medical criteria is going to be meaningless if the majority, in effect, rewrites the categories by failing fairly to compensate those who fall within them. We need a balanced solution. We need one that can be supported by all Members in this body.

Even with consensus on medical criteria, if the award values are unfair, the bill will be unfair and unworthy of our support, which sadly is the case with this partisan bill.

Since the first hearing on this issue, I have emphasized one bedrock principle: The solution we reach must be a balanced solution. I cannot support a bill that gives inadequate compensation to victims. I will not adjust fair award values into some discounted amount to make the final tally come within a predetermined, artificial limit. That is not fair.

We have been told, however, the majority will support a bill that contains funding with a goal of raising $109 billion over 24 years. But it is clear from projections of future claims this funding is inadequate to pay fair award values to present and future asbestos victims. Indeed, it is a cut of more than $40 billion from the total funding approved in the Judiciary Committee under contingency funding amendments by Senators FEINSTEIN and KOHL. It is not fair. All reflections show it is not enough.

The partisan emphasis in this bill on the interests of the industrial and insurance companies involved, to the detriment of the victims, has predictably produced an imbalanced bill. This bill is a reflection of the priorities that went into it. For us to succeed in reaching the consensus solution we have sought for so long, a workable bill should fairly reflect, and not discount, the significant benefits a fair solution indisputably would confer on the companies involved. A trust fund solution would offer these firms reasonable financial security. Even a casual glance at the way the stock values of these firms have closely tracked the Senate's work on this issue is enough to make this fact crystal clear.

Given all of these serious problems, I believe forcing this new asbestos bill through the Senate in its present form would prove counterproductive, even fatal, to the legislative effort. The near party-line vote within the committee on the earlier bill is more of a setback than a step forward even after all of our work. Proceeding further without consensus would be another mistake.

Instead, we should go back to work, build on those areas where we have bipartisan consensus, and then produce a bill that will help the asbestos victims in this country, will bring certainty to the companies that are laboring under possible liability, and will let the country go on with its business.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I will use my leader time under the order of the day, and I would make a note I will designate Senator KENNEDY to control the time once we move to the pension conference report.

The PRESIDING OFFICER. The leader has that right.

Mr. DASCHLE. Madam President, I compliment the distinguished Senator from Vermont for his statement on asbestos. I do not know of anybody in our caucus, perhaps in the Senate itself, who has done more and has been more engaged on this issue for a longer period of time than has Senator LEAHY. We would do well to listen to his sage advice and his critique of the asbestos legislation that is now working its way on to the Senate calendar.

As our Nation continues to grapple with the terrible consequences wrought by the use and distribution of asbestos, Senators from both sides of the aisle have been working diligently to negotiate a compromise. With each passing day, more victims face serious illness and even death, and more workers and companies face the threat of bankruptcy.

Approximately 1.3 million Americans are still exposed to asbestos at work. Ten thousand Americans die from asbestos-related illnesses each year. That is more than from drownings and fires combined.

In my home State of South Dakota, asbestos liability has been a major issue for businesses and individuals. In the cities of Aberdeen and Brookings, I have talked with the leadership team at 3M to discuss the impact this issue is having on their business.

3M employs 1,300 workers whose livelihoods are tied to the company's financial stability and strength. The corporation's management has told me how asbestos lawsuits have begun to overwhelm 3M, as over 300,000 suits have already been filed against their company, even though they were not in the business of producing or manufacturing asbestos.

At the same time, there are many South Dakotans who have become sick or died because of their exposure to asbestos. For instance, Jack Archer from Sioux Falls was a career electrician for 47 years working on dams along the Missouri River, and in aluminum plants and paper mills. After a long day of work, he would often come home covered in asbestos, and would shake off the dust and change clothes away from his house so his children and wife, Maurine, would not be exposed. In January 2000 he was diagnosed with mesothelioma.

Jack had seen many of his co-workers and friends die from the disease, and knew the illness that awaited him. Once diagnosed, Jack's body deteriorated rapidly, and each day brought more pain than the last. He died in July 2002. His wife now tries to remember his vitality and zest for life, rather than the years when cancer got the better of him.

Asbestos has created havoc all across the country, in homes and neighborhoods, mines and manufacturing plants, financial markets and board rooms. One study states that 300 companies were sued in the 1980s, while approximately 8,400 companies have been sued as of 2002. In addition, at least 70 companies have sought bankruptcy protection due to asbestos litigation.

Clearly, a solution is needed. For years, I have expressed my strong desire and commitment to find one. As I have said repeatedly, there is a way for us to craft legislation that could enjoy the overwhelming support of the Senate, if we put partisan differences aside and develop a true compromise that adequately compensates victims and provides financial certainty to companies and insurers.

Creating a national asbestos trust fund is an extraordinarily complex undertaking. There are a number of issues that all sides agree must be addressed: The creation of a no-fault administrative system; the equitable allocation of contributions; the establishment of reasonable medical standards; the resolution of pending claims and settlements; the creation of fair compensation values; and ensuring transparency of the system for both victims and corporate stakeholders.

Last July, the Judiciary Committee narrowly reported out a bill that was opposed by the American Insurance Association and the AFL–CIO. Since that time, there has been much work invested to try to develop a compromise and bridge the differences between the stakeholders. However, while much progress has been made, there are still several vital issues that have yet to be resolved.

During the committee markup, a compromise was reached on one of the major issues, medical criteria. Then, in the past few weeks, a compromise was reached on creation of the administrative structure within the Department of Labor. Yesterday, a new asbestos bill was introduced. This legislation incorporated some of the agreed upon compromises, and included some improvements.

However, it also takes a step backward in other areas. The new legislation dramatically altered or dropped altogether several of the key committee-adopted amendments. For example, the new bill restricts the amendment that would have restored current legal rights to victims if the fund runs out of money, adding new obstacles to access to the courts.

In addition, the new legislation failed to improve provisions that could limit recovery to only $25,000 for lung cancer patients who were exposed to asbestos at work for at least 15 years. That is in the bill. The so-called FAIR bill actually has a provision that says victims with asbestos-related lung cancer and 15 weighted years of asbestos exposure would receive only $25,000 in compensation. I literally cannot imagine how anybody could support legislation that says that is all they are entitled to. Fifteen years of weighted asbestos exposure, you have cancer, there is a connection, and your award under this bill is $25,000?

Finally, it puts the overall funding at $109 billion. Some Republicans argue investment income would boost that up to $114 billion, but this is far from certain. Even $114 billion is grossly inadequate.

Clearly, there are several fundamental areas that have not been resolved. These issues are not new. In fact, before, during, and after the committee markup, Democrats have raised some of these same concerns. For over 6 months we have been clear that $114 billion is insufficient. While we recognize that Republicans are reluctant to accept the committee-supported bill of $154 billion, we have expressed our willingness to work out a compromise.

Time is short. The majority leader has stated his interest to bring the bill to the floor immediately following the April recess. We can and should develop a solution.

But let me be clear: Securing a bipartisan compromise on asbestos is one of our top priorities. I stand ready and willing to work with my colleagues to address this important issue. But we will not support and we will do all we can to avoid passing legislation that is not fair, that does not address the problem, that will only compound the problems of those who are victims today.

I continue to believe that if we work together, we can develop effective reform legislation to provide appropriate compensation to the victims of asbestos, while providing a measure of certainty and security to American industry.

If, however, the Senate proceeds with legislation that does not reflect the middle ground, as I have said, we will have missed an opportunity to address this vital issue. I think we could all agree the stakes are too high to let it slip away.

Madam President, how much of my leader time remains?

The PRESIDING OFFICER. The Senator has used 9 minutes.

Mr. DASCHLE. Madam President, I have another matter I would like to address in the time I have remaining of my leader time, if I could.

NATIONAL PUBLIC HEALTH WEEK

Mr. DASCHLE. Madam President, I recently learned the story of a young Indian girl from South Dakota. Last year, when she began to lose weight and feel stomach pains, she traveled to a nearby Indian Health Service clinic. She was diagnosed with heartburn, and since IHS clinics often don't have the resources to treat patients unless their lives are at immediate risk, she was told to go home.

Over the course of the next several months, as her condition worsened, she returned to the clinic several times only to be turned away each time. Because she was never given a full checkup, the clinic failed to discover that her symptoms were not caused by heartburn but by stomach cancer. By the time her condition became critical, it was too late. Her cancer had spread, and there was nothing any doctor could do. Not long afterward, she died.

Perhaps the saddest aspect of this story is that it is another example of what happens each and every day. For Native Americans and other minority communities across the country, the miracles of modern medicine—and sometimes even the most basic primary care—are beyond their reach. The disparities within our health care system have reached a crisis point, and the consequences for America's minority communities are staggering.

The death rate for African American cancer patients is 30 percent higher than for whites. African Americans are also one-and-a-half times more likely to have coverage for an emergency room visit denied. Hispanic Americans are more than twice as likely as whites to die from diabetes. American Indiana are 670 percent more likely to die from alcoholism and 650 percent more likely to die from tuberculosis.

This sad litany of statistics goes on and on and it tells a story of a health care system that, for a significant and growing portion of our Nation, is simply broken.

This week is National Public Health Week. Appropriately, the American Public Health Association has chosen to focus the Nation's attention this week on the disparities in our health care system and how we can fix them.

I am grateful for its efforts. America faces few more important or complex challenges than building a world-class health care system for everyone, regardless of race, income, or geography. There are no quick fixes. The factors that have led to this two-tiered health system are complex and interrelated.

Minorities are far less likely to have health insurance or a family doctor, making regular preventive visits less likely. And many of those who do have insurance report having little or no choice in where they seek care. Minority communities are more frequently exposed to environmental risks, such as polluted industrial areas, cheap older housing with lead paint, or asbestos-laden water pipes.

For Hispanics, Native Americans, and others who do not speak English as a first language, the lack of translators and bilingual doctors makes it more difficult to communicate with doctors and nurses. The American Indian community has been forced to cope with a system suffering from decades of neglect and underfunding of the Indian Health Service.

The IHS has consistently grown at a far slower rate than the rest of the HHS budget, and at only a fraction of health care inflation. As a result, sick people are turned away every day from IHS hospitals and clinics in this country unless they are in immediate danger of losing their life or a limb.

Life or limb isn't a figure of speech at IHS clinics. It's an actual standard of care. IHS's funding crisis is not just in clinical services. Prevention efforts, facilities, personnel, mental health care, substance abuse programs, and contract support costs are all drastically underfunded, too.

I have said this on the floor many times. Our country spends an average of $5,100 for every man, woman, and child in America. In every Federal prison, we spend an average of $3,800 for every prisoner. On every Indian reservation, we will spend $1,900 total for every man, woman, and child, one half of what we spend for Federal prisoners. So it is no wonder that people die at a rate hundreds of times greater on the reservation than they do anywhere else.

America is obligated, by law and by treaty, to provide free health care for American Indians—a commitment the U.S. Government made to the Indian people in exchange for their lands. America is not honoring that commitment.

The White House's budget this year included only $2.1 billion for IHS clinical services. That is more than 60 percent below the bare minimum needed to provide basic health care for people already in the IHS system.

The problems run still deeper. Even when both groups have roughly the same insurance coverage, the same income, the same age and the same health conditions, minorities receive less aggressive and less effective care than white Americans.

The racial and ethnic disparities in our health care system are not merely a minority issue or a health care issue. The high incidence of diabetes, asthma and other diseases among minorities as a result of this health care gap costs our Nation billions of dollars every year.

But most importantly it is a moral issue. A health care system that provides lesser treatment for minorities offends every American principle of justice and equality. We have been promised that we would address these issues at some point in the future, but we have seen no action whatsoever. We have attempted to pass the Healthcare Equality and Accountability Act of 2003, and no action has yet been taken.

This legislation would reduce health disparities and improve the quality of care for racial and ethnic minorities. The bill would expand health coverage by expanding eligibility and streamlining enrollment in Medicaid and the State Children's Health Insurance Program; it would remove language and cultural barriers by providing additional funding for cultural and language services; it would offer incentives to improve health workforce diversity; it would offer new funding to State, local, and tribal initiatives that take innovative approaches to reducing the disparities; and it would increase minority health research and data collection.

The bill would also strengthen and hold accountable the government institutions responsible for ensuring health care equity. And finally, the bill would provide adequate funding for the Indian Health Service—so that we can finally reach some adequate funding level and stop the shameful underfunding of Indian health needs.

This legislation would represent a strong first step, moving us closer to the goal of ensuring equal access to quality health care.

Last year, the majority leader said:

> Inequity is a cancer that can no longer be allowed to fester in health care.

I agree completely. We know what happens when cancer is allowed to spread.

Too many Americans in minority communities have lost their lives because they are subjected to a two-tiered health care system that keeps them from getting the care they need. We cannot afford to wait any longer to confront the minority health gap in our country. Americans are asking for our leadership on a challenge that is quickly becoming a national emergency. We have an obligation to answer their call.

I yield the floor.

MEDICAL MALPRACTICE CLOTURE VOTE

Mr. BYRD. Mr. President, yesterday, for the third time in this Congress, the Senate failed to invoke cloture on the motion to proceed to a one-sided, take-it-or-leave-it medical malpractice bill.

Last year, the majority leader tried to bring up a comprehensive bill. The Senate did not invoke cloture. Rather than sit down with the other side to craft a reasonable bill that could be brought up, debated, and amended, the majority leader took the same flawed bill, applied it to only one sector of the health industry, and attempted to bring it up again, just a few weeks ago.

At that time, I voted for cloture, not because I agreed with the underlying legislation, but because I had hoped for a legitimate debate, a serious look at the issues that are part of the growing medical malpractice crisis. I recognize that there are serious problems with medical malpractice in this country, and specifically with the availability of OB/GYN services in my home State of West Virginia. I voted to end debate on the motion to proceed to that bill. But, again, cloture was not invoked.

After two unsuccessful cloture votes, one would think that, if they truly wanted to pass legislation on this important issue, the Republican leadership would sit down with their Democratic colleagues and negotiate a bill that was less partisan. But there has been no such effort. Instead, the majority continues to add physician groups here and there, trying to rack up more political points. This is not a serious effort to address a real challenge. This series of votes is not designed to advance legislation. Instead, this is choreographed political theater, played for the benefit of core supporters of the Republican party. This is not a successful strategy for advancing legislation, or for solving serious problems facing our Nation, and I can not lend my support to this charade.

I do hope that the Senate can reach a consensus on this issue. Doctors and, most importantly, patients need stability in this system and the peace of mind that comes with a reliable, high-quality health care system.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. CHAMBLISS). Morning business is now closed.

PENSION FUNDING EQUITY ACT OF 2004—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 3108, which the clerk will report.

The legislative clerk read as follows:

> The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 3108 to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of the RECORD of April 1, 2004.)

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. It is my understanding there are 4 hours equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. This is an important piece of legislation which deals with the solvency of a large number of companies and benefits that are paid to those companies' employees. The core, the essence of this bill is the fact that traditionally, companies have been required to fund their defined benefit plans in relationship to the rate of return that is accounted for on a 30-year Treasury bond. That affects how much money they must pay into these plans.

Unfortunately, for companies that have such plans, the 30-year bond no longer exists as a viable benchmark. That is because we as a government are not issuing 30-year bonds. Therefore, when people value a 30-year bond, it has become, in the last few years, an understated value. It is not reflecting what the true interest is, the true rate of return is, in the marketplace any longer.

If we continue to use the 30-year bond as a benchmark, an inflated payment is required by those companies which come under this rule.

The effect of that is a large amount of money—it is estimated to be $80 billion—would flow inaccurately or inappropriately as a result of the fact that the decision as to that payment is based on the 30-year bond which no longer exists and is understated. It understates returns.

That $80 billion, if it is artificially moved around, becomes a problem because it means companies actually have to come up with the money. When they do, they are taking money away from investments which create jobs. If a company is planning to create a new plant or buy new equipment to create new efficiencies or simply to pay its people more—the people who work with that business with that activity—find they can't do that. As a result, the jobs which would be created through that $80 billion infusion of money will not be created. And it will have a fairly significant chilling effect on the economy generally, if we do not make this change in the calculation of the interest rates.

This bill replaces the 30-year bond with a market basket of high-grade corporate bonds as a reflection of what the appropriate interest rate should be. I think there is general consensus on that part of the bill, and it is the most important part of the bill.

The bill also has a series of rifleshot changes for some single-employer plans and for a small number of multiemployer plans.

That is where the contest over the bill occurs most intently because those single-shot changes affect a few industries, a few airlines, a couple of steel companies, and a large multiemployer plan in the Midwest.

But that was not my reason for aggressively pursuing this piece of legislation. I wanted to fix the 30-year bond rate. I have been trying to do that now for almost 9 months. I feel very strongly if we don't do it we will end up losing jobs in America. We will end up making ourselves less competitive. We will end up with less investment, and we will end up with fewer people in our country working for businesses which are efficient and, therefore, can compete internationally.

I think it is critical that we pass this piece of legislation.

These other items which are part of this legislation are obviously important to those employees who participate in those different areas—the airlines, the steel companies, and the multiemployer plans that are impacted.

But for me, the core of this bill is fixing the 30-year bond rate and the problem it has in artificially affecting the playing field as to where investment flows in America.

It is very critical in a market economy that you allow dollars to be invested where they can be most efficiently used. When you have a system which creates an artificially inaccurate benchmark or how these various funds must be funded by using the 30-year bond, you undermine the ability of the marketplace to adequately discipline through market forces the investment of dollars. The practical effect of that is to produce inefficiency, less capital investment, and less jobs.

This is a very important bill. In fact, it is the ultimate jobs bill. Eighty-billion dollars of investment is a lot of investment which is going to create lots of jobs. There are important jobs bills, but amongst the jobs bills we are taking up in Congress, this is certainly one of the most important. It is subject to some significant time restraints. If we don't do this by April 15, then some of this miscalculation of resources begins to occur, and we end up losing the investment in jobs we need.

That is the essence of this bill.

As I understand it, Senator KENNEDY, who is the senior Democrat on the Health, Education, Labor and Pensions Committee, intends to speak on the bill. A number of other folks also wish to make points on the bill.

At this point, I yield the floor and reserve the remainder of our time and hope we can get to a vote fairly promptly.

The PRESIDING OFFICER. Who seeks time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would welcome the opportunity to yield such time as our friend and colleague from Louisiana would care to use.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I understand we have about 2 hours on the Democrat side to debate this important bill. I appreciate the Senator from Massachusetts giving me such time as I might use. It will probably be 15 or 20 minutes, perhaps longer but hopefully not.

I want to start by asking my colleague from New Hampshire—I appreciate his work on this important piece of legislation. I actually agree with him. The people who are covered in this bill need relief in the pension provisions which we govern through our laws covering ERISA as well as in our Tax Code. I don't disagree with him that we have provided much needed and extremely important relief. But I want to ask, before I start my remarks, if he could comment on the approximately 9.5 million Americans who seem to be left out of this act and are working in the construction industry. If we seek to create jobs in America, that is one of the sectors we have the potential—as the economy begins, hopefully, to recover—where we could see some people actually going back to work.

I was wondering if maybe the Senator could comment about the multiemployers. I think there are about 9.5 million. Would he care to comment about why they have been left out?

The PRESIDING OFFICER. The Senator does not have a right to propound questions to other Senators who do not have the floor.

Ms. LANDRIEU. Mr. President, I will leave the question out there. I appreciate the clarification.

As we debate for the next 4 hours, I hope someone might come to the floor who is arguing that this bill is as good as it can get. I happen to believe this bill was pretty good when it left the Senate, and it has come back fairly effective. I would like to leave that question open to any of my colleagues who would care to come to the floor and explain in front of the cameras and for all to review why when it left here everyone was covered—all of the single employers and multiemployers—and as it has come back, why they have only received partial relief.

I have a reason, but I am not sure my reason is correct. I am going to leave that question out there and hopefully my good friend from Massachusetts and I can get an answer to that question before this debate concludes in 4 hours.

I am going to begin by refreshing our collective memory about what the President said. When President George Bush was elected in one of the closest elections ever in our Nation, he said it was time to rise above a house divided and to move together to create economic opportunity and economic hope.

When this bill had as its core very good purposes, when it left the Senate we were united. It had 86 votes, a majority of both the Democrat and Republican caucuses to give relief to every pension. Times have been tough. There were certain rules that were in place that prevented some of these multiemployer pension plans from stashing away money in the good times. They were prevented from doing that by our laws, rules, and regulations. When the market turned down and they started losing some of their investments, they had to kick in extra contributions, which caused them to take money away from employment and put it into their pension plans.

They asked for relief. Our Senate Republicans and Democrats said that large corporations as well as multiemployer pension systems deserve that relief. It left here with 86 votes a couple of months ago. It has come back, however, with only one group included and the other group left out.

I am concerned and worried. I am not confused. The answer is not pretty. I am told by the experts there is no economic justification for this. There is no cost to the Treasury to have those plans included. Although their plans are not run the same way, they deserve the same help and same relief because they are invested in the same stock market. I don't think there are two separate stock markets, one where the large corporations are invested and then another for everyone else. They have suffered the same up-and-down swings of the market.

However, I have to believe, unless my question is answered, the only reason they did not get help is simply because the White House did not want to help them. It would not cost the Treasury anything to give help to these plans. It would not cost the Treasury a nickel. It is a change in the law that buys them additional time that the actuaries and the experts believe would be responsible and safe, that would still make sure the pensions are safe and the money is there.

The bill left the Senate, with Democrats and Republicans working together. It went to what is seeming to be every day the most politically driven White House, where they were simply eliminated from the bill.

I ask, during the four hours we are discussing this, if any Member would be willing to come to the Senate and state why this has happened to 9.5 million workers, many of whom are union workers but not all, and some businesses that are affected, that are employing people, not minimum-wage workers?

These are workers who wake up early before the sun comes up, construction workers. Even when the temperatures go below freezing, they put their gloves on and an extra jacket and they go out and work. These are the workers we see on tops of buildings. These are the workers we see digging deep holes under the ground, driving electric lines, making sure the infrastructure in this country is what it should be, making sure when buses go over a bridge, the bridge does not collapse.

I ask anyone in the Senate to tell me why these workers have been left out. The only reason I am given is it is a political directive from the White House. These are evidently Americans who the President either does not like, does not want to help, does not think they deserve it, does not think they need help. If this is the kind of administration we are a part of, then I don't want to be a part of this kind of administration. I want to be part of an administration that helps everyone when everyone can be helped unless there is some real good reason not to.

I can understand we cannot afford to give everybody the same kind of tax cuts when there is money coming out of the Treasury. I understand about making priorities. It is my understanding that does not cost the Treasury a penny. It is my understanding, having served as State treasurer of my State for 8 years and served on my pension boards, and having some knowledge of the way pensions are made and the estimates and assumptions actuaries make in terms of pensions that control how much contributions are put in and taken out of a pension plan, it is my understanding the experts agree everyone could use some help.

One plan is helped, which is included in this bill, making a temporary adjustment to the rate of return to give them some relief. Another group said, We do not operate exactly that way, but we could use some help just stretching out our payments for 3 years so we could create more construction jobs. This White House, for some reason, said no to 9.5 million Americans.

Maybe we are getting to a point—I hope my colleagues will come down here and correct me—maybe we are getting to some ridiculous point in this Capitol where before you can get relief you have to show your voter registration card. When Democrats are in control, if you are a Republican, if you do not show a Democratic card, you do not get relief. Most of the people who were left out were union members. Not all of them, but most of them were union members. Again, there are businesses that were affected.

If it was the White House's intention to punish this group of people because they are not overwhelmingly supportive of administration policies, this is not an administration I want to be a part of. I would not for 1 minute walk to the Senate and say some of the corporations that are getting help in this business, because they are not overwhelmingly supportive of Democrats, do not deserve a fair shake by this body. They got a fair shake when it left the Senate.

We had Democrats and Republicans come to the Senate and say, yes, these large corporations that have suffered terrible losses in the stock market—and we all did; whether you were a little or big investor, everyone took a big loss—yes, we want to create jobs. Yes, they deserve relief. Democrats came down. Senator BAUCUS from Montana argued passionately for this bill and 87 Members voted for it. It comes back with 9 million people missing, and they just happen to be part of multiemployer pension plans, most of whom are union but not all, and some small businesses have been cut out with no explanation.

It is a very ugly way to do the people's business and it flies in the face of what this administration promised: to unite us and not divide us, to give help to everyone who needed it when it was in our power to do so, whether they were a little fry or a big fry, whether they were a little fish or a big fish, whether they were a union company or not.

I don't know how others feel, but people in my State, whether they are for or against unions, are for jobs. We have lost almost 3 million jobs since this administration took office. I remind my colleagues that people want good jobs. They do not want jobs that pay $5.15 an hour. You cannot feed your children, pay rent, and put gasoline in your car for $5.15 an hour.

We want to create construction jobs. My construction workers make good money. They usually build darn good buildings and they build them for little towns and big cities in Louisiana. They came up here asking for help—not a lot of help. It does not cost a dime. Not a dime. They are turned away because they might be Democrats? They might be union members?

I have been to the Senate before on a number of other issues in my disappointment with this administration. Across the hall in some other building, Condoleeza Rice is testifying. We have marines being killed in Iraq. If the President were leading in the right direction, I think he would use every opportunity, even small ones such as this. This is not a huge deal, but it is a big deal to the 9.5 million workers who have been left out.

I would think he would be using every opportunity to unite this country, to create jobs at home, to create goodwill so we can get through maybe one of the toughest times in recent history. But, oh, no, the bill leaves the Senate with 87 votes—of Republicans and Democrats—and comes back with Republican-only fingerprints all over it, taking 9.5 million workers out because they dared to ask for help in times of tough economic downturn.

I have to hear the rhetoric coming out of the White House: They are trying to create jobs. Well, let me tell you, here is a good chance to create jobs, to help save those pension plans people have contributed to, to give them a little help that does not cost anything—and they were sent away emptyhanded.

So I am going to sit here for 4 hours. I may have to leave for a few minutes, but I want my colleague from Massachusetts to know I am going to sit on this floor until I get an answer to my question: Why were 9.5 million workers left out, when it does not cost us a red penny to help them? If it was not done for political retribution reasons, I would like a good explanation as to why it was done. If I can get a good explanation, then I will change these remarks and I will acknowledge perhaps I was mistaken about the reason.

But I know the way pension funds work. I know what they asked for was not much to ask. I know it would not cost us any money to do it. I know the experts said we could help them, if we had the will to. But we just willed a different way. We made other choices.

Finally, I am going to tell you, these choices—we all make these choices. Choices have consequences. The choices the White House made to leave these 9.5 million workers out—and the businesses that employ them—are going to cost us jobs. They are going to make people more cynical. They are going to raise the anger level in this country, when we need to be pulling people together and not tearing people apart. For the little it would have cost to keep them in, I think there is going to be a big price to pay for taking them out.

I yield the floor.

The PRESIDING OFFICER. (Mr. GRAHAM of South Carolina). Who yields time?

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, until some other Members come to the floor, I want to add for the RECORD that, for Louisiana, there are 56 electrical contracting companies that participate in the National Electrical Workers Plan that will receive no relief in this bill. There are 18 Louisiana sheet metal contracting companies that have joined the Sheet Metal National Plan that will have their pensions in jeopardy, perhaps. But whether their plans are in good shape, they came here to ask for relief that would not have cost a penny, and they were turned away.

There are 1,200 Louisiana workers who belong to the grocery store workers plan. They perhaps need to start worrying about when they will be able to retire because they were left out of this plan.

Mr. President, 32,000 construction workers in Louisiana who have multiemployer pension plans have been excluded.

Let me repeat, all of these workers—the thousands—the 18 Louisiana sheet metal contracting companies that employ thousands of people; the 32,000 construction workers; the 1,200 grocery store workers; and the 56 electrical contracting companies, which probably together employ, I am going to estimate, at least over 5,000 workers—all of those workers were included, along with these multinational corporations and large businesses. They were all included because they all need help. They all have legitimate requests that could be given by the Senate. When we debated this in the Senate, they were all included. And 87 of us—Republicans and Democrats—voted to keep them in.

So I am going to be on the floor. If someone would come to tell me why these thousands of workers in Louisiana have been left out, I would be happy to know the answer.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the quorum call be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself 30 minutes.

The issue, as my friend and colleague, the Senator from Louisiana, and the Senator from New Hampshire, pointed out, is the issue of pensions that are facing a very challenging time due to the economic challenges we are facing now in this particular time, and the efforts of Congress to try to give these pension programs some time to be able to recover. As the Senator from Louisiana pointed out, that is a very worthwhile goal we should embrace.

As she pointed out in an excellent presentation, we had passed bipartisan legislation to help all those at risk, those workers who were going to be in single-employer plans and those who were going to be in the multiemployer plans. We passed legislation 86 to 9. Rarely does the Senate, particularly in the present climate, come together and recognize there is an immediate problem and then begin to face up to it.

As we were listening to the Senators from Louisiana and New Hampshire, and thinking about points to be made regarding this legislation, I am once again reminded Senators' pensions are not at issue. All our pensions are adequately funded. I dare say, if the issue arose where we were going to leave over 20 percent of the Members of the Senate out, as this bill does for workers, there would be more Members in this Chamber right now than there are.

The American people understand the pensions the Members have here are adequately funded. What we are talking about is a proposal that has been advanced, with the support of the White House, that is going to take care of about 80 percent of those who are in trouble and leave over 20 percent out.

The Senate, in a bipartisan way, included everyone. This proposal excludes over 20 percent. This doesn't mean we are not for the remedies that are available to the other 80 percent. We are. We are strongly in favor of those. But we do think fairness demands we also include the other 20 percent. We understand if we were able to defeat this particular proposal today, it would take about 5 minutes to remedy this in a way that would provide fairness and equity for all those who are vulnerable. The House of Representatives would take that so fast, people's heads would turn. It would be on the way down to the White House as well.

That is the question, whether we believe we ought to have a solution that takes care of not only workers in the Fortune 500, but workers who are in the fortune 10,000. That is the issue. The issue is fairness. The issue is workers.

I will mention very briefly, to set the stage, what the challenges are with regard to pensions nationally at the present time. The troubled economy is jeopardizing workers' retirement. There are 3.3 million Americans who have lost pension coverage since the year 2000. Only 53.5 percent of the Nation's workers are participating in a retirement program, the lowest level in over a decade. The declining quality of jobs in our country also means declining benefits for American workers. Part-time and low-wage workers are far less likely to have a pension than full-time workers. This is what is happening in the real world.

We don't have enough pensions to cover all workers, and many of the workers who are covered are losing it. The pension system is in crisis. Rather than addressing the whole problem, our Republican friends say: We are not going to do that; we are only going to take care of some.

We believe everyone who is part of a pension system ought to get fair and equal treatment.

This chart points out the issue. We have 35 million Americans who are covered by single-employer defined benefit programs. These workers will be protected. The Senator from Louisiana and I are for giving that kind of protection. But we don't understand why, if we are going to give the protection to 35 million Americans, we leave out the 9.7 million Americans who are covered by multiemployer defined benefit pension programs.

The Senator from Louisiana asked exactly the right question. Why are we taking care of 35 million and leaving out effectively 10 million. There is absolutely no other answer than the White House decided it was going to be punitive and pulled the strings on the conference—of which I was a member, and I will go through that shortly—and said: We are not going to do it because so many of these are union members and we don't like unions.

That is telling us something new in the Senate, when we know what has been happening recently?

Before I get into that, this chart shows what has been happening with regard to general benefit pensions. We have what you call a perfect storm of factors hurting pension plan funding levels: The prolonged downturn of the stock market during the Bush administration, the longest since the Great Depression; extremely low 30-year Treasury bond interest rates; weak economic conditions which mean companies cannot afford to make the additional payments and pay excise taxes imposed by pension laws.

These factors have affected the single-employer and the multiemployer the same. That is why the Senate decided to deal with both single and multiemployer plans. But not the conference committee. Although we made real progress, the fact is, we are facing an administration that at best is indifferent and at worst hostile to working families.

I don't make that statement lightly. But you cannot look at the record of this administration with regard to working families and not come to that conclusion. If you look at what has happened with the creation of jobs, we have an administration that said, yes, we are going to create 5.2 million jobs. They made that statement in 2001. But we have seen the loss of 2 million jobs because of their economic policies.

This chart shows there are 2.4 million more unemployed workers now in 2004 than there were in 2001. Workers are losing their jobs, and there are 10 million workers who are in the multiemployer plans who are going to get shortchanged as well. They are losing their jobs. If we look at the job growth over the last 3 years, as compared to other economic recoveries, from 1991, this shows the expansion of jobs, the recovery from 1991 to 1993. This chart indicates the current recovery is virtually flat.

How are workers reacting to this? American workers are working longer and harder than ever before. Look at this chart that shows what is happening for workers in industrial nations. These bars represent different countries. These are mostly the European countries: Denmark, France, Ireland, United States, Italy, and Germany. Look at the United States, about 400 hours more per year than any other industrial nation. Workers are working longer. They are working harder. More and more of them are losing their jobs. Of the new jobs that are being created, they are paying 21 percent less than the jobs that were replaced.

The average wage in 2001 was $44,000 a year. Now it is $35,000, a 21-percent loss. Workers working longer, harder. And if they lose their job and come back into the market, look what happens to them. They are suffering under this administration's economic policies.

We ask, I wonder why that is happening?

Well, Mr. President, the answer is it is very easy to see why it is happening. If you look at the recoveries from the early nineties and before, when you had an expansion of the economy and coming out of the recession, what you had with the new investments, 60 percent went to workers' wages and 39 percent went to corporate profits. In today's recovery, you have 86 percent going to corporate profit and 13 percent going to workers' wages.

This system is stacked against workers. We have an administration that has the opportunity to help American workers in with multiemployer pensions—they won't do it, again. This is what is happening. Corporations are doing very well. Under this bill, they are going to do very well, too. But not the smaller companies. We have seen this—if you look at what has happened, we have gone through this on unemployment compensation. Under President Clinton, even at a time when we were coming out of the recession of the early nineties, they kept in the unemployment compensation until we had seen the growth of 3 million new jobs.

We have seen now the early loss of over 2 million jobs and this administration cuts off the unemployment compensation. What is the effect of that to those workers? The effect of that is there are 90,000 Americans a week losing their unemployment compensation. That is 2½ times the capacity of Fenway Park in Boston. And they say that this administration is concerned about workers, concerned about the expansion of jobs, concerned about the unemployment compensation. They are opposed to the increases in the minimum wage. We have had that battle. When you look over the value of the increase in the minimum wage, the administration says thumbs down; we are not going to go for the increase in the minimum wage. If we don't have an increase in the minimum wage, the minimum wage will be at almost its lowest purchasing power ever in the history of the minimum wage. When we offered that amendment, the current Republican leadership pulled the bill rather than having a vote on an increase in the minimum wage.

No increase in the minimum wage, no unemployment compensation, proposals to eliminate overtime, which is going to affect the firefighters and policemen and nurses in this country. That is their record. These are the groups that are going to be affected with the proposal under the administration to eliminate overtime.

I make this point because what we are facing today is a continuum of the administration's indifference and opposition and hostility to workers, and primarily union workers, who are affected by this.

Let me point out what is happening across this country. We are finding out as a result of these conditions, there are real people and families who are hurting. More than half of the unemployed adults have had to postpone medical treatment, 57 percent; or cut back on spending for food, 56 percent; 1 in 4 has had to move to other housing or move in with friends or relatives; 38 percent have lost telephone service or are worried they will lose their phone; more than one-third—36 percent—have had trouble paying their gas or electric bills. That isn't even the beginning.

I want to take a minute or two to talk about what is happening out in the countryside in terms of hunger. I don't know how many saw this. This is last week's Parade Magazine. "How can we help end childhood hunger?" Imagine that in the United States of America, childhood hunger. How can we avoid that? The Agriculture Department reported 300,000 more families are hungry today than when President Bush first took office. That is going to increase. Let me read some of this article. This is from the Parade Magazine:

> Last year, according to the Department of Agriculture, 34.9 million Americans . . . were "food insecure," the Government's term for those who must survive on a diet not nutritious enough to keep a child healthy. More than 13 million of those people were children. The U.S. Conference of Mayors expects that requests for emergency food for families with children will increase to 91 percent of the Nation's cities this year. They also document that emergency food outlets in 56 percent of the Nation's cities turned away hungry families last year because they ran out of resources. The safety net that most Americans presume is there to catch children before they sink too far is torn in too many places, leaving too many in free fall. "Food is a basic right for every American child," says Bill Schorr, executive director of Share Our Strength, the anti-hunger organization that works with Parade and other partners to sponsor the Great America Bake Sale. "This is the wealthiest Nation on Earth. We have the resources to wipe out child hunger in our time. All it takes is the political will to make the welfare of children one of the Nation's top priorities. The first step is coming to terms with the shattering effect the unstable economy has had on the families."
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> "Despite a recent report that the economy has rebounded, our pantry soup kitchens are trying to serve a surging number of families," says Robert Forner, CEO of America's Second Harvest, a network of more than 200 regional food banks. Second Harvest distributed nearly 2 million pounds of food last year to 23 million hungry Americans, 9 million children. "Millions of people have used up their unemployment insurance benefits, spent their savings, sold off their assets, and come to us because they have no way to feed their families."

This is happening, Mr. President. So we have a thumbs down on minimum wage, thumbs down on unemployment compensation, overtime, and now an undermining of the pension system.

I want to mention who is being affected by the decision to exclude the multiemployer pension programs. By cutting the multiemployer relief plan, President Bush—I will review the bidding. We went to the conference and we had 5 days of hearings. We basically had agreed we could not do 100 percent because the House didn't do it, so we were going to do 20 percent. That was reported in the newspapers. They all show we had an agreement. The conferees understood that, until the White House said, no, no, we are not going to do that. They said you are going to take 3 or 4 percent. We said that is not a bargain, that is an insult. They said you can take it, and effectively they wrote the conference report, submitted it to the conference, and then during the final conference, Senator GRASSLEY, to his credit, tried to find common ground. He said, OK, we won't take the 20 percent, but let's go to 8, or 10, or 9 percent on this. Many of us supported that. It was not a great proposal, but it was at least targeted on the neediest multiemployer programs. That was rejected under the orders of the White House—not the conferees. We worked it out at 20 percent. Now we have the proposal, according to the Wall Street Journal today, that effectively eliminates all—except perhaps 2 percent of the multiemployer programs.

Let's find out what this is all about. The 9½ million people—who are they? Millions of workers could find themselves in the same situation as 500 retired ironworkers in Buffalo, NY, whose plan is on the verge of collapse because of stock market losses, economic downturn. These retirees could lose half of their pensions if their plan fails. Four hundred workers from Rockford, IL, whose employers have drastically increased contributions, cannot guarantee future benefits, so workers are paying for a pension they may never receive. A thousand workers in Connecticut, who have 50 employers who contribute to their pension fund—these employers are facing collapse if the pension fund fails. Workers across the country, from cement masons in Missouri, to sheet metal workers, to carpenters in Wisconsin, and electrical workers in Alaska are seeing their benefits cut as they and their employers are trying to save their plans. The problem is growing too rapidly. They are seeing the collapse of the pensions under the multiemployer system, and we are putting a death knell to them with this proposal before us.

Low-wage workers are also being hurt. Hundreds of thousands of grocery store workers across the country are seeing the rate at which they earn their pensions slashed, sometimes cut in half. Many of these workers' only pension is a few hundred dollars a month. They are earning only half of that, so they will never have enough to retire. We are talking about grocery store clerks and cashiers around the country who are facing a threat to their pension.

These workers earn from $10 to $15 an hour. Their average pension is only $500 a month. They cannot afford to see those pensions cut. Mr. President, 30,000 grocery store clerks and cashiers in the Seattle area have pension funds that are hitting a funding deficiency, where their employers owe excise taxes that drastically reduce the contributions, putting that whole program at risk. Workers agreed to cut their future pensions in half to save the plan. They are still facing a crisis in their plans.

They did not need to face this crisis. All we need is to give consideration to the multiemployer plans, as we did to the single-employer plans, and at what risk to the Pension Guaranty Corporation? Virtually zero, as the Senator from Louisiana pointed out. Virtually zero risk. All they need is time. But, no, because these are workers and many of them belong to unions.

In southern California, 70,000 workers have had the rate at which they earn pensions slashed. They are facing an imminent funding crisis. In the Southeast, 40,000 workers at Kroger and Bruno grocery stores in Georgia and neighboring States have had their pensions cut by a third. In Portland, OR, 20,000 workers had the rate at which they earn pensions cut in half. But this is not nearly enough to avert what is an imminent funding crisis.

All these funds are in serious crisis, with companies facing increased contributions, penalties, and workers having their pensions cut. Not a single one of these funds is eligible for relief from the narrow bill dictated to the Congress by the White House in the conference report. These are basically the small businesses that are affected.

Just a week ago, the President claimed the small business agenda is vibrant and foremost on his agenda. He says it is important to reduce taxes to small businesses so they will have more money to invest, while at the same time he was saying this, the staff at the White House was pulling the rug out from under thousands of businesses in multiemployer plans.

Over half of the 65,000 multiemployers are small businesses. Small businesses, family businesses are the ones that will be hurt. They will not be able to use their money to invest and expand, and they will be paying excise taxes imposed by the IRS on the pension plans. These are just a few examples.

Acme Industrial Pipefitting in Chattanooga, TN, which has 50 workers, is going to see their annual contributions to its pension plan more than double from $200,000 to $500,000. We had their president, Jim Bailey, say: I am not asking for a nickel from the Federal Government; just give me the time you are giving to the big boys. No, we are not going to do that, not for Acme Pipefitting in Chattanooga.

The Coghlin Electrical Contractors, a fourth generation family business, faced increased payments of millions of dollars. Mr. Coghlin, and other contractors in the area, say this is catastrophic.

Procaccio Painting in the Chicago area: Mr. Procaccio tells us he just cannot participate in any economic recovery.

You know what they are basically saying, although they will not announce it. They are going to terminate the pension programs, and this is completely unnecessary. This is what we are facing.

That is where we find ourselves. This conference report provides $80 billion—$80 billion—for single-employer plans and $1.6 billion for airlines and steel, but less than $250 million for a handful of multiemployer plans. These provisions are punitive, unfair, and discriminatory. Clearly, President Bush cares more about hurting the union workers than helping small businesses.

This chart shows who gets the relief. Here it is: $81.6 billion for the single-employer; less than $250 million for the multiemployer. That represents effectively 10 million workers. I can show just who they are.

The multiemployer plans allow workers to earn pensions under different employers. This helps workers in short-term or seasonal employment—construction, hospitality, entertainment or retail—to earn a pension. Many could not earn pensions in the single-employer system.

The multiemployer plans provide pensions to low-wage workers, including hotel workers, restaurant workers, and janitors. Multiemployer plans are a critical source of pensions for employees of small businesses. Without these plans, small businesses could not afford to provide pensions.

This chart shows the percentage of workers in construction, about 38 percent; truck transportation, 10 percent; services, 15 percent; retail trade, 14 percent; and manufacturing, 15 percent. These are workers in small businesses.

As I pointed out earlier, this chart shows what has happened in this legislation. The Senate bill provides 100-percent relief for the single-employer plans. The conferees agreed to provide relief for 20 percent of those who need it the most in multiemployer plans, and the White House insisted the final conference comes out with less than 4 percent. It is wrong, Mr. President. We are talking about the same workers who have been the most vulnerable in the job market, who have lost their jobs, and if they get reemployed, they will be paid less. They are the ones who depend on unemployment insurance when they lose their jobs. That is being terminated. Many of them depend upon an increase in the minimum wage. That has been lacking. Many of them depend on overtime, and this administration is threatening them. Finally, they may just have been able to have something put away for a pension, and that is being destroyed. That is wrong. It is unfair.

The bill that applies to the single-employer plan should give the same coverage to multiemployer plans. That is all we are asking. We have fought for the single-employer, but we also fight for the multiemployer. All we are asking is fairness to both. This bill does not provide it.

If we were able to defeat this proposal, as I said, it would take 5 minutes to readdress it, the House would pass it, and we would have a bill on the President's desk. That would be fair. That would be just. That is the way we should proceed.

I will be glad to yield 10 minutes to the Senator from New York.

Mr. SCHUMER. Mr. President, I know my colleague from New Jersey wishes to speak on this issue for 2 minutes. I thank the Senator for his generous yielding of time. I yield 2 of my 10 minutes to Senator CORZINE, and I will then take the other 8 myself.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. CORZINE. Mr. President, I rise to join with my colleague from Massachusetts to say this is an extraordinary failure to deal with small business employers across this country and their workers.

I find it difficult to believe that what is necessary for the Fortune 500 is not necessary for the small grocery stores, construction contractors, and others across this Nation. These pension funds are at risk, and there is no reason we should not apply the same rules to the small companies and the workers who are at risk in their pensions as we do for the large companies.

We spent in 2003 $5 million on these small companies we have eliminated in this conference report. We spent billions on large companies—billions. Where is the sensibility, particularly from the administration and from my colleagues on the other side of the aisle who are so enamored with every economic argument they make that they want to support small business, and they are walking away from this.

This is absolutely outside the context of reasonableness. We can turn this around and get this bill corrected and have it deal with small business and multiemployer pension funds, as well as the Fortune 500. We would make a major improvement. Thirty percent of the workers we are talking about who are exposed—almost 10 million—are being left out. As the Senator from Massachusetts so ably said, these are the same people who are getting pressed over and over on property taxes, the cost of tuition, rising gas prices—the middle class, the hardest working folks in America. We are turning our backs on them saying this is great.

By the way, I want this for major employers. We want it. Continental Airlines is headquartered in New Jersey. We need to do it. I support this effort by the Senator from Massachusetts.

We should oppose this conference report, fix it, and bring it back for a vote.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first let me thank my colleague from Massachusetts for his generous yielding of time and for his leadership on this issue.

There is no question about it, this is a sad day when we have to pit workers who work for large employers versus workers who work for small employers in terms of their pension.

TESTIMONY OF CONDOLEEZZA RICE

I am not here to address that issue. As head of our Task Force on National Security and Homeland Security, I am here to respond to the testimony of adviser Condoleezza Rice. The hearings we have had and Condoleezza Rice's decision to testify is all to the good. To quote from the Scriptures, the truth shall set you free, and this Commission—half Democrat, half Republican—has endeavored, is endeavoring, will endeavor to find the truth.

The bottom line is the Commission is bipartisan. The people on it tend to be those who look at things not as Democrats or Republicans but as experts, and the Commission is needed. The bottom line, too, is we should not look to this Commission for pointing fingers of blame. It is very easy, in hindsight, to say this should be done or that should be done, and I do not object to the fact this administration—or I understand the fact this administration and others made mistakes. Everyone in America made mistakes. So that is not the problem with the testimony of Condoleezza Rice.

The problem is something else. Unfortunately, we did not hear from Adviser Rice three important words: We made mistakes.

Of course, we made mistakes. This administration made mistakes. The previous administrations made mistakes. The inability of this administration and of the National Security Adviser to admit mistakes were made makes us fear we will make future mistakes because, after all, the only way we are able to understand what went wrong is to first acknowledge it and then say we are going to correct it.

We may not be dealing with al-Qaida in the future. We may be dealing with Chechnyans or East Timorese or skinheads. Unless we realize what went wrong and why we failed to pick up the warning signs, we are less likely to pick up future warning signs that could create even greater terror than the terrible terror on September 11 that befell my city.

Is it for sure that had everything been done right we could never have prevented 9/11, as Adviser Rice says? I doubt it. There are six facts that, if they all were to be put together, would have clearly pointed the arrow at what happened.

First, 12 intelligence reports throughout the 1990s showed terrorists would use planes as missiles to attack American targets.

Second, upon entering office in January, Dr. Rice read a memo from Dick Clarke indicating there were active al-Qaida cells in the United States.

Third, in the summer of 2001, there was a threat spike about terrorist activities against American targets, including hijackings and warnings that something very big was about to happen.

Fourth, on July 10, 2001, a document was sent to FBI headquarters in Washington from Phoenix, warning several Islamic militants had enrolled in flight schools in Arizona and positing that al-Qaida was trying to infiltrate the U.S. aviation system.

Sixth, we missed warning signs from Special Agent Rowley in Minnesota about Zacarias Moussaoui, an Islamic radical who was getting special aviation training.

Finally, on August 6, a White House briefing memo to the President stated, "bin Laden determined to attack in the United States," which was specific examples from the FBI of al-Qaida moves against Americans.

If, if, if, if on August 6 word went from the White House out to the FBI and all of the intelligence agencies, go turn over every rock and find out what al-Qaida is up to, it is very conceivable we would have been able to figure out what they might be doing, certainly disperse some of the terrorists, two of whom were known to be in the United States, from doing what they had done.

Is it a certainty? Absolutely not. Is it a possibility? For sure. To say it would be impossible to add up these signs and figure out what happened is dead wrong, as it would be dead wrong to say it is a certainty you could figure that out.

So the bottom line is simple. It is not the fact this administration did not try very hard on terrorism, because in the eyes of Security Adviser Rice they did. It is not the fact certain things were missed. They were missed by this administration—and let me underscore previous administrations—but it is the fact this administration, the President and his advisers, have this inability to say mistakes were made, under our watch and under previous watches. That leads to an attitude that we do not correct the problems.

Every parent knows when their child makes a mistake, they try to get the child to understand they made the mistake and maybe they will not do it again, but somehow we have this stonewalling and that is the most destructive fact.

Right now we hope and pray the messy situation in Iraq ends and ends quickly and that our Armed Forces can do the job against such bad people as this Sadr leader, but if the eyes of the administration were more open to what had been done wrongly in the past, maybe we would be better off in Iraq today. I say that as somebody who has been largely supportive of fighting the war on terror, voting for the war in Iraq.

What bothers me most about the testimony of Condoleezza Rice and the actions of this administration is not that they did not do everything right. Who could ask anyone to do that in this brave, new, post-9/11 world? But there is an inability to want to gather all the truth and figure out from that truth what was done right, what was done wrong, and improve and make things better.

The one lesson we learned in Vietnam is when our leaders did not accept the truth, it made matters worse. When our leaders failed to admit mistakes, it made things worse. Unfortunately, today's testimony shows an inability to admit mistakes were made and move forward and correct those mistakes and make America a more secure place in the future. I hope and pray it changes.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Hampshire.

Mr. GREGG. How much time remains?

The PRESIDING OFFICER. The Senator from New Hampshire has 112 minutes.

Mr. GREGG. And the minority?

The PRESIDING OFFICER. Sixty minutes.

Mr. GREGG. Mr. President, I had not thought this debate was going to enlarge itself into the issue of the testimony before the 9/11 Commission, but it appears the other side of the aisle has decided the pension bill is not enough to debate today on this floor, even though that is what it was to be limited to, but it raises this issue. So I think it is appropriate to at least respond briefly, although the response could be much more extensive. However, I will try to return to the pension bill at the appropriate time since that is what we are debating.

I will respond briefly to the statements of the Senator from New York, which I found to be outrageous. Maybe the Senator from New York did not listen to the testimony of Mr. Clarke. He very possibly did not, because he appears to have decided to make up his mind long before the National Security Adviser, Ms. Rice, testified.

I think it was Mr. Clarke who said—in fact, I know it was Mr. Clarke who said, in response to a question from Senator Gorton, if the administration had put in place every recommendation you suggested to the prior administration and to this administration, and which you put in your memos and your statements upon arrival of this administration in office in January, if the administration had done that—in other words, if the administration had pursued every course which had been laid out by Mr. Clarke, who was the guru of terrorism in the prior administration, which I also wish to comment on, would that have stopped the 9/11 event? Would that have prevented the 9/11 event? A one-word answer from Mr. Clarke: No.

Yet we have the Senator from New York say the opposite. I do not think the Senator from New York has the expertise of Mr. Clarke, and most certainly he has not presented himself as an expert on terrorism. Mr. Clarke has presented himself as an expert on terrorism, was the expert on terrorism in the Clinton administration, and did say definitively, in a one-word answer, no, 9/11 would not have been avoided had everything gone into place I wanted in place—I being Mr. Clarke.

The statement by the Senator from New York is excessive, to say the least, when he says 9/11 could have been avoided.

Then when he goes on to accuse this administration of not learning from lessons of the past—I will tell you something. This administration did learn from lessons of the past. The lessons of the past were the lessons of the Clinton administration, which were when our embassies were attacked in Africa and when our ship was attacked in Yemen, what was the response of the prior administration? They lobbed a missile into an empty terrorist camp in Afghanistan and then lobbed another missile into the wrong factory in Sudan and then washed their hands of Mr. bin Laden and said they had accomplished their purpose of defeating terrorism.

What we learned after 9/11 was that those sorts of marginal responses, those sorts of tepid responses to terrorism do not work in the present world and certainly this administration learned that.

I hesitate to think where we would be today had Al Gore been elected President. I suspect we would still be negotiating with the Taliban in Afghanistan.

This administration decided not to negotiate. This administration decided to take action. It went into Afghanistan and it destroyed the base of al-Qaida operations in that country and replaced a repressive regime that did not even allow women out of their houses and supported all forms of terrorism across this globe and especially the al-Qaida terrorism. They learned the lessons of the prior administration, which were tepid response does not work.

Then we moved into Iraq. As a government, we voted to move in that direction. Why? Because some of us understood that Saddam Hussein was a significant, dramatic threat to world peace and specifically was a dictator who had the capacity and had used weapons of mass destruction, who was oppressive at a level which hadn't been seen since the times of Nazi Germany, and who had the capacity to use his oppressiveness and his megalomania and his criminal view of the world to our detriment. He was a threat to us because of his ability to pass on that threat, the capacity to pass on weaponry, the capacity to be a sanctuary, and the capacity to be a feeding ground for people who caused us harm.

We are at war, there is no question about that, and we have, as a government under this President, pursued that war with an aggressiveness which was absolutely appropriate. We have chased these people who wished to do us harm across the globe. We have kicked over the rocks under which they live and we have brought them to justice so today their fear, their concern, is about where they sleep, not who they are going to attack tomorrow.

That is the type of response we needed as a government and as a nation, in light of what happened to us on 9/11. For the Senator from New York to come down here and say we did not learn the lessons of 9/11 and the lessons of the prior administration—which approached terrorism with such tepidness—is an absolute misstatement.

For them to come down here and say, after Mr. Clarke, who they have held up as the epitome of knowledge and expertise in the area of terrorism, testified in one word that 9/11 could not have been stopped, when he said "no" to that exact question, had all of his proposals been put in place—for the Senator from New York to come down here and make the statement we could have avoided 9/11, in light of that testimony, I find excessive to an incomprehensible degree.

I didn't intend to speak on this issue, but unfortunately it was drawn into this debate and I think it required a response.

The National Security Adviser today went before the Commission and testified under oath and made a clear and concise statement of how we as a nation are responding to terrorism, how we as a nation are fighting a war against people who have decided to try to destroy our culture and who have proven their willingness to kill Americans indiscriminately, whether they are men, women, or children.

We are using all our resources as a result of this President's commitment, which is total and absolute, to bring these terrorists to justice. I do not think statements such as those of the Senator from New York are constructive to the debate on that issue.

To return to the pension fund, a little less inflammatory subject, obviously not having the import of the fight for survival, which is what this war on terrorism is about for us as a culture, but still legislation we need to address on the floor.

We have heard from a number of speakers on the other side of the aisle how the bill, as it came back from conference, to use their phrase, is an attack on 9.5 million union workers who were not included in the multiemployer reform language of the bill.

My interest in this bill was to correct the interest rate question, which has been done. It was the essence of this bill. As I said earlier, it corrects the fact that $80 billion could be misallocated if we did not correct it. If we did not correct it, we could undermine capital investment and job creation.

But I do want to respond, not necessarily to the debate about how many multi's should have been included, but to some of the language which was used as to why the "multi" language was limited in scope, because it was partisan, to say the least, especially from the Senator from Louisiana, who said that 9.5 million construction workers who are union people would be left out of the "multi" reform bill as it was structured.

That is hard to do, because there are only 8.5 million people who are in the private sector union membership rolls, so she must have found another million people somewhere in the private sector union membership rolls to come up with that number. She must have assumed that none of the people who were protected—whose concerns were addressed, as was pointed out by the Senator from Massachusetts, where he had the number of 35 million people who would be positively impacted by the fix on interest rates—that none of those people are union people and that none of the people whose issues are addressed by the rifleshot DRC reform dealing with airlines are union people and that the White House somehow, according to the Senator from Louisiana, just picked out union people and decided to cut them out of this agreement.

But on the face of it that doesn't fly. First off, there are not 9.5 million people in the private sector union movement; there are only 8.5 million or 8. That is a lot of people, 8.5 million people. A large number of those folks are included in the DRC program, which is a targeted program, which happens to be the reason the UAW supports this bill—another large group of these people who are included in the interest rate fix, which is why the UAW supports this bill. A large number of the union people are pilot union people and other union people who work for airlines who are included under the DRC section of this bill, so they are happy with this bill.

This bill is not broken down on the basis of whether you are union or not union. To make that statement is totally disingenuous on the face of the fact that it can't be defended. In fact, it is so indefensible that when Senator KENNEDY spoke he talked about how the people impacted here were small businesspeople and how the administration left out all of the small businesspeople by not including all the multi's because most of those are small businesspeople. You can't have it both ways. You can't say the White House is attacking the labor movement by leaving out a group of multi's in this bill claiming that was the case—I will get to that in a second; it wasn't necessarily the White House—and at the same time say you are attacking the small business folks by leaving out the multi's.

That is so inconsistent on its face that it brings a smile. Obviously, small businesses, theoretically at least, traditionally have been considered to be very supportive of this President and of Republican philosophy. If they are saying the White House, by not agreeing to the full multi language, was attacking small business, then at the same time you can't say the bill was structured to attack unions, which is exactly what they said. It is exactly what the Senator from Louisiana said, anyway. I think the Senator from Massachusetts also had some comments in that vein.

The inconsistency of the argument on its face is so apparent that it holds no validity. I was not actively involved in this negotiation. Obviously, I was in the conference, but I didn't, as they say, "have a dog in this fight" because I was focused on trying to get the interest rate fix through, which I think is a bigger part of the package. But the reason the debate on multi's got shifted around was that—I would, again, point this out to the Senator from Louisiana who asked why this didn't happen, why didn't they get their way—it is two branches of Government. When it left the House, this bill had no multi's, none, zero, zip. The White House took the position there should be no multicoverage. That is one-half of the legislative branch and all of the executive branch saying they do not want any multicoverage. The Senate came out with language that said all multi's should be covered.

In the process of negotiation, compromise and conference, which happens to be basically how you do things in a democracy, what is known as an agreement was reached which gave coverage to a certain number of multiplans, about 50. It was a limited number; no question about it. It was a very small number.

But the way that number was reached, as I understand it, there was an understanding that all multi's shouldn't be covered. There was a general consensus on that.

Again, when the Senator from Louisiana came down here and said not all multi's had been covered, that this was an attack on multi's, that was never the understanding when we reached conference. Everyone in that room in the conference came to the conclusion that the multi's which should be covered were those at serious risk of defaulting. Those were the ones we were going to try to take care of. We had a real issue from an actuarial standpoint of figuring out exactly which that was and how you calculated it. It is not an easy issue to resolve.

The Senator from Massachusetts took the very legitimate position that 20 percent of the multi's were probably at risk. That was a calculation which he reached through an actuarial firm that took a look at it.

The White House took the position there should be no multi's at all.

Remember, these multi's are small employers. It wasn't an attack on unions. It was both small employers and unions.

It wasn't a philosophical or a political decision, as the Senator from Louisiana said. If you have a union card, and you weren't allowed to play in the game, or Democratic card I think they said that is absolutely ridiculous. The small businesses don't carry union cards, and hopefully not too many carry Democrat cards, either. But who knows?

As a practical matter, they did not divide on the issue of whether you voted and why you voted. They divided on the philosophical position of whether multi's should be included in this 2-year reform package.

The impact of the White House position equally impacted union plans, union members, and affected more significantly small businesses than it did members of the union. It is quite obvious. I suspect there are more small businesses affected by the White House position that multi's shouldn't be included than there are members of unions. It was such a fallacious argument that it doesn't even stand up to the laugh test.

But the point is, when we got into the conference, there was a difference between the Senator from Massachusetts who said 20 percent of the plans were at risk and the White House that thought no plans should be included. The White House initially said no plan should be included, but then after a while, due to the strong and effective advocacy of the Senator from Massachusetts and the Senator from Iowa, a series of different proposals were put on the table until they finally got to a point where they could get a majority vote in the conference to support a position. It was a compromise position; no question about it. It was definitely a compromise position.

Senator GRASSLEY did make another offer that was not accepted. The offer that was finally accepted—because we happen to be a government where you have to get the Senate and the House to agree and you have to get the White House to agree—was the package that is before us. The package that is before us has the inherently good benefit, as the Senator from Massachusetts appropriately pointed out, of benefiting 35 million American workers by correcting the interest rate fix issue, and of benefiting, if you are so inclined, three major airlines which potentially would go under if this bill didn't pass, and two major steel companies, which are integrated steel companies which would go under if this bill didn't pass, and 50 multiplans, including the single largest plan in the country, the Midwestern plan.

That is how we got to this point. It is not the perfect bill. Nothing that ever comes out of conference is the perfect bill. We have certainly proven that over and over again. I think judicial note can be taken about that. But it is a bill that was reached by compromise through the process with a lot of different players at the table who had a very strong opinion as to where we should go. It was not done on the basis of any sort of retribution or attempt to single out an interest group and negatively impact them. On the face of it, that position cannot be defended because so many small businesspeople are impacted by the multilanguage in this bill, and also because of the fact so many union members are benefited by the interest rate fix in the bill and by the targeted rifleshot that goes into this bill dealing with airlines and steel companies.

That, hopefully, puts to rest that side of the argument made on this case.

If the Senator from Massachusetts has other very legitimate concerns in this bill, I acknowledge the fact we didn't get the 20 percent he wanted on the multi's that were at risk which might go into default. That is a legitimate reason to oppose this bill, if that is the position. You cannot oppose this bill, as the Senator from Louisiana did, on the basis that it is an attack on some group. That is simply a function of politics. It clearly isn't, and the facts and the debate from the other side prove it.

I reserve the remainder of our time.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I ask unanimous consent to have printed in the RECORD a list of the small business organizations and business groups that are in strong support of the conference including the multiemployer provisions. They include the Association of General Contractors of America, the Cherne Contracting Group, Energab, Inc., the Finishing Contractors Association, National Electrical Contractors Association, Printing Industries of America, Sheet Metal and Air Conditioning Contractors' National Association, Schnuck Markets, Inc., the Food Marketing Institute, the Mechanical Contractors' of America United Association of Journeymen and Apprentices of Plumbing and Pipe Fitting Industry of the United States and Canada, and the Washington Group International, as well as others. This represents only part of the small business groups and associations that believe if we are going to provide help and relief for the single employer, we should do it for the multiemployer as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

American Federation of Musicians
American Federation of Television and Radio Artists
The Associated General Contractors of America
Cherne Contracting Corp.
Construction Industries of Massachsuetts—Labor Relations Division
Enerfab, Inc.
International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers
International Association of Heat and Frost Insulators and Asbestos Workers
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
International Brotherhood of Electrical Workers
International Brotherhood of Teamsters
International Union of Bricklayers and Allied Craft Workers
International Union of Electrical Workers
International Union of Elevator Constructors
International Union of Operating Engineers
Internatioinal Union of Painters and Allied Trades of the United States and Canada
Laborers' International Union of North America
National Association of Construction Boilermaker Employers (NACBE)
Finishing Contractors Association
National Coordinating Committee for Multiemployer Plans (NCCMP)
National Electrical Contractors Association
NEA—The Association of Union Constructors Operative Plasterers' and Cement Masons' International Association of the United States and Canada
Plumbers' and Pipefitters' National Pension Fund
Printing Industries of America, Inc.
Sheet Metal and Air Conditioning Contractors' National Association
Sheet Metal Workers' International Association of the United States and Canada
Schnuck Markets, Inc.
The Food Marketing Institute
The Mechanical Contractors' of America
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada
United Brotherhood of Carpenters and Joiners of America
United Food and Commercial Workers' International Union
United Union of Roofers, Waterproofers and Allied Workers
Washington Group International

Mr. KENNEDY. Madam President, I point out for the RECORD the fact that when the Senate considered the pension reform bill, the provisions in the bill that provided for the multiemployers actually provided a $42 million favorable score for the Federal Treasury. They made money while the single-employer had a cost of $1.5 billion. The multiemployer actually made money for the Treasury.

The idea included in the White House letter opposing the inclusion of the multiemployer because it was going to put the burden on the Pension Guaranty just does not measure up. That is the point of the Senator from Louisiana. There has to be another reason. It is not because it will cost the PBGC.

This chart says PBGC assistance to multiemployer plans is less than 1 percent of assistance to single-employer fans. This is the GAO finding representing 35 million workers. This represents 10 million, except these programs, although they have not been costly—$5 billion in 2003—are excluded. That is what is unfair. The question is, Why are we excluding them? It is not the additional burden. It could not be. The facts do not justify it. There has to be another reason. The reason is, I believe, the fact they are the union members which the administration has been strongly opposed to providing.

We say the White House is against it. The House is against it. Therefore, why should we include it? The fact is, the Senate had 100 percent, the House had nothing. You should have at least 50 percent.

The nature of the discussion in the course of the conference was, let's find out what the real need is. That seemed to be a sensible and responsible position, whatever the percentage. So we looked at what they call the single corporation, which is accepted by Republican and Democratic—certainly, the staffers, the professionals on this—as being a fairminded assessment. They found one in three of the multiemployers are facing difficulty, but one in nine are facing severe difficulty. We took the one in nine and tried to translate that into a formula that would help those in the most serious trouble. We all agreed on that—get a formula. It came out to approximately 20 percent.

That was in the newspapers. That is what the staff would certainly have agreed Thursday, 2 weeks ago. That was the agreement. It was in the Washington Post, not that that is the final word, but they have been following it closely. There is agreement that 20 percent of the worst-off plans should get assistance. That was my understanding. That was reported. No one contested that.

Then we get a surprise. We are about to have a final meeting and the White House suddenly gets the word on this and says, no, no, we are not going to do that. They come up with language that will get us down to approximately 4 percent.

The rest is history. The efforts that were made to try to get it up, move it from 20 down to 12 or 10, were all rejected as well. According to the Wall

Street Journal, taking the language and going back to Segal, it is now probably 2 percent. The fact is, this is not going to put an additional burden on the Pension Guaranty Corporation. The employer plans are more stable than single-employer pension plans because even if one employer goes out of business, the other employers continue to support the pension fund.

Of the thousands of multiemployer plans that have been insured by the Pension Benefit Guaranty Corporation, only 33 multiemployer plans have ever received financial assistance from the PBGC, and the PBGC multiemployer program has enjoyed a surplus for a 20-year history.

The idea is we have a fragile Pension Guaranty Corporation; we can only do the single employer; we cannot afford to do the other. It does not hold. So we have to ask, What is the other reason? Particularly after we reached a fair compromise to only deal with those that were at greatest risks. The answer was, we are not going to compromise on this. As I mentioned at the time of the proposal, it was not a compromise, it was basically an insult.

That is it. What the conference did was admirable with regard to single-employer plans. It is grossly unfair to the multiemployer plans. It is basically excluding coverage for almost 10 million workers who are facing the same kind of economic challenges. The others, I seriously believe, we would have passed overwhelmingly, a proposal that would have taken into consideration those that were at the greatest risk in the multiple. They are the ones that are the pension programs that deal with the smaller businesses. Some of those small business associations strongly support the inclusion of the multiemployer and, of course, the large number of workers that will be affected.

I still believe we ought to take a position and a stand that says, look, what we did for the single one makes sense. We are supporting. But we also think it is grossly unfair to 10 million Americans to say we are giving them the back of the hand when their expansion plans are under the similar kind of pressure and they are representing workers who are generally lower income and from smaller businesses and whose pension plans are heavily stretched, given the economic times.

I talked to my friend from New Hampshire, and the Senator from Washington wanted some time. I believe the Senator from Iowa, Senator HARKIN, wanted a few minutes, and the Senator from New York. Then we would be prepared to suggest to work out with the leadership an appropriate way to have a vote at an appropriate time and let others who would like to speak on another subject be able to address the Senate. If there are other colleagues who want to speak, if they can let us know forthwith, we will try to work out with the leadership and the other side an appropriate time for a vote.

I yield 10 minutes to the Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. 2236

Ms. CANTWELL. I thank the Senator from Massachusetts for yielding some time from this important debate on pensions. Obviously it has been a busy day in Washington talking about a variety of different issues important to our country.

One issue our colleagues ought to realize is pending business on our calendar that could be brought up for discussion is, what should we do in light of the fact that we finally got a recommendation on reports about the blackouts that happened in our country from New York through the Midwest? We now have a report saying that liability legislation is needed to ensure consumers can be protected from the transmission grid and the blackouts that have been occurring.

Many of my colleagues may think of the latest New York blackout that happened just several months ago as a great catastrophe. Some of them may have forgotten that since 1996, we have had many blackouts throughout the United States. In fact, all of the States in black on this map show the number of blackouts we have had in various regions. In our Northwest region, in Washington, we had a blackout several years ago that cost consumers not only inconvenience, but millions of dollars of impact.

The question is, What are we going to do to try to get consumers more reliability in electricity? While a lot of my colleagues would like to say we will pass an energy bill, it has been clear for some time that the Energy bill has gotten bogged down with a variety of items involving pork barrel spending. The most famous line my constituents remind me of in the Energy bill: Hooters, polluters and Enron looters. What are we doing about getting the energy policy this country needs and moving it forward?

One piece of legislation that has been hung up has been the reliability standards legislation. We have, this week, a report issued by the United States-Canada Power System Task Force, their final report, asking, Why did the blackout happen in the United States and Canada and what do we want to do?

The No. 1 recommendation from the report is make reliability standards mandatory and enforce them with penalties for noncompliance. That was the No. 1 recommendation out of that report. Why don't we do that? If we cannot agree on the rest of the Energy bill, why don't we take this standalone piece of legislation and pass it so we can give consumers the confidence that we have some rules and regulations in place for reliability.

A lot of Americans woke up after the New York and Midwest blackout and said, geez, how did this happen?

I think a lot of people assumed there were rules and regulations in place on reliability, but there are not. There is no rule in place that says: This is how much electricity you have to have as a backup. There is no rule in place that says: This is how you need to make sure Akron, OH, or Toledo, OH, or someplace in New York has enough electricity, given the kinds of demands and the peak we are going to see in those areas. Those rules are not in place.

You can ask yourself why those rules are not in place, and what has transpired on energy policy and been debated over the last several years, as we moved towards deregulation. But the bottom line is, now that a majority of States across the country since 1996 have had blackouts, we have had a demand for reliability legislation. We also now have a task force that has said the No. 1 thing you need to do is pass this legislation. Yet this legislation is being held hostage to passing a larger energy bill.

If my colleagues think I am overstating this case, I would like them to think about the legislative history here, because my predecessor, Slade Gorton, introduced similar legislation after Washington State had a blackout. We had a blackout and said: Gee, this is crazy. How can you not have reliability standards? How can you not have rules in place to make sure there is enough power for consumers at peak times? He proposed reliability legislation that actually passed the Senate, and got held hostage in the House of Representatives because people wanted to see more energy deregulation, so the legislation never passed. Now we have been through two more Congresses where no reliability legislation was passed.

The interesting thing is the majority of Members in both the House and the Senate actually support this bill, this stand-alone bill, that now is sponsored by Senator BINGAMAN, Senator SNOWE, Senator CLINTON, Senator JEFFORDS, Senator SCHUMER, Senator DASCHLE, Senator REID, and myself. This legislation, I believe, does have the majority of support by both House and Senate Members. People want to see it pass, but it continues to be held hostage to getting a general energy bill.

I can tell my colleagues we have had enough of the energy debate, and I think even that this latest FSC/ETI bill, in which some of the energy package was added to that legislation, is a sign of recognition by my colleagues it is going to be very tough to get that comprehensive bill this year. So why not do the responsible thing? Why not do the responsible thing and have this energy legislation pass now as a standalone bill and give consumers the confidence there are rules and regulations in place before we have another blackout?

The issue has been clear for some time now, and has been debated and studied by U.S.-Canada Power System Task Force. In fact, the task force even went on to say:

> If reliability legislation had been enacted when first proposed (in 1999), I believe that a blackout would not have occurred.

That is a statement from the chairman of the North American Energy Reliability Council. He testified before the Energy Committee. I asked him this very question. I said: Do we need to pass this legislation? And should we pass it as a stand-alone? He said: Yes, we should. He was, I think, then followed by the chairman of the committee, who said: Well, it is not time to do that yet. Let's keep pushing on the larger Energy bill.

How many more weeks are we going to let go by with the American consumer not having reliability standards in place, having their energy supply in question about whether they are going to have reliability?

I know some people think: Well, gee, things happen. There is too much demand.

You have an impact. Consumers, individuals, in various regions of the country have dealt with it. People should understand the New York blackout cost us between $4 billion and $10 billion for those days that businesses did not have power, when people could not conduct business, and could not continue with their livelihoods. That is merely what we ended up losing in terms of revenue. Not only is it an inconvenience to consumers and unsafe—an issue where we have left a lot of elderly people without the resources and reliability they have counted on—we also have negatively impacted our economy.

While we are here in Washington talking about national security and how we make everyone more secure, the clearest answer is—at least with regard to the electricity grid—to pass this legislation, and pass it now before we adjourn for another recess and leave these standards again hostage to this Energy bill, saying we have to have a comprehensive energy bill to pass it. It is not responsible to the citizens of this country to leave them without these standards.

The legislation specifically gives the Federal Energy Regulatory Commission the authority to make sure, working with the North American Energy Reliability Council, that these rules and regulations are in place. Again, for some of my colleagues who may not be familiar with our electricity grid and how the system works, we do not have somebody right now who determines, in the various regions of the country, how much power supply an organization must have, or penalties for not having that supply.

The way regional transmission organizations have been formed, and the way they operate, is it is only one entity pushes the electricity out and puts more power onto the grid. These RTOs have no obligation or responsibility to make sure there is reliability in the system.

I think that is shocking that our country, with a large economic engine and so many people depending on things such as e-commerce that are absolutely dependent upon electricity for millions of dollars, if not billions of dollars, a day in transactions, can say that we have no reliability standards in place to protect consumers and businesses from these kinds of outages that have occurred in the past.

UNANIMOUS CONSENT REQUEST—S. 2236

Madam President, I ask unanimous consent that the pending bill be set aside and that the Senate now turn to Calendar No. 465, S. 2236, a bill to enhance the reliability of the electric system; that the bill be read a third time and passed, and the motion to reconsider be laid on the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. CANTWELL addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. CANTWELL. Thank you, Madam President.

Mr. KOHL. Mr. President, I rise today in reluctant support, for the conference report in front of us.

The conference agreement makes great strides towards heading off an impending crisis in private pensions. Requiring private companies to measure the solvency of their defined benefit plans with the 30-year Treasury bill as a benchmark has not been feasible for some time. Ever since the U.S. Government stopped issuing these bonds, the market for them, and the interest rates they pay, have been distorted. That forced businesses to contribute more to their pension plans than was really necessary. During a time when private enterprise is under so much pressure from foreign competition and a weak economy, these extra contributions have been a tremendous strain on small and large businesses alike. Without the changes laid out in this bill, many companies would be forced to end their defined benefit plans.

Defined benefit plans are too scarce today, and we need to encourage and sustain their use by companies that have chosen to offer them. These plans, which offer a set benefit usually based on how long an employee has worked for a company, provide a kind of security for employees that market-dependent 401(k)s and IRAs cannot.

Unfortunately, the benefits the bill handed out to all single-employer plans were not given equally to multiemployer plans. There seems to be little reason for this decision, other than some of my colleagues on the other side of the aisle were unwilling to help out plans that benefit members of organized labor. There is some help for multiemployer plans in this bill, but it is not nearly enough. I have heard from many unions, especially the construction trades, who strongly oppose this bill because they believe it is mean spirited and will force their members to make significant sacrifices. I am reluctant to vote against the men and women who build our homes and move our goods, but I am not left much choice.

If we delay this bill beyond April 15, businesses across the country will be forced to contribute large amounts of money to their pension plans to meet their quarterly obligations. Some of them will be unable to make those contributions and will be forced to withdraw the plan from their employees. To keep workers from losing their pension benefits, and to remedy a long-overdue policy, I have to support the bill before us.

I would like to take this opportunity to highlight a section of the bill that will substantially benefit both businesses and consumers in Wisconsin. Included in the pension legislation is a repeal of an outdated section of the Tax Code, section 809, which limits the ability of mutual life insurance companies to deduct a policy holder's dividends. The intent of the original legislation, as passed in 1984, was to ensure equity between mutual and stock life insurance companies. While this concern has expired as the number of mutual life companies in the Nation has dramatically decreased, the damaging economic impact of the legislation remains. Mutual life insurers have been forced to reduce the amounts paid to policyholders as dividends or benefits, thereby increasing the cost of insurance.

Tax savings that will result from a repeal of section 809 will be passed on to policyholders in the form of increased dividends and lower insurance costs. This comes at a critical time for Wisconsinites, where the effect of repeal will be twofold. In addition to providing such benefits to consumers, the mutual life insurance industry employs thousands of workers in my State. At a time when job loss across the country has been severe, this repeal will allow companies to avoid cost-cutting measures often resulting in job loss.

Unfortunately, the conferees were not as fair or reasoned in their judgment when they decided to include an antitrust exemption for graduate medical resident matching program in this conference report. This antitrust exemption was not reviewed or debated by either the Senate or the House, much less voted upon. The exemption will end many of the claims in an ongoing lawsuit brought by a number of medical students and residents that has already survived efforts to have it dismissed. The students contend that through the matching program, the hospitals depress wages and cause residents to work inordinately long hours to the detriment of patient care. This exemption appears to eliminate all of the students' claims with the exception of their allegation of price fixing.

In general it is bad policy to provide exemptions to the antitrust laws. It is certainly unusual to enact an exemption that ends part or all of an ongoing lawsuit. We should have had the opportunity to debate this issue and determine whether there was any merit to the exemption, rather than see the exemption mysteriously appear on an unrelated bill. It appears that this provision, enacted in this way, is nothing more than a giveaway to one particular special interest. Without judging the merits of the issue, we should have had an opportunity to explore it and make that decision for ourselves.

I have to agree with many of my colleagues who have argued that this conference report would have been greatly improved had Democratic conferees been allowed to participate fully in the conference. We have a bill before us now that deserves support, but is not the good and fair work of which this body is capable, nor is it even near the quality of the bill passed overwhelming out of the Senate earlier this year. I hope the Senate approves the measure today and continues to work to address the inequities continued or created in the conference report.

Mr. LIEBERMAN. Mr. President, today I will vote in support of the Pension Funding Equity Act conference agreement—although I do so with some reluctance. On January 28, 2004, the Senate passed H.R. 3108 with broad bipartisan support. The Senate-passed version addressed the critical need to update the interest rate for the purposes of calculating pension contributions. It also provided deficit reduction relief for single-employer pension plans, and multiemployer plan relief. It was a balanced bill which recognized that all companies holding defined benefit plans are suffering from the same market ills.

Apparently, because of heavy-handed pressure from the White House, the conference agreement before us omits critical relief for all but 4 percent of multiemployer pension plans, to the detriment of thousands of union workers and small businesses that participate in multiemployer pension plans. In my State of Connecticut, for example, the economic downturn has been devastating for the Connecticut Iron Workers pension fund. This plan, which was fully funded a few years ago, now faces a financial crisis, and is desperately in need of the relief which is denied under this bill, but which is being offered to 35 million workers covered under single employer plans.

Senate conferees demonstrated an admirable willingness to reach a reasonable compromise on the multiemployer pension relief provision. This compromise would have limited the multiemployer relief provisions to cover only 20 percent of multiemployer plans. I understand conferees were willing to compromise even further. But the White House was adamant in their opposition to multiemployer plan provisions, which is hard to understand because, historically, multiemployer plans place very little burden on the Pension Benefit Guaranty Corporation.

I wish the President had taken a different stance. I understand that my colleague, the distinguished Senator from Massachusetts, Mr. KENNEDY, will soon introduce legislation to address the concerns of multiemployer pension plans. I intend to support and cosponsor this legislation, and would hope that Congress would act swiftly to pass such a measure.

In the meantime, I will vote for this bill, because I believe it is essential that we update the interest rate formula for pension calculations prior to April 15, when the first quarterly payments of the year become due. Without this relief, many pension plans will face unmanageable financial strains, and that will ultimately hurt workers. Companies will be forced to grapple with decisions about layoffs, pension cutbacks, and withholding critical investments. Like many companies around the Nation, Connecticut hospitals, for example, and other healthcare employers in my State, have been hard hit by poor asset returns, declining interest rates, and spiraling pension plan costs. Without this replacement to the 30-year Treasury bond interest rate, I am informed that Connecticut hospitals will face financial hits that they simply cannot absorb and will be forced to cut benefits.

I will vote in support of H.R. 3108 so that millions of current workers covered by defined benefit plans will not see their benefits slashed, and so that additional resources will be available for investment and job creation. I urge my colleagues, however, to support legislation to provide relief for multiemployer pension plans, and I urge the White House to listen to reason.

Mr. LEVIN. Mr. President, with so many baby boomers nearing retirement age, increasing the likelihood and availability of secure retirement savings is more important than ever. Strengthening our private, employer-based pension system is a critical component of this effort.

Right now, our Nation's companies are confronting real challenges in providing adequate, guaranteed retirement benefits as the number of retired workers grows and global competition increases. This is a big part of the crisis that we are experiencing in our manufacturing sector. Across the Nation, 2.8 million manufacturing jobs have been lost during the Bush administration. Michigan alone has lost over 180,000 manufacturing jobs since 2000. Our States and our Nation cannot continue to sustain such losses, and action is needed on many fronts to address the crisis.

This bill is a small, but important, step toward helping with our manufacturing crisis. For the companies whose plans this bill helps, it will free up resources for equipment upgrades, new hires, R&D, and other investments in the future.

I am troubled by the fact that the component of this bill dealing with most multiemployer pension plans that had overwhelming support in the Senate has been dropped out of this conference report. I am hopeful that we can provide relief to those multiemployer plans soon. That is why I will cosponsor Senator KENNEDY's bill that would do just that.

If I thought that defeating this bill would help the many pension recipients whose plans were left out of this conference report, that would be one thing. However, after careful thought, I have concluded that defeating this bill would not achieve that goal but would only hurt those who do get the much-needed relief in the bill.

Mr. FITZGERALD. Mr. President, I rise today to oppose the conference report for H.R. 3108, the Pension Funding Equity Act, which the Senate is now considering. The original version of this bill that the House passed last year changed the discount rate used by defined benefit pension plans to calculate their pension liabilities from an interest rate based on the now defunct 30-year Treasury bond to an interest rate based on the average rate of return on high-quality long-term corporate bonds for plan years beginning in 2004 and 2005. There is a strong but not conclusive argument that the discount rate should be changed. According to the Pension Benefit Guaranty Corporation—PBGC, replacement of the 30-year Treasury rate will allow companies to lower their pension contributions by $80 billion over the next 2 years.

When this legislation reached the Senate, however, it became a magnet for giveaways to financially weak companies. The industries in which some of these financially weak companies operate are notorious for having woefully underfunded pension plans. Furthermore, select companies were also given additional relief. Why these companies deserve special breaks and others do not is not easily discernable. Multi-employer plans were also given a 2-year delay in recognizing investment losses. The most troubling section in the Senate version of the bill provided that any company could apply with the Secretary of the Treasury to waive a portion of its deficit reduction contribution. Fortunately for taxpayers, this provision was stripped from the bill during conference.

While the House-Senate conference report produced a pension bill that is much more limited in increasing PBGC's deficit than the Senate version, it still allows companies with underfunded pension plans to set aside less, thus increasing their pension deficits. According to the PBGC, the deficit reduction contribution waivers, special breaks to select companies, and the multi-employer plan relief, will allow companies to pay billions less into their pension plans, in addition to the $80 billion less because of the discount rate change. In total, the conference committee report probably relaxes corporate pension funding requirements by close to $90 billion over 2 years.

Allowing weak companies to pay less into their pension plans than is required by current law would be analogous to a credit card company allowing a financially distressed customer to pay less than his or her required monthly minimum payments. Just as credit card companies require minimum payments to ensure consumers do not fall too far behind in debt, the PBGC requires companies with defined benefit pension plans to make deficit reduction contributions to catch up on their funding. I think all of my colleagues would agree, when you're in a hole, the first rule of thumb is to stop digging. Allowing companies with underfunded pension plans to dig the hole deeper could cause premiums for well-funded plans to rise, and retirees could face cuts in pension benefits if their defined benefit pension plans are terminated.

I also am deeply concerned that the conference report does not include a "hold harmless" provision for the PBGC. The agency is currently in the worst financial condition in its history. Because it continues to absorb the losses of terminated pension plans, the PBGC reported a record deficit in its single employer program of $11.2 billion for fiscal year 2003, and for the first time ever, its multi-employer program ended the fiscal year in a deficit situation. The PBGC currently remains exposed to $85 billion in pension underfunding in plans sponsored by financially weak employers. I am thus concerned that taxpayers may one day be forced to bail out the PBGC.

In September 2003, as chairman of the Governmental Affairs Subcommittee on Financial Management, the Budget, and International Security, I held a hearing on the PBGC and defined benefit pension plans. While proponents of the deficit reduction contribution waiver and multi-employer plan relief claimed that funding rules are too strict for companies in America, what I found was just the opposite—that current funding requirements are inadequate to fully protect the pensions of America's workers and retirees when their plans terminate. Companies can stop making contributions when their plans are funded at 90 percent of "current liability." Trouble is, the definition of "current liability" is the result of past legislative compromises, and does not reflect the amount of money needed to pay all benefits if a plan terminates. "Current liability" assumes the company is an on-going business, and thus does not recognize the early retirements that take place when an employer goes out of business and terminates its pension plan. Nor does "current liability" recognize the full cost of providing annuities as measured by group annuity practices in the private market.

Pension benefits are measured against "termination liability" if a company goes out of business and terminates its pension plan. Termination liability reflects an employer's cost to settle pension obligations in the private market. In the example of Bethlehem Steel, the company reported that it was 84 percent funded on a "current liability" basis in its last filing prior to termination. When the PBGC took over the Bethlehem plan, however, it turned out that the plan was only 45 percent funded on a termination basis. In my judgment, therefore, further relaxing the already lax contribution requirements for weak companies with underfunded plans is imprudent.

As members of Congress we should not pass laws that encourage companies to manage pension plans in an irresponsible manner. Companies with underfunded pension plans will continue to run up deficits until everyone loses—workers, retirees, and taxpayers. We make a mistake today by giving weak companies the tools to dig their holes deeper.

Mr. GREGG. I would like to ask my colleague Senator GRASSLEY, a fellow manager of the conference report and Chairman of the Senate Finance Committee, whether he shares my view that, notwithstanding the enactment of this legislation, all of the existing relief measures applicable to multiemployer plans under ERISA and the Internal Revenue Code will remain available to multiemployer plans. Specifically, the multiemployer plan relief provisions in this legislation are in addition to, and not in lieu of, the existing relief measures applicable to multiemployer plans. Multiemployer plans that satisfy the criteria for relief under the existing measures are not precluded from obtaining relief under the existing relief measures. Is that your understanding?

Mr. GRASSLEY. Yes. I share my colleague's understanding. Under current law, the IRS is authorized to waive all or a portion of the minimum funding standard requirements for a given year or, alternatively, to allow plans to extend the period for amortizing their liabilities for up to an additional 10 years, so long as certain required showings are made. IRS regulations also include what is known as the "shortfall funding method." The enactment of the short-term multiemployer plan relief in this legislation is not in any way intended to foreclose the availability of any of these existing relief measures to multiemployer plans.

Mr. FEINGOLD. Mr. President, I will vote against the conference report on H.R. 3108. While there is much to commend in the measure, the conferees failed to include meaningful relief for the multiemployer pension plans to which thousands of mostly small businesses and their workers contribute. That was not the case when this measure left the Senate, nor was it apparently the case in the conference committee prior to the intervention of the Administration. Members of the conference committee have noted that bipartisan negotiations on this measure in committee had been productive prior to the insistence by the White House that the provisions extending relief to multiemployer plans be greatly restricted, leaving thousands of businesses and 9.4 million workers high and dry.

Particularly disturbing are reports that while multiemployer plan relief was drastically reduced by the conferees, special consideration was provided for at least one large corporation that contributes to a multiemployer plan. The Wall Street Journal today reported that "the final provisions also showed the remarkable influence" of that corporation, noting that it "used the bill to pursue its own agenda" and that the provisions in the conference report were "tailored to provide the most help" to the fund to which the company contributed. This tailored assistance stands in stark contrast to the lack of relief to the thousands of smaller employers and the workers they employ.

Mr. President, I supported the pension relief package that the Finance Committee crafted a few weeks ago. I am pleased that some of the provision in that measure remain in the conference report, and that with the expected passage of this legislation many plans will get the relief they need. But I regret that while conferees reportedly tailored multiemployer relief to help at least one large corporation, they abandoned the multiemployer relief that helps thousands of small businesses and their workers. I very much hope this body will act to correct that serious flaw without delay.

Mr. FEINGOLD. Mr. President, I spoke earlier about the conference report to H.R. 3108. I wanted to discuss one additional provision of the bill that has not received much attention in the debate because it was not part of the bill until just a day or two ago.

I am very troubled by the eleventh hour addition to this conference report of a provision that purports to grant an antitrust exemption to the graduate medical resident matching programs. We have had no hearings on that issue in the Senate Judiciary Committee, and no language has ever been presented to the Committee or to the Senate. For the managers of this bill to insert a controversial provision with no Senate debate or discussion is the worst way to legislate, particularly in the complicated area of antitrust law.

I note, in addition, that Subsection (b)(3) of section 207 explicitly preserves the right to bring an antitrust lawsuit alleging any type of price-fixing arrangement among two or more graduate medical education programs. Therefore, the antitrust exemption that is described in subsection (b)(2) apparently does not apply to the lawsuit pending in the U.S. District Court for the District of Columbia.

Mr. DURBIN. Mr. President, although I rise in support of the conference report for the Pension Funding Equity Act, I have serious reservations about the lack of relief for multiemployer pension plans. This provision is yet another instance of the White House undermining conference committee negotiations and shutting out fair and full participation by Democratic conferees.

During the 108th Congress, Democrats have been locked out of conference negotiations time and time again in an unprecedented manner. This includes the energy bill, Medicare prescription drug benefit, and the omnibus appropriations. Given the importance of addressing the use of the 30-year Treasury bond rate to compute pension liabilities, our side reluctantly agreed to a conference on this bill as a test case for bipartisan cooperation. Unfortunately, the Senate has failed that test.

The Senate version of this legislation, which passed by a vote of 86–9, would have provided relief to all 1,600 multiemployer pension plans and the 9.7 million workers who have such pensions. During the conference negotiations, there was a tentative agreement to provide relief to 20 percent of the multiemployer plans and to reduce the amount of relief that the Senate version would have provided by roughly half. But then the White House interfered and insisted that the relief for multiemployer pension plans be dramatically reduced. Offers to cover 12 percent or even 10 percent of all multiemployer pension plans—only half of the original conference agreement—were rejected.

As a result, this conference report—approved by a party-line vote—provides relief to less than 4 percent of all multiemployer pensions and provides less than one-third of the relief provided by the Senate version.

In addition to my concerns regarding this procedural breakdown in the conference committee, I also am troubled by the substance of this provision that the White House insisted be reduced. This conference report provides only $250 million in relief to multiemployer pension plans. These plans receive no aid from the other provisions in this legislation.

Without relief from Congress, these plans will remain in crisis. For example, in Rockford, IL, the local iron workers union has a pension plan that covers more than 400 participants and has approximately 100 employer contributors. This plan is in jeopardy. Although multiemployer pension plans often are characterized as providing pensions for "unionized workers," bear in mind that more than 60,000 businesses—mostly small businesses—contribute to multiemployer pension plans. In Rockford, if the iron workers' pension plan is not viable, the 100 companies and contractors that contribute to that plan and act as its signatories may face collapse if faced with the plan's failure and its withdrawal liability.

Therefore, we must provide aid to protect the millions of workers covered by multiemployer pensions and the tens of thousands of small businesses that employ these workers. Today, I am joining with Senators KENNEDY, BAUCUS, DASCHLE, and others to introduce a bill that would provide fair and equitable aid for these troubled multiemployer pensions. I hope this measure will be enacted as quickly as possible.

Despite my concerns regarding the lack of relief for multiemployer pensions, I rise in support of the conference report because of its deficit reduction contribution relief and its 30-year Treasury bond rate fix. For almost 6 months, I have worked to ensure that DRC relief—especially for the airline and steel industries—would be included in any pension legislation enacted by this Congress.

The DRC relief in this conference report would provide more than $1.6 billion in aid to the airline and steel industries over the next 2 years for companies that had well-funded pension plans as recently as 2000, but need assistance now. This aid would allow these industries to regain their financial footing by providing relief from DRC surcharges of up to 80 percent in 2004 and 2005. This assistance is vital for United Airlines, based in my home State Illinois. As a result, the pensions of almost 130,000 participants in United's pension plans, including over 22,000 participants in Illinois, will be more secure.

I also support this conference report because it would provide a 2-year replacement of the 30-year Treasury bond rate in computing pension liabilities. Nationally, this provision will provide $80 billion in relief to the 31,000 companies that provide single-employer pension plans and cover nearly 35 million workers and retirees.

I have heard from many Illinois companies supporting this provision. They include Caterpillar, Goodyear, John Deere, Smurfit Stone and the Children's Memorial Hospital. Unless this provision is enacted before April 15, the pension funding requirements for these companies will grow by millions of dollars and the pensions of thousands of Illinois workers will be in jeopardy.

Although this conference report is not perfect, I will vote in favor of it to provide aid to the airline and steel industries and to companies that provide single-employer pensions. However, I also look forward to working with my colleagues on both sides of the aisle to provide adequate and equitable relief to multiemployer pension plans as soon as possible.

Mr. KYL. I want to express my great disappointment with this conference agreement and to explain why I will vote against it.

This legislation, H.R. 3108, was originally intended to provide a temporary solution to a legitimate and serious problem facing all defined benefit pension plans—the interest rate used to calculate funding liabilities, the 30-year Treasury bond, is no longer being issued by the Federal Government, and consequently the rate has dropped to a point that companies would be forced to contribute far in excess of what is necessary to their pension plans if Congress does not provide a remedy. I have always supported efforts to make this necessary change to the interest rate and, in fact, I believe that President Bush put forward a reasonable permanent solution last year.

Because of disagreements over that permanent interest rate change, however, Congress was forced to seek a temporary solution to give us additional time to resolve our differences. H.R. 3108, as originally approved by the House, only included temporary interest rate relief; and that is all it ever should have included.

When it came time for the Senate to consider H.R. 3108, it was viewed as a "must do" bill, and thus attracted additional items that I believe should not have been included.

My primary concern is that the Senate added relief from the "deficit reduction contribution" for certain severely underfunded plans. The DRC is a special catch-up contribution that seriously underfunded plans—generally, plans that are 90 percent funded or less—are supposed to make to bring their plans back to full-funding. When the Senator began discussing adding DRC relief for airlines, steel companies, and possibly other industries, I expressed my opposition.

I believe that the DRC relief is harmful to workers, unfair to healthy pension plans, unfair to competitors who are not receiving the relief, and exposes taxpayers to unacceptable risks.

Underfunded plans are harmful to workers because they jeopardize expected pension benefits—especially for workers who are to receive larger pensions than the Pension Benefit Guarantee Corporate—PBGC—will guarantee, such as airline pilots. Companies should be required to fund their pension promises to their employees, they should not be excused from these promises.

DRC relief is unfair to healthy plans because an underfunded plan that fails will pay benefits using the insurance premiums paid to the PBGC by healthy plans. Further, many plans have made the difficult yet responsible financial decisions to fully fund their pensions. It is unfair to excuse other companies, who may have been less responsible, from these same promises.

The DRC waiver in the conference agreement applies only to certain airline and steel companies. The DRC waiver is really a back-door bailout for some companies and is unfair to their competitors that cannot benefit from the waiver, either because they have fully funded their pension plans or because they offer a different kind of retirement benefit to their employees.

Finally, the DRC waiver exposes taxpayers to a greater risk that the PBGC will require a taxpayer bailout. The PBGC recently reported a deficit of $11.2 billion in its single-employer insurance plan for fiscal year 2003—a record. While the PBGC estimates it will have sufficient assets to meet obligations for years to come, the failure of several large plans could change that.

Further, PBGC estimates that the sum total of all single-employer pension plan underfunding is about $400 billion. And Congress—meaning the U.S. taxpayers—would certainly bail out the PBGC, rather than allow the entire insurance system for defined benefit pension plans to collapse.

Because the Senate was insistent upon providing some DRC relief, however, I worked with my colleagues in the Republican leadership and on the Senate Finance Committee to scale back the relief so that it would cause less damage to our pension system, would be less harmful to competition, and would expose the taxpayers to marginally less liability. I worked to reduce the DRC waiver to 80 percent of the DRC liability in the first year and 60 percent in the second year. The idea was that by the second year, and with the interest rate relief, plans should begin turning their finances around such that they can make a greater percentage of the necessary payments to bring their plans back to full funding. This is what the Senate approved in its version of H.R. 3108 and I am very disappointed that the Senate position was abandoned during the conference negotiations.

I am also disappointed that we could not agree to protect the taxpayers from increased liabilities that could occur as a result of the DRC waiver. At a minimum, we should have stipulated that the PBGC would be "held harmless" for any benefit increases that occur during the waiver period. I believe we should have protected healthy plans and taxpayers by adopting a "hold harmless" provision for the PBGC. One of the big dangers with the DRC waiver is that the plans claiming the waiver will fail anyway in the near future, and by granting these plans a DRC waiver their funding situation will be even worse when the PBGC assumes these plans. A "hold harmless" provision would have mitigated this harm and limit the drain on healthy plans.

The DRC waiver is exactly the wrong thing to do. The system of DRC payments was devised because companies were habitually underfunding their plans. We should not aid and abet habitual underfunders by waiving much of their DRC liability. I must vote against the conference agreement because the DRC waiver is more comprehensive than what was approved by the Senate; because it fails to protect taxpayers; because the waiver is unfair to healthy plans that have responsibly funded their promises; and because the waiver provides a back-door bailout to certain airlines and steel companies, which is unfair to their competitors. I agree that there may be problems with the DRC system and that reforms may be in order. But we should make any reforms through a more thoughtful and deliberate process, taking into consideration the experience and recommendations of the PBGC.

Mr. HARKIN. Mr. President, I rise to discuss my thoughts before this very difficult vote on the Pension Funding Equity Act conference bill. The bill arrives at a reasonable immediate solution to a very complicated problem. However, I do have concerns about the larger problem of pension funding rules in the US, and I have grave concerns about the treatment of multi-employer plans in this conference bill.

I supported this bill when it passed the Senate in January by a vote of 86–9. That bill provided a reasonable approach to funding single-employer plans—a 2 year corporate bond rate. I was especially satisfied with the 2-year amortization of losses for multi-employer plans.

When the White House wanted this provision struck in conference, an agreement was arrived at by conferees to cover the 20 percent of multi-employer plans most in need. The White House, however, held up these important negotiations and insisted on virtually eliminating multi-employer relief.

Clearly, immediate funding relief is needed. We have known that this was coming for well over a year. With the drop in the 30-year treasury rate corresponding directly with declining stock values, pension plans have become drastically underfunded. This situation doesn't just hurt the bottom line right now, it hurts the defined benefit system as a whole and jeopardizes the retirement security of millions of workers.

I have been concerned as this bill has evolved that it represents a band-aid approach that addresses immediate funding obligations without fixing the larger problem. There are perverse incentives that actually prevent employers from keeping money in the pension plan when times are good, so that we end up having to bail them out when times are bad. We need to put serious effort in the coming years to work out defined benefit pension plan funding in general.

I don't believe we take these long-term problems seriously enough. Two years ago, when we came up with the initial readjustment of the 30-year treasury rate, it was my hope that we would address these problems before the issue came up again. But, here we are—2 years later and no farther ahead. I am afraid that unless we focus on this issue this Congress, we'll be looking at simply extending this rate again in 2 years without any understanding of the impact of this rate on defined benefit pensions, on the economy, or on the Pension Benefit Guarantee Corporation.

I am sure that it comes as no shock to my colleagues that the stock market actually falls from time to time. Sometimes, by more than 25 percent. Yet, we allow companies to transfer funds out of their pensions when times are good, leaving only a 25 percent cushion for when times are bad. We offer little in the way of incentives to pad plans in the good years to carry them through the bad years.

Many advocates characterize this funding climate as the "perfect storm." I believe that it's a storm that could have been more easily weathered had companies been prepared for a rainy day. However, the onus is reasonably on Congress to establish tax and accounting policies that create positive incentives to do so. I think we should consider increasing the funding level required prior to a section 420 transfer, at the same time, increasing the amount of money that can be kept on hand receiving favorable tax treatment.

I look forward to working with my colleagues to find a more precise solution to this delicate balance between making defined benefit pensions attractive for companies, while protecting workers. I share with my colleagues the goal of ensuring the viability of the defined benefit system.

Having said that, there is no other answer for the immediate problems facing us than to provide the funding relief provided in this measure. I think we absolutely need to do something now for the companies we can help. We need to help the airlines, we need to help the machinists. Eighty percent of this bill makes sense and is the right policy for the moment. Unfortunately, the White House has chosen to play politics with the income security of workers in multi-employer plans, and of the businesses that participate in those plans. There is no good reason for dropping these plans from the agreement, except to cause pain to certain working families. I plan to work with Senator KENNEDY and other colleagues very soon to repair the harm done in this portion of the bill to members of the construction trades, the Teamsters, IBEW, Plumbers and Steamfitters, Sheet Metal, Finishing Contractors, Operating Engineers, Bricklayers and other participants in multi-employer plans.

I am supporting this conference bill to help enact its truly necessary provisions—the vast bulk of the legislation which will keep other plans from freezing in the face of the current funding situation. But I will not drop my concern for those who are harmed.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I would like the record to show my views on the conference on H.R. 3108, the Pension Funding Equity Act. The conference report includes several provisions that I support. Most important among them is funding relief for single-employer defined-benefit pension plans, which will aid 35 million workers. The conference report also closes a huge tax loophole utilized by the wealthiest Americans to shield investment income known as the small insurance company loophole, or Section 501(c)(15). I applaud the work that crafted these provisions. I am particularly pleased that the pensions of hard-working Americans in the auto, steel, airline and other industries will have safer pensions and more secure retirements. I strongly support these provisions, and I can understand why many of my colleagues will cast a vote for this conference report.

The problem, and the reason for my opposition to the overall conference report, is that it provides hardly any relief for millions of Americans participating in multi-employer pension plans, despite strong bipartisan support for such relief in the original Senate bill. The Senate bill provided relief to all multi-employer plans, and that bill passed the Senate by the overwhelming vote of 86 to 9. After that, the conferees agreed on a bipartisan basis to limit relief to the 20 percent of plans that most needed it. But then, we have been told, the White House insisted that multi-employer relief be essentially gutted. I regret that the White House and the Republican conferees, on a strictly partisan basis, have done this. It means that nearly 10 million Americans who participate in multi-employer pension plans have been cast aside for no good reason.

The Republicans' insistence that multi-employer relief be stripped from the legislation, despite overwhelming Senate support for more widespread relief, also means that America's small businesses that participate in multi-employer plans will receive very little help. As ranking member on the Committee on Small Business and Entrepreneurship, I believe that to ignore small business is to ignore the great engine of our economy. More jobs are created in America by small businesses than any other sector of our economy.

Just a week ago, President Bush claimed that "the small business agenda is vibrant and foremost on our agenda." He said that it's important to reduce taxes, so "small businesses have got more money to invest and to expand." But at the same time the White House was pulling the rug out from under thousands of small businesses. More than half of the 65,000 employers in multi-employer plans are small businesses—real small businesses run by real families. So despite the President's rhetoric about small business, the White House has refused to help small business owners provide more secure pensions for themselves and their workers. These small businesses won't be able to invest and expand because they'll be paying excise taxes imposed by the IRS due to the crisis in their pension plans.

Mr. President, I support funding relief for single-employer plans. I am very glad that Congress has acted to help Americans participating in those plans. I am also glad to see tax loopholes closed whenever possible. But I regret that the Senate, after voting 86 to 9 to help Americans in both single-employer and multi-employer plans, is now leaving nearly 10 million Americans and thousands of small businesses out in the cold.•

Mrs. FEINSTEIN. Mr. President, I will vote in support of this conference report today because many of the private pension systems in this nation are on the verge of collapse.

Many companies are staring at an April 15 pension payment date. Without this legislation many companies will not be able to make their payments because of the effect of both the recent economic recession and the requirement that they use a payment calculation that is based on the discontinued 30-year Treasury bond.

I deeply regret the action taken by the conference committee to remove much of the assistance targeted toward multi-employer plans. I will support steps to correct this grievous action.

It is critical, however, that we pass this legislation today because 44 million pensioners are at risk of losing their hard-earned benefits.

While I wish the bill would do more, I believe it is important for several reasons:

One, this bill corrects several problems facing our private pension plans. These plans use the 30-year Treasury bond to determine the interest rate they may assume when making their periodic pension payments.

Because the 30-year Treasury bond is no longer in use by the federal government we must replace this mechanism and this bill does that.

Companies that have fallen behind in their pension payments are required under current law to make catch-up payments, or what we call deficit reduction contribution payments. A company must make these payments in addition to its regularly scheduled pension payments.

These additional payments raise the possibility that many companies will be driven into bankruptcy when it is discovered that they simply do not have the cash available to make these payments. This bill gives companies 2 years of relief from these payments.

This 2-year relief period provides these companies with an opportunity to get back on solid financial ground before beginning these payments again and it goes a long way in preventing the closure of pension plans by helping companies avoid bankruptcy.

Two, this bill targets much needed relief to the airline, steel, and iron industries by allowing them to receive the deficit reduction relief automatically unless they were subject to these catch-up payments in 2000.

These industries, more than most, have been reeling from the lingering effects of September 11, 2001 and the ensuing economic downturn. I have received more than 280 phone calls from United Airline pilots telling me that if this bill does not pass, United Airlines may have to terminate their pension plan as they work through bankruptcy. Management and labor at United Airlines are in total agreement on this issue and I have 35,000 United Airline pension participants in my home State of California.

It is clear that this bill provides more relief to single-employer pension plans than those maintained by a multiple number of employers—the so-called multi-employer pension plans. I would like to see us address this issue in the near future and I will work with Senator KENNEDY to make sure this happens. But, today we have the opportunity to do something good for the 35 million pension plan participants who are participating in mostly single-employer plans.

This legislation is not perfect, but it represents a commonsense approach to help solve the problem facing the majority of pension plans. I supported the Senate version of this bill because it included better assistance for multi-employer plans and I continue to think that the conference committee should have reported a bill that provided these multi-employer plans broader coverage.

While the conference committee did not provide us a bill containing all that I had hoped for, it did report to us a bill that will provide real support to real companies and labor groups.

We must do what we can before these faltering pension plans are driven under by the impending April pension payments.

I cannot support a move to defeat the whole bill because it doesn't address every need.

Thirty-five million pensioners will be assisted by this bill. Companies like C&H Sugar located in Northern California will be helped and more than 35,000 United Airlines pension plan participants who live in California will be helped.

The men and women who have invested their careers in a company should not lose the pensions they are due. But, if we do not pass this conference report, many will and this should not be allowed to happen.

While this legislation is not perfect, it represents movement in the right direction and I support it with the understanding that we need to address the larger issue facing multi-employer plans.

Mrs. BOXER. Mr. President, I am voting for this pension conference report, but I do so with serious reservations.

There are 35 million workers nationwide who participate in single-employer pension plans and who will benefit from this legislation. They need help now. Many of their pension plans are in trouble. Some are teetering on the verge of bankruptcy. This bill will help ensure greater retirement security for these hard working Americans.

Unfortunately, this bill does not help all pension plans and all workers. More than 9 million workers in multi-employer pension plans will not be covered by this bill. All of these workers were covered in the bill that passed the Senate, which I supported and which passed the Senate with 86 votes. Leaving them out was a partisan and ideological decision that leaves us with a truly sub-par solution to the pension plan crisis in America.

There is nothing wrong with what is in the bill. The problem is what has been left out. Senator KENNEDY is absolutely right on the merits. We should help all workers. We should not be picking winners and losers. I will work with Senator KENNEDY and the rest of my colleagues to pass the Senate provision on assisting multi-employer plans at the first and every available opportunity.

Mr. ROCKEFELLER. Mr. President, this afternoon I will vote to adopt the pension reform legislation before the Senate. However, I do so with serious reservations. The reforms in this bill are critical for both pension security and economic growth. Congress cannot allow April 15 to pass without updating the interest rate on which pension liabilities are based. As constructive as this legislation is, it is incomplete. This bill fails to address the needs of multi-employer pension plans. I will support the pension improvements we have before us today, but I will continue to fight for similar relief for the millions of employees who were left behind in this unfortunately partisan process.

It is not an exaggeration to say that the bill before us today is critical. If the Senate fails to pass this legislation today, then next week businesses will be required to make contributions to their pension plans based on an outdated interest rate. If we require companies to make billions of dollars in overpayments to their pension plans, then we are hurting economic growth and ultimately undermining the plans. I do not want workers to lose their pension benefits, because their employers determined that they could not comply with unreasonable funding rules.

This conference report also provides much needed relief from deficit reduction contributions (DRC), especially for airlines and steel companies. The grace period provided here does not diminish employers' obligations to fully meet the promises they have made to their workers. It simply provides some needed flexibility to help companies recover from the recent economic downturn. This relief is essential for the financial stability of the steel industry and the airline industry. Protecting the pensions of those workers while ensuring that their employers have the opportunity to strengthen their businesses has been one of my main priorities since this debate began. I am very pleased that the DRC relief was included in the final legislation.

Mr. President, while there is much to support in this bill, there is also a gaping whole in the pension security we are providing to American workers. Almost 10 million workers, participants in multi-employer pension plans, were abandoned by the conference committee. Despite strong bipartisan support for multi-employer relief in the Senate, the White House insisted it be dropped from the bill. I cannot account for this insensitivity. Participants in multi-employer pension plans are typically lower wage, union workers who are employed by several small businesses over the course of their careers. To claim that these workers do not deserve the same pension security as other workers is unconscionable.

When the Senate voted on its own version of pension relief which included multi-employer plans, it garnered 86 votes in favor. Senators were pleased to support a bill that is so important for businesses and workers all across this country. The process by which the conference committee flagrantly disregarded the interests of 86 Senators is another sad example of the partisan dysfunction that has come to characterize House-Senate conference committees. And it is a lesson that this Senator will not forget.

So, Mr. President, today I will meet my responsibilities to update the pension funding rules prior to the April 15 deadline for required pension contributions. I will gladly support the DRC relief that this legislation accords single-employer pension plans. But let my colleagues be aware, I will continue to fight to provide similar security to all of the workers who are participating in multi-employer plans. I am hopeful that in the near future Congress will live up to our obligations to those workers as well.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the conference report on the Pension Funding Equity Act of 2003. The conference report the Senate is considering today is a hollow promise for America's workers. This bill helps some companies and workers, but fails others. It provides relief for pension plans that cover 35 million American workers, including auto, steel and transit workers, and airline pilots. I support making sure their pension plans are safe.

But, this conference report fails to provide relief to the multi-employer pension plans that cover 9.7 million unionized workers. Many of these Americans work for small businesses, including many in my state. These workers are boilermakers, shipbuilders, electricians, and carpenters. I want to stand up for these workers to make sure their pensions are safe also.

I voted for a bill in the U.S. Senate in January, which was a truly genuine, bipartisan effort, passing by an overwhelming vote of 86–9. The bill I voted for wasn't perfect, but it was a solid, bipartisan bill.

Because of recent economic events, pension plans were hit by the perfect storm of a stock market crash, historically low interest rate, and a weak economy. So, many pension plans were in a crisis. Pension plans were calculating their liabilities based on an outdated rate that is no longer issued. By switching to a more accurate rate, pension plans will have lower funding needs which frees up money to buy plants and equipment and hire workers. This is a temporary fix while Congress reviews the issue and comes up with a permanent solution. I support this move.

Large pension plans that were particularly hit hard by the downturn in the stock market and the weak economy also are given a temporary break on their "catch up" contributions to give them a break while the economy recovers. I also support this provision.

Yet when I voted for the pension bill last January, there was pension relief for all pension plans, the large pension plans and the multi-employer plans which are common in small businesses, and used by plumbers, carpenters, shipbuilders, and truckers.

Some believe that the conference report we're considering today is the best we can do. I believe we could have done better. We must do better. We make sure all workers pensions are safe.

I'm voting against this bill because of its impact on people, yet I have to say something about the process. This was far from Congress's usual procedure. It was passed by the Senate by an overwhelming majority. However, the Senate's views were disregarded in conference. We were handed this conference report and told to take it or leave it. This is legislation that will affect the lives of 44 million Americans, but it fails to provide help for nearly 10 million of those Americans. I cannot support that.

I know that some in Maryland are asking, "Why are you voting this way Barb?" They're saying, "We need help now. Our pension may be in trouble." To these Marylanders, I want you to know that I want to help you now. I want to ease your worry about your retirement security. But, I want to give you something real. Not all Marylanders will be helped by this bill.

So, I won't vote to pass this bill because I want to make sure all Marylanders have a safe and secure retirement. We can do better. We must do better, and we must do better this year.

There are twenty weeks left in this session of Congress. During these weeks, we can make sure all workers are protected. That is why I will be joining with my colleagues to fight to make sure that all pensions plans are safe.

Mr. GREGG. The Senator from New Mexico suggested today in the debate on the conference report to S. 3108 that the provisions of the conference report relating to Graduate Medical Education Residency Matching Programs were not intended to apply to antitrust litigation currently pending in the United States District Court for the District of Columbia.

That is not the case. The legislation applies to all anti-trust lawsuits, including pending and future lawsuits brought against Graduate Medical Education Residency Matching Programs which appropriately aligns the preferences of medical students and residency programs.

Mr. BUNNING. Mr. President, I understand that the conference report to H.R. 3108 before us today includes a provision repealing Section 809 of the Internal Revenue Code. I support repeal of this arcane provision of the tax code relating to the taxation of mutual insurance companies. I also support the repeal of another equally arcane provision of the tax code—Section 815 which affects stock insurance companies. This provision, which triggers a tax on a fictitious account under certain circumstances and unduly ties up needed capital, is unnecessarily complex and antiquated. Repeal of this provision will allow the affected companies to gain access to these idle funds and use them to expand their businesses and hire more employees. I am pleased that the JOBS Act, which we are also considering on the floor of the Senate, contains a temporary repeal of Section 815 and I urge the Senate to consider full repeal of this provision at the earliest possible opportunity.

Mr. DODD. Mr. President, I rise today to discuss the pension conference report that the Senate recently voted on.

I have long supported initiatives aimed at strengthening and protecting individuals' employer-sponsored retirement plans. Pension benefits are a critically important means of securing a measure of comfort and self-sufficiency for retirees, and we should do all we can to ensure that pension plans are secure and viable.

The intent of the Pension Funding Equity Act of 2004, H.R. 3108, is to provide temporary pension relief to businesses whose pensions have been hurt as a result of the economic downturn that began about 3 years ago. Understanding that companies were in need of relief, in January, by a vote of 86 to 9, the Senate passed H.R. 3108, which provided relief to single-employer plans, steel companies, the airline industry, and multiemployer plans. I supported this legislation.

Unfortunately, the pension bill was significantly weakened in conference, for no reason other than to single out multiemployer plans. In so doing, the conference report puts at risk 65,000 small businesses and their 9.5 million workers. To the best of my knowledge, more than 50,000 workers in Connecticut will be left without any relief under this conference report. Because of this exclusion, I was not able to support this conference report.

There is no sound policy reason to not provide multiemployer plans with relief. It does not cost the Treasury any money. The weak economic conditions plaguing our country have adversely affected multiemployer plans no less than single-employer plans. Since multiemployer plans are overwhelmingly used by workers who belong to a labor union, the only conclusion that I can draw for why the Republican conferees would not want to provide relief to multiemployer plans is to penalize union workers and the small businesses that employ them.

This is a regrettable and callous action by our Republican colleagues in this Chamber and the other Chamber. As we all know, conference reports cannot be amended. If they could, I would eagerly support an amendment to ensure that multiemployer plans are covered.

This conference report primarily helps the Fortune 500 companies, which I am not against. In fact, that is one of the reasons I had supported the pension bill in January. I understand that employers across the country have faced extraordinary pension liabilities based upon the obsolete Treasury bond rate. And I supported providing these plans with relief. But the conference report leaves behind our small businesses. It excludes our construction workers, electricians, plumbers, service workers, and others, and I cannot pretend that that is OK.

This bill was supposed to be about maintaining the viability of pension plans, about doing what is right for our workers and their families, and for our small businesses. Instead, it unfairly left out thousands of our small businesses and millions of our workers, for no good reason.

I will continue to work with my colleagues to ensure that multiemployer plans are provided with relief so that we also can ensure the viability of these important plans.

Mr. DASCHLE. Mr. President, the conference report on the Pension bill is another example of a broken legislative process. We passed a good bill in the Senate. There was bipartisan cooperation. Two committees—Chairs and Rankings—worked together in a constructive manner.

This bill garnered overwhelming support here in the Senate, passing 86–9.

On the Democratic side, there was concern about having this bill go to conference. Too often in the past several months, we have seen the will of the Senate disregarded by House Republican leaders eager to rewrite bills in conference.

Our colleagues on the other side said no, that the Senate conferees would advance the Senate position on the main issue of disagreement on multi-employer plans.

Under the Senate bill 100 percent of multi-employer plans were covered. The House had no provision to protect multi-employer plans. We expected some give and take, some compromise. And we reached a good faith agreement. The Senate bending over backward to accommodate the House, going from 100 percent coverage, down to 20 percent of multiemployer plans in the most dire circumstances.

After an agreement was seemingly reached, the White House stepped in and told Republican conferees that they could not reach a compromise. They had to ignore what the Senate passed and fall in line.

The result is the conference report before us which covers only a tiny fraction—3 percent—of multi-employer plans.

This puts the secure retirements of nearly 10 million Americans at risk.

We are talking about people working for small businesses. Three-quarters of the approximately 60,000–65,000 employers that participate in multiemployer plans have fewer than 100 employees.

We are talking about hard working people bricklayers, carpenters, painters, janitors, hotel workers. In a multiemployer plan, a person gets to count all of the pension credit he earns working for any employer in the pension plan. Multiemployer plans are thus particularly important in industries like construction or hospitality where work can be short-term or seasonal.

Multiemployer plans have traditionally been well-funded. Only 31 multiemployer plans have ever received financial assistance in the history of the PBGC multiemployer insurance program. And the PBGC multiemployer program had never experienced a deficit through 2002.

Workers in multiemployer pension plans deserve the same relief we are giving to workers in single-employer plans. Like single employer plans, multiemployer plans have been hurt by three years of poor stock market performance. As many as 30 percent of multiemployer plans could face funding deficiencies in the next few years.

Moreover, multiemployer plans are not subject to the Deficit Reduction Contribution (DRC) as single employers are. Instead, participating employers have to pay excise taxes—these excise taxes can place huge burdens on employers. Companies also have to pay the amount needed to make up the funding deficiency.

Let's be clear—what the Republican majority is saying is that would prefer to impose tax increases on small businesses across the country instead of providing some reasonable period of pension relief. This is inexplicable.

Many employers may not be able to make these payments. If they can't they will go bankrupt, and this will jeopardize the pensions of the workers who have earned pensions under their collective bargaining agreement.

This legislation misses an important opportunity to help small businesses and millions of American workers.

At the same time, there are many good provisions in this bill that we support.

It would provide some protection for 35 million Americans covered by single-employer pensions. These are traditional pensions that provide monthly federally guaranteed checks earned after a lifetime of work. In combination with Social Security, these pensions provide a dignified retirement and most importantly, peace of mind.

As a result of a combination of economic factors, pensions faced a "perfect storm" in recent years. The recession, a bear stock market, and a drop in interest rates, all put extraordinary pressure on pension funds.

The airline industry has been especially hard hit in recent years as a result of fears caused by the attacks on the Pentagon and World Trade Center and the SARS outbreak. The secure retirements of employees of the airline industry were at extreme risk if we did nothing.

Congress needs to act to restore some stability to the defined benefit pension system. If we don't, jobs will be lost. We do not want to see deficit reduction pension obligations push companies into bankruptcy and push more workers onto the unemployment line.

While the lack of protection for workers with multi-employer pensions and the implicit tax increase on small businesses make it impossible for me to support this bill, the good it will do for 35 million American workers, their employers, and the economy compel us not to stand in its way.

But this legislation should be just the beginning of our work to defend the retirements of American workers. Democrats will be back to fight for those who have been left behind. We chose not to take out the wrong the Republicans have done to small businesses on those in who work for the airlines, the auto companies and other large employers. But we will be back to press this critical multiemployer issue.

Ten million Americans are seeing their retirements put at risk and Congress has an opportunity to come to their aid. I regret that this legislation does not offer them any help, and I promise them that Democrats will not rest until they have the retirement security they have earned.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I yield such time as he may consume to the Senator from Iowa.

Ms. LANDRIEU. Madam President, may I inquire how much time is remaining on both sides?

The PRESIDING OFFICER. There are 40 minutes remaining on the minority side, and 91 minutes remaining on the majority side.

Ms. LANDRIEU. Madam President, can I simply inquire from the Senator from Iowa, who I know wants to speak in favor of the bill, how much time he may take, because there are other Senators who want to speak on our side.

Mr. GRASSLEY. I am going to speak for, I believe, in the neighborhood of 20 minutes.

Ms. LANDRIEU. OK. Madam President, I ask unanimous consent that after the Senator from Iowa speaks, I be allowed to speak for another 10 or 15 minutes. And I understand there are other Senators coming down to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, today, in the Senate, as you can tell from the debate, we are considering a bill that is critical to our Nation's pension system and is necessary to help this economy as a whole, primarily because of airlines being so essential to the economy of the United States of America, although it affects other segments of the economy.

This bill, H.R. 3108, is entitled the Pension Funding Equity Act. It provides a temporary 2-year fix to the interest rate companies are required to use in their pension calculations. Without this legislation, companies will be required to make pension contributions based on the 30-year Treasury bond interest rate, even though the Government stopped issuing 30-year bonds way back in the year 2001.

Clearly, this is a rule, under the 30-year bond rule, that does not make sense anymore, so we have to change the pension laws to conform. This legislation will fix that by adopting a conservative, long-term corporate bond rate for the next 2 years.

While the bond rate of corporations is in place for the next 2 years, Congress will have a chance to find a permanent replacement. That is what we are about doing already. For instance, that is one of the major issues before the Senate Finance Committee.

This bill also includes provisions to provide some temporary help to the pension plans that need it most. Airlines and steel companies that have been hit very hard by tough economic times are given a little more time to get their plans' funding levels up to where they need to be. Of course, even multiemployer pension plans that were hit hardest by the bear market are given more time to make up their losses.

This bill is truly a must-pass bill. Without it, pension coverage for millions of workers across the country will be in jeopardy. Without it, tens of billions of dollars that could be used to create jobs and grow businesses will unnecessarily be drained from our economy. Without it, some companies could be forced into bankruptcy. In my own State of Iowa, I know there are a lot of companies working hard to compete in today's challenging economic environment. These companies want to provide pension plans for their employees, but they also need to know what the rules are for contributing to those plans. They want those rules in the process to make sense.

Without this legislation, some companies could see their pension contributions increase three or four times in 1 year; in some cases, even more.

That is a very difficult burden for any company to bear. For a smaller or medium-size company, that kind of burden is probably too much.

This bill then gives our pension system a rule so pension contributions will be calculated based on a rational interest rate rather than one that is obsolete and artificially low.

I know this bill does not do everything everyone wanted. This is true. But the provisions in this bill have broad bipartisan support. And, of course, as I constantly remind my colleagues, nothing of substance gets done in this body if it is not done in a bipartisan way, unlike the House of Representatives where partisanship can prevail from time to time and does most of the time.

This legislation before us is simply too important not to be enacted now. Companies must pay their next pension payment on April 15, just around the corner. Failure to pass this bill would have devastating consequences for workers and the economy. This is a temporary bill, but we need to be working on permanent reforms. The Senate Finance Committee is about doing that.

Mr. LOTT. Madam President, will Senator GRASSLEY yield to me for some comments about his efforts in this regard?

Mr. GRASSLEY. Madam President, I am glad to yield without losing the floor, yes.

Mr. LOTT. Madam President, I commend the chairman of the Finance Committee, the Senator from Iowa, for the work he has done on this legislation. It should have been relatively easy to get this done, but it turned out to be a long process and a huge lift.

He was persistent, dogged, because he knew we had a problem we could responsibly address before this deadline of April 15 would cost billions of dollars for companies in a way that is not necessary and could affect their solvency.

I particularly want to note, since there have been some questions raised about it, if you are going to write a textbook about how a conference should be handled, this is it. The chairman of the committee didn't try to go around the other members. I was not a conferee, but I followed it very closely. The conferees met, House and Senate, Republican, Democrat. Everybody was involved. Everybody had a chance to make their case. Amendments were considered. In fact, the Senator from Iowa even offered a last-minute amendment that would have moved it more toward what Senator KENNEDY was advocating, and it was defeated.

I am not sure I agreed with that effort, but I make that point to magnify the point this was a full conference. It wasn't short-circuited. Nobody was cut out of the process. You may not like the results, but it was a good conference and it produced a good bill.

The criticism we are hearing today, in my opinion, is to threaten the good in pursuit of the perfect from somebody else's point of view.

I want to say for the record, to my colleagues and the American people, Senator GRASSLEY did a good job. We should pass this bill. I believe this conference report will pass overwhelmingly, and this is the way conferences should and can be done.

I thank the Senator for giving me a chance to commend him on his job on this legislation.

Mr. GRASSLEY. Madam President, I thank the Senator from Mississippi for his kind comments. He was active in helping us arrive at a solution, even though he was not on the conference committee. I would emphasize one thing he said, because I hope it sets a pattern for the future and maybe would relieve the Democratic Members of the Senate of some nervousness they have about conferences: This does set an example of both sides of the aisle participating fully in the conference, because we want to be able to use that pattern for the future. Wherever I am involved, we are going to use that in the future.

I thank the Senator from Mississippi. When the Senator from Mississippi asked to intervene, I had already emphasized the temporary aspects of this legislation and what it included and the necessity for it. Now I want to speak about the need for permanent reform because this is temporary legislation. It is a first step in what needs to be done to preserve the defined benefit pension plan.

While this 2-year interest rate fix provides a temporary solution, we must take action then on a permanent solution. Pension plan sponsors continue to confront a world of uncertainty until we get a permanent replacement. They need to be able to budget for future pension expenses. It is unfair to leave them in financial limbo. If we continue to do so, many will simply abandon pension plans altogether. We ought to be promoting the concept of pensions rather than doing things that encourage companies to abandon pensions for their employees.

There is uncertainty facing our pension system on a variety of other fronts as well. Our pension system needs funding rules that make sense and help avoid the funding problems many plans are facing today. In that regard, I was very pleased this conference agreement included a provision from the Senate bill that allowed plans that have funded their plans well and responsibly in recent years to continue making contributions.

Pension plans also are facing uncertainty due to the fact many of our pension laws predate the development of new and innovative pension plan designs that have been developed to meet the needs of today's workers. This uncertainty should be removed, and our pension laws and regulations should be brought up to date to take account of positive developments and evolutions in pension plans.

Defined pension plans are an irreplaceable part of our national retirement system. We owe it to the millions of workers and retirees who participate in these plans to make them as strong as possible. We also owe it to the young people of our country today to ensure our pension system remains healthy and vibrant, so they can benefit from these plans many years from now.

This bill is a first step to address what many experts have called a crisis in our pension system. I hope we in Congress can work on a bipartisan basis to address these problems. I look forward to working with my colleagues on that long-term solution.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2307 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. SPECTER. Will the Senator from Louisiana yield for a unanimous consent request?

Ms. LANDRIEU. Yes, I will.

Mr. SPECTER. Madam President, I ask unanimous consent that following the statement by the Senator from Louisiana, I be recognized for 10 minutes.

Ms. LANDRIEU. Reserving the right to object, I want to make sure that time is not applied to the Democratic side that remains on the underlying bill.

Mr. SPECTER. Madam President, if I may have the attention of the Senator from Iowa, Mr. GRASSLEY, I seek 10 minutes to talk about the asbestos bill, which we are having a meeting on this afternoon.

Mr. GRASSLEY. I will yield the Senator 10 minutes for that purpose, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Madam President, I thank the Senator from Pennsylvania. I know the issue he wants to speak about—asbestos—is a very important issue that has great ramifications for workers and businesses in our country. I know he spent a great deal of time on that subject.

We only have, on this side, about 45 minutes to debate this very important pension bill that also affects large, small, and medium-sized corporations and workers, whether they are union workers or not. I wanted to come to the floor after the opening of this debate this morning and answer some of the questions that were raised, or comments made by my good friend, the Senator from New Hampshire, and also the Senator from Iowa.

Before the Senator from Iowa leaves, I thank him for his leadership. He has worked very hard on this bill and there is no doubt, as the Senator from Mississippi came to the floor and said, that there is a great deal of good being accomplished in this pension reform bill that helps us to direct capital in a much more effective and productive way, at a time when our country needs to be creating jobs, not destroying them, and at a time when we need to be strengthening all of our companies, not weakening them.

There is no argument on this side about that issue—none. No Democratic Senator has come to the floor to argue that there are not a lot of good things in this bill for companies in America, particularly the airline industry and steel companies, which are in very precarious situations with a deadline looming. Let me put that in the RECORD.

What is at issue is why 10 million workers are left out—10 million workers and the companies that employ them. Some of those companies are small and medium-sized companies that employ unionized workers. Some of them employ nonunionized workers.

I want to respond to a couple of things. The Senator from Iowa made a statement I would like to correct. He said it could not possibly affect 9.7 million workers. I have the GAO report—and that is where we get this information—which says 9.7 million participants, because of the White House's position and the very partisan Republican approach on the House side that was taken—this is the GAO report that shows clearly there are 9.7 million workers who will be left out. About 13 million workers in the country are unionized, and a great deal of them will be left out.

The second point is, the Senator from New Hampshire came to the floor and said: The Senator from Louisiana could not possibly be right because she claims this bill—the compromise purposely denied help to union workers because the underlying bill protects unions.

For the record, I will say he is correct in part. This is the difference. If you are a union that is fortunate enough to be attached to a big company that the Republican leadership in the House wants to help, you get help in this bill. Let me repeat that. If you are a union that happens to be attached to a very large company that the Republican leadership in the House, with the support of the White House, wants to help, you get relief, and you get relief whether your company is in trouble or not.

Let me submit for the record that General Electric Company will get relief, and they deserve it. General Electric deserves this help. Their pension is funded at 116 percent. Verizon is funded at 104 percent. AT&T pensions are funded at 111 percent. Prudential is funded at 112.1 percent. Edison Electric is funded at 100.2 percent. J.P. Morgan is funded at 102.8 percent. Southern Companies is funded at 112.8 percent. Wells Fargo is funded at 102.8 percent.

These are large companies; some are union, some are not. There is a company that was written in on a special provision, and they may deserve it, but it causes some of us to be cynical about how these conferences, behind closed doors, work. UPS, which is a large company and a union company—and I support their help—gets help. If you are a company that is overly funded, and a company that has union workers, the union is lucky to be attached to you because if they are left on their own, they don't get help. If you are a multiemployer plan, a union, not fortunate enough to be attached to a big company, but you are attached to a little company, or to a medium-size company, the White House and the Republican leadership in the House decided you don't deserve the help.

I have been waiting on the floor for 4 hours to get an answer to the question, why were they denied help? The RECORD shows—and I will submit for the RECORD—the fix that Senator KENNEDY asked for and that 86 Members of this body voted for—the fix in this bill, which would have given relief to everyone, whether you are a big company or a little company, whether you were union or nonunion, and that passed the Senate with 86 votes.

We are proud of that work. It went over to the House, and under partisan political leadership, the help for 10 million workers was stripped out because they were not lucky enough to be attached to a big enough company. That is the truth. The fix would have given money to the Federal Treasury, not taken money. Again, this fix did not cost anything. I can understand if someone would come to the floor and say: Senator, we simply could not afford it; we just could not afford it; we are fighting a war in Iraq; we have deficits; we cannot afford it.

Let me remind everyone, there is no cost to the Federal Treasury for this particular fix. In fact, as Senator KENNEDY spoke about, fixing the multiemployer pension plan adds money to the Treasury.

I have to sit here and listen to people argue that this was a good compromise? I have to go home and explain to my constituents, and I cannot explain it to them. Let me just tell you how it works in Washington these days: Bills that cost money to the Treasury get passed all day long. Bills that add money to the Treasury cannot get passed. I don't know how to explain that to my constituents in Louisiana. I don't know how to go home and explain to my constituents in Louisiana that the big companies, some union and some nonunion, get help, but the small companies that some people purport to represent and union workers got left out for no good reason.

Let me answer another charge. One of the Senators said: Senator, this is just the process; this happens all the time. I remember a time when it did not happen this way. I came to the Senate 7 years ago. When I got here, there used to be a Senate position and a House position, not a Republican position and a Democratic position. We had a Senate position. I am proud to be part of the Senate of men and women, Republicans and Democrats, who can put a fair deal together and will fight for a fair deal and not collapse, capitulate, and give in, and that is exactly what happened in conference.

So when my colleagues ask, Does this give this Senator confidence or any Senator confidence that the conference process works, I would say simply, No, it diminishes confidence. It undermines confidence. It does not build good will. It tears down what little good will is left and makes a mockery of it.

I wish for once the Senate would stand up and send a bill over to the House and say there is no reason we can't include everyone; it doesn't cost anything. These poor people who wake up early in the morning and stay up late at night trying to put bread on the table and pay their rent and buy gasoline that is now over $2 deserve a fair shake. It doesn't cost anything. There is no skin off your back. But no, we just cave, all of us just cave. It is a shame.

No, this does not help the process. This does not build confidence. This does not encourage anyone.

The fourth point I want to answer is, oh, there she goes, the Senator from Louisiana and other Senators on the Democratic side, making the perfect the enemy of the good. I am not looking for a perfect bill. I am looking for a square deal. I did not come here looking for a perfect bill. No Senator comes here looking for a perfect bill. There is no such thing. But I am still waiting for one Senator to come to the floor and give me one—one—good reason why 10 million workers and the companies that hire them that came here asking us for help when it is in our power to help, when it does not cost us anything to help, why were they taken out of this bill?

I have not received an answer to that question yet. I will tell my colleagues, we may vote on this bill in an hour or so, and I may end up voting for this conference report. Some Democrats will vote no. But because there are some very good provisions in this bill and there are companies in my State that will be helped—and I want to support large companies because they are hiring, they are struggling; some of them are not; some of them are doing very well. I have no problem. We all need to be pro-business, pro-growth, and pro-jobs.

I am probably going to vote for this conference report. I don't know how the rest of the caucus will vote. Some will and some will not, but that still does not answer my question or solve this problem.

I have to go back and tell 10,000, maybe more, workers in Louisiana: Sorry, you were left out. When they ask: Senator, we didn't cost them anything, why did they leave us out? I want someone to tell me why so I can go back and tell them. I am going to ask that question on every bill, and I am going to put an amendment on every bill, with Senator KENNEDY's help and other colleagues, whether this conference report is adopted or not, until we finally get an answer.

I hope it is not the answer I think it is. I will state it again and, until I get my answer, I am going to keep stating it. I think the answer is, because these employers that have multiemployer plans are mostly unions that are not attached to big companies, that have a lot of money invested in lobbyists and others who can be here talking to everybody all day long, and I think the White House decided that because most of these are unions that do not support them at election time, they are not going to support them at this time.

I know that is harsh, and I know it sounds very direct. I don't know any other way to be because that is the only conclusion to which I can come.

Again, it does not cost money. They were in the original bill; 86 of us voted for it. Until I get a better answer, I am going to have to go around and tell people that is the answer. If someone wants to debate me here, in a private debate somewhere else, write me a letter, give me a report, then I will stop saying that, and I will just say I was wrong and here is a good reason, and I will accept that and accept it as the process and just go on and fight another day. But I have yet to hear the answer.

Let me state again for the RECORD, in case anybody thinks the only businesses that are getting help are businesses that are in trouble, GE is funded at 116 percent; AT&T at 111 percent. So we are not just helping companies whose pensions are in bad shape. Part of the bill is to not put money in a pension that doesn't need it—obviously, these pensions don't need it because they are overfunded—and to get that money back in circulation to create jobs. I am for that 100 percent.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator's time has expired.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, if it works for these big guys, why can't it work for the little guy, the little contractors, for the union guys? We better get past the politics of deciding something is good or bad, whether it helps people who vote Republican or vote Democrat, and start thinking about the country, start thinking about America, start thinking about our troops and get serious about creating jobs.

When this White House says they are serious about creating jobs, I am going to bring this up to the White House at every point. You could have created jobs. It didn't cost you a penny to do it. In fact, it would have added money. But you turned your back, you walked away, and you left them standing there.

I hope those who were thinking maybe they would not get active might get active because of this, because it would sure wake me up if I wasn't paying much attention to what was going on.

I don't want to take any more time. I know the Senator from Pennsylvania has been very patient. I will yield the floor but reserve the time that is remaining for debate on this side, according to the unanimous consent agreement. I think it is the Senator's time to speak.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ASBESTOS DELIBERATIONS

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly upon the status of legislation to deal with the asbestos crisis which faces America. We have had it said that purportedly there are some 70 companies which have gone into bankruptcy proceedings or reorganization proceedings. There are some 600,000 claims which have been filed by individuals who have been exposed to asbestos and make allegations of injury; some 8,500 companies have been sued. So we have a net situation today where there are people who have been exposed to asbestos, who suffered from mesothelioma, which is a deadly disease, and they are now not being compensated because the defendants are in bankruptcy. We have had a ruling by the Supreme Court of the United States that claimants who have been exposed to asbestos may receive compensation for whatever injuries they may in the future sustain, without having the proof as to existing damages, which seems inappropriate to this Senator. It was a narrow 5 to 4 decision.

We have had many companies, some in my home State, and all across the country, in bankruptcy proceedings where commerce has been impeded, and if we are able to find an answer to this very vexing problem, it would be an enormous economic stimulus to the economy of the United States.

In July, the Judiciary Committee passed out a bill largely along party lines. I supported it even though I said at the committee markup that I thought there were many infirmities and many problems, but I voted to move it out of committee to get the process going. A very unique, really unprecedented procedure was then adopted where the former Chief Judge of the Court of Appeals for the Third Circuit, a very distinguished jurist, Judge Edward R. Becker, agreed to participate in what were essentially mediation proceedings for 2 days in August, August 18 and 19. Judge Becker and I sat in his chambers in Philadelphia with representatives of the manufacturers, of the insurers, the reinsurers, the AFL–CIO, and the trial lawyers to start going through the very complex issues which were involved to try to come to some resolution.

Following those 2 days of meetings, we have met on 14 occasions in my offices in Washington with those same participants, the same so-called stakeholders. In between the meetings which Judge Becker and I have held with the stakeholders, they have met among themselves and have worked out many of the issues.

I am pleased to report at this time that agreements have been reached on quite a number of the tough issues. For example, the startup arrangements have been worked out so that funding has been provided for the defendants' expanded borrowing authority to make money available right away. There are provisions which provide for increased liquidity and upfront funding so that claims can be paid in short order. There have been provisions worked out for streamlining the administrative process. The Court of Federal Claims initially had that authority.

We have worked with the Department of Labor. I compliment the Department of Labor for helping us work through a procedure for streamlining the administrative process.

We have to define exigent health claims so people who are suffering from mesothelioma and other deadly ailments will get early treatment. We have worked through the processes on judicial review. We have worked through the processes on medical commodity.

I ask unanimous consent that a schedule of the meetings which have been held with Judge Becker, some 14 in number, and the manufacturers' representatives, representatives of the insurers, AFL–CIO and trial lawyers, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1125, THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2003

IMPORTANT DATES

5/22/03—Senator Hatch introduces S. 1125

6/19/03—Committee mark-up

6/24/03—Committee mark-up

6/26/03—Committee mark-up

7/10/03—Committee mark-up; voted out of Committee—10 yeas, 8 nays and 1 pass

8/18/03—Meeting with Judge Becker in Philadelphia

8/19/03—Meeting with Judge Becker in Philadelphia

9/12/03—Meeting with Judge Becker in Washington, DC
9/26/03—Meeting with Judge Becker in Washington, DC
10/3/03—Meeting with Judge Becker in Washington, DC
10/14/03—Meeting with Senator Frist in Washington, DC
10/21/03—Meeting with Labor in Washington, DC
11/11/03—Meeting with Judge Becker in Washington, DC
11/12/03—Meeting with Department of Labor in Washington, DC
1/22/04—Meeting with Judge Becker in Washington, DC
2/12/04—Meeting with Judge Becker in Washington, DC
2/25/04—Meeting with Judge Becker in Washington, DC
3/4/04—Meeting with Judge Becker in Washington, DC
3/11/04—Meeting with Judge Becker in Washington, DC
3/18/04—Meeting with Judge Becker in Washington, DC
3/30/04—Meeting with Judge Becker in Washington, DC
4/7/04—Frist/Hatch substitute introduced
4/8/04—Meeting with Judge Becker in Washington, DC

Mr. SPECTER. We are proceeding with another meeting this afternoon. The majority leader has deferred taking up the bill; had originally planned to do so in March, and at the request of a number of people, including this Senator, the majority leader has deferred taking floor action on the bill and has now listed floor action for the day we return from the next recess, which is April 19.

Just yesterday, the majority leader, Senator FRIST, and Senator HATCH, the chairman of the committee, introduced a substitute bill. Senator HATCH has done an outstanding job on this matter, has worked through the process of establishing a trust fund which was originally set at $108 billion, since has been increased, with a schedule of payments to be determined very much like worker's compensation so that liability does not have to be established.

Senator LEAHY spoke earlier today and raised questions about the desirability of the substitute bill which was introduced yesterday, with Senator LEAHY saying that there has yet to be achieved consensus on two essential elements of a FAIR trust fund, that is fair value awards and the total amount of the trust fund.

The parties are as yet substantially apart on these two items, and it is my hope that we can come to agreement. Senator FRIST, the majority leader, has made a determination that setting a date will facilitate more intense negotiations, so to speak, on the courthouse steps, and that is a generalization. I hope that if we are not in agreement, but close to agreement, that there may be yet some flexibility in the date listed for floor action.

I declined to join with Senator FRIST and Senator HATCH in their substitute bill because I think it is the better practice to try to work through these problems. We have made enormous progress, and it is my hope we can make more progress to be ready to reach the date which the majority leader has set.

If we are able to come to terms, it will be an enormous economic stimulus to rescue some 70 companies which are in bankruptcy, and it will be of enormous importance to the workers who have been exposed to asbestos and have serious ailments, including mesothelioma, which is a deadly ailment.

We are going to proceed to try to do that work. I am hopeful we will be able to come to terms with these outstanding problems and present a bill which can be enacted into law to solve these very serious problems.

To reiterate, on April 7, 2004, Majority Leader FRIST and Senator HATCH introduced a substitute bill to S. 1125, the Fairness in Asbestos Injury Resolution Act, FAIR Act, of 2004. S. 1125 was reported out of the Judiciary Committee on July 10, 2003, by a vote of 10 yeas, 8 nays and 1 pass. I voted for it.

According to The RAND Institute for Civil Justice, "about two-thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill." According to RAND, the number of claims continues to rise, with over 600,000 claims filed already. More than 8,500 companies have been named as defendants in asbestos litigation." In 2003 alone, a record 100,000 asbestos claims were filed. Seventy companies have already gone bankrupt due to asbestos liability.

As it has been noted before, the bill reported out of the Judiciary Committee bill required a great deal of evaluation, analysis and significant changes. I contacted senior Circuit Judge Edward R. Becker, who had been chief judge of the Court of Appeals for the Third Circuit until May 5 of last year. Judge Becker has expert insights into this matter and since August of 2003, we have convened some 14 meetings with the representatives from the manufacturers, the insurance companies, the reinsurers, organized labor and the trial lawyers.

Through the series of meetings with Judge Becker, we have wrestled with and have been able to solve a number of very complex issues. We have had the cooperation of many Senators. Senators HATCH and LEAHY have had representatives at the meetings. In fact, Senator HATCH addressed this "working group" at one of our meetings. The majority leader and minority leader have had representatives at the meetings. Senators DODD, CARPER, FEINSTEIN and NELSON have been represented as well.

I am encouraged and appreciative to note that some of these agreements that resulted from our meetings have been incorporated into the Frist-Hatch substitute asbestos bill. Included in the substitute bill are the following provisions negotiated through these meetings.

No. 1, streamlining administrative process, S. 2290 creates a more streamlined administrative system that can be up and running quickly. The trust fund will be administered by the Department of Labor, as opposed to the Court of Federal Claims under S. 1125.

No. 2, early startup, the bill aims to ensure that the compensation program under the bill can commence operations and begin paying claims quickly, particularly for living mesothelioma victims and for other exigent claimants who may have little time to wait. Such claimants should not be subject to unacceptable delays in obtaining compensation due to impediments in commencement of Fund operations. The agreed-upon administrative structure, for example, includes provisions for interim regulations and houses the Office for Asbestos Disease Compensation in the Department of labor, which has the experience and the infrastructure to help expedite the establishment of a claims processing system.

The proposal addresses the need to ensure that monies are available to the Fund in a short amount of time to be able to pay claims. It has two elements: 1, requiring up-front funding; and 2, providing increased borrowing authority.

First, participants would be required to provide funding on an expedited basis. This bill would establish a system where all participants would be required to make initial payments within 6 months of enactment.

Participants may seek judicial review after they make a payment, but cannot use judicial review to delay payment. Strict deadlines on lawsuits challenging the constitutionality of the funding procedure have been included in the judicial review provisions, and reviewing courts will be precluded from staying funding obligations pending review.

Also, the borrowing authority of the administration under the bill would be expanded to allow for borrowing initial monies needed to establish and operate the asbestos compensation program from the date of enactment.

No. 3, defining exigent health claims that should be given priority during the startup period. A claim shall qualify for treatment as an exigent health claim if the claimant is living and the claimant provides: 1, documentation that a physician has diagnosed the claimant as having mesothelioma; or 2, a declaration or affidavit, from a physician who has examined the claimant within 120 days before the date of such declaration or affidavit, that the physician has diagnosed the claimant as being terminally ill from an asbestos-related illness and having a life expectancy of less than one year.

The Secretary may, in final regulations promulgated, designate additional categories of claims that qualify as exigent health claims under this subsection.

No. 4, judicial review, language is included in S. 2290 which is designed to ensure prompt judicial review of a variety of regulatory actions and to ensure that any constitutional uncertainties with regard to the legislation are resolved as quickly as possible. Specifically, it provides that any action challenging the constitutionality of any provision of the Act must be brought in the United States District Court for the District of Columbia. The provision also authorizes direct appeal to the Supreme Court on an expedited basis. An action under this section shall be filed within 60 days after the date of enactment or 60 days after the final action of the administrator or the commission giving rise to the action, whichever is later. The District Court and Supreme Court are required to expedite to the greatest possible extent the disposition of the action and appeal.

No. 5, medical monitoring, the working group also worked very hard in making sure that the medical monitoring provisions ensured that the initial doctor's visit was covered.

We will be back to work today to continue addressing the remaining issues. We are determined to solve the problems. The stakes are very high. We have many injured workers who are relying on some answers for just compensation. The companies are looking for answers, and the economy needs to be stimulated and also looks for an answer.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

HONORING OUR ARMED FORCES

Mr. BINGAMAN. Mr. President, I have three subjects I intend to address today. Let me address the first and the most sad of those. That is, of course, the enormous price that many families are paying as part of the current engagement that we are in in Iraq.

PFC CHRISTOPHER RAMOS

General Robert E. Lee was once quoted as saying:

> Duty, then, is the sublimest word in the English language. You should do your duty at all times. You can never do more. You should never wish to do less.

On Monday, April 5, just 3 days ago, PFC Christopher Ramos, age 26, did his duty with the First Marine Division. He lost his life in action against Iraqi insurgents in Al Anbar Province in Iraq. Christopher Ramos was from Albuquerque, NM. While at West Mesa High School, he dreamed about serving his country as a U.S. marine. Private Ramos' father, Al Ramos, said of his son Christopher:

> He was proud of what he was doing. He wanted to be a Marine. He said it was either the Marines or nothing.

Today, it is important that we in the Senate honor his memory and service, and the service of so many other brave young men and women who have answered the call to duty and have made the ultimate sacrifice for their Nation. It is equally important that we keep the families of those individuals in mind and in our prayers.

Private First Class Ramos leaves behind a wife, Diana Ramos, and an 18-month-old daughter, Malaya.

ARMY SGT LEE DUANE

In addition to that terrible news, the Four Corners area, which includes my State of New Mexico, also lost another fine young man in the last few days, Army SGT Lee Duane Todacheene, who was from Lukachukai, AZ, and was the nephew of the vice president of the Navajo Nation, Frank Dayish, Jr. This young man, Sergeant Todacheene, was killed in an Iraqi ambush, according to the Navajo Nation. We extend our sympathies to his family as well.

MARINE LT ERASMO VALLES

Finally, last week Marine LT Erasmo Valles of Hobbs, NM, was severely injured in an attack in Falluja when his Humvee was hit by a roadside bomb. He is being treated at Bethesda Naval Hospital and we wish him a speedy and a full recovery.

These brave soldiers were put in harm's way by their country, and their sacrifice needs to be noted by all of us. Just as we celebrate the safe return of many, we need to acknowledge and mourn those who are not going to return. I regret that PFC Christopher Ramos and other brave marines and soldiers have lost their lives in this endeavor, and our sympathies go out to their families.

Mr. GREGG. Will the Senator allow me to make a unanimous consent request?

Mr. BINGAMAN. I yield to my colleague.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent that the vote on the adoption of the pending conference report occur at 2:45 today, with the time until 2:45 being equally divided, provided further that the last 8 minutes of debate be divided so that Senator KENNEDY or his designee be recognized for up to 4 minutes, to be followed by the chairman of the committee or his designee to close for the final 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, let me move to another subject and express some words about the pension bill that is pending before us.

I intend to support this bill, but I say that with substantial reservations because of the process, once again, that was followed in getting this bill to the Senate floor—the partisan way in which it was handled. I also say it because of what wound up in this pension bill that was not intended to be there. There were things that were left out, and many of my colleagues have spoken eloquently about those. The multiemployer plans were not treated fairly, as they should have been and as I believe most Senators would want them to be, but also there were provisions included in this bill—at least one provision that I think is highly objectionable.

Section 207 of the conference report creates an antitrust exemption for the graduate medical residency program that currently assigns medical students to hospitals where they are required to work for 60 to 100 hours per week for an average of $9 or $10 an hour. To people who are not familiar with the way this place functions in recent years, they would be surprised to find that we have written into the pension bill a retroactive exemption from the antitrust laws related to this issue of medical residency programs. I understand there is currently a lawsuit pending before Judge Paul Friedman in the U.S. District Court for the District of Columbia brought by medical residents that alleges a price-fixing scheme among graduate medical education programs in the United States.

On February 11 of this year, Judge Friedman issued an opinion that denied most of the defendants' motions to dismiss and allowed the lawsuit to proceed. In his opinion, the judge explained that the lawsuit involves one claim—that the defendant graduate medical education programs engaged in price fixing.

Subsection (b)(3) of section 207 explicitly preserves the right to bring an antitrust lawsuit alleging any type of price-fixing arrangement among two or more graduate medical education programs. Clearly this subsection ensures that the antitrust exemption that is described in subsection (b)(2) does not apply to this pending lawsuit.

The last sentence in subsection (b)(2) states that evidence of participation in a graduate medical education residency matching program shall not be admissible in Federal court to support a claim alleging antitrust violations.

However, subsection (b)(3) clearly states that:

> "Nothing in this section shall be construed to exempt from the antitrust laws" any agreement on the part of graduate medical education programs to fix prices.

Obviously, the restrictions on the admissibility of certain evidence in subsection (b)(2) cannot apply to price-fixing lawsuits that are explicitly preserved in subsection (b)(3). The provision says "nothing" in this section shall provide exemptions from price-fixing claims. Therefore, any provision that would not allow necessary evidence to be admitted in price-fixing cases must not apply and could not be construed to apply.

That being said, the antitrust exemption that is established by subsection (b)(2) raises grave constitutional concerns. There has been no justification presented to this Congress, to any committee of this Congress for depriving medical residents of the same protections under the antitrust laws that are enjoyed by other workers and other Americans. I do not see how it is constitutionally permissible to take away the equal protection and the due process rights of medical residents without any showing that is necessary or beneficial.

Frankly, this is outrageous for Congress to be legislating in this way, without any hearings, without any testimony, without any knowledge of what it is doing.

The reason we have debate on the Senate floor is to allow Members to express views when we are getting ready to change the law. This is a time-honored process. It is one that was not honored in this case. As far as I know, there has been no debate on the floor nor has there been debate in committee about this issue.

I spoke to the ranking member of the Judiciary Committee, which is the committee with jurisdiction over our antitrust laws, and asked if he was informed about this provision being included in the pension bill. He said he had not been informed. It is my understanding that the chairman of the Judiciary Committee was not informed either.

This is a provision that was added in a conference, without participation of Democratic Senators, and clearly it is contrary to good policy and to proper procedure here in the Senate.

Let me conclude by having printed in the RECORD a letter that Senator CRAIG, Senator FEINGOLD, Senator HERB KOHL and I all wrote to our majority leader, BILL FRIST, and to the Democratic leader, Senator DASCHLE, last November, expressing our concern about this exact type of legislative proposal and stating our strong objection to the inclusion of this kind of provision in legislation at that time or any time in the future. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
November 18, 2003.

Hon. BILL FRIST,
Majority Leader,
Washington, DC.
Hon. TOM DASCHLE,
Minority Leader,
Washington, DC.

GENTLEMAN: We are writing to express our concern about legislative proposals that have the potential to undermine ongoing antitrust litigation against the National Resident Match Program (known as the "Match") by granting the "Match" a retroactive antitrust exemption.

It is our view that Congress should subject proposals like this one that hold widespread implications for patient safety and the working conditions of hundreds of thousands of medical residents to the regular legislative process—including hearings and consideration in the appropriate committees—before allowing it to move through Congress. This is particularly important considering that such proposals would retroactively interfere with pending litigation, in which the factual record has not yet been developed and the court has not yet ruled on the merits of the claims. In addition, it is important for the Committee to consider the specific language of any such proposal, as legislation intending to exempt the Match could have broader, unintended effects, including effectively immunizing price-fixing and other anticompetitive practices alleged in the litigation.

By permitting such a bill to go forward without full consideration of all the factual and legal issues, we would set a precedent that will encourage defendants in all types of pending litigation to come to Congress for relief. We request, therefore, that the Senate convene hearings on this matter before taking further action.

Thank you for your consideration.

Sincerely,

LARRY E. CRAIG.
JEFF BINGAMAN.
RUSSELL D. FEINGOLD.
HERB KOHL.

ELECTRIC GRID STABILITY

Mr. BINGAMAN. In November of 1965, a disturbance on the electric grid resulted in the loss power to some 30 million people in the Northeastern U.S. Almost all of New York, Connecticut, Massachusetts, Rhode Island, and parts of Pennsylvania and New Jersey were blacked out for up to 13 hours.

In July of 1977, power lightening caused the loss of power to 9 million people in New York city and surrounding areas.

In December of 1982, high winds caused the failure of a transmission tower. Power was lost to 5 million people.

In July of 1996, power was lost to 2 million customers in 14 States in the West, 2 Canadian provinces and 1 Mexican state. The outage was the immediate result of a line sagging into a tree.

In August of 1996, again as the result of contact with trees, another outage affected 7.5 million people in 14 Western States, 2 Canadian provinces and 1 Mexican state.

In August of last year 50 million people in 8 Northeastern and Midwestern States and 3 Canadian provinces were blacked out for up to 4 days.

These were only a few of the major outages that have rendered parts of our Nation powerless over the last few years. The most dramatic outage ever was only last summer. I don't have to tell the Members of this body how serious the effects on the economies of these regions were. We all saw it. Airports were shut down for days. Traffic was snarled for hours. Businesses were closed, schools shut down. The estimates of losses were in the tens of billions of dollars.

After the first big blackout, in 1965, the industry, under pressure from the government, created a voluntary association to try to govern the reliability of the system. That association became the North American Electric Reliability Council or NERC.

After the West Coast blackout in 1996, the Department of Energy put together a task force on reliability headed by former Congressman Phil Sharp. That task force made a number of recommendations. Chief among them was that Congress should pass legislation creating a mandatory structure for reliability, with penalties for failure to comply with the rules, and with government oversight.

In 1999, the Senate unanimously passed a bill sponsored by Senator Slade Gorton of Washington, that did just that. The House did not pass such a bill and no final action was taken.

After this most recent blackout, the Department of Energy, along with the Canadian Government, convened a task force to look at the causes of the outage and to make recommendations as to how to prevent future blackouts. That task force issued its final report Monday. There are a number of recommendations contained in that report, but the one that this body most needs to pay attention to is the recommendation that the Congress pass legislation to create a mandatory system for ensuring reliability, with penalties for failure to comply with the rules, and with government oversight. The report says: "The U.S. Congress should enact reliability legislation no less stringent than the provisions now included in the pending comprehensive energy bills, HR. 6 and S. 2095."

The bill that is before contains those very provisions.

I don't think that anybody in the Senate believes that we should not pass this legislation. The only question is in what form. This bill is the same as the language contained in S. 2095, Senator DOMENICI's more comprehensive energy bill. I am not optimistic that the larger bill will pass the Senate, or if it does, survive a conference with the House to make it to the President's desk.

Again and again this country has experienced crippling blackouts. Again and again investigating panels have recommended that the Congress pass legislation to establish a mandatory regime for governance of reliability, with penalties for failure to comply with the rules and with government oversight. Again and again, the Congress has failed to do so.

It is time for us to pass this legislation.

I ask unanimous consent that several articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Akron Beacon Journal, Apr. 7, 2004]

After the Blackout—FirstEnergy Has Been Kicked Around. When Will Congress Complete the Urgent Task of Improving Oversight of the Power Industry?

In the immediate aftermath of the massive August blackout, President Bush and others in Washington were quick to call for sweeping repairs of the nation's electricity grid. Many talked about an investment of $100 billion (a hefty sum, even on Capitol Hill). What has happened in the meantime? Virtually nothing. Proposals ti improve the grid are part of a comprehensive energy bill long stalled in Congress.

The country would benefit from a broadly conceived approach to energy. Unfortunately, narrow interests have shaped a large part of the legislation under consideration. Those lawmakers arguing for a separate measure to address the electricity grid make sense. Perhaps their efforts will be advanced by the U.S.-Canadian task force that has issued its final report on the causes of the blackout.

As expected, the task force blamed FirstEnergy Corp. for plunging much of the Midwest, Northeast and Ontario into darkness. The Akron-based power company has admitted trouble with its computers, hampering coordination and diminishing its grasp of events that August day. In that sense, the task force faulting the company for failing to react more quickly seems off the mark. How could FirstEnergy respond when it wasn't fully aware of the problem?

The company already has made repairs. Among other things, trees near power lines have been trimmed. What will Congress do? Tough as the task force was on FirstEnergy, its 46 recommendations suggest (correctly) troubles far beyond one utility.

The task force proposed writing into federal law rules that more effectively ensure the reliability of power supplies. As it is, an industry group, the North American Electric Reliability Council, monitors the performance of power companies. Compliance with operating standards is voluntary. Meeting the standards should be mandatory. The monitoring effort should be independent of the industry.

If FirstEnergy operated at the edge of reliability (as the task force concluded), federal officials have little clue whether other utilities are doing so.

That lack of knowledge compounds the risk of blackouts, larger and smaller, in view of the changing realities of the power industry. The country asks the electricity grid to defy physics. An industry once defined by local utilities supplying electricity to nearby communities has been dramatically transformed the past decade. Electricity now travels long distances, across, say, Ohio into Canada, placing substantial strain on the system.

Independent power plants tap into the grid with few concerns about their overall impact. An industry pushed to embrace market principles requires a new regulatory scheme. That is the task Congress must complete—before the next blackout. That is the urgent message of the U.S.-Canada task force.

[From the Bergen Record, Apr. 7, 2004]

Avoiding Blackouts

Last August, a blackout left 50 million people in eight U.S. states and parts of eastern Canada without power. Although embarrassed utilities are almost certainly more vigilant, the blackout could happen again because in the eight months since not much on the federal regulatory front has changed.

On Monday, a joint U.S.-Canadian task force that has been studying the blackout issued its final report, with 46 recommendations to prevent a recurrence. Many of them are highly technical, but one is startlingly simple:

Congress should give the utilities' oversight body, the North American Electric Reliability Council, the power to set mandatory, enforceable reliability standards for power grids.

The big blackout started when a tree in Ohio brushed against a 345,000-volt line in an overgrown transmission corridor. There are currently no mandatory federal standards for how far back trees and brush should be cleared from high-voltage power lines.

Congress is considering mandatory reliability standards as part of the Bush administration's woeful energy bill, a rich mixture of subsidies and tax breaks for energy companies. The bill is now stalemated because of a dispute over costly ethanol subsidies and immunity from lawsuits for manufacturers of the fuel additive MTBE. The Bush administration's arguments that the bill would ease high gasoline prices were undercut when a study by its own Energy Department showed that the bill would actually raise gasoline prices by a few tenths of a percent.

One of the few levers left to backers is the mandatory reliability provision. But this is unfair to consumers because the energy bill could well fail to pass this year. A responsible energy policy would be to strip out the mandatory federal standards and pass them as a stand-alone bill.

[From the Cleveland Plain Dealer, Apr. 7, 2004]

Probing the Darkness

"We have no clue," lamented a First Energy Corp. engineer as his computer system sputtered and a massive blackout rolled across eight states last August.

Now, thanks to the final report of the joint U.S.-Canadian blackout task force, FirstEnergy, along with others, should have a fundamental understanding of how the lights went out and what it will take to keep them on in the future. So should the U.S. Senate, where an energy bill that could create mandatory reliability standards for utility companies is frozen because of other squabbles.

The task force has not wavered in blaming FirstEnergy for the blackout. It continues to dismiss FirstEnergy's notion that an unstable grid was to blame. Its interim report blasted FirstEnergy for failing to cut trees that stood too close to its high voltage lines. Now it adds that FirstEnergy could have limited the damage if it had cut power to its Greater Cleveland customers on Aug. 14. FirstEnergy executives might begin repairing the company's reputation by mustering the courage to utter three simple words: We are sorry.

Though FirstEnergy bears the primary responsibility for the blackout, it is not the sole culprit. Unlike other parts of the country with powerful regional grid operators with the authority to isolate trouble spots, the weaker Midwest Independent Transmission System Operator, Inc. could act once emergencies develop.

There is hope for the MISO, which was criticized for its poor coordination with FirstEnergy and its failure to tell other utilities about the grid's mounting troubles. Since the blackout, it now has a computer model that gives minute details about the grid and it has improved communications with other grid operators. For its part, FirstEnergy has agreed to cooperate with an industry preparedness audit.

The blackout report also recommends that the North American Electric Reliability Council, which sets voluntary standards for electric companies, become independent and break its financial ties to utility companies if it wishes to work closely with the Federal Energy Regulatory Commission. FERC has been pushing for the authority to control electric grids so it can make them more reliable.

The stalled Senate bill would boost FERC's power to rein in frontier-style grids.

Experts predict that without a powerful sheriff over the Midwest grid, another blackout is likely. Responsible senators should strip the electric provisions out of the energy bill and push for their separate approval before that dark day comes.

[From the Long Island Newsday, Apr. 7, 2004]

Pass Electricity Reliability Law

The failure by Congress to pass a national energy bill is trying up legislation that would help avoid another blackout like the one that shut down much of New York and the northeastern United States last year. The remedy is simple: Split off and pass the sections dealing with reliability of the nation's electric grid separately—and promptly.

The final report of the U.S.-Canada task force investigating the blackout makes explicit the need for enforceable reliability rules for North America's interlinked electric utilities. It was because one Ohio utility, FirstEnergy Corp., failed to follow the industry-recommended standards—neglecting to shut down part of its electric grid temporarily when a problem developed—that about 50 million people were left without power, some for up to 4 days, last August. The estimated cost to the U.S. economy: up to $10 billion.

It was something as simple as a transmission line shorting out on a tree branch that started the cascading chain of events. The task force found that the outage got out of hand because FirstEnergy violated several of the North American Electric Reliability Council's voluntary standards—by not responding properly to the power failure as it developed and by failing to let neighboring utilities know what was happening, among other shortcomings.

That's why the reliability rules need to be mandatory.

The necessary legislation is now part of a far-reaching and controversial energy bill that has been stalled in Congress for two years. The electric utility portion that would help avert future blackouts has broad support. Holding it hostage to the larger bill only delays the necessary effort to make the nation's power supply more reliable and secure.

[From the Newark Star-Ledger, Apr. 7, 2004]

Head Off More Blackouts

Last August the intricate web of power plants, transformer stations and transmission lines that form our nation's electric power grid failed, shutting out the lights for tens of millions in the Northeast and portions of Canada.

An international review team says it happened because the utility industry in general, and an Ohio utility in particular, failed to follow voluntary rules designed to ensure electricity flowed reliably.

Computers were faulty. Control room operators didn't realize the system was about to crash. Trees hadn't been trimmed, allowing high-voltage lines that were sagging to short out. The industry board that set the rules isn't independent enough.

Another summer is approaching and the rules are still voluntary, held hostage to the political battle in Washington over a larger energy bill.

The power industry insists that another giant blackout is unlikely. Utilities are upgrading maintenance, training and equipment, spending lots of money to keep the juice flowing. They may be right, for now. This summer the utilities are likely to be on their toes.

But backsliding is inevitable without strong mandatory rules. Sooner or later, there will be another power disaster.

There is widespread support in Congress for tough new regulations. Unfortunately, GOP senators merged these reforms into the larger federal energy bill, seeing them as leverage to get support for the whole package, complete with lavish new subsidies for oil, gas and coal producers and expanded drilling in wilderness areas.

The energy bill is going nowhere in a presidential election year. Congress should see the light and pass a narrow bill designed to fix the electric grid and prevent future blackouts.

[From the Westchester Journal News, Apr. 7, 2004]

PREVENTING FUTURE BLACKOUTS

The power outage of August 2003 that left tens of millions of people without electricity in New York, seven other states and part of Canada should not have happened, according to the final report released Monday by a joint U.S.-Canadian task force that investigated the worst blackout in U.S. history.

The report, U.S. Energy Secretary Spencer Abraham said, "makes clear that this blackout could have been prevented." Perhaps now—eight months later—Congress will act on its promise to fix the problems that caused the blackout.

The outage was not prevented, the report said, because poorly trained operators in the FirstEnergy Corp. of Ohio control room failed to alert other utilities that its computer system malfunctioned so the cascade of outages could have been short-circuited. The utility also had not followed through on safeguards to deal with power failures and lacked a backup monitoring system.

The result—in addition to the impact on millions of people, including 6.7 million in New York—was a $10 billion bite out of the economy.

The task force recommended establishing reliability standards under an international overseer with the authority to punish companies that violate them. That would replace the voluntary rules of the North American Electric Reliability Council, which has no enforcement power. The task force found that FirstEnergy had at least seven violations of the voluntary rules.

FirstEnergy has since increased staff training and spent $10 million on new computer controls, company spokeswoman Ellen Rains told USA Today. That's more than Congress has done.

Measures addressing electricity reliability are contained in an energy bill that is stalled in Congress for a third year. These include upgrading the nation's rickety grid, and taking control away from some 130 separate power authorities and forming new regional transmission networks regulated by the Federal Energy Regulatory Commission to ensure adequate electricity distribution.

Those measures, along with task force recommendations, should be separated from other measures in the dead-ended energy bill and approved quickly in stand-alone electricity reliability legislation such as that proposed by Sen. Maria Cantwell, D-Wash., and others.

New York state, it should be noted, has also done nothing about keeping an adequate flow of power to meet the state's current and future needs despite its own warning even before the massive 2003 blackout. In 1999, a blackout left 200,000 people without power in parts of Manhattan. The Democratic-controlled Assembly and Republican-dominated Senate are in political gridlock. Sadly, that's typical of a state government that hasn't passed a budget on time in 20 years. But nothing is happening.

Both Congress and the state Legislature need to act to prevent another costly blackout.

[From the Albany Times-Union, Apr. 8, 2004]

BLACKOUT LESSONS

A REPORT ON LAST AUGUST'S POWER FAILURE MAKES CLEAR THE NEED FOR TOUGHER REGULATIONS

Last summer's blackout plunged much of the Northeast and parts of Canada into blackness. But a newly released report on what caused the power failure, and whether it might have been prevented, is illuminating. It should put to rest the once-fashionable argument that the utility industry is best served by government deregulation. Perhaps in terms of a free market, less bureaucracy would lead to greater efficiency and lower rates. But what of reliability? If anything, the report is Exhibit 1 in a case for close government oversight.

As expected, the report, compiled by a joint U.S.-Canada task force, faults FirstEnergy Corp. of Ohio for failing to contain the blackout by shutting off 1,500 megawatts of power in the Cleveland-Akron area right after the first surge in voltage occurred in transmission lines south of Cleveland. Not only that, but the investigators found that FirstEnergy should have been more alert to the possibility of a power failure because the region it serves had a known history of grid instability.

The report found that FirstEnergy not only failed to act promptly but was ill prepared for an emergency because it hadn't followed voluntary industry guidelines for long-range planning and system monitoring. Just as alarming, the investigators faulted the Midwest Independent Transmission System Operator, which oversees FirstEnergy, for failing to alert neighboring regions of a gathering crisis, as well as other safeguards designed to stave off widespread outages.

The report's authors have rightly called for replacing the voluntary guidelines with government regulations designed to ensure the reliability of the nation's power grid. Given the huge cost associated with the blackout, not to mention the inconvenience for millions of stranded commuters and the hazards they faced, ensuring reliability must be a top priority. Given the vulnerability of the grid system to potential terrorist acts, reliability must be an urgent priority.

Regrettably, though, there are signs that any proposed regulations might become mired in yet another partisan standoff in Congress. Rep. Pete Domenici, R-N.M., prime sponsor of a sweeping energy bill, believes that his legislation already contains provisions that address most of the task force's concerns. But Sen. Maria Cantwell, D-Wash., has warned that the energy bill could become a "quagmire" for new regulations and has proposed a separate bill instead.

She is right. It's past time for corrective action. Perhaps no one has made that point better than Gov. George Pataki did last August, when he bitterly recalled the assurances of power systems managers that there would never be a repeat of the East Coast blackout of the 1960s. He should remind Sen. Domenici that those who do not learn from history are destined to repeat it.

[From the Baltimore Sun, Apr. 8, 2004]

POWERLESS

Imagine the moment. George W. Bush steps to the podium at Madison Square Garden. The roar of approval from his fellow Republicans is deafening as the president prepares to formally accept their nomination to seek a second term in the White House.

Then, suddenly, just as Mr. Bush is about to speak, the lights go out; the sound system goes dead; the air-conditioning clicks off.

Terrorism! Everyone suspects that at first. But they're wrong. it's just another particularly ill-timed power blackout in the Big Apple. A preventable disaster caused by a utility company that failed to follow safety procedures Congress has yet to make mandatory—even after a similar incident last summer shut off the juice for days to more than 40 million people in eight states and parts of Canada.

Admittedly, the odds of such a blackout disrupting the Republican National Convention in August are slim. And the GOP will likely be prepared with backup generators in any case.

A repeat of last summer's debacle is quite likely to occur at some point, however, until Congress enacts the reliability standards that are being held hostage to an internal Republican dispute over Mr. Bush's long-stalled energy bill.

Lawmakers should set aside that dispute and move quickly to enact a narrower proposal that would deal exclusively with electricity standards and penalties for utilities that fail to comply. There appears to be no disagreement in either party that such mandatory standards are needed.

Massive, cascading blackouts are not new, but they are getting worse. The first big blackout in November 1965 cut off power to about 30 million people in the Northeast for up to 13 hours. Other major outages have crippled Western states and parts of Mexico.

Task force after task force has recommended that voluntary reliability standards put in place in 1965 be stiffened through the force of federal law and oversight. The most recent such recommendation came this week from a joint U.S.-Canadian panel studying the reasons for last summer's grid collapse, which closed airports, schools and businesses and cost tens of billions of dollars.

Most or all of the consequences could have been avoided if an Ohio power company had been prepared, as it should have been, with emergency plans to contain the damage caused by three high-voltage lines that sagged onto untrimmed trees and short-circuited.

Even if Mr. Bush's comprehensive energy bill represented an enlightened approach to public policy, its failure to win enactment so far wouldn't justify further delay in approving the electricity standards. But this bill is a turkey, so laden with giveaways to the energy industry it makes many in his own party gag.

It's time for Mr. Bush to set the electricity standards free. If he doesn't, the trendy question this summer may not be "Where were you when the lights went out?" but "Who was in charge of the switch?"

[From the Memphis Commercial Appeal, Apr. 8, 2004]

Little Change in the Grid

Last August, a blackout left 50 million people in eight U.S. states and parts of eastern Canada without power. Although embarrassed utilities are almost certainly more vigilant, the blackout could happen again because in the eight months since not much on the federal regulatory front has changed.

Last week, a joint U.S.-Canadian task force that has been studying the blackout issued its final report, with 46 recommendations to prevent a recurrence. Many of them are highly technical, but one is startlingly simple:

Congress should give the utilities' oversight body, the North American Electric Reliability Council, the power to set mandatory, enforceable reliability standards for power grids.

The big blackout started when a tree in Ohio brushed against a 345,000-volt line in an overgrown transmission corridor. There are currently no mandatory federal standards for how far back trees and brush should be cleared from high-voltage power lines. Had those standards been in effect last summer and enforced—no blackout.

Congress is considering mandatory reliability standards as part of the Bush administration's woeful energy bill, a rich mixture of subsidies and tax breaks for energy companies. Even though its 10-year cost has been pared down from $31 billion to $14 billion, it is still too rich for many lawmakers.

The bill is now stalemated because of a dispute over costly ethanol subisides and immunity from lawsuits for manufacturers of the fuel additive MTBE. And its backers are running out of arguments why the bill should be passed. The Bush administration's arguments that the bill would ease high gasoline prices were undercut when a study by its own Energy Department showed that the bill would actually raise gasoline prices by a few tenths of a percent.

One of the few levers left to backers like Sen. Pete Domenici, R–N.M., and Rep. Joe Barton, R—Texas, the chairmen of the Senate and House Energy committees, is the mandatory reliability provision. But this is unfair to consumers because the energy bill could well fail to pass this year. A responsible energy policy would be to strip out the mandatory federal standards and pass them as a stand-alone bill.

Otherwise, the lights, elevators and air-conditioning could go out against his summer, and this time we won't need a joint U.S.-Canadian commission to know who is responsible.

[From the Toledo Blade, Apr. 8, 2004]

Regulating the Grid

The massive power blackout that darkened much of the northeastern U.S. and southeastern Canada last Aug. 14 showed that voluntary regulation isn't enough to keep the North American electric grid reliable. The final report of a U.S.-Canadian task force, which found that the outage was preventable, only reinforces that view.

What Congress needs to do is strip new mandates for operation of the grid from its moribund energy bill and pass them as separate legislation. And it should do so now, not later, before another catastrophic blackout ensues.

The North America Electric Reliability Council, which runs the interconnected grid, is a creature of the power industry. It should be, as the U.S.-Canada panel suggests, replaced by a body that would impose mandatory federal standards on the transmission of electric power, along with penalties for utilities that violate them.

Very simply, the panel found at least seven violations of the voluntary industry standards. NERC has no enforcement authority, even among its own members, and hundreds of millions of U.S. and Canadian residents should not have to depend on the good will of the industry for reliable electricity.

In addition, the panel has reinforced its earlier conclusion that Akron-based FirstEnergy Corp., parent of Toledo Edison, was largely responsible for failing to take quick measures that would have prevented the blackout's spread to parts of eight states and the province of Ontario.

Failures in FirstEnergy lines south of Cleveland started a voltage imbalance that tilted the system out of control on Aug. 14, the report said, but earlier warnings went unheeded by the company.

Months before the blackout, "there was clear experience and evidence that the Cleveland-Akron area was highly vulnerable to voltage instability problems," the report said. Unfortunately, neither FirstEnergy nor the Midwest Independent System Operator, which was supposed to be overseeing the utility, were prepared to assess or deal such emergencies.

Cutting off the power of much of metropolitan Cleveland immediately might have limited the blackout, the task force said. We can understand FirstEnergy's reluctance to target certain customers, although failing to take action had far worse consequences. The outage ultimately affected some 50 million Americans and Canadians.

FirstEnergy and its subsidiaries are carrying out an aggressive tree-trimming program in the wake of the blackout, but it is important to remember that what happened on Aug. 14 was about more than limbs on wires.

As the panel pointed out, electric deregulation and the resulting need for greater long-distance power transmission have helped put the grid in jeopardy. In 1986, investor-owned utilities bought just 18 percent of their power from other producers. In 2002, the figure was 37 percent.

During the same period, U.S. electric demand grew by 26 percent and generating capacity rose 22 percent, but the grid's capacity remained largely static.

Those trends illustrate vividly the need to put the electric grid under stringent federal regulation. Otherwise, we'll never be sure the lights will stay on.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent the time be charged to our side until we get to the 8 minutes which was reserved for the two managers of the bill if there is nobody speaking.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senator from Massachusetts be allowed to speak until there are 4 minutes remaining prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 4 minutes on the minority side, and there are 6 minutes 50 seconds remaining on the majority side.

Mr. KENNEDY. Mr. President, I ask the Chair to let me know when 3½ minutes have been used.

Mr. President, the issue before the Senate at this time is whether we are going to treat all workers fairly and equitably in the pension system.

As we know, there are two different pension systems. The single-employer pension system has 35 million Americans, and effectively 9.7 million are in the multiemployer plans. Both of those pension systems are under pressure because of the adverse economic impact.

We have tried in conference to make sure those 9.7 million Americans in a multiemployer pension system which are at serious risk are going to get the same kind of fairness and attention as in the single-employer plans. We were unable to do that. We had that basically agreed on.

They are effectively excluded. It is like taking 100 Members of the Senate and saying we are going to take care of 80, but we are leaving 20 out. That is not right. What we ought to be doing is taking care of the whole 100.

That is why I ask people to vote in opposition and give us a chance to come back and include all of those. We shouldn't exclude all those.

Who are the 9.7 million?

First of all, if we look at what has happened in the pension systems in America, we see the rapid decline and loss of pension coverage in America. Among the groups that are losing it the fastest are those low wage workers. They are the ones in the multipension systems. They are the ones at the greatest risk. They are the ones we ought to be out there trying to protect. They are the ones involved as workers in the small business. That is what this is all about.

Why shouldn't we provide the protection for those workers in small businesses that are at the lower economic income as we are providing for the Fortune 500? This legislation provides for the workers in the Fortune 500. We are saying there are "fortune 10,000" companies as well. I have read into the Record the various companies and corporations.

We now know there is an assault on pension coverage. Without the kind of protection of including multiemployers, there are going to be hundreds of thousands of workers at risk, who play by the rules, work hard, and who have been falling further and further behind in the economic progress of this country.

Final point: The point has been made that the White House says we can't include the multiemployer programs because we do not want to put more pressure on the Pension Guaranteed Corporations.

Look at this: Last year, $2.4 billion in 2003 drawdown on the pension PPGC for single-employer plans; less than $5 million last year for multiemployer plans.

These smaller companies need protection, they need fairness, they need equity. These companies need the kind of attention and relief that we are providing for the single employer. This legislation doesn't do it.

Let us defeat this legislation and then embrace it and include all the workers.

The PRESIDING OFFICER. The Senator has used 3½ minutes.

Mr. KENNEDY. I yield the floor.

Mr. GREGG. Mr. President, what is the time remaining?

The PRESIDING OFFICER. Senator KENNEDY has 32 seconds; the Senator from New Hampshire has 6 minutes 32 seconds.

Mr. GREGG. Does the Senator wish to make any further statement?

I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is interesting. Pensions are sort of like health insurance. We all have it in the Senate. We all have good health insurance, unlike the rest of the 270 million Americans. We all have good pensions.

Can you imagine how many Members of the Senate would be over here now if we said over 20 percent of the Senators are going to see their pension effectively undermined?

That is what we are effectively saying to the workforce in this country. We are looking out after 80 percent. There is another 20 percent out there. We all have good ones in here. Why don't we at least make sure, if we are going to protect the 80 percent of American workers, that we protect the other 20 percent?

That is the issue that is before the Senate. It is an issue of fairness in how we are going to act for workers in this country. That is why I hope Senators will vote no.

I thank the Senator from New Hampshire for his courtesy, as always. I appreciate it.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the issue before the Senate is how we correct an imminent problem, an immediate problem that many pension funds are facing because the present way their payments into their pension funds are valued is based on an instrument that no longer exists, the 30-year Treasury bond; therefore, they are being asked to contribute an artificial number which has no relationship to the actual interest rate charges and revenues or interest rate return that the marketplace would naturally generate.

The practical effect is $80 billion will be misallocated within the marketplace. The practical effect is that a significant amount of investment—the purchase of machines, the purchase of things which make things more efficient, contributions to people's employment and other areas, including wages—will be impacted negatively because dollars will be artificially moved, rather than where they are most efficiently used, meaning a loss of jobs.

The companies will be less competitive, the people who work for these companies do not have the support they need in the way of capital equipment and compensation, and there will be a negative impact on employment in the marketplace. We need to correct that in the short term. This is a short-term bill, a 2-year bill.

The Senator from Massachusetts has raised some very legitimate concerns about where the multiemployer plans are going, but that is a very complicated issue. This bill is a very small attempt to address the most severely distressed elements of the multiplans. It has targeted language to address a few individual plans which are employer plans which are under clear stress—specifically, airlines and steel companies—but it does not try to solve all the problems.

The understanding behind this bill is that we are going to come back to this issue, hopefully promptly, for long-term substantive review of the question and a fix. This is a 2-year bill. The most important part is to get the 30-year bond issue straightened out so the $80 billion is not misallocated and the jobs that would be lost are not lost. That is why we need to pass this bill at this time.

I urge adoption.

The PRESIDING OFFICER. All time is expired.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask for the yeas and nays on the question.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—78

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeWine
Dole
Domenici
Dorgan
Durbin
Enzi
Feinstein
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kohl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Rockefeller
Santorum
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—19

Byrd
Chafee
Corzine
Daschle
Dodd
Ensign
Feingold
Fitzgerald
Kennedy
Kyl
Lautenberg
Leahy
McCain
Mikulski
Nickles
Reed
Reid
Sarbanes
Sessions

NOT VOTING—3

Akaka
Edwards
Kerry

The conference report was agreed to.

Mr. FRIST. Mr. President I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. Mr. President, for the information of colleagues, in terms of the schedule, we will not be in session tomorrow. There will be no further rollcall votes today. We still have some business to do, which I will comment on shortly.

On the Monday after recess, we will have no rollcall votes on that day. I will come back and announce the specifics of the schedule later today or tonight.

We are making real progress on establishing the universe of amendments for the FSC/ETI bill. We will continue to work. We have made real progress over the course of the day in the area of this important bill.

We have a number of issues to address over the course of the afternoon. Again, there will be no rollcall votes tomorrow. We will not be in session tomorrow. We will have no rollcall votes on the first day back after the recess.

The PRESIDING OFFICER. The Senator from Arizona.

ADOPTING A DRUG-TESTING POLICY BY MAJOR LEAGUE BASEBALL

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 335 submitted by this Senator earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 335) expressing the sense of the Senate that Major League Baseball clubs and their players take immediate action to adopt a drug-testing policy that effectively deters Major League Baseball players from using anabolic steroids and any other performance-enhancing substances that create a competitive advantage for, and pose a serious health risk to, such players and the children and teenagers who emulate them.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I am joined today by my colleagues Senators BIDEN, FITZGERALD, ALLEN, BREAUX, DORGAN, and many others in submitting this legislation which calls on Major League Baseball and its players to adopt a legitimate drug-testing policy.

The resolution expresses the sense of the Senate that Major League Baseball's current drug-testing policy stops short of what is necessary to protect the game, its players, and the children and teenagers who emulate them.

As Major League Baseball starts a new season—a time that ordinarily signals renewal and promise—a dark shadow of public suspicion looms over the game and its players. Sadly, the talk amongst baseball fans is less this year about which team will win the World Series and more about which at athletes have cheated by using performance-enhancing substances. Action is clearly needed by Major League Baseball to address this problem and refocus its fans' attention to what takes place on the fields of play.

The sport of baseball is America's pastime and an institution inextricably interwoven into the fabric of our culture. If Major League Baseball and its players fail to act to preserve and protect the sport by adopting a drug testing policy that effectively deters the players from using anabolic steroids or any other similar performance-enhancing substances, this important part of our culture will remain tarnished. The resolution we are introducing today would call on Major League Baseball and its players to restore legitimacy to professional baseball and make the welfare of the sport more important than the self-serving interests that have a choke hold on America's game.

As chairman of the Commerce Committee, which has oversight authority over professional sports, and, more importantly, as a parent, let me be clear. There are real consequences to demanding anything less than clean professional sports. As discussed during a recent Senate Commerce Committee hearing on steroid use in professional and amateur sports, the failure to insist on stringent drug testing policies damages the integrity of the games and calls into question records set by those suspected of using performance-enhancing drugs.

No reasonable person would disagree that using any performance-enhancing substance for the sole purpose of gaining a competitive edge over an opponent is cheating. And, simply put, any sports organization that turns a blind eye to drug use among its athletes is as guilty of cheating as the players. This cheating and the negative effect it has on the integrity of any sport is shameful, and Major League Baseball and its players must cease treating the issue of drug testing as just another bargaining chip. But more worrisome still is the poor example set by professional athletes in the eyes of the kids who idolize them and are led by their example.

Some may doubt the powerful effect that athletes have on the lives of kids. Let me remind them of the five-fold increase in the sales of the steroid-like substance androstenedione—better known as "andro"—that occurred after Mark McGwire admitted to using the substance in 1998 while chasing Roger Maris's home run record. Since then, the problem of harmful supplement use among children and teenagers has reached epidemic proportions. According to the Department of Health and Human Services, nearly 12 percent of high school boys and 3 percent of high school girls use steroids. This is unacceptable.

The adverse health consequences associated with such use are indisputable. Medical experts warn that the effects on children and teenagers include stunted growth, scarring acne, hormonal imbalances, liver and kidney damage, as well as an increased risk of heart disease and stroke later in life. Psychologically, steroids have been associated with increased aggression, suicide, and a higher propensity to commit serious crimes.

Today we call on Major League Baseball and its players to step up to the proverbial plate and implement a drug testing policy that will effectively deter players from using anabolic steroids and other similar performance-enhancing substances. We cannot, and will not, allow professional baseball to collectively bargain away the legitimacy and history of the sport. The current drug-testing regime is simply unacceptable, and without quick and significant change to the way the league tests for drugs among its athletes, the owners and players will continue to be viewed by the public as the knowing perpetrators of a shameful fraud.

I urge my colleagues to support this resolution and to not allow the integrity of professional baseball to be choked by the foul ambition of those who cheat.

In today's East Valley Tribune in Arizona is a letter to the editor. It reads as follows:

> I am a 12-year-old Boy Scout working on my communications merit badge. One of its requirements is to write a letter to the editor of a local newspaper on a topic I believe in.
>
> I think baseball players should not take steroids.

The letter goes on—this is from Hunter Amos of Chandler, AZ—to talk about the need for baseball to bring about a meaningful drug-testing program. This from a 12-year-old Boy Scout.

It certainly proves the American people are involved and concerned about this issue.

I would like to state the following very briefly. One, organized baseball, Major League Baseball, and its players union have to come together and resolve this issue with a meaningful drug-testing program. A good model would be that which the minor leagues of baseball employ. It seems to me, since it is already in being, that the major leagues could just adopt the same procedures as the minor leagues.

Second, the blame is not entirely on the players. Part of the blame is on the owners. Commissioner Selig stated before our committee: It was the last issue and they refused to budge, and we gave in because we didn't want a work stoppage.

I understand that, but it is an indicator the owners were not that concerned about it; otherwise, they would have held fast.

More importantly, this is for the good of two groups of Americans: One, Major League Baseball players. But, two, young Americans, high school athletes all over America who today believe the way to athletic excellence is to take performance-enhancing drugs. That is wrong. Statistics, as well as anecdotal evidence, from high school coaches all over America are telling us young Americans, young athletes are using performance-enhancing drugs in greater and greater numbers. Who are their role models? The major league athletes themselves.

We are not picking on baseball. The NFL has an excellent program. The other professional leagues do as well, and Major League Baseball obviously has one that is termed by many as a joke.

I could spend a lot of time mentioning Curt Schilling—who is one of my personal heroes; unfortunately he has left the Diamondbacks and is now with the Red Sox—was quoted in Sports Illustrated as saying:

> Some of these guys look like Mr. Potato Head.

Some of these guys look like Mr. Potato Head? The damage some of these individuals are doing to themselves is really terrible, but far more terrible is the damage young high school athletes and college athletes are inflicting on themselves because of the precedent and example of Major League Baseball players. My greatest hero was Ted Williams. When I was a young, mediocre high school athlete, I probably would have been tempted to emulate him.

All of us are aware a sense-of-the-Senate resolution has no force of law. I also recognize a sense-of-the-Senate resolution is a far cry from actual legislation. But I want to say now I believe I speak for all of my colleagues in the Senate, particularly those of us who have been involved in this issue, that we expect Major League Baseball owners and players to act. We expect them to act quickly. If they do not, obviously we have to explore other options. I do not want the Congress of the United States to be involved in a management-labor dispute. None of us want that, and I think there will be difficulty because an action of that type is almost unprecedented. But I point out Major League Baseball does have an involvement with the Congress of the United States. They were not ashamed to come to the Congress of the United States to get an antitrust exemption, probably the most generous of any professional sport. Of course, they are engaged in interstate commerce.

I hope Major League Baseball understands we are serious, and the purpose of this sense-of-the-Senate resolution today is taking one step forward. I pray for the good of these young high school and college athletes and even junior high school athletes that Major League Baseball will realize we are serious and take it upon themselves to reopen negotiations and resolve this issue.

I thank my colleague, the Senator from North Dakota, who has been a stalwart on this issue and, in his usual eloquent and persuasive style, has contributed enormously to this debate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I follow my colleague from Arizona, Senator McCain, and thank him for his work. He, obviously, once again on this issue, will not let go. He insists we address this issue. I deeply appreciate it. I, like Senator McCain, am a great baseball fan. I grew up in a small town 60 miles from the nearest daily newspaper. When I was a kid, I used to get that newspaper and I would look at this tiny little section, "Major League Leaders." I wanted to see if Willie Mays hit another home run. I loved baseball.

Later, I followed the saga of someone from my own State, Roger Maris, who in 1961 was engaged in this home-run derby with Mickey Mantle. We were so proud in North Dakota of having this home State slugger, Roger Maris, setting a new record for Major League Baseball in 1961.

Baseball was called our national pastime. In fact, last week the President of the United States traveled halfway across the country to throw out the opening pitch. Why? It is a national pastime. People care about baseball in this country. It is a great sport. But something is happening in this sport that ought to give all of us great concern.

Sports Illustrated has a cover story. In the old days when Sports Illustrated had a cover story about baseball, it was about a pitcher, a catcher, a player, or a baseball exploit. Now it is about drugs—Ken Caminiti, Jose Canseco, and others talking about drug use in baseball.

Two years ago, I chaired a subcommittee hearing of the Commerce Committee on this subject. We had representatives from Major League baseball, owners and others. We had representatives of the baseball players, and we addressed this issue. Then a month ago, Senator McCain chaired the full committee of the Commerce Committee hearing on the same issue. We had the same people involved in testimony.

Do my colleagues want to know something. In 2 years, nothing had changed. There was not even a baby step forward.

They say they initiated a testing program, one test a year, and there is prior notice of the test. That is not a testing program.

Senator McCain offers a sense-of-the-Senate resolution. I know this by itself will not fix the problem, but it will send a message, it seems to me, to all involved that they ought to make progress; they ought to do what is right and do what is necessary.

Two years ago when I held these hearings, we also asked a pediatrician to testify, a pediatrician who is involved in sports. Do my colleagues know what he said? He said we have kids in the sixth, seventh, and eighth grades who are wanting to take performance-enhancing drugs in order to play better football, basketball, perform better on track. Why do they do that? Because they see their idols do it. They see the professional baseball players on the front cover of Sports Illustrated who are taking performance-enhancing drugs. Ken Caminiti said he thought half the players in the big leagues were using steroids, and that he had used them in 1996 during his Most Valuable Player season.

He is out of baseball, says he feels ashamed and embarrassed about his own problems, including a guilty plea for crack cocaine possession in 2002. A Most Valuable Player in baseball says half the players in the big leagues were using steroids.

Does this have an impact? You bet your life it does. It has an impact on American kids, kids who aspire to be involved in sports. It sends a message that the way to improve in sports is to take some performance-enhancing drug. That is a dangerous message. It is the wrong message. People will die as a result. That is why Senator McCain says let's stop this.

Mr. McCAIN. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. McCAIN. As the Senator is well aware, and I want to thank him for his continued involvement in this issue, this will be reported as a sense-of-the Senate resolution, which we all know is nonbinding. Could the Senator predict what he thinks might happen if we go for another month or two and no action of any kind is taken by Major League baseball? What does the Senator think might happen or could happen?

Mr. DORGAN. Mr. President, I think what certainly could happen and might happen is the Congress might intervene with legislation that is real legislation, not just a sense of the Senate, because this is a significant public issue.

The National Football League has solved this issue. They have rigorous testing for those who play professional football in this country. They testified at the hearing Senator McCain held. Minor League baseball has solved this issue. The commissioner of baseball ordered rigorous, wide testing for drugs in the minor leagues. So it is not as if no one knows how to do this.

Mr. Fehr said in his testimony 2 years ago, and now 2 weeks ago, that this is a matter of privacy for baseball players. It seems to me it is not a matter of privacy. If in private people are taking banned drugs in order to enhance their performance in public, which is exactly what happens in professional sports, the taking of drugs in private in order to enhance their public performance, does the public have a right to understand that and know about that? Darn right, the public has a right to know.

My point is this: When the Sports Illustrated magazine—a wonderful magazine, one I love to read, that chronicles the great sports achievements in this wonderful country of ours—has a cover story of a magnificent baseball player who says nearly half the players in the major leagues are taking some sort of banned substance, I do not know whether he is right or wrong, but I do know this: it ought to be a wake-up call for baseball. It is in their interest, it is in the players' interest, to solve this issue.

There is a great baseball pitcher who used to pitch in the home State of my colleague from Arizona, Curt Schilling. He is now in Boston. I know 2 years ago, when all of this broke, this wonderful pitcher, perhaps one of the best of all times, what did he say? He thought there ought to be testing. Why? I think the great baseball players understand that this cloud over baseball, as a result of these drug allegations, ought to be removed. It taints the sport. The good players, those who are not on performance-enhancing drugs, understand. They believe there ought to be rigorous testing.

Mr. McCAIN. Will the Senator yield for another question?

Mr. DORGAN. I would be happy to yield for another question.

Mr. McCAIN. As the Senator well knows, there are some superb athletes in Major League baseball today, and they are performing magnificent feats. Yet a cloud hangs over their performances both in the minds of the fans as well as many of their fellow players. Why is it, does the Senator think, that these players and owners would not recognize it is in the best interest of baseball itself? If they do not care about the high school athletes, if they do not care about the detriment to their health after they retire, as we see is happening with steroid users in other sports as well as this one, does not the Senator from North Dakota think they would care about the reputable aspects, or being held in disrepute the records they are making as they are spending the best years of their lives in Major League baseball?

Mr. DORGAN. I fully agree. In rodeo sports, something I care a lot about because I grew up with horses and my father was an excellent horseman, they say somebody has a lot of try. It is an interesting way of describing it, saying he had a lot of try.

Well, I hope when we look back in the rearview mirror and get the testing that is necessary in baseball, the achievements of a baseball player in this country will be the result of both skill and try—I mean somebody who had the determination to do well, had the skill, who put in the time, and did well. But when we read the front cover of Sports Illustrated, and they have some magnificent baseball player saying, I had an MVP season, but I was on drugs, in my judgment it colors and taints the exploits and achievements of others.

I hope Mr. Fehr and all of those involved will have a vote of the baseball players or do what is necessary to get a consensus. I am certain a consensus of professional baseball players must surely want to remove this cloud. Again, this is not some mysterious issue for which we do not have a solution. The National Football League has solved it. The minor leagues have solved it. So, too, should Major League baseball.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank my friend from North Dakota, Senator DORGAN. He has been involved in this issue longer than I have. I appreciate the opportunity of working with him on a variety of issues in the Senate.

I would like to make one additional point. I have seen some comments by some observers of Major League baseball, and they are saying: Look, it cannot be too big a problem because Major League baseball is breaking all records and it is more popular than it was before and ratings are higher, so it probably then should not be such a big deal.

I will make two points. There was a recent Pew Research poll that showed 90 percent of people who identify themselves as baseball fans say something needs to be done about steroids. But maybe more importantly, there was a time when baseball was very popular and had great attendance and was the national pastime and everybody was happy, but baseball was segregated. Baseball was a segregated sport. I would argue today, baseball in America is a lot better off now that it is an integrated sport, and I would argue that baseball will be a lot better off once we have a reasonable, workable testing program as far as performance-enhancing drugs are concerned.

For the good of our national pastime, I urge that Major League baseball owners and players sit down together and resolve this issue and then, as they have asked, we can move on to other issues of the day.

Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table en bloc, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 335) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 335

Whereas, the sport of baseball is widely considered America's pastime and an institution inextricably interwoven into the fabric of our culture;

Whereas, anabolic steroids are substances that are chemically and pharmacologically related to testosterone and promote muscle growth;

Whereas, anabolic steroids are Schedule III controlled substances under the Controlled Substances Act (21 U.S.C. 801 et seq.);

Whereas, certain products are sold legally in the United States that promote muscle growth in a manner similar to anabolic steroids;

Whereas, medical experts warn that the health consequences associated with the human use of anabolic steroids or other similar performance-enhancing substances can be dire;

Whereas, medical experts warn that anabolic steroids and other similar performance-enhancing substances can have particularly serious adverse health effects on children and teenagers;

Whereas, these adverse health effects include stunted growth, scarring acne, hair loss, dramatic mood swings, hormonal imbalances, liver and kidney damage, a higher risk of heart disease and stroke later in life, as well as an increased propensity to demonstrate aggressive behavior, commit suicide, and commit crimes;

Whereas, the dangerous and anti-competitive effects of anabolic steroids when used by Major League Baseball players were acknowledged but not adequately addressed by the 30 Major League Baseball clubs and the Major League Baseball Players Association in their September 30, 2002, Collective Bargaining Agreement;

Whereas, the September 2002 Collective Bargaining Agreement does not allow for the imposition of a suspension or fine for a first-time violation of the League steroids policy;

Whereas, the September 2002 Collective Bargaining Agreement does not allow Major League Baseball players to be subjected to more than one unannounced drug test per season;

Whereas, the September 2002 Collective Bargaining Agreement does not prohibit the use of certain performance-enhancing substances that, although legal, promote muscle growth and pose a serious health risk to users;

Whereas, notwithstanding the 2002 Collective Bargaining Agreement, the prevalence of the use by Major League Baseball players of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk, at the very least, appears to be significant; and

Whereas, the use of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk to children and teenagers continues to rise: Now, therefore, be it

Resolved, That—

(1) the use of performance-enhancing substances such as anabolic steroids poses a health risk, especially to children and teenagers;

(2) the use of athletic performance-enhancing substances such as anabolic steroids to gain a competitive advantage is tantamount to cheating;

(3) there is sufficient evidence that children and teenagers tend to emulate professional athletes;

(4) the effectiveness of the 2002 Collective Bargaining Agreement to deter Major League Baseball players from using performance-enhancing substances such as anabolic steroids has been called into question;

(5) Major League Baseball and its players should exercise their collective bargaining authority to negotiate and adopt a more stringent drug-testing policy that is sufficient to effectively deter Major League Baseball players from using anabolic steroids or other similar performance-enhancing substances to gain a competitive advantage; and

(6) taking such a step would help—

(A) to preserve the integrity of the game of professional baseball;

(B) to protect the health of Major League Baseball players; and

(C) to discourage the use of performance-enhancing substances such as anabolic steroids by children and teenagers who seek to emulate professional athletes.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1-YEAR ANNIVERSARY OF THE LIBERATION OF IRAQ

Mr. KYL. Mr. President, I would like to speak for a moment about the historic day tomorrow, which is the 1-year anniversary of the liberation of Iraq, and the experience which Senator McCain and Senator Chambliss and Senator Cochran and I just had with a few others in meeting the Ambassador-designate from Iraq, Ambassador-designate Rend Al-Rahim.

She has been a leader in the movement for women's rights in Iraq, and has been designated by the Iraqi Governing Council to represent her country here in the United States at this historic time. In listening to her message, it simply should remind all of us of the importance of what we, as Americans, have been doing in support of freedom for the Iraqi people.

I wish to share a few of the comments which she made to us, and a bit of the response to that. First, she is a remarkable woman in her own right; she, as I said, has been fighting for Iraqi rights for a long time. It is no surprise that someone with her background and qualifications has been selected to represent her country in the United States.

Her first remarks were to thank the United States for helping to free the Iraqi people and making an opportunity available to them to govern themselves. She said that the main word in Iraq today is the word "democracy," that is what the Iraqi people are talking about, and they are going to be ready and, indeed, demand that when June 30 comes, they will be able to take control of the political affairs of their country.

This is something they have been waiting for a long time to accomplish, and they are very grateful to the United States for making this opportunity available to them. She made the point that democracy died in Iraq 35 years ago; that under the repressive regime of Saddam Hussein there was no freedom of expression, no ability to debate, political parties ceased to exist; he would not permit anyone to question him. But today she talked about the 150 new newspapers that have cropped up, debating all sorts of issues in the country, and the opportunity for people to present their views on free television.

She said throughout the country of Iraq today there is free and robust debate about the political future of their country; that political parties have grown, and the ability of Iraqis to govern themselves, in her view, is not in doubt.

She made the point the security problems the United States and coalition and Iraqi forces are facing today, while grave and serious, are not representative of any kind of popular uprising in the country as a whole; that in her view they represent a very thin slice of the Iraqi population, and Americans should not view this as the view of the Iraqi people in general. Indeed, the opposite would be the case; that most Iraqis support the presence of the United States, appreciate what we are trying to accomplish with the help of the Iraqi people there, and that this relatively small group of disaffected people does not represent the view of the Iraqi people as a whole.

In fact, her quotation, almost exactly—and she repeated it three times—was that the vast, vast, vast majority of the Iraqi people reject this point of view and support the presence of the United States and assistance to the people.

It was a remarkable performance by the Ambassador-designate who told us about the condition in which they found the Embassy when they came in and simply reminded us that we have a lot to do in supporting this new government and helping it to be a viable force, not just in the country of Iraq itself but in representing itself to the rest of the world, and most especially in the United States.

I was also moved by the strong statement made by my colleague from Arizona, Senator McCain, who had talked about his experience in Iraq and his experiences elsewhere in admonishing all of us to remember that there is no alternative to victory in this war on terror, and especially in the front we are conducting in Iraq today. Defeat is not an option. The consequences of defeat for the United States and the West and our position in the war on terror would be catastrophic. Our credibility would be lost, and that credibility is our primary asset in dealing with terrorism around the world.

Our ability to affect the future with respect to the terrorist threat would be diminished significantly if we were not to persevere and complete our job in Iraq. This means, as Senator McCain pointed out, we will have to acknowledge the hard reality that it will not be easy, and it will not be cheap. There will be casualties, and it is going to take a long time.

Remember President Bush first told us that when this war commenced, and in his State of the Union speech, pointing out that it would be a long, difficult struggle and that the American people would have to be prepared to persevere. The American people have persevered.

We are at a crossroads now. There are some among us who are raising questions. That, in and of itself, in a democracy is not only fine but critically important. The question is the tone of the criticism and the effect that it can have both on the morale of the Iraqi people and our own troops fighting there, as well as the message it conveys to the enemy terrorists. If the criticism is constructive and goes to questions of how we should be doing what we are doing, it could be very beneficial.

If, on the other hand, it suggests political motives for the President and the administration, suggests there is no support for the position we are taking, and suggests what little support there might be will erode to the point that we will not be able to sustain our position, then people begin to wonder. The people of Iraq who are still not secure, who are still fearful there are those among them who would cause them harm if they only had a chance, including the old Baathists, are going to be less secure and bold going forth with their new government and less willing to continue to support the United States.

Our allies, the same message. Our troops would wonder, Is this a fight worth fighting; their families wondering, Is it worth my son or daughter dying? Of course, the message to the terrorists, If we wait these people out, these Americans have shown that they are willing to only fight for so long, and then they will cut and run if we make life difficult enough for them.

This is a message we cannot afford to send. It is important the tone of the debate, the content of debate, the motives ascribed to leaders in this country all take into account the way the message is portrayed elsewhere, the way it will be played on Arab television, for example. These are not small matters. These are matters of fine-tuning a debate in the United States so that it will not adversely affect the way we can conduct the war on terror generally, and on operations in Iraq specifically.

I think sometimes we fail to take into account how our words are listened to all over the world. I know as a Senator, it is still hard for me to appreciate, knowing who I am and where I came from, that when I speak, my words may have pretty significant consequences to an awful lot of people. It is hard for me to remember that. I don't look at myself any differently than I did when I was a lawyer 20 years ago. But we in the United States tend to forget that others view us very closely, and everything we do they pay a lot of attention. So the words we speak in this Chamber and in other forums are going to be parsed very carefully by others around the world for meaning.

When those words suggest either there is a lack of support in this country for the policies being pursued, that were overwhelmingly supported by the Members of this body, the House of Representatives and, of course, the administration, when there is a suggestion that there is a lack of support for that policy or that support is eroding, and if terrorists continue to ply their trade they can undercut us to the point we will cut and run, when the words are interpreted in that way, then they undercut not just our policy but the people who are fighting for us in that region, and the people on whose behalf we are trying to help secure freedom.

That is why it is so important for us to conduct this debate in a civil and measured and responsible way. I urge all of my colleagues to try to approach the subject in that fashion. I criticize no one for raising questions or even for criticizing the President or the administration. It is perfectly appropriate in our country to do that. There is certainly no right or wrong in exactly how we are approaching each of these issues. The decisions are made in the fog of war. Many of them are somewhat gray.

I would only ask my colleagues, as we conduct this debate, that we consider the tone so it doesn't have an adverse effect on the actual war on terrorism itself.

As my colleague, Senator MCCAIN, said, defeat is not an option. It is impossible, given our military power, for us to lose the war in Iraq, but it would be possible to lose that war at home if we don't conduct ourselves in the same fashion and same spirit we ask our troops to conduct themselves when they are fighting for us abroad. That is an important responsibility we take on.

When I listened to the words of the Ambassador-designate today about looking at the future of her country with such optimism and such courage and such hope, it rekindled in me the desire to come and talk about the fact that we have to do our part. Our troops are doing their part. We have to do our part as well. We need to make wise decisions. We need to support the troops. We need to support the administration to the absolute extent we can. Our partisanship should stop at the shores, as it historically has.

I know in an election year it is going to be difficult for us to discipline ourselves in that way, but we have to do so because of the stakes involved.

I find after 1 year of the liberation of the Iraqi people, great cause for hope.

We should not minimize the difficulties that lie ahead. I think we need to be extraordinarily candid about the problems we will continue to confront. But at the end of the day, if we persevere as we know we can, if we have the same resolve and strength of character our young men and women do who are there fighting right now—and you only have to talk to a few to be imbued with their spirit—then I have no doubt the United States will stay strong, our great ally Great Britain will do the same, as well as other members of the coalition that have assisted us so strongly; and in persevering and staying the course, we will be able, No. 1, to turn over political control of Iraq on June 30 to the Iraqi Governing Council and, No. 2, we will be able to stay for as long as it takes to help secure that country.

Just as we have had the opportunity to govern ourselves, the Iraqi people will have the same opportunity. That will, in turn, show others in the region how they too can govern themselves democratically, they can live in an environment of freedom, and that is infectious and probably would do more than any other single thing to ensure that region of the world can enjoy peace, and that peace can even come to the troubled relationship between the Palestinians and Israelis. It is something to be hoped for. It all depends on our ability right now to persevere, stay the course, and to maintain the hope and optimism we had when we began this operation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the order before the Senate?

The PRESIDING OFFICER. The Senate is on the motion to recommit S. 1637.

Mr. BYRD. I ask unanimous consent that I may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EASTER PROMISE

Mr. BYRD. Mr. President, the Senate will soon enter a period of recess prior to the Easter holidays. I am a bit like Samuel Adams, I believe it was, who said that he could listen to anyone speak of his religion. I am that way. I can listen to a Methodist, to a Baptist, a Presbyterian, Seventh-Day Adventist, a Jewish rabbi, a Catholic priest. I have no problem in listening and paying rapt attention to anyone speak of his or her religion.

My own religion is the Christian religion. I grew up in a Christian home. I was raised by an aunt and uncle who took me after my mother died during the influenza epidemic in 1918. I was a bit less than 1 year old at that time, my mother having died on Armistice Day 1918. I was brought to West Virginia and grew up in the coal camps of southern West Virginia.

At this point I should say that the woman who raised me was a very religious woman. She did not go around wearing religion on her sleeve or claiming to be better than anybody else; she simply was a kindly lady who believed in religion, the old-time religion. She practiced it and many times I used to hear her pray after the old kerosene lamp was out and the rooms were dark. I heard her praying on her knees. I could say that my uncle, Titus Dalton Byrd, was also a God-fearing man who died when he was 82 years of age, a coal miner. He never owed any man a penny when he passed away from this Earthly life. I never heard him utter the Lord's name in vain in all the years that I lived with him. So that is the way it was. They were poor folks.

I recently heard someone say—I believe one of the Democratic Presidential candidates—that he was the first in his family to attend college, or some such thing. Well, I am the first in my family to have gone to second grade in school. About the only books that were in my home when I grew up as a child were a Montgomery Ward catalog, perhaps a Sears Roebuck catalog, and the Holy Bible, King James Version. The man who raised me could read the Bible. I do not know how he learned to read, but nevertheless there was a Bible in that home, and here is the Bible on my desk at this moment.

Now, why do I have this Bible here? Well, Easter is coming on and I am going to read from chapter 20 of the book of Saint John. I will not make any comment on the Scriptures, except to read very briefly from them. I do not claim to be a minister. I am not a minister, but I am fortunate enough to have the gift of being able to read, and as we approach Easter, I think it appropriate to read into the RECORD the following excerpts from the book of Saint John, chapter 20:

> The first day of the week cometh Mary Magdalene early, when it was yet dark, unto the sepulchre, and seeth the stone taken away from the sepulchre.
>
> Then she runneth, and cometh to Simon Peter, and to the other disciple, whom Jesus loved, and saith unto them, They have taken away the Lord out of the sepulchre, and we know not where they have laid him.
>
> Peter therefore went forth, and that other disciple, and came to the sepulchre.
>
> So they ran both together: and the other disciple did outrun Peter, and came first to the sepulchre.
>
> And he stooping down, and looking in, saw the linen clothes lying; yet went he not in.
>
> Then cometh Simon Peter following him, and went into the sepulchre, and seeth the linen clothes lie,
>
> And the napkin, that was about his head, not lying with the linen clothes, but wrapped together in a place by itself.

> Then went in also that other disciple, which came first to the sepulchre, and he saw, and believed.
>
> For as yet they knew not the scripture, that he must rise again from the dead.
>
> Then the disciples went away again unto their own home.
>
> But Mary stood without at the sepulchre weeping: and as she wept, she stooped down, and looked into the sepulchre,
>
> And seeth two angels in white sitting, the one at the head, and the other at the feet, where the body of Jesus had lain.
>
> And they say unto her, Woman, why weepest thou? She saith unto them, Because they have taken away my Lord, and I know not where they have laid him.
>
> And when she had thus said, she turned herself back, and saw Jesus standing, and knew not that it was Jesus.
>
> Jesus saith unto her, Woman, why weepest thou? whom seekest thou? She, supposing him to be the gardener, saith unto him, Sir, if thou have borne him hence, tell me where thou hast laid him, and I will take him away.
>
> Jesus saith unto her, Mary. She turned herself, and saith unto him, Rabboni; which is to say, Master.
>
> Jesus saith unto her, Touch me not; for I am not yet ascended to my Father: but go to my brethren, and say unto them, I ascend unto my Father, and your Father; and to my God, and your God.

Easter Sunday, Mr. President, is the holiest day on the Christian calendar. On that first Easter Sunday, so long ago, a momentous gift was given to the world. It was a promise of life everlasting, of immortality.

> For God so loved the world that he gave his only begotten Son,
>
> That whosoever believeth in him should not perish, but have everlasting life.

It is easy to overlook the magnitude of this great but invisible gift amid all the brightly colored cellophane and foil-covered chocolates, amid the soft nests of translucent plastic grass nestled around sugary jelly beans and luminous dyed eggs. The talents of advertising agencies and merchandisers effect a powerful sleight of hand, drawing our focus away from the moving story of Easter with the dazzle of sugary commercial products that have been divorced from their historical and religious meaning.

It is difficult to ponder the end of life and death while surrounded by a quickening Earth under a warm Sun. These lovely spring days are each a small gift, too. In West Virginia, the trees are just in bud, allowing the warmth of the Sun to reach all the way into the shadiest hollows. In Washington, the 92nd annual Cherry Blossom Festival is underway, as the cherry trees along the tidal basin and the Jefferson Memorial create a lovely vista of blossoms.

Loveliest of trees, the cherry now
Is hung with bloom along the bough,
And stands about the woodland ride
Wearing white for Easter.

So said Alfred Edward Housman, who was a Shropshire lad.

But the promise of rebirth and gift of new life everlasting are the great prize, hard won from the tragedy of betrayal and a torturous, protracted death.

Over the span of a week, from His entry into Jerusalem on Palm Sunday, and the final miracle of the resurrection and ascension on Easter Sunday, an epic unfolds. Christ's pain and suffering, so nobly borne, gave no hint of the miracle to come.

On this Easter Sunday, I offer my hopes to our men and women serving in Iraq and Afghanistan and all the dangerous places in the world. Our hearts, our hopes, and our thoughts are with you, and may the Lord protect you and give you the strength to see you through these difficult times.

As William Cowper wrote:

> It is the Lord who rises with feeling in his wings. When comforts are declining, he grants the soul again a season of clear shining to cheer it after rain.

I would like to think as we used to back in my younger days of the words spoken by William Jennings Bryan. The words that come from his proof of immortality:

> If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn and to make it burst forth from its prison walls, will He leave neglected in the earth the soul of man, made in the image of his Creator?
>
> If he stoops to give to the rosebush, whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the words of hope of the sons of men when the frosts of winter come?
>
> If matter, mute and inanimate, tho' changed by the forces of nature into a multitude of forms, can never die, will the imperial spirit of man suffer annihilation when it has paid a brief visit like a royal guest to this tenement of clay?
>
> No. I am sure that He who, notwithstanding His apparent prodigality, created nothing without a purpose, and wasted not a single atom in all His creation, has made provision for a future life in which man's universal longing for immortality will find his realization.
>
> I am as sure that we live again as I am sure that we live today.

I also enjoy reading from William Jennings Bryan's "The Prince of Peace," reading what he said about the grain of wheat.

He said:

> In Cairo I secured a few grains of wheat that had slumbered for more than thirty centuries in an Egyptian tomb. As I looked at them, this thought came into my mind: If one of those grains had been planted on the banks of the Nile the year after it grew, and all of its lineal descendents had been planted and replanted from that time until now, its progeny would today be sufficiently numerous to feed the teeming millions of the world. An unbroken chain of life connects the earliest grains of wheat with the grains that we sew and reap. There is in the grain of wheat an invisible something which has the power to discard the body that we see, and from earth and air fashion a new body so much like the old one that we can not tell the one from the other. If this invisible germ of life in the grain of wheat can thus pass unimpaired through three thousand resurrections, I shall not doubt that my soul has power to clothe itself with a body suited to its new existence when this earthly frame has crumbled into dust.

I thought a couple of these reminiscences from William Jennings Bryan and a few passages of the Scriptures might be appropriate on this April afternoon as we close.

I finally end with the words of Julian S. Cutler, whose poem, "Through the Year," reminds us the Lord is with us in all the seasons of the year and in all the seasons of our lives. And at Easter, we celebrate God's promise that we may be with Him in life everlasting:

God be with you in the Springtime
When the violets unfold,
And the buttercups and cowslips
Fill the fields with yellow gold;
In the time of apple blossoms,
When the happy bluebirds sing,
Filling all the world with gladness—
God be with you in the Spring!

God be with you in the Summer,
When the sweet June roses blow,
When the bobolinks are laughing
And the brooks with music flow;
When the fields are white with daisies
And the days are glad and long—
God be with you in the Summer,
Filling all your world with song.

God be with you in the Autumn,
When the birds and flowers have fled,
And along the woodland pathways
Leaves are falling, gold and red;
When the Summer lies behind you,
In the evening of the year—
God be with you in the Autumn,
Then to fill your heart with cheer.

God be with you in the Winter,
When the snow lied deep and white,
When the sleeping fields are silent
And the stars gleam cold and bright.
When the hand and heart are tired
With life's long and weary quest—
God be with you Erma, in the Winter,
Just to guide you into rest.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

ASBESTOS LITIGATION

Mr. CARPER. Mr. President, before Senator BYRD leaves the floor, I wish him a joyous Easter and thank him for reminding us of what Easter is all about.

When Members reflect on the diversity of the religious views of our constituents—some are Protestant, some are Catholic; some folks in West Virginia or Delaware are Jewish, as some here are. We have folks in our States who are Hindu, Muslim, Buddhist. There is a wide diversity of religions in this country. It is a sign of our strength, not a sign of weakness.

We are reminded that one of the reasons we are strong is because we respect the right of everyone to worship God as he or she sees fit, or to not worship at all.

Ironically, whether we happen to be Jewish, Catholic, Protestant, or some other faith, it is interesting how often we agree on a premise, a principle laid out in the New Testament.

I don't think Senator BYRD read it today, but we call it the Golden Rule. The idea there is to treat other people the way we want to be treated. I am not enough of a religious scholar to know where that scripture appears in the New Testament. It may also appear in the Koran or the Torah or any other religious text of other religions around the world. But my guess is it does say, in so many words, we should treat other people the way we want to be treated.

I want to talk about that principle and how it might apply to what we do in the Senate. I apply it to an issue we may address as soon as we return April 19.

Majority Leader FRIST has said, when we return immediately following the Easter holiday, the first issue of any consequence he would like for us to address deals with asbestos litigation. This is something I have worked on, along with many of my colleagues, for most of the 3 years I have been in the Senate.

My first year in the Senate, about a year or two before the Presiding Officer arrived, I remember visiting Senator BYRD. I asked how this place works and he gave me some pointers. He was a great mentor then and he continues to be a great mentor today.

Among the pieces of advice he gave me: When people want to talk to you, talk to them.

It turns out one of the calls my first year was from a fellow named Frank Macher. He is somebody my wife introduced me to. She worked at DuPont at the time and had dealings with Ford Motor Company. Frank Macher was a fairly senior official at Ford Motor Company. He retired from Ford Motor Company.

I lost track of him for a few years and he called to say he had assumed a new position with a new company. I asked, "Who is that," and he told me he had just become the CEO of a company called Federal-Mogul. I was not familiar with the company. He said I was probably familiar with some of their products. They manufacture or sell and distribute, among other things, Champion spark plugs and a variety of other products used in the automotive industry.

He said: Sometime when I come to Washington in my new role I want to be able to come and see you; it is good to renew a friendship. I said: Come on over.

Lo and behold, a month or so later he came. We had a great meeting. It was a good moment. He headed for home. I said: If you are back this way, let us know.

After 6 months or so, he called me again. I said: How are you doing?

He said: We have a problem.

I asked: What is that?

He said that somewhere along the line, before he became CEO of this company, Federal-Mogul had acquired a subsidiary, I think it was a British subsidiary, for a period of time, not a long period of time but maybe a couple of years.

He said because of that relationship—they acquired it and sold it within a couple of years—his company, Federal-Mogul, had been exposed to all kinds of litigation with respect to asbestos because this subsidiary that they owned years ago for a short period of time had a position or presence in the asbestos business.

We met and talked. I said: Since you live in Michigan, maybe you ought to spend some time with your Senators. I think he visited his two Senators. I suggested he visit with the chairman of the Senate Judiciary Committee at the time, Senator LEAHY. He was good enough to meet with Frank Macher.

What proceeded from there, about a year or so later, is Federal-Mogul ended up going into bankruptcy. Ultimately, it was reorganized and emerged from bankruptcy.

I don't know the effect on the employees within that company. I do know this: The shareholders in the company lost, as far as I understand, the entire value of their shares. The employees of the company who had money in a 401(k) plan that included company stock lost the value of that company stock. The pensioners from Federal-Mogul who were retired, or trying to retire, probably lost some of their pensions as the company went in and out of bankruptcy.

We know what happens all too clearly—in fact, I am reminded of legislation we worked on today—to employees or retirees of companies that go into bankruptcy and how that can adversely affect the size and amount of their pensions.

In any event, that experience with Frank Macher and with Federal-Mogul acquainted me with an issue that, frankly, I had not thought about for one minute before I came to the Senate.

Fast forward for several months, subsequent to that initial meeting with Frank Macher, a second meeting with Frank Macher from Federal-Mogul, to a conversation, a visit I had from an attorney from the west coast. I can't recall his name off the top of my head, but he was a good person, a trial lawyer. His particular specialty was representing people who were afflicted with mesothelioma. Apparently, mesothelioma is something folks contract from exposure to asbestos. There is no known cure. There are several thousand people who will die each year from that disease.

The attorney who came to meet with me talked about his clients. Those who were fatally stricken and soon to die, and how in many instances they or their families were not receiving the compensation for what they were going through and for the loss of life.

He said the current system we have is broken. It ought to be fixed. In too many cases, the way the current system works is that the people who may have mesothelioma or a serious asbestos-related disease, lung cancer that has grown from exposure to asbestos, these individuals or their families are receiving pennies on the dollar for what they should be getting for pain and suffering and loss of life.

Meanwhile, in too many instances people who may have had exposure to asbestos but are not impaired, are not sick, are taking away, siphoning off, some of the money that ought to be going to people who are impaired or seriously ill and may ultimately die. Instead of the money actually getting to the victims, I am told maybe half goes to other parties in transaction costs.

That is not a good situation. It is not a healthy situation. Almost everybody here familiar with this situation would say if there is anything we ought to fix this year, this is near the top of the list. We should fix it. We can fix it.

I have been here about 3 years and for most of those 3 years people on both sides of the aisle have been trying to do that. Progress has been made. The Judiciary Committee marked up and reported out a bill last year, a bill that has been criticized by a number of people, a number of parties that are involved in this issue. Nonetheless, it represents an effort to try to address a situation we all know needs to be addressed.

The bill was reported out of committee last year. Since November of last year, there have been a series of negotiations that have taken place involving, among others, organized labor, as a proxy for the victims and the workers, insurers, manufacturers; and, from time to time, the trial lawyers have been involved in those discussions. Those discussions were intended to try to bridge the differences that separated them and us from legislating successfully on this issue and establishing a procedure and funding to make sure people who are sick and dying get the help they need, and folks who are not sick but may have had an exposure have their health monitored, and if they do become sick, they get the financial help they and their families need, to try to reduce the transaction costs so it becomes pretty much a no-fault system.

While some progress has been made, there is more work to be done. I spoke yesterday with Majority Leader FRIST, whom I respect very much. In fact, the conversation I had with him yesterday is similar to one I had with him the week before, and I think probably the week before and the month before that. I have suggested to him, in strong terms, that as we return from the recess that begins tomorrow—and we return in about 10 days—that the first bill we take up be legislation about which there has emerged a bipartisan consensus.

Again, it involves legal issues, but the first bill that we take up, in my judgment, should not be asbestos litigation reform. It should be class action reform. We have debated it to some extent on the floor. We had a cloture vote on class action legislation last year. We ended up one vote short of the 60 we needed to proceed to the bill and take it up.

In the time since then, three other Democratic Senators have stepped forward and been part of a negotiation with our friends on the other side—negotiations in which Senator KOHL and I participated. I think out of those negotiations has emerged a significant improvement to the class action bill that came to the floor last year and is a path forward to enacting that legislation in the Senate the week after we return from this upcoming recess. We should take it up. We should provide a week to debate it. We should let it be like a bottle of wine, to breathe on the floor, if you will, to give Members the opportunity to offer amendments, hopefully, mostly germane. And I know there are some Members who have constructive amendments to offer. There are others who would like to offer some nongermane amendments, and I hope the other side would allow some votes on those nongermane amendments.

After a reasonable period of debate, we ought to be able to go to final passage and send that bill to the House of Representatives.

I do not believe we are at that point yet with respect to asbestos litigation. I urge Senator FRIST not to lead with asbestos litigation on April 19. Progress has been made in recent months, particularly since November, in a negotiation begun by Senator SPECTER and overseen by Judge Becker. They have been successful in getting organized labor, insurers, and manufacturers to agree on the administrative structure: Where should this fund be housed? How should people go about applying for money if they are sick or impaired? How do they go about, in a practical way, getting the help they need?

It has been a very constructive negotiation. Out of that negotiation I think a sense of trust and confidence has grown among the parties who have been negotiating under the auspices of Judge Becker and Senator SPECTER.

Previously, when the legislation was voted on, debated in committee, among the very positive things the committee did was to agree on medical criteria. It is a tough issue. They reached consensus. We have the medical criteria agreed to by the committee. We have agreement on the administrative issues, which is important. My hope is they will be agreed to by the Senate.

But there are other issues that still remain to be addressed, and they need to be resolved. I am not convinced, by a long shot, that our best bet and our smartest course is to try to resolve all of these issues, and a number of others yet to be resolved, on the Senate floor.

Let me mention a few. How much money should each individual victim receive? How much money should be contributed to the fund? How much from the insurers? How much from the manufacturers? How do we treat the several hundred thousand current claims—more than a quarter of a million current claims? What kind of screening should be provided for workers? How do we treat railroad employees who are covered under a unique compensation system of their own? What happens if our assumptions are wrong, and the fund runs out of money 10 or 15 years from now, and people are still getting sick from their exposure to asbestos?

Those are big issues. Those are important issues. They are central to the overall premise of this bill. And despite the best efforts of all sides thus far, we do not have consensus on them, at least we do not have consensus as yet. That certainly does not mean we ought to give up, not by a long shot; quite the contrary.

Senator FRIST has said the bill he has recently introduced is not a take-it-or-leave-it offer. He said he is willing to work with Senators on both sides to improve the bill and to improve its ultimate chances of passage.

I would say again to Senator FRIST, I am anxious to be part of this solution. I know others on my side, and certainly on the Republican side, are anxious to be a part of that solution. I would call on him today to join with Senator DASCHLE in a bipartisan effort where they convene, under their auspices a negotiation that includes, among others, organized labor, the insurers, the manufacturers, and perhaps the trial bar, and get people in a room who can make some decisions, and to keep them there until most of the issues I have just gone through—at least those—are, for the most part, worked out to the satisfaction of the parties.

We hear from organized labor that more money needs to go into the fund. And $114 billion—now I think a lot of people are suggesting that is enough. It may be; it may not. On the other hand, organized labor says a number closer to what was reported out of committee—I think $153 billion—might be enough. But whether the number is $114 billion or $154 billion, there is some point there between $114 billion and $154 billion where we ought to be able to agree that those dollars—whether it is $124 billion, $134 billion, $144 billion—that those dollars are likely to be sufficient to meet the legitimate claims that are going to be submitted for people who are sick from asbestos exposure.

And there needs to be a provision that says: If somewhere down the line the fund does run out of money, there has to be a way for people who are still getting sick from their asbestos exposure to have a way to be compensated.

Some have suggested that maybe the way to do it is to let those people back into the tort system. I would suggest not this tort system, through State and local courts, but through the Federal court. So if the money ever runs out—and I hope it doesn't—people would have the opportunity to come back into the tort system.

If we take up asbestos litigation legislation that has been introduced by Senator FRIST on April 19 and immediately ask for a cloture vote, we are going to get an objection from this side for moving forward at that time. We accomplish nothing. We could take up class action on the same date. We have the votes to go to the bill. We have a bipartisan consensus to do something to make sure that when national class action litigation is brought of a national scope, of a sufficient financial magnitude, that it would be heard in a Federal court, particularly when the defendant is from a different State than the plaintiffs. We can pass that bill. We ought to. We should send it to the House and hopefully they will find favor with it. I believe they will.

But if we take up asbestos litigation at the beginning of the next period in which we are working in the Senate, we are going to end up making people angry, turning people off, raising further the sense of distrust that permeates this body. We will make no progress. My fear is we may poison the well for our ability to pass a class action bill that should move through here pretty easily.

Again, I say to Senator FRIST, reach out to Senator DASCHLE, to my leader, engage him earnestly, the two of you pulling interested parties together. I am not kidding, get them in a room and get them to stay there. If some of us can be in the room, fine. Some of our staffs that are very knowledgeable on these issues and want to see this legislation worked out, get them in the room, too, to keep the negotiating parties honest and to keep them moving. But let's put some focus on getting that negotiation done so the issues around the amount of money we need and where it should come from, what to do with those hundreds of thousands of claims that are pending, so that we can resolve those issues before we bring the bill to the floor.

Senator CORNYN has been here a little over a year now. I have been here a little bit longer than he. We both have been here long enough to see bills come to the floor that are literally worked out on the floor because the committee was not able to do it, maybe it was not possible, and we ended up writing the bill on the floor. Sometimes that works out. Sometimes it doesn't.

If we try to write the asbestos litigation on the floor on April 19, we are not going to work it out. There is value in setting a date certain when we are going to take up this bill. I don't have a calendar with me, but I think that Monday, May 17, is the last week we will be here before the Memorial Day recess. I believe that is the date we should set. I urge us then to take up asbestos litigation legislation the week of Monday, May 17.

Maybe if we have had a chance to already do good work on class action legislation in April, that will be helpful in dispelling some of the distrust and mistrust that characterizes so much of what goes on in this body and in this building these days.

A lot of Democrats and a lot of Republicans—going back to the adage we talked about in the New Testament—understand that we ought to be trying to treat other people the way we would like to be treated, whether they happen to be folks whose health is impaired, maybe their lives are threatened because of asbestos exposure, or maybe they are a company that is like Federal-Mogul that went bankrupt or an insurance company, some of which are, frankly, pretty close to the edge of remaining solvent because of their exposure over this issue. Maybe we can put ourselves in the shoes of all those different parties and make sure that whether you happen to be impaired, injured, or you happen to be an insurer or an employer, that we try to treat them with a compromise bill where we treat them the way we would want to be treated ourselves.

It is critically important that people who are sick and dying get the help they need now and that it be generous. It is important that people who may have had an exposure, who become sick from asbestos exposure, if they become sick, they get the help they need, that it is fair, generous, and prompt. It is also important that people who may have had an exposure but are not sick, as they go forward in time, their health be monitored, and that, frankly, somebody pay for that monitoring for them, and that this fund we would create under this legislation pay for medical monitoring costs so if those folks become impaired or develop the symptoms that have costs the lives of too many people, they can get the help they need and get it promptly.

By the same token, we have seen a whole lot of companies go under. They have gone into bankruptcy. Some will say: Well, they will reorganize. Everything is fine.

It is not. It is not fair to the people whose 401(k)s are in company stock, if it is gone. It is not fair to the retirees whose pensions have been reduced. It is not fair to the employees who may have lost their jobs at those companies. It is not fair to the shareholders who have lost almost everything they invested in those companies.

Finally, as we bemoan the loss of manufacturing jobs—and we have seen literally millions more manufacturing jobs lost just in the last 3 or 4 years—it is important for us to create an environment in this country where manufacturing jobs can continue to exist and we don't lose even more jobs. I am convinced there are a couple things we could do to help reverse this trend, or at least stop it in its tracks. One of them is to provide a legal system, a system of justice that makes sure when people are hurt, they are compensated and they are compensated fairly; that the folks who damage them, who have hurt them, pay their fair share.

It is also important as we do that work that we do it in a way that is fair and does not make our country an even less attractive place for companies to be in business, manufacturing businesses especially. We have to be smart enough to figure this one out.

We need to set a deadline for action, action to take the bill up here. In the 3 or 4 weeks before we do that, there needs to be continued negotiation. My view is that negotiation should be fostered and overseen by the majority and minority leaders. We don't need to take this up and do this on April 19. We need to take it up and we need to change it and improve it. We need to infuse that legislation with more consensus that may grow out of the negotiations I am encouraging. If that happens, we can pass a bill Delaware and Texas can be proud of. It will really put truth to the notion that we treated other people the way we want to be treated, whether they happened to be an asbestos victim or the company that is required to pay for their treatment.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, over the next 30 minutes or so, I have a couple of statements I want to make on important issues and, shortly thereafter, we will be adjourning for our recess.

I had the opportunity to hear most of the comments from the Senator from Delaware, who, as he knows, I respect tremendously on a whole range of issues, but in particular his commitment to doggedly working these issues of class action and asbestos, issues that are so important to the American people. He and I have had many discussions in terms of approach and how best to address the issues. It is frustrating for me, obviously, in many ways in trying to schedule a lot of legislation that is important for us to have to stop or to switch and sequence these pieces of legislation. Two of those pieces he mentioned—the asbestos legislation and class action—are two that I hope we can address. Although it is difficult on the floor of the Senate to fully address them, it is harder in committee. Both have been addressed in committee. The issues on each have taken a different course.

Although no final decision is made, part of the reason for introducing a revised asbestos bill last night was that people who care very much about this issue—the 100 people in this body, and others who will be impacted by this significant piece of legislation—will be able to read a current document that I think is improved in many ways. Others may disagree, and that is why we need time to look at it and discuss it. But in the area of administration of the bill itself, there has been a lot more discussion since the asbestos bill was marked up in committee. Those have been incorporated. There have been other changes we need to debate and discuss. We can argue about the most appropriate forum. You can take it back through committee, or you can do it on the floor of the Senate, where everybody can be involved.

Since we have given it one good shot through committee, I think it is time to take the improved product, put it out there, which is what we have done, and let people digest it and discuss it, starting today. That was the whole purpose of introducing it. Then we will see over the next 8 to 10 days. Hopefully, people will be getting together. I will make that commitment to the Senator. He has appealed to common sense that we get together on both sides of the aisle with leadership. I will do that.

I am confident that in the end, we are going to be able to work through a lot of these issues. He enumerated the issues that were addressed in committee, which made it a good bill, and the issues that need to be addressed, whether it is the size of the fund or payout of the fund, the level 7 type criteria, a whole range of things I think we can address.

We have addressed class action on the floor of the Senate. It was debated and we had good debate here and in committee. There it was blocked. We had a filibuster here. We can, again, argue why there was a filibuster, but it was filibustered. We tried it. Since then, we have gone back and worked together and have improved the product. My challenge is to bring that improved product, where there are probably more than 60 votes, to the floor, but do it in a way that we can stay on the bill, have germane amendments, improve the bill, debate it, and vote on it.

My problem, as my distinguished colleague knows, is that nobody can make that commitment. He and others have seen, without that sort of commitment, what happens. It has happened with the FSC/ETI JOBS bill, which we will be talking about shortly. We spent 3 weeks on that, and we would start and stop and start and stop, starting with 75 amendments on one side, and we may have had 75 on our side, I don't know. But it has been overwhelming. Now we are 3 weeks into that bill, and finally we are going to come to some agreement on a universe of amendments. On class action, we were unsuccessful. So I will shift to asbestos and see what we can do there by working together. Then we will come back to class action. I heard loud and clear the rationale of why we can't consider class action now, so I have decided another course. There is no agreement to address it yet. I express my willingness to work on these issues.

Even though it is a very partisan environment and we have campaigns and it is an election year, if I look at what has been filibustered—the JOBS Act, Welfare Reform Act, energy, medical liability, FSC/ETI, which were all filibustered—you almost say we are not going to get anything done. But we can. We can make progress on the JOBS bill here shortly, and I think also on these important tort-type issues where we know we can do better and we can make progress as well.

So I thank my colleague. I don't think there is anybody in the body who has worked harder on these issues on a personal basis to try to move America forward on the issues, recognizing there has to be give and take. Nobody has the perfect answer. My purpose last night was to introduce a product we can look at and debate and approve. We have that opportunity, over the next 8, 9, or 10 days, to do that.

We need to get everybody to the table, not excluding anybody, and to really make it work. There is no way to pass a bill right now unless we get people to the table. Unless we are going to get more than 60 people—but even 60 people isn't much—you have to have people as committed as the Senator from Delaware.

Mr. President, I want to comment on a public health issue. I know people say every time I get up, I am taking a health issue. It is important to me personally, but also to the American people, to address issues that don't necessarily make it to the front page every day which ultimately impact people's lives, some of whom don't have anybody speaking for them directly all the time. But also there are so many issues in health care that, if you shine a spotlight on them, people say, that makes sense; let's do something about that.

One such issue centers on the fact that this week is National Public Health Week. It started in the early part of the week and runs throughout the week. It is a week during which health care professionals and the public at large, hopefully, take the time to reflect on the successes of our public health system and examine ways it can be improved.

As a physician and one who has spent 20 years in the field of health, I have always admired our public health system. I think our country has underinvested in it in the last 10 or 15 years. But I think as people look at issues like bioterrorism, the threat of biological agents, and chemical agents, and emerging infectious diseases such as SARS, HIV/AIDS, people realize that the frontline of defense is our public health system. With regard to Public Health Week, the American Public Health Association has focused its efforts this year on raising public awareness about health disparities, along with a short list of issues. I want to focus my remarks on the health disparities.

Each day over the course of this week, the national association has convened a townhall discussion in a different city to highlight an aspect of this topic of health disparities. People say: What is Dr. FRIST talking about? It is the disparities, the differences that center on race, on ethnicity, on geography—where somebody lives, whether it is in a city, a rural area, or different parts of the country—or health care disparities that center on health literacy, how educated you are to understand what is being told to you about health care, your own health care, the environment and chronic disease, all of which have these disparities which, if we shine the light, we would probably eliminate a large number of them.

Two days ago on Tuesday, the American Public Health Association held a townhall meeting in Memphis, TN, to highlight rural health disparities, one of those geographic disparities that affect people in ways that may not always be obvious. I want to take a moment and acknowledge several people: The Honorable Dr. W. W. Herenton, mayor of Memphis, the Honorable A. C. Wharton, mayor of Shelby County, as well as all the other many distinguished participants and sponsors of this successful event, including another good friend, a former classmate of mine, a medical colleague when I practiced medicine, Dr. Kenneth S. Robinson, who is now commissioner of the Tennessee Department of Health; Georges Benjamin, M.D., executive director of the American Public Health Association; Pat Santel, president of the Tennessee Public Health Association; Shavetta Conner, M.D., regional medical officer, west region, Tennessee Department of Health; Robin J. Womeodu, M.D., executive director, Center on Health Disparities, University of Tennessee; the Rural Health Association of Tennessee; the Tennessee Hospital Alliance, as well as TennCare.

I especially wish to commend APHA, the American Public Health Association, for taking time to hold this particular meeting in Tennessee and for their efforts to bring a comprehensive approach to the problem of health disparities.

I strongly believe any health care disparity among our citizens is simply unacceptable. No patient should be denied quality health care because of their race, where they live, what their ethnicity is, what their gender is, or their socioeconomic status.

Consider some of the facts, and once you hear these facts, you will see why I believe it is unacceptable, there is no good reason for it, and almost all of these have reasons we can address that can change the disparity.

Even when socioeconomic status is equal, the mortality rates are higher among African Americans and American Indians than among other groups.

My own speciality of heart disease—heart disease is, by the way, the leading cause of death in the United States. Heart disease mortality rates are almost twice as high among African Americans as among Whites. Even when we examine heart disease mortality by socioeconomic status, the differences between African Americans and Whites, though significantly reduced, are not eliminated.

African-American and Hispanic women both experience a higher prevalence of diabetes when we compare those groups to White women.

New studies indicate 70 percent of American Indians live in urban areas, and nearly 1 in 4 of these live below the poverty level, and nearly half below 200 percent of the Federal poverty level. These rates are substantially higher than the rates for all other races combined.

I mentioned income and geography. When we look at the disparities, both income and geography play a major role. For example, African-American men with incomes less than $10,000 have a heart disease mortality rate that is nearly 3 times that of their counterparts with incomes greater than $15,000.

Geography is also important. Twenty percent of the U.S. population lives in rural areas. These rural communities often experience poorer overall health status than many urban communities. Notably, residents of rural communities have higher rates of chronic illnesses, such as diabetes mellitus and cardiovascular disease. They also have higher rates of disability.

The reasons for these rural disparities are many. They include factors such as transportation difficulties, lack of physicians, and lack of other health services. Often the health care services that are available are much more limited than those services available to their urban counterparts, to their counterparts in the cities. Also, residents who are in rural areas are much more likely to be uninsured than those in urban areas.

Last year in a speech at Morehouse University, I laid out a plan to combat these health disparities. Since that time, I reached out broadly to a whole range of constituencies, working with stakeholders and national leaders to gather input and ideas. Together we are working to ensure my proposed legislation includes the very best possible strategies to eliminate these health disparities.

These efforts culminated in the introduction earlier this year of major bipartisan legislation. Two months ago, I joined with Senator MARY LANDRIEU, Senator THAD COCHRAN, Senator MIKE DEWINE, Senator CHRISTOPHER BOND, Senator JAMES TALENT, and Senator KAY BAILEY HUTCHISON to introduce Closing the Health Care Gap Act of 2004. This legislation builds on past bipartisan efforts to address disparities, most importantly the Minority Health and Health Disparities Research and Education Act of 2000.

In this legislation, we target five key areas. First, expanding access to quality health care; two, strengthening national efforts and coordination; three, helping increase the diversity of those health professionals who are active; four, promoting more aggressive health professional education that is intended specifically to reduce the barriers to health care, several of which I have already mentioned; and five, enhancing the research to identify sources of those disparities—racial disparities, ethnic disparities, and geographic disparities—and also to assess the intervention strategies we know today are quite promising.

In addition, in closing, we know reducing and eliminating health care disparities is not going to be easy. It is going to be a huge challenge before us. Even a lot of the conversations we must have as a society are very difficult, but we must try, and I believe we can do so.

When we engage in this debate, even in the heat of an election year, all of us need to keep in mind the stakes could not be higher. We are talking about the health and the lives of our fellow Americans. The only way we can make progress toward ending health disparities is by forging bipartisan solutions.

Again, I commend the APHA for focusing this entire week on health care disparities. I also appreciate the efforts they have made to support this bipartisan legislation in this arena of health disparities.

I look forward to working with the APHA and all of my colleagues to continue to work to combat the health care disparities that currently do plague our American health care system and, as long as those disparities exist, hurt innocent people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

INSOURCING AND OUTSOURCING OF JOBS

Mr. FRIST. Mr. President, I will take another few moments to talk on a separate issue that centers on a topic that has been the subject of a lot of debate and a lot of discussion on the Senate floor and elsewhere. It is the overall topic, the phenomenon of outsourcing. Critics contend that a company's effort to deliver a product or service more cheaply and efficiently to the American consumer is hurting our economy and hurting America's workers. Indeed, this has become fodder for sound bites that I think are not justified and thus want to take a few moments to talk more broadly about what outsourcing is and what it is not.

I should begin by starting with the flip side of outsourcing and that is insourcing. What is "insourcing"? What is this phenomenon of insourcing? Well, it has been a company such as Nissan opens a plant in the United States and thereby creates high-paying jobs for American workers to the benefit of those American workers. In fact, that is the very thing that happened in Tennessee when, in 1980, Nissan opened its first plant in Smyrna. In the 1970s, Tennessee, like the rest of the country, was struggling with high unemployment several times the current rate of 5.6 percent. Then Nissan opened a manufacturing plant in Rutherford County and Rutherford County then went into high gear.

A few years later, Saturn announced it was opening a plant, and today middle Tennessee is home to three major automobile factories. Nissan today employs roughly 7,400 workers and in the year 2000 paid out $27.7 million a month in payroll. That is insourcing.

Mark Herbison of the county's chamber of commerce says with understandable home pride:

> We continue to see our existing companies grow and expand. That is because of our quality of workforce here. If you look at the Nissan plant, in 9 out of the last 10 years, they've been ranked the most productive automotive plant in North America.

Because of increased demand for Nissan cars, the company has spent $1 billion to expand its Smyrna and Decherd plants. Production in Smyrna was up 40 percent in February. Moreover, Nissan's success has extended by spurring growth of a number of companies that in turn supply the plant. There are now more than 900 suppliers providing 140,000 jobs in the State.

The Nashville Business Journal reports that based on its success in manufacturing, Rutherford County is now branching out to attract more white-collar jobs.

Nissan is just one success of how insourcing has led to job growth. Over 400 overseas companies have U.S. subsidiaries that are employing and creating jobs just in my home State of Tennessee.

The Swedish company Electrolux, previously known as Frigidaire, has a Springfield operation that employs 2,900 workers. If one looks at the size of these companies and the range, they will see there is a broad spectrum. In Australia, a corrugated box company operates a small outpost in Humboldt; a Netherlands food preparation company has an office in Chattanooga that employs 175 called Bunge Foods.

Insourcing has, indeed, brought good jobs and good wages to Tennessee. Over 157,000 jobs in Tennessee are the result of insourcing. That is the flip side of outsourcing. U.S. subsidiaries support nearly 7 percent of Tennessee's private sector workforce.

One might ask why do companies come to the United States of America, come to Tennessee, to create jobs and manufacture their products? Because company after company has found that insourcing is a boon to their bottom line. In turn, Tennessee workers get more and pay less for their products and the services they purchase.

There is a second aspect to this whole discussion of world trade that has gotten overlooked in the debate, and that is the growth of American exports. Again, Tennessee has been a major beneficiary of the opening of foreign markets.

In 2002, Tennessee exported more than $11.6 billion worth of goods, up nearly 26 percent from 1997. Tennessee exports support 232,000 local jobs, nearly one-tenth the State's total labor force, and over the last 5 years the average Tennessean exporter increased sales by nearly 16 percent, selling over $2 million in goods each year to foreign consumers.

Even more notably, export-supporting jobs paid 13 to 18 percent more on average than nonexport jobs. Our focus should be to expand economic growth and promote higher wages, not to impose sanctions and restrictions on America's job creators.

Listen to the words of Dyer County farmer Jim Moody. He tells a local Memphis paper: We've got to have exports to survive and do well.

Farmer Moody is right, and it is not just his farm that benefits from increasing exports. It is every American who gets a good job, who gets a higher wage, and every American consumer who is thereby able to stretch their dollar a little bit further, sometimes a whole lot further.

As we have all seen, especially recently in the last 6 months, our economy over the last measured 6 months is growing faster than it has in the last 20 years. America has a dynamic economy. It is true that as this economy, because of its dynamism, because of its flexibility, because of its ability to adapt, expands it at times has to shift resources, thereby resulting in dislocations. Hopefully, the dislocations are temporary. That is why it is so important for us to focus on workforce development and training.

There is no question that in these dislocations workers are hurt, those who are dislocated for a period of time, but our responsibility in Government, on the Senate floor, is to respond and support them, and support them with programs of retraining, education, and of allowing these workers to adapt to this new environment.

Workers who are dislocated need to be trained to find a new job but also to work at that new job. Luckily, there are a whole range of public and private sector programs that are available. According to the Government Accounting Office, there are 44 federally funded programs today that provide employment and training services. In 2002, Congress spent more than $12 billion on employment and training activities, aiding 30 million Americans with a whole range of services such as job search assistance, employment counseling, basic adult literacy, vocational training. The list goes on.

The Trade Adjustment Assistance Act was expanded in 2002 to provide even more generous assistance for workers who lose their jobs because of import competition or because of shift of production to another country.

Similarly, Congress has invested over $27 billion in training, under the Workforce Investment Act. That act went into effect in 2000, and it is over $27 billion since that point in time. Its hallmark is the one-stop career center, and that provides job seekers with a single location to access a whole host of resources, including unemployment insurance, job market information, job training, and job search assistance.

We reauthorized the bill last year with strong bipartisan support in this body, the Senate. But, unfortunately, the Senate Democrats have blocked this bill from going to conference. Again, we passed it—I think it was even unanimous—in the Senate, and the House has passed such a bill. But right now we are being blocked from going to conference. As a result, they are holding up a vital and much needed improvement to the program that spends more than $5 billion a year on job training and other valuable assistance.

People say they want to help workers. But by blocking us going to conference on these bills, that, again, passed the House and the Senate, it is more just talk where we need to deliver that action. That is what the American people want. That is what they need. It is what they deserve. So again I appeal to the other side of the aisle, please let us go to conference on this important bill for the good of the American people.

We need to help workers find good-paying jobs, to retrain them if they need it, to get the support they need, to get them back on their feet. Every American who needs a job should be able to get a job. We should be willing to work hard together to expand the economy and to tackle whatever structural problems exist that hinder job creation.

You have seen numerous attempts on the floor of the Senate, most recently a couple of days ago, that are aimed at controlling things such as litigation, unnecessary litigation costs that do, in effect, cripple economies, both at the macro and the micro level. It is estimated that frivolous lawsuits in this country today are costing the economy $200 billion a year. If you assume a salary of, say, $50,000 a year, that is the equivalent of 4 million jobs caused by frivolous lawsuits—4 million jobs that could lower the unemployment rate.

We see the effects of frivolous lawsuits most dramatically in my own profession. You see it across the board, and we debated it again on the floor yesterday, and we were unsuccessful, with a filibuster of that particular legislation. But we talked a lot about the issues in terms of the impact on people—expectant mothers, in terms of their access to obstetricians. We looked at it in terms of trauma units and emergency rooms, where specialists, high-risk specialists are simply saying they can't afford the malpractice insurance that is being charged to them and therefore are not going to take trauma anymore, and not going to work in emergency rooms anymore because they simply cannot afford that insurance. That ends up affecting the health care of all of us—all of us who might need that emergency room tonight or their trauma center tomorrow or that mom or expectant mom who needs an obstetrician.

We find doctors who are moving. We find doctors in Pennsylvania moving out to California and moving down South because of medical liability. We find doctors leaving their local communities. We find doctors, in fact, even retiring from medicine.

A recent study by a University of Nevada Medical School professor found that 42 percent of obstetricians are planning to move their practices out of southern Nevada. And if they do, Las Vegas will have 78 obstetricians to deliver 23,000 babies each year. So how many babies will get medical care and how many babies will not get medical care if that is to occur?

These are the real-life consequences of surreal courtroom dramas that take place. It is the reality of today. That is why, on this particular issue—although it was filibustered yesterday and was filibustered about 2 months ago and was filibustered back in July—we are going to continue to bring it back because it is reality today. It is affecting people's lives.

The Senator from Delaware was just on the floor talking about the out-of-control asbestos lawsuits. There, once again, you see effects that are very similar in that they are severe and the people who most need help no longer are getting that help. The approximately 600,000 claims that have been filed have already cost $54 billion in litigation costs, in judgments, in settlements.

Over 70 companies so far have declared bankruptcy under the crush of asbestos lawsuits. It is a problem that is bad. It has gotten worse in recent years. In the very recent years it has even gotten worse in terms of the bankruptcies, in terms of the money not reaching the victims themselves or even the potential victims but being siphoned off by frivolous suits by people who may be a little less scrupulous than any of us would like.

More than a third of the bankruptcies have taken place in the last 3 years. In other words, it is getting worse and worse. These are huge companies: Johns Manville, Owens Corning, US Gypsum, WR Grace; over 90 percent of American industries are in some way affected. Even companies that have little or no direct connection to asbestos are now being targeted for legal annihilation. Asbestos-related bankruptcies have already cost more than 60,000 jobs.

It is a broken system. The reason we plan in the future bringing it to the floor—I introduced the bill with Chairman HATCH last night—is that we must make progress. I believe we have the responsibility to address this unfair system that is hurting the American people. I know we have the power to do it. Now we just need to show that we have the will.

What started out as a quest for justice in the courts has, unfortunately, evolved into a wild litigation lottery, but it is something we can fix and I believe we will fix. I will have to say in the lottery today—this out-of-control lottery that has now become the sort of system itself—there is only one winner, and that is plaintiffs' trial lawyers. It is not the victim or the person who is potentially hurt. People who are hurt by the negligence of others deserve justice. But so do people who are hurt by a system that is driving doctors out of the practice of medicine, that is driving companies out of business, and driving jobs out of the economy.

Every day we encourage America's job creators to grow and expand and to compete in this world market. Yet at the same time we are burdening them with unnecessary, and I would argue unfair, litigation practices that ultimately amount to a hefty tax, which makes them less competitive in the world marketplace.

In the manufacturing sector we have spent so much time on the FSC/ETI bill and the JOBS bill, talking about them, saying we must address them. It is reported that excessive regulations have added 22.4 percent to the cost of doing business.

In closing, if we want American companies to be competitive, which we all do, if we want them to be strong, if we want them to be vital, if we want them to grow, if we want them to create jobs, we have an obligation, too, and we need to make the system fair.

We can't ask these companies to run this great race to prosperity and then bind them up at the same time in miles and miles of redtape and unnecessary, frivolous lawsuits.

America's entrepreneurs are smart, they are dynamic, they are productive, they are highly competitive. And so are America's workers. We need to pursue policies that allow us both to maximize their potential, and also their prosperity potential. We need to pursue policies that, indeed, keep America moving forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I simply want to congratulate the majority leader on a speech filled with a lot of common sense. I would like to hear more of that these days and will just take 3 or 4 minutes to go back over what I heard and emphasize it.

On the first point, all the talk about jobs comes down to jobs training. We know in this country, and we have known it for years, that our economy is characterized by losing jobs and gaining jobs.

I remember 25 years ago during my first year as Governor; I went down to Memphis to try to persuade the International Harvester plant not to close. I got my picture in the paper and pats on my back. I went back to Nashville. The next day they closed.

I realized if all I was doing was going around having my picture made in front of plants that closed I wouldn't be much of a Governor.

The more I study, I realize we literally will lose 6 or 7 percent of our jobs every year in Tennessee and in this country. The key to success is whether we replace them with better jobs. The key to that is whether we educate American men and women who are in one job to get a better job. That is painful. That is hard. That is not easy. But that is the truth.

The President's proposal about community colleges and the workforce bill, which is being held up, are good antidotes to that.

Second, on the majority leader's comments on insourcing, he is exactly right about that. We don't want to say: Nissan, go home from Smyrna, TN; Toyota, don't build that plant in San Antonio; Honda, go home from Ohio.

In our State alone, as was pointed out, over the last 20 years the coming of the auto industry to Tennessee has raised our family income from 80 percent of the national average to 100 percent of the national average. It has been led by foreign companies. If they can't come here, we can't go there. This is a two-way world.

The last thing the majority leader said is exactly right. We should learn our lesson in the way we are insourcing. If you go to Europe, you hear a lot of people talking about outsourcing there. They are outsourcing brains to the United States because they are coming to our universities. We have created an environment in which we can grow the best universities in the world, and we have done it. We can create the same environment in the United States for the best jobs in the world.

We can do that by passing a lot of legislation that is being held up here by the other side: legislation to reduce the cost of energy, the Energy bill; legislation that would lower the corporate tax on manufacturing—that is the JOBS bill being held up; legislation that would reduce runaway lawsuits and reduce costs on business. The majority leader brought that up several times. Legislation that would solve the asbestos problem would reduce costs on business.

By reducing costs and encouraging education, we can create the same sort of environment that will insource new good jobs into America just as we have created the best universities in the world and insourcing the best brains in the world that are coming to the U.S. because they are attracted here.

I hope I hear more of that kind of commonsense language, not just from the majority leader but from more and more Senators on both sides of the aisle.

I wanted to compliment him and congratulate him for his remarks.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 1637

Mr. FRIST. I ask unanimous consent that the pending first-degree amendment to the motion to recommit be withdrawn; I further ask unanimous consent that the motion to recommit be agreed to, and the substitute amendment then be agreed to and be considered as original text for the purpose of further amendment.

I further ask unanimous consent that when the Senate returns to the bill Senator HARKIN or his designee be recognized in order to offer his amendment relating to overtime.

I further ask unanimous consent that the following list of amendments that I send to the desk be the only remaining first-degree amendments to the bill; provided further that they be subject to the second degrees which are to be relevant to the amendment to which they are offered.

I finally ask unanimous consent that following the disposition of the amendments the bill be read the third time and the Senate proceed to a vote on passage of the bill with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The list of the amendments is as follows:

Alexander—pollution control
Allen—TAA Housing
Baucus—Managers' Amendments
Bayh—Applying anti-subsidy laws to nonmarket economy
Bingaman—Medical student matching program
Bingaman—Outsourcing
Breaux/Feinstein—Re-patriation
Cantwell—UI (separate vote guarantee)
Clinton—Privacy of information
Coleman-Customs
Coleman—TAA
Collins—Manufacture jobs tax credit
Corzine—Trade barriers
Daschle—5 relevant or relevant to the list
Dayton—Credit for making motion picture accessible for hearing impaired
Dorgan/Mikulski—Runaway plants/Notification
Feingold—Buy American provisions
Frist—5 relevant or relevant to the list
Frist or designee—UI
Graham (Florida)—Repeal of international title
Graham (Florida)—Strike international manufacturing and replace with job credit
Grassley—Family Oppt. Act
Grassley—Managers' amendments
Harkin/Wyden—No tax deduction for outsourcing
Harkin—Overtime
Hollings—Strike all international provisions
Hutchison—Architects/Engineers
Kennedy—Multi-Employer pensions
Kyl—Contract Manufacturing
Kyl—Strike energy
Landrieu—Reservists
Lautenberg—Foreign subsidiaries doing business with terrorist nations
Levin—Advanced technology vehicle incentives
Levin—Tax shelters
McCain—20 relevant
McConnell—3 relevant
McConnell—Overtime
Miller/Schumer—Green bonds
Nickles—Corporate rate
Nickles—Electricity depreciation
Nickles/Kyl—Death tax
Nickles—Family tax relief extension
Reed—CARE (Senate passed bill) as modified
Reid—3 relevant
Santorum—CARE
Santorum—Sec. 29 Coke
Schumer—China
Specter—Cotton trust fund
Specter—Manufacture legacy costs
Talent—Sickle Cell
Wyden/Coleman/Rockefeller—TAA for service & health care

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

SGT DAVID M. MCKEEVER

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of David M. McKeever, a sergeant in the United States Army. Sergeant McKeever was killed on April 5, 2004, in Baghdad, Iraq, when his Army unit was ambushed while guarding a hospital. He had 15 days left in Iraq when he was killed. He was 25 years old.

Sergeant McKeever was assigned to the 1st Armored Division and had been recently promoted from the rank of specialist to sergeant. He was stationed at Fort Carson in Colorado Springs, CO before later moving to the Army base at Giessen, Germany in September 2002. He was one of thousands of brave American service men and women serving in Iraq who confront danger every day. Their tremendous risks and sacrifices must never be taken for granted.

His wife, Niki, grew up in Kearney, NE. Last October, Sergeant McKeever, a Buffalo, NY native, visited family in Kearney while on leave. Sergeant McKeever leaves behind his wife; son, Dylan, now 1 year old; parents, David T. and Carol of Buffalo; brother, Thomas; and four older sisters. Our thoughts and prayers are with all of them at this difficult time. America is proud of David M. McKeever's service and mourns his loss.

Sergeant McKeever will be buried in Kearney. He will be remembered as a dedicated soldier with an optimistic outlook on life.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Sergeant McKeever.

U.S. ARMY PFC CLESTON C. RANEY

Mr. CRAPO. Mr. President, I rise today with great sadness and tremendous gratitude to honor the life of a brave young soldier from Idaho. U.S. Army PFC Cleston C. Raney of Rupert was only 20 when, on March 31, 2004, he lost his life in Iraq. Private Raney was killed by a roadside bomb doing what he considered his duty: fighting for the freedoms we all hold dear. Today, I recognize his service and express my sincere condolences to the family and friends of this exceptional young man.

Private Raney was born in Twin Falls, ID, and attended school in Rupert and Burley. Driven by a strong sense of purpose, he joined the Army in November of 2002 and began his military career as a combat engineer in Fort Riley, KS, in April 2003. In September 2003 he was deployed to Iraq. He served honorably until his death.

Private Raney's death was part of the deadliest day of the war for the Army's 1st Infantry Division, stationed at Fort Riley, KS. Four fellow soldiers from the same division were also killed. This fact underscores the great threats that continue to face our young men and women in the Armed forces. It is also a testament to their great bravery, commitment, and resolve. Private Raney's death was the ultimate sacrifice by a brave young America, made so that we and others around the world can live in freedom.

His family is very private and has asked that the media allow them to grieve without the glare of cameras and the insistent questioning from reporters, but they did share some thoughts publicly about Cleston and his love of life and family. He was a young man at the beginning of so many opportunities in his life. He loved his family and enjoyed participating in activities with them, particularly beating his cousin Gina at pool. He was so typical of many 20-year-old young men, and yet his sacrifice for his country is anything but typical.

Private Raney's decision to serve our country places him in my highest esteem. With gravity and sincerity, I honor him. My thoughts and prayers are with his grieving loved ones as they work to find peace in this difficult time. I know my colleagues here in Congress and many Americans throughout our country do the same.

CLOTURE VOTES ON S. 2207 AND S. 1637

Mr. LIEBERMAN. Mr. President I rise to discuss S. 2207, Pregnancy and Trauma Care Access Protection Act of 2004, and S. 1637, the Jumpstart our Business Strength (JOBS) Act. Unfortunately I did not have an opportunity to cast a cloture vote yesterday on S. 2207 due to my observance of Passover in Connecticut. The medical malpractice problem is a difficult issue and one about which I have long been concerned. We need to strike the appropriate balance so that we have a system that ensures those harmed by medical negligence are justly compensated while at the same time not set up a system that unnecessarily inflates insurance rates. I have long sought to address this issue in a fair and rational way. For instance, I authored several bipartisan and balanced reform bills with Senator MCCONNELL in the past. Unfortunately, the bills that have been before the Senate this Congress have been neither bipartisan nor balanced.

This includes the Pregnancy and Trauma Care Access Protection Act of 2004. S. 2207 goes further than necessary and than advertised, offering limited liability not only to doctors, but also to medical device manufacturers and drug companies. Furthermore, the $250,000 cap on noneconomic damages included in this bill may often prove too low for many seriously harmed patients. I believe in meaningful and fair medical malpractice reform; but this bill and the others debated on the floor this session simply do not fit that description. For these reasons I would have voted against cloture for S. 2207, which failed to receive the needed 60 votes by 49 to 48.

I was also unable to cast a second cloture vote on a motion to recommit S. 1637, the "Jumpstart our Business Strength (JOBS) Act," a bill to repeal the foreign sales corporation tax regime, and its successor, the extraterritorial income tax regime, that have been found to be an illegal export subsidy by the World Trade Organization. I voted against the first cloture filing on March 24 and, had I been present on April 7, I would also have voted against cloture. The cloture vote failed to meet the 60-vote threshold by 50 to 47. I support many of the provisions of the underlying bill, S. 1637, which provides tax relief to domestic manufacturers, curtails abusive tax shelters, and contains a number of international tax simplification and reform measures.

Cloture would have prevented debate on a number of amendments that deserve to be debated and voted upon. The Senate must renew efforts to bring the FSC/ETI bill to the floor, to pass S. 1637, while at the same time allowing open debate and votes on issues of importance to American employees.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In February 2004, two gay men visiting from Washington State were attacked by four men and one woman outside a popular bar in Government Camp, OR. Investigators believe the two men were attacked because of their sexual orientation and are pursuing leads in the search for the suspects. The five suspects are charged with first-degree intimidation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE IRS TAX GAP

Mr. BAUCUS. Mr. President, in the next week, millions of Americans will do their duty, obey the law, and complete their income tax returns. Although this is clearly one of our citizens' least favorite annual rituals, most taxpayers will do what's right and provide their share of funding to keep our national government running.

But while these honest Americans are doing their part, a number of others are trying to get by without doing theirs. And that's what I would like to talk about this afternoon.

Some call it the "tax gap"—the difference between the amount of taxes that taxpayers actually owe to the Federal Government and the amount of taxes that taxpayers actually pay to the Federal Government.

This is not about raising taxes. This is about enforcing the tax laws on the books. This is about collecting the taxes that are owed to the Treasury under the existing Tax Code.

While most Americans, with quiet patriotism, file their tax returns and pay their taxes on time, too many do not. There are a number of ways that these folks try to skirt the law: Some don't file their returns. Others understate their incomes. Still others take excessive or illegal deductions. And there are those who claim fictitious refunds.

Unfortunately, there is a growing perception among honest taxpayers that a large number of people are cheating the tax collector—and getting away with it. The IRS Oversight Board Annual Survey on Taxpayer Attitudes reported that the proportion of Americans who "completely agree' that it is all Americans' civic duty to pay their fair share of taxes has steadily declined.

In 1999, 81 percent of Americans agreed that it's their duty to pay taxes. In 2002, only 72 agreed with that statement. And last year, that group fell to just 68 percent of the population.

This trend is very distributing, but it is also very clear. More and more people believe that cheating is acceptable.

As if this public attitude were not disturbing enough, the growing lack of taxpayer compliance jeopardizes the voluntary tax system on which our government depends. American taxpayers who voluntarily pay their fair share of the country's revenue will not support a tax system that tolerates widespread cheating.

Taxpayers expect their Government to ensure that all pay their fair share. Not one dime more, but not one dime less. The millions of honest taxpayers deserve no less.

The National Taxpayer Advocate estimated that the tax gap for 2001 was $311 billion. But this is based on 16-year-old data from 1988. There is every likelihood that the tax gap is significantly higher. It certainly isn't less.

For the taxable years 2001 to 2003, the cumulative tax gap exceeded a trillion dollars. In other words, if all individuals and corporations fully paid all of their taxes due for the past 3 years, the IRS could collect an additional $1 trillion.

This huge level of unpaid taxes is harmful to law-abiding Americans and to the economy as a whole. Just as retail stores raise prices for honest shoppers after they lose merchandise due to shoplifting, honest taxpayers pay more to cover those who aren't paying their share.

In terms of the economy, each dollar in unpaid taxes increases the deficit by a dollar. The administration predicts that the deficit will be cut in half in the next 5 years. But since the administration took office, the cumulative IRS tax gap has exceeded $1 trillion. Let me say that again: $1 trillion. This is enough to help shore up Social Security, pay for the war in Iraq, ensure that no child is left behind, fix the highways and extend unemployment insurance.

Currently, the overall taxpayer noncompliance rate is 15 percent and growing. The plain fact is that voluntary compliance has been and remains the backbone of our tax system. Our primary mission must be to maintain and enhance the health of that system by encouraging and facilitating voluntary compliance with our tax laws. A 1-percent point swing in voluntary compliance will increase, or decrease, revenues each year by more than $20 billion.

Our Federal budget has gone from one of the greatest surpluses in its history to the highest deficit ever known—$478 billion—close to half a trillion dollars in the current fiscal year.

Now more than ever we need a plan of action to close the IRS tax gap. I propose the following:

First, let's make it easier for people to pay their taxes. Our Federal Tax Code and accompanying regulations are more than 54,000 pages long. They are too complex, confusing, and costly to comply with. In addition to making the code simpler for individual taxpayers, simplification would reduce opportunities for dishonesty. Tax shelters develop because sections of the lengthy code are manipulated to achieve unwarranted tax benefits.

That is why I support a broadly based blue ribbon commission that would recommend simplifications for our income tax system that we could act on.

Second, we need better data on noncompliance. To fix a problem, you have to know the facts. I support the National Research Program that would allow us to have a more accurate estimate of the IRS tax gap and should help IRS identify where they should target their enforcement efforts.

Third, the IRS needs to do a better job enforcing our current tax laws. And that may take Congress passing legislation forcing them to take stronger action. Bills such as the good Government tax administration bill would improve efficiency and strengthen safeguards in IRS collection cases. And in the JOBS bill—which I am optimistic we will pass in the very near future—we have included antitax shelter legislation that will make sure transactions are done for legitimate business reasons and not solely for tax benefits.

We have also included provisions that would impose stiffer penalties on any taxpayers who engage in shelter transactions. It is also time to crack down on expatriation practices, corporate inversions, SILOs, abuses in the charitable area, Enron-related tax shelters, and offshore abusive tax schemes. And we should devote more resources to IRS enforcement. Dollars spent there will bring in several times as much in additional revenue raised.

And last, but certainly not least, we need to set a goal, a benchmark of where we are going on tax compliance. Today, I proposed that we reach at least a 90 percent tax compliance rate by the end of the decade. By 2010, at least 90 percent of Americans should be filing their taxes and paying their dues. It is not too much to ask. Now, it will not be easy, but that does not mean that it cannot be done. I know we can achieve it through the methods I just outlined.

With the growing deficit and the upcoming retirement of the baby boom generation, increasing tax compliance is more important than ever. And it is also one of the easiest ways to raise more revenue for our Nation. We are not talking about raising taxes—we are simply asking all Americans to pay their fair share as citizens of this great Nation. By reaching a 90-percent compliance rate, we would raise at least $100 billion more each year. This funding would go a long way toward strengthening Social Security or helping our classrooms or paying down the deficit.

April 15 is just around the corner. I encourage every citizen to do what is right, to stand up for your country and make your contribution. Here in Congress, we will keep working to make it easier for our honest taxpayers to comply and to make it harder for those dishonest folks to cheat the system. Together, we will seal the tax gap and help the economy.

SENATOR BOXER'S TRIGGER LOCK AMENDMENT

Mr. LEVIN. Mr. President, last month the Senate considered and passed the Boxer trigger lock amendment by a 70–27 vote. Senator BOXER's amendment would require that all handguns sold by a dealer come with a child safety device, such as a lock, a lock box, or technology built into the gun itself. Further, it would direct the Consumer Product Safety Commission to develop standards for child safety devices. The need for this legislation is clear, and I supported its passage.

According to the Brady Campaign to Prevent Gun Violence, each year teenagers and children are involved in more than 10,000 accidental shootings in which close to 800 people die. Further, about 1,500 children age 14 and under are treated in hospital emergency rooms for unintentional firearm injuries. About 38 percent of them have injuries severe enough to require hospitalization.

In addition to accidental shootings, according to the Brady Campaign, every year 1,300 children use firearms to commit suicide. Unlike suicide attempts using other methods, suicide attempts with guns are nearly always fatal. These children are given no second chance.

It does not have to be this way. If gun manufacturers put locking or other safety mechanisms on guns, or dealers sold handguns with safety devices, many shootings could be avoided, and fewer children would die each year.

The gun industry immunity legislation, to which Senator BOXER's amendment was attached, would have provided unprecedented protection from liability to gun manufacturers and dealers, even in cases where their own gross negligence or recklessness led to someone being injured or killed. I opposed the immunity bill and was pleased that it failed to pass the Senate. However, Senator BOXER's trigger lock amendment passed with bipartisan support. Given that, I hope the Senate takes up and passes that legislation this year.

ASBESTOS LITIGATION

Mr. BREAUX. Mr. President, Senator LANDRIEU and I rise today to add our voices to those who have been calling for a comprehensive national solution to the asbestos litigation problem. Several members of both parties have recently come to the floor to discuss this very issue and we want to join with them in urging our colleagues to address this matter with immediate legislation.

I have always believed that one of the greatest freedoms in this country is the ability of ordinary citizens to seek redress in an impartial court of law from other citizens or businesses—no matter how large or powerful. However, in the case of asbestos litigation the system no longer is able to meet this goal. The courts are so backed up with asbestos lawsuits, many of which are brought by individuals who are not yet sick or may never get sick, that those victims who are truly suffering from asbestos-related illnesses are not receiving compensation and businesses are going bankrupt in the process.

Asbestos litigation is a serious and growing problem in our home state of Louisiana. For the benefit of victims, union members, and businesses in Louisiana—both large and small—that are suffering the consequences of this crisis, we urge the Senate to resolve this problem as soon as possible. Let me be clear: we want a bill that will provide guaranteed, fair compensation to deserving victims in our state and around the country. And, we want a bill that will provide certainty for victims and businesses in Louisiana and elsewhere that have been caught up in this crisis.

I am becoming increasingly troubled by reports that negotiations between the parties on the asbestos bill are reaching a standstill. Too much work and tireless hours of negotiation have gone into this bill to let it become yet another marker in the growing graveyard of failed legislation. I would like to use this opportunity to urge all parties in this matter to continue working in good faith with one another to find agreement on the issues that are still outstanding.

A final deal on asbestos will not be easy and it will require more concessions from all parties. I know a number of my colleagues have worked unflagging to try and get this issue resolved. I commend them for all their effort and work. However, it is also important that we realize how close we are to not having any bill at all. I am concerned that by hastily pushing forward legislation that only has partial support, we will effectively kill this bill. We cannot stand back and allow the current system to continue to spiral out of control. Another failed cloture vote will not help victims, nor will it help business. This is an issue that we should be able to vote out of the Senate, not by 60 votes, but by 70 or 80. We must continue to work together to this end. The asbestos litigation system is broken and it must be fixed.

Ms. LANDRIEU. Mr. President, I rise to join with my colleague, the senior Senator from Louisiana, to urge the Senate to enact meaningful asbestos litigation reform this Congress. I am equally concerned about the impact that this escalating crisis is having in our own state of Louisiana.

The example of just one company illustrates how this ongoing litigation is affecting Louisiana. In 1978, McDermott, headquartered in Louisiana, acquired Babcock & Wilcox, B&W, a premier commercial boilermaker and provider of other power generation equipment. B&W was the leading manufacturer of boilers in the United States. In line with United States government specifications, all of these boilers were insulated with asbestos. Now many years later, the company has been subjected to an avalanche of asbestos claims. In fact, B&W had no recourse other than to file for reorganization under Chapter 11 of the U.S. Bankruptcy Code. Because of the uncertainty of its asbestos liability and the resulting inability to satisfactorily reorganize the finances of the company, McDermott's union employees in my state are adversely impacted. Just last week, representatives from my staff and Senator BREAUX's staff attended a meeting of the management and union labor at McDermott's facility in Morgan City, LA, to discuss this problem. We now have a petition signed by 1,000 of these workers asking that we solve this problem as soon as possible.

Other industries and companies in Louisiana are threatened by the current litigation system. Louisiana's economy is dependent on trade and the maritime industry. Many of our U.S.-flag shipping companies have asbestos issues because certain parts of their ships' engines were insulated with asbestos. These companies are equally concerned about the uncertainty created by the current system and their long-term ability to maintain solvency.

I do not have all the answers. I do know that legislation addressing this issue is very complex. Any bill should virtually guarantee that asbestos victims receive fair and adequate compensation and it should also give certainty to companies like McDermott. I realize that progress has been made during the course of negotiations, but we must build on this progress by continuing to negotiate. I think we can reach a bipartisan agreement and bring a bill to the floor as soon as possible.

ATTORNEY GENERAL ASHCROFT'S APPEARANCE BEFORE THE SENATE JUDICIARY COMMITTEE IN 2003

Mr. LEAHY. Mr. President, March 4, 2004 was the 1-year anniversary of the last, brief appearance by Attorney General Ashcroft before the Senate Judiciary Committee. It was not an anniversary that we marked for celebration. Instead, we marked the day as a low point, and symbolic of the disdain shown by the administration for oversight by the people's representatives in Congress.

I recognize that the Attorney General was recently incapacitated by a personal medical condition. We all wished him a speedy and full recovery. Up through March 4, however, there was no explanation for ignoring his oversight responsibilities. The Attorney General has since resumed his duties after successful surgery and a brief respite. It is time now for him to answer the call of those oversight responsibilities by appearing before this committee.

Vigorous oversight is instrumental to ensuring that our law enforcement officials are effective and accountable, both in fighting crime and in preventing acts of terrorism. The lack of attention this Justice Department has given to oversight by the Senate Judiciary Committee regarding issues of national importance, including implementation of the USA PATRIOT Act, is, quite frankly, appalling. Reticence by the Nation's chief law enforcement officer to appear before the authorizing committee of the Senate would be disappointing any time. During these trying times in which the administration has chosen unilateral action it is inexcusable.

The written questions I posed to General Ashcroft in connection with last year's hearing did not get any response for 9 months, and even then, the so-called answers were incomplete and unresponsive. In fact, the Justice Department has delayed answering numerous written oversight requests until answers are moot or outdated, or they respond in vague and evasive terms. This approach stymies our constitutional system of checks and balances. The checks and balance on the executive intended by the Founders and embodied in the Constitution are being put to the test by a secretive administration. More importantly, such flagrant avoidance of accountability fuels the sort of public distrust that is now associated with federal law enforcement and, in particular, with this Attorney General and his department.

Let me provide a few of what could be many, many examples:

On June 19, 2002, Senator GRASSLEY and I sent a letter to the Office of the Inspector General, regarding allegations made by an FBI whistleblower that posed several important questions about the problems in the FBI's translator program that have never been answered. The Attorney General has yet to intervene despite the unseemly delay. I raised the issue of translators in our first meeting on September 19, 2001, as we began the process of constructing what became the PATRIOT Act. I have attempted to follow up in the months and years since that time and have been given the run around with conflicting responses virtually each time I inquire. With the implications proper translation and translation capacities have for the country's security, these delays and this unresponsiveness is simply unacceptable.

Over 2 years ago, I began asking about the FBI's translation program. Yet, questions I posed to the Assistant Attorney General Wray during an October oversight hearing were greeted with a virtual blank stare and no knowledge about the issue at all. On March 2 of this year, I sent a letter to the Attorney General and FBI Director Mueller repeating some of what I have asked before and asking about new issues that have since been raised. Needless to say, no answers have been forthcoming.

On January 10, 2003, Senator FEINGOLD, Senator CANTWELL and I sent the Attorney General a set of questions regarding the Department's data-mining practices. On February 19, we were informed that our letter had been referred to the FBI for a response, and that a response would be provided no later than March 31. On March 18, we were advised that the FBI's response had been delivered to the Department for review and approval, and that the Department would transmit the final response to us directly. That was the last we heard on this matter. It has been over a year since we inquired. American's privacy interests should not be so easily sloughed aside.

On May 23, 2002, I wrote to the Attorney General to request a full accounting of any problems the Department or the FBI might be experiencing with regard to the PATRIOT Act amendment authorizing "roving wiretaps" under the Foreign Intelligence Surveillance Act, FISA. In particular, I asked the Department to detail any problems involving technical and operational implementation of the new authority, the current statutory language, construction of that language by the FISA court, or a combination of any or all of these factors. I have received no response. Roving wiretaps were one of the more controversial authorities that we provided following September 11. Americans across the country are concerned and fearful that their privacy is being invaded by a federal government that may be repeating historical excesses. To reassure the public and to correct problems, we need answers—prompt answers. Ten months is too long to have to wait for such an accounting.

Other oversight letters that have remained unanswered for 6 months or more include questions about the Department's death penalty procedures, the status of regulations for reporting suspicion child exploitation matters, concern about the Wen Ho Lee espionage case, and the release of Office of Legal Counsel opinions.

Despite his having recently been a Member of the Senate and of the Senate Judiciary Committee, it would seem that in his current role as Attorney General, former Senator Ashcroft has forgotten that effective oversight of the Justice Department requires the Department's full and timely cooperation. When stale and incomplete responses to questions trickle in after months of delay, one has to wonder whether the Department is incapable of responding in a timely fashion or is deliberately stonewalling.

Congress is not the only one asking questions. In the past year, several Federal courts have criticized the Justice Department's use of tools to pursue terrorism-related activity and the unilateral power asserted by the executive branch. I regret that when Congress is not vigorous in its necessary oversight and when the Executive ignores our oversight, it falls to the courts as the only remaining check on Executive power to review its actions. That is why the Supreme Court will be spending so much time this year on terrorism cases. That is not the way it should be or needs to be. That is apparently the intention of the Executive, however. That contravenes the Constitution and denigrates our Government.

Last March, I was hopeful that the Attorney General's appearance before the committee would be the first of a series of hearings building on the important oversight activities we began in the last Congress, including the first comprehensive oversight of the FBI initiated in decades. Unfortunately, that important mission too seems to have fallen by the wayside. With the change in Senate leadership to the Republican Party, little interest has been shown in effective congressional oversight. Our security and the American people are the losers in this regard.

Late on a February Friday afternoon—a time often used by the current administration to bury news stories—the FBI quietly released a report on its broken "Office of Professional Responsibility." The report was occasioned in part by FBI whistleblowers who had the courage to stand up and denounce longstanding problems in the way the FBI disciplined itself. One recommendation of the OPR report was to adopt a reform Senator GRASSLEY and I have introduced over the last few years as part of our FBI Reform Act. Like oversight, our legislative efforts to improve the practices of the Executive branch also seem stymied. This Republican-controlled Senate will not even consider enacting reforms we all know are needed, that watchdogs within the Executive have endorsed.

So here we are, over 13 months after we last saw General Ashcroft, and we have no schedule for the long overdue appearance by the Attorney General of the United States before the oversight committee of the Senate. Republican Senators may have disagreed with Attorney General Reno's leadership on certain issues, but they cannot say that she did not appear before the Judiciary Committee for hours and hours at a time and listen to our questions and seek to answer the questions of all Senators, Republicans and Democrats. By contrast, the current Attorney General found the time to make a 19-city cross country tour last year in which he appeared before friendly, hand-picked audiences and delivered a series of statements seeking to defend his use of the PATRIOT Act. He finds time to attend virtually every press conference on an indictment or case development in high profile cases. Yet he has not, and apparently will not, appear before the people's elected representatives to answer our questions, hear our concerns and work with us to improve the work of the Department of Justice.

We in Congress have the constitutional obligation and public responsibility to oversee the Department of Justice's operations. After September 11, after we expressed our sorrow for the victims and our determination to respond while preserving American freedoms, I publicly noted my regret that we had not performed more effective and thorough oversight of the Department of Justice in the years before 2001. During the 17 months in 2001 and 2002 when I chaired the Judiciary Committee I worked with all Members, Republicans and Democrats, to provide real oversight. There were times when the Attorney General used our hearings as a forum to attack us and our patriotism but we persisted to perform our constitutional duties. It is with deep regret that I report to the Senate and the American people that it is now more than a year since the Attorney General of the United States last appeared before the Senate Judiciary Committee. It is with sadness that I note the lack of effective oversight the Committee and the Senate are conducting on matters that threaten the freedoms and security of the American people.

CHILD ABUSE PREVENTION MONTH

Mr. DOMENICI. Mr. President, I rise today in recognition of April as Child Abuse Prevention Month.

Child abuse continues to be a significant problem in the United States. It was estimated that in 2001, 903,000 children were the victims of child abuse or neglect. Child abuse is a crime perpetrated on the innocent and the defenseless.

In 2003, there were 17,345 substantiated child abuse or neglect cases in New Mexico. We must protect these children who cannot protect themselves. By acknowledging April as Child Abuse Prevention Month, we are increasing awareness in the hopes that no more children live in fear.

Across this Nation, numerous individuals and organizations dedicate countless hours of selfless work in the fight against child abuse. Many of the organizations that work to end child abuse began at the local level. I would like to acknowledge one of these organizations from my home State in Las Cruces, NM. The child abuse awareness team consists of around 40 members who recognized a need in their community and resolved to make a change. This team of volunteers, law enforcement agents, school personnel and social service agency representatives, continually strives to protect the children in Dona Ana County.

The child abuse awareness team educates the community about child abuse prevention and reporting child abuse and neglect, promotes enforcement of child abuse and neglect laws, and provides advocacy for child abuse victims. They believe the most effective child abuse prevention programs succeed when the entire community is involved. The child abuse awareness team has developed this support system within the community by creating partnerships among social service agencies, schools, religious and civic organizations, law enforcement agencies, and the business community.

The child abuse awareness team is taking the right steps in preventing child abuse incidents. I would like to specifically recognize the founder of this community organization Jesús Frietze, a social worker who saw a need in his community and took action. It is noble actions, from individuals like Jesús, who make a difference not only in the local communities but in our States and our Nation.

By taking this month to recognize the problem of child abuse, I hope we will all do our part to combat this epidemic.

THE PARTIAL BIRTH ABORTION BAN ACT COURT TRIALS

Mr. SANTORUM. Mr. President, I rise today to draw the attention of my colleagues to an issue that is currently being debated in Federal district courts in New York, Nebraska, and San Francisco. Today, the Partial Birth Abortion Ban Act, which we overwhelmingly passed and saw signed into law last year, is being challenged in three Federal courts across the country. This law bans the gruesome procedure known as partial birth abortion, which is performed over a three-day period in the second or third trimester of pregnancy. In this particular abortion technique, the physician delivers all but the baby's head through the birth canal, stabs the baby in the base of the skull with curved scissors, and then uses a suction catheter to remove the child's brain.

As we have seen these trials go forward, I have been disturbed at some of the testimony that has been given in opposition to this legislation, and I wanted to ensure that my colleagues were aware of it.

In particular, in the testimony of these doctors who are challenging this law, we see a complete disregard for any consideration of the pain a child experiences during a late-term abortion. On March 30, in the New York case, the judge asked the doctor testifying whether the fetus having pain ever crossed his mind. The witness, who does not perform partial birth abortions, but who has been present when they were done, replied, "No." The judge further questioned the witness as to whether the mother of the child was informed as to the specifics of the procedure in terms that the patient can understand.

> The Witness: I guess I would say that whenever we describe medical procedures we try to do so in a way that's not offensive or gruesome or overly graphic for patients.
>
> The Court: Can they fully comprehend unless you do? Not all of these mothers are Rhodes scholars or highly educated, are they?
>
> The Witness: No, that's true. But I'm also not exactly sure what using terminology like sucking the brains out would . . .
>
> The Court: That's what happens, doesn't it?
>
> The Witness: Well, in some situations that might happen. There are different ways it could be dealt with, but that is one way of describing it.

This witness further testified that up until the last steps of a partial birth abortion, the feet of the child could be moving.

On April 5, another doctor testifying for the plaintiffs in New York showed similar callous disregard for the pain the fetus might feel.

> The Court: Do you ever tell them (the women) that after that is done you are going to suction or suck the brain out of the skull?
>
> The Witness: I don't use suction.
>
> The Court: Then how do you remove the brain from the skull?
>
> The Witness: I use my finger to disrupt the central nervous system, thereby the skull collapses and I can easily deliver the remainder of the fetus through the cervix.
>
> The Court: Do you tell them you are going to collapse the skull?
>
> The Witness: No.
>
> The Court: The mother?
>
> The Witness: No.
>
> The Court: Do you tell them whether or not that hurts the fetus?
>
> The Witness: I have never talked to a fetus about whether or not they experience pain.
>
> The Court: I didn't say that, Doctor. Do you tell the mother whether or not it hurts the fetus?
>
> The Witness: I don't believe the fetus does feel pain at the gestational ages that we do, but I have no evidence to say one way or the other so I can't answer that question.

Yet even this week, Dr. Kanwaljeet Anand, a pediatrician at the University of Arkansas for Medical Sciences and a witness in the Nebraska case, testified that the procedure would cause "severe and excruciating" pain to the fetus. He said, "What we have noted from studies of premature infants is that they have a much lower threshold for pain, meaning they are more sensitive to pain than the full term infant. In fact, some types of pain are three times greater sensitivity in the pre-term baby as compared to the full term neonate." He went on to say, "I would say between 20 and 30 weeks of gestation is the greatest sensitivity to pain." "The threshold for pain is very low. The fetus is very likely extremely sensitive to pain during the gestation of 20 to 30 weeks. And so the procedures associated with the partial-birth abortion that I just described would be likely to cause severe pain, right from the time the fetus is being manipulated and being handled to the time that the incision is made, and the brain or the contents, intracranial contents, are sucked out."

Another aspect of the current court challenges to this law centers around whether partial birth abortions are ever medically necessary. Those arguing against the law have expressed their opinion that the procedure is a medical necessity. The Department of Justice is defending the law by supporting the extensive congressional findings included in the Partial Birth Abortion Ban Act that indicate that partial birth abortions are never medically necessary. For this reason the Department of Justice has sought the release of abortion records in order to demonstrate that partial birth abortions are never medically necessary. In order to ensure patient privacy, any personal information on these records which could identify a patient would be deleted prior to being submitted for review. Since those arguing against this law have done so claiming the "medical necessity of this procedure," it seems reasonable that they be required to show evidence which backs up their claims.

Those testifying in opposition of banning the use of this inhumane procedure have continued to state its medical necessity. However, under questioning from Department of Justice attorneys and Judge Casey in New York, these abortionists have conceded that there are no studies which show this procedure to be less risky for the mother than other types of late-term abortions. They have also not been able to deliver any records showing its medical necessity, though this claim is at the core of their case. Some witnesses have indicated that this information would be found in the patient's medical chart—the ones which they have refused to release.

On April 6, Judge Casey in New York had this to say on April 6 regarding these medical records:

> I have no comprehension why there is such resistance from doctors maintaining as they argue as to the appropriateness, the safety, etc., of these procedures, why the records, in this case that book, should not be opened for examination. To not have it turned over to the government continues not in a fashion of a level playing field and I don't think was what was envisioned as to how we should administer trials of this nature or any trials in this court.
>
> I would hope that the hospital would rethink their position. I would also urge any of the plaintiffs, if they have any records that are personal to them, that they don't wait until, shall we say, by accident or whatever means they are uncovered or stumbled upon; that they produce them, as well they should know through their counsel that our system believes in full discovery and disclosure, and concealing facts or things in this context in our courts, in federal court, is not something that is encouraged, just as the Court has expressed a strong feeling that lawyers should be open and completely candid in their statements to the Court.

I came to the floor today about this because I want my colleagues to be aware of these cases as they go forward, and especially to point out examples of some of the blatant disrespect being shown for the lives of these partially-born children and their mothers.

CONGRATULATIONS TO THE MEN AND WOMEN'S NCAA BASKETBALL CHAMPIONS UNIVERSITY OF CONNECTICUT HUSKIES

Mr. LIEBERMAN. Mr. President. I come to the floor today to congratulate the University of Connecticut Huskies' Men and Women's basketball teams on their double national championship. This is the first time any school has accomplished this incredible feat. With this achievement, coaches Jim Calhoun and Geno Auriemma have solidified their place at the peak of college basketball's coaching mountain.

On Monday night, the men, lead by terrific performances by Emeka Okafor and Ben Gordon, defeated the Georgia Tech Yellow Jackets 82–73. This victory gave the men's program its second national title. On Tuesday, the women, on the strength of a brilliant 17-point effort by Diana Taurasi, completed the Huskies' double dip, knocking off the Tennessee Lady Vols by the score of 70–61 to capture their third straight national championship and the fifth in the school's history.

These victories were captured with great teamwork, which was fortified by outstanding leadership. Not just from the two legendary coaches, but from the players themselves. On the men's side, Emeka Okafor, whose dominating second half in the semi-finals against Duke is the stuff of which legends are made. That performance, followed by his brilliant 24 point 15 rebound effort in the championship game earned him Most Outstanding Player in the Final Four honors, and will most likely make him the top pick in this summer's NBA draft. On the women's side was Diana Taurasi. Diana's greatness speaks for itself. She lead the Huskies to three straight national titles, compiled a career NCAA tournament record of 22–1, and was named Most Outstanding Player in the Final Four the past two seasons.

This year started out with the greatest of expectations for both teams. They were both picked as pre-season No. 1 teams, but as the season wore on, each had their share of adversity. Coach Calhoun and Coach Auriemma saw their teams suffer tough losses and key injuries. Each team's best player would battle through nagging injuries that made many people question whether they had what it took to reach their championship aspirations. What is truly remarkable is that neither team ever doubted themselves. As the calendar turned to March, both teams battled through the adversity, and began the long steady journey toward greatness. After all the ups and downs of a long season, our UCONN Huskies finished the season where they started—on top of the college basketball world.

Mr. President, today is a day of great pride for Connecticut. We are proud of Jim Calhoun, Geno Auriemma, and their terrific players. We thank them for their brilliance. We thank them for giving us such tremendous joy in watching them play. At a time when there are so many things that divide us and have us concerned, it is so important to have something that unites us, lifts our spirits, and gives us a sense of pride. Thanks to the Huskies' unprecedented accomplishment, today we can truly say Connecticut is the College Basketball Capital of America.

MINNESOTA ATHLETICS

Mr. COLEMAN. Mr. President, it has been a great winter when it comes to Minnesota athletics. Last week I had the privilege to congratulate and recognize the achievements of the University of Minnesota Twin-Cities women's hockey and basketball teams. Today, I switch schools and genders to recognize and congratulate head coach Scott Sandelin and the University of Minnesota-Duluth Men's ice hockey team for their appearance in the NCAA Frozen Four. The Bulldogs will be making their third NCAA Frozen Four appearance tomorrow, having previously appeared in 1984 and 1985.

The team and many of its fans are in Boston today, gearing up for the fast pace and the emotion that comes with playing in the Frozen Four on national television. The road to the Frozen Four can be difficult and demanding. I say "can be difficult" only because—well, the Bulldogs made it look somewhat easy.

In convincing fashion, the Bulldogs defeated Michigan State 5 to 0 and the University of Minnesota-Twin Cities 3 to 1 to earn their first Frozen Four bid since 1985. Against arch-rival Minnesota-Twin Cities, the Bulldogs stuck to a solid game plan, scored timely goals, and received phenomenal goaltending from Isaac Reichmuth, who also should be recognized for his stellar shut-out of Michigan State.

While absent 19 years from the Frozen Four, the Bulldogs appearance in this year's Frozen Four is no surprise. After finishing the season 28–12–4, and placing second in the Western Collegiate Hockey Association, the Bulldogs earned the second seed in the Midwest Regional of the NCAA tournament.

They are coached by Scott Sandelin. Coach Sandelin is a finalist for the Spencer Penrose Award, the official award of the NCAA for Division 1 coach of the year, and recently received Inside-college-hockey's award for Coach of the Year.

On the ice, the Bulldogs have been led all year by Hobey Baker finalist Junior Lessard, who currently leads the Nation in goals and scoring. Lessard has also racked up two prestigious Player of the Year awards by Inside-college-hockey and U.S. College Hockey Online.

On the blue line, the Bulldogs are led by first team WCHA all-conference selection Beau Geisler, and as I mentioned before, Isaac Reichmuch, himself a second team all conference selection, has been unbeatable in the pipes for the Bulldogs.

The Bulldog ice-hockey tradition runs deep. The program has placed over 34 of its student-athletes into the National Hockey League over the past 35 years. Thanks to Bulldog legends such as Curt Giles, Pat Boutette, Brett Hull, Chris Marinucci, Derek Plante, and Shjon Podein, Minnesota-Duluth is one of the premier hockey schools in the Nation and a source of deep pride for Duluth and all of Minnesota.

These young men, 15 of whom are native Minnesotans, are continuing this tradition of excellence and deserve the recognition and excitement that is accompanying their trip to the Frozen Four. Charter buses of Minnesotans have made the long trek to Beantown to cheer on their team and I, like them, look forward to a great matchup between the Bulldogs and the University of Denver tomorrow in Boston.

Congratulations to the University of Minnesota-Duluth Bulldogs for what has been a stellar season, and best wishes on their ongoing quest for the national championship.

GEORGIA TECH'S RAMBLIN WRECK MAKES GEORGIA PROUD

Mr. CHAMBLISS. Mr. President, I want to extend my congratulations to Georgia Institute of Technology for the incredible performance of the Yellow Jackets basketball team this year. Georgia Tech proved itself to be a national power as it won game after game on its way to the NCAA final game.

I join all Georgians in admiration of the Yellow Jackets Head Coach Paul Hewitt, and his assistants Dean Keener, Willie Reese, and Cliff Warren for building a program which proved itself in national competition. I also want to congratulate the players who showed leadership, poise and class as they played great basketball against the best teams in the country.

Georgia Tech is an important educational institution. Tech graduates lead the way in every aspect of the business and professional community in America. Its graduates are in high demand around the world for their skills and abilities. Its sports programs are also very well regarded.

The reputation of the Ramblin Wreck's athletic program can only grow higher after this appearance in the NCAA tournament. When the season began, Georgia Tech was picked to finish seventh in the nine-team Atlantic Coast Conference. Instead it made it to its first Final Four appearance since 1990 and its first title game ever.

I salute the 2003-2004 Georgia Tech basketball team for a great year. They have made all of Georgia proud.

RE-OPENING I-95 IN CONNECTICUT

Mr. LIEBERMAN. Mr. President, I rise today in praise of the exemplary efforts of the construction and maintenance crews, engineers, and State and Federal transportation officials to quickly re-open Interstate 95 in Bridgeport, Connecticut, last week after a devastating fire destroyed a portion of the highway. On behalf of the people of Connecticut, I offer them my deepest thanks for the hard work—and teamwork—that has restored a vital artery in our nation's transportation system faster than anyone thought possible.

On Thursday evening, March 25, a car and a tanker truck collided while traveling along I-95 South in Bridgeport. The tanker truck, carrying 12,000 gallons of home heating oil, tipped over and slid along the barriers before stopping and, minutes later, the truck's contents ignited, sending flames 50 to 60 feet into the air. Remarkably, no one was killed or injured in the accident, and within 20 minutes firefighters had extinguished the blaze, but the damage had been done. Both the existing southbound bridge and a new bridge that had just been built alongside of it were severely damaged.

I-95 in Connecticut—a traffic corridor of national significance that links New York City with Boston—was immediately shut down in both directions over a distance spanning several exits. This caused major traffic problems, especially for tractor-trailer drivers. Engineers determined that the northbound overpass could be shored up and made structurally sound again, and additional supports were erected to reinforce the northbound span, which was reopened to traffic on Sunday night, March 28. The southbound lanes, however, were beyond easy repair, and engineers concluded that a temporary bridge would have to be erected to support traffic on the southbound span of the highway. A temporary bridge was supplied by Acrow Corp of Carlstadt, NJ. It arrived in pieces and was assembled by crews from the Connecticut Department of Transportation, DeMatteo Construction, and Brunalli Construction. By Sunday morning, the skeleton of the temporary bridge had been fully assembled. A steel deck was then laid on top of it and the surface was paved. The southbound lanes of I-95 were reopened on Wednesday morning at 3:30 a.m.

Approximately 120,000 vehicles pass over this span of I-95 every day, and officials initially estimated that the highway would be closed for three to four weeks. But the crews that performed the work managed to re-open it in just five days. This accomplishment cannot be overstated. I rise today to say thank you to the Connecticut DOT employees, Federal DOT officials, contractors and others who worked around the clock to make it possible. Your service to our State is deeply appreciated, and we commend you for your excellent work.

HONORING JACK SMITH

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Jack Smith, distinguished Vietnam veteran and former ABC News Correspondent. Jack Smith died on April 7 at the age of 58 at a hospital in Greenbrea, CA. He had been struggling with cancer for the past year.

Jack had a long and successful career as a Washington-based reporter for ABC News. He covered foreign wars, five presidential elections, and hosted numerous shows and documentaries. His thoughtful reporting and dedication to journalism ranks Jack Smith high in the history of news reporters.

Jack was wounded during the 1965 battle of Ia Drang Valley. He was decorated with the Bronze Star and the Purple Heart for his bravery. His experiences in the Vietnam War prompted him to speak and report extensively on the war and its aftermath. He was a man of great integrity who never faltered on his commitment to demonstrate accurately and honestly the historic events of our time.

Jack Smith leaves behind his wife, Pamela Peffer; a son, Alexander Smith; two stepchildren, Aidan McTighe and Matthew McTighe; his mother, Benedicte Smith; and a sister. Jack was the son of legendary reporter Howard K. Smith.

For his service to his country during the Vietnam War and excellence in journalism, I ask my colleagues to join me and all Americans in honoring Jack Smith.

IN RECOGNITION OF BRITTNEY MORASKI

Mr. LEVIN. Mr. President, I am pleased to recognize my Senate page today, Brittney Moraski of Bark River, MI, for achieving highest honors at the Senate Page School. Brittney's hard work earned her a 4.0 grade point average this semester, the highest in her class.

Highest honors are nothing new for Brittney. At home in Michigan's Upper Peninsula, Brittney attends Bark River-Harris High School where she is a member of the National Honor Society and also maintains a 4.0 G.P.A. Brittney took advanced placement classes in U.S. Government and Politics and microeconomics and achieved the highest score possible on both A.P. exams. In addition, Brittney has taken college classes at Bay de Noc Community College. Brittney was the first Bark River-Harris High School student to earn the highest endorsement level possible on the senior-level Michigan Educational Assessment Program test as a sophomore.

Complementing her school year work, Brittney has participated in activities that further nurtured her lifelong interest in government and politics. Last summer, Brittney spent three weeks in Washington as part of the Junior Statesmen Summer School at Georgetown University where she took a course on foreign policy and had the opportunity to meet with high-ranking officials in the Congress, State Department, Pentagon, White House and French Embassy.

In addition to her exemplary academic achievements, Brittney stands out for her community involvement. She is the president of the Bark River-Harris Key Club and serves on the Community Foundation of Delta County's Youth Advisory Committee. During the past three years, she traveled to Honduras to volunteer at a soup kitchen, distribute food and clothing, and read and play with Honduran children.

Brittney brings her idealism and achievements to her duties as a Senate page. In her application for the page program, Brittney wrote, "I would not only grow as a student of government from the experience, but I would grow as an individual and as a potential future public servant." Later in her application, Brittney said, "I believe in the U.S. government and in American values, and I would be honored to serve as a page in the epicenter of American lawmaking, the U.S. Congress."

Mr. President, Brittney Moraski exemplifies all that is best in the Senate Page Program and in our young people, and I congratulate her on her outstanding achievements.

ADDITIONAL STATEMENTS

THE OUTSTANDING SERVICE OF JUDITH OLIVER

• Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to Judith Oliver, Director of The Children's Room Center for Grieving Children and Teenagers in Arlington, MA.

Ms. Oliver has dedicated her professional life to aiding children and families who suffer the loss of a family member. A week from tomorrow, the Center will celebrate its fifth anniversary with a dinner and an auction, and she will be presented with an eminently well-deserved award for excellence.

Ms. Oliver became Director of The Children's Room in 1992, when it was a program at Hospice West in Waltham. She organized it as an independent charity in 1999, and since then it has grown from helping a group of ten children to serving over a hundred children and sixty families.

Today, The Children's Room is a beacon of hope and help for bereaved children and others in their family. It provides a safe and caring environment where children, teenagers and their families can obtain the support they need in grieving over the death of their loved ones.

Ms. Oliver's extraordinary caring, compassion, and dedication are the hallmarks of her career. In many ways, she's a pioneer in this very important field. She earned a Master's Degree in Counseling at Loyola College in Baltimore, with an internship in grief counseling at Hospice of the Chesapeake in Maryland and at Grandma's House, a Washington, D.C. home for children with AIDS.

As we all know, the need for these counseling services is especially great today. Judith Oliver's leadership is a model for all communities. Massachusetts is proud of her. We're fortunate to have her, and I join her many admirers in congratulating her on this award.•

OREGON VETERANS

• Mr. SMITH. Mr. President, today I rise to honor an Oregon veteran who answered the call of duty in service to his country. Grover Judd Killpack was born on January 24, 1924 in a small mining town called Mohrland, close to Price, UT.

Judd's military career began in October of 1943, when he entered the Coast Guard as an Seaman Apprentice. He was assigned to the USS *Callaway*, an attack transport ship that fought in the Pacific theater during World War II. While on the *Callaway*, he ran one of the landing boats, transporting the soldiers to the fight and returning the wounded to the ship. He participated in six invasions in the Pacific, including the Battle for Leyte Gulf and the Battle for Iwo Jiwa. Judd watched as the Marines took control of the island and raised the flag on Mount Suribachi; a scene immortalized in the now-famous monument in Arlington, VA.

After his tour of duty ended in May of 1946, he left the Coast Guard as a petty officer 3rd class and went home to Price, UT where he married Eva Milkovich. He attended Carbon College where he focused his studies in the dairy field. He demonstrated his leadership skills as the student body president. He transferred to Utah State University where he participated in the ROTC program and received his degree in Dairy Technology. During this time Judd and Eve were blessed with a son and a daughter.

Judd took a sales job that led him and his family to Denver, CO. One day before his tour was over, his country called for his services once again. He answered that call, leaving for the Korean War as a 2nd Lieutenant in the Army in January of 1952. During his short time in the conflict he served as an artillery observer flying over enemy lines to direct friendly fire on communist targets. He came home for good in November of 1952 as a 1st Lieutenant.

A new job opportunity brought Judd and his family to the northwest. They stayed in Seattle, WA until January of 1955. They found their permanent home in Beaverton, OR and the Killpack family has lived there since that day.

Judd went on to be a sales rep for the R&H Company in 1961 and spent the rest of his working days with them, finally retiring in 1986. Judd has been married to Eve since July 3, 1946 and has two children, five grandchildren, and one great grandchild on the way.

For his selfless service to others, and to the United States in time of war, I salute Grover Judd Killpack as an Oregon Veteran hero.•

NATIONAL PUBLIC HEALTH WEEK

• Mr. JOHNSON. Mr. President, this week is National Public Health Week, an annual event sponsored by the American Public Health Association or APHA. Every year in April, national, State and local public health professionals highlight an important public health issue, to raise awareness about leading health problems impacting our nation. This year, the theme of National Public Health Week is "eliminating health disparities".

There are many groups that experience disparities in health, largely a result of limited access to important health care services. Living in a rural area is in itself a health risk factor, due to numerous factors that can adversely influence health and access and the resulting disparities are well documented. Chronic illnesses are more prevalent in rural communities and studies have shown that rural residents are more likely to describe their overall health status as poorer than their urban counterparts. Limitation in activity due to chronic health conditions among adults is more common in rural counties than in large metro counties.

The University of Pittsburg's Center for Rural Health Practices released a report this week which highlights specific rural health disparity issues. The report indicated that death rates for children and young adults are highest in the most rural counties. Nationally and within each region, death rates from unintentional injuries increases greatly as counties become less urban. And death rates for motor vehicle-related injuries in most rural counties are over twice as high as the rates in central counties of large metro areas. My home State of South Dakota ranks 8th with two other States for having the worst motor vehicle death rate in the Nation.

In addition, adolescents living in the most rural counties are most likely to smoke. For example, in 1999 for the United States as a whole, 19 percent of adolescents in the most rural counties smoked compared with 11 percent in metro counties. This disparity also holds true for adults who smoke. Adults in rural areas are more likely to consume alcohol than those living in other areas, and both men and women in rural areas have higher rates of self-reported obesity than men and women in other areas.

Minorities in rural areas also face additional health disparities. Diabetes among Native Americans is more than twice that of the general population, and heart disease and cancer are the leading causes of death among this population. Infant mortality among this population is 1.7 times higher than among non-Hispanic whites and the sudden infant death syndrome or SIDS rate among this minority group is the highest of any population group in the nation.

It is important that we find ways to address rural public health disparities. Access to health care providers is a critical component of the solution and that is why I have long supported rural provider payment equity. Payment equity ensures that the doors stay open at our local hospitals and physicians offices. I feel that Congress needs to continue to address this important issue and make a commitment to rural residents across America that it will support initiatives to remedy this problem.

While payment equity is a critical component in solving this disparity issue, it is only part of the overall solution. Access problems continue to be a distinct challenge in rural communities, due largely to declining rates of health care workers in these areas. In 1998, there were six times as many general pediatricians per 100,000 in central counties of large metro areas as in the most rural counties and five times as many general internists.

One of the ways to address this problem is through enhanced funding for important Federal programs that promote the recruitment and retention of health care workers. I have recently sent letters to the leadership on the Senate Labor, Health and Human Services, Education Appropriations Subcommittee, requesting a $63 million dollar increase for Title VIII nurse education programs created under the Nurse Reinvestment Act. I have also asked the committee to restore the President's proposed drastic cuts of almost $200 million for the Title VII health professions programs, by providing $308 million for these programs.

In order to further address rural health disparities, we need to strengthen efforts towards establishing a 21st century health care system that utilizes information technology to allow health care professionals across rural America to share their knowledge, expertise and resources. I have worked with my colleagues in the Senate to secure funding in recent years to allow just that, such as the wonderful health information systems project through the Community HealthCare Association of South Dakota, and the nurse distance learning project through the University of South Dakota and the Good Samaritan Society. I encourage my colleagues to continue to build on these types of rural specific projects nationwide so that we may see this dream of a modern 21st century health care system become a reality.

In order to address the Native American health disparities problems, in addition to improving access to direct health care services, it is important that we obtain comprehensive data on key health risk factors impacting this population. In South Dakota, the Northern Plains Tribal Epidemiology Center in Rapid City is providing information to tribes and working with tribes to help access health data through good assessment tools, which can be used to develop interventions and improve the health in Native American communities across the State. This is an effective model for approaching a critical minority health problem and the Center combines epidemiology, research, and public health practice to develop interventions that can be disseminated to the tribal communities.

Often our best solutions come from the local experts. I look forward to working with public health experts in both South Dakota, as well as the Nation at large, to address these shortfalls in rural health. I believe that the information we gain through these discussions will provide Congress with a broader scope of knowledge, thus allowing us to better meet the needs of those who fall into this health disparity category.•

JOHN THORNTON

• Mr. ALEXANDER. Mr. President, I rise today to tell my colleagues about a generous person, who I am proud to call my friend and a Tennessean.

His name is John "Thunder" Thornton. You may have read about his generosity last week in USA Today.

In 1998, John went to the Final Four in San Antonio. While there, he had a frightening experience—he has a heart attack in the back of a taxi cab. His cab driver, Ceasar Hernandez, quickly drove him to the hospital and then made sure his teenage children, Dori and Johnny, got back to the hotel where family friends could take care of them.

In the USA Today article, John said, "Caesar saved my life, and he comforted my kids at a time when they needed that. I wanted to do something for him."

So to show his appreciation 6 years ago, John bought the stranger who saved his life a 1998 Cadillac sedan. The new car allowed Mr. Hernandez to start a cab company in his hometown of Victoria, TX instead of commuting to San Antonio to drive a taxi.

John's gratefulness and graciousness doesn't end there. He returned to San Antonio last Friday for the Final Four. While there, he took Mr. Hernandez to the games and dinner and also had a surprise in store. Anyone who knows John knows he's an avid fan of the University of Tennessee. Ten years ago, he bought an orange and white stretch limo that he's driven to UT games across the country. Now Mr. Hernandez's taxi cab fleet includes that limousine.

This isn't the first time something like this has happened. Most people in Tennessee know about John's gift to the University of Tennessee in Knoxville to establish the Thornton Athletic Student Life Center. But most people don't know that 10 years ago, when John sold his business in Georgia, he paid off the mortgages of every employee that worked for him.

As I said earlier, I am proud to call him my friend, and I am proud to call him a Tennessean. His father, Lloyd, and my father carpooled to work at the Aluminum Company of America in Alcoa when John and I were growing up in Maryville.

The Lloyd L. Thornton stadium at Maryville College is named in honor of him—a tribute by his son.

On a personal note, I was proud to introduce John's daughter Dori, our Tennessee Cherry Blossom princess, at an event last week. She is a young Washington professional doing a fantastic job in political event planning and fundraising for Hammond and Associates. Like he father, Dori has an incredible energy and commitment to service. She serves as a patient care volunteer at the Children's National Medical Center and the Gilda's Club of Greater Washington and is a Junior Achievement kindergarten teacher at Douglas MacArthur Elementary School. She is a lovely young woman and a true Tennessee volunteer.

Mr. President, thank you for allowing me to tell you and our Senate colleagues about a man who has found success and has set an example for all of us in what he does for others with that success.•

BOB EDWARDS AND NATIONAL PUBLIC RADIO

• Mr. HARKIN. Mr. President, the management of National Public Radio has announced that Bob Edwards, the host of "Morning Edition" for a quarter century, will be removed from the show at the end of this month. NPR executive vice president Ken Stern explained that getting rid of Edwards was part of "a natural evolution." He says that it was "a programming decision about the right sound."

"Natural evolution?" The "right sound?" I have no idea what these words mean. In fact, I have yet to talk to anyone who knows what those words mean.

If NPR's management wants to remove a star broadcaster, enormously popular all across America, you would think they would offer a clear, coherent explanation. But, no, the best we are offered is that they want a different "sound."

Well, this is not very sound on the part of NPR management. Think about it: Bob Edwards has been the host of "Morning Edition" for 25 years. He has won every radio broadcasting award imaginable, including the 1999 Peabody Award. He has built "Morning Edition" into the No. 1 morning show on radio in the United States, with almost 13 million loyal listeners. He has played a major role in doubling NPR's audience over the last 10 years.

Now, I didn't go to Harvard Business School. I don't have the business and management credentials of the top executives at NPR. But I have enough sense to heed the oldest and wisest rule of management: If it ain't broke, don't fix it.

If you are fortunate to have the best in the business, a broadcaster who is the heart and soul of the No. 1 morning show on radio, then, for heaven's sake, you don't remove him. You don't dump him. You raise his pay.

Characteristically, Bob Edwards was gracious and restrained. He said, "I would love to have stayed with 'Morning Edition.' But it is not my candy store."

No, "Morning Edition" is not Bob Edwards' candy store. Nor is National Public Radio the candy store of Mr. Stern, Jay Kernis, Kevin klose, and the other NPR executives apparently responsible for this decision.

I would remind them that NPR's middle name is "Public." National Public Radio and its affiliate stations depend on taxpayer dollars and contributions from ordinary Americans. NPR depends on the public's support. And I have yet to talk to one person, one member of Congress, one listerner of public radio who supports this decision.

Americans are speaking up and expressing their unhappiness. NPR has been deluged with telephone calls and e-mails. And I certainly encourage people to call their local NPR station or go to the NPR website at www.npr.org, where you can register your dissatisfaction. Urge NPR's executives to reconsider this unwise decision. Urge them to listen to their listeners.

Let me be clear, I do not advocate or support any kind of boycott of NPR. It would be a misguided and counterproductive for people to withhold contributions to their local NPR station. After all, National Public Radio is a national treasure. It is the gold standard of radio news and journalism. And we should do nothing that undermines it.

But we have a right to speak up. And we need to speak up. So by all means, send an e-mail to NPR. The address of the ombudsman at NPR is simple enough: ombudsman@npr.org. In addition, call your local NPR affiliate. Urge them to request NPR to reconsider its decision to remove Bob Edwards from "Morning Edition." And if NPR digs in its heels, urge your local affiliate to discontinue "Morning Edition" and find alternative programming for the morning time slot.

Obviously, I am personally a big fan of Bob Edwards. I listen to him virtually every morning, and have for as long as I can remember. He is a straight-shooter, smart, erudite, witty, and calm. He doesn't shout or rant. In other words, he adds class to radio news reporting and interviews.

So I urge executives at National Public Radio to reconsider their decision to remove Bob Edwards from "Morning Edition." And I urge Americans who share my respect for Bob Edwards to make their voices heard.•

IN MEMORIAM OF NORMAN A. LEBEL

• Ms. COLLINS. Mr. President, I would like to take a moment to reflect on the life of Professor Norman A. LeBel, who passed away on December 21, 2003. Professor LeBel's life was dedicated to organic chemistry research where he was an outstanding example to his colleagues and an inspiration to his students.

Professor LeBel was born in Augusta, Maine on March 22, 1931, and received an A.B. degree in chemistry from Bowdoin College in 1952. Professor LeBel and his wife Connie, also from Maine, returned often to the States.

Professor LeBel obtained a Ph.D. in organic chemistry from the Massachusetts Institute of Technology in 1957. He then moved to Detroit, MI, where he began a 40-year career at Wayne State University in the Department of Chemistry, during which time he directed the research of 32 Ph.D. students. Professor LeBel made numerous contributions to organic chemistry during his long career, the most notable being the development of the chemical transformation commonly called the LeBel Reaction. He retired in 1996, after serving Wayne State University as chairman of the chemistry department; as chief of staff for the office of the provost; and as interim dean of the College of Liberal Arts.

Professor LeBel served the American Chemical Society (ACS) in a number of roles, starting as chairman of the Awards Committee of the Detroit Section (1961–1962), then secretary-treasurer of the Division of Organic Chemistry (1965–1969). He was a division councilor for 20 years, starting in 1970, and served on the Committees on Publications, Nominations & Elections, and Divisional Activities. Professor LeBel was also general chairman of the international chemistry meeting known as Pacifichem 2000.

Among his many awards, Professor LeBel received the Wayne State University President's Award for Excellence in Teaching in 1981, the ACS Organic Chemistry Division's Paul G. Gassman Distinguished Service Award in 1996, and the ACS Santa Clara Valley Section's Shirley B. Radding Award in 2001.

In conclusion, I want to express my condolences to Professor LeBel's family and former students. His contributions to the field of organic chemistry are only equaled by his devotion to higher education.•

ASSISTED LIVING

• Mr. BREAUX. Mr. President, I rise today to honor the Louisiana Assisted Living Association, LALA, which will be celebrating "Assisted Living Day" open April 14, 2004 in the State capitol. Both in my home State and in States across the Nation, disabled individuals and older Americans are voicing their demand for a wide range of long-term services. Assisted living represents a significant piece of that continuum of care.

Decades ago, those in need of long-term care had limited options—family caregivers, skilled nursing homes or institutional care. In many cases, family caregivers cannot provide the proper level of care for their loved one for a variety of reasons. In other instances, the person does not require the high level, around-the-clock care of a skilled nursing facility or institution. Now, many disabled persons and older Americans with functional limitations and/or cognitive impairments are finding the assistance they need and desire in assisted living, and in other home and community-based settings.

Unfortunately, our Federal financing structure has a strong institutional bias and does not reflect Americans' growing desire to be cared for in settings other than nursing homes or institutions. Public preference is not the only momentum driving this need for change—we see this direction in our courts as well. At the Federal level, the landmark Olmstead decision underscored this push toward allowing our countrys' elderly and disabled to live in the least restrictive settings for as long as possible. And, in my home State of Louisiana, this momentum was echoed in the Barthelemy case, in which the court strengthened the rights of people to get assistance in home and community-based settings. We now know that we are not talking about merely a preference for non-institutional care—but a legal right to it.

In my capacity as ranking member of the Senate Special Committee on Aging, I have held numerous hearings on long-term care and the importance of supporting the continuum of care options. Assisted living is one of the most significant of these options and offers a real choice to those Americans wanting assistance outside of an institutional setting—a preference that will only grow as more of our baby boomers look for help with long-term care. Today, I salute the Louisiana Assisted Living Association for taking time to educate and improve awareness about a service that I believe can and will improve the lives of many of our Nation's disabled and elderly.•

HONORING KAREN MAYRY

• Mr. JOHNSON. Mr. President, I stand today to recognize an individual who is a dedicated advocate for the blind in this Nation, and especially in my home State of South Dakota.

Karen was raised in Hibbing, MN. The second of five children, she learned at an early age to cope with people's afflictions. Her brother Robert was born with Down syndrome. It was from this early exposure that Karen gained some of the beliefs that would carry over in later life. At age 11, Karen, herself was diagnosed with Type 1 diabetes—the disease that was to define the rest of her life.

In 1965, Karen married her long-time love, Marshall. While living in Tacoma, WA, where Marshall was to finish out his military obligation, Karen found a job teaching in the Clover Park school system. In her first year on the job, she experienced her first hemorrhage in her right eye which resulted in complete vision loss in that eye. Because of her love of educating children, she remained on the job teaching despite experiencing a traumatic physical ailment.

Marshall and Karen moved to Denver, CO after his military obligation was fulfilled. While in Denver, Karen lost still more of her vision and for all purposes became "totally blind" and underwent eye surgery with the hope of restoring some vision to her right eye. The surgery was deemed a cosmetic failure. It was also at this time, that doctors discovered that she was beginning to experience renal failure.

In 1969, Karen and Marshall moved to Rapid City where she was hired on as a Juvenile Probation officer. She remained at the position for 6 years until her renal failure had continued to progress so much that she was no longer able to continue her duties. Experiencing kidney failure soon after, her loving brother, David, offered one of his kidneys. After many months of complications delaying the surgery, the transplant was successful. Three weeks later, she left the hospital and her kidney functions have remained excellent for the past 27 years.

Following the successful kidney treatment, she was approached by representatives of National Federation of the Blind to become a member. The philosophy of the NFB matched her own; one of independence and the abilities of blind persons, if given a chance. Soon after joining, she became active that same year and was elected state president, a quite remarkable accomplishment.

Karen Mayry is the long-time president of the South Dakota Federation of the Blind. For many years, she has provided tireless advocacy for the blind residents of South Dakota and for the disabled population of the State. Under her presidency the State affiliate has grown to five local chapters. She has proposed and lobbied for and had legislation passed bettering the lives of blind South Dakotans. She has testified before the Senate, investigating transportation for the handicapped and has annually made trips to our Nation's Capital to lobby for issues of importance to the blind of the country.

She is dedicated to advocating issues of importance, and she is committed to breaking down the structural and attitudinal barriers that impact the blind and disabled community in south Dakota. Her list of organizations is vast and her accomplishments and awards are countless.

Despite various physical ailments in recent years, Karen refuses to be sidelined and continues her stalwart advocacy. Her vitality and energy is commendable and her advocacy and education over the years on issues affecting blind and disabled individuals have proven very successful. She works hard to educate and advocate for the Americans with Disabilities Act, helps promote the skills and talents of the blind and educates the business community about the importance of hiring individuals with disabilities.

South Dakotans with disabilities have many fighters in their corner, and Karen Mayry is one of their most ardent advocates. Karen doesn't mince words with elected officials, I, for one, have appreciated her frankness and candor over the years. Her insight is valuable on important issues, not only on matters directly affecting blind residents, but also in issues vital to all South Dakotans, disabled and non-disabled alike.

As residents in my State prepare for the annual South Dakota Federation of the Blind Convention in Sioux Falls, I take this opportunity to congratulate and commend Karen Mayry for her many years of outstanding advocacy work for the blind. I applaud her dedication and commitment, appreciate her advocacy, and wish her the best in her own individual battle to come. I look forward to continuing my work with Karen concerning issues of importance to the blind and disabled citizens of south Dakota. It is with great honor that I share her impressive accomplishments with my colleagues.•

CONGRATULATING ALISA BARTON

• Mr. BUNNING. Mr. President, today I would like to take the opportunity to honor Mrs. Alisa Barton of Hopkinsville, KY. Salvation Army welfare coordinator Alisa Barton was honored nationwide with an Award of Excellence in Social Service at the National Social Services Conference in Pittsburgh on Tuesday, March 20.

As former military child and wife, Mrs. Barton knows firsthand the hardship Army families can experience, especially during times of deployment. Mrs. Barton has continuously worked to help alleviate the needs of families remaining at home while their loved ones serve this country in Afghanistan and Iraq.

She developed a program called Homefront War Relief, which has received national recognition for helping the families of deployed Fort Campbell soldiers. The Homefront War Relief program, partnered with Wal-Mart, allowed the Salvation Army to assist 743 military families resulting in the largest military assistance effort the Salvation Army of Hopkinsville has ever done. Throughout 2003, 5,000 military personnel and their families received assistance in the form of comfort kits to deployed soldiers, food and clothing, holiday meals, and Bibles and inspirational books to troops.

Mrs. Barton is dedicated to helping those who come to the Salvation Army in need. She began working with the Salvation Army by ringing donations bells and describes her work as a labor of love spreading the Christian faith and helping people. I ask my colleagues to join me in honoring Mrs. Barton. She is a wonderful asset to Kentucky and an inspiration to us all.•

CONGRATULATING MARSHALL ALL-STAR CHEERLEADERS

• Mr. BUNNING. Mr. President, today I would like to take the opportunity to honor the Marshall All-Star Cheerleaders for their recent success at the national championships in Indianapolis.

The Marshall All-Star Cheerleaders is made up of girls from grades 1–12 competing in three age levels, Peewee grades 1–4, Youth 3–6, and Senior 6–12. They are from Marshall, Graves, Lyon, and McCracken counties and students at Melissa's Gymnastics in Benton, KY.

The squads spent hours in preparation for the fierce competition they faced in Indianapolis. Other squads were from Indiana, Kansas, Illinois, Missouri, Tennessee, Ohio, Michigan, West Virginia, Maryland, Iowa, Wisconsin, and Kentucky. They competed in dance, cheering, and tumbling, and came out on top in the end.

The Marshall All-Star Cheerleaders were the national champions in all three age levels. They are to be commended for this high honor. Their hard work and dedication paid off, and I join my fellow Kentuckians in congratulating these fine young ladies.●

JUAN MEJIA

• Mrs. BOXER. Mr. President, I am pleased to recognize Juan Mejia for his achievement in becoming the Tulare County spelling bee champion and his entrance into the prestigious National Spelling Bee in Washington D.C.

Juan was born in Guzman, Mexico and moved to the United States when he was a year and a half old. He learned English while attending pre-school at a Head Start Program at Sundale School. Continuing on to Kohn Elementary he distinguished himself as a bright and motivated student and was accepted into the GATE program for gifted students. Now at Live Oak Middle School he continues to excel in his studies and extra-curricular activities.

Juan Mejia's achievement in the Tulare County Spelling Bee is particularly notable because of his late introduction to the English language. By working hard and using all available resources, Juan overcame an educational barrier to become a master of the English language. For his focus, fortitude and determined work. I congratulate him and wish him the best of luck in the National Spelling Bee in Washington D.C. Regardless of the outcome in the National Spelling Bee, Juan Mejia is a tremendous success and a worthy example of how challenges can be met and overcome with focused effort and perseverance.●

IN RECOGNITION OF DOUG HARRISON

• Mrs. BOXER. Mr. President, I am pleased to recognize Doug Harrison's lifetime of service to the Fresno Metropolitan Flood Control District, and most importantly, the people of Fresno County.

In 1970, Doug Harrison began a career with the FMFCD. He served as general manager for 31 years. Mr. Harrison led the effort that designed and implemented a storm drainage system that ended regular flooding which had plagued residences and businesses for generations. Under his leadership, the construction of flood retention basins throughout the Fresno-Clovis metropolitan area became part of a network of groundwater recharge facilities, and in recent years Mr. Harrison led efforts to work with community groups, such as Tree Fresno, to landscape many of these facilities. The result has been the protection of property, replenishment of vital groundwater resources and beautiful greenspace, as well as recreational facilities at many basins.

Mr. Harrison is an exemplary public servant, who has worked tirelessly for a broad constituency. He has made the lives of many people better. His innovation, energy and dedication will be missed. To him, I say thank you. He is a public servant in the best and truest sense of the word.●

KENNESAW STATE UNIVERSITY BASKETBALL TEAM

• Mr. CHAMBLISS. Mr. President, I commend the Kennesaw State University Owls basketball team for winning its first NCAA Division II national championship title. In the 84–59 victory over Southern Indiana, the Owls showed great poise. After the Screaming Eagles sprinted to an eight-point lead, the Owls settled down, regained the lead and never lost it. The team, which moved up to the NCAA Division II Peach Belt Conference in 1994, took the championship in only their second appearance at the NCAA Division II national tournament.

The title capped a 35–4 season record, which had ended with a 26-game winning streak and the Peach Belt championship.

I commend Coach Tommy Ingle, his assistant coaches Jeff Jones and Stace Tedford, for developing and leading this strong team of student athletes. Coach Ingle was able to take the team to a national title in only his second year at the helm. That is extremely impressive.

I also want to praise the players themselves, including seniors Reggie McCoy, Terrence Hill, and Justin Thompson for displaying leadership, determination, skill and sportsmanship. This young basketball squad has already made its mark in college basketball.

In addition to their basketball performance, the Fighting Owls have demonstrated the personal qualities that make them a credit to one of Georgia's great institutes of higher learning, and a credit to the great State of Georgia as well.●

75TH ANNIVERSARY OF ASSUMPTION GREEK ORTHODOX CHURCH

• Mr. LEVIN. Mr. President, I would like to pay tribute to Assumption Greek Orthodox Church, the second Greek Orthodox congregation to be formed in the state of Michigan. Events celebrating the 75th anniversary of Assumption Church began in 2003 and will continue in 2004 with a grand banquet to be held on April 24. These events bring together members of the congregation, as well as thousands of others from throughout the metropolitan Detroit area and around the country, to mark this milestone in the history of Assumption Church.

At the turn of the century, many Greek immigrants settled in cities and towns across the nation. Greek immigrants established a thriving community in Detroit, in what has become known as Greektown. Seventy-five years ago, seven men from the growing Greek community on Detroit's "eastside" met to lay plans for a parochial school and a place of worship that would be close to their homes. They sought to continue the tradition of teaching the Greek language and history to their community. In 1930, with the blessing of the Patriarch of Constantinople, the first Church Council established the Assumption Church at Hillger and Kercheval in Detroit. The Church was formally named "Koimisis tis Theotokou" meaning "The Dormition of the Virgin Mary."

The Church experienced steady growth in both the number of families that joined the parish and the number of new programs that served the needs of the parishioners. Beginning with its first Greek school "Socrates," the Church added various programs for its youth, women, and senior citizens, and continued to expand its philanthropic and religious outreach. The parishioners' reputation as a thriving, caring congregation grew and attracted families from Detroit's suburbs and beyond. Today, more than 1,200 families belong to Assumption Church, making it the largest parish in the region and one of the largest parishes in the Archdiocese.

The Assumption Greek Orthodox Church family moved several times over the years before building the current facilities in St. Clair Shores, which include the notable Assumption Cultural Center. They built churches at Beniteau and Vernor Highway and on Charlevoix that serve Protestant congregations today. Like these stalwart structures that are reminders of the congregation's vision and faithfulness, Assumption's spiritual leaders have been significant pillars in the community. The first priest, Father Christopher Makris, arrived in Detroit from Chicago. His service was followed by 11 clergy leaders and several laity, who have been represented in the highest positions of service nationally in matters of religious education, stewardship, athletics, the St. John Chrysostom Oratorical festival and various missionary activities. Father Demetrios Kavadas provided spiritual leadership for 39 years and is Assumption's longest serving clergyman. In 2003, Father Epihanios Perialas became interim pastor and honored the parish through his elevation to Metropolitan of Spain and Portugal. Father Michael Varlamos became pastor in 2003 and continues to serve in that capacity today. Unfortunately, the Church experienced a devastating fire on December 21, 2002, that destroyed the interior of the Church along with its beautiful iconography. The Church was promptly restored and re-opened its doors almost one year to the day, in December 2003.

I know my colleagues join me in congratulating the congregation of Assumption Greek Orthodox Church for achieving 75 years of devotion to God, their faith, and excellence in serving their members and the surrounding communities.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:08 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3550. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

ENROLLED BILL SIGNED

At 4:01 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3108. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-7036. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report of a violation of the Antideficiency Act in the United States Coast Guard; to the Committee on Appropriations.

EC-7038. A communication from the Deputy Associate Administrator, Office of Acquisition policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2001-20" (FAC2001-20) received on April 5, 2003; to the Committee on Armed Services.

EC-7039. A communication from the Assistant Secretary of Defense for Health Affairs, Department of Defense, transmitting, pursuant to law, a report on the quality of health care furnished under the health care programs of the Department; to the Committee on Armed Services.

EC-7040. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the National Defense Stockpile Annual Materials Plan for Fiscal Year 2005; to the Committee on Armed Services.

EC-7041. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the National Defense Stockpile; to the Committee on Armed Services.

EC-7042. A communication from the Board of Trustees, National Railroad Retirement Investment Trust, transmitting, pursuant to law, a report relative to the Trust's operations and financial condition; to the Committee on Finance.

PETITIONS AND MEMORIALS

POM-387. A resolution adopted by the Senate of the Legislature of the State of New Jersey relative to their ratification of the Fourteenth Amendment; to the Committee on the Judiciary.

JOINT RESOLUTION

Whereas, the Fourteenth Amendment to the United States Constitution granted citizenship to, and protected the civil liberties of, freed slaves; and

Whereas, the Fourteenth Amendment also prohibits states from abridging the privileges or immunities of any citizen, depriving any person of life, liberty, or property without due process of law, or denying any person equal protection of laws; and

Whereas, the rights guaranteed by the Fourteenth Amendment are part of the foundation of our free society; and

Whereas, in 1866, the New Jersey Legislature acted to ensure these rights by ratifying the Fourteenth Amendment; and

Whereas, thereafter, the New Jersey Legislature, in 1868, attempted to withdraw its ratification of this amendment by passage of Joint Resolution No. IV; and

Whereas, both the Federal Secretary of State and the Congress refused to recognize the New Jersey's attempt to withdraw ratification and the Fourteenth Amendment became a part of the United States Constitution on July 20, 1868; and

Whereas, the attempt to withdraw New Jersey's ratification of the Fourteenth Amendment is contrary to this State's long tradition of respect for, and protection of, the civil rights of all persons; and

Whereas, even though the attempt to withdraw New Jersey's ratification of the Fourteenth Amendment was without effect, there is, nevertheless, a need to rectify this misguided action; now, therefore, be it

Resolved by the Senate and General Assembly of the State of New Jersey.

1. Joint Resolution No. IV of 1868 which attempted to withdraw New Jersey's ratification of the Fourteenth Amendment is hereby revoked.

2. Duly authenticated copies of this Joint Resolution shall be transmitted to the federal Secretary of State, the presiding officers of the Congress of the United States, and each member of New Jersey's congressional delegation.

3. This Joint Resolution shall take effect immediately.

POM-388. A joint resolution adopted by the Legislature of the State of California relative to disabled military retirees; to the Committee on Armed Services.

ASSEMBLY JOINT RESOLUTION NO. 34

Whereas, a penalty is imposed against disabled military retirees for concurrent receipt of retirement and disability compensation; and

Whereas, if a member of the armed forces retires with 20 or more years of service to this country, earning retirement compensation, and this same retiree has a major disability resulting from wounds or service connected activities, $1 from his or her retirement check is deducted for each dollar of disability payment received; and

Whereas, this law requires retired military personnel to do something no one else in America is obligated to do—pay for their own disability; and

Whereas, for many years, veterans' organizations and disabled veterans battled to change this law; and

Whereas, last year, Congress recognized that disabled military retirees had a legitimate complaint and introduced legislation that was designed to correct this policy; and

Whereas, included within the National Defense Authorization Act For Fiscal Year of 2002 is legislation that will end this discriminatory practice of deducting disability compensation from retirement pay. However, the legislation will be effective only if the President requests money to cover its costs in his next budget; and

Whereas, these disabled military retirees fought in World War II, Korea, Vietnam, the Persian Gulf, and a dozen brush fire wars in unremembered countries, risking everything for our country. They gave of their youth and health, only to be retired with a disability that they are forced to pay for out of their own pockets; and

Whereas, the discrimination our country has displayed for its disabled military retirees should not be passed on to those young people who are now fighting our War Against Terrorism; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to urge the Congress of the United States to fund the National Defense Authorization Act For Fiscal Year of 2002, to eliminate the penalty imposed against disabled military retirees for concurrent receipt of retirement and disability compensation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, and to the Speaker of the House of Representatives, the President of the Senate, and each Member in the Congress of the United States.

POM-389. A joint resolution adopted by the Legislature of the State of California relative to military reserve personnel; to the Committee on Armed Services.

Assembly Joint Resolution No. 26

Whereas, the military reserve forces of the United States provide a valuable service to the citizens of the United States; and

Whereas, military reserve personnel make up 60 percent of the total armed forces of the United States; and

Whereas, the reserve forces of the United States military provide for the continuing freedom and pursuit of democracy throughout the world; and

Whereas, the military reserve upholds our values and beliefs in times of peace as well as war; and

Whereas, evidence suggests that members of the military reserve may be discriminated against due to their reserve status when applying for financing; and

Whereas, this discrimination results in members of the military reserve being charged higher interest rates for loans due to their reserve status; and

Whereas, this discrimination is an attempt to circumvent the Soldiers and Sailors Relief Act of 1940; and

Whereas, the Soldiers and Sailors Relief Act of 1940 specifies that should a member of the military reserve be called to active duty, that person's outstanding loans shall be capped at a 6 percent interest rate should the soldier prove that his or her active duty status would put him or her in financial hardship; and

Whereas, the practice of subprime lending based on reserve status is not prohibited by federal law; and

Whereas, California has taken the lead in protecting the military reserve and the National Guard in California through Assembly Bill 120 of the 2001–02 Regular Session; and

Whereas, we must protect the interest of our military reserve personnel in order to preserve military readiness and morale; and

Whereas, the federal government must stand firm in upholding the rights and duties of the military reserve and continue to demonstrate leadership in the implementation of a strong military force; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to do all of the following:

(a) Stand firm in protecting the financial interest of military reserve personnel.

(b) Enact new legislation that strengthens the provisions of the Soldiers and Sailors Relief Act of 1940.

(c) Look into the practice of predatory lending against military reservists based on their reserve status.

(d) Enact legislation that makes it a crime to discriminate against military reserve personnel based on reserve status when applying for financing; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States and to all members of Congress of the United States.

POM–390. A joint resolution adopted by the Legislature of the State of California relative to Armenian Genocide; to the Committee on Foreign Relations.

Assembly Joint Resolution No. 44

Whereas, one and one-half million men, women, and children of Armenian descent were victims of the brutal genocide perpetrated by the Ottoman Empire from 1915 to 1923; and

Whereas, the Armenian Genocide and massacre of the Armenian people have been recognized as an attempt to eliminate all traces of a thriving and noble civilization over 3,000 years old; and

Whereas, to this day revisionists still inexplicably deny the existence of these horrific events; and

Whereas, by consistently remembering and openly condemning the atrocities committed against the Armenians, California residents demonstrate their sensitivity to the need for constant vigilance to prevent similar atrocities in the future; and

Whereas, recognition of the 87th anniversary of this genocide is crucial to preventing the repetition of future genocides and educating people about the atrocities connected to these tragic events; and

Whereas, Armenia is now a free and independent republic, having embraced democracy following the dissolution of the Soviet Union; and

Whereas, California is home to the largest population of Armenians in the United States, and those citizens have enriched our state through their leadership in the fields of business, agriculture, academia, medicine, government, and the arts and are proud and patriotic practitioners of American citizenship; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby designates April 24, 2002, as "California Day of Remembrance for the Armenian Genocide of 1915–1923"; and be it further

Resolved, That the State of California respectfully memorializes the Congress of the United States to likewise act to commemorate the Armenian Genocide; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, Members of the United States Congress, the Governor, and Armenian churches and commemorative organizations in California.

POM–391. A joint resolution adopted by the Legislature of the State of California relative to commending Title IX of the Education Amendments of 1972; to the Committee on Health, Education, Labor, and Pensions.

Assembly Joint Resolution No. 47

Whereas, June 23, 2002, marks the celebration of the 30th anniversary of Title IX of the Education Amendments enacted by the United States Congress and signed into law in 1972, and upon this occasion, it is deserving of special public commendations; and

Whereas, Title IX of the Education Amendments of 1972, which is one of the most significant pieces of federal legislation passed in the 20th century, prohibits discrimination on the basis of sex in education programs and activities at education institutions that receive federal funds, and it is an omnibus education law affecting all curricular and extracurricular offerings, from medicine, law, and science to drama, dance, and athletics; and

Whereas, girls and women throughout the ages have participated in a variety of sports and physical activities in school, community, and club programs; and

Whereas, prior to the passage of Title IX, there were few opportunities for girls and women to participate in high school or college athletics; and

Whereas, participation in sports is acknowledged as a positive force in developing and promoting physical, mental, moral, social, and emotional well-being, and it is well-established that participation in athletics builds self-esteem, communication skills, discipline, and perseverance, all qualities that make a positive and significant difference in the quality of life and in the level of accomplishment; and

Whereas, participation in girls youth and high school sports leagues has risen to a record level, and participation by female collegiate athletes now represents 41 percent of all varsity athletes; and

Whereas, girls who participate in sports have the opportunity to develop strong interpersonal relationships while learning teamwork, goal-setting, and other achievement-oriented behaviors; and

Whereas, participation in athletics strengthens family bonds between young women and their parents who may have participated in athletics themselves, and engaging in physical activities and sporting events as a family unit further enhances family bonds; and

Whereas, teenage female athletes are less likely to use marijuana, cocaine, or other illicit drugs, less likely to be suicidal, less likely to smoke, and more likely to have positive body images than female nonathletes, and woman student athletes graduate at a significantly higher rate than women students in general; and

Whereas, teengage female athletes are 50 percent less likely to become pregnant as female nonathletes, less likely to have sex as teenagers than female nonathletes, and more likely to postpone their first sexual experience than female nonathletes; and

Whereas, many female athletes have distinguished themselves as representatives of California and the nation in international competition and the Olympic Games, and during the 2000 Summer Olympics, women competed for the first time in the same number of team sports as men; and

Whereas, professional female athletes now compete in leagues such as the Women's United Soccer Association, the Women's National Basketball Association, the Women's Tennis Association, the Ladies Professional Golf Association, Women's Professional Softball League, and the Women's Professional Football League, and the United States Professional Volleyball League will launch in 2002; and

Whereas, the increased visibility of female athletes provide people, young and old, female and male, with positive role models, and many women agree that seeing successful female athletes make them feel great pride as women; and

Whereas, Title IX continues to break down the gender barriers in educational institutions, giving women the opportunity to strive and achieve for excellence and realize the best within themselves; and

Whereas, women of all ages should be encouraged to compete and contribute to sports at all levels of competition and to ensure opportunity for the next generation of female athletes and sports leaders as we enter the new millennium; now therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to do all of the following:

(1) Stand firm in their resolve to uphold the intent and substance of the current provision of Title IX of the Education Amendments of 1972.

(2) Pursue a strong enforcement policy for Title IX of the Education Amendments of 1972 and strengthen the compliance and enforcement policies of the U.S. Department of Education's Office for Civil Rights (OCR).

(3) Support the continuation of the strong compliance standards that are currently in place for Title IX of the Education Amendments of 1972.

(4) Encourage all Americans to participate in the national celebration, "Celebrating 30 Years of Title IX"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States and to all Members of Congress of the United States.

POM–392. A joint resolution adopted by the Legislature of the State of California relative to the reunification of Cyprus and its accession to the European Union; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 48

Whereas, for 27 years Turkey has illegally occupied 37 percent of the territory of the Republic of Cyprus and during that time has continually violated the will of the international community; including the United States and the United Nations, that Turkey cease its illegal occupation of Cyprus; and

Whereas, it is the position of the United States government that a political settlement to the Cyprus problem should be based on United Nations Security Council Resolutions; and

Whereas, these resolutions provide that a Cyprus settlement must be based on a State of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities as described in the relevant Security Council resolutions, in a bicommunal and bizonal federation; and

Whereas, the resumption of direct talks in January 2002, in the context of the Good Offices of the Secretary General, to find a just and viable solution to the Cyprus problem is an encouraging development that should be sustained and intensified in order to arrive, by the target date of June 2002, to an agreement; and

Whereas, the members of the Security Council, reiterated, on April 4, 2002, their full support for the negotiating process and for the Secretary General's mission entrusted to him by the Security Council in Security Council Resolution 1250, which was adopted on June 29, 1999, and urged the leaders to work for reaching a comprehensive settlement that takes full consideration of the relevant United Nations Resolutions and Treaties; and

Whereas, a peaceful, just, and lasting solution to the Cyprus problem would greatly benefit the security and the political, economic, and social well-being of all Cypriots, as well as contribute to improved relations between Greece and Turkey, and will serve the interests of the United States in the region; and

Whereas, security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots; and

Whereas, the prospect of Cyprus' accession to the European Union has acted as a catalyst for the resumption of the talks aimed at reaching a resolution of the Cyprus problem; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature calls upon the President of the United States to increase the administration's efforts to encourage initiatives that will help promote and achieve reunification, reconciliation, stability, and prosperity in Cyprus within the context of the ongoing efforts under the United Nations Secretary General's auspices and on the basis of the relevant United Nations Security Council Resolutions; and be it further

Resolved, That the Assembly and Senate of the State of California, jointly, request the United States government to continue to strongly support the accession of Cyprus to the European Union, without a settlement of the Cyprus problem being a precondition for accession; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative in the Congress of the United States.

POM–393. A joint resolution adopted by the Legislature of the State of California relative to the extradition of criminals; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 63

Whereas, the Mexican Supreme Court ruled in October 2001 that Mexico will not extradite criminals who face life sentences in the United States; and

Whereas, the United States Constitution prohibits states from entering into treaties with foreign governments to protect their citizens and arrange extradition for criminals; and

Whereas, the person or persons responsible for the April 29, 2002, murder of Los Angeles County Sheriff Deputy David March is believed to have fled to Mexico to avoid prosecution; and

Whereas, California and other states must rely upon the federal government to resolve this issue of national importance; and

Whereas, the Attorney General from each of the 50 states has asked United States Attorney General John Ashcroft and United States Secretary of State Colin Powell to address this extradition issue with their counterparts in Mexico; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the extradition from Mexico of all criminals who face life sentences is a matter of urgent and enduring importance to the State of California; and be it further

Resolved, That California's Senators and Members of the House of Representatives should take all prudent and necessary steps to ensure that this matter is addressed at the highest levels of our federal government; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the United States Attorney General, the United States Secretary of State, and to each member of the Congress of the United States.

POM–394. A resolution adopted by the House of Representatives of the General Assembly of the State of Pennsylvania relative to the Snowe Amendment to the PRIDE Act; to the Committee on Finance.

HOUSE RESOLUTION NO. 560

Whereas, the House of Representatives of the United States Congress has passed H.R. 4, which would set requirements for state welfare programs and establish funding levels for the Temporary Assistance to Needy Families (TANF) and child-care block grants for the five-year reauthorization period; and

Whereas, the Child Care Development Block Grant (CCDBG) currently provides $4.8 billion annually to states for child-care services, $2.7 billion in mandatory funding annually for the period of reauthorization and $2.1 billion in discretionary funding, subject to annual renewal by the Congress; and

Whereas, although H.R. 4 would increase mandatory child-care funding by $1 billion over five years, this is an amount widely regarded as insufficient to meet the increased demand for child-care for families leaving welfare or the demand for child-care subsidy for income-eligible families; and

Whereas, Senator Olympia Snowe of Maine is prepared to offer an amendment to H.R. 4 that would increase mandatory spending to $7 billion for the five-year reauthorization period; and

Whereas, since Federal funds make up 74% of Pennsylvania's child-care spending, an increase in mandatory funds through the CCDBG would provide the Commonwealth a stable source of funds to expand subsidy for families, build program quality and school readiness and improve services to parents; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Senate of the United States Congress to adopt the Snowe Amendment to H.R. 4, the Personal Responsibility and Individual Development for Everyone (PRIDE) Act; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of the Senate of the United States Congress and to the two Senators from Pennsylvania.

POM–395. A resolution adopted by the Commission of Wayne County of the State of Michigan relative to federal transit funding formulas; to the Committee on Environment and Public Works.

POM–396. A resolution adopted by the Board of Supervisors of the County of Sonoma of the State of California relative to gaming facilities in the County; to the Committee on Indian Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCAIN for the Committee on Commerce, Science, and Transportation.

*Kirk Van Tine, of Virginia, to be Deputy Secretary of Transportation.

*Theodore William Kassinger, of Maryland, to be Deputy Secretary of Commerce.

*Thomas Hill Moore, of Florida, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 2003.

*A. Paul Anderson, of Florida, to be a Federal Maritime Commissioner for the term expiring June 30, 2007.

*Joseph E. Brennan, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 2008.

*Deborah Hersman, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2008.

*Louis S. Thompson, of Maryland, to be a Member of the Reform Board (Amtrak) for a term of five years.

*Jack Edwin McGregor, of Connecticut, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

*Coast Guard nomination of Vice Adm. Terry M. Cross.

*Coast Guard nomination of Rear Adm. Vivien S. Crea.

*Coast Guard nomination of Rear Adm. Harvey E. Johnson.

*Coast Guard nomination of Radm (L) James C. Van Sice.

Mr. McCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nomination of Glenn M. Sulmasy.

Coast Guard nominations beginning George W Molessa and ending Yamasheka Z Young, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. EDWARDS:

S. 2303. A bill to help American families save, invest, and build a better future, and for other purposes; to the Committee on Finance.

By Mr. HAGEL:

S. 2304. A bill to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself and Mr. LIEBERMAN):

S. 2305. A bill to authorize programs that support economic and political development in the Greater Middle East and Central Asia and support for three new multilateral institutions, and for other purposes; to the Committee on Foreign Relations.

By Mr. McCAIN (for himself and Mr. SUNUNU):

S. 2306. A bill to reauthorize, restructure, and reform the intercity passenger rail service program; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. 2307. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs by importers, and by individuals for personal use, and for other purposes; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. REED, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 2308. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN:

S. 2309. A bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. NELSON of Florida, and Mr. REED):

S. 2310. A bill to promote the national security of the United States by facilitating the removal of potential nuclear weapons materials from vulnerable sites around the world, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Ms. CANTWELL):

S. 2311. A bill to provide for various energy efficiency programs and tax incentives, and for other purposes; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. DAYTON):

S. 2312. A bill to regulate the transmission of personally identifiable information to foreign affiliates and subcontractors; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM of Florida (for himself, Mrs. CLINTON, Mrs . BOXER, Mr. NELSON of Florida, Mr. SCHUMER, Mr. LAUTENBERG, Mr. HOLLINGS, and Mrs. LINCOLN):

S. 2313. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. DURBIN:

S. 2314. A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan; to the Committee on the Judiciary.

By Mr. BURNS:

S. 2315. A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering; to the Committee on Commerce, Science, and Transportation.

By Ms. MURKOWSKI (for herself and Ms. LANDRIEU):

S. 2316. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses; to the Committee on Finance.

By Mr. THOMAS:

S. 2317. A bill to limit the royalty on soda ash; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mr. BAYH, Mr. ROBERTS, and Mr. REED):

S. 2318. A bill to expand upon the Department of Defense Energy Efficiency Program required by section 317 of the National Defense Authorization Act of 2002 by authorizing the Secretary of Defense to enter into energy savings performance contracts, and for other purposes; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FITZGERALD (for himself and Mrs. FEINSTEIN):

S. Res. 334. A resolution designating May 2004 as National Electrical Safety Month; to the Committee on the Judiciary.

By Mr. McCAIN (for himself, Mr. BIDEN, Mr. FITZGERALD, Mr. BREAUX, Mr. ALLEN, and Mr. DORGAN):

S. Res. 335. A resolution expressing the sense of the Senate that Major League Baseball clubs and their players should take immediate action to adopt a drug-testing policy that effectively deters Major League Baseball players from using anabolic steroids and any other performance-enhancing substances that create a competitive advantage for, and pose a serious health risk to, such players and the children and teenagers who emulate them; considered and agreed to.

By Mr. AKAKA (for himself, Mr. FITZGERALD, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DURBIN, Mr. COLEMAN, and Mr. LEVIN):

S. Res. 336. A resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 3 through 9, 2004; to the Committee on Governmental Affairs.

By Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. GRAHAM of Florida, Mr. MILLER, Mr. CAMPBELL, Mrs. MURRAY, Mr. GRAHAM of South Carolina, Mr. AKAKA, Mr. NELSON of Nebraska, Mr. BOND, Mr. COLEMAN, Mr. BUNNING, and Mr. STEVENS):

S. Res. 337. A resolution expressing the appreciation of the Senate for the Paralyzed Veterans of America; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLEN, Mr. BAYH, Mr. BUNNING, Mr. CAMPBELL, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DURBIN, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. CRAIG, and Mr. JOHNSON):

S. Res. 338. A resolution calling on the President to designate April 16, 2004, as National Youth Service Day, and for other purposes; considered and agreed to.

By Mr. DODD (for himself, Mr. CORZINE, and Mrs. BOXER):

S. Res. 339. A resolution urging the President to immediately instruct the Secretary of State and the Secretary of Defense to respectively begin initiating consultations with other members of the United Nations Security Council concerning a United Nations Security Council Resolution for Iraq, and with the Secretary General of the North Atlantic Treaty Organization (NATO) concerning a mandate for a NATO commitment for security in Iraq, with the goal of securing both not later than May 15, 2004; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself and Mr. FEINGOLD):

S. Con. Res. 99. A concurrent resolution condemning the Government of the Republic of the Sudan for its participation and complicity in the attacks against innocent civilians in the impoverished Darfur region of western Sudan; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 623

At the request of Mr. WARNER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 863

At the request of Mr. EDWARDS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 863, a bill to amend the Higher Education Act of 1965 to allow soldiers to serve their country without being disadvantaged financially by Federal student aid programs.

S. 976

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1638

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1638, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1737

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1737, a bill to amend the Clayton Act to enhance the authority of the Federal Trade Commission or the Attorney General to prevent anticompetitive practices in tightly concentrated gasoline markets.

S. 1755

At the request of Mr. LEAHY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to provide grants to support farm-to-cafeteria projects.

S. 1873

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 1916

At the request of Ms. LANDRIEU, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1934

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1934, a bill to establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

S. 1961

At the request of Mr. HOLLINGS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1961, a bill to provide for the revitalization and enhancement of the American passenger and freight rail transportation system.

S. 2088

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2088, a bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes.

S. 2215

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2215, a bill to amend the Higher Education Act of 1965 to provide funds for campus mental and behavioral health service centers.

S. 2234

At the request of Mr. DASCHLE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2234, a bill to amend title XVIII of the Social Security Act to ensure that prescription drug card sponsors pass along discounts to beneficiaries under the medicare prescription drug discount card and transitional assistance program.

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 2234, supra.

S. 2236

At the request of Ms. CANTWELL, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2236, a bill to enhance the reliability of the electric system.

S. 2252

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2252, a bill to increase the number aliens who may receive certain non-immigrant status during fiscal year 2004 and to require submissions of information by the Secretary of Homeland Security.

S. 2267

At the request of Ms. SNOWE, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. 2271

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2271, a bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes.

S. 2273

At the request of Mr. MCCAIN, the names of the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 2273, a bill to provide increased rail transportation security.

S. 2280

At the request of Mr. STEVENS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2280, a bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration.

S. 2292

At the request of Mr. VOINOVICH, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 2292, a bill to require a report on acts of anti-Semitism around the world.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of

S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S.J. RES. 30

At the request of Mr. ALLARD, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S.J. Res. 30, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Wisconsin (Mr. KOHL) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 221

At the request of Mr. SARBANES, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 326

At the request of Mr. BIDEN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

S. RES. 330

At the request of Mr. WYDEN, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ('OPEC') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

AMENDMENT NO. 3036

At the request of Mr. BAUCUS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 3036 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3043

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3043 intended to be proposed to S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EDWARDS:

S. 2303. A bill to help American families save, invest, and build a better future, and for other purposes; to the Committee on Finance.

Mr. EDWARDS. Mr. President, I rise to introduce the Better Future for American Families Act. Today's legislation will strengthen progressive tax credits to help middle-class families save, invest, and get ahead.

For more than 200 years, our country has been propelled by this single, powerful idea: All Americans should have the opportunity to rise as far as their hard work and God-given potential can take them. In the last generation, however, the American Dream of building something better has been replaced with the hope of just getting by.

Due to the rising costs of housing, health care, and other necessities, many families are no longer saving for the future. In fact, they need to borrow to get through the present. Personal bankruptcies reached an all-time high of 1.6 million a year in 2002. Almost one in five households approaching retirement can expect to retire in poverty, and this rate is even higher for African American and Hispanic households. The middle-class—the foundation of this country—is sinking.

If we want to create new wealth in this country, we should start by rewarding the work and responsibility of America's families. What's right for our economy, our democracy, and our society is consistent with our values as well: Every American should have the chance to be an owner—to buy a home, save for college, invest in America, or put money aside for a secure retirement.

In current law, there is a Saver's Credit that matches retirement savings of low-income families up to dollar-for-dollar. The credit has been a success, but it does suffer from some limitations.

First, the Saver's Credit will expire in 2006. The Republican budget plan fails to extend it, even as it extends other tax cuts enacted in 2001. My legislation would make it permanent.

Second, the credit phases out rapidly, providing only a small benefit to many middle-income families and creating high marginal tax rates for millions of savers. My legislation would expand benefits for families earning less than $50,000.

Finally, although 57 million taxpayers are eligible for the maximum credit on paper, 80 percent of them cannot actually benefit from it because they lack income tax liability. These are families that need help as much as anyone, and my legislation would make them eligible for the credit.

This legislation would make a real difference for American families. A family that saves the maximum under this plan every year from age 25 to retirement will have a nest egg of $200,000 on top of any other savings, pensions, and Social Security.

Here in Congress, it is our responsibility to make sure that families working for a living have the tools they need to move forward. My legislation is not about creating another government program to protect families; it is about helping families help themselves.

If we help families save, we can unleash a new era of possibilities with a stronger economy because we're saving and investing more; with families at ease because they have financial security; and with our children prospering because they have a strong foundation on which to build. I urge all of my colleagues to join me in supporting this effort.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Better Future for American Families Act".

SEC. 2. MODIFICATIONS TO SAVER'S CREDIT.

(a) SAVER'S CREDIT.—Section 25B of the Internal Revenue Code of 1986 is amended by striking the heading thereof and inserting "THE SAVER'S CREDIT.".

(b) Modifications to Applicable Percentage.—Subsection (b) of section 25B of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) Applicable Percentage.—For purposes of this section—

"(1) In general.—The applicable percentage is 50 percent reduced (but not below zero) by 1 percentage point for each phaseout amount by which the taxpayer's adjusted gross income for the taxable year exceeds the threshold amount.

"(2) Phaseout amount; threshold amount.—The phaseout amount and the threshold amount shall be determined as follows:

In the case of an individual filing:	The phaseout amount is:	The threshold amount is:
A joint return	$400	$30,000
A head of household return.	$300	$22,500
Any other return.	$200	$15,000.".

(c) Repeal of Termination.—Section 25B of the Internal Revenue Code of 1986 is amended by striking subsection (h).

(d) Credit refundable.—

(1) In general.—Section 25B of the Internal Revenue Code of 1986, as amended by this Act, is hereby moved to subpart C of part IV of subchapter A of chapter 1 of such Code (relating to refundable credits) and inserted after section 35.

(2) Conforming amendments.—

(A) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking "and 25B".

(B) Section 25(e)(1)(C) of such Code is amended by striking ", 25B".

(C) Section 26(a)(i) of such Code is amended by striking "24, and 25B" and inserting "and 24".

(D) Section 25B of such Code, as moved by paragraph (1), is redesignated as section 36.

(E) Section 904(h) of such Code is amended by striking "24, and 25B" and inserting " and 24".

(F) Section 1400C of such Code is amended by striking "24, and 25B" and inserting " and 24".

(G) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36 and inserting the following:

"Sec. 36. The Saver's Credit.

"Sec. 37. Overpayments of tax.".

(H) The table of sections for subpart A of part IV of such Code is amended by striking the item relating to section 25B.

(I) Section 1324 of title 31, United States Code, is amended by inserting ", or enacted by the Better Future for American Families Act" before the period at the end.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

By Mr. HAGEL (for himself and Mr. LIEBERMAN):

S. 2305. A bill to authorize programs that support economic and political development in the Greater Middle East and Central Asia and support for three new multilateral institutions, and for other purposes; to the Committee on Foreign Relations.

Mr. HAGEL. Mr. President, I rise today to introduce The Greater Middle East and Central Asia Development Act of 2004 with my colleague, Senator LIEBERMAN. This bill supports economic and private sector development in the countries of the Greater Middle East and Central Asia.

The terrorist attacks of September 11, 2001 signaled a turning point in United States foreign policy. Al-Qaida and affiliated groups have established a terrorist network with linkages in Afghanistan, Pakistan, throughout the Greater Middle East and Central Asia, and around the world. The war on terrorism requires that the United States consider the Greater Middle East and Central Asia as a strategic region with its own political, economic and security dynamics. While rich in cultural, geographic and language diversity, the Greater Middle East and Central Asia face common impediments to economic development and political freedom. Although poverty and economic underdevelopment alone do not "cause" terrorism, the expansion of economic growth, free trade, and private sector development can contribute to an environment that undercuts radical political tendencies that give rise to terrorism.

The economic problems of the Greater Middle East and Central Asia cannot be considered in isolation. We must work with the governments and peoples of the region on a cohesive program of political and economic reforms that builds a better future. We cannot lose the next generation to hopelessness and despair. Our initiatives must support progress toward market economies, enhanced trade, the development of democratic institutions, expansion of citizen-to-citizen contacts, educational reform, and private sector development. UN Secretary General Kofi Annan has said that we cannot reach the UN's goals for improving health, education, and living standards over the next 12 years "without a strong private sector in the developing countries themselves, to create jobs and bring prosperity." This region needs more jobs, economic growth, a vibrant private sector, and good governance practices to help stabilize societies and lead to a stronger foundation for political reform and conflict prevention.

President Bush has committed the United States to a "forward strategy of freedom" in the Greater Middle East to combat terrorism and encourage reform in these countries. This is a multi-layered strategy, including increased spending and support for the National Endowment for Democracy, greater emphasis on public diplomacy, and initiating programs that support political liberalization and free markets. The G–8 summit in June and other forthcoming multi-lateral forums will provide opportunities to consult with our allies on many of these issues. Similarly, Senator DICK LUGAR, chairman of the Senate Foreign Relations Committee, has called for a Greater Middle East Twenty First Century Trust as part of a program of greater engagement with this region, and Senator JOSEPH BIDEN, ranking member on the committee, has proposed a Middle East Foundation to support political participation and civil society in the Middle East.

Our bill deepens and expands America's commitment to economic reform and private sector development in the Greater Middle East and Central Asia by authorizing $1 billion per year for five years and creating three new multilateral mechanisms: a Greater Middle East and Central Asia Development Bank to promote private sector development; a Greater Middle East and Central Asia Development Foundation to implement and administer economic and political programs; and a Trust for Democracy to provide small grants to promote development of civil society.

These are not traditional foreign aid programs. Our legislation seeks to help stimulate private sector development, promote strong market economies, invigorate trade relations within the region, and empower states to rebuild and open their economies. Through a combination of government initiative and flexible private sector financing, we can bring the resources and expertise needed to launch a new beginning for economic development to the Greater Middle East and Central Asia. Our bill also encourages the State Department and other relevant government agencies to consider new and creative approaches to coordination of political and economic support for the region.

Over the past 2 years, the United States has spent at least $120 billion on our military efforts in Iraq and Afghanistan. Investing in political and economic development is equally important in order to achieve stability in the Greater Middle East and Central Asia. Promoting trade and economic growth in the region complements our political and diplomatic objectives in the war on terrorism. People need hope for better lives. We cannot succeed in our war on terrorism until hope replaces despair among the next generation in the Greater Middle East and Central Asia.

Just this week, the editorial page of the Omaha World-Herald, my State's leading newspaper, supported the Bush administration's efforts to encourage economic openness among Muslim nations. Our bill today complements these worthy initiatives. Working with our allies to encourage free market development and political liberalization in the Muslim countries of the Greater Middle East and Central Asia would create, in the World-Herald's words, "a win-win situation" for the United States and those Muslim countries.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows;

S. 2305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Greater Middle East and Central Asia Development Act of 2004".

SEC. 2. PURPOSE.

The purpose of this Act is to authorize assistance for political freedom and economic development, particularly through private sector development, in the Greater Middle East and Central Asia, including contributions to and participation in 3 new entities: a Trust for Democracy, a Development Foundation, and a Development Bank.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The terrorist attacks of September 11, 2001, signaled a turning point in United States foreign policy.

(2) Al Qaeda and affiliated groups have established a terrorist network with linkages in Afghanistan, Pakistan, throughout the Greater Middle East and Central Asia, and around the world.

(3) The war on terrorism requires that the United States consider the Greater Middle East and Central Asia as a strategic region with its own political, economic, and security dynamics.

(4) While rich in cultural, geographic, and language diversity, the Greater Middle East and Central Asia face common impediments to economic development and political freedom.

(5) Although poverty and economic underdevelopment do not alone cause terrorism, the expansion of economic growth, free trade, and private sector development can contribute to an environment that undercuts radical political tendencies that give rise to terrorism.

(6) Given the relationship between economic and political development and winning the global war on terror, America's support for freedom in the Greater Middle East and Central Asia must be matched with expanded and new programs of partnership with the people and governments of the region to promote good governance, political freedom, private sector development, and more open economies.

(7) The United States and other donors should support those citizens of the Greater Middle East and Central Asia who share our desire to undertake reforms that result in more open political and economic systems.

(8) Turkey, which should be supported in its aspirations for membership in the European Union, plays a pivotal and unique role in efforts to bring economic development and stability to the Greater Middle East and Central Asia.

(9) The President should seek new mechanisms to work together with European and other nations, as well as with the countries of the Greater Middle East and Central Asia to promote political and economic development in the Greater Middle East and Central Asia.

(10) Because the dynamics of the Greater Middle East and Central Asia have a serious impact on global security, the North Atlantic Treaty Organization (NATO) should now shift its strategic focus to the region, including expanded roles in Iraq, Afghanistan, and the Mediterranean.

SEC. 4. DEFINITION; SPECIAL RULE.

(a) GREATER MIDDLE EAST AND CENTRAL ASIA DEFINED.—In this Act, the term "Greater Middle East and Central Asia" means the 22 members of the Arab League (Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen), Afghanistan, Iran, Israel, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey, Turkmenistan, and Uzbekistan.

(b) SPECIAL RULE.—A country listed in subsection (a) may not receive assistance under this Act if such country is identified as a country supporting international terrorism pursuant to section 6(j)(1)(A) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.), section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or any other provision of law.

SEC. 5. AUTHORIZATION OF ASSISTANCE.

Notwithstanding any other provision of law, the President is authorized to provide assistance to representatives from the Greater Middle East and Central Asia for the purpose of promoting economic and political freedoms, free trade, and private sector development, including the programs described in the following paragraphs:

(1) UNITED STATES CONTRIBUTION TO AND MEMBERSHIP IN A GREATER MIDDLE EAST AND CENTRAL ASIA DEVELOPMENT BANK.—The President is authorized to work with other donors and the countries of the Greater Middle East and Central Asia to establish a Greater Middle East and Central Asia Development Bank to promote private sector development, trade, including intra-regional trade, and investment in the Greater Middle East and Central Asia.

(2) CREATION OF A GREATER MIDDLE EAST AND CENTRAL ASIA DEVELOPMENT FOUNDATION.—The President is authorized to work with other donors and representatives from the Greater Middle East and Central Asia to establish a multilateral Greater Middle East and Central Asia Development Foundation to assist in the administration and implementation of assistance programs, including public-private programs, pursuant to this Act, with specific emphasis on programs at the grass-roots level, to include volunteer-based organizations and other nongovernmental organizations that support private sector development, entrepreneurship, and development of small- and medium-size enterprises and exchanges.

(3) CREATION OF TRUST FOR DEMOCRACY.—The President is authorized to establish, together with other donors and private sector and nongovernmental leaders from the Greater Middle East and Central Asia, a multilateral, public-private Trust for Democracy to support grass-roots development of civil society, democratic reform, good governance practices, and rule of law reform in the Greater Middle East and Central Asia. Private foundations shall be encouraged to participate in the Trust through the provision of matching funds.

SEC. 6. SENSE OF CONGRESS REGARDING COORDINATION OF ASSISTANCE TO THE GREATER MIDDLE EAST AND CENTRAL ASIA.

Recognizing the importance of coordination of assistance to the Greater Middle East and Central Asia, and the strategic imperatives required by the war on terrorism, it is the sense of Congress that—

(1) the Secretary of State and the heads of other relevant Government agencies should consider new approaches to the coordination of the provision of political and economic support for the Greater Middle East and Central Asia; and

(2) the Secretary of State should consider appointing a Coordinator for Assistance to the Greater Middle East and Central Asia.

SEC. 7. PROGRAM REPORTS.

(a) REQUIREMENT FOR REPORTS.—Beginning on January 31, 2005, and annually thereafter, the President shall submit to Congress a report on the progress of the Greater Middle East and Central Asia, the Greater Middle East and Central Asia Development Bank, the Greater Middle East and Central Asia Development Foundation, and the Trust for Democracy in developing more open political and economic systems and the degree to which United States assistance has been effective at promoting these changes.

(b) CONTENT.—The reports required by subsection (a) shall include general information regarding such progress and specific information on the progress of each of the Greater Middle East and Central Asia Development Bank, the Greater Middle East and Central Asia Development Foundation, and the Trust for Democracy in—

(1) encouraging entrepreneurial development and supporting growth of small- and medium-size enterprises in the Greater Middle East and Central Asia;

(2) promoting private sector development, democratic political reform, good governance building, rule of law reform, and other appropriate goals in the Greater Middle East and Central Asia;

(3) fostering intra-regional trade and investment by United States businesses and financial institutions in the Greater Middle East and Central Asia;

(4) developing public-private partnerships to carry out the purpose of this Act; and

(5) encouraging the involvement of the Greater Middle East and Central Asia, and other donors in each institution.

SEC. 8. ENTERPRISE FUNDS REPORTS TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a comprehensive report evaluating the appropriateness of the establishment of enterprise funds in the Greater Middle East and Central Asia. The report shall evaluate whether and to what extent enterprise funds might be an effective mechanism for promoting economic reform and investment in the Greater Middle East and Central Asia.

SEC. 9. REPORT ON COORDINATION OF ASSISTANCE TO THE GREATER MIDDLE EAST AND CENTRAL ASIA.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a report that describes the measures that have been employed, and the measures that are planned to be employed, to improve the coordination within the Department of State and among the heads of the relevant Government agencies of the provision of support to the Greater Middle East and Central Asia.

SEC. 10. NOTIFICATIONS TO CONGRESS REGARDING ASSISTANCE.

Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) (relating to reprogramming notifications) shall apply with respect to obligations of funds made available to carry out this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose and for the countries to which this Act applies, there are authorized to be appropriated to the Department of State to carry out the provisions of this Act, $1,000,000,000 for each of the fiscal years 2005 through 2009.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

Mr. LIEBERMAN. Madam President, I rise today, along with my friend and colleague from Nebraska, Senator HAGEL, to introduce the Greater Middle East and Central Asia Development Act of 2004. This would be a Marshall Plan for the Greater Middle East.

Let me put it in the context of the news we are receiving from Iraq today. While public opinion surveys that have been taken by independent groups have shown recently that the substantial majority of the people of Iraq, quite understandably, are grateful that Saddam Hussein is no longer in power, and while a majority of them are optimistic about their future—a better life for themselves and their children—it is clear, of course, every day there is a growing group of Saddam loyalists left over from the previous regime, and terrorists, fanatical jihadists, insurgents who will attack and kill Americans and Iraqis to stop the forward movement of progress and freedom and prosperity in Iraq.

We clearly have to respond to that with force in defense of our values, of liberty, of freedom for the Iraqis. We have, if you will allow me to use Scriptural words, to employ our swords. But it is also true in Iraq and throughout the world that we will only win the war on terrorism if we use not just our swords but plowshares as well. That is what this piece of legislation Senator HAGEL and I are introducing today is all about.

I want to speak for a few moments about it. Senator HAGEL will be over later in the day to offer his remarks on the bill.

Madam President, a half century ago, at the dawn of the cold war, Congress authorized the Marshall Plan for Europe—a bold initiative inspired by Secretary of State George Marshall and premised on a simple but transformational idea: that to stop communism, we had to rebuild and democratize Europe. The Marshall Plan offered monetary aid, of course, but it offered much more. It was a national commitment of American values to transform the future of Europe by offering the Europeans the blessings of liberty and prosperity, and thereby linking, in the deepest way, Europe's future with our own. The same ideals and goals of the Marshall Plan can and must now be applied to the people of the Greater Middle East.

The predominantly Muslim countries of the Middle East and Central Asia have, unfortunately, emerged at this moment in history as the cradle of fanatical Islamic jihadist terrorism. There is a great civil war being fought in the Arab world between the peace-loving, law-abiding majority of Muslims and the minority of jihadists. This civil war unleashed the violent terrorist forces that led to September 11, 2001, the attacks on America; March 11, 2004, the attacks on Spain; and the repeated attacks in places such as Fallujah in Iraq that are occurring almost every day. The outcome of our war against Islamic terrorists will be determined by the way in which we use our swords and our plowshares to determine the outcome of the civil war in the Muslim world.

To stop al-Qaida and other terrorist groups from expanding this civil war and recruiting a new generation of killers, we must use all of our military power to capture and kill the enemy. We must drain the swamps of terrorists in Iraq and wherever they grow.

At the same time we must combat the conditions that fuel terrorism and drive recruits to al-Qaida and hate and despair. To do this we must seed the garden, not just drain the swamp, with freedom, hope, and economic opportunity. If we invest in the political and economic future of the Middle East and Central Asia in our time, as we did in Europe with the Marshall plan after the end of the Second World War and at the beginning of the cold war, we will expand democracy's reach, choke off the terrorists, strengthen our own national security, and move the world toward greater peace.

That is the underlying premise of the legislation Senator HAGEL and I are introducing today. It is designed to complement our swords in the war against terrorism with the plowshares of political and economic assistance.

Our legislation is not soft. It is not welfare. It is in fact a different kind of warfare on the battlefield of ideas and ideologies, visions for the future. Although there are compelling humanitarian reasons for offering assistance to the people of the Greater Middle East, there are also compelling American national security reasons for doing so. The political and economic assistance Senator HAGEL and I are proposing might be though of as additional weapons in America's arsenal in the fight against terrorists.

Let me summarize what our legislation contains. We advocate making a major financial investment in the future of the Middle East and Central Asia. How we propose making this investment is in some ways as significant as how much we propose investing. The key to the success of our Marshall plan for the Middle East, as it was of the Marshall plan for Europe, is it not a detailed list of programs. It is a statement of values and purposes. It is the creation of a structure to carry out those values and purposes, and it is a commitment of American and international resources to realize those purposes.

Our legislation would create three new international institutions that will support economic and political development in the Greater Middle East and Central Asia, open institutions that will require participation by representatives of the countries benefiting from this support, a partnership. Institutionalizing involvement of a wide group of donors and recipients will promote better cooperation and give ownership and accountability to the impacted nations and to the private reformers in those nations—key ingredients to successful foreign assistance.

The first new institution Senator HAGEL and I would create is a trust for democracy for the Middle East that would support the development of civil society in the region, not unlike efforts we made to help those who had the dream of freedom and opportunity in countries of the former Soviet Union, now living to experience that dream. Modeled on the Balkan Trust for Democracy, this institution we propose would marshal the support of civic leaders and reformers as well as private foundations to provide grants to worthy grassroots projects that support free association and promote civic responsibility, the building blocks of democracy.

Second, Senator HAGEL and I would build a multilateral development foundation that would provide a second track for assistance, together with other donors, assistance that would be additional to that already being provided bilaterally by the U.S. and other international donors. This foundation will be a public place where we and other donors can come together with the countries of the region to set priorities together, to work together for the greater good of this troubled region. Many countries in the Greater Middle East are richer than they are developed, meaning their wealth has not translated to economic progress for most of the people. We would invite all governments in the region to sit on the board of this foundation, and we would ask all to contribute financially and programmatically to it.

Finally, our legislation would establish a new Middle East and Central Asia development bank, like the European Bank for Reconstruction and Development. This bank would include private sector participation and would underwrite large-scale infrastructure projects in the region. It would also have a microcredit lending facility and a project development facility.

We also believe it is important and necessary to make American assistance more effective. That is why we are calling for the establishment of an office of the coordinator for Greater Middle East and Central Asia at our Department of State. The creation of such an office would help ensure all assistance provided by any government agency of ours is in line with the overarching goals and objectives of our foreign policy. It would also give other donors and countries of the region a simple place to go when seeking information about the programs we would create.

With this collaborative structure in place, Senator HAGEL and I would authorize $5 billion in assistance over the next 5 years. That is no small sum. But it is in fact small in comparison to the tens of billions of dollars in today's money that were spent on the Marshall plan in Europe 50 years ago and the hundreds of billions of dollars we are spending now and will continue to have to spend for the military side of the war against terror. That figure, we believe, is the minimum required to have a positive, measurable impact in the region and to signal the seriousness of our intentions.

Earlier this month, civil society leaders from all over the Arab world gathered in Alexandria, Egypt to discuss an Arab reform agenda. At that meeting participants agreed on a declaration that calls for significant reforms that encompass the "political, economic, social, and cultural aspects" of society. The fact is the reforms those Arab world reformers seek are at least as far-reaching as those that are being suggested by others from the outside, including from the United States. I know there are similar reform efforts underway in Central Asia. They deserve our support.

In introducing this legislation today, Senator HAGEL and I hope to give new impetus to the discussions taking place in Washington and elsewhere about what we collectively can do to support political and economic reform in the Greater Middle East and to give the people in those great regions an alternative to a better life than the hatred and suicidal death al-Qaida offers.

The Bush administration has put forward serious proposal along the same lines as ours. It certainly has the same goals. This bill Senator HAGEL and I are introducing today is intended to build on that effort. We hope it helps shape the debate of the best method to implement, which should be one of partnership and collaboration along with a serious commitment of American resources.

In June, the United States will host the G–8 summit in Sea Island, GA. That summit will be followed by the U.S.-EU and NATO summits also in June. The future of the Greater Middle East will be placed high on the agenda of all those important meetings.

By introducing this legislation today, Senator HAGEL and I hope to enable our Government to go into these summits with the bipartisan support of the Congress and also to provide some direction as to what we believe should be done and how it might best be done. Senator HAGEL and I hope our colleagues will take a look at this proposal and join us in cosponsoring it and sending thereby a message no less profound and no less necessary than the message of the Marshall plan half a century ago, that the United States is serious about improving the lives and expanding the freedoms of the millions of people who live in the Greater Middle East and Central Asia.

Today, that is our most urgent international imperative. At the dawn of the cold war, America answered the challenge of communism by seeding a garden of peace, hope, and prosperity in Europe. Today, at the dawn of our current war against terrorism, it is equally essential that we answer the inhumane, barbaric threats of terrorism and acts of terrorism with all necessary force, but also by seeding the same kind of garden of peace, hope, and prosperity in the Greater Middle East.

By Mr. MCCAIN (for himself and Mr. SUNUNU):

S. 2306. A bill to reauthorize, restructure, and reform the intercity passenger rail service program; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today, joined by Senator SUNUNU, I am introducing legislation to fundamentally reform our Nation's intercity rail passenger program. The proposal adopts the core concepts for reform advanced by the administration in its Amtrak legislation—cost-sharing with the States, a network of trains that makes economic sense, and fair and open competition for Amtrak. However, in recognition of the magnitude and complexity of the task of restructuring Amtrak, the legislation takes a more moderate, realistic approach to reform. While I would prefer to see more accomplished in the next 6 years, enactment of the restructuring and reforms we are proposing today would represent meaningful progress toward creating an intercity passenger rail program that makes economic sense and meets the needs of the traveling public.

It is past time for Congress to come to terms with Amtrak's problems and why it is largely a failure. Year after year, for more than 3 decades, Congress has funded an essentially nationalized passenger railroad, that in most areas of the country neither meets a market demand nor provides needed public transportation. After 34 years and $27 billion in taxpayer subsidies, Amtrak still serves less than 1 percent of intercity travelers.

My colleagues and I may not agree on exactly how Amtrak should be restructured, but we should agree that what exists today is far from ideal. Amtrak loses over $1 billion annually. Its debt stands at almost $5 billion, a legacy the taxpayers will bear for years to come. It has mortgaged nearly every asset it owns, including a portion of New's York's Penn Station, to avoid bankruptcy. It operates routes, many of them in the middle of the night, that lose hundreds of dollars per passenger. And despite a Federal investment of $3.2 billion for high-speed service on the Northeast Corridor, the Acela service has been plagued by equipment and operating problems. In a report prepared at my request, the General Accounting Office recently found that Amtrak mismanaged the project, blatantly ignoring the Federal master plan and failing to complete 51 of the project's 72 work elements.

It is past time to end the status quo. If the collective wisdom of Congress is to continue to fund intercity passenger rail service, then we should do so in a manner that makes economic sense. The legislation we are introducing today would restructure the passenger rail program in a realistic way and provide responsible funding for existing service and new corridor development.

First, the legislation would make cost-sharing on shorter-distance corridor routes more equitable. Today, California, Washington, Oregon, and a number of other States play an active role in funding and managing passenger service on corridor routes in their States, while other States pay nothing. This legislation would require equitable cost-sharing for all corridor trains. By the end of the 6-year reauthorization period, States would be required to fund 70 percent of the operating losses on corridor services, the level of contribution already being made by California, the Pacific Northwest, Oklahoma, Missouri, and several other States. Furthermore, the Federal share of operating subsidies would be payable as grants to the States. Where States have taken an active role in managing Amtrak service, there has been more accountability, better customer service, and a higher level of efficiency.

Second, the legislation would restructure Amtrak's long distance routes. I am not proposing, as many of my colleagues would expect, to "whack" every long distance train. In fact, closure and consolidation would be a last resort under my proposal. The ultimate goal would be to reduce the annual operating subsidy required for these routes by at least 50 percent whether by restructuring the route, reducing operating expenses, contracting out service to a private operator, or securing State financial support. Amtrak operates 16 long distance trains, including the Sunset Limited, a train that runs through Arizona on its 3-day odyssey from Los Angeles to Orlando and loses over $400 per passenger. Reducing the burden of these trains on the taxpayer is one of my top priorities.

This proposal would also establish fair and open competition for Amtrak. If, after 34 years of being told by Amtrak that profitability is just a few years away or, more recently, that it is on a "glide-path" to self-sufficiency, we are now to conclude that Amtrak will always run operating and capital deficits. Our duty to the taxpayers is to ensure that service is operated as efficiently as possible to minimize subsidies. To achieve this goal, there must be fair and open competition for Amtrak from private sector companies and commuter authorities.

Some of my colleagues contend that the private sector would not be interested in operating passenger service, noting that Amtrak was created because the freight railroads did not wish to continue providing what had become unprofitable service with the development of air travel and the Interstate Highway System. But times have changed. Norfolk Southern recently told transportation officials in Georgia that it wants to be considered to run the State's planned commuter service between Atlanta and Macon. Herzon, a private company headquarted in Missouri, operates commuter services in Texas and California, and has been trying to bid against Amtrak to operate the "Mules" service between St. Louis and Kansas City. Further, 14 private corporations expressed interest in operating service following a Commerce Committee hearing in which the question of private sector interest was posed.

Fourth, this legislation would establish a process for corridor development modeled after the transit "new starts" program. Many States have expressed interest in developing new conventional or high-speed intercity passenger service in highly-traveled corridors. My proposal would evaluate new intercity services on a competitive basis and require that projects meet planning and design requirements similar to those that apply to the well-respected new starts program administered by the Federal Transit Administration. As the States assume more responsibility for operating subsidies, the amount of funding available for corridor development would increase. By year 6 of the reauthorization period, $800 million would be authorized for corridor development.

This legislation also addresses ownership, management, and maintenance of Northeast Corridor. As recommended by the administration, the bill proposes that the Federal Government assume ownership of the Northeast Corridor and implement a plan to restore the Corridor to a state of good repair. The Northeast Corridor States would be encouraged to adopt an interstate compact within 5 years and assume responsibility for the Corridor's management. Other States would be expected to manage their corridor services, and the Northeast Corridor should be no exception. Moreover, over 1,000 of the 1,200 or so trains operated daily on the Corridor are commuter trains, not intercity services. Until the interstate compact is in place, Amtrak would continue to operate and maintain the Corridor.

Finally, the legislation institutes reforms at Amtrak. Amtrak would be required to perform its services under contract with the Federal Government or States, and would be required to develop a more accurate and transparent cost accounting system. As recommended by the DOT Inspector General, an effort would be made to restructure Amtrak's debt to reduce the cost to the taxpayers.

We encourage our colleagues to support this legislation. Reforming Amtrak and the way our intercity passenger rail program is now organized must be accomplished before Congress considers expanding intercity service. Simply throwing billions more at Amtrak as some of my colleagues propose—whether through appropriations, bonds, or some other funding scheme—will not solve the fundamental problems. We can and must do better.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:.

S. 2306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Passenger Service Restructuring, Reauthorization, and Development Act".

SEC. 2. TABLE OF CONTENTS; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents; amendment of title 49, United States Code.

TITLE I—NETWORK RESTRUCTURING AND COST-SHARING

SUBTITLE A—RESTRUCTURING

Sec. 101. Findings, purpose, and goals.
Sec. 102. Passenger rail service restructuring.
Sec. 103. Definitions.
Sec. 104. Operating grants for corridor routes.
Sec. 105. Operating grants for long distance routes
Sec. 106. Long distance route restructuring commission.
Sec. 107. Criteria for restructuring.
Sec. 108. Implementation of restructuring plan.
Sec. 109. Redemption of common stock.
Sec. 110. Retirement of preferred stock; transfer of assets.
Sec. 111. Real estate and asset sales; other.

SUBTITLE B—NORTHEAST CORRIDOR

Sec. 131. Interstate compact for the Northeast Corridor.
Sec. 132. Shut-down of commuter or freight operations.
Sec. 133. Capital grants for the Northeast Corridor.

SUBTITLE C—RELATED MATTERS

Sec. 151. Fair and open competition.
Sec. 152. Access to other railroads.
Sec. 153. Limitations on rail passenger transportation liability.
Sec. 154. Train operations insurance pool.
Sec. 155. Collective bargaining arrangements.

TITLE II—RAIL DEVELOPMENT

Sec. 201. Capital assistance for intercity passenger rail service.
Sec. 202. Regulations

TITLE III—REFORMS

Sec. 301. Management of secured debt.
Sec. 302. Employee transition assistance.
Sec. 303. Termination of authority for GSA to provide services to Amtrak.
Sec. 304. Amtrak reform board of directors.
Sec. 305. Limitations on availability of grants.
Sec. 306. Repeal of obsolete and executed provisions of law.
Sec. 307. Establishment of financial accounting system.
Sec. 308. Restructuring of long-term debt and capital leases.
Sec. 309. Authorization of appropriations.

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—NETWORK RESTRUCTURING AND COST-SHARING

SUBTITLE A—RESTRUCTURING

SEC. 101. FINDINGS, PURPOSE, AND GOALS.

Section 24101 is amended to read as follows:

"§ 24101. Findings, purpose, and goals

"(a) FINDINGS.—

"(1) It is in the public interest of the United States to encourage and promote the development of various modes of transportation and transportation infrastructure to efficiently maximize the mobility of passengers and goods.

"(2) Despite Federal subsidies of nearly $27 billion over the past 34 years, intercity rail passenger service still accounts for less than 1 percent of all intercity travel.

"(3) Intercity rail passenger service can be competitive with other modes of transportation and achieve a significant share of the travel market in short-distance corridors connecting metropolitan areas.

"(4) Rail passenger transportation can help alleviate overcrowding of airways and airports, and can provide needed intermodal connections to airports, bus terminals, and mass transit services.

"(5) Corridor routes account for approximately 85 percent of Amtrak's ridership but only one-third of Amtrak's operating losses, excluding depreciation.

"(6) A number of Amtrak's long-distance routes may be more efficiently operated and attract higher ridership as connected corridors.

"(7) Long-distance routes that cannot be restructured as connected corridors, do not receive State financial support, cannot be operated on a for-profit basis, or are not an essential link to the rest of the intercity passenger rail network, should be consolidated or discontinued.

"(8) Some States with corridor services provide significant financial support for such services, while other States with routes and all States with long-distance routes contribute nothing for such services. More equitable cost-sharing is needed to justify Federal investment in intercity rail passenger service.

“(9) The need to invest taxpayer dollars in intercity rail passenger service demands that fair and open competition be permitted for the provision of such services to ensure that service is provided in the most efficient manner without jeopardizing the safety of such operations.

“(10) A greater degree of cooperation is necessary among intercity passenger service operators, freight railroads, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to achieve the performance sufficient to justify the expenditure of additional public money on intercity rail passenger service.

“(11) Transportation services provided by the private freight railroads are vital to the economy and national defense and should not be disadvantaged by the operation of intercity passenger rail service over their rights-of-way.

“(12) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation and should be restored to a state of good repair.

“(b) Purpose.—The purpose of this part is to assist in the preservation and development of conventional and high-speed intercity rail passenger services where such services can play an important role in facilitating passenger mobility in the United States.

“(c) Goals.—The goals of this part are—

“(1) to move toward a national network of interconnected short-distance passenger rail corridor services;

“(2) to return the Northeast Corridor to a state of good repair;

“(3) to establish a framework for the development of new conventional and high-speed rail services;

“(4) to allow for train services to be operated under contract to a State or group of States, with the operator of the service selected by the State or group of States;

“(5) to establish equitable cost-sharing for capital expenses and operating losses with the States; and

“(6) to encourage greater participation in the provision of intercity rail passenger services by the private sector.”.

SEC. 102. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) In General.—Chapter 243 is amended by inserting before section 24301 the following:

“§ 24300. Restructuring mandate

“(a) In General.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall restructure Amtrak as 2 independent entities, as follows:

“(1) The National Railroad Passenger Corporation.—One entity shall be the National Railroad Passenger Corporation, otherwise known as Amtrak, that shall provide overall supervision of the restructuring of the intercity passenger rail program.

“(2) The American Passenger Railway Corporation.—The other entity shall be a for profit corporation, to be known as the American Passenger Railway Corporation, that shall be responsible for conducting the passenger operations, infrastructure maintenance, and related services, including operation of reservation centers and ownership and maintenance of rolling stock.

“(b) Articles of Incorporation and Other Documentation.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall—

“(1) file appropriate articles of incorporation under State law for the American Passenger Railway Corporation; and

“(2) amend the articles of incorporation and bylaws of the National Railroad Passenger Corporation to reflect its changed functions and responsibilities.

“(c) Roles and Responsibilities of the American Passenger Railway Corporation.—

“(1) Railroad activities.—Consistent with the business corporation law of the State of incorporation of the American Passenger Railway Corporation, the Corporation shall be qualified to undertake railroad activities of an operational or infrastructure nature.

“(2) Rail operations and related functions.—The American Passenger Railway Corporation—

“(A) shall have the exclusive right, until October 1, 2005, to continue to provide the intercity passenger services provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act;

“(B) shall, beginning October 1, 2005, operate intercity passenger service only on a contractual basis under negotiated terms and conditions;

“(C) shall operate a national reservations system; and

“(D) subject to fulfillment of its contractual obligations, shall have the exclusive right, until management of the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, is transferred to the interstate compact created under section 131 or to another entity, to provide the train operations, dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, but may provide such services beginning October 1, 2005, only on a contractual basis with the National Railroad Passenger Corporation under negotiated terms and conditions.

“(3) Status of corporation.—

“(A) The American Passenger Railway Corporation—

“(i) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

“(ii) shall be operated and managed as a for-profit corporation; and

“(iii) is not a department, agency, or instrumentality of the United States Government nor a Government corporation (as defined in section 103 of title 5).

“(B) Chapter 105 of this title does not apply to the American Passenger Railway Corporation, except that laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees apply to the American Passenger Railway Corporation to the same extent as they applied to Amtrak before the restructuring required by this section.

“(C) Subsections (c), (d), and (f) through (l) of section 24301 of this title shall apply to the Corporation.

“(4) Chief executive officer.—Subject to further action by the board of directors of the American Passenger Railway Corporation, the individual who, on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, is President of Amtrak shall be offered the position of chief executive officer of the American Passenger Railway Corporation as soon as practicable after the corporation is established.

“(5) Issuance of stock and assumption of debt.—The Corporation may not issue stock or incur debt without the express approval of the Secretary of Transportation.

“§ 24300A. American Passenger Railway Corporation board of directors

“(a) In General.—

“(1) Membership.—The American Passenger Railway Corporation shall be governed by a board of directors consisting of 7 members appointed by the President, by and with the advice and consent of the Senate.

“(2) Qualifications.—

“(A) In general.—Members of the board shall be chosen from among individuals who have technical qualifications, professional standing, and demonstrated expertise in the field of transportation, corporate management, or financial management.

“(B) Federal employees disqualified.—No individual who is an officer or employee of the United States may serve as a member of the board.

“(3) Term of office.—Each member shall serve for a term of 5 years. An individual may not serve for more than 2 terms.

“(4) Quorum.—A majority of the board members who have been lawfully appointed and qualified at any moment shall constitute a quorum for the conduct of business.

“(b) Bylaws.—The board of directors shall adopt bylaws governing the corporation consistent with the provisions of this section and its articles of incorporation, and may amend, repeal, and otherwise modify the bylaws from time to time as necessary or appropriate.

“(c) Transition Board Members.—Individuals who are serving as members of the Amtrak Reform Board on the day before the date on which the American Passenger Railway Corporation is established, with the exception of the Secretary of Transportation, shall serve as members of the board of directors of the American Passenger Railway Corporation until 4 members of that board have been appointed and qualified.

“§ 24300B. National Railroad Passenger Corporation board after restructuring

“(a) In General.—After the American Passenger Railway Corporation is established, the Reform Board established under section 24302(a) shall be dissolved, and the National Railroad Passenger Corporation shall be governed by a board of directors consisting of—

“(1) the Secretary of Transportation;

“(2) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

“(3) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

“(b) Roles and Responsibilities.—

“(1) Supervision and management.—After the board of directors described in subsection (a) takes office, the National Railroad Passenger Corporation shall—

“(A) provide overall supervision of the restructuring of the intercity passenger rail program;

“(B) manage residual Amtrak responsibilities; and

“(C) retain and manage Amtrak's legal rights, including its legal right of access to other railroads, and ownership of Amtrak's real property, until that property is transferred to the Secretary of Transportation under section 110 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

"(2) Contracts for service.—The National Railroad Passenger Corporation shall, by contract, permit an operator to provide intercity passenger rail service over any route operated by Amtrak on the date prior to the date the restructuring required by section 24300 becomes effective, at the frequencies in effect on that date, on its behalf and to use its right of access to any segment of rail line owned by another rail carrier needed for the operation of that train. The operator may be the American Passenger Railway Corporation or another operator, but there shall be no more than 1 intercity passenger rail operator at a time over any segment of rail line owned by another rail carrier, except in terminal areas as determined by the Secretary or as may otherwise be provided by agreement among the National Railroad Passenger Corporation, the operators, and the owner of the rail line.

"(3) Use of amtrak name.—

"(A) In general.—The National Railroad Passenger Corporation shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

"(B) Use by american passenger railway corporation.—Amtrak shall by contract, permit the American Passenger Railway Corporation to market its services under the Amtrak name.

"(4) Amtrak personnel.—All Amtrak employees shall become American Passenger Railway Corporation employees unless retained by the National Railroad Passenger Corporation. The American Passenger Railway Corporation shall succeed to the collective bargaining agreements in effect between Amtrak and labor organizations that are in effect on the day before the date on which that Corporation is established. An employee who elects employment with National Railroad Passenger Corporation shall become an employee of that Corporation, with only such rights regarding pay and benefits as that Corporation shall determine.

"(5) Freight and commuter operations.—The National Railroad Passenger Corporation shall ensure that the implementation of the restructuring required by section 24300 gives due consideration to the needs of freight and commuter operations that, as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, operate on the Northeast Corridor using Amtrak rights-of-way.

"(6) Rolling stock.—The National Railroad Passenger Corporation shall set the terms under which the American Passenger Railway Corporation must make available to any replacement operator the legacy equipment associated with any intercity passenger rail service provided as of the date of the restructuring required by section 24300.".

(b) Spinning-off of Reservations System.—Not later than 2 years after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure recommendations on the feasibility, advantages, and disadvantages of spinning off the national reservations system as a private for-profit entity.

(c) Conforming Amendment.—The chapter analysis for chapter 243 is amended by inserting the following after the item relating to section 24309:

"24300. Restructuring mandate
"24300A. American Passenger Railway Corporation board of directors
"24300B. Amtrak board after restructuring".

SEC. 103. DEFINITIONS.

Section 24102 is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(2) by redesignating paragraphs (3) through (8), as redesignated, as paragraphs (4) through (9), respectively, and inserting after paragraph (2) the following:

"(3) 'corridor route' means—

"(A) a train route operated by Amtrak with a route length of 750 miles or less as of January 1, 2004; or

"(B) a new conventional or high-speed route eligible for funding under chapter 244 of this title.";

(3) by redesignating paragraphs (6) through (9), as redesignated, as paragraphs (8) through (11), respectively, and inserting after paragraph (5) the following:

"(6) 'long distance route' means a train route operated by Amtrak with a route length greater than 750 miles as of January 1, 2004.

"(7) 'legacy equipment' means the rolling stock required to provide intercity passenger rail service owned or leased by Amtrak on the day prior to the date on which the restructuring required by section 24300 is completed (as such date is determined by the Secretary).".

SEC. 104. OPERATING GRANTS FOR CORRIDOR ROUTES.

(a) In General.—Chapter 243 is amended by adding at the end the following:

"§ 24316. Operating grants for corridor routes

"(a) In General.—

"(1) Operating grant authority.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to States for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of the corridor routes operated by Amtrak on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary) for a portion of the operating subsidies required to operate those routes with the same train frequencies.

"(2) Conditions.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

"(b) Federal Share of Operating Losses.—

"(1) Reimbursable amount.—A grant to a State under this section for any fiscal year may not exceed an amount equal to the lower of—

"(A) the applicable percentage of the Federal operating subsidy for that fiscal year; or

"(B) the percentage of the operating subsidy for a route not borne by a State during the last fiscal year ending before the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

"(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage of the operating subsidy for a fiscal year is—

"(A) 70 percent for fiscal year 2006;

"(B) 60 percent for fiscal year 2007;

"(C) 50 percent for fiscal year 2008;

"(D) 40 percent for fiscal year 2009; and

"(E) 30 percent for fiscal year 2010.

"(c) Determination of Expenses Eligible for Reimbursement.—

"(1) Annual determination of subsidy.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on each corridor route operated by the American Passenger Railway Corporation under contract with a State without competitive bid. The operating loss on such routes shall—

"(A) reflect the fully allocated costs of operating the route, including an appropriate share of overhead expenses, including general and administrative expenses; and

"(B) exclude depreciation and interest expense on long-term debt.

"(2) Aggregation of northeast corridor profits and losses.—Operating profits and losses on corridor routes operated exclusively on the mainline of the Northeast Corridor extending from Washington, D.C. to Boston, MA may be aggregated for purposes of determining the operating subsidy required on the routes.

"(3) Determination with competitive bidding.—Expenses eligible for Federal support pursuant to paragraph (b)(2) for reimbursement for a corridor route that has been competitively bid shall consist of the operating subsidy agreed upon by the State, group of States, or other entity and the operator.

"(d) Exception to Date Cost-sharing Required.—For any State whose legislature has not convened in regular session after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and before October 1, 2005, the additional cost-sharing requirements of this section shall become effective on October 1, 2006.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section—

"(1) $125,000,000 for fiscal year 2006;

"(2) $100,000,000 for fiscal year 2007;

"(3) $90,000,000 for fiscal year 2008;

"(4) $75,000,000 for fiscal year 2009; and

"(5) $50,000,000 for fiscal year 2010.".

(b) Conforming Amendment.—The chapter analysis for chapter 243 is amended by adding at the end the following:

"24316. Operating grants for corridor routes".

SEC. 105. OPERATING GRANTS FOR LONG DISTANCE ROUTES

(a) In General.—Chapter 243, as amended by section 104, is amended by adding at the end the following:

"§ 24317. Operating grants for long distance routes

"(a) In General.—

"(1) Operating grant authority.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to the American Passenger Railway Corporation or to a State providing financial support for a long distance route for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of the long distance routes operated by Amtrak on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary) for a portion of the operating subsidies required to operate those routes with the same train frequencies.

“(2) Conditions.—

“(A) A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

“(B) The Secretary shall require the American Passenger Railway Corporation, as a condition of a grant under this section, to systematically reduce its route and system-wide overhead expenses by a minimum of 5 percent annually through fiscal year 2010. A contract between the National Railroad Passenger Corporation and the American Passenger Railway Corporation for the operation of a long distance route or routes must provide for a reduction in the annual operating subsidy to reflect the reduction in such expenses.

“(3) Annual determination of subsidy.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on each long distance route operated by the American Passenger Railway Corporation without competitive bid and the portion of the subsidy attributable to route and system-wide overhead expenses.

“(b) Federal Share of Operating Losses.—Pending restructuring of the long distance routes required by sections 106 through 108 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Federal share for an operating grant may be 100 percent of the qualifying operating subsidy for the route.

“(c) Cost-sharing Process for Long Distance Routes.—Within 9 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Secretary shall develop a process to facilitate State cost-sharing on long distance routes. The process shall—

“(1) provide States the option of either—

“(A) receiving Federal grants, managing the service, and selecting the train operator; or

“(B) having the service managed by the Federal government with a train operator selected by the National Rail Passenger Corporation;

“(2) include a methodology to assist States interested in providing financial support in equitably allocating the share of a route's required operating subsidy among the affected States; and

“(3) be made available to the Long Distance Restructuring Commission established under section 106 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and the States to assist in the development of the restructuring plan under that section.

“(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

“(1) $550,000,000 for fiscal year 2006;

“(2) $425,000,000 for fiscal year 2007;

“(3) $375,000,000 for fiscal year 2008;

“(4) $325,000,000 for fiscal year 2009; and

“(5) $300,000,000 for fiscal year 2010.”.

(b) Conforming Amendment.—The chapter analysis for chapter 243, as amended by section 104 of this Act, is amended by adding at the end the following:

“24317. Operating grants for long distance routes

SEC. 106. LONG DISTANCE ROUTE RESTRUCTURING COMMISSION.

(a) Establishment.—There is established an independent commission to be known as the Long Distance Route Restructuring Commission.

(b) Duty.—

(1) In general.—The Commission shall submit a plan to Congress for restructuring long distance intercity passenger rail routes in a manner that will reduce Federal operating subsidies on the routes by at least 50 percent by the end of fiscal year 2010 (as compared to the operating subsidies for those routes for fiscal year 2003) by—

(A) retaining routes that provide a unique service that can be contracted out by the National Railroad Passenger Corporation on a for-profit basis;

(B) restructuring other routes as linked corridor routes between major metropolitan areas; and

(C) consolidating or discontinuing service over remaining routes.

(2) Preservation of national network.—The restructuring plan submitted by the Commission shall ensure that no corridor route is completely isolated from the rest of the intercity passenger rail network.

(3) Exceptions.—

(A) In general.—A route will be excluded from consideration for restructuring, consolidation, or closure if a State or group of States commits, by contractual arrangement with the American Passenger Railway Corporation or another operator selected through a competitive process, to provide financial operating support at a level sufficient to offset at least

(i) 30 percent of the operating subsidy for fiscal year 2007;

(ii) 40 percent of the operating subsidy for fiscal year 2008; and

(iii) 50 percent of the operating subsidy thereafter.

(B) Failure of support.—If a State or group of States fails to provide the financial support to which it committed under this paragraph, then service over the route shall be discontinued.

(4) Consultation required.—In carrying out its duties, the Commission shall consult with the American Passenger Railway Corporation, State and local officials, freight railroads, companies with expertise in intercity passenger transportation, and other organizations with an interest in the restructuring of the long distance train routes.

(c) Appointment.—

(1) The Commission shall be composed of 7 members appointed by the President within 6 months after the date of enactment of this Act.

(2) The Commission members shall elect 1 member to serve as Chairman.

(d) Termination.—The Commission shall terminate 90 days after the Commission's recommendations for consolidation and closure are submitted to Congress.

(e) Vacancies.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(f) Detailees.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail personnel of that department or agency to the Commission to assist the Commission in carrying out its duties.

(g) Compensation; reimbursement.—Members of the Commission shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) Other Authority.—

(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(i) Authorization of Appropriations.—There are authorized to be appropriated for the use of the Commission in carrying out its responsibilities under this section for each of fiscal years 2005 and 2006, $4,000,000, such sums to remain available until expended.

SEC. 107. CRITERIA FOR RESTRUCTURING.

(a) Restructuring as Linked Corridors.—

(1) Prerequisite for restructuring.—A long distance route or portion thereof may be recommended for restructuring as a linked corridor if—

(A) the origin-to-destination travel time of each corridor link in the new route, at conventional train speeds, including all station stops, will be competitive with other modes of transportation;

(B) each corridor link in the new route connects at least 2 major metropolitan areas or provides a link between 2 or more existing corridor routes;

(C) the route as restructured can be reasonably expected to attract at least 10 percent of the combined common carrier market in the markets served;

(D) the projected cash operating loss of each of the restructured links does not exceed 11 cents per passenger-mile on a fully allocated cost basis; and

(E) by the end of fiscal year 2010 the Federal operating subsidy will be reduced by at least 50 percent (as compared to the operating subsidy for the route for fiscal year 2003), taking into account commitments by the affected States to provide financial support for the route so that no Federal operating subsidy is available for any portion of a route for which there is no such State commitment.

(2) Hours of operation.—In addition to the eligibility criteria in paragraph (1), any long distance routes recommended for restructuring as linked corridors shall be designed to operate between the hours of 6:00 a.m. and 11:00 p.m.

(3) Modification of routes.—With the concurrence of the affected States and the host railroad, the route and stations service by a restructured long distance route may be modified to improve ridership and financial performance.

(4) New capital plans.—As part of the restructuring plan for reconfigured routes, the Commission shall develop a capital plan, if additional capital is needed to reconfigure the route as linked corridors.

(b) Contracting-Out of Profitable Long Distance Routes and Services.—The Commission shall determine which long distance routes or services on such routes, including auto-ferry transportation, food service, and sleeping accommodations, could be contracted to a private operator on a for-profit basis. In making these determinations, the Commission shall solicit expressions of interest from the private sector in operating long distance routes or services, including the conditions under which private companies may be interested in operating such services.

(c) Consolidation and Closure.—The Commission shall make recommendations to Congress for consolidating and closing long distance train routes or portions of routes that cannot be restructured under subsection

(a) or contracted out under subsection (b), to reduce the Federal operating subsidy required by at least 50 percent by the end of fiscal year 2010 (as compared to the operating subsidies for those routes for fiscal year 2003), taking into consideration—

(1) the operating loss on a fully allocated cost basis, including capital costs, of the route or portion thereof;

(2) the extent to which train service is the only available public transportation to the cities and towns along the route or portion thereof;

(3) whether an alternate route could significantly reduce operating losses and capital requirements or increase ridership;

(4) available capacity on the rights-of-way of the host railroad or railroads; and

(5) commitments by the affected States to provide financial support for the route or portion thereof.

(d) COOPERATION OF AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) The American Passenger Railway Corporation shall cooperate and comply, subject to the agreement of the Commission to protect the confidentiality of proprietary information, with all requests for financial, marketing, and other information about the routes under consideration by the Commission.

(2) The Secretary of Transportation may withhold all or part of an operating or capital grant to the Corporation if the Secretary determines the American Passenger Railway Corporation is not cooperating with the Commission as required by this subsection.

(e) REPORT.—The Commission shall submit its recommendations for restructuring the long distance routes to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 18 months after the date of enactment of this Act. The report shall include a description of—

(1) the analysis performed by the Commission to reach its conclusions;

(2) options considered in the development of a restructuring plan; and

(3) the impact of the restructuring on employees of the American Passenger Railway Corporation for any long distance route restructured under this section.

SEC. 108. IMPLEMENTATION OF RESTRUCTURING PLAN.

(a) IN GENERAL.—The Secretary of Transportation shall implement the restructuring plan submitted to Congress by the Long Distance Route Restructuring Commission in its report pursuant to section 106 unless a joint resolution is enacted by the Congress disapproving such recommendations of the Commission before the earlier of—

(1) the end of the 60-day period beginning on the date the Commission submits its report to Congress; or

(2) the adjournment of Congress sine die for the session during which such report is submitted.

(b) CERTAIN DAYS DISREGARDED.—For purposes of subsection (a), the days on which either House of Congress is not in session because of an adjournment of more than 4 days to a day certain shall be excluded in the computation of a period.

(c) 1-YEAR IMPLEMENTATION PERIOD.—Unless disapproved under section (a), the Secretary of Transportation shall fully implement the plan within 1 year after the date on which the period described in subsection (a) expires.

SEC. 109. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all Amtrak assets and liabilities with an estimated value in excess of $1,000,000 as of the date of enactment of this Act by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation's Appraisal Standards Board and shall be completed within 1 year after the date of enactment of this Act.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 110 of this Act, and within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall redeem all common stock in Amtrak issued prior to the date of enactment of this Act at the fair market value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of Amtrak.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the National Railroad Passenger Corporation and the owners of the Amtrak common stock have not completed the redemption of such stock within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The value assigned to the common stock under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311(a)(1) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking "Amtrak." in subparagraph (B) and inserting "Amtrak; or"; and

(3) by adding at the end the following:

"(C) necessary to redeem Amtrak's common stock from any holder thereof, including a rail carrier.".

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of the corporation retained under section 110 of this Act for 10 shares of common stock in the National Railroad Passenger Corporation.

(2) The National Railroad Passenger Corporation may not issue any other common stock, and may not issued preferred stock, without the express written consent of the Secretary.

(f) TERMINATION OF SECTION 24907 NOTE AND MORTGAGE AUTHORITY.—Section 24907 is amended by adding at the end the following:

"(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to obtain a note of indebtedness from, and make a mortgage agreement with, the American Passenger Railway Corporation under subsection (a) is terminated as of the date of the transfer of assets under section 110 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.".

SEC. 110. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.—Not later than 30 days after the redemption or acquisition of stock under section 109 of this Act, the National Railroad Passenger Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to—

(1) the portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels, repair facilities, and all other improvements owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline);

(2) Chicago Union Station and rail-related assets in the Chicago Metropolitan area; and

(3) all other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—

(1) ASSUMPTION BY FEDERAL GOVERNMENT.—Any outstanding debt on the mainline of the Northeast Corridor (other than debt associated with rolling stock) shall become a debt obligation of the United States as of the date of transfer of title under subsection (a)(1).

(2) RESTRUCTURING.—Except as provided in paragraph (1), the obligation of the American Passenger Railway Corporation or its successors or assigns to repay in full any indebtedness to the United States incurred since January, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (a), the Secretary shall—

(1) deliver to the National Passenger Railroad Corporation all but one share of the preferred stock of the corporation held by the Secretary and forgive the corporation's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) release the National Railroad Passenger Corporation from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into a contract with American Passenger Railway Corporation under which American Passenger Railway Corporation will exercise care, custody, maintenance, and operational control of the assets to be transferred. The term of the contract shall be for 1 year, which shall be renewed annually without action on the part of either party unless canceled by either party with 90 days notice.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg,

Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(f) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of the assets described subsection (e) shall be credited as off-setting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 111. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary of Transportation shall transfer all stations, track, and other fixed facilities outside the Northeast Corridor mainline to which the Secretary has assumed title under section 110 of this Act, other than equipment repair facilities, to States, municipalities, railroads, or other entities for maximum consideration.

(b) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of assets under this section shall be credited as offsetting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SUBTITLE B—NORTHEAST CORRIDOR

SEC. 131. INTERSTATE COMPACT FOR THE NORTHEAST CORRIDOR.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to manage railroad operations and rail service and conduct related activities on the Northeast Corridor mainline between Boston, Massachusetts, and Washington, District of Columbia.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the "participating States"); and

(ii) the mayor of the District of Columbia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(1) full authority for 99 years to succeed to the responsibilities of the National Railroad Passenger Corporation as manager of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation, including responsibility for—

(A) Corridor maintenance and improvement;

(B) the operation of intercity passenger rail service;

(C) making arrangements for operation of freight railroad operations and commuter operations;

(D) the use of the Corridor for non-rail purposes; and

(E) the Northeast Corridor financial operations;

(2) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions; and

(C) participation by the Department of Transportation, as the non-voting representative of the United States.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than 18 months after the date of enactment of this Act.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation and a freight railroad that conducts operations on the Northeast Corridor as ex officio members participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for each member's management of rail services in the Northeast Corridor.

(f) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(g) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(h) ADOPTION OF COMPACT; TURNOVER.—

(1) IN GENERAL.—The participating States and the District of Columbia shall adopt a final compact agreement within 5 years after the date of enactment of this Act, and the Compact shall thereafter assume responsibility for the Northeast Corridor operations on a date that is not later than 6 months after adoption of the Compact.

(2) OPERATIONS.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for operation of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for operation of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor other than the American Passenger Railway Corporation to operate trains on the Northeast Corridor, the contract shall be awarded competitively.

(3) MAINTENANCE.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for maintenance of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for maintenance of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor other than the American Passenger Railway Corporation to maintain the Northeast Corridor and provide related services, the contract shall be awarded competitively.

(4) NON-COMPACT ALTERNATIVE.—If the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation, through a competitive bidding process, shall contract with another public or private entity to manage the Northeast Corridor, with a goal of maximizing the return to the Federal government from such operations.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

(1) $3,000,000 for fiscal year 2005, and

(2) $2,000,000 for fiscal year 2006,

such sums to remain available until expended.

SEC. 132. SHUT-DOWN OF COMMUTER OR FREIGHT OPERATIONS.

(a) In General.—Section 11123 is amended by striking "National Railroad Passenger Corporation" each place it appears and inserting "American Passenger Railway Corporation".

(b) Authorization of Appropriations.—From the funds made available for the American Passenger Railway Corporation for fiscal years 2005 through 2010, the Secretary of Transportation shall in each fiscal year hold in reserve from the amounts authorized by section 24402(g) of title 49, United States Code, such sums as may be necessary to carry out directed service orders issued under section 1123 of title 49, United States Code, to respond to the shut-down of commuter rail operations or freight operations due to a shut-down of operations by the American Passenger Railway Corporation. The Secretary shall make the reserved funds available through an appropriate grant instrument during the fourth quarter of each fiscal year to the extent that no grant orders have been issued by the Surface Transportation Board during that fiscal year prior to the date of transfer of the reserved funds or there is a balance of reserved funds not needed by the Board to pay for any directed service order in that fiscal year.

(c) Effective Date for Subsection (a).—The amendment made by subsection (a) shall take effect on the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300 of title 49, United States Code, is completed.

SEC. 133. CAPITAL GRANTS FOR NORTHEAST CORRIDOR.

(a) In General.—Chapter 243, as amended by section 105, is amended by adding at the end the following:

"§24318. Capital authorizations for the Northeast Corridor

"(a) In General.—The Secretary of Transportation, in consultation with the American Passenger Railway Corporation, shall develop and implement a capital program to restore the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, to a state of good repair, as defined by the Secretary.

"(b) Authorization of Appropriations for Capital Projects on the Northeast Corridor.—There are authorized to be appropriated to the Secretary of Transportation to make capital grants under this section $200,000,000 for fiscal year 2005 and $300,000,000 for each of fiscal years 2006 through 2010.

"(c) Achievement of State-of-good-repair on Northeast Corridor.—

"(1) Use of funds.—Sums authorized for the Northeast Corridor under subsection (b) may be used solely for the purpose of funding deferred maintenance and safety projects, including the negotiated Federal share for life-safety improvements in the New York Penn Station tunnels.

"(2) State of good repair.—The Northeast Corridor shall be considered to be in a state of good repair upon the completion of the capital program developed under subsection (a).".

(b) Conforming Amendment.—The chapter analysis for chapter 243, as amended by section 105, is amended by adding at the end thereof the following:

"24318. Capital authorizations for the Northeast Corridor".

Subtitle C—Related Matters

SEC. 151. FAIR AND OPEN COMPETITION.

(a) In General.—The Secretary of Transportation shall consult with States that competitively bid intercity passenger rail services to ensure their bidding practices provide for fair and open competition for all bidders, including the American Passenger Railway Corporation. The Secretary may withhold all or a portion of a grant under this Act if the Secretary determines that the State's bidding processes do not treat all competitors fairly.

(b) Use of Federal or State Funds.—The Secretary shall ensure that the American Passenger Railway Corporation may not use Federal or State financial support for a passenger rail route to subsidize a competitive bid to operate intercity passenger rail service on another route.

SEC. 152. ACCESS TO OTHER RAILROADS.

(a) Terms and Conditions for Access to Other Railroads.—

(1) Existing routes and frequencies.—

(A) In general.—The National Railroad Passenger Corporation shall be responsible for negotiating the terms and conditions under which—

(i) the American Passenger Railway Corporation, a State, or other entity may access the property of a rail carrier to provide intercity passenger rail service over routes operated by Amtrak on the day before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300 of title 49, United States Code, is completed at the frequencies in effect on that day; and

(ii) the American Passenger Railway Corporation, freight railroads, commuter authorities, and other entities may obtain access to property owned by the United States Government to provide intercity, commuter, freight rail and other services, except that the National Railroad Passenger Corporation shall delegate its authority under this clause to the interstate compact authorized by section 131 after that compact has been adopted.

(B) Preservation of railroad benefits.—The access and liability terms and conditions of the contracts between the National Railroad Passenger Corporation and other rail carriers following the restructuring required by section 24300 of title 49, United States Code, shall be no less favorable to the railroads than the access and liability terms and conditions under contracts in effect on the day before the date, as so determined by the Secretary, on which the restructuring is completed.

(C) Incentive payments; penalties.—The National Railroad Passenger Corporation shall retain a system of incentive payments and performance penalties in negotiating compensation payments to other rail carriers under subparagraph (A) that encourages on-time performance.

(3) Conditions for new routes and train frequencies.—

(A) In general.—The terms and conditions for the operation of a new intercity passenger rail route or frequency added after the date of enactment of this Act shall, except for the rental charge compensation to another rail carrier, be determined by negotiation and mutual agreement between the host railroad and the operator or sponsor of the route or frequency to be added.

(B) Standard of compensation.—The standard of compensation for the rental change shall be fully allocated costs, excluding capital investments associated with an added route or frequency, when the on-time performance of the new route or train frequency meets or exceeds 95 percent of the goal set by the parties, net of delays not within the host railroad's control.

(C) Failure of negotiation.—If the parties cannot agree on the terms of the rental charge, either party may petition the Surface Transportation Board to prescribe the terms under section 24308 of title 49, United States Code.

(b) Fitness Qualifications for Passenger Rail.—

(1) In general.—No person may operate intercity passenger rail service unless that person demonstrates to the satisfaction of the Secretary of Transportation that—

"(A) its intercity passenger rail operations will meet all applicable Federal safety rules and regulations;

"(B) it will operate the service on a sound financial basis; and

"(C) it has the technical expertise to operate intercity passenger rail service.".

(2) Minimum standards.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall by regulation establish minimum safety and financial qualifications for operators of intercity passenger rail service.

SEC. 153. LIMITATIONS ON RAIL PASSENGER TRANSPORTATION LIABILITY.

Section 28103 is amended by striking "Amtrak shall maintain a total" in subsection (c) and inserting "each operator of intercity passenger rail service shall maintain".

SEC. 154. TRAIN OPERATIONS INSURANCE POOL.

(a) In General.—Chapter 281 is amended by adding at the end the following:

"§28104. Train operations insurance pool

"(a) In General.—The Secretary of Transportation is authorized to encourage and otherwise assist insurance companies and other insurers that meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

"(1) to provide the insurance coverage required by section 28103; and

"(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers to assume a reasonable proportion of responsibility for the adjustment and payment of claims under section 28103.

"(b) Regulations To Establish Insurer Qualification Requirements.—In order to promote the effective administration of the intercity rail passenger program, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe requirements for insurance companies and other insurers participating in an insurance pool under subsection (a), including minimum requirements for capital or surplus or assets.

"(c) Authority To Collect and Pay Premiums and Other Costs.—In order to provide adequate insurance coverage at affordable cost to operators of intercity passenger rail service at no cost to the United States, the Secretary is authorized to divide the insurance premiums and all other costs of forming and operating the insurance pool created pursuant to this section, including the costs of any contractors or consultants the Secretary may hire, among all the operators of intercity passenger rail service (including the American Passenger Railway Corporation) and collect from each operator of intercity passenger rail service the insurance premiums and other costs the Secretary has allocated to it. Notwithstanding any other provision of law, the Secretary may receive funds collected under this section directly from each operator of intercity passenger rail service, credit the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool, and use those funds to pay insurance premiums and other costs of forming and operating the insurance pool, including the costs of any contractors or consultants the Secretary may hire. The Secretary may advance such sums as may be necessary to pay insurance premiums and other costs of forming and operating the insurance pool from unobligated balances available to the Federal Railroad Administration for intercity passenger rail service, to be reimbursed from payments received from operators of intercity passenger rail service. Where the Secretary is making a grant of operating funds for a route, the Secretary may collect the insurance premiums and other costs the Secretary has allocated to it by withholding those funds from the grant and crediting them to the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool.

"§ 28105. Use of insurance pool, companies, or other private organizations for certain payments

"(a) Authorization To Enter into Contracts for Certain Responsibilities.—The Secretary of Transportation may enter into contracts with the pool formed or otherwise created under section 28104, or any insurance company or other private organizations, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

"(1) Estimating and later determining any amounts of payments to be made from the pool.

"(2) Receiving from the Secretary, disbursing, and accounting for payments of insurance premiums.

"(3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.

"(4) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

"(b) Terms and Conditions of Contract.—Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

"(c) Competitive Bidding.—Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

"(d) Findings of Secretary.—No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

"(e) Term of Contract; Renewals; Termination.—Any contract entered into under this section shall be for a term of 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if the Secretary finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the intercity rail passenger program.".

(b) Conforming Amendments.—

(1) Chapter 281 is amended by striking "LAW ENFORCEMENT" in the chapter heading and inserting "LAW ENFORCEMENT; LIABILITY; INSURANCE".

(2) The part analysis of subtitle V is amended by striking the item relating to chapter 281 and inserting the following:

"281. Law enforcement; liability; insurance .... 28101".

(3) The table of contents of the title is amended by striking the item relating to chapter 281 and inserting the following:

"281. Law enforcement; liability; insurance .... 28101".

(4) The chapter analysis for chapter 281 is amended by adding at the end the following:

"28104. Train operations insurance pool
"28105. Use of insurance pool, companies, or other private organizations for certain payments".

SEC. 155. COLLECTIVE BARGAINING ARRANGEMENTS.

(a) Status as Employer or Carrier.—

(1) In general.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

(2) Collective bargaining agreement.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this Act, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(3) Replacement of existing rail passenger service.—

(A) Negotiations.—An entity providing replacement intercity rail passenger service under paragraph (2) shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) Arbitration.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of 7 arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in subparagraphs (A) through (D) of paragraph (2). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties, but all other expenses shall be paid by the party incurring them.

(C) Service commencement.—An entity providing replacement intercity rail passenger service under paragraph (2) shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (2) or the decision of the arbitrator has been rendered.

(b) Regulations.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations for carrying out this section.

TITLE II—RAIL DEVELOPMENT

SEC. 201. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) In General.—Part C of subtitle V is amended by inserting after chapter 243 the following:

"CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

"Sec.
"24401. Definitions
"24402. Capital investment grants to support intercity passenger rail service
"24403. Project management oversight
"24404. Inclusion of projects in Budget
"24405. Local share and maintenance of effort
"24406. Grants for maintenance and modernization

"§ 24401. Definitions

"In this chapter:

"(1) Applicant.—The term 'applicant' means a State, a group of States, including an interstate compact formed under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note) or section 131 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, or a public corporation, board, commission, or agency established by one or more States designated as the lead agency of a State for providing intercity passenger rail service.

"(2) Capital project.—The term 'capital project' means a project for—

“(A) acquiring or constructing equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, inspecting, supervising, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), alternatives analysis related to the development of such train services, capacity improvements on the property over which the service will be conducted, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements or closures on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

“(B) rehabilitating or remanufacturing rail rolling stock and associated facilities used primarily in intercity passenger rail service;

“(C) leasing equipment or a facility for use in intercity passenger rail service, subject to regulations (to be prescribed by the Secretary of Transportation) limiting such leasing arrangements to arrangements that are more cost-effective than purchase or construction;

“(D) modernizing existing intercity passenger rail service facilities and information systems;

“(E) the introduction of new technology, through innovative and improved products, other than magnetic levitation; or

“(F) defraying, with respect to new service established under section 24402, the cost of rental charges to freight railroads.

“(3) INTERCITY CORRIDOR PASSENGER RAIL SERVICE.—The term ‘intercity corridor passenger rail service’ means the transportation of passengers between major metropolitan areas by rail, including high-speed rail (as defined in section 26105(2) of this title), at multiple daily frequencies in corridors of 300 miles or less in length or with trip times of 4 hours or less.

“(4) NET PROJECT COST.—The term ‘net project cost’ means that portion of the cost of a project than cannot be financed from revenues reasonably expected to be generated by the project.

“§ 24402. Capital investment grants to support new intercity passenger rail service

“(a) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing capital investments to establish or add additional train frequencies for new intercity corridor passenger rail service.

“(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

“(3) APPLICATION WITH CHAPTER 53.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

“(b) PROJECT AS PART OF APPROVED PROGRAM.—

“(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 135 of title 23 and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

“(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

“(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is preferred, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

“(4) RAIL AGREEMENT.—The Secretary of Transportation may not approve a grant under this section unless the applicant demonstrates that the railroad over which the intercity passenger rail service will operate concurs with the applicant’s operating plans and infrastructure improvement requirements.

“(c) CRITERIA FOR GRANTS FOR INTERCITY CORRIDOR PASSENGER RAIL PROJECTS.—

“(1) IN GENERAL.—The Secretary may approve a grant under this section for a capital project only if the Secretary determines that the proposed project is—

“(A) justified, based on—

“(i) the results of an alternatives analysis and preliminary engineering; and

“(ii) a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

“(B) supported by an acceptable degree of State and local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

“(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

“(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall consider—

“(A) the direct and indirect benefits and costs of relevant alternatives;

“(B) the ability of the service to compete with other modes of transportation;

“(C) the extent to which the project fills an unmet transportation need;

“(D) the ability of the service to fund its operating expenses from fare revenues;

“(E) population density in the corridor;

“(F) the technical capability of the grant recipient to construct the project;

“(G) factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigating cost increases necessary to carry out each alternative analyzed;

“(H) the level of private sector financial participation and risk sharing in the project;

“(I) differences in local land, construction, and operating costs in evaluating project justification; and

“(J) other factors that the Secretary determines appropriate to carry out this chapter.

“(4) LOCAL FINANCIAL COMMITMENT.—

“(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

“(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

“(ii) each proposed State or local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(iii) State or local resources are available to operate the proposed service.

“(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

“(i) existing grant commitments;

“(ii) the degree to which financing sources are dedicated to the purposes proposed;

“(iii) any debt obligation that exists or is proposed by the applicant for the proposed project or other intercity passenger rail service purpose; and

“(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

“(5) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as ‘highly recommended’, ‘recommended’, or ‘not recommended’, based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (5).

“(6) FULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

“(d) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

“(1) LETTER OF INTENT.—

“(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

“(B) At least 60 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

“(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

“(D) An obligation or administrative commitment may be made only when amounts are appropriated.

“(2) FULL FUNDING AGREEMENT.—

“(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

“(i) establish the terms of participation by the United States Government in a project under this section;

“(ii) establish the maximum amount of Government financial assistance for the project, which, with respect to a high-speed rail project, shall be sufficient to complete at least an operable segment;

“(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

“(iv) make timely and efficient management of the project easier according to the law of the United States.

“(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Federal Government and is subject to subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(3) EARLY SYSTEMS WORK AGREEMENT.—

“(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(i) a full funding grant agreement for the project will be made; and

“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

“(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this section, when combined with obligations under section 5309 of this title, may be not more than the amount authorized under section 5338(b) of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

“(e) FEDERAL SHARE OF NET PROJECT COST.—

“(1) IN GENERAL.—

“(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

“(B) A grant for the project may be for up to 50 percent of the net project cost. The remainder shall be provided in cash from non-Federal sources.

“(f) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) IN GENERAL.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

“(A) the applicant applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

“(2) INTEREST COSTS.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

“(3) USE OF COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

“(g) FUNDING.—THERE ARE AUTHORIZED TO BE APPROPRIATED TO THE SECRETARY OF TRANSPORTATION FOR PURPOSES OF THIS SECTION—

“(1) $525,000,000 for fiscal year 2006,

“(2) $525,000,000 for fiscal year 2007,

“(3) $650,000,000 for fiscal year 2008,

“(4) $750,000,000 for fiscal year 2009, and

“(5) $800,000,000 for fiscal year 2010,

such sums to remain available until expended.

“§ 24403. Project management oversight

“(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

“(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

“(2) a budget for the project, including the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

“(3) a construction schedule for the project;

“(4) a document control procedure and recordkeeping system;

“(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

“(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

“(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

“(8) material testing policies and procedures;

“(9) internal plan implementation and reporting requirements;

“(10) criteria and procedures to be used for testing the operational system or its major components;

“(11) annual updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

“(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

“(b) PLAN APPROVAL.—

“(1) 60-DAY DECISION.—The Secretary shall approve or disapprove a plan not later than 60 days after it is submitted. If the approval process cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

“(2) EXPLANATION OF DISAPPROVAL.—If the Secretary disapproves a plan, the Secretary shall inform the applicant of the reasons for disapproval of the plan.

“(c) SECRETARIAL OVERSIGHT.—

“(1) IN GENERAL.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

“(2) USE OF FUNDS.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

“(3) FEDERAL SHARE.—The Federal Government may pay the entire cost of carrying out a contract under this subsection.

“(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

“§ 24404. Inclusion of projects in Budget

“Beginning with fiscal year 2005, the Secretary of Transportation shall transmit to the Office of Management and Budget for inclusion in the President's budget submission for the fiscal year a list of projects recommended for funding under section 24402 for the fiscal year.

"§ 24405. Local share and maintenance of effort

"(a) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 24402 may use, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds.

"(b) MAINTENANCE OF EFFORT.—The Secretary of Transportation shall approve the use of proceeds from the issuance of revenue bonds for the non-Federal share of the net project cost only if the aggregate amount of financial support for intercity passenger rail service from the State is not less than the average annual amount provided by the State during the preceding 3 years.

"§ 24406. Grants for maintenance and modernization

"(a) IN GENERAL.—The Secretary of Transportation may make capital grants for renewal and modernization of intercity passenger rail services to—

"(1) the American Passenger Railway Corporation for services it operates under contract with the Secretary of Transportation; or

"(2) to States for intercity passenger rail services operated under a contract with the American Passenger Railway Corporation or another train operator.

"(b) USE OF FUNDS.—Grants under this section may be used—

"(1) to purchase, lease, rehabilitate, or remanufacture rolling stock and associated facilities used primarily in intercity passenger rail service;

"(2) to modernize existing intercity passenger rail service facilities and information systems; or

"(3) to defray the cost of rental charges to freight railroads for the addition of train frequencies.

"(c) FEDERAL SHARE.—For fiscal years 2005 through 2010, the Federal share for a capital grant under this section may be 100 percent, except that the Federal share for a grant made under subsection (b)(3) may not exceed 50 percent. After fiscal year 2010, the Federal share for a capital grant under this section may not exceed 80 percent.

"(d) ALLOCATION FORMULA.—Funds made available by this section shall be allocated equitably among the States based on a formula to be determined by the Secretary.

"(e) SLEEPING AND DINING CARS.—Pending the restructuring of long distance routes under sections 106 through 108 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, capital grants may be made to the American Passenger Railway Corporation for sleeping and dining cars only to the extent necessary to maintain the equipment in working order and not for the purpose of refurbishing, rebuilding, or renewing such equipment to extend the equipment's useful life.

"(f) LONG DISTANCE RESTRUCTURING PLAN.—Unless the restructuring plan submitted by the Long Distance Route Restructuring Commission under section 106 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act is disapproved by Congress, from the sums authorized for capital projects outside of the Northeast Corridor, the Secretary may reserve up to $20,000,000 in each of fiscal years 2007 through 2010 to assist in the restructuring of long distance routes as linked corridors, and the Federal share of such assistance shall be 100 percent.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $200,000,000 for each of fiscal years 2005 through 2010 to carry out this section.".

SEC. 202. REGULATIONS IMPLEMENTING CHAPTER 244.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under chapter 244 of title 49, United States Code.

"(b) SPECIFIC REQUIREMENTS.—The regulations under chapter 244 of title 49, United States Code, shall include—

"(1) the manner in which the Secretary will evaluate and rate projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required by section 24402 of that title;

"(2) a definition of 'major capital project' for purposes of section 24403;

"(3) a requirement that project oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight;

"(4) a deadline by which all grant applications for a fiscal year shall be submitted that is early enough to permit the Secretary to evaluate all timely applications thoroughly before making grants;

"(5) a formula based on infrastructure ownership, boardings, and passenger-miles traveled in the prior fiscal year by which the funds authorized for modernization of existing services will be allocated among the States; and

"(6) a requirement that, if a State does not apply for its share of formula grant funds under paragraph (5) of this subsection in a timely manner, those funds will be made available to other States.

TITLE III—REFORMS

SEC. 301. MANAGEMENT OF SECURED DEBT.

Except as approved by the Secretary of Transportation to refinance existing secured debt, Amtrak (until the American Passenger Railway Corporation is established) and the American Passenger Railway Corporation thereafter, may not enter into any obligation secured by assets after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used for working capital purposes.

SEC. 302. EMPLOYEE ASSISTANCE.

(a) TRANSITION FINANCIAL INCENTIVES.—

(1) IN GENERAL.—To reduce operating expenses in preparation for competition from other rail carriers, the American Passenger Railway Corporation may institute a program under which it may, at its discretion, provide financial incentives to employees who voluntarily terminate their employment with the Corporation and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation.

(2) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the American Passenger Railway Corporation shall certify to the Secretary of Transportation that—

(A) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(B) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(C) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(3) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may not exceed 1 year's base pay.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $25,000,000 for each of fiscal years 2005, 2006, and 2007 to make grants to the American Passenger Railway Corporation to fund financial incentive payments to employees under this subsection.

(b) LABOR PROTECTION FOR EMPLOYEES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) IN GENERAL.—The American Passenger Railway Corporation shall be responsible for obligations imposed by law or collective bargaining agreement for compensation and benefits payable to its employees terminated in connection with the restructuring of passenger rail service under this Act and the amendments made by this Act. The responsibility of the American Passenger Railway Corporation under the preceding sentence, and the obligations for which it is responsible under that sentence, may not be transferred to any other entity in connection with such restructuring by contract or otherwise.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the American Passenger Railway Corporation in meeting its responsibility under paragraph (1) $75,000,000 for each of fiscal years 2007 through 2010.

(3) NOT AN OBLIGATION OF THE UNITED STATES.—Notwithstanding paragraph (2), nothing in paragraph (1) shall be construed to mean that any labor protection obligation of the American Passenger Railway Corporation under that paragraph is an obligation of the United States Government.

SEC. 303. TERMINATION OF AUTHORITY FOR GSA TO PROVIDE SERVICES TO AMTRAK.

Section 1110 of division A of H.R. 5666 (114 Stat. 2763A-202), as enacted by section 1(a)(4) of the Consolidated Appropriations Act, 2001, is repealed.

SEC. 304. AMTRAK REFORM BOARD OF DIRECTORS.

Section 24302 is amended by adding at the end the following:

"(d) ASSET TRANSITION COMMITTEE.—

"(1) IN GENERAL.—The Reform Board shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

"(2) POWERS AND DUTIES.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

"(A) the contractual right of access of Amtrak to rail lines of other railroads;

"(B) Amtrak's secured debt;

"(C) Northeast Corridor real property and assets; and

"(D) rolling stock.

"(3) APPROVAL REQUIRED.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit Amtrak management action with regard to those assets, that is not approved by the asset transition committee.".

SEC. 305. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) IN GENERAL.—Chapter 243, as amended by section 136 of this Act is amended by inserting after section 24318 the following:

"§ 24319. Limitations on availability of grants

"(a) IN GENERAL.—In addition to any other requirement imposed under this title, grants under this subtitle are subject to the following conditions:

"(1) The Secretary of Transportation may approve funding to cover operating losses or operating expenses (including advance purchase orders) only after receiving and approving a grant request for each specific train route to which the grant relates.

"(2) Each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure program justifying the Federal support to the Secretary's satisfaction.

"(3) Not later than December 31st prior to each fiscal year in which a grant under this subtitle is to be made, the grant recipient shall transmit a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations.

"(4) The business plan shall include—

"(A) targets, as applicable, for ridership, revenues, and capital and operating expenses;

"(B) a separate accounting for such targets—

"(i) on the Northeast Corridor;

"(ii) each intercity train route;

"(iii) as a group for long distance trains and corridor services; and

"(iv) commercial activities, including contract operations and mail and express; and

"(C) a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

"(5) Each month of each fiscal year in which grants are made under this subtitle, the grant recipient shall submit a supplemental report in electronic format regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes, to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations.

"(6) None of the funds authorized by this subtitle or the Rail Passenger Service Restructuring, Reauthorization, and Development Act may be disbursed for operating expenses, including advance purchase orders and capital projects not approved by the Secretary nor in the business plan submitted by the grant recipient under paragraph (3).

"(7) The grant recipient shall display the business plan required by paragraph (3) and all subsequent supplemental plans required by paragraph (5) on its website within a reasonable time after they are submitted to the Secretary and the Congress under this section.

"(8) The Secretary may not make any grant under this subtitle, until the grant recipient agrees to continue abiding by the provisions of paragraphs (1), (2), (5), (9), and (11) of the summary of conditions on the direct loan agreement of June 28, 2002, until the loan is repaid.

"(9) With respect to any route on which intercity passenger rail service is provided on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary), the American Passenger Railway Corporation shall make available to any replacement operator the legacy equipment that is associated with the service on the route. The equipment shall be made available on such terms as the National Railroad Passenger Corporation determines are fair, reasonable, and in the public interest.

"(10) The American Passenger Railway Corporation shall provide interline reservations services to any other provider of intercity passenger rail transportation on the same basis and at the same rates as those services were provided to the operating entities that provide passenger rail service within Amtrak as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

"(b) GRANT RECIPIENT.—In this section, the term 'grant recipient' means—

"(1) Amtrak, until the date on which the American Passenger Railway Corporation is established; and

"(2) the American Passenger Railway Corporation, after it is established.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24318 the following:

"24319. Limitations on availability of grants".

SEC. 306. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) IN GENERAL.—The following sections are repealed:

(1) Section 24701.

(2) Section 24706.

(3) Section 24901.

(4) Section 24902.

(5) Section 24904.

(6) Section 24906.

(7) Section 24909.

(b) AMENDMENT OF SECTION 24305.—Section 24305 is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2); and

(2) by inserting "With regard to items acquired with funds provided by the Federal Government," before "Amtrak" in subsection (f)(2).

(c) CONFORMING AMENDMENTS.—The chapter analyses for chapters 243, 247, and 249 are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

SEC. 307. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant—

(1) to assess Amtrak's financial accounting and reporting system and practices as of the date of enactment of this Act;

(2) to design and assist the American Passenger Railway Corporation in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable the American Passenger Railway Corporation to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) SEPARATE FINANCIAL STATEMENTS FOR NORTHEAST CORRIDOR INFRASTRUCTURE.—Beginning with fiscal year 2006, the American Passenger Railway Corporation shall issue separate financial statements for activities related to the infrastructure of the Northeast Corridor.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 308. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, shall restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government.

(c) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(d) EARLY REDEMPTION PLAN.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Treasury shall transmit to the Congress—

(1) a plan for the early redemption of Amtrak debt; and

(2) a proposal for covering the costs associated with the early redemption.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by section 24300 of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $110,000,000.
(B) For fiscal year 2006, $115,000,000.
(C) For fiscal year 2007, $205,000,000.
(D) For fiscal year 2008, $165,000,000.
(E) For fiscal year 2009, $155,000,000.
(F) For fiscal year 2010, $150,000,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by section 24300 of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $155,000,000.
(B) For fiscal year 2006, $150,000,000.
(C) For fiscal year 2007, $140,000,000.
(D) For fiscal year 2008, $130,000,000.
(E) For fiscal year 2009, $125,000,000.
(F) For fiscal year 2010, $115,000,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

(g) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under subsection (f) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak for fiscal year 2005 $750,000,000 for operating expenses.

By Mr. GRASSLEY:

S. 2307. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs by importers, and by individuals for personal use, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I would like to pose a question to the Chamber today.

What would you call it if Americans were paying up to 300 percent more for the same product as consumers from other countries were paying? Back in Iowa, we would call that "highway robbery." Yet, highway robbery is what is happening every day in this country, and it is happening over prescription drugs.

Yes, prescription drugs are being sold at prices that are 30 to 300 percent higher in the United States than in places like Canada or Europe.

Here are some examples.

The price in Canada of Nexium which is for heart burn and ulcers, is about 40 percent of the price in the U.S. Nexium would cost about $120 for 28 20-milligram capsules if you bought it here in the States. If you order the same Nexium from Canada, you'd pay about $51.

Here is another example: The price in Canada for Vioxx which is for arthritis pain, is also about 40 percent of the price in the U.S. If you purchased 30 12.5-milligram tablets in Canada, you would pay about $36 and here in a U.S. pharmacy, you would pay about $86.

And why is that, Mr. President? The reason is the importation of prescription drugs, those very same drugs that patients are using in Canada, and Australia, and Japan, is illegal in this country. So consumers in other countries get price breaks from the drug manufacturers and the American public doesn't.

One way to look at this is that by paying those higher prices, the American public is paying more than its fair share for the cost of research and development for future new drugs. That is not fair.

This means when a new drug comes on the market, the American consumer has paid for the research but consumers in other countries benefit from the new therapy.

I have supported amendments to permit Canadian drug purchases before. We have had numerous votes in this Chamber on legalizing importation. We had a vote most recently during the Medicare debate.

Last year, the House overwhelmingly passed a drug reimportation bill by a vote of 243 to 186. But, in the end, the conference report for the Medicare bill watered down the possibility of legal importation such that it was meaningless.

I was very disappointed about that. I think it was victory by subterfuge for the pharmaceutical industry.

So, I decided to roll up my sleeves and go to work on drafting my own bill that would address the problems surrounding importation. In fact, I was working very closely since the beginning of the year with my friend and colleague from Massachusetts, Senator KENNEDY. We were working together until 3 weeks ago to create a bipartisan piece of legislation. We made a lot of progress. We still had some issues to work out but we were very close to having a final agreement.

With my leadership on the Finance Committee, and Senator KENNEDY's leadership on the HELP Committee, let alone his expertise on the Food, Drug, and Cosmetics Act, I figured we had a good shot at getting something done.

Our discussions certainly created a lot of buzz around town. I had reporters and all manner of interest groups asking me and my staff about the bill and when we would introduce it. But those discussions have since evaporated. Apparently, the Democratic caucus was concerned that things were moving too quickly or that too much momentum was building behind a bipartisan effort. What I do know is that our bipartisan product was no longer the priority.

I was disappointed about that too. Senator KENNEDY and I work well together. In fact, we are joining forces even now to get the Family Opportunity Act to the floor and passed out of the Senate.

You can understand why I was discouraged to learn that Senator DASCHLE had determined lowering the costs of prescription drugs through importation was going to be a partisan issue.

Members can understand why I was discouraged to learn that Senator DASCHLE determined lowering the cost of prescription drugs through importation was going to be a partisan issue. This reminded me of what happened in the year 2002 with the Medicare prescription drug debate. There, too, Senator DASCHLE became concerned that the Finance Committee—then chaired by my friend, Senator BAUCUS—would report a bipartisan prescription drug benefit for seniors.

Senator DASCHLE, in 2002, as the majority leader, bypassed the Finance Committee and took the prescription drug bill straight to the floor. That is not how we get legislation passed in the Senate, and everyone around here knows it. As I say so often to my colleagues, nothing gets done in the Senate if it is not bipartisan or at least somewhat bipartisan.

In the year 2002, it resulted in a very partisan debate in the Senate over competing Medicare drug benefit proposals. There were multiple partisan proposals by the Senator from Florida, Mr. GRAHAM. I had a proposal supported by both Republicans and Democrats. The Democratic caucus fought our bill, which was dubbed the tripartisan bill because one of the key authors, Senator JEFFORDS from Vermont, sits in the body as an Independent.

What happened in the final analysis in 2002? The Senate did not pass a Medicare drug benefit proposal that year. The debate fell apart in partisan bickering in the Senate. That happened because partisan politics intervened to prevent a bipartisan compromise.

It looks to me that this is what is happening now on the issue of the importation of drugs into the United States to help our seniors. When we go to the pharmacist to pick up a prescription, I don't remember the pharmacist asking if you are a Republican or a Democrat. When you pay your health insurance premium, I don't think the insurance company looks for an "R" or a "D" by your name before they accept your payment.

No, I don't see the importation of drugs as a partisan issue. Being forced to pay higher prescription prices because there is a lack of competition in the global pharmaceutical industry is not a partisan issue. That is why I decided to move ahead and introduce the bill I am introducing today.

This bill I am introducing today in a large degree is the bill on which I worked very closely with Senator KENNEDY when our efforts got superseded by the Democratic caucus. I made a few changes, but this bill is basically what Senator KENNEDY and I were working on together before partisan politics got in the way. I thought what we had was a good proposal. We were close to having all the details worked out. I am going ahead and introducing that bill today by myself.

Let me explain the bill. Quite simply, it would legalize immediately the importation of prescription drugs from Canada. After 2 years, consumers would be able to order their drugs from other countries, as well. It creates a practical and safe system to do it.

Today the law prohibits the importation of prescription drugs until the Secretary of Health and Human Services certifies that importation can be done safely. Under current resources and under current authority, the Food and Drug Administration has not been able to provide such assurance on the safety of drugs coming in from other countries. We have had Health and Human Service Secretaries in both the Clinton administration and the Bush administration. This is not Republicans protecting pharmaceuticals, if you want to look at it this way. It is both Democrat Presidents and Republican Presidents making a decision that the certification and safety of drug importation was not legally permitted.

Even though the law says you can import drugs, because of the lack of certification, they cannot come into the country. More and more people have been getting prescriptions filled in Canada, regardless of what the law says. Technically, that is illegal today.

The Food and Drug Administration and our customs officials have been looking the other way. The Food and Drug Administration has said there are serious safety issues with drug importation from other countries. They say this because no public health authority is overseeing many of the prescriptions coming in from other countries. In fact, the Canadian Government has said it will not take responsibility for assuring the safety of drugs being shipped to the United States from Canada. They have basically told the U.S. consumer: You are on your own from the standpoint of safety—I suppose, as far as the Food and Drug Administration, efficacy as well as safety.

Today, importation is no longer limited to organized bus trips across the border to pharmacies in Canada. Instead, it is becoming a booming mail-order pharmacy operation with customers all over the United States. We see press accounts on a regular basis describing Americans who log on to the Internet to purchase drugs from Canada and elsewhere.

The Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs conducted an investigation into drug importation. They found about 40,000 parcels containing prescription drugs come through JFK Airport every day. JFK Airport houses the largest international mail branch in the United States. From Miami, 30,000 packages of drugs come into the United States; 20,000 packages come into Chicago each day of the year. About 28 percent of the drugs coming in are controlled substances. These are addictive drugs that require close supervision from physicians.

From where are most of these drugs coming? I was surprised to hear it was not only Canada, but also Brazil, India, Pakistan, the Netherlands, Spain, Portugal, Mexico, and Romania.

My bill immediately halts unsafe importation from rogue operators but permits individuals to obtain prescriptions from licensed Canadian pharmacies on an interim basis while the Food and Drug Administration gets a new drug importation system up and it runs well.

The American public is tired of waiting for the Federal Government to take action to legalize importation and to assure the safety of imported drugs. Under my bill, the Food and Drug Administration is required to issue final regulations for the new drug importation system within 90 days of enactment. Under the new importation system, individuals and pharmacies could purchase qualified drugs for import into the United States from foreign exporters that register with the Food and Drug Administration. To be registered, the foreign exporters must demonstrate compliance with safety measures, must submit to the jurisdiction of U.S. courts, and take other steps to assure the safety of imported drugs.

A user fee charged to registered exporters would provide the financing needed for the Food and Drug Administration to register and oversee foreign drug exporters and assure the state of imported drugs.

The drugmakers do not want to see their lower priced products from other countries coming into the United States. That is certain because the present laws do not permit this competition to them. They would say it undermines their profits here. They will want to do everything they can to stop drug importation.

Even though this bill might pass, these companies will find some way to keep these drugs out of the country. So I have to deal with that fact in this legislation.

So under my bill, drugmakers that take steps to prevent importation of their products from these registered drug importers will lose their tax deduction for their advertising costs.

Now, that is going to upset the trade associations that deal with advertising. That is going to upset TV and newspapers and magazines that get a lot of money from advertising. I have had a long history of supporting the deductibility of advertising expenses as a legitimate business expense. I have not changed my mind in regard to that, not at all. In fact, I have a history of voting against amendments that are offered on the floor of the Senate that would make advertising not deductible.

But we are not talking about not allowing the deductibility of advertising costs. Only if a company tries to do something illegal and keep drugs from coming in from out of this country, then they will pay the penalty of not having their advertising costs deducted. But I assume, when we pass this bill, these drug companies are going to abide by this law. There will not be one cent of advertising that cannot be deducted as a legitimate expense, so I do not want the advertising fraternity to get upset with this legislation, when I have been a backer of the legitimate writeoff of advertising expenses.

Now, this not only has the stick that I just described, but we have a carrot as well, to encourage companies to abide by this law and not try to keep imported drugs from coming into this country by some sort of requirement they would put on supplies outside the country not to ship drugs into this country; and that is, they will get a 20-percent benefit—a 20-percent benefit—by having an increase in their R&D tax credit.

I am going to discuss that further, but going back to the advertising costs, I do sense, from my people in Iowa—at every town meeting some person complains about the advertising of drugs on TV. I defend the advertising of drugs on TV because that is commercial free speech. I think our citizenry ought to be as educated about drugs as they can be, so they are not beholden to their own doctor or doctors for what might be applied. I think we ought to have an educated patient group, so this advertising is very good. But I still have to say that my Iowa constituents are pretty fed up with all those drug ads they see on TV, and how they are probably adding to the cost of prescription drugs.

I am fully in favor of this free speech, and I do not, in any way, want to prohibit companies from running the ads they want to run. But if drug companies are not going to allow U.S. consumers to have access to these lower prices in other countries, then, under this legislation, they would lose the tax deduction for the cost of those advertisements.

Now, on the other hand, I said there is a carrot out there. The drugmakers complain to us that these lower prices might take money from research and development. They would rightly say: Where are we going to get the money to have the next generation of "magic" drugs that we have? We want that to happen, because when I buy a drug today, my mother or grandmother, when they bought pills, paid for that research for the generation of drugs I take. I want my children and grandchildren to have a new generation of drugs for the future. So we do not want to hurt research and development.

So my bill, then, creates an incentive for drug companies that do not fight this importation of drugs. Companies that do not prevent importation from registered exporters will get a 20-percent increase in their R&D tax credit. I hope everybody will think that is very fair.

I have a more detailed summary of this bill that I am going to put in the RECORD. I ask unanimous consent that this summary and a question and answer document be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. I believe that free trade principles argue in favor of permitting the importation from Canada and perhaps from other developed countries as long as we can implement a system for safe importation.

Today, there is no assurance of safety—no one is watching the store—and products are coming in from all over the world.

My legislation has two objectives. First, it will put an immediate end to the unregulated and unsafe situations of drug imports that we have today by default. This is key because the situation today threatens the safety of our Nation's drug supply and puts patients who obtain these drugs at risk of harm.

Second, the legislation will provide the Food and Drug Administration with the resources and authority to ensure the safety of imported drugs, and importation will only be permitted by registered exporters who submit to the Food and Drug Administration authority.

Now, this bill will get referred to the Finance Committee because it has tax provisions in it, but the bulk of my bill falls under the jurisdiction of the HELP Committee, and my friend, Senator GREGG, as chairman of that committee, has announced he will hold a markup this year on a drug importation bill.

I do not intend to assert jurisdiction over this proposal, and I believe we should rely upon that regular committee process to work. That is how we get legislation passed in the Senate. Because that is where bipartisanship is formulated, at the committee level.

I hope my colleagues will look at this bill. I wanted to get these ideas out here for discussion. I hope some of my colleagues will want to cosponsor this bill. It is time we got this done, and this is the year to get it done, particularly following upon the vote that was in the House of Representatives last year.

We must not let partisan politics get in the way, and I think it is getting a little bit in the way right now. I hope we overcome that. I hope I am able to develop a relationship with Democrats, once again, to work on this bill in a bipartisan way. If we do not do this, I think there is going to be a penalty paid at the ballot box in November.

The American consumers are waiting. Let's get the job done.

I ask unanimous consent that a summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

OVERVIEW OF KEY ELEMENTS

Legalizes reimportation (or importation) of prescription drugs from FDA approved exporters. To be approved, registered exporters must agree to meet safety requirements and to permit FDA inspectors on their premises full time to ensure compliance.

Creates a "fast-track" regulatory process for FDA to implement the importation system quickly.

Importation of qualified prescription drugs from Canada is immediately legalized while the new importation system is developed and implemented by FDA.

Under the new system, individuals, pharmacies, and drug wholesalers are permitted to legally import prescription drugs from registered foreign exporters:

Individuals may order drugs from a registered exporter pursuant to a valid prescription issued by a U.S. doctor and filled by a pharmacist whose licensing requirements are equivalent to those required in the U.S. or by a dispensing pharmacist duly licensed by a state.

Commercial shipments are permitted only to licensed pharmacists for resale directly to consumers and by drug wholesalers who can sell to pharmacies as they do today.

Drugs imported to U.S. pharmacies and drug wholesalers must be FDA approved drugs produced in the United States or in FDA inspected manufacturing facilities in other counties. FDA is required to provide the proper labeling for drugs for importation.

The FDA through its inspectors is responsible for tracing all drugs exported to the U.S. back to their original manufacturing plant and ensuring that they have been stored and transported safely from that plant.

Individuals may also purchase drugs that are bioequivalent to FDA-approved brand name drugs that are produced by the same brand-name manufacturer.

These drugs are drugs not technically approved by the FDA but the foreign government has approved the drug and that drug has the same active ingredient or ingredients as the FDA-approved drug and the same route of administration, dosage form, and strength.

If a drug manufacturer believes, however, that the non-FDA approved drug is not bioequivalent to the FDA approved drug, then it must submit a petition to the FDA to show that (a) the differences result in a product that is not bioequivalent to the drug approved in the U.S., and (b) that such differences are due to scientifically and legally valid differences in the regulatory requirements of the U.S. and the country(ies) in which the apparently similar drug is marketed. The manufacturer is required to pay a user fee sufficient to cover the cost of the FDA's review of the petition and supporting documentation.

A User Fee charged to registered exporters provides the financing to provide the resources to FDA to ensure the safety of imported drugs.

User fees charged to registered exporters would be sufficient to cover all costs including those incurred for inspection and verification within the United States, at the exporter's premises and any other location where the drugs have been stored prior to entry into the U.S.

The FDA would be required to verify the source and inspect the intermediate handlers of all drugs intended for export into the United States.

FDA would also be required to determine by a statistically significant sample that the recipients held valid prescriptions (individuals ordering 90-day supply or less) or verify that recipient was a licensed pharmacy that only dispensed drugs to individuals.

The FDA would also be required to supply valid U.S. labeling upon request of the registered exporter and affix or supervise the affixing of seals, markings or tracking technology that would inform border personnel that such imports were lawful to be entered as labeled.

Drugs not permitted for importation include controlled substances and certain other drugs not appropriate for importation because of storage, significant safety concerns, or drugs that are more likely to be counterfeited.

Provisions to Protect Safety of the Public

Unauthorized imports would be treated as contraband and would be seized and destroyed upon entry without notice.

For the first two years, importation would be limited to Canada. The Department of Health and Human Services would submit a report to Congress in the second year, and unless Congress changed the law, countries from which importation is permitted would be expanded to include, the European Union, the European Free Trade Association, Japan, Australia, and New Zealand. Other countries meeting statutory criteria could also be added to the list by the Secretary.

The legislation continues to prohibit the import or reimport of drugs supplied free or at nominal cost to charitable or humanitarian organizations including the United Nations or a government of a foreign country.

Requires pedigrees from the manufacturer to the dispensing pharmacist for all prescription drugs sold within the U.S. or to an exporter authorized to export drugs into the U.S.

Requires the automatic suspension of an exporter's registration for any attempted entry of non-qualified or unsafe drugs with restricted ability to seek re-instatement in the future.

Requires that registered exporters submit to the jurisdiction of the U.S. federal court system and provides a mechanism for civil actions against the property of persons that import non-qualified drugs.

Repeals the provision in the Controlled Substances Act that permits the personal import of scheduled drugs, which is a significant source of illegal drug trade in the U.S.

Tax Incentives for Manufacturers to Facilitate Reimportation

Incentive To Not Prevent Reimportation: Manufacturers that do not take any action, directly or indirectly, to prevent reimportation receive a 20% increase in R&D tax credit for that year.

Penalty For Preventing Reimportation: Manufacturers that take any action, directly or indirectly, to prevent authorized reimportation lose the business expense deduction for advertising expenses.

QUESTIONS AND ANSWERS ABOUT THE BILL

Question. What are the goals of the legislation?

Answer. The legislation has two objectives. First, it would put an immediate end to the unregulated and unsafe situation with drug imports that exists today. Second, the legislation would provide the Food and Drug Administration (FDA) with the resources and authority to ensure the safety of imported drugs.

Question. How does the bill work?

Answer. Current law prohibits the importation of prescription drugs until the Secretary of Health and Human Services (HHS) certifies that importation can be done safely. Using current resources and authority, the FDA has not been able to provide an assurance of safety of imported drugs.

The bill immediately halts unsafe importation but permits individuals to obtain prescriptions from Canadian pharmacies on an interim basis while FDA gets the new drug importation system up and running.

Under the bill, the FDA is required to issue final regulations for the new system within 90 days of enactment. Under the new importation system, individuals, pharmacies, and drug wholesalers could purchase qualified drugs for import into the U.S. from foreign exporters that register with the FDA. To obtain a registration, a foreign exporter must demonstrate compliance with safety measures, must submit to jurisdiction of U.S. courts, and take others steps to assure safety of imported drugs. A user fee charged to registered exporters would provide the financing needed for FDA to register and oversee foreign drug exporters and ensure the safety of imported drugs.

Question. How will patients get their prescriptions filled at an overseas drug exporter?

Answer. First of all, consumers that want to have their prescriptions filled at an overseas prescription drug exporter will be able to go to the FDA website and find a list of companies that have passed FDA's requirements to become a registered exporter. Just as for filling a prescription in the U.S. today, the patient must have a valid prescription written by a health care professional licensed in a state to prescribe drugs. The patient will then compare drug prices at the different registered exporters to find the best price available. To get the prescription filled, the patient will have to contact that exporter and either mail or fax the prescription to them.

Alternatively, the registered exporter could call the patient's prescriber and get the prescription over the phone. This is the same process as mail order pharmacies in the U.S. use today.

A pharmacist at the registered exporter would fill the prescription according to the prescriber's instructions. The registered exporter may only fill the prescription with brand-name drugs, meaning these are the same drugs as those approved by the FDA and manufactured by the same company as approved by the FDA for sale in the U.S.

Individuals can also have a prescription filled that is technically not an FDA-approved drug, but the drug has the same active ingredients, dosage form, strength, and route of administration as the FDA-approved drug and is made by the same manufacturer as the FDA-approved drug. These drugs are manufactured by the same brand-name manufacturer and are made for sale in the market of the approved country.

The registered exporter is required to verify that the drug can be traced back to the original manufacturer and the drug must have been stored and handled properly. The FDA, through its on-site inspectors, will also be verifying that the prescription drugs being dispensed to patients meet FDA's criteria.

Once the prescription is filled, the registered exporter will place a label or other markings on the package for shipping that identify the shipment as being in compliance with FDA's safety requirements and all registration conditions. These markings will be designed by FDA and may include track-and-trace technologies and anti-counterfeiting measures. When the package enters the U.S., that marking will signify to Customs officials that the product was dispensed from a registered exporter and can therefore be permitted to enter the country. Packages with drugs that lack this marking will be seized by Customs and destroyed.

Question. Can the importation of prescription drugs from other countries be expanded?

Answer. Yes. In the second year of the importation program, HHS would be required to submit a report to Congress on the safety of the program and its impact on trade. Unless Congress acted, the program would be expanded in year three to include importation from the European Union, the European Free Trade Association, Japan, Australia and New Zealand. Other countries that meet specific statutory criteria may also be added to the list.

Question. What is the complete list of countries that would be permitted in the third year of the program?

Answer. There are currently 15 members of the European Union: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, The Netherlands, and the United Kingdom. Beginning on May 1, 2004, there will be 10 new member states in the European Union: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. There are 4 member countries in the European Free Trade Association: Iceland, Liechtenstein, Norway, and Switzerland.

Question. How much does this program cost?

Answer. The infrastructure needed to guarantee the safety of the imported prescriptions would be financed through user fees. User fees would be paid by registered exporters, which could be the overseas pharmacies or prescription drug wholesalers, for example. Congressional Budget Office has not yet officially scored the bill.

Question. Now that the bill is introduced, what comes next?

Answer. Because the bill contains tax provisions, it has been referred to the Finance Committee. Senate leadership has expressed an interest in developing legislation this year to allow the importation of prescription drugs. Because the bulk of the legislation falls within the jurisdiction of the Health, Education, Labor & Pensions (HELP) Committee, it is expected that HELP will take the lead in reporting any legislation.

Question. How is this bill different than other legislation on importation?

Answer. While the idea of importation of prescription drugs from foreign countries enjoys broad bipartisan support, the issue of safety continues to remain a major barrier to allowing importation to move forward. Secretaries of HHS from both the Clinton and Bush Administrations have determined that safe importation of prescription drugs cannot be guaranteed with the authority and resources the FDA has today. Many bills presume that importation is safe and that FDA and the public should not be overly alarmed. However, there is a legitimate concern about unsafe pharmaceuticals entering the U.S. every day. Hundreds of thousands of packages enter our country on a daily basis, with little or no ability for the U.S. Customs Service or the FDA to guarantee these drugs are safe and effective. Rather than ignore the safety issue, this bill responds to the concerns raised by FDA and others and creates a way to ensure safe access to lower cost prescriptions.

Question. How does this bill lower the costs of prescription drugs Americans have to pay?

Answer. United States consumers pay 30 to 300 percent more for their prescriptions drugs than those in other countries. Drug manufacturers are forced to sell their products at lower prices in other countries and try to re-coup their profits by making Americans pay higher prices for the same products. This bill recognizes that competition in the global marketplace can work to lower prescription drug costs. If lower cost pharmaceuticals are made available to Americans, drug companies will be forced to rethink their pricing strategy and won't be able to gouge consumers in the United States.

Question. What mechanisms does the bill propose to guarantee safety?

Answer. The bill would allow importation of qualified drugs only from registered exporters, whose actions will be held accountable in U.S. Federal courts.

Registered exporters must have an FDA-approved compliance plan that demonstrates they are meeting the safety requirements established in the bill or by FDA. Exporters must permit FDA inspectors to be present onsite on a continuous day-to-day basis and FDA is required to have assigned inspectors to that exporter. FDA will conduct day-to-day onsite monitoring of the exporter at the place of business for the exporter including any warehouses owned or operated by the exporter and FDA will have access to inspect the exporters records to ensure compliance. Only where an exporter has demonstrated a track record of compliance will FDA be permitted to perform periodic inspections. The FDA must verify the chain of custody for each qualifying drug from the manufacturer of the drug to the exporter.

Only licensed pharmacists at the registered exporter will be allowed to dispense prescriptions with a valid U.S. prescription from a U.S. physician. Commercial shipments can only be received and resold by licensed pharmacists. Unauthorized imports would be treated as contraband and would be seized and destroyed upon entry without notice. Under the bill, an exporter's registration would automatically be suspended for any attempted entry of non-qualified or unsafe drugs and these exporters can be barred from seeking re-instatement in the future. The bill would allow for importation first from Canada in order to test the safety of the system and determine whether additional controls are needed before expansion to additional counties.

Question. How does the bill prevent drug manufacturers from gaming the system?

Answer. Drug manufacturers that take any action, directly or indirectly, to prevent authorized importation will see a loss of their tax deduction for advertising expenses. Drug manufacturers that do NOT take action, directly or indirectly, to prevent importation will see a 20 percent increase in their research and development tax credit for that year.

By Mr. CORZINE (for himself, Mr. REED, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 2308. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation to ensure that managed care plans and other private health insurers pay health care claims in a timely fashion. I thank my colleagues Senators LAUTENBERG, REED, BINGAMAN and CANTWELL for joining me in introducing this bill.

This legislation seeks to address the very serious backlog of HMO payments that hospitals and physicians are facing in my State of New Jersey and across the country. Specifically, the legislation requires private health plans to pay manually filed claims within 30 days and electronically filed claims within 14 days. Insurers that fail to meet these time frames would be required to pay interest for every day the claims went unpaid. Insurers that knowingly violate these prompt payment requirements would be subject to monetary penalties.

A Federal prompt pay law is critical to ensuring that our health care providers maintain adequate cash flows and are able to continue functioning. The need for such a law cannot be understated. In my State of New Jersey, almost half of all hospitals are operating in the red, and that number is growing. Physicians and hospitals are experiencing a severe medical malpractice crisis, which is further limiting their resources. Untimely payment of claims has only compounded this problem.

According to a survey of 50 New Jersey hospitals, only 39 percent of manually-filed clean claims are paid within 40 days. These institutions cannot afford to wait indefinitely for reimbursement for services they have provided. Each year, hundreds of millions of dollars in HMO payments to hospitals are held up for months at a time, worsening provider fiscal woes.

The problem of late payments has reached such a crisis that 47 States, including New Jersey, have enacted "prompt pay" laws to require insurers to pay their bills within a specific time frame. Unfortunately, New Jersey's law, like most similar State laws, is largely ineffective because it lacks strong enforcement provisions and offers no incentives for private insurers to comply. Furthermore, State prompt-pay laws only apply to non-ERISA regulated plans, which only cover approximately 50 percent of New Jersey insureds.

Shouldn't we hold private insurers to the same standards that regular citizens must adhere to? If you don't pay your health insurance premium when it's due, the company will simply cancel your policy. If you're late making your credit care payments, your credit care company charges you interest. Why shouldn't private health insurers also be penalized for making late payments?

In my view, it only makes sense to hold insurance companies to the same type of standards to which we hold Medicare. Medicare must pay claims within thirty days of receiving them. Why should private insurers be immune from any such time limits?

The bottom line is that patients, hospitals and other health care providers should not have to shoulder the burden of unpaid claims. My legislation will ensure that private insurers assume the financial responsibilities for the health coverage they are being paid to provide.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prompt Payment of Health Benefits Claims Act of 2004".

SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

"(a) TIMEFRAME FOR PAYMENT OF COMPLETE CLAIM.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all complete claims and uncontested claims—

"(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

"(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

"(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

"(1) IN GENERAL.—Not later than 10 days after the date on which a complete claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

"(2) CLAIM DEEMED TO BE COMPLETE.—A claim is deemed to be a complete claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

"(3) INCOMPLETE CLAIMS.—

"(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is incomplete, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination. Such notification shall specify all deficiencies in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

"(B) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a complete claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which additional information is received pursuant to subparagraph (A).

"(C) PAYMENT OF UNCONTESTED PORTION OF A CLAIM.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

"(3) OBLIGATION TO PAY.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a complete claim and paid by the plan or issuer in accordance with subsection (a).

"(c) DATE OF PAYMENT OF CLAIM.—Payment of a complete claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

"(d) INTEREST SCHEDULE.—

"(1) IN GENERAL.—With respect to a complete claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

"(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment;

"(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment; and

"(C) 2½ percent per month after the 46th day of such nonpayment.

"(2) CONTESTED CLAIMS.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed complete under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraphs (1) and (2).

"(e) PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

"(f) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

"(g) Fines and Penalties.—

"(1) Fines.—

"(A) In general.—If a group health plan or health insurance issuer offering group health insurance coverage, willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

"(B) Repeated violations.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

"(2) Remedial Action Plan.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the group health plan or health insurance issuer to—

"(A) submit a remedial action plan to the Secretary; and

"(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

"(h) Definitions.—In this section:

"(1) Claimant.—The term 'claimant' means a participant, beneficiary or health care provider submitting a claim for payment of health care expenses.

"(2) Complete claim.—The term 'complete claim' is a claim for payment of covered health care expenses that—

"(A) in the case of a claim involving a health care provider that is an institution or other facility or agency that provides health care services, is a properly completed billing instrument that consists of—

"(i) the Health Care Financing Administration 1450 (UB–92) paper form, or its successor, as adopted by the NUBC, with data element usage consistent with the usage prescribed in the UB–92 National Uniform Billing Data Elements Specification Manual, and, for claims submitted before October 1, 2002, any State-designated data requirements that are determined and approved by the State uniform billing committee of the State in which the health care service or supply is furnished; or

"(ii) the electronic format for institutional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2); and

"(B) in the case of claim involving a health care provider that is a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services, is a properly completed billing instrument that—

"(i) the Health Care Financing Administration 1500 paper form, or its successor, as adopted by the NUCC and further defined by data element specifications contained in the NUCC implementation guide or, if such specifications are not issued by the NUCC, the data element specifications contained in the Medicare Carriers Manual Part 4 (HCFA–Pub 14–4) sections 2010.1 through 2010.4; or

"(ii) the electronic format for professional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2).

"(3) Contested claim.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

"(4) Health care provider.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating with the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.

"(5) Incomplete claim.—The term 'incomplete claim' means a claim for health care expenses that cannot be adjudicated because it fails to include all of the required data elements necessary for adjudication.

"(6) NUBC.—The term 'NUBC' means the National Uniform Billing Committee.

"(7) NUCC.—The term 'NUCC' means the National Uniform Claim Committee.".

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) Group Market.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

"SEC. 2707. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

"(a) Timeframe for Payment of Complete Claim.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all complete claims and uncontested claims—

"(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

"(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

"(b) Procedures Involving Submitted Claims.—

"(1) In general.—Not later than 10 days after the date on which a complete claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

"(2) Claim deemed to be complete.—A claim is deemed to be a complete claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

"(3) Incomplete claims.—

"(A) In general.—If a group health plan or health insurance issuer determines that a claim for health care expenses is incomplete, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination. Such notification shall specify all deficiencies in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

"(B) Determination after submission of additional information.—A claim is deemed to be a complete claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the additional information is received pursuant to subparagraph (A).

"(C) Payment of uncontested portion of a claim.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

"(3) Obligation to pay.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a complete claim and paid by the plan or issuer in accordance with subsection (a).

"(c) Date of Payment of Claim.—Payment of a complete claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

"(d) Interest Schedule.—

"(1) In general.—With respect to a complete claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

"(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment;

"(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment; and

"(C) 2½ percent per month after the 46th day of such nonpayment.

"(2) Contested claims.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed complete under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraphs (1) and (2).

"(e) Private Right of Action.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

"(f) Anti-Retaliation.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

"(g) Fines and Penalties.—

"(1) Fines.—

"(A) In general.—If a group health plan or health insurance issuer offering group health insurance coverage willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

"(B) Repeated violations.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

"(2) Remedial Action Plan.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the health plan or health insurance issuer to—

"(A) submit a remedial action plan to the Secretary; and

"(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

"(h) Definitions.—In this section:

"(1) Claimant.—The term 'claimant' means an enrollee or health care provider submitting a claim for payment of health care expenses.

"(2) Complete claim.—The term 'complete claim' is a claim for payment of covered health care expenses that—

"(A) in the case of a claim involving a health care provider that is an institution or other facility or agency that provides health care services, is a properly completed billing instrument that consists of—

"(i) the Health Care Financing Administration 1450 (UB–92) paper form, or its successor, as adopted by the NUBC, with data element usage consistent with the usage prescribed in the UB–92 National Uniform Billing Data Elements Specification Manual, and, for claims submitted before October 1, 2002, any State-designated data requirements that are determined and approved by the State uniform billing committee of the State in which the health care service or supply is furnished; or

"(ii) the electronic format for institutional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2); and

"(B) in the case of claim involving a health care provider that is a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services, is a properly completed billing instrument that—

"(i) the Health Care Financing Administration 1500 paper form, or its successor, as adopted by the NUCC and further defined by data element specifications contained in the NUCC implementation guide or, if such specifications are not issued by the NUCC, the data element specifications contained in the Medicare Carriers Manual Part 4 (HCFA–Pub 14–4) sections 2010.1 through 2010.4; or

"(ii) the electronic format for professional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2).

"(3) Contested claim.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

"(4) Health care provider.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating with the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.

"(5) Incomplete claim.—The term 'incomplete claim' means a claim for health care expenses that cannot be adjudicated because it fails to include all of the required data elements necessary for adjudication.

"(6) NUBC.—The term 'NUBC' means the National Uniform Billing Committee.

"(7) NUCC.—The term 'NUCC' means the National Uniform Claim Committee.".

(b) Individual Market.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

"SEC. 2753. STANDARDS RELATING TO PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

"The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.".

SEC. 4. AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) Medicare.—

(1) Medicare advantage plans.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27(f)) is amended—

(A) in paragraph (1), by striking "consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)" and inserting "consistent with the provisions of section 2707 of the Public Health Service Act"; and

(B) in paragraph (2)—

(i) in the second sentence, by inserting "and to reflect the amount of any fines or penalties imposed pursuant to the provisions of section 2707(g) of the Public Health Service Act" before the period at the end; and

(ii) by inserting before the second sentence the following new sentence: "Payment of such amounts shall include any interest due pursuant to the provisions of section 2707(d) of the Public Health Service Act.".

(2) Prescription drug plans.—Section 1860D–12(b)(3) of the Social Security Act (42 U.S.C.1395w–112(b)(3)) is amended—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) Prompt payment by medicare advantage organization.—Section 1857(f).".

(b) Medicaid.—Section 1932(f) of the Social Security Act (42 U.S.C. 1396u–2(f)) is amended by striking "the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the organization agree to an alternate payment schedule" and inserting "section 2707 of the Public Health Service Act".

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

SEC. 5. PREEMPTION.

The provisions of this Act shall not supersede any contrary provision of State law if the provision of State law imposes requirements, standards, or implementation specifications that are equal to or more stringent than the requirements, standards, or implementation specifications imposed under this Act, and any such requirements, standards, or implementation specifications under State law that are equal to or more stringent than the requirements, standards, or implementation specifications under this Act shall apply to group health plans and health insurance issuers as provided for under State law.

SEC. 7. EFFECTIVE DATE.

(a) In General.—Except as provided in this section, the amendments made by this Act shall apply with respect to group health plans and health insurance issuers for plan years beginning after December 31, 2004.

(b) Special Rule for Collective Bargaining Agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this Act shall not apply to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2005.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 7. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, or amendments made by this Act.

By Mr. DORGAN:

S. 2309. A bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists; to the Committee on Finance.

Mr. DORGAN. Mr. President, I rise today to introduce legislation to provide a financial safety net for the families of our young men and women who proudly serve in the Nation's military Reserve and National Guard.

Our country is demanding that our military reservists and members of the National Guard play a more crucial and sustained role in supplementing the activities of our traditional armed forces than at any other time in our recent history. In response to the Iraq War and homeland security needs, the country has called up hundreds of thousands of our Reserve and National Guard members for extended tours of duty of up to 18 months.

Today, roughly 175,000 members of the reserve components are on active duty. About 40 percent of the troops now going into Iraq are reservists. Reserve component leaders expect the total number of guardsmen and reservists on active duty for the war on terrorism to remain above 100,000 for the next two years.

Since September 11, 2001, more than 60 percent of North Dakota's guardsmen and reservists have been called to duty. One of the issues I hear most often about from those service members and their families is how hard it is for them to make ends meet on their military incomes.

When Guard members or reservists are mobilized, it has an enormous impact not only on their lives, but also on the lives of their loved ones. In many cases when an individual is mobilized, his or her family may experience a significant loss of income. This is because active duty military compensation often falls below what reservists earn in civilian income. These income losses are often exacerbated by the additional family expenses that are associated with military activation, such as the cost of long distance phone calls and the need for extra day care.

Clearly this is a major financial problem for many reservists and their families. The Pentagon's Reserve Forces Policy Board says that a significant number of mobilized Reserve component members earn less than their private sector and civilian salaries while on active duty. The most recent information provided on mobilization income loss comes from a Pentagon survey in the year 2000. Some 41 percent of guardsmen and reservists who were mobilized that year reported income losses ranging from $350 per month to more than $3,000 per month. Self-employed reservists reported an average income loss of $1,800 per month. Physicians and registered nurses in private practice reported an average income loss of as much as $7,000 per month.

Those were big losses. But when that survey was conducted in 2000, reservists were mobilized for an average of only 3.6 months. Today mobilizations of 14 to 18 months are common. So the annual losses in wages are much, much bigger.

The loss of income that reservists and guardsmen incur when they are ordered to leave their good-paying private sector or civilian jobs to serve their country often creates an unmanageable financial burden. This further disrupts the lives of their families who are already trying to cope with the emotional stress and hardship caused by the departure of a beloved spouse, or parent who has been ordered to active duty.

In the mid-1990s the Pentagon tried to address this problem by offering members of the National Guard and Reserve the opportunity to buy insurance to protect against income loss upon mobilization. The program sold coverage for income losses of up to $5,000 per month. Unfortunately, the program was poorly planned and executed, and Congress had to appropriate substantial money to bail out the program before it was terminated. Since then the private sector has shown little interest in reviving the mobilization income insurance program.

We need to find another way to deal with the issue. I believe that the federal government should try to help alleviate the financial havoc created for activated reservists, guardsmen, and their families. The bill I am introducing today will help in this endeavor.

Specifically, my legislation provides a fully refundable, 100-percent income tax credit of up to $20,000 annually to a military reservist on active duty based upon the difference in wages paid in his or her private sector or civilian job and the military wages paid upon mobilization. For this purpose, a qualified military reservist is a member of the National Guard or Ready Reserve who is mobilized and serving for more than 90 days. The benefit of this activated military reservist tax credit is available for tax years beginning after December 31, 2003.

We owe a great deal to those Americans who put on their uniforms and serve in the military in the most difficult of circumstances. We can never fully repay that debt. However, we can do much more to remove the immediate financial burden that many National Guard and Reserve families experience when a family member is ordered to active duty. This legislation will provide those families with some much-needed financial assistance. I urge my colleagues in the Senate to support my efforts to get this tax relief measure enacted into law as soon as possible.

By Mrs. FEINSTEIN (for herself, Mr. NELSON of Florida, and Mr. REED):

S. 2310. A bill to promote the national security of the United States by facilitating the removal of potential nuclear weapons materials from vulnerable sites around the world, and for other purposes; to the Committee on Armed Services.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to address one of the critical security issues in the post 9/11 world: the existence of hundreds of vulnerable facilities around the world with nuclear materials. If keeping weapons of mass destruction, WMD, out of the hands of terrorists is at the top of our foreign policy agenda, then removing weapons-usable material from facilities where it is susceptible to terrorist theft or should diversion be a top priority for U.S. national security policy.

Yet, currently, there is no single, integrated U.S. government program, with a defined budget and resources, to facilitate the removal of these materials. The legislation I introduce today with Senators BILL NELSON, and REED will: establish a presidential task force in the Department of Energy on nuclear removal; provide a specific mandate for a program to remove nuclear materials from vulnerable sites around the world as quickly as possible; provide specific direction to allow the use of flexible incentives, tailored to each site, to secure host-country cooperation in removing the nuclear materials, and; authorize $40 million in Fiscal Year 2005 to carry out the functions of this bill.

There are hundreds of facilities around the world that store from kilograms to tons of plutonium or highly enriched uranium, HEU. The State Department has identified 24 of these locations as high priority sites.

President Bush singled out terrorist nuclear attacks on the United States as the defining threat our nation will face in the future. In making the case against Saddam Hussein, he argued: "If the Iraqi regime is able to produce, buy, or steal an amount of uranium a little bigger than a softball, it could have a nuclear weapon in less than a year."

What he did not mention is that with the same amount of uranium, al Qaeda, Hezbollah, Hamas, or any terrorist organization could do the same and smuggle the weapon across U.S. borders. And the fact that AQ Khan's network put actual bomb designs on the black market only heightens the need to make sure the ingredients are not available.

In response to this threat, the Administration has focused its efforts on removing vulnerable international nuclear materials through four projects: the take-back to Russia of HEU fuels from Soviet-supplied reactors; the on-going effort to convert Soviet-designed research reactors from HEU to non-bomb-grade fuels; the decades-long effort to convert U.S.-supplied research reactors from HEU to LEU, and; the on-going effort to take back U.S.-supplied HEU.

This represents an important first step, but I am deeply concerned that these efforts are not sufficient and do not adequately address the seriousness of the issue.

The current approach will take 10–20 years to complete at the current rate of about 1 facility per year. This is a time frame out of synch with near-term dangers.

Under the current approach to the take-back of Soviet-supplied HEU, there have been only two successful HEU removals in more than two years, at Vinca and at Pitesti. But the Vinca operation also required the contribution of $5 million from the Nuclear Threat Initiative to complete, because of the administration's claim of inadequate authority to pursue various activities to facilitate Serbian cooperation.

The U.S.-Russian bilateral agreement on a broader take-back effort has taken years to complete—and even once final Russian government approval is secured, there are a wide range of other issues delaying progress within Russia, including the need to prepare environmental assessments of types that have never before been done in Russia, that will require sustained, high-level pressure to overcome.

U.S. efforts to convert HEU-fueled reactors within Russia are still moving slowly on the technical front, in part because of insufficient funding, and we are only now beginning to take the first steps toward providing incentives directly to facilities to give up their HEU.

The scope of the HEU conversion effort in Russia is inadequate. It covers only research reactors. Outside the scope of current efforts are critical assemblies, pulsed powered reactors, and civilian and military naval fuels. This leaves numerous vulnerable HEU stockpiles scattered across the FSU.

Under the current U.S. HEU take-back effort, the return of U.S.-origin HEU fuels, if no new incentives are offered, tons of U.S.-supplied HEU will remain abroad when the program is complete, this is DOE's official projection.

Under the current U.S. HEU reactor conversion effort, if no new incentives are offered, scores of U.S.-supplied reactors may continue to use HEU indefinitely.

A report released last year from the John F. Kennedy School of Government at Harvard University described a scenario in which a 10 kiloton nuclear bomb is smuggled into Manhattan and detonated resulting in the loss of 500,000 people and causing $1 trillion in direct economic damage.

We must do everything in our power to prevent such an event from ever occurring.

We need a presidential task force in the Department of Energy on nuclear removal. We must provide a specific mandate for a program to remove nuclear materials from vulnerable sites around the world as quickly as possible and provide specific direction to allow the use of flexible incentives, tailored to each site, to secure host-country cooperation in removing the nuclear materials.

And, yes, we need additional funding to get the job done.

This legislation will give our government the direction, tools, and resources necessary to remove nuclear materials from vulnerable sites around the world in an expeditious manner. We have little time to spare. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF POTENTIAL NUCLEAR WEAPONS MATERIALS FROM VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that removing potential nuclear weapons materials from vulnerable sites around the world would reduce the possibility that such materials could fall into the hands of al Qaeda or other groups and states hostile to the United States, and should be a top priority for achieving the national security of the United States.

(b) TASK FORCE ON NUCLEAR MATERIAL REMOVAL.—(1) The President shall establish in the Department of Energy a task force to be known as the Task Force on Nuclear Material Removal (in this section referred to as the "Task Force").

(2) The head of the Task Force shall be the Director of the Task Force on Nuclear Material Removal, who shall be appointed by the President for that purpose.

(3) The Director of the Task Force shall report directly to the Deputy Administrator for Defense Nuclear Nonproliferation of the National Nuclear Security Administration regarding the activities of the Task Force under this section.

(4)(A) The Secretary of Energy, the Administrator for Nuclear Security, and the Deputy Administrator for Defense Nuclear Nonproliferation shall assign to the Task Force personnel having such experience and expertise as is necessary to permit the Task Force to carry out its mission under this section.

(B) The Secretary of Energy and the Administrator for Nuclear Security shall jointly consult with the Assistant to the President for National Security Affairs, the Secretary of State, the Secretary of Defense, the Chairman of the Nuclear Regulatory Commission, the heads of other appropriate departments and agencies of the Federal Government, and appropriate international organizations in order to identify and establish mechanisms and procedures to ensure that the Task Force is able to draw quickly on the capabilities of the departments and agencies of the Federal Government and such international organizations to carry out its mission under this section.

(C) Mechanisms under subparagraph (B) may include the assignment to the Task Force of personnel of the Department of Energy and of other departments and agencies of the Federal Government.

(5) The President may establish within the Executive Office of the President a mechanism for coordinating the activities of the Task Force under this section.

(c) MISSION.—The mission of the Task Force shall be to ensure that potential nuclear weapons materials are entirely removed from the most vulnerable sites around the world as soon as practicable after the date of the enactment of this Act.

(d) ASSISTANCE.—To assist the Task Force in carrying out its mission under this section, the Secretary of Energy may—

(1) provide funds to remove potential nuclear weapons materials from vulnerable sites, including funds to cover the costs of—

(A) transporting such materials from such sites to secure facilities;

(B) providing interim security upgrades for such materials pending their removal from their current sites;

(C) managing such materials after their arrival at secure facilities;

(D) purchasing such materials;

(E) converting such sites to the use of low-enriched uranium fuels;

(F) assisting in the closure and decommissioning of such sites; and

(G) providing incentives to facilitate the removal of such materials from vulnerable facilities;

(2) arrange for the shipment of potential nuclear weapons materials to the United States, or to other countries willing to accept such materials and able to provide high levels of security for such materials, and dispose of such materials, in order to ensure that United States national security objectives are accomplished as quickly and effectively as possible; and

(3) provide funds to upgrade security and accounting at sites where, as determined by the Secretary, potential nuclear weapons materials will remain for an extended period in order to ensure that such materials are secure against plausible potential threats, and will remain so in the future.

(e) REPORT.—(1) Not later than 30 days after the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, the Secretary of Energy, in coordination with other relevant Federal Government and international agencies, shall submit to Congress a report that includes the following:

(A) A list of the sites determined by the Task Force to be of the highest priorities for removal of potential nuclear weapons materials, based on the quantity and attractiveness of such materials at such sites and the risk of theft or diversion of such materials for weapons purposes.

(B) An inventory of all sites worldwide where highly-enriched uranium or separated plutonium is located, including, to the extent practicable, a prioritized assessment of the terrorism and proliferation risk posed by such materials at each such site, based on the quantity of such materials, the attractiveness of such materials for use in nuclear weapons, the current level of security and accounting for such materials, and the level of threat (including the effects of terrorist or criminal activity and the pay and morale of personnel and guards) in the country or region where such sites are located.

(C) A strategic plan, including measurable milestones and metrics, for accomplishing the mission of the Task Force under this section.

(D) An estimate of the funds required to complete the mission of the Task Force under this section, set forth by year until anticipated completion of the mission.

(E) The recommendations of the Secretary on whether any further legislative actions or international agreements are necessary to facilitate the accomplishment of the mission of the Task Force.

(F) Such other information on the status of activities under this section as the Secretary considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

(f) POTENTIAL NUCLEAR WEAPONS MATERIAL DEFINED.—In this section, the term "potential nuclear weapons material" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated materials if the radiation field from such materials is not sufficient to prevent the theft and use of such materials for an explosive nuclear chain reaction.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Energy for fiscal year 2005 for activities of the National Nuclear Security Administration in carrying out programs necessary for national security for purposes of defense nuclear nonproliferation activities, $40,000,000 to carry out this section.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Ms. CANTWELL):

S. 2311. A bill to provide for various energy efficiency programs and tax incentives, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today, along with Senators FEINSTEIN, BINGAMAN, and CANTWELL, to introduce the Efficient Energy through Certified Technologies and Electricity Reliability Act, or EFFECTER Act of 2004. This legislation is urgently needed to help prevent the painful disruption of electric power blackouts, to save American consumers billions of dollars in wasted energy costs, to create jobs, and eventually, to avoid the needless emission of more greenhouse gas pollution than comes from our Nation's entire automotive fleet. According to a vast majority of the international scientific community, these anthropogenic, or manmade gases, especially carbon dioxide, are triggering dramatic changes in the Earth's climate system.

This legislation will increase the security and reliability of the electric grid, while reducing natural gas and electricity prices though a gradual reduction in demand. Targeted tax incentives and standards for energy efficiency in commercial buildings, both new and retrofitted, will support the reduction in demand, as will the construction of new and retrofitted homes, including rental housing, and the use of more energy efficient appliances.

Last March 4, 2003, I introduced, along with Senator FEINSTEIN and others, the EFFECT Act of 2003, legislation that provided tax incentives for advanced levels of energy efficiency and peak power savings technologies in the buildings in which we live, work, and learn. Buildings consume some 35 percent of energy nationwide and are responsible for the emissions of a comparable percentage of pollution; very importantly, they account for more than one-half of the Nation's energy cost. I am pleased that many of these provisions were incorporated into the Senate energy bill that passed the Senate last fall, as I believe incentives provided through the tax system are necessary to complement existing energy efficiency policies at the Federal and State levels.

The EFFECTER Act of 2004 that we are introducing today goes even further to encourage the EFFECT Act's tax incentives provided in the Senate's energy bill. It encourages administrative improvements, cost-efficiencies, and it also reflects a number of consensus provisions from H.R. 6, the Omnibus Energy Conference Report. These provisions mirror simple, common sense solutions, such as the mandatory electricity reliability provisions that have been held hostage to the ineffective ideas in the energy bill for some 4 years. We provide requirements for electric generating and transmission companies that encourage them to cooperate with each other on a mandatory basis, since—as we discovered last summer—relying on "a gentleman's agreement" doesn't work.

The legislation also includes the Energy Savings Performance Contracts program, whose authorization expired in October of 2003. The ESPC program promotes consensus energy efficiency standards and reforms in Government contracting that save the taxpayers money. This bill requires the Federal Government, through its agencies, to acquire the most cost-effective as well as energy efficient products and to design buildings that can also save the Government money. Through what many characterized as an arcane scoring method, the CBO had incorporated a $3 billion cost increase into the program. However, in its wisdom, the Senate, in the FY05 Budget Resolution, appropriately directed the ESPC to score at zero. The result is a zero cost to this provision.

The EFFECTER Act of 2004 addresses some of our largest energy problems head-on. Its incentives for energy efficiency are more effective and expedient than those in the energy bills currently being debated, yet they cost less to the Government. Indeed, over the long-term, they save the Federal Government money.

Last August our country suffered a costly and harmful blackout that affected some 40 million Americans. Now, more than 6 months later, we have take little effective action to reduce the likelihood that additional blackouts could threaten lives and damage our economy again this year or any time in the near future. Our country currently has a need for more electric power plants, but we also need to protect our present electricity system from overload caused by wasted power use. By not pulling power from the grid at peak times in the next 10 years, the EFFECTER Act of 2004 will help America's building owners save more electricity—electriicty equivalent to the amount that would be produced by 350 new power plants of 400 MW capacity.

Since last summer, natural gas and oil prices have skyrocketed. These high prices hurt Americans two ways: jobs are lost when high fuel prices force industry to cut back on production, and high heating bills strain family and business budgets. Saving wasted energy is one of the easiest and least costly ways to save money and save jobs. This legislation will save American families and business owners over $30 billion dollars annually by 2015, and prevent the waste of over 3.3 quads of natural gas annually—over 12 percent of total gas use.

We all recognize the importance of increasing employment. Energy efficiency creates jobs both through manufacturing, designing and installing efficiency measures and through additional consumer and business spending—spending consumers can afford when their energy bills are lower. The EFFECTER Act of 2004 will produce over a half million new jobs in the American economy.

As a Nation, we are engaged in a difficult debate about reducing greenhouse gas emissions, an effort we believe will protect the world's climate while assuring continued productivity for our economy. By reducing energy use that otherwise would be wasted in inefficient buildings, this legislation will reduce greenhouse gas pollution in an amount equivalent to the reduction that would occur if we took 25 percent of the cars off America's roads.

These energy, money, and pollution saving solutions focus first on promoting fast acting energy efficiency both for natural gas and for peak electricity, which in turn also contributes to natural gas demand. Dramatic energy savings can be obtained by a carefully crafted package of low cost market-based incentives and consensus efficiency standards. I believe we have crafted just such a package and I urge my colleagues to support this bipartisan bill that uses tested, performance-based and cost-effective approaches that truly help solve our most immediate energy problems.

By Mr. GRAHAM of Florida (for himself, Mrs. CLINTON, Mrs. BOXER, Mr. NELSON of Florida, Mr. SCHUMER, Mr. LAUTENBERG, Mr. HOLLINGS, and Mrs. LINCOLN):

S. 2313. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mr. GRAHAM of Florida. Mr. President, the people of the United States learned many things from the election of 2000. I believe the most important lesson was that voting equipment should produce a clear paper record of each voter's intentions for use in a manual recount. Americans remember well that the outcome of the 2000 presidential election was determined by whether a "chad" was hanging, pregnant, or dimpled.

More recently we have found that, despite the passage of election reform legislation in 2002 called the Help America Vote Act, our electoral system is still experiencing difficulties. The 2004 presidential primaries have produced accounts of voting irregularities. This is especially distressing considering another national election is just months away. Voters in several States, including California, Maryland, Georgia and my own State of Florida have experienced problems casting their votes and seeing them accurately counted.

On the Tuesday, March 9, 2004, presidential primary in Palm Beach County, FL, the "oops factor" again reared its ugly head, casting doubt in the minds of many Floridians about whether or not their votes actually counted. An error on the part of poll workers—pressing the wrong button to activate voting machines—prevented many from voting in the Democratic primary. A technological error in the tabulation of ballots in Bay County, FL showed Congressman DICK GEPHARDT winning the primary by a 2-to-1 margin. Fortunately, Bay County uses a paper ballot system so they could refer to their paper trail to rectify the error.

This is not the first election since 2000 where the value of a paper record has been apparent. Just this past January, victory in a South Florida Republican primary election for a vacant seat in the State legislature was determined by just 12 votes. In that election, 137 blank ballots were cast on electronic voting machines that do not produce a paper record. A candidate requested a manual recount, only to find such a recount impossible without paper records verifying the intent of those 137 voters.

In Georgia's Presidential Primary, "smart cards" containing ballot information for electronic machines were left unprogrammed. Technical irregularities in Maryland elections prevented at least one voter form voting—and he wrote about it in the Washington Post.

These incidents and many others are clear evidence that we need voting machines that produce an individual paper record for all votes cast. While the Help America Vote Act (HAVA) included provisions requiring paper records for manual audits, we have come to find out that voting jurisdictions are not interpreting these provision the way Congress intended.

I am pleased to join Senators CLINTON and BOXER in introducing the Restore Elector Confidence in Our Representative Democracy Act (RECORD Act). This legislation will ensure that all voting jurisdictions will have machines that produce voter-verifiable paper records, so that they will be as prepared as they can be to count every vote come this November. It is critical that Congress take every possible step to prevent any resemblance between Election Day 2000 and Election Day 2004.

Once a month I spend a day working side-by-side with the people of Florida. On Saturday, March 6, 2003, I spent my 399th Workday as an elections worker for the Miami-Dade County Division of Elections. Veteran Supervisor of Elections Connie Kaplan assured me that electronic voting machines are accurate. The things I learned on the job reinforced that assessment. But several voters expressed confusion about the layout of the electronic ballots, and uncertainty about whether or not their votes had been cast. It was clear to me that voters would be more confident that their votes would be counted if there were a paper record of those votes. In light of reported irregularities and security concerns, this voter apprehension is legitimate. In order to be certain about the accuracy and security of computer voting systems we need a paper record to confirm every vote cast.

Modern society is replete with electronic machines that provide the most basic services: ATMs, train ticket vending machines, gasoline pay-at-the-pump stations. All of these machines produce paper records. The votes of America's citizens are at least as important as these transactions. People do not and should not blindly trust the accuracy of computer voting technologies. Congress must pass the RECORD Act so that Americans can have confidence that their votes will be counted.

Mrs. CLINTON. Mr. President, I am pleased to join Senator GRAHAM in introducing the "Restore Elector Confidence in Our Representative Democracy Act of 2004" ("RECORD" Act) because there is no civic action more important in a democracy than voting. Yet right now, many Americans have concerns about the integrity of the electoral system. We must restore trust in our voting, and we must do it now.

Electronic voting systems, specifically touch-screen voting machines, are being increasingly used across the nation. Indeed, according to Election Data Services, it is estimated that this November, at least 50 million voters this year will vote on touch-screen voting machines.

These machines have benefits but there are major concerns with the security of these machines and the current ability of voters to verify their votes through a paper record. This legislation effectively addresses both of these vitally important issues.

In New York, electronic voting is on the horizon. Some machines will be used next year in the New York City mayoral race. As New Yorkers start to use this new technology, I want them to be absolutely certain their right to elect the leaders of their choice won't be at risk for want of a simple fix like this.

When you use an ATM, you get a paper receipt. Right now, when you cast an electronic vote, you get nothing. You have no way of knowing that the selections you've made on the touch screen will be recorded and counted.

This legislation will ensure that voters will be able to verify a paper ballot that accurately reflects their intentions and that will be locked away and will be the official ballot in a recount. This legislation will also address the security issues surrounding electronic voting systems.

Why is this so critical? Because we know from computer experts that these systems are vulnerable to hacking—and that with just a push of a button, hackers could turn Kerry votes to Bush votes. Think about that.

Indeed, a number of recent studies, including the July 2001 study by Caltech/MIT, the July 2003 study by Johns Hopkins and Rice universities, the September 2003 study by Science Applications International, and the two November 2003 studies conducted by Compuware corporation and InfoSENTRY, pointed to significant and disturbing security risks in electronic voting systems and related administrative procedures and processes.

According to the Johns Hopkins study, these voting machines are incapable of detecting their own mistakes. Specifically, as one of the authors noted, there is no way to validate the outcome of an election using the current crop of machines. Errors can't be detected and, in my opinion, that is a threat to all of us.

There were also problems with these machines in the recent presidential primaries. Counties in California, Georgia, and Maryland reported problems with encoders, the devices that allow touch-screen voting machines to display the candidate and ballot measures specific to one county.

We already know of stories from Florida in which there was a special election for one office, and the computer election system recorded 120 people as there but not voting.

These security concerns have only been inflamed by statements from people like Walden O'Dell—the CEO of Diebold, a major electronic voting machine manufacturer—who said he would do anything to ensure that President Bush would be re-elected.

So we have a system that is vulnerable to attack, that provides no real accountability to ensure accuracy and, to add to our concerns, an e-voting manufacturer demonstrating his tremendous partisanship. This should give us all pause.

This legislation will require the use of voter verifiable paper ballots so that each and every voter will be able to confirm that his or her vote was accurately cast and recorded. The verified paper ballot will be deemed the official record for purposes of a recount and at least 2 percent of all ballots in all jurisdictions in each State and 2 percent of the ballots of military and overseas voters will be counted at random.

One hundred and fifty million will also be appropriated to the Election Assistance Commission in order to help States implement the paper ballot system.

To ensure greater security of electronic voting systems, the Act authorizes the use of only open source software. Manufacturers will also have to satisfy a number of security standards concerning the development, maintenance, and transfer of software used in electronic voting systems.

This legislation also provides $10 million to the Election Assistance Commission to help it administer the implementation of verification systems and improved security measures nationally, and $2 million to the National Institute of Standards and Technology for consultation services to State and local governments regarding voter verification and the security of their electronic voting machines.

The Commission must receive this additional administrative funding because unfortunately, even though the Help America Vote Act of 2002 authorized $10 million annually to help the

Commission do its work, Congress in the fiscal year 2004 omnibus appropriations legislation appropriated less than $2 million to the Commission, making it that much more difficult for the Commission to do its work.

Lastly, the Act requires the Election Assistance Commission to report to Congress within 3 months of enactment on operational and management systems that should be used in Federal elections and within 6 months of enactment on a proposed security review and certification process for all voting systems.

Our Nation is the greatest nation on earth and it is the leading democracy in the world. In fact, the Bush Administration takes pride in promoting democracy around the world—and they should. But we also have to do everything in our power to ensure democracy here. Central to our democracy is the ability of Americans to have confidence in the voting system used to register and record their votes. This is a fundamental standard that must be met. We are currently, however, falling short of that standard.

And let me say one more thing. The election this November is going to be one of the most important of my lifetime. And every pundit in America says it will be close, because we are still so divided. If we have huge problems again, if we have another debacle like Palm Beach voting for Buchanan, people will fundamentally lose confidence in our democracy and in their vote. We cannot let that happen.

This legislation is good insurance against that risk. For all of those who believe that in a democracy, there is no more important task than assuring the sanctity of votes, this should be an easy step to take to assure it. I ask all of my colleagues to support this legislation.

By Mr. BURNS:

S. 2315. A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I rise to introduce a bill that would make a technical change to the ORBIT Act's IPO provision.

As you may recall, I sponsored the ORBIT Act in 1999 with strong bipartisan support. Since that time, I have worked with Senators McCAIN, HOLLINGS and others to pass technical amendments to the Act by unanimous consent when needed. And it is my hope and expectation that we can pass this small technical change as quickly as before.

Congress passed the ORBIT Act to enhance competition in the global satellite communications market. I am proud to say that ORBIT has achieved all of its objectives. Since its enactment, the FCC has found that positive change has occurred in the satellite services market as a result of the ORBIT Act. The FCC has declared that the pro-competitive objectives of the ORBIT Act have been achieved—including the complete transformation of Intelsat from what used to be a highly bureaucratic, intergovernmental organization into a fully privatized, U.S. licensed company that is headquartered and operates in the U.S., and is now subject to U.S. laws and U.S. regulations.

Another important benefit produced by the ORBIT Act has been the infusion of U.S. capital and other private investment into the former intergovernmental organizations. American and other private investors have made significant investments in Intelsat and Inmarsat following enactment of the ORBIT Act. The only piece of unfinished business from the ORBIT Act that remains is the requirement that an IPO occur by a date certain.

I have always had serious reservations with the very idea that Congress would impose a date certain for an IPO, rather than letting market forces determine the appropriate time for such an event. If I had my preference, we would get rid of the mandatory IPO requirement altogether. But since the Intelsat IPO deadline is June 30, 2004, we don't have a lot of time to get back into the substance of that issue.

The pressing matter at hand is that Intelsat's IPO deadline is fast approaching, and the market is simply not conducive for a successful IPO. This is the same situation we encountered in 2002 when my good friend Senator HOLLINGS and I worked together to provide a time extension for conducting the IPO. I would say to my colleagues that the telecom market isn't much better now than it was in 2002. So we again need to provide Intelsat with an extension on its IPO deadline because market conditions are not favorable at this time.

If Congress does not quickly pass legislation extending the June 30, 2004 IPO deadline, several U.S. entities who are major investors in Intelsat stand to lose hundreds of millions of dollars because the telecom market for IPOs is far from ideal. This will be extremely harmful to U.S. interests and it will damage Intelsat, an important communications asset for the U.S.

For these reasons, I urge my colleagues and the leadership to quickly move the passage of this legislation. The bill would simply extend Intelsat's IPO deadline for 12 months and give the FCC discretionary authority to further extend this deadline another 6 months if market conditions warrant.

I urge my colleagues to support quick passage of this legislation so that it can be enacted into law well before June 30, 2004.

I ask by unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the REORD, as follows:

S. 2315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF IPO DEADLINE.

Section 621(5)(A)(i) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)(i)) is amended—

(1) by striking "December 31, 2003," and inserting "June 30, 2005,"; and

(2) by striking "June 30, 2004;" and inserting "December 31, 2005;".

By Ms. MURKOWSKI (for herself and Ms. LANDRIEU):

S. 2316. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, today I am pleased to introduce legislation along with Senator LANDRIEU to help bring adoption within reach for more Americans. Today in the United States there are literally thousands of children waiting to be adopted. The average child has been waiting in foster care for about four years.

One of the major barriers to adoption for many Americans is cost. I'm not sure that people understand that adopting a child can sometimes cost more than $50,000. That's just the adoption process itself!

The $10,000 per child adoption tax credit does help some, but it helps after the fact when you have the receipts. The problem is that many times the money for adoption has to be given beforehand—it requires up-front money. The tax credit doesn't help out there.

The legislation we are introducing today is one way the Federal Government can help with the initial costs of adoption. Many Americans place money for their retirement in IRA accounts, but you generally can't touch this money until you're 59½ years old, and if you do, you'll pay not only your marginal tax rate on the withdrawal, you'll also be forced to pay an additional 10 percent penalty to the IRS.

There are exceptions to this, however. Under current law, you can make penalty-free early withdrawals from your IRA to help you buy your first home, pay for excessive medical costs, or for qualifying education expenses. The idea is certainly to encourage savings for retirement, but also to allow you to use your own money—penalty free—if there's a compelling need.

I would make the case on behalf of the thousands of children who desperately want a loving family, and on behalf of the thousands of parents who dream of becoming parents, that adoption is a compelling need. And, the majority of Americans agree. Fully 78 percent of Americans said in a poll that they believe the government should be doing more to promote adoption.

Our bill would prohibit the IRS from penalizing Americans who want to use a portion of their retirement savings to adopt a child. It would allow Americans to withdraw up to $10,000 penalty-free from their IRA to help with adoption expenses. This is money that can be used up-front to pay for travel, court costs, attorney fees and all of the little surprises that add up to make adoption unaffordable for many.

We need to continue to promote adoption in America to the extent that we can. We owe it to these children and to families across our country to break down the barriers that keep kids from becoming a part of a permanent loving family. I urge my colleagues' support.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 334—DESIGNATING MAY 2004 AS NATIONAL ELECTRICAL SAFETY MONTH

Mr. FITZGERALD (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 334

Whereas hundreds of individuals die and thousands are injured each year in electrical accidents;

Whereas there are on average 870 civilian deaths annually related to home fires caused by electrical distribution, appliances and equipment, and heating and air conditioning systems;

Whereas more than 2 people are electrocuted in the home, and 4 more in the workplace, each week;

Whereas property damage due to home fires caused by electrical distribution, appliances and equipment, and heating and air conditioning systems amounts to nearly $1,600,000,000 annually;

Whereas following basic electrical safety precautions can help prevent injury or death to thousands of individuals each year;

Whereas citizens are encouraged to check their home and workplace for possible electrical hazards to help protect lives and property;

Whereas citizens are encouraged to test their smoke detectors and ground fault circuit interrupters monthly and after every major electrical storm; and

Whereas the efforts of the Electrical Safety Foundation International (ESFI) and the United States Consumer Product Safety Commission (CPSC) promote and educate the public about the importance of respecting electricity and practicing electrical safety in the home, school, and workplace: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as "National Electrical Safety Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

SENATE RESOLUTION 335—EXPRESSING THE SENSE OF THE SENATE THAT MAJOR LEAGUE BASEBALL CLUBS AND THEIR PLAYERS SHOULD TAKE IMMEDIATE ACTION TO ADOPT A DRUG-TESTING POLICY THAT EFFECTIVELY DETERS MAJOR LEAGUE BASEBALL PLAYERS FROM USING ANABOLIC STEROIDS AND ANY OTHER PERFORMANCE-ENHANCING SUBSTANCES THAT CREATE A COMPETITIVE ADVANTAGE FOR, AND POSE A SERIOUS HEALTH RISK TO, SUCH PLAYERS AND THE CHILDREN AND TEENAGERS WHO EMULATE THEM

Mr. McCAIN (for himself, Mr. BIDEN, Mr. FITZGERALD, Mr. BREAUX, Mr. ALLEN, and Mr. DORGAN) submitted the following resolution; which was considered and agreed to:

S. RES. 335

Whereas, the sport of baseball is widely considered America's pastime and an institution inextricably interwoven into the fabric of our culture;

Whereas, anabolic steroids are substances that are chemically and pharmacologically related to testosterone and promote muscle growth;

Whereas, anabolic steroids are Schedule III controlled substances under the Controlled Substances Act (21 U.S.C. 801 et seq.);

Whereas, certain products are sold legally in the United States that promote muscle growth in a manner similar to anabolic steroids;

Whereas, medical experts warn that the health consequences associated with the human use of anabolic steroids or other similar performance-enhancing substances can be dire;

Whereas, medical experts warn that anabolic steroids and other similar performance-enhancing substances can have particularly serious adverse health effects on children and teenagers;

Whereas, these adverse health effects include stunted growth, scarring acne, hair loss, dramatic mood swings, hormonal imbalances, liver and kidney damage, a higher risk of heart disease and stroke later in life, as well as an increased propensity to demonstrate aggressive behavior, commit suicide, and commit crimes;

Whereas, the dangerous and anti-competitive effects of anabolic steroids when used by Major League Baseball players were acknowledged but not adequately addressed by the 30 Major League Baseball clubs and the Major League Baseball Players Association in their September 30, 2002, Collective Bargaining Agreement;

Whereas, the September 2002 Collective Bargaining Agreement does not allow for the imposition of a suspension or fine for a first-time violation of the League steroids policy;

Whereas, the September 2002 Collective Bargaining Agreement does not allow Major League Baseball players to be subjected to more than one unannounced drug test per season;

Whereas, the September 2002 Collective Bargaining Agreement does not prohibit the use of certain performance-enhancing substances that, although legal, promote muscle growth and pose a serious health risk to users;

Whereas, notwithstanding the 2002 Collective Bargaining Agreement, the prevalence of the use by Major League Baseball players of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk, at the very least, appears to be significant; and

Whereas, the use of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk to children and teenagers continues to rise: Now, therefore, be it

Resolved, That—

(1) the use of performance-enhancing substances such as anabolic steroids poses a health risk, especially to children and teenagers;

(2) the use of athletic performance-enhancing substances such as anabolic steroids to gain a competitive advantage is tantamount to cheating;

(3) there is sufficient evidence that children and teenagers tend to emulate professional athletes;

(4) the effectiveness of the 2002 Collective Bargaining Agreement to deter Major League Baseball players from using performance-enhancing substances such as anabolic steroids has been called into question;

(5) Major League Baseball and its players should exercise their collective bargaining authority to negotiate and adopt a more stringent drug-testing policy that is sufficient to effectively deter Major League Baseball players from using anabolic steroids or other similar performance-enhancing substances to gain a competitive advantage; and

(6) taking such a step would help—

(A) to preserve the integrity of the game of professional baseball;

(B) to protect the health of Major League Baseball players; and

(C) to discourage the use of performance-enhancing substances such as anabolic steroids by children and teenagers who seek to emulate professional athletes.

SENATE RESOLUTION 336—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK, MAY 3 THROUGH 9, 2004

Mr. AKAKA (for himself, Mr. FITZGERALD, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DURBIN, Mr. COLEMAN, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 336

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of men and women who meet the needs of the Nation through work at all levels of government;

Whereas over 18,000,000 individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fire;

(4) deliver the United States mail;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) defend and secure critical infrastructure;

(9) teach and work in our schools and libraries;

(10) improve and secure our transportation systems;

(11) keep the Nation's economy stable; and

(12) defend our freedom and advance United States interests around the world;

Whereas public servants at every level of government are hard-working men and women, committed to doing their jobs regardless of the circumstances;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas government workers have much to offer, as demonstrated by their expertise, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 3 through 9, 2004, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees;

Whereas the theme for Public Service Recognition Week 2004 is Celebrating Government Workers Nationwide to highlight the important work civil servants perform throughout the Nation; and

Whereas Public Service Recognition Week is celebrating its 20th anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

SENATE RESOLUTION 337—EXPRESSING THE APPRECIATION OF THE SENATE FOR THE PARALYZED VETERANS OF AMERICA

Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. GRAHAM of Florida, Mr. MILLER, Mr. CAMPBELL, Mrs. MURRAY, Mr. GRAHAM of South Carolina, Mr. AKAKA, Mr. NELSON of Nebraska, Mr. BOND, Mr. COLEMAN, Mr. BUNNING, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 337

Whereas for 58 years Paralyzed Veterans of America (PVA), a veterans service organization chartered by Congress, has served the needs of its members, veterans of the Armed Forces who have experienced spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America, with 34 chapters and 6 subchapters, has a stated mission to be a leading advocate for quality health care for its members through the health care system of the Department of Veterans Affairs, the Department network of Spinal Cord Injury Centers, and other private and public health care providers;

Whereas Paralyzed Veterans of America, with 57 service offices and a network of service officers, has helped its members and hundreds of thousands of other veterans receive the benefits and health care they have earned through service in the Armed Forces;

Whereas Paralyzed Veterans of America is a leader in medical and prosthetic research, funding two research foundations that investigate a broad spectrum of neurological science to seek a cure for spinal cord injury as well as breakthroughs in rehabilitation to improve the quality of life of all Americans with spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America is a leading advocate within the veterans community in the Nation's capital, making certain the needs of its members are recognized by Congress and the Executive Branch of the Federal Government;

Whereas the Advocacy Program of Paralyzed Veterans of America joins the disability community in seeking to ensure civil rights and access to transportation, housing, and the physical environment for individuals with disabilities in order to maximize the independence of all Americans with disabilities;

Whereas through its architecture programs, Paralyzed Veterans of America is a leading force in barrier-free design, serving as consultant in the public and private sector to ensure a barrier-free physical environment for all Americans with disabilities;

Whereas Paralyzed Veterans of America has one of the Nation's largest wheelchair sports programs, fostering a wide range of sporting, indoor, and outdoor recreational events to encourage physical activity and comradeship so vital to the ongoing rehabilitation of its members;

Whereas Paralyzed Veterans of America is designating the week of April 11 through 17, 2004, as Paralyzed Veterans of America Awareness Week in order to support a wide variety of programs designated to highlight the services it provides nationwide and promote recognition of the sacrifice its members have made on behalf of a grateful Nation: Now therefore be it

Resolved, That the Senate—

(1) salutes Paralyzed Veterans of America (PVA) during Paralyzed Veterans of America Awareness Week, the week of April 11 through 17, 2004; and

(2) encourages all Americans to acknowledge and express their appreciation for the past and on-going contributions of Paralyzed Veterans of America to disabled veterans and to all other Americans with disabilities.

SENATE RESOLUTION 338—CALLING ON THE PRESIDENT TO DESIGNATE APRIL 16, 2004, AS NATIONAL YOUTH SERVICE DAY, AND FOR OTHER PURPOSES

Ms. MURKOWSKI (for herself, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLEN, Mr. BAYH, Mr. BUNNING, Mr. CAMPBELL, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DURBIN, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSI, Mrs. MURRAY, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. CRAIG, and Mr. JOHNSON) submitted the following resolution; which was considered and agreed to:

S. RES. 338

Whereas National Youth Service Day is an annual public awareness and education campaign that highlights the amazing contributions that young people make to their communities throughout the year;

Whereas the goals of National Youth Service Day are to mobilize youths as leaders to identify and address the needs of their communities through service and service-learning, to support youth on a lifelong path of service and civic engagement, and to educate the public, the media, and policymakers about the year-round contributions of young people as community leaders;

Whereas young people in the United States are volunteering more than has any generation in American history;

Whereas the ongoing contributions young people make to their communities throughout the year should be recognized and encouraged;

Whereas young people should be viewed as the hope not only of tomorrow, but of today, and should be valued for the inherent idealism, energy, creativity, and commitment that they employ in addressing the needs of their communities;

Whereas there is a fundamental and absolute correlation between youth service and lifelong adult volunteering and philanthropy;

Whereas a sustained investment by the Federal Government and commitment by corporate partners fuels the positive, long-term cultural change that will make service and service-learning the common expectation and common experience of all youth;

Whereas, through volunteer service and related learning opportunities, young people build character and learn valuable skills, including time management, teamwork, needs-assessment, and leadership, that are sought by employers;

Whereas service-learning, an innovative teaching method combining service to the community with a classroom curriculum, is a proven strategy to increase academic achievement;

Whereas private foundations and corporations support youth service and service-learning because they believe that strong communities begin with strong schools and a community investment in the lives and futures of youth;

Whereas National Youth Service Day is a program of Youth Service America, and is being observed in 2004 for the 16th consecutive year;

Whereas Youth Service America continues to expand National Youth Service Day, now engaging millions of young people nationwide with 50 Lead Agencies in nearly every State to organize activities across the United States;

Whereas Youth Service America has expanded National Youth Service Day to involve over 90 national partners;

Whereas National Youth Service Day has inspired Global Youth Service Day, which occurs concurrently in 127 countries and is now in its fifth year; and

Whereas young people will benefit greatly from expanded opportunities to engage in meaningful volunteer service: Now, therefore, be it

Resolved,

SECTION 1. RECOGNITION AND ENCOURAGEMENT OF YOUTH COMMUNITY SERVICE.

The Senate recognizes and commends the significant contributions of American youth and encourages the cultivation of a common civic bond among young people dedicated to serving their neighbors, their communities, and the Nation.

SEC. 2. NATIONAL YOUTH SERVICE DAY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate April 16, 2004, as "National Youth Service Day".

(b) PROCLAMATION.—The Senate requests that the President issue a proclamation—

(1) designating April 16, 2004, as "National Youth Service Day"; and

(2) calling on the people of the United States to—

(A) observe the day by encouraging and engaging youth to participate in civic and community service projects;

(B) recognize the volunteer efforts of our Nation's young people throughout the year; and

(C) support these efforts as an investment in the future of our Nation.

SENATE RESOLUTION 339—URGING THE PRESIDENT TO IMMEDIATELY INSTRUCT THE SECRETARY OF STATE AND THE SECRETARY OF DEFENSE TO RESPECTIVELY BEGIN INITIATING CONSULTATIONS WITH OTHER MEMBERS OF THE UNITED NATIONS SECURITY COUNCIL CONCERNING A UNITED NATIONS SECURITY COUNCIL RESOLUTION FOR IRAQ, AND WITH THE SECRETARY GENERAL OF THE NORTH ATLANTIC TREATY ORGANIZATION (NATO) CONCERNING A MANDATE FOR A NATO COMMITMENT FOR SECURITY IN IRAQ, WITH THE GOAL OF SECURING BOTH NOT LATER THAN MAY 15, 2004

Mr. DODD (for himself, Mr. CORZINE, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 339

Whereas there are currently as many as 150,000 military personnel stationed in Iraq, including more than 100,000 from the United States and approximately 24,000 from coalition member nations;

Whereas United States military personnel in Iraq continue to perform their duties with the highest degree of professionalism, patriotism, and heroism;

Whereas more than 600 United States military service members have lost their lives and more than 2,988 have been wounded in action in Iraq since the beginning of military action in March 2003;

Whereas since March 2003, the United States has allocated at least $110,000,000,000 for military action, relief, reconstruction, and security operations in Iraq;

Whereas on June 30, 2004, the United States is scheduled to turn over control of Iraq to a Transitional Iraqi Government;

Whereas the creation of a stable, secure, and democratic Iraq will strengthen regional, international, and United States national security;

Whereas following recent violent unrest in Baghdad and Fallujah, the United States Central Command Chief, General John Abizaid, asked United States military staff to examine options for sending more troops to Iraq;

Whereas a significant North Atlantic Treaty Organization (NATO) security presence in Iraq would greatly reduce the threat to United States service members currently stationed in that country;

Whereas a United Nations and a NATO presence in Iraq would lessen the financial burden on the United States;

Whereas NATO has played an integral role in efforts to restore and maintain order in Bosnia, Kosovo, and Afghanistan;

Whereas a comprehensive NATO mandate for peacekeeping operations and a comprehensive United Nations mandate for nation-building in Iraq would greatly increase the legitimacy of the presence of the United States and other members of the international community in that country, as well as the chances of success in establishing a democratic and stable nation for the Iraqi people; and

Whereas such a United Nations mandate will not be achievable without the adoption of a United Nations Security Council Resolution establishing such mandate: Now, therefore be it

Resolved, That the Senate—

(1) applauds the dedication, professionalism, and patriotism of United States military service members serving in Iraq, Afghanistan, and around the world, and remains committed to providing them with all the resources that they need to return home safely when their missions are complete;

(2) reaffirms its commitment to the creation of a stable, secure, and democratic Iraq;

(3) recognizes the important role that a United Nations mandate to assist the new Iraqi Government and a North Atlantic Treaty Organization (NATO) mandate for peacekeeping in Iraq could play in achieving these goals;

(4) urges the President to immediately instruct the Secretary of State to begin initiating consultations with other members of the United Nations Security Council concerning the United Nations mandate for Iraq, with the goal of securing a United Nations Security Council Resolution authorizing such mandate not later than May 15, 2004; and

(5) urges the President to immediately instruct the Secretary of Defense to initiate consultations with the Secretary General of NATO and other NATO members with the goal of securing a decision by NATO not later than May 15, 2004, to deploy forces in Iraq beginning June 30, 2004, in order to assist Iraqi military and security forces and to establish and maintain a security umbrella to facilitate the work of the United Nations and the interim Iraqi government in building democratic institutions and preparing for nationwide elections in 2005.

Mr. DODD. Mr. President, I know that all of my colleagues have been reading the recent reports of increasing violence in Iraq. What once seemed to be a small insurgency could possibly be developing into a larger revolt. And this rapidly growing and violent opposition to the United States presence in that country is placing American service members at great risk. It is also threatening our goal of securing a stable and democratic Iraq. Taken together, I believe that this situation makes it all the more clear what many of us have been urging all along—that we need to internationalize our efforts in Iraq now. Today, I am submitting a Sense of the Senate resolution urging the President to do just that.

As my colleagues know, there are well over 100,000 United States servicemen and -women currently stationed in Iraq. And while our troops are going through rotations that are scheduled to leave this number somewhere around 100,000, I would point out that the recent upsurge in violence in that country has prompted U.S. Central Command Chief General John Abizaid to ask his military staff to examine options for sending more U.S. troops to Iraq.

Despite claims by some in the Bush administration that this is not a necessity, it is certain that with this increasing instability, the demands on our troops will continue to grow. That could very well mean that at some point we will need to send more troops to Iraq.

This is all coming at a time when arguably, the dangers to our troops have never been greater. Twelve Marines were killed in a single day of hostile action last weekend. Four American contractors were brutally slain and mutilated last week. And the situation appears to be getting worse.

Let me be clear. This is not a statement on the abilities of the United States military. Our troops—and I know there is complete consensus about this—have and continue to perform with the utmost professionalism, patriotism, and heroism. Nobody can dispute that. And this Senator, for one, remains committed to ensuring that they have every tool at their disposal, every resource that they need, to come home safely and as expeditiously as possible. My resolution, first and foremost, reaffirms these facts.

But with more than 600 U.S. service members killed and more than 2,988 wounded since March 2003, the time has come for us to be honest about our needs in Iraq. We need an international security presence in that country. NATO would be the ideal body to provide such an international presence. It has played an important role in efforts to restore and maintain order in Bosnia, Kosovo, and Afghanistan. And plain and simple, the presence of international troops would reduce the risk to U.S. military personnel. My resolution would urge the President to instruct the Secretary of Defense to begin consultations with NATO with this goal in mind.

My resolution would also urge the President to instruct the Secretary of State to begin consultations with the United Nations Security Council concerning a UN Security Council Resolution for Iraq. While NATO can help handle the security concerns in Iraq, we need a UN presence in that country with respect to efforts to build stable and democratic institutions.

After all, let's be honest, we have a serious lack of international credibility for being in Iraq right now. This lack of credibility is impeding our abilities to secure our political goals in that country. It is preventing the international community from rallying behind us in our attempt to build a stable and democratic Iraq—a goal that we all share. And it is preventing us from gaining the legitimacy we need among average Iraqis which is so vital to the success of our efforts.

Some might even argue that with the June 30th deadline approximately 12 weeks away, we are moving backwards in terms of our readiness to hand over control to an interim Transitional Iraqi Government.

This fear was illustrated perfectly by an official from the Coalition Provisional Authority (CPA) in an article in today's New York Times. Let me quote from that article, which occurs in the context of allied and Iraqi security forces' loss of control in the southern Iraqi cities of Najaf and Kufa: "An official in the occupation authority said Wednesday that . . . months of efforts to win over the population with civil projects and promises of jobs have failed with segments of the population."

That same official was quoted in the article as saying that "Six months of work is completely gone . . . there is nothing to show for it." According to the same article, "government buildings, police stations, civil defense garrisons, and other police installations built up by Americans had been overrun and stripped bare" in those cities. I ask unanimous consent that this article be printed in the RECORD.

This all highlights an important fact—that without getting the legitimacy we need to function in Iraq, we will be lacking the most basic foundations for ensuring the success of our efforts—efforts for which we have already allocated more than $110 billion American taxpayer dollars.

The answer for all of this is simple, and I believe that it has been from the beginning. We must engage NATO and the UN with the goal of their playing significant roles in Iraq. And we must do it now. NATO can help immensely with sharing the security burden. And a UN mandate will grant us the legitimacy we need to function in Iraq. It will also grant our long time allies, with whom we have been at odds over this war, the domestic legitimacy they need to play a part in building Iraq's future.

We now have a choice. We can continue to argue whether these steps should have been taken before the war. Or, we can join together in urging these steps be taken now. Our men and women in uniform deserve it. The American taxpayer deserves it. The Iraqi people deserve it. And our national security and the security of the world deserve it.

I urge my colleagues to support this amendment.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 8, 2004]

U.S. VOWS TO RETAKE 2 SOUTHERN CITIES IN HANDS OF MILITANTS

(By Christine Hauser)

BAGHDAD, IRAQ, APR. 8.—The Sunni and Shiite uprisings against the American-led occupation forces in Iraq continued today throughout the country as the high command of the American military acknowledged that militant fighters had at least partial control of two southern cities.

Lt. Gen. Ricardo S. Sanchez, the American commander in Iraq, said at a news conference here that Shiite rebels had full control of Kut and partial control in Najaf, but he vowed that American forces would retake the cities.

"We are conducting offensives across the battle space to eliminate" the rebels, he said.

American troops are confronting resistance by Sunni militants in a volatile region west of Baghdad and by Shiite insurgents in Baghdad and southern Iraq. The two fronts do not appear to be formally linked but seem to be finding and exploiting common ground in their shared opposition to the foreign occupation.

General Sanchez said today that there may be links between the Shiite and Sunni insurgents at low levels of the resistance movements but offered no further analysis.

In Baghdad, thousands of Sunni and Shiite protesters held a rally outside the Um al-Qura mosque in solidarity with Sunni countrymen in Falluja, Karbala and other conflict zones, Reuters reported. Similar rallies took place in Mosul and Baquba, north of the capital.

Militant Shiites were seen delivering food aid to a Sunni mosque in Baghdad as part of a relief effort for the residents of Sunni-dominated Falluja.

"We will carry our swords and strike the Americans on their heads," a Sunni cleric yelled, Reuters reported.

The most likely explanation for the coincident eruptions of violence, many Iraqis believe, is that Sunnis and Shiites are each watching the other's assaults, first in Falluja last week and then in other places over the weekend—the Sadr City neighborhood of Baghdad, Kufa, Najaf and at least three other southern cities—sensing that the American forces were overstretched.

The eruption of violence across the country has also had a wide impact on American allies there, with forces from other nations coming under direct attack, forcing some countries to rethink their commitments to Iraq.

Among the latest challenges to foreign resolve was a mysterious militant group claiming responsibility for the kidnapping of three Japanese citizens. Al Jazeera television showed images today of the three wearing blindfolds and civilian clothes, a group of men armed with assault rifles surrounding them. The group, which called itself Saraya al-Mujahideen, said it would kill the hostages unless Japan withdrew its forces within three days.

Japan has about 530 ground troops in Iraq, part of a total planned deployment of 1,100 soldiers for a mission to purify water and carry out other reconstruction tasks.

Reuters, quoting the South Korean foreign ministry, reported that seven South Korean members of a church group had also been kidnapped by an armed group in Iraq. About 460 South Korean medical personnel and military engineers have been in Iraq for nearly a year but are scheduled to return to South Korea after Seoul's planned deployment of up to 3,600 troops to the Kurdish region of northern Iraq later this year.

And an official from the Foreign Office confirmed today that a 37-year-old Briton had been kidnapped, Reuters reported.

In fighting today, American-led coalition forces in Baghdad destroyed a building used as a base of operations for the militant followers of rebel Shiite cleric, Moktada al-Sadr, CNN reported, quoting an American military official. American troops suffered no casualties and insurgent casualties were "minimal," the official said.

In Falluja in the Sunni heartland west of Baghdad, where some of the most intense battles have occurred this week, fighting raged between American troops and Sunni rebels loyal to the fallen regime of Saddam Hussein. The director of the main hospital there told Reuters that as many as 300 Iraqis had been killed and at least 400 wounded since Sunday.

Hospital officials said on Wednesday that several dozen people were killed after Americans fired rockets at a mosque compound in Falluja. American officials said their troops were retaliating against militia members who were firing from the mosque. The mosque itself remained largely intact.

Mosque loudspeakers broadcast instructions to townspeople to take their dead to a sports stadium for burial, Reuters reported. Fighting has made the town's cemeteries inaccessible.

Pentagon officials in Washington signaled on Wednesday that they would probably delay bringing home some 25,000 troops as scheduled and probably move reinforcements to the south.

"We're facing a test of will, and we will meet that test," Defense Secretary Donald H. Rumsfeld said, adding that the plan to postpone the troop return was part of a plan "to systematically address the situations we are facing."

The intensification of the combat is sapping efforts to lay the foundations for a largely ceremonial transfer of political sovereignty to the Iraqis on June 30.

An official in the occupation authority said Wednesday that allied and Iraqi security forces had lost control of the key southern cities of Najaf and Kufa to the Shiite militia, conceding that months of effort to win over the population with civil projects and promises of jobs have failed with segments of the population.

"Six months of work is completely gone," the official said. "There is nothing to show for it."

He cited reports that government buildings, police stations, civil defense garrisons and other installations built up by the Americans had been overrun and then stripped bare, of files, furnishings and even toilet fixtures.

For the first time since the fall of Saddam Hussein a year ago, the Americans found themselves fighting intensely against two main segments of the population, using warplanes, attack helicopters and armored units against the groups the United States had said it came to liberate when it invaded in March last year.

In a further indication of widening opposition to the allies' presence, Bulgaria has asked the United States to send troops to reinforce its 450-member battalion in Karbala.

In Falluja, the Marines said they had waged a six-hour battle around the Abdel-Aziz al-Samarri mosque before calling in a Cobra helicopter, which fired a missile. An F-16 dropped a laser-guided bomb, Lt. Col. Brennan Byrne said.

Elsewhere in Falluja, American forces seized a second place of prayer, the Muadidi mosque, according to The Associated Press. A marine climbed the minaret and fired on guerrilla gunmen, witnesses told the agency. Insurgents fired back, hitting the minaret with rocket-propelled grenades and causing it to partly collapse, the A.P. added.

Brig. Gen. Mark Kimmitt, the chief military spokesman in Iraq, said the Marines did not attack the mosque until it became clear that enemy fighters were inside and using it to cover their attacks.

He told CNN that under the Geneva Convention, the mosque was protected but that once attacks originated from it, its protected status was moot.

Much of the Iraqi anger among the Shiites has been fanned by what many here see as a heavy-handed crackdown by American occupation forces on Mr. Sadr, with the closing of his mouthpiece newspaper last week and the announcement of an arrest warrant in connection with a cleric's murder last year.

"What is going on now is a huge popular uprising," Qais al-Khazali, a spokesman for Mr. Sadr, said in Najaf on Tuesday.

"This is a reaction from the Iraqi people, not just from the Shiites," he said. "It is for the Sunni people, too. This intifada unites us." Intifada, Arabic for shaking off, is the word used by Palestinians for their struggle against Israel.

American officials have to balance their security aims without appearing to interfere with a Shiite pilgrimage holiday called Arbaeen, which starts Friday, when millions of Shiites pray at shrines in Najaf and Karbala.

"We are weighing our options, thinking very carefully about the way to restore order to Najaf," General Kimmitt said. "But at the same time, doing it in such a manner that does not alienate the pilgrims who are celebrating one of the most important observances of the Muslim calendar."

SENATE CONCURRENT RESOLUTION 99—CONDEMNING THE GOVERNMENT OF THE REPUBLIC OF THE SUDAN FOR ITS PARTICIPATION AND COMPLICITY IN THE ATTACKS AGAINST INNOCENT CIVILIANS IN THE IMPOVERISHED DARFUR REGION OF WESTERN SUDAN

Mr. BROWNBACK (for himself and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 99

Whereas, since early 2003, a conflict between forces of the Government of the Republic of the Sudan, including militia forces backed by the Government, and rebel forces in the impoverished Darfur region of western Sudan has resulted in attacks by ground and air forces of the Government of Sudan against innocent civilians and undefended villages in the region;

Whereas the militia forces backed by the Government of Sudan have also engaged in the use of rape as a weapon of war, the abduction of children, the destruction of food and water sources, and the deliberate and systematic manipulation and denial of humanitarian assistance for the people of the Darfur region;

Whereas United Nations officials and nongovernmental organizations have indicated that the humanitarian situation in the Darfur region is extremely urgent, particularly in light of restrictions by the Government of Sudan on the delivery of humanitarian assistance for the people of the region;

Whereas, on December 18, 2003, United Nations Undersecretary General for Humanitarian Affairs Jan Egeland declared that the Darfur region was probably "the world's worst humanitarian catastrophe";

Whereas, on February 17, 2004, Amnesty International reported that it "continues to receive details of horrifying attacks against civilians in villages by government warplanes, soldiers, and pro-government militia";

Whereas, on February 18, 2004, United Nations Special Envoy for Humanitarian Affairs in Sudan Tom Eric Vraalsen declared, following a trip to the Darfur region, that "aid workers are unable to reach the vast majority [of the displaced]";

Whereas Doctors Without Borders, the Nobel Peace Prize-winning medical humanitarian relief organization and one of the few aid groups on the ground in the Darfur region, reported that the region is the scene of "catastrophic mortality rates"; and

Whereas nearly 3,000,000 people affected by the conflict in the Darfur region have remained beyond the reach of aid agencies trying to provide essential humanitarian assistance, and United Nations aid agencies estimate that they have been able to reach only 15 percent of people in need and that more than 700,000 people have been displaced within Sudan in the past year: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly condemns the Government of the Republic of the Sudan for its attacks against innocent civilians in the impoverished Darfur region of western Sudan and for its failure to take effective actions to stop militia attacks on civilians in the region, and demands that the Government of Sudan immediately take actions to cease these attacks;

(2) calls on the international community to strongly condemn the Government of Sudan for its participation and complicity in these attacks and demand that such attacks cease;

(3) urges the Government of Sudan to allow the delivery of humanitarian assistance to people in the Darfur region; and

(4) urges the President to direct the United States Representative to the United Nations to seek an official investigation by the United Nations to determine if crimes against humanity have been committed by the Government of Sudan in the Darfur region.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3044. Mr. FRIST (for Mr. NELSON, of Florida) proposed an amendment to the resolution S. Res. 328, expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

SA 3045. Mr. FRIST (for Mr. VOINOVICH) proposed an amendment to the bill S. 129, to provide for reform relating to Federal employment, and for other purposes.

SA 3046. Mr. ALEXANDER (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3044. Mr. FRIST (for Mr. NELSON of Florida) proposed an amendment to the resolution S. Res. 328, expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba; as follows:

On page 7, line 20, strike "commission" and insert "committee".

SA 3045. Mr. FRIST (for Mr. VOINOVICH) proposed an amendment to the bill S. 129, to provide for reform relating to Federal employment, and for other purposes; as follows:

On page 48, line 19, insert "in the first sentence," after "paragraph (2),".

SA 3046. Mr. ALEXANDER (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. CREDIT FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.

(a) ALLOWANCE OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the qualifying pollution control equipment credit.".

(b) AMOUNT OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying pollution control equipment credit for any taxable year is an amount equal to 15 percent of the basis of the qualifying pollution control equipment placed in service at a qualifying facility during such taxable year.

"(b) QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of this section, the term 'qualifying pollution control equipment' means any technology installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, regenerative thermal oxidizers, scrubber systems, evaporative control systems, vapor recovery systems, flair systems, bag houses, cyclones, continuous emissions monitoring systems, and low nitric oxide burners.

"(c) QUALIFYING FACILITY.—For purposes of this section, the term 'qualifying facility' means any facility which produces not less than 1,000,000 gallons of ethanol during the taxable year.

"(d) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

"(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.".

(c) RECAPTURE OF CREDIT WHERE EMISSIONS REDUCTION OFFSET IS SOLD.—Paragraph (1) of section 50(a) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of subparagraph (A), any investment property which is qualifying pollution control equipment (as defined in section 48A(b)) shall cease to be investment credit property with respect to a taxpayer if such taxpayer receives a payment in exchange for a credit for emission reductions attributable to such qualifying pollution control equipment for purposes of an offset requirement under part D of title I of the Clean Air Act.".

(d) SPECIAL RULE FOR BASIS REDUCTION; RECAPTURE OF CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by inserting "or qualifying pollution control equipment credit" after "reforestation credit".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 8, 2004 at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. SPECTER. Mr. President, I ask unanimous consent that the subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, April 8, 2004 at 2:30 p.m.

The purpose of the hearing is to review the National Park Service Concessions Program, including implementation of the National Park Service Concessions Management Improvement Act of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, be authorized to meet on Thursday, April 8 at 9:30 a.m. for a hearing entitled, "Does CMS Have the Right Prescription? Implementing the Medicare Prescription Drug Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 8, 2004, at 10:30 a.m., in open and closed session to receive testimony on the Military Implications of the United Nations Convention on the law of the sea.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 8, 2004, at 10 a.m., to conduct a hearing on "Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet on Thursday, April 8, 2004, at 11 a.m., in SR–253, for a hearing to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 8, 2004 at 2:30 p.m., to hold a hearing on Anti-Semitism.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, April 8, 2004, at 10 a.m. on Judicial Nominations in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Senators.

Panel II: William Duane Benton, to be United States Circuit Judge for the Eighth Circuit.

Panel III: Robert Bryan Harwell, to be United States District Judge for the District of South Carolina; George P. Schiavelli, to be United States District Judge for the Central District of California; Curtis V. Gomez, to be Judge for the District Court of the Virgin Islands.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, April 8, 2004, at 2:30 p.m. on "Keeping America's Mass Transportation System Safe: Are the Laws Adequate?" in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Harry S. Mattice, Jr., United States Attorney, Eastern District of Tennessee, Chattanooga, TN; S. Mark Lindsey, Chief Counsel, Federal Rail Administration, United States Department of Transportation, Washington, DC.

Panel II: Ernest R. Frazier, Sr., Chief, System Security and Safety, National Railroad Passenger Corporation (Amtrak), Washington, DC; Brian Jenkins, Director, National Transportation Security Center, Mineta Transportation Institute, San Jose, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Karen

Volker, a foreign policy fellow in my office, be granted privileges of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 581, 585, and 597.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF COMMERCE

Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, vice Maria Cino, resigned.

DEPARTMENT OF THE TREASURY

Brian Carlton Roseboro, of New Jersey, to be an Under Secretary of the Treasury.

DEPARTMENT OF ENERGY

Susan Johnson Grant, of Virginia, to be Chief Financial Officer, Department of Energy.

DEPARTMENT OF THE TREASURY

Donald Korb, of Ohio, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

Mr. DASCHLE. Mr. President, I might just say for the RECORD that I have appreciated the opportunity to work through some of these nominations. This has been a matter of concern and interest to us for some time. This first installment accommodates some of our needs and I know some of the needs the White House has as well.

I hope we can do more in the coming weeks. This is one indication that we are making some progress.

I am pleased to note that we were able to do this prior to the recess.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MEASURE PLACED ON THE CALENDAR—S. 2290

Mr. FRIST. Mr. President, I understand there is a bill at the desk which is due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for a second time.

The legislative clerk read as follows:

A bill (S. 2290) to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Mr. FRIST. I object to further proceedings on the measure at this time in order to place the bill on the Calendar under the provisions of rule XIV.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

Mr. DASCHLE. Mr. President, many Members have been troubled by the fact that we are, apparently, after all of the work we have made to get to a point where we have a finite list, more extensive perhaps than either of us would like on the FSC bill, we are actually not going to go to the FSC bill; we are going to the asbestos bill.

As the majority leader knows from conversations I have had with him, it is unlikely this legislation will be able to move—not because we do not want to work on a bill that ultimately can become law to address the very legitimate concerns both of us have, all of us have with regard to asbestos, but as we have seen with malpractice, this is not the way to do it.

One would think that perhaps this is just another effort politically that will not have any result legislatively. I am not ascribing motives, but I hope there could be a real bona fide effort to work through the issues prior to the time we force votes on the floor, especially when we have other legislation for which many of us have been working hard to move, including the FSC bill.

Having said that, obviously, I am not in a position to stop the majority leader from moving as he has parliamentarily, and I will continue to express the hope that we can find some constructive solutions that reflect a real compromise as we address this very important issue.

I yield the floor.

Mr. FRIST. I will respond to both of these issues. Asbestos is an issue the Senator from Delaware and I know the Democratic leader feel strongly about. It is an important bill, a bill we should address. We need to figure out the way to best address it.

The introduction of the bill is an attempt to advance the law so we can address it. We will continue discussions as the best way to address it.

Regarding the FSC/ETI, the JOBS bill, as he said, we have more amendments than either of us would like. It has been difficult to get it to the point we did. But it, too, is a bill we absolutely must address and we will continue to address.

I am hopeful over the recess, regarding both of these bills, Members will look at, spend time with, and discuss and debate them in a bipartisan way.

NATIONAL CYSTIC FIBROSIS AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 298, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 298) designating May 2004 as National Cystic Fibrosis Awareness Month.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid on the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 298) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 298

Whereas cystic fibrosis, characterized by chronic lung infections and digestive disorders, is a fatal lung disease;

Whereas cystic fibrosis is 1 of the most common genetic diseases in the United States and 1 for which there is no known cure;

Whereas more than 10,000,000 Americans are unknowing carriers of the cystic fibrosis gene;

Whereas 1 of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas newborn screening for cystic fibrosis has been implemented by 11 States and facilitates early diagnosis and treatment which improves health and longevity;

Whereas approximately 30,000 people in the United States have cystic fibrosis, many of them children;

Whereas the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas this innovative research is progressing faster and is being conducted more aggressively than ever before, due in part to the establishment of a model clinical trials network by the Cystic Fibrosis Foundation; and

Whereas education of the public on cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as "National Cystic Fibrosis Awareness Month";

(2) requests that the President issue a proclamation—

(A) designating the month of May 2004 as "National Cystic Fibrosis Awareness Month"; and

(B) calling on the people of the United States to promote awareness of cystic fibrosis and actively participate in support of research to control or cure cystic fibrosis, by observing the month with appropriate ceremonies and activities; and

(3) supports the goals of—

(A) increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses;

(B) encouraging increased resources for research; and

(C) increasing levels of support for people who have cystic fibrosis and their families.

EXPRESSING SENSE OF THE SENATE REGARDING HUMAN RIGHTS VIOLATIONS COMMITTED BY FIDEL CASTRO AND CUBA

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 328 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 328) expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that an amendment from Senator NELSON of Florida, which is at the desk, be agreed to, the resolution, as amended, and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3044) was agreed to, as follows:

On page 7, line 20 strike "commission" and insert "committee".

The resolution (S. Res. 328), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, is as follows:

S. RES. 328

Whereas, one year ago, in March 2003, Fidel Castro and the Government of Cuba led a nationwide campaign to arrest and jail dozens of prominent democracy activists and critics of the repressive regime in Cuba;

Whereas credible nongovernmental observers report that the imprisoned democracy activists include—

(1) Osvaldo Alfonso Valdes, sentenced for 18 years;

(2) Librado Linares Garcia, sentenced for 20 years;

(3) Raul Rivero Castaneda, sentenced for 20 years;

(4) Martha Beatriz Roque Cabello, sentenced for 20 years;

(5) Victor Rolando Arroyo Carmona, sentenced for 26 years;

(6) Mijail Barzaga Lugo, sentenced for 15 years;

(7) Oscar Elias Biscet, sentenced for 25 years;

(8) Margarito Broche Espinosa, sentenced for 25 years;

(9) Dr. Marcelo Cana Rodriguez, sentenced for 18 years;

(10) Roberto de Miranda Hernandez, sentenced for 20 years;

(11) Carmelo Diaz Fernandez, sentenced for 18 years;

(12) Eduardo Diaz Fleitas, sentenced for 21 years;

(13) Antonio Diaz Sanchez, sentenced for 20 years;

(14) Alfredo Dominguez Batista, sentenced for 14 years;

(15) Oscar Espinosa Chepe, sentenced for 20 years;

(16) Alfredo Felipe Fuentes, sentenced for 26 years;

(17) Efren Fernandez Fernandez, sentenced for 12 years;

(18) Adolfo Fernandez Sainz, sentenced for 15 years;

(19) Jose Daniel Ferrer Garcia, sentenced for 25 years;

(20) Luis Enrique Ferrer Garcia, sentenced for 28 years;

(21) Orlando Fundora Alvarez, sentenced for 20 years;

(22) Prospero Gainza Aguero, sentenced for 25 years;

(23) Miguel Galban Gutierrez, sentenced for 26 years;

(24) Julio Cesar Galvez Rodriguez, sentenced for 15 years;

(25) Jose Luis Garcia Paneque, sentenced for 24 years;

(26) Edel Jose Garcia Diaz, sentenced for 16 years;

(27) Ricardo Gonzalez Alfonso, sentenced for 20 years;

(28) Diosdado Gonzalez Marrero, sentenced for 20 years;

(29) Lester Gonzalez Penton, sentenced for 20 years;

(30) Alejandro Gonzalez Raga, sentenced for 14 years;

(31) Jorge Luis Gonzalez Tanquero, sentenced for 20 years;

(32) Leonel Grave de Peralta Almenares, sentenced for 20 years;

(33) Ivan Hernandez Carrillo, sentenced for 25 years;

(34) Normando Hernandez Gonzalez, sentenced for 25 years;

(35) Juan Carlos Herrera Acosta, sentenced for 20 years;

(36) Regis Iglesias Ramirez, sentenced for 18 years;

(37) Jose Ubaldo Izquierdo Hernandez, sentenced for 16 years;

(38) Reinaldo Labrada Pena, sentenced for 6 years;

(39) Nelson Alberto Aguiar Ramirez, sentenced for 13 years;

(40) Marcelo Lopez Banobre, sentenced for 15 years;

(41) Jose Miguel Martinez Hernandez, sentenced for 13 years;

(42) Hector Maseda Gutierrez, sentenced for 20 years;

(43) Mario Enrique Mayo Hernandez, sentenced for 20 years;

(44) Dr. Luis Milan Fernandez, sentenced for 13 years;

(45) Nelson Moline Espino, sentenced for 20 years;

(46) Angel Juan Moya Acosta, sentenced for 20 years;

(47) Jesus Mustafa Felipe, sentenced for 25 years;

(48) Felix Navarro Rodriguez, sentenced for 25 years;

(49) Jorge Olivera Castillo, sentenced for 18 years;

(50) Pablo Pacheco Avila, sentenced for 20 years;

(51) Hector Palacios Ruiz, sentenced for 25 years;

(52) Arturo Perez de Alejo Rodriguez, sentenced for 20 years;

(53) Omar Pernet Hernandez, sentenced for 25 years;

(54) Horacio Julio Pina Borrego, sentenced for 20 years;

(55) Fabio Prieto Llorente, sentenced for 20 years;

(56) Alfredo Pulido Lopez, sentenced for 14 years;

(57) Jose Gabriel Ramon Castillo, sentenced for 20 years;

(58) Arnaldo Ramos Lauzerique, sentenced for 18 years;

(59) Blas Giraldo Reyes Rodriguez, sentenced for 25 years;

(60) Pedro Pablo Alvarez Ramos, sentenced for 25 years;

(61) Alexis Rodriguez Fernandez, sentenced for 15 years;

(62) Omar Rodriguez Saludes, sentenced for 27 years;

(63) Pedro Arguelles Moran, sentenced for 20 years;

(64) Omar Ruiz Hernandez, sentenced for 18 years;

(65) Claro Sanchez Albtarriba, sentenced for 15 years;

(66) Ariel Sigler Amaya, sentenced for 20 years;

(67) Guido Sigler Amaya, sentenced for 20 years;

(68) Ricardo Enrique Silva Gual, sentenced for 10 years;

(69) Fidel Suarez Cruz, sentenced for 20 years;

(70) Manuel Ubals Gonzalez, sentenced for 20 years;

(71) Julio Antonio Valdes Guevara, sentenced for 20 years;

(72) Miguel Valdes Tamayo, sentenced for 15 years;

(73) Hector Raul Valle Hernandez, sentenced for 12 years;

(74) Manuel Vazquez Portal, sentenced for 18 years; and

(75) Antonio Augusto Villarreal Acosta, sentenced for 15 years;

Whereas the imprisoned political opponents of Castro include librarians, journalists, poets, and others who have supported the Varela Project, which seeks to bring free speech, open elections, and democracy to Cuba;

Whereas Fidel Castro seized the opportunity to expand his brutal oppression of the people of Cuba while the attention of the United States and other nations around the world was focused on the war in Iraq;

Whereas the failure to condemn the Government of Cuba's continued political repression of democracy activists will further undermine the opportunity for freedom on the island; and

Whereas the international community missed an opportunity to speak against such brutal repression in a meaningful manner during the 59th Session of the United Nations Commission on Human Rights held in Geneva, Switzerland, from March 17, 2003, through April 23, 2003: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms—

(A) Senate Resolution 272, 107th Congress, unanimously agreed to June 10, 2002, calling for, among other things, amnesty for all political prisoners in Cuba;

(B) Senate Resolution 97, 108th Congress, unanimously agreed to April 7, 2003, condemning the crackdown on democracy activists in Cuba; and

(C) Senate Resolution 62, 108th Congress, unanimously agreed to June 27, 2003, calling upon the Organization of American States Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba;

(2) calls on the Government of Cuba to immediately release individuals imprisoned for political purposes;

(3) praises the bravery of those Cubans who, because they practiced free speech and signed the Varela Project petition, have been targeted in this most recent government crackdown;

(4) calls on foreign governments to—

(A) increase the pressure on the Government of Cuba to improve its record on human rights in Cuba; and

(B) invite civil society leaders and democracy activists in Cuba to official events;

(5) calls upon the 60th Session of the United Nations Commission on Human Rights in Geneva from March 15, 2004, to April 23, 2004, to—

(A) condemn Cuba for its human rights abuses; and

(B) demand that inspectors from the International Committee of the Red Cross be allowed to visit and inspect the conditions of prisons to assess for the international community the extent of human rights abuses and the current situation in Cuba; and

(6) urges the President to direct United States Representatives at the 60th Session of the Commission on Human Rights to make the strong condemnation of the human rights situation in Cuba a top priority.

EXPRESSION OF APPRECIATION FOR PARALYZED VETERANS OF AMERICA

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 337, submitted by Senator MURKOWSKI earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 337) expressing the appreciation of the Senate for the Paralyzed Veterans of America.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, today it is my distinct honor to rise and submit a Senate resolution recognizing the Paralyzed Veterans of America Awareness Week, which is April 11–17, 2004.

Many of my colleagues may not be aware what an outstanding civic-minded organization the PVA is in our country. But first let me tell you that these are not just ordinary citizens—they are veterans who sacrificed for our Nation in ways we can never fully repay. The PVA is composed of veterans of the Armed Forces who have spinal cord injuries. They are veterans who honorably and nobly served their country and continue to serve on a daily basis.

The PVA provides invaluable services to veterans' families and to our own Department of Veterans Affairs—ensuring that civil rights and access to viable transportation and affordable housing will always be provided to those with spinal cord injuries. PVA does this so their members may have the same opportunities as the rest of us—for whom these brave members fought—that they may have the independence that we all are blessed with in this country.

The PVA is a leader in medical and prosthetic research, funding two research foundations that investigate a broad spectrum of neurological sciences to seek a cure for spinal cord injury as well as breakthroughs in rehabilitation to improve the quality of life of all Americans with spinal cord injuries.

I would like to also remind my fellow Senators that the PVA is the sponsor of the Nation's largest wheelchair sports programs, fostering a wide range of sporting, and indoor, and outdoor recreational events to encourage physical activity and comradeship so vital to the ongoing rehabilitation of its members.

I encourage all of you, indeed all Americans, to take time next week to thank those who have made such tremendous sacrifices in order for us to enjoy the freedoms we now posses. And please take time from your day and find out how you can help and volunteer with your local PVA chapter.

Mr. FRIST. I ask consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 337) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 337

Whereas for 58 years Paralyzed Veterans of America (PVA), a veterans service organization chartered by Congress, has served the needs of its members, veterans of the Armed Forces who have experienced spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America, with 34 chapters and 6 subchapters, has a stated mission to be a leading advocate for quality health care for its members through the health care system of the Department of Veterans Affairs, the Department network of Spinal Cord Injury Centers, and other private and public health care providers;

Whereas Paralyzed Veterans of America, with 57 service offices and a network of service officers, has helped its members and hundreds of thousands of other veterans receive the benefits and health care they have earned through service in the Armed Forces;

Whereas Paralyzed Veterans of America is a leader in medical and prosthetic research, funding two research foundations that investigate a broad spectrum of neurological science to seek a cure for spinal cord injury as well as breakthroughs in rehabilitation to improve the quality of life of all Americans with spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America is a leading advocate within the veterans community in the Nation's capital, making certain the needs of its members are recognized by Congress and the Executive Branch of the Federal Government;

Whereas the Advocacy Program of Paralyzed Veterans of America joins the disability community in seeking to ensure civil rights and access to transportation, housing, and the physical environment for individuals with disabilities in order to maximize the independence of all Americans with disabilities;

Whereas through its architecture programs, Paralyzed Veterans of America is a leading force in barrier-free design, serving as consultant in the public and private sector to ensure a barrier-free physical environment for all Americans with disabilities;

Whereas Paralyzed Veterans of America has one of the Nation's largest wheelchair sports programs, fostering a wide range of sporting, indoor, and outdoor recreational events to encourage physical activity and comradeship so vital to the ongoing rehabilitation of its members;

Whereas Paralyzed Veterans of America is designating the week of April 11 through 17, 2004, as Paralyzed Veterans of America Awareness Week in order to support a wide variety of programs designated to highlight the services it provides nationwide and promote recognition of the sacrifice its members have made on behalf of a grateful Nation: Now therefore be it

Resolved, That the Senate—

(1) salutes Paralyzed Veterans of America (PVA) during Paralyzed Veterans of America Awareness Week, the week of April 11 through 17, 2004; and

(2) encourages all Americans to acknowledge and express their appreciation for the past and on-going contributions of Paralyzed Veterans of America to disabled veterans and to all other Americans with disabilities.

FEDERAL WORKFORCE FLEXIBILITY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 428, S. 129.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 129) to provide for reform relating to Federal employment, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Federal Workforce Flexibility Act of 2003".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.

[TITLE I—FEDERAL HUMAN RESOURCES MANAGEMENT INNOVATIONS

[Sec. 101. Streamlined personnel management demonstration projects.

[Sec. 102. Effective date.

[TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

[Sec. 201. Recruitment, relocation, and retention bonuses.

[Sec. 202. Streamlined critical pay authority.

[Sec. 203. Civil service retirement system computation for part-time service.

[Sec. 204. Corrections relating to pay administration.

[TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

[Sec. 301. Agency training.

[Sec. 302. Annual leave enhancements.

[TITLE I—FEDERAL HUMAN RESOURCES MANAGEMENT INNOVATIONS

[SEC. 101. STREAMLINED PERSONNEL MANAGEMENT DEMONSTRATION PROJECTS.

[Chapter 47 of title 5, United States Code, is amended—

[(1) in section 4701—

[(A) in subsection (a)—

[(i) by striking "(a)";

[(ii) by striking paragraph (1) and inserting the following:

["(1) 'agency' means an Executive agency and any entity that is subject to any provision of this title that could be waived under section 4703, but does not include—

["(A) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

["(B) the General Accounting Office;";

[(iii) in paragraph (4), by striking "and" at the end;

[(iv) by redesignating paragraph (5) as paragraph (6); and

[(v) by inserting after paragraph (4) the following:

["(5) 'modification' means a significant change in 1 or more of the elements of a demonstration project plan as described in section 4703(b)(1); and"; and

[(B) by striking subsection (b); and

[(2) in section 4703—

[(A) in subsection (a)—

[(i) by striking "conduct and evaluate demonstration projects" and inserting "conduct, modify, and evaluate demonstration projects";

[(ii) by striking ", including any law or regulation relating to—" and all that follows and inserting a period; and

[(iii) by adding at the end the following: "The decision to initiate or modify a project under this section shall be made by the Office.";

[(B) by striking subsection (b) and inserting the following:

["(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office shall ensure—

["(1) that each project has a plan which describes—

["(A) its purpose;

["(B) the employees to be covered;

["(C) its anticipated outcomes and resource implications, including how the project relates to carrying out the agency's strategic plan, including meeting performance goals and objectives, and accomplishing its mission;

["(D) the personnel policies and procedures the project will use that differ from those otherwise available and applicable, including a specific citation of any provisions of law, rule, or regulation to be waived and a specific description of any contemplated action for which there is a lack of specific authority;

["(E) the method of evaluating the project; and

["(F) the agency's system for ensuring that the project is implemented in a manner consistent with merit system principles;

["(2) notification of the proposed project to employees who are likely to be affected by the project;

["(3) an appropriate comment period;

["(4) publication of the final plan in the Federal Register;

["(5) notification of the final project at least 90 days in advance of the date any project proposed under this section is to take effect to employees who are likely to be affected by the project;

["(6) publication of any subsequent modification in the Federal Register; and

["(7) notification of any subsequent modification to employees who are included in the project.";

[(C) in subsection (c)—

[(i) by striking paragraph (1) and inserting the following:

["(1) any provision of chapter 63 or subpart G of part III of this title;";

[(ii) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

[(iii) by inserting after paragraph (3) the following:

["(4) section 7342, 7351, or 7353;

["(5) the Ethics in Government Act of 1978 (5 U.S.C. App.);"; and

[(iv) in paragraph (6) as redesignated, by striking "paragraph (1), (2), or (3) of this subsection; or" and inserting "paragraphs (1) through (5);";

[(D) by striking subsections (d) and (e) and inserting the following:

["(d)(1) Unless terminated at an earlier date in accordance with this section, each demonstration project shall terminate at the end of the 10-year period beginning on the date on which the project takes effect.

["(2) Before the end of the 5-year period beginning on the date on which a demonstration project takes effect, the Office shall submit a recommendation to Congress on whether Congress should enact legislation to make that project permanent.

["(e) The Office may terminate a demonstration project under this chapter if the Office determines that the project—

["(1) is not consistent with merit system principles set forth in section 2301, veterans' preference principles, or the provisions of this chapter; or

["(2) otherwise imposes a substantial hardship on, or is not in the best interests of, the public, the Government, employees, or eligibles."; and

[(E) by striking subsections (h) and (i) and inserting the following:

["(h) Notwithstanding section 2302(e)(1), for purposes of applying section 2302(b)(11) in a demonstration project under this chapter, the term 'veterans' preference requirement' means any of the specific provisions of the demonstration project plan that are designed to ensure that the project is consistent with veterans' preference principles.

["(i) The Office shall ensure that each demonstration project is evaluated. Each evaluation shall assess—

["(1) the project's compliance with the plan developed under subsection (b)(1); and

["(2) the project's impact on improving public management.

["(j) Upon request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office in any evaluation undertaken under subsection (i) and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.".

[SEC. 102. EFFECTIVE DATE.

[This title shall take effect 180 days after the date of enactment of this Act.

[TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

[SEC. 201. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

[(a) BONUSES.—

[(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

["§ 5753. Recruitment and relocation bonuses

["(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

["(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

["(A)(i) is newly appointed as an employee of the Federal Government; or

["(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

["(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

["(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

["(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

["(2)(A) The agreement shall include—

["(i) the length of the required service period;

["(ii) the amount of the bonus;

["(iii) the method of payment; and

["(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

["(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

["(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

["(ii) the effect of the termination.

["(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

[''(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

[''(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

[''(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

[''(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

[''(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

[''(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

[''(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

[''(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

[''(2) The Office shall not extend coverage to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.

["§ 5754. Retention bonuses

[''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

[''(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

[''(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

[''(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

[''(A) the Federal service; or

[''(B) for a different position in the Federal service under conditions described in regulations of the Office.

[''(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

[''(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

[''(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

[''(2)(A) The agreement shall include—

[''(i) the length of the required service period;

[''(ii) the amount of the bonus;

[''(iii) the method of payment; and

[''(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

[''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

[''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

[''(ii) the effect of the termination.

[''(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

[''(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

[''(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

[''(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

[''(A) 25 percent of the employee's basic pay if paid under subsection (b); or

[''(B) 10 percent of an employee's basic pay if paid under subsection (c).

[''(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

[''(3) A retention bonus is not part of the basic pay of an employee for any purpose.

[''(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

[''(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

[''(i) The Office may prescribe regulations to carry out this section.

[''(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

[''(2) The Office shall not extend coverage under this section to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.''.

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

[''5754. Retention bonuses.''.

[(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

[(c) EFFECTIVE DATE AND APPLICATION.—

[(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

[(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to section 5753 as in effect on the day before such effective date.

[(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to section 5754 as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

[SEC. 202. STREAMLINED CRITICAL PAY AUTHORITY.

[Section 5377 of title 5, United States Code, is amended—

[(1) by striking subsection (c) and inserting the following:

[''(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.'';

[(2) in subsection (e)(1), by striking ''Office of Management and Budget'' and inserting ''Office of Personnel Management'';

[(3) by striking subsections (f) and (g) and inserting the following:

[''(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

[''(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.''; and

[(4) in subsection (h), by striking "The Office of Management and Budget shall report to the Committee on Post Office and Civil Service" and inserting "The Office of Personnel Management shall report to the Committee on Government Reform.".

[SEC. 203. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

[Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

["(3) In the administration of paragraph (1)—

["(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

["(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

["(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.".

[SEC. 204. CORRECTIONS RELATING TO PAY ADMINISTRATION.

[(a) IN GENERAL.—Chapter 53 of title 5, United States Code, is amended—

[(1) in section 5302, by striking paragraph (8) and inserting the following:

["(8) the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means the unadjusted rates of basic pay in the General Schedule as established by section 5332, excluding additional pay of any kind; and";

[(2) in section 5305—

[(A) by striking subsection (a) and inserting the following:

["(a)(1) Whenever the Office of Personnel Management finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

["(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.";

[(B) in subsection (b), by striking paragraph (4) and inserting the following:

["(4) any other circumstances which the Office of Personnel Management (or such agency as the President may designate) considers appropriate.";

[(C) in subsection (d)—

[(i) by striking "President" and inserting "Office of Personnel Management"; and

[(ii) by striking "he" and inserting "the President";

[(D) in subsection (e), by striking "basic pay" and inserting "pay";

[(E) by striking subsection (f) and inserting the following:

["(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee's special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management or by such agency as the President may designate.";

[(F) in subsection (g)(1)—

[(i) by striking "basic pay" and inserting "pay"; and

[(ii) by striking "President (or his designated agency)" and inserting "Office of Personnel Management (or such agency as the President may designate)";

[(G) by striking subsection (h) and inserting the following:

["(h) An employee's entitlement to a rate of pay established under this section terminates when the employee is entitled to a higher rate of pay (including basic pay as adjusted to include any locality-based comparability payment under section 5304 or similar provision of law)."; and

[(H) by adding at the end the following:

["(i) When an employee who is receiving a rate of pay established under this section moves to a new official duty station at which different pay schedules apply, the employee shall be entitled to the rates of pay applicable in the new pay area based on the employee's position, grade, and step (or relative position in the rate range) before the movement, as determined under regulations prescribed by the Office of Personnel Management or other agency designated by the President under subsection (a). Such pay conversion upon geographic movement shall be effected before processing any other simultaneous pay action (other than a general pay adjustment).

["(j) A rate established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.";

[(3) in section 5334—

[(A) in subsection (b), by adding at the end the following:

["If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection."; and

[(B) by adding at the end the following:

["(g) When an employee moves to a new official duty station at which different pay schedules apply, the employee shall be entitled to the rates of pay applicable in the new pay area based on the employee's position, grade, and step (or relative position in the rate range) before the movement. Such pay conversion upon geographic movement shall be effected before processing any other simultaneous pay action (other than a general pay adjustment).";

[(4) in section 5361—

[(A) by striking paragraphs (3) and (4) and redesignating paragraphs (5) through (7) as paragraphs (3) through (5), respectively;

[(B) in paragraph (4), as redesignated, by striking "and" at the end;

[(C) in paragraph (5), as redesignated, by striking the period and inserting a semicolon; and

[(D) by adding at the end the following:

["(6) 'rate of basic pay' means—

["(A) the rate of pay prescribed by law (including regulations) for the position held by an employee before any deductions or additions of any kind, but including—

["(i) any applicable locality-based payment under section 5304 or similar provision of law;

["(ii) any applicable special salary rate under section 5305 or similar provision of law; and

["(iii) any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

["(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;

["(7) 'former highest applicable rate of basic pay' means the highest applicable rate of basic pay payable to the employee immediately before the action that triggers pay retention under section 5363; and

["(8) 'highest applicable basic pay rate range' means the range of rates of basic pay for the grade or level of the employee's current position with the highest maximum rate, except as otherwise provided in regulations prescribed by the Office of Personnel Management in cases where another rate range provides higher rates only in the lower portion of the range.";

[(5) in section 5363—

[(A) in subsection (a), by amending the matter following paragraph (4) to read as follows:

["is entitled to pay retention under the conditions set forth in this section. Notwithstanding any other provision of law, this section may not be applied to employees whose rate of basic pay is reduced solely because of the recomputation of pay upon movement to a new official duty station at which different pay schedules apply. When a geographic move is accompanied by a simultaneous pay action that reduces the employee's rate of basic pay after the employee's pay has been recomputed to reflect the geographic move, this section shall be applied, if otherwise applicable."; and

[(B) by striking subsections (b) and (c) and inserting the following:

["(b)(1) If an employee is entitled to pay retention under subsection (a), paragraphs (2) and (3) shall apply in determining the employee's rate of pay:

["(2) If the employee's former highest applicable rate of basic pay is less than or equal to the maximum rate of the highest applicable basic pay rate range for the employee's current position, the employee is entitled to the lowest payable rate of basic pay in that rate range that equals or exceeds the former rate, and pay retention ceases to apply.

["(3) If the employee's former highest applicable rate of basic pay exceeds the maximum rate of the highest applicable basic pay rate range for the employee's current position, the employee is entitled to a retained rate equal to the lesser of—

[''(A) the employee's former highest applicable rate of basic pay; or

[''(B) 150 percent of the maximum rate of the highest applicable basic pay rate range for the employee's position.

[''(c) An employee's retained rate shall be increased at the time of any increase in the maximum rate of the highest applicable basic pay rate range for the employee's position by 50 percent of the dollar increase in that maximum rate.

[''(d) The rate of pay for an employee who is receiving a retained rate under this section and who is moved to a new official duty station at which different pay schedules apply shall be determined under regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

[''(e) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the law or as the Office of Personnel Management may by regulation prescribe. For other purposes, the Office shall prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

[''(f) Subsections (a) through (e) do not apply (or shall cease to apply) to an employee who—

[''(1) has a break in service of 1 workday or more;

[''(2) is entitled by operation of this subchapter or chapter 51 or 53 to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

[''(3) is demoted for personal cause or at the employee's request.''; and

[(6) in section 5365(b) by inserting after ''provisions of this subchapter'' the following: ''(subject to any conditions or limitations the Office may establish)''.

[(b) SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; Public Law 101–509) is amended by striking all after ''provision of law)'' and inserting ''and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).''.

[(c) PAY RETENTION.—Subject to any regulations the Office of Personnel Management may prescribe, any employee in a covered pay schedule who is receiving a retained rate under section 5363 of title 5, United States Code, or similar authority on the effective date of this Act shall have the pay of that employee converted on that date. The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law. Any employee in a covered pay system receiving a rate that exceeds the maximum rate of the highest applicable basic pay rate range for the employee's position (as defined under section 5361(8) of that title, as amended by this Act) under any authority shall be considered to be receiving a retained rate under section 5363 of that title.

[TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

[SEC. 301. AGENCY TRAINING.

[(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

[''(c) The head of each agency shall—

[''(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

[''(2) modify such program or plan to accomplish such plans and goals.''.

[(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

[(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

[''§ 4120. Agency training officer

[''Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

[''§ 4121. Specific training programs

[''In consultation with the Office of Personnel Management, each head of an agency shall establish—

[''(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

[''(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

[''(A) relating to employees with unacceptable performances; and

[''(B) mentoring employees and improving employee performance and productivity.''.

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

[''4120. Agency training officer.
[''4121. Specific training programs.''.

[SEC. 302. ANNUAL LEAVE ENHANCEMENTS.

[(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

[(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

[''(e)(1) In this subsection, the term 'period of qualified non-Federal service' means any equal period of service performed by an individual that—

[''(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

[''(B) was performed in a position—

[''(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

[''(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

[''(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal service performed by an individual to be a period of service performed as an employee.''.

[(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

[(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

[(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

[(A) in paragraph (2), by striking ''and'' at the end;

[(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

[(C) by adding after paragraph (3) the following:

[''(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.''.

[(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

[(3) EFFECTIVE DATES.—

[(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

[(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Workforce Flexibility Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.
Sec. 102. Streamlined critical pay authority.
Sec. 103. Civil service retirement system computation for part-time service.
Sec. 104. Retirement service credit for cadet or midshipman service.
Sec. 105. Senior Executive Service authority for White House Office of Administration.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training.
Sec. 202. Annual leave enhancements.
Sec. 203. Compensatory time off for travel.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5754 the following:

''§ 5754a. Recruitment and relocation bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

''(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

''(A)(i) is newly appointed as an employee of the Federal Government; or

''(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

''(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

''(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to

exceed 4 years. The Office may, by regulation, prescribe a minimum service.

"(2)(A) The agreement shall include—

"(i) the length of the required service period;

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

"(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

"(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

"(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

"(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

"(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

"(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

"(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

"(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

"(2) A bonus may not be paid under this section to an individual who is appointed to, or who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(i)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) Each report submitted under this subsection shall include the use by each agency of recruitment and relocation bonuses, including, with respect to each agency and each type of bonus, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

"(j)(1) An individual may not be paid a recruitment bonus under this section and a recruitment bonus under section 5753.

"(2) An individual may not be paid a relocation bonus under this section and a relocation bonus under section 5753.

"§5754b. Retention bonuses

"(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

"(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

"(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

"(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

"(A) the Federal service; or

"(B) for a different position in the Federal service under conditions described in regulations of the Office.

"(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

"(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

"(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

"(2)(A) The agreement shall include—

"(i) the length of the required service period;

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

"(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

"(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753 or 5754a.

"(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

"(A) 25 percent of the employee's basic pay if paid under subsection (b); or

"(B) 10 percent of an employee's basic pay if paid under subsection (c).

"(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

"(3) A retention bonus is not part of the basic pay of an employee for any purpose.

"(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

"(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

"(i) The Office may prescribe regulations to carry out this section.

"(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

"(2) A bonus may not be paid under this section to an employee who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(k)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) Each report submitted under this subsection shall include the use by each agency of retention bonuses, including, with respect to each agency, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

"(l) An employee may not be paid a retention bonus under this section and a retention allowance under section 5754.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5754 the following:

"5754a. Recruitment and relocation bonuses.
"5754b. Retention bonuses.".

(b) EFFECTIVE DATE AND APPLICATION.—This section shall take effect on the first day of the

first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

"(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.";

(2) in subsection (e)(1), by striking "Office of Management and Budget" and inserting "Office of Personnel Management";

(3) by striking subsections (f) and (g) and inserting the following:

"(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

"(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section."; and

(4) in subsection (h), by striking "The Office of Management and Budget shall report to the Committee on Post Office and Civil Service" and inserting "The Office of Personnel Management shall report to the Committee on Government Reform.".

SEC. 103. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

"(3) In the administration of paragraph (1)—

"(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

"(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

"(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.".

SEC. 104. RETIREMENT SERVICE CREDIT FOR CADET OR MIDSHIPMAN SERVICE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331(13) of title 5, United States Code, is amended by striking "but" and inserting "and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401(31) of title 5, United States Code, is amended by striking "but" and inserting "and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but".

(c) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall apply to—

(1) any annuity, eligibility for which is based upon a separation occurring before, on, or after the date of enactment of this Act; and

(2) any period of service as a cadet or midshipman at the military service academy of the Army, Air Force, Coast Guard, or Navy, occurring before, on, or after the date of enactment of this Act.

SEC. 105. SENIOR EXECUTIVE SERVICE AUTHORITY FOR WHITE HOUSE OFFICE OF ADMINISTRATION.

Chapter 2 of title 3, United States Code, is amended—

(1) in section 107(b)—

(A) in paragraph (2), by striking "section 3101" and inserting "sections 3101 and 3132"; and

(B) by adding at the end the following:

"(3) Any permanent Senior Executive Service position established under paragraph (2) shall be a career reserved position.";

(2) in section 114—

(A) by redesignating that section as subsection (a);

(B) by amending that subsection, as so redesignated, by striking "minimum rate of basic pay then currently paid for GS–16" and inserting "maximum rate of basic pay then currently paid for GS–15"; and

(C) by adding at the end the following:

"(b) The limitation established in subsection (a) shall not apply to an individual appointed under the authority in section 107(b)(2), in accordance with section 3132 of title 5.".

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

"(c) The head of each agency shall—

"(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

"(2) modify such program or plan to accomplish such plans and goals.".

(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

"§4120. Agency training officer

"Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

"§4121. Specific training programs

"In consultation with the Office of Personnel Management, each head of an agency shall establish—

"(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

"(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

"(A) relating to employees with unacceptable performances; and

"(B) mentoring employees and improving employee performance and productivity.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

"4120. Agency training officer.
"4121. Specific training programs.".

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) In this subsection, the term 'period of qualified non-Federal career experience' means any equal period of service performed by an individual that—

"(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

"(B) was performed in a position—

"(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

"(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

"(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal career experience performed by an individual to be a period of service performed as an employee.".

(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding after paragraph (3) the following:

"(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.".

(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§5550b. Compensatory time off for travel

"(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

"(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

"(c) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

"5550b. Compensatory time off for travel.".

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3045) was agreed to, as follows:

AMENDMENT NO. 3045

(Purpose: To make a technical correction)

On page 48, line 19, insert "in the first sentence," after "paragraph (2),".

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 129), as amended, was read the third time and passed, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Workforce Flexibility Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.
Sec. 102. Streamlined critical pay authority.
Sec. 103. Civil service retirement system computation for part-time service.
Sec. 104. Retirement service credit for cadet or midshipman service.
Sec. 105. Senior Executive Service authority for White House Office of Administration.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training
Sec. 202. Annual leave enhancements.
Sec. 203. Compensatory time off for travel.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5754 the following:

"§ 5754a. Recruitment and relocation bonuses

"(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

"(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

"(A)(i) is newly appointed as an employee of the Federal Government; or

"(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

"(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

"(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

"(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

"(2)(A) The agreement shall include—

"(i) the length of the required service period;

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

"(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

"(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

"(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

"(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

"(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

"(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

"(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

"(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

"(2) A bonus may not be paid under this section to an individual who is appointed to, or who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(i)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) Each report submitted under this subsection shall include the use by each agency of recruitment and relocation bonuses, including, with respect to each agency and each type of bonus, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

"(j)(1) An individual may not be paid a recruitment bonus under this section and a recruitment bonus under section 5753.

"(2) An individual may not be paid a relocation bonus under this section and a relocation bonus under section 5753.

"§ 5754b. Retention bonuses

"(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

"(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

"(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

"(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

"(A) the Federal service; or

"(B) for a different position in the Federal service under conditions described in regulations of the Office.

"(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

"(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

"(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

"(2)(A) The agreement shall include—

"(i) the length of the required service period;

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage ,rate established for the employee with no portion of the bonus deferred.

"(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

"(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753 or 5754a.

"(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

"(A) 25 percent of the employee's basic pay if paid under subsection (b); or

"(B) 10 percent of an employee's basic pay if paid under subsection (c).

"(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

"(3) A retention bonus is not part of the basic pay of an employee for any purpose.

"(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

"(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

"(i) The Office may prescribe regulations to carry out this section.

"(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

"(2) A bonus may not be paid under this section to an employee who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(k)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) Each report submitted under this subsection shall include the use by each agency of retention bonuses, including, with respect to each agency, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

"(l) An employee may not be paid a retention bonus under this section and a retention allowance under section 5754.".

(2) Technical and Conforming Amendment.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5754 the following:

"5754a. Recruitment and relocation bonuses.
"5754b. Retention bonuses.".

(b) Effective Date and Application.—This section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

"(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.";

(2) in subsection (e)(1), by striking "Office of Management and Budget" and inserting "Office of Personnel Management";

(3) by striking subsections (f) and (g) and inserting the following:

"(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

"(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section."; and

(4) in subsection (h), by striking "The Office of Management and Budget shall report to the Committee on Post Office and Civil Service" and inserting "The Office of Personnel Management shall report to the Committee on Government Reform.".

SEC. 103. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

"(3) In the administration of paragraph (1)—

"(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

"(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

"(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.".

SEC. 104. RETIREMENT SERVICE CREDIT FOR CADET OR MIDSHIPMAN SERVICE.

(a) Civil Service Retirement System.—Section 8331(13) of title 5, United States Code, is amended by striking "but" and inserting "and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but".

(b) Federal Employees' Retirement System.—Section 8401(31) of title 5, United States Code, is amended by striking "but" and inserting "and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but".

(c) Effective Date and Application.—The amendments made by this section shall apply to—

(1) any annuity, eligibility for which is based upon a separation occurring before, on, or after the date of enactment of this Act; and

(2) any period of service as a cadet or midshipman at the military service academy of the Army, Air Force, Coast Guard, or Navy, occurring before, on, or after the date of enactment of this Act.

SEC. 105. SENIOR EXECUTIVE SERVICE AUTHORITY FOR WHITE HOUSE OFFICE OF ADMINISTRATION.

Chapter 2 of title 3, United States Code, is amended—

(1) in section 107(b)—

(A) in paragraph (2), in the first sentence, by striking "section 3101" and inserting "sections 3101 and 3132"; and

(B) by adding at the end the following:

"(3) Any permanent Senior Executive Service position established under paragraph (2) shall be a career reserved position.";

(2) in section 114—

(A) by redesignating that section as subsection (a);

(B) by amending that subsection, as so redesignated, by striking "minimum rate of basic pay then currently paid for GS–16" and inserting "maximum rate of basic pay then currently paid for GS–15"; and

(C) by adding at the end the following:

"(b) The limitation established in subsection (a) shall not apply to an individual appointed under the authority in section 107(b)(2), in accordance with section 3132 of title 5.".

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) Training To Accomplish Performance Plans and Strategic Goals.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

"(c) The head of each agency shall—

"(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

"(2) modify such program or plan to accomplish such plans and goals.".

(b) Agency Training Officer; Specific Training Programs.—

(1) In general.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

"§ 4120. Agency training officer

"Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

"§ 4121. Specific training programs

"In consultation with the Office of Personnel Management, each head of an agency shall establish—

"(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

"(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

"(A) relating to employees with unacceptable performances; and

"(B) mentoring employees and improving employee performance and productivity.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

"4120. Agency training officer.
"4121. Specific training programs.".

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) In this subsection, the term 'period of qualified non-Federal career experience' means any equal period of service performed by an individual that—

"(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

"(B) was performed in a position—

"(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

"(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

"(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal career experience performed by an individual to be a period of service performed as an employee.".

(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding after paragraph (3) the following:

"(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.".

(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

"(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

"(c) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

"5550b. Compensatory time off for travel.".

CONDEMNING ETHNIC VIOLENCE IN KOSOVO

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 326, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 326) condemning ethnic violence in Kosovo.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 326) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 326

Whereas ethnic violence erupted in Kosovo on March 17, 2004, claiming the lives of 20 individuals, including 8 Kosovo Serbs, 8 Kosovo Albanians, and 4 unidentified victims, injuring more than 600 others, and displacing more than 4,000 Kosovo Serbs and other minorities;

Whereas the violence also resulted in the destruction of more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and in the destruction of, or damage to, more than 30 churches and monasteries belonging to the Serbian Orthodox Church;

Whereas historic mosques in Belgrade and Nis, and an Islamic center in Novi Sad, were also destroyed or damaged;

Whereas in response to the violence, Commander in Chief of the North Atlantic Treaty Organization (NATO) Allied Forces South, Admiral Gregory Johnson, concluded, "This kind of activity, which essentially amounts to ethnic cleansing, cannot go on.";

Whereas Supreme Allied Commander, Europe, General James Jones ordered the deployment of NATO's Strategic Reserve Force on March 19, 2004, to calm the violence and end the destruction;

Whereas Deputy Secretary of State Richard Armitage and Foreign Minister of Serbia and Montenegro Goran Svilanovic met in Washington on March 19, 2004, and called for an immediate end to the violence, concurring that no party in Kosovo can be allowed to profit or advance a political agenda through violent measures;

Whereas a stable, secure, and functioning multiethnic society is in the best interest of all people of Kosovo, the broader region of Southeast Europe, and the world;

Whereas it is essential that political leaders in Kosovo support efforts to establish an environment in which all people in Kosovo have freedom of movement and the ability to live free from fear;

Whereas the United States and members of the international community have called on the people of Kosovo to implement 8 standards outlined by the United Nations Interim Administration in Kosovo (UNMIK), which are to be met prior to the consideration of the question of final status for Kosovo, including: the existence of effective, representative, and functioning democratic institutions; enforcement of the rule of law; freedom of movement; sustainable returns of refugees and displaced persons, and respect for the rights of communities; creation of a sound basis for a market economy; fair enforcement of property rights; normalized dialogue with Belgrade; and transformation of the Kosovo Protection Corps (KPC) in line with its mandate; and

Whereas it is in the long-term interest of all people of Kosovo that the UNMIK standards are achieved in order to promote peace, stability, and economic development, and to ensure a better future for all people in Kosovo: Now, therefore, be it

Resolved, That the Senate—

(1) urges all people in Kosovo to immediately stop the violence, end the destruction of homes, churches, and other cultural and religious sites, and cooperate with North Atlantic Treaty Organization's Kosovo Force (KFOR), the United Nations Interim Administration in Kosovo (UNMIK), and the Kosovo Police in identifying for prosecution the perpetrators of violence and the destruction of property;

(2) expresses its deep condolences to the families of those who have been killed in the recent violence;

(3) strongly condemns the destruction of personal and religious property in Kosovo, including more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and of 30 churches and monasteries belonging to the Serbian Orthodox Church, adding to the more than 100 churches that have been destroyed since June 1999;

(4) strongly condemns the destruction of historic mosques in the cities of Belgrade and Nis, and of an Islamic center in Novi Sad;

(5) recognizes the commitment made by the Kosovo Assembly to establish a fund for the reconstruction of property, including homes and churches, destroyed during the attacks;

(6) recognizes the commitment made by Serbian officials to provide funds for the reconstruction of mosques in Belgrade and Nis, and an Islamic center in Novi Sad;

(7) urges political leaders to fulfill their commitment to rebuild what has been destroyed and to take all possible action to allow the more than 4,000 Kosovo Serbs and other minorities displaced during the violence to return quickly and safely to their homes and communities;

(8) encourages all political leaders in Kosovo to renounce the use of violence, and to proceed with efforts to establish a secure, peaceful, multiethnic society, which protects the rights of all people in Kosovo, and to

take action to proceed with the implementation of the standards or "benchmark goals" outlined by UNMIK;

(9) strongly recommends that the United Nations review the structure and organization of UNMIK; and

(10) urges reinvigoration of dialogue between Belgrade and Pristina in an effort to move toward the establishment of a peaceful and secure environment guaranteeing freedom of movement and human rights for all people in Kosovo.

NATIONAL YOUTH SERVICE DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 338, which was submitted earlier today by Senator MURKOWSKI.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 338) calling on the President to designate April 16, 2004, as National Youth Service Day, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, earlier today I submitted a Senate resolution that requests the President of the United States to designate April 16, 2004, as "National Youth Service Day." I am proud to be submitting this Senate resolution for the second year. National Youth Service Day is the largest service event in the world with over 3 million participants. National Youth Service Day acknowledges the remarkable community service efforts of youth today, and encourages all people to recognize and support the significance of these contributions.

National Youth Service Day is a public awareness and education campaign that highlights the positive contributions that young people make to their communities throughout the year. On this day, youth from across the United States and the world will carry out community service projects in areas ranging from hunger to literacy to the environment. National Youth Service Day brings a diverse group of local, regional, and national partners together to support and promote youth service.

It is imperative to keep young people active and motivated and instilled with a sense of community responsibility. Volunteer work gives youth an outlet to gain this responsibility and to learn valuable skills that are essential to personal and academic achievement.

I thank my colleagues, Senators AKAKA, ALEXANDER, ALLEN, BAYH, BUNNING, CAMPBELL, CLINTON, COCHRAN, COLEMAN, COLLINS, CONRAD, DEWINE, DODD, DOMENICI, DURBIN, KERRY, LANDRIEU, MIKULSKI, MURRAY, SCHUMER, SNOWE, STABENOW, and STEVENS for cosponsoring this worthwhile legislation, which will ensure that youth across the country and the world know that all of their hard work is greatly appreciated.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 338) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 338

Whereas National Youth Service Day is an annual public awareness and education campaign that highlights the amazing contributions that young people make to their communities throughout the year;

Whereas the goals of National Youth Service Day are to mobilize youths as leaders to identify and address the needs of their communities through service and service-learning, to support youth on a lifelong path of service and civic engagement, and to educate the public, the media, and policymakers about the year-round contributions of young people as community leaders;

Whereas young people in the United States are volunteering more than has any generation in American history;

Whereas the ongoing contributions young people make to their communities throughout the year should be recognized and encouraged;

Whereas young people should be viewed as the hope not only of tomorrow, but of today, and should be valued for the inherent idealism, energy, creativity, and commitment that they employ in addressing the needs of their communities;

Whereas there is a fundamental and absolute correlation between youth service and lifelong adult volunteering and philanthropy;

Whereas a sustained investment by the Federal Government and commitment by corporate partners fuels the positive, long-term cultural change that will make service and service-learning the common expectation and common experience of all youth;

Whereas, through volunteer service and related learning opportunities, young people build character and learn valuable skills, including time management, teamwork, needs-assessment, and leadership, that are sought by employers;

Whereas service-learning, an innovative teaching method combining service to the community with a classroom curriculum, is a proven strategy to increase academic achievement;

Whereas private foundations and corporations support youth service and service-learning because they believe that strong communities begin with strong schools and a community investment in the lives and futures of youth;

Whereas National Youth Service Day is a program of Youth Service America, and is being observed in 2004 for the 16th consecutive year;

Whereas Youth Service America continues to expand National Youth Service Day, now engaging millions of young people nationwide with 50 Lead Agencies in nearly every State to organize activities across the United States;

Whereas Youth Service America has expanded National Youth Service Day to involve over 90 national partners;

Whereas National Youth Service Day has inspired Global Youth Service Day, which occurs concurrently in 127 countries and is now in its fifth year; and

Whereas young people will benefit greatly from expanded opportunities to engage in meaningful volunteer service: Now, therefore, be it

Resolved,

SECTION 1. RECOGNITION AND ENCOURAGEMENT OF YOUTH COMMUNITY SERVICE.

The Senate recognizes and commends the significant contributions of American youth and encourages the cultivation of a common civic bond among young people dedicated to serving their neighbors, their communities, and the Nation.

SEC. 2. NATIONAL YOUTH SERVICE DAY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate April 16, 2004, as "National Youth Service Day".

(b) PROCLAMATION.—The Senate requests that the President issue a proclamation—

(1) designating April 16, 2004, as "National Youth Service Day"; and

(2) calling on the people of the United States to—

(A) observe the day by encouraging and engaging youth to participate in civic and community service projects;

(B) recognize the volunteer efforts of our Nation's young people throughout the year; and

(C) support these efforts as an investment in the future of our Nation.

AUTHORIZING THE MAJORITY LEADER TO SIGN ENROLLED BILLS AND RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment on Thursday, April 15, committees be authorized to file legislative and executive matters from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO MAKE APPOINTMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, APRIL 19, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Monday, April 19. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business with Senators limited to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, on Monday, April 19, the Senate will be in a period of morning business. I have stated it is our intention at this juncture to proceed to the consideration of S. 2290, the asbestos bill. Although we don't have an agreement on proceeding to the bill, we will continue to have discussions with the Democratic leadership in an effort to move forward on this legislation.

A few moments ago we reached an agreement which limits amendments to the FSC/ETI bill or the JOBS legislation. I know the Democratic leader worked in good faith to limit amendments on his side, and he has witnessed firsthand that I have had my hands full throughout the day as well. The attempt was made to limit the number of amendments as much as we possibly could. I feel that is what we have done. But I am personally disappointed we can't get the list smaller, especially on amendments that are totally unrelated. The agreement we entered into is to define the universe of amendments, and I would expect and encourage the managers to continue to work to whittle down that list appropriately. I expect them to do so, and that was the nature of the discussion we had today.

All of us know the calendar is working against us and we absolutely must, with the sanctions having an impact today and increasing every month, find a way to get this bill done. I don't believe it should be necessary—I hope my colleagues agree—to consider four pages of amendments. Again, I encourage the managers to work with all of our colleagues to limit the number of amendments we ultimately consider.

As I previously announced, we will not be having rollcall votes on April 19. A number of colleagues will want to talk on the issues, including asbestos, and they will be able to do that on Monday.

Having said that, I wish all of our colleagues a safe and happy recess.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, APRIL, 19, 2004, AT 1 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 404.

There being no objection, the Senate, at 6:52 p.m., adjourned until Monday, April 19, 2004, at 1 p.m.

NOMINATIONS

Executive nominations received by the senate April 8, 2004:

DEPARTMENT OF COMMERCE

BENJAMIN H. WU, OF MARYLAND, TO BE ASSISTANT SECRETARY OF COMMERCE FOR TECHNOLOGY POLICY, VICE BRUCE P. MEHLMAN, RESIGNED.

FEDERAL TRADE COMMISSION

JON D. LEIBOWITZ, OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR A TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2003, VICE MOZELLE WILLMONT THOMPSON, TERM EXPIRED.

FEDERAL ENERGY REGULATORY COMMISSION

SUEDEEN G. KELLY, OF NEW MEXICO, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2009. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

STUART LEVEY, OF MARYLAND, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT, VICE JIMMY GURULE, RESIGNED.

SOCIAL SECURITY ADMINISTRATION

PATRICK P. O'CARROLL, JR., OF MARYLAND, TO BE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION, VICE JAMES G. HUSE, JR., RETIRED.

DEPARTMENT OF STATE

JEFFREY D. FELTMAN, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

PATRICIA M. HASLACH, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

RICHARD LEBARON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF KUWAIT.

VICTOR HENDERSON ASHE, OF TENNESSEE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

JAMES B. CUNNINGHAM, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

JAMES B. CUNNINGHAM, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

MERIT SYSTEMS PROTECTION BOARD

BARBARA J. SAPIN, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2007, VICE BENJAMIN LEADER ERDREICH, RESIGNED.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

ALLEN WEINSTEIN, OF MARYLAND, TO BE ARCHIVIST OF THE UNITED STATES, VICE JOHN W. CARLIN.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

RAQUEL EGUSQUIZA, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 2005, VICE LYNDA HARE SCRIBANTE, TERM EXPIRED.

JULIA L. WU, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4, 2008, VICE JAMES ROGER ANGEL, TERM EXPIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ELIZA FERGUSON AL-LAHAM, OF MARYLAND
AMY E. ARCHIBALD, OF CALIFORNIA
JOSHUA C. ARCHIBALD, OF CALIFORNIA
STACY MARIE BARRIOS, OF LOUISIANA
KIMBERLY S. BARR, OF TEXAS
JOHN P. BARRY JR., OF NEW YORK
CHAD J. BERBERT, OF UTAH
RICHARD LEE BUANGAN, OF CALIFORNIA
AMY A. CARNIE, OF NEW HAMPSHIRE
DAVID L. CITRON, OF FLORIDA
JOHN DAVID COCKRELL, OF OHIO
THOMAS MCKINNEY COLEMAN, OF MISSISSIPPI
ROBERT A. COLLINS, OF TEXAS
CAROL ANNE COX, OF WASHINGTON
MICHAEL PATRICK CRAGUN, OF OREGON
JASON RICHARD CUBAS, OF FLORIDA
AIMEE CUTRONA, OF CALIFORNIA
CHARLES W. DAVIS JR., OF TEXAS
MARK DARYL ERICKSON, OF NEW HAMPSHIRE
AARON DAVID FISHMAN, OF THE DISTRICT OF COLUMBIA
JAMES H. FLOWERS, OF TEXAS
NINI JUN FORINO, OF NEW YORK
LYNNE B. GADKOWSKI, OF NORTH CAROLINA
GREGORY N. GARDNER, OF CALIFORNIA
GREGORY LAWRENCE GARLAND, OF FLORIDA
BRIAN JOSEPH GEORGE, OF MICHIGAN
ETHAN GLICK, OF MARYLAND
RICARDO N. GRAY, OF CALIFORNIA
SIMON R. HANKINSON, OF FLORIDA
LANCE KYLE HEGERLE, OF CALIFORNIA
JUSTIN HIGGINS, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER W. HODGES, OF GEORGIA
ROBERT MORRIS HOLLISTER JR., OF TENNESSEE
CHING-HSIU SHERRY HONG, OF FLORIDA
AARON WAYNE JENSEN, OF OREGON
AMANDA CELESTE MORROW JENSEN, OF TEXAS
BRIAN D. JENSEN, OF CALIFORNIA
MICHELLE LYNNE JONES, OF OHIO
GABRIEL M. KAYPAGHIAN, OF CALIFORNIA
JONATHAN BENNETT KORACH, OF VIRGINIA
WILLIAM HENRY LAITINEN, OF THE DISTRICT OF COLUMBIA
DAVID MICHAEL LAMONTAGNE, OF NORTH CAROLINA
MICHAEL E. LATHAM, OF VIRGINIA
SARAH MICHELLE MATHAI, OF CONNECTICUT
KRISTOPHER WILLIAM MCCAHON, OF VIRGINIA
DANIEL F. MCCULLOUGH, OF VIRGINIA
JOHN ROSS MCGUIRE, OF VIRGINIA
GREGORY R. C. MORRISON, OF THE DISTRICT OF COLUMBIA
MARK EDWARD MOTLEY, OF NEW YORK
HERRO K. MUSTAFA, OF VIRGINIA
CONSTANTINOS C. NICOLAIDIS, OF WASHINGTON
HUGUES P. OGIER, OF HAWAII
MORGAN ANDREW PARKER, OF MISSOURI
LIZA PETRUSH, OF THE DISTRICT OF COLUMBIA
CHAHRAZED SIOUD, OF MARYLAND
MICHAEL J. SOLBERG, OF FLORIDA
MICHELLE A. SOLINSKY, OF VIRGINIA
DOUGLAS EUGENE SONNEK, OF CALIFORNIA
SHAYNA R. STEINGER, OF IOWA
TODD R. STONE, OF CALIFORNIA
BARBARA M. THOMAS, OF MINNESOTA
DU D. TRAN, OF THE DISTRICT OF COLUMBIA
VALDA MAIJA VIKMANIS, OF MINNESOTA
PAUL S. WATZLAVICK, OF TEXAS
JONATHAN K. WEBSTER, OF MARYLAND
JONATHAN CRAIG WEYER, OF NEW JERSEY
STEPHANIE A. WICKES, OF VIRGINIA
HENRY T. WOOSTER, OF VIRGINIA
HUGO YUE-HO YON, OF CALIFORNIA

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

TERENCE L. CHORBA

LAURA J. FEHRS
JAMES M. GALLOWAY
ALAN E. GREENBERG
EVAN C. HADLEY
THOMAS R. HALES
PETER M. HOUCK
MARGARET T. LEE
JOHN R. LIVENGOOD
NEIL J. MURPHY
BERNARD L. NAHLEN
PATRICK W. OCARROLL
LYLE R. PETERSEN
MARK H. SCHIFFMAN
JOSEPH E. SNIEZEK
KEVIN S. YESKEY

To be senior surgeon

MARY M. AGOCS
JAMES P. ALEXANDER JR.
M MILES BRAUN
MARTIN S. CETRON
THERESA DIAZ VARGAS
HAMID S. JAFARI
ERIC D. MINTZ
DIANE A. MITCHELL
CAROL A. PERTOWSKI
MICHAEL PRATT
LISA G. RIDER
STEVEN R. ROSENTHAL
JOHN C. WATSON

To be surgeon

THOMAS C. BONIN
MICHAEL A. FALLON
ANNA L. MILLER
MICHAEL G. WILCOX
LORI A. WILLINGHURST

To be dental director

ROBIN S. BERRIN
THOMAS B. BORNSTEIN
ROSEMARY E. DUFFY
ANDREA G. FEIGHT
CHARLES W. GRIM
KEVIN S. HARDWICK
SHAWNEEQUA M. HARRIS
ANGEL L. RODRIGUEZ-ESPADA
RICHARD B. TROYER

To be senior dental surgeon

DEAN J. COPPOLA
DAVID A. CRAIN
CLAY D. CROSSETT
CHRISTOPHER G. HALLIDAY
KATHY L. HAYES
LINDA A. JACKSON
MARK S. JACOBSON
THOMAS E. JORDAN
MICHAEL E. KORALE
TAD R. MABRY
RONALD J. NAGEL
REBECCA V. NESLUND
EDWARD E. NEUBAUER
MARY S. RUNNER
JAMES N. SUTHERLAND
JAMES H. TENNYSON
JEFFERY L. VIDRINE

To be dental surgeon

KIMBERLY A. LAFLEUR-NIGG
KIPPY G. MARTIN
PAUL S. WOOD

To be nurse director

DIANE P. HOLZEM
CHRISTOPHER J. JONES
MARY I. LAMBERT
KERRY P. NESSELER
LATRICIA C. ROBERTSON
SUSANNE R. ROHRER
VERONICA G. STEPHENS
MICHAEL L. VITCH

To be senior nurse officer

ROBIN E. ANDERSON
RUTH M. COLEMAN
REGENA DALE
FERN S. DETSOI
TERRI L. DODDS
THOMAS J. EDWARDS
MAUREEN Q. FARLEY
CLARICE GEE
SUSAN D. HILLIS
DAVID L. KERSCHNER
BARBARA W. KILBOURNE
ELLEN P. MADIGAN
SHERYL L. MEYERS
ERNESTINE MURRAY
BARBARA J. MYRICK
GLADYS V. PERKINS
JAMES M. POBRISLO
ANA M. PUENTE
CHRISTINE L. RUBADUE
GWETHLYN J. SABATINOS
KENNETH W. SIMPSON
TIMOTHY R. STOCKDALE
LAUREN C. TANCONA
DIANE R. WALSH
JANET L. WILDEBOOR

To be nurse officer

ERICA M. AVERY
PATRICK K. HOWE
LUCIENNE D. NELSON
SUSAN M. ORSEGA
SANDRA K. RODE
KEYSHA L. ROSS
JEANNE D. SHAFFER
JAMES M. SIMMERMAN
STEVEN M. WACHA

To be senior assistant nurse officer

BENJAMIN F. BROWN JR.
SERINA A. HUNTER-THOMAS
PATRICIA K. MITCHELL
CHANTAL N. MOUW
TODD A. RIDGE
WILLIAM RUIZ-COLON
TONIA L. SAWYER
THOMAS R. STANLEY
ROBBIE K. TAYLOR

To be engineer director

DENNIS A. BARBER
ROBERT W. FAALAND
RONALD C. FERGUSON
PAUL M. LAHR
RAO Y. SURAMPALLI

To be senior engineer officer

DAVID M. BIRNEY
DANIEL G. MCLAUGHLIN
PETER C. PIRILLO JR.
PHILIP E. RAPP
PAULA A. SIMENAUER

To be engineer officer

NATHAN D. GJOVIK
DALE M. MOSSEFIN
JACQUELINE M. PARKER
DENNIS J. WAGNER
MARY M. WEBER

To be scientist director

WILLIAM CIBULAS JR.
SARA DEE MCARTHUR
H. EDWARD MURRAY
CAROLYN STRETE
DAVID F. WILLIAMSON

To be senior scientist

S. LORI BROWN
DARCY E. HANES
JAMES E. HOADLEY
O'NEAL A. WALKER

To be scientist

MEHRAN S. MASSOUDI

To be environmental health director

EDWIN J. FLUETTE
BRUCE K. MOLLOY
KENNETH J. SECORD

To be senior environmental health officer

BYRON P. BAILEY
SHAWN W. GOOGINS
BARRY S. HARTFIELD
ROBERT F. HENNES
JOHN P. SARISKY
JEFFREY J. SMITH
FRANK H. WILLIAMS

To be environmental health officer

JEFFREY A. CHURCH
CALVIN W. EDWARDS
JOSEPH A. TERRA JR.
DAVID B. TIBBS
LINDA A. TIOKASIN

To be veterinary director

MARCIA L. HEADRICK
LEIGH A. SAWYER

To be senior veterinary officer

PETER B. BLOLAND
MARISSA A. MILLER

To be pharmacist director

JAMES D. BONA
MICHAEL J. CLAIRMONT
RICHARD M. FEJKA
DOUGLAS L. HERRING
THOMAS E. KRIZ
ROGER L. MCGHEE
CATHY L. SHAFFER
CYNTHIA P. SMITH
MARTIN L. SMITH

To be senior pharmacist

LAURIE B. BURKE
DIANE CENTENO-DESHIELDS
PAUL A. DAVID
JOSEPHINE E. DIVEL
STEVEN C. DOANE
MARY B. FORBES
MICHAEL J. MONTELLO
CECILIA-MARINA PRELA
ROBERT W. RIST
RENEE J. RONCONE
RAELENE W. SKERDA
MATTHEW A. SPATARO

To be pharmacist

LISA A. COHN
CINDY P. DOUGHERTY
JAMES A. GOOD
MICHAEL J. GOODIN
DANA L. HALL
HYE-JOO KIM
SHEILA K. NORRIS
EDWARD J. STEIN
PAMELA STEWART-KUHN
JULIE E. WARREN

To be senior assistant pharmacist

TINA M. SPENCE

To be dietitian director

JANICE M. HUY
JOYANNE P. MURPHY

To be senior dietitian

DIANE M. PRINCE
KENNETH W. SOUZA

To be dietitian

CHARLENE G. SANDERS

To be therapist director

DAVID E. NESTOR

To be senior therapist

TERRY T. CAVANAUGH
FRANKLIN D. KEEL

To be therapist

JEFFREY C. FULTZ
ERIC D. PAYNE

To be senior assistant therapist

COREY S. DAHL

To be health services director

LURA J. ABBOTT
HILDA P. DOUGLAS
NINA F. DOZORETZ
HOWARD A. GOLDSTEIN
CANDACE M. JONES
EUGENE A. MIGLIACCIO

To be senior health services officer

FRANCIS J. BEHAN
MARIA E. BURNS
PETER J. DELANY
JULIA A. DUNAWAY
ANNIE BRAYBOY FAIR
STEVEN M. GLOVER
BEVERLY A. ROTH
RACHEL E. SOLOMON

To be health services officer

DAWN M. CLARY
DANIEL M. KAVANAUGH
RICHARD D. KENNEDY
JANE MARTIN
LOU A. RECTOR
ANN M. TOLEDO
CRAIG S. WILKINS

To be senior assistant health services officer

AMANDA K. DUNNICK
PARMJEET S. SAINI

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. HENRY A. OBERING III, 3819

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

ARAM M. DONIGIAN, 1570

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

VINCENT F. CARR, 0822

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DANIEL J. COURTOIS, 5395

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

CHARLES G. STITT, 0675

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RONALD E. RIKANSRUD, 9325

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

JEFFREY A. BAILEY, 3590
TERRY G. HOEHNE, 2133

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

STEVEN M. HILL, 6013

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JOHN J. DERESKY, 1615

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

HEIDI C. BERTRAM, 1051
BRETT J. CASSIDY, 4143
JEANNE M. HOLLAND, 1303
JENNIFER E. HORN, 8624
ROGER E. JONES, 6698
ANTHONY L. MITCHELL, 0585
PAUL R. MONCLA, 6875
EVAN B. MOSER, 9119
THOMAS C. WISLER JR., 7273

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10 U.S.C., SECTIONS 624 AND 3064:

To be colonel

HAROLD B. SNYDER III, 6600

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DANNY L. MCGRAW, 0424

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

RICHARD A. STEBBINS, 9775

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

OTHA MYLES, 4450

DEPARTMENT OF HOMELAND SECURITY

DAVID M. STONE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate April 8, 2004:

DEPARTMENT OF COMMERCE

RHONDA KEENUM, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICES.

DEPARTMENT OF THE TREASURY

BRIAN CARLTON ROSEBORO, OF NEW JERSEY, TO BE AN UNDER SECRETARY OF THE TREASURY.

DONALD KORB, OF OHIO, TO BE CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE AND AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message transmitted by the President to the Senate on April 8, 2004, withdrawing from further Senate consideration the following nomination:

JAMES G. ROCHE, OF MARYLAND, TO BE SECRETARY OF THE ARMY, WHICH WAS SENT TO THE SENATE ON JULY 7, 2003.

SENATE—*Monday, April 19, 2004*

The Senate met at 1 p.m. and was called to order by the Honorable GORDON SMITH, a Senator from the State of Oregon.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal and Sovereign Spirit, who flawlessly expresses Your glory in the beauties of the sea, land, and air, thank You for ceaseless streams of mercy and for Your love manifested in the priceless gift of sacrifice. Thank You for walking with us each day, radiating the brightness of Your glory to illuminate our shadowed paths with praise.

Lord, we praise You that You focus Your might into the lives of common people with profound needs—freeing prisoners of addictions and giving sight to those who live without faith. Lead our Senators today along productive paths that benefit Your kingdom. Give them favor and stamina as they seek to keep America strong. Be for them a strong shelter in times of trouble, danger, and stress.

Remind each of us that every advantage life can offer is like rubbish compared with the overwhelming gain of knowing You. We pray this in Your glorious name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GORDON SMITH led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, April 19, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GORDON SMITH, a Senator from the State of Oregon, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SMITH thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican whip is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today the Senate will be in a period for morning business. The majority leader has stated it is our intention, it is our hope to proceed to consideration of S. 2290, the asbestos bill, today. Although we do not yet have an agreement on proceeding to the bill, we are continuing to work with our Democratic colleagues in an effort to move forward with that important legislation.

Although we will be in a period for morning business, Senators will be able to come to the floor today to deliver statements on the asbestos bill. As the leader announced before we recessed for the Easter holiday, there will be no rollcall votes today.

RECOGNITION OF THE DEMOCRATIC LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I welcome back the distinguished assistant Republican leader and the Presiding Officer.

I come to the floor today to say a few words about what I believe is one of the most difficult issues to talk about in the ongoing conflict in Iraq. My remarks will not address whether I support our troops in Iraq, because I do. All Americans, I believe, are awed by the courage and sacrifice of our troops in Iraq. My remarks will not address whether I am concerned about the administration's failure to honor its commitment to our troops that they would be required to serve no more than 365 days "boots on the ground," because I am. My remarks will not address whether I believe it is essential that we win the fight to bring democracy, stay the course in Iraq until we see Iraq on the road to democracy, because I do. Instead, I rise for the sole purpose of acknowledging the terrible, growing toll this war is taking on some of America's finest citizens and their families.

More than 700 American troops have died in the war, and this month, as we all know, has been the deadliest month for U.S. soldiers in Iraq. More than 100 Americans soldiers have been killed in Iraq since April 1. Twelve more brave soldiers lost their lives in Iraq this past weekend.

I come to the floor to pay tribute to the sacrifice of these soldiers. They sacrificed everything because our Nation asked them to, and we owe them an enormous debt of gratitude. I say to the grieving families of our fallen heroes: America is with you in sorrow, and we will not forget you or the loved ones you have lost.

On Holy Thursday, April 8, on the western outskirts of Baghdad, on the road to Fallujah, Marine Lance Corporal Levi Angell died when the Humvee he was riding in was hit by a rocket propelled grenade. He was 20 years old. After learning of his son's death, Levi Angell's father stood outside the family's home in St. Louis, MN, clutching an 8-by-10-inch photo of his son close to his heart. "This was my son," he told reporters. "I am as proud as proud can be of that young man." He added, "It's a sad, sad day. This is a sad, sad country right now."

This is a sad, sad day in South Dakota, too. Last night, we learned that one of the 12 American soldiers killed in Iraq this past weekend was a member of the South Dakota National Guard. Army Specialist Dennis Morgan was the sixth South Dakota soldier to die in Iraq and the first member of the South Dakota National Guard killed in this war. A military spokesman said he was helping clear mines and explosives Saturday when a roadside bomb went off. He was 22 years old, and married.

He joined the Guard immediately after graduating from high school in Winner, SD, class of 2000. He had been in the Middle East for just under 2 months. Today, South Dakotans are mourning Specialist Morgan's death, and praying that his family can find some comfort for their sorrow. We also pray for the safety of the soldiers who remain in Iraq.

I want to say a few words about some of the other fallen American heroes who lost their lives in Iraq this month.

Marine Private First Class Dustin Sekula, of Edinburg, TX, was killed by enemy fire in Fallujah on April 1. Private First Class Dustin Sekula graduated from high school last year and gave up a full college scholarship to join the Marines. The father of a high school friend told his hometown newspaper, "He was worth his weight in gold. He would try to conquer anything they would throw at him."

Twelve American soldiers died in Iraq on April 4, Palm Sunday. Eight of those soldiers died together in a battle with militia loyal to Shiite cleric Muqtada al-Sadr in Sadr City, a Shiite

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

slum on the outskirts of Baghdad. The soldiers were part of a quick response team that rushed to rescue a platoon pinned down by gunfire in Sadr City.

Seven of the eight were members of the Army's 2nd Battalion, 5th Cavalry Regiment, 1st Cavalry Division. They had been in Iraq less than 3 weeks. They were: Specialist Casey Sheehan, 24, from Vacaville, CA; Specialist Dustin Hiller, 25, of Opelika, AL; Specialist Ahmed Cason, 24, of McCalla, AL; Corporal Forest Jostes, 22, of Albion, IL; Sergeant Yihjyn Chen, 31, from Saipan, Marianas Protectorate, who spoke five languages and became a U.S. citizen in the Army; and Private First Class Robert Arsiaga, and Specialist Israel Garza, two West Texans, both 25, both married, who became best friends at Fort Hood.

At a memorial service in Baghdad for the fallen seven, their Battalion commander, Lieutenant Colonel Gary Volesky, said, "Uncommon valor was common that day."

The eighth soldier killed in the firefight in Sadr City, Sergeant Michael Mitchell, 25, of Porterville, CA, was with the Army's 1st Armored Division. He had been in Baghdad for 11 months and had re-enlisted 3 months before he died. His father joined hundreds of other people marching in a peace rally in San Luis Obispo on the first anniversary of the war. Bill Mitchell told reporters, "I said, 'Bring my son home now.' I should have said, 'Bring my son home alive.'"

Seven American soldiers died in Iraq on Monday, April 5, Passover. Among them was Army Sergeant Lee Todacheene, of Farmington, New Mexico, a member of the Army's 1st Infantry medic unit. He was killed instantly when mortar fire hit his guard post in Balad.

Sergeant Todacheene was the nephew of Navajo Nation Vice President Frank Dayish Jr., through Dayish's wife, Virginia. He is the third Native American soldier to die in Iraq. Army Specialist Lori Piestawa, a member of the Hopi tribe killed last March, was the first woman killed in combat in the war. Sheldon Hawk Eagle, a member of the Cheyenne River Sioux Tribe in South Dakota, died last November.

Leaders of the Navajo Nation praised Todacheene as a "Navajo warrior" who "went to war not to hurt, but to help." His younger brother, Rydell, said, "He was proud to be in the U.S. Army and a medic. He was proud to be a Navajo. He believed he was doing some good in Iraq when everyone thought it was wrong. He was a quiet man. He was a strong man, a gentleman. He respected himself and everybody, He was generous and kind, and he loved his family above everything else."

Tuesday, April 6, was one of the deadliest days of fighting in Iraq since the fall of Saddam Hussein's regime. Thirteen Americans died in Iraq that day. Among them were two 18-year-old Marines, both killed by hostile fire in Fallujah.

Marine Lance Corporal Anthony Roberts, of Bear, DE, was a member of the Air Force ROTC in high school. In an interview with the Philadelphia Inquirer, his former ROTC instructor recalled Lance Corporal Roberts as "the rare recruit who seemed not to care about the steady employment, decent pay and educational benefits that the military offers. 'He only talked about serving his country.'"

Marine Private First Class Ryan Jerback was from Oneida, WI. He was killed by hostile fire in Fallujah. His father told the Green Bay Press Gazette that his son told him, "Dad, maybe I can go over there and make some change. Maybe I can do something with the people and show them that we're not animals here, you know?"

"He gave everything he had," his father said, "and it cost him his life."

Six American soldiers died in Iraq on April 7. Among them was Army Staff Sergeant George Scott Rentschler, of Louisville, KY. He was checking on his platoon members, who were working at a checkpoint, when a rocket propelled grenade hit the side of a tank in which he was riding. Iraq was his second war. He had also served in Bosnia.

His mother told the Louisville Gleaner, "He always told me that the only way he would get hurt was if they took a rocket to the side of his tank. That's what happened."

Staff Sergeant Rentschler had been scheduled to leave Iraq today. He was 31 years old. He leaves a wife and two sons, ages 12 and 5.

Eight Americans died in Iraq on April 8, Holy Thursday. Marine Staff Sergeant William Harrell, 30, Placentia, CA, was one of them. He was killed by hostile fire in Fallujah.

His widow, Kelli, told the Associated Press that when she broke the news to her 7-year-old son, he asked her, "If (Daddy) just got shot, can't they help him?" She replied. "Daddy can't be helped right now. Daddy's with God."

Thirteen American soldiers died on April 9, Good Friday. Among them was Army National Guard Specialist Michelle Witmer, of New Berlin, WI, who died when her Humvee was ambushed in Baghdad.

Michelle's 24-year-old sister, Rachel, served in the same unit, the 32nd Military Police Company. Her twin sister, Charity, was sent to Iraq last year as a medic. The sisters and the rest of the Witmer family is agonizing now about whether they should rejoin their units in Iraq. Michelle Witmer was one of at least two women, and four National Guard members, killed this month in Iraq.

Eight American soldiers died in Iraq on Easter Sunday, April 11. Army Sergeant Major Michael Stack and Marine Lance Corporal Torrey Gray were among them. Sergeant Major Stack, a Special Forces soldier, was 48, a father of six and grandfather of three. Lance Corporal Gray was 19; he was on his second tour in Iraq. They both died from hostile fire, in separate incidents, in Fallujah. As word of Lance Corporal Gray's death spread through his hometown of Patoka, IL, a small town about 60 miles east of St. Louis, village officials put up the "Avenue of Flags," an observance usually reserved for national holidays.

Army Specialist Richard Trevithick, of Gaines, MI, was one of two U.S. soldiers killed in Iraq on April 14. The 20-year-old combat engineer died when an improvised explosive device exploded near his Humvee in the city of Balad. The explosion caused massive damage to his chest and killed him instantly. He had been in Iraq 2 months.

His father told the Associated Press, "You hear it, you process it, you understand the words, but the impact doesn't hit you. You wake up in the morning thinking it was a mad dream, then realize it was not."

As I said, I support our troops and what they are trying to accomplish in Iraq—under the most difficult of circumstances.

The reality is that this war requires almost no sacrifice for the overwhelming number of Americans. Our lives are undisturbed. But the Americans I pay tribute to today sacrificed everything they had. They are heroes and an inspiration. May we never forget and may we always cherish their valor and their sacrifice.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak up to 10 minutes each.

SUPPORT FOR OUR TROOPS

Mr. HATCH. Mr. President, I listened to the comments of my dear friend, the distinguished Senator from South Dakota. I share his grief and his concerns over how many of our young people have sacrificed their lives for all of us. There is no question about it; these are heroes to all of us. As the son of parents who lost their only other son in the Second World War, I know a family's grief over such a devastating loss. We know what it is like to have a son missing in action and, whose remains were found 2 years later. Our family had to go through all of the pain, difficulty, grieving, and remorse. But all of that didn't take away the fact that my brother, Jesse Moreland Hatch, was a great hero like so many others who died in all of our wars, but in World War II in this particular case, and the 50,000-plus young men and women who died in Vietnam.

These young people are doing the Lord's work. They deposed a tyrant that killed hundreds of thousands of his own people and threatened the whole Middle East, and, by his association with terrorists at war with us, threatened us. Our heroes are fighting to bring stability to the Middle East, and they have put pressure on all of the tyrannies of the Middle East. They have taken a stand against tyranny, against terrorists, and for the prospect of decent societies throughout that region.

I have seen letter after letter of people who have served in Iraq who have made it very clear that the work they are doing is work for all of us, and we ought to be proud. They are helping people to find themselves in decent and safe societies. They are helping people down the road to freedom. They are helping people who have never understood what it is like to have a free market economy. They are helping people for the first time in their lives to have some sort of hope that they might be free—and free from brutality, terrorism, vindictive treatment, murder, and death.

Our young men and women understand that what they are doing is very important; and it is important for everybody in America to stand with them. It is important for everybody in America to realize that we pay extraordinary costs, borne by the families who lost their loved ones in order to stand up for freedom.

In this particular case, I think it is pretty hard to make a case that we shouldn't be there. It is pretty hard to make a case that we shouldn't have deposed Saddam Hussein. It is pretty hard to make a case that we shouldn't be trying to bring some sort of representative form of government to Iraq and, therefore, the whole Middle East. It is pretty hard to oppose the fact that our young men and women are serving with distinction for a good cause. It is pretty hard to make some of the ridiculous arguments that have been made by those who are opposed to U.S. involvement anywhere.

I want to pay tribute to these young men and women who are serving over there, and also to the civilians who are serving over there. They may be getting paid for their jobs, but it is a dangerous place—at least some areas are very dangerous—to be. But what they are doing is critical to our security. I think they deserve the applause of all of us and the support of all of us.

I hope all of our colleagues will always continue to support not only our troops over there but also our President who has all that any President really needs to handle.

OAK HILL

Mr. DEWINE. Mr. President, I will take a few minutes today to report on the very shocking and troubling situation right here in our Nation's Capitol. I am speaking of the situation of the District of Columbia's juvenile detention center known as Oak Hill.

Right before the Easter recess I visited the center. Also, as chairman of the Appropriations Subcommittee on the District of Columbia, I held a hearing to review the operations of Oak Hill. Actually we held the hearing first. As a result of that hearing, I then made a point to personally visit Oak Hill. Based on what I saw at this juvenile facility and the testimony we heard at a hearing, it is clear to me Oak Hill is not meeting the needs of the children it serves, that the conditions there are abysmal to say the least, and this place simply needs to be shut down once and for all.

At our hearing the inspector general for the District of Columbia released a comprehensive report about the situation at Oak Hill. Let me mention some of the more egregious deficiencies outlined in that report. First, illegal drugs such as marijuana and PCP were regularly smuggled into Oak Hill in the past. In some cases, youth correction officers in the past were the source of some of the illegal substances. That is a rather shocking thought, that the correctional officers were the sources of some of these illegal drugs actually coming into this juvenile detention facility. Substance abuse treatment contractors actually refused to renew contracts because Oak Hill was unable to stop the influx of drugs.

They also found some youths entering Oak Hill drug free actually started taking drugs once they were inside the facility because they had easy access to drugs there.

They also found the Youth Services Administration, which runs Oak Hill, wasted millions of dollars on contractors who did not provide any meaningful services or deliverables.

During this hearing Senator LANDRIEU and I held, the director of the Public Defender Service of the District of Columbia testified the Youth Services Administration has failed to protect youths from harm while under its care. For example—this is a very sad story—last year a 12-year-old held at Oak Hill overnight, not accused of any crime, was placed in a room with two other children. This 12-year-old was sexually assaulted by one of the other youths.

Several months later a 13-year-old was arrested and held at Oak Hill waiting for shelter space to be available. The 13-year-old was placed in a room with the same child who had committed the sexual assault before on the 12-year-old. Not surprisingly, another sexual incident occurred and there was another victim; this sexual predator had another victim.

Furthermore, I understand this practice of assigning more than one child to a room has led to the commingling of status offenders, kids who are runaways or truants—commingling them with delinquent youth as well as detained committed youths. For example, these practices led to a child detained as a truant and a runaway being housed in the same room as a youth detained on charges of negligent homicide. That simply is not right. It is not good practice. It is not permitted and should not have been allowed. Amazingly, these are only the latest in a long list of deficiencies with the Youth Services Administration that stretches back at least 19 years. Indeed, it was 19 years ago this month the Public Defender Service filed a complaint against the District for failure to protect youth under its custody. Year after year, the city has fallen short of the court's "Jerry M. Decree," which is the name of the court decree, and is now facing the prospect of being taken over by a court receiver. Equally amazing, some estimates are it costs nearly $90,000 a year to house a child at Oak Hill. But even more astounding than that is when I visited this facility a little over a week ago and asked the interim administrator and the interim special counsel from the Youth Services Administration who gave me the tour how much it cost to house a child there, they simply could not give me an answer. Their answer was they did not break out how much it cost to run Oak Hill from a total cost of the whole Youth Services Administration.

I find that to be astounding frankly. They did not know. They could not give me a breakout so they couldn't tell us what Oak Hill cost to run a year and therefore obviously they couldn't tell us whether the $90,000-a-year figure, which is what we believe it costs to house a child there for a year, is an accurate figure.

I visited many youth detention facilities in Ohio in my public career. I was Lieutenant Governor of the State of Ohio and had the opportunity to visit, I think, all of our juvenile facilities during the 4 years when I was Lieutenant Governor. I was a county prosecuting attorney. I learned a lot about these types of centers. I know what they do well and what they do not do well. I can tell you with certainty there are several things they are not doing very well at Oak Hill right now.

The buildings are decrepit. They are falling apart. Important services such as substance abuse treatment programs are certainly piecemeal at best. Children who are detained and awaiting trial are commingled with those who are committed offenders. In fact, I learned one girl who was committed merely because she is a truant has been housed with committed delinquents since October. This, I understand, is in violation of the D.C. Code.

What is particularly troubling is what happens sometimes is the teenagers who are in foster care or group homes run away because they are being victimized by other youths in the same home or they run away for other reasons. Once these children run away or are truant from school, for example, they are labeled delinquents and they are often picked up and sent to Oak Hill. So neglected youths who are failed by a broken foster care system now find themselves locked up and labeled juvenile delinquents and then are commingled in Oak Hill with dangerous delinquents at a place where they are currently able to get ready access to illicit drugs. What a horrible situation.

The Federal Government contributes about $15 million annually to the District's Youth Services Administration, which administers Oak Hill. The YSA would be eligible for even more Federal funding if it had a qualified drug treatment program in place. A large number of the children at Oak Hill have a substance abuse problem. That should not surprise us. It is what I would expect. What I did not expect is to go to Oak Hill and find very little, if any, substance abuse treatment in place.

In all fairness, when we went out there we were told substance abuse treatment was on the way, that a program was going to be started. But there was not much going on at all when we were there and there was a promise of something happening in the future. But that is what it was, a promise.

Clearly, Congress has a vested interest in assuring the proper use of the money we provide. We have, more importantly, a moral interest in ensuring the proper treatment of youths at Oak Hill.

After touring the facility and after hearing from expert witnesses and after reading the November 6, 2001, recommendation of the Blue Ribbon Commission on Youth Safety and Juvenile Justice Reform in the District, I believe Oak Hill should be closed. The children of the District of Columbia deserve better. The communities to which these youths will one day be returned deserve better. It is our duty to work hard to rehabilitate these young offenders who have, frankly, often been failed by their parents and, yes, overlooked by their communities.

Not only do I recommend that Oak Hill be demolished, but I expect to see the Mayor develop a comprehensive plan afterward so the problems at Oak Hill are not repeated elsewhere. Just this past Thursday, Judge Dixon of the Superior Court of the District of Columbia found that the District is in contempt of court regarding Oak Hill having violated numerous provisions of the "Jerry M. Decree." Because of this contempt finding, the city will be fined $1,000 per day and may be subject to additional sanctions.

It is our hope these sanctions and this court order will push the city towards addressing the intractable problems at Oak Hill. As I have already stated, trying to fix this broken facility is, in my opinion, a waste of time and a waste of money and is futile. We have waited 19 years for improvements. Yet no one has stepped up to take the lead. If no one does, the problems at Oak Hill will continue.

The blue ribbon commission recommended that Oak Hill be shut down. Judges have recommended that it be shut down. And now it is time for the District to step to the plate, take the lead, and shut this place down once and for all.

Let me make one final comment in conclusion. When I was the Governor of Ohio, I visited every juvenile facility and every adult facility in Ohio. I don't pretend to be an expert in this area, but I think I know something about it. What has happened at Oak Hill over the last few years is that the District knows the place eventually is going to be closed. So every problem they see, they look at it and they say, Well, there is no reason to put money into fixing this problem or to fix that problem. So it keeps getting worse and worse. It is sort of like a house you know you are going to bulldoze down in a few months, and you are not going to fix anything. Yet the District, for some inexplicable reason, does not have the will to shut this place down—to pull the plug and say enough is enough.

After touring this facility, I am saying enough is enough. It is not fair to the kids who are being sent out there. It is not fair to the employees who have to work out there. And it is not fair to the taxpayers to continue to put money into this facility. This facility has to be shut down. The District has to move forward. It is in the best interests of the children of the District of Columbia to do so.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to speak for as long as I need.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE FAIRNESS IN ASBESTOS RESOLUTION ACT OF 2004

Mr. HATCH. Mr. President, I rise in support of S. 2290, the bipartisan Fairness in Asbestos Injury Resolution Act, appropriately called the FAIR Act. Let me talk about the problems for a minute. I think I am stating the obvious, but it bears repeating.

Our country is faced with an asbestos litigation crisis of unparalleled magnitude. Something is terribly wrong when asbestos victims who suffer from debilitating injuries recover mere pennies on the dollar while people who are not sick and never have been sick a day in their lives from asbestos recover millions. Something is terribly wrong when scores of companies, many which never produced a shred of asbestos fiber, are forced into bankruptcy triggering lost jobs and depleting pensions for those who lost their jobs. Something is terribly wrong when the only real winners in the current system are the handful of personal injury lawyers who walk to the bank with billions of dollars in fees.

Members may have heard the statistics before, but I will say them again so that everyone knows the scope of the problem facing this country. According to the Rand Institute for Civil Justice, more than 730,000 people have filed claims, with a sharp increase in filing in the last 10 years. More than one million claims are expected to be filed in the near future. The Rand study states the reason for this dramatic rise in claims is that through the 1980s, claims were filed only by the manifestly ill. Beginning in the 1990s, about two-thirds of the existing claims were and still are filed by people who are unimpaired, who are not sick. Listeners, you heard correctly. Astonishingly, the great majority of asbestos lawsuits are brought by those who are not even sick.

This has led to an unacceptable division of resources to the wrong people. Nonmalignant claimants take over 60 percent of the compensation, leaving mesothelioma victims with only 20 percent. Worse yet, many mesothelioma victims are not able to recover any money at all because the companies they would have sued are insolvent.

The fact is, unscrupulous personal injury lawyers are abusing the system and getting a windfall in fees. They know the companies, even ones with the most remote connections to asbestos, are fearful of runaway verdicts. They exploit the uncertainty these tangential companies face in the current system by overwhelming them with huge numbers of unimpaired claims in order to force massive settlements. I might add that many of these companies have never had anything to do with asbestos, but they are stuck defending themselves at a tremendous, humongous cost because of what is going on. The result is the personal injury lawyers—and it is a small percentage of the American Trial Lawyers Association, a very small percentage of these personal injury lawyers—are reaping huge portions for themselves: over $20 billion so far in attorney's fees alone in asbestos litigation thus far.

One actuarial firm estimates that personal injury lawyers are expected to siphon more than $60 billion out of asbestos litigation before it is over. It is no wonder that the personal injury lawyers are fighting tooth and nail to keep the golden goose alive. These fees detract from the moneys that should go to those who are truly sick, especially the mesothelioma victims. Their tactics are not just about buying private planes and sport teams and huge mansions while the personal injury lawyers are busy making themselves into millionaires, multimillionaires, in some cases billionaires; they are depriving the truly sick of available resources.

Let me tell Members about a pipefitter from Illinois. I learned his story from his daughter who lives in the State of Washington. A World War II Navy veteran, he joined the pipefitters union in Chicago and worked at several locations in the Midwest, including sites in Illinois, Indiana, Michigan, and Wisconsin. It was during this period that he was repeatedly exposed to asbestos. Eighteen years ago, at the age of 61, he learned he had mesothelioma. Understanding the medical quagmire he faced and the consequences for his family, he quickly filed suit against those he believed were responsible for his exposure. Sadly, just months later, as with all mesothelioma victims of this virulent form of cancer, he died.

His case was lumped together with others, many of whom were not as sick as he, and some of whom were not sick at all. For years, nothing happened. It simply gathered dust on the docket. Eventually, it was transferred from Illinois to Pennsylvania. It has now been 17 years since his case was filed. Think about that. He never got to have his day in court. His widow is still waiting, 17 years later.

What would happen in his case if S. 2290 is enacted? First, because he had mesothelioma, his estate would be paid $1 million. It would be paid on an expedited basis. Second, his claim would have been evaluated and processed in a matter of months, not decades. Third, he would not be forced to give up half of the awards—moneys desperately needed for medical bills, treatment, and all of the economic and personal losses that afflicted his family—to his lawyers.

What is wrong with the asbestos litigation system? This Navy veteran with mesothelioma got zero out of this tort system. Out of the FAIR Act, he would get $1 million. He would not even need an attorney to get it. He would not have to pay 50 percent to attorneys. That is the way it should work.

Let me mention the case of Rick Napier who suffers from asbestosis. He has trouble breathing. He cannot even walk without great difficulty because of the disease. He no longer has the lung capacity he needs for physical labor, let alone normal, everyday activities. Rick Napier worked for W.R. Grace for 3½ years until he was laid off. He was a skip operator. He ran small cars that carried ore up and down the hills of Libby, MT. He has lived in Libby for 55 years and knows, as do his neighbors, that asbestos is everywhere in the area. It is in the gardens and yards of places at work, homes, playgrounds. It is everywhere.

Four years ago, Rick was diagnosed with asbestosis. He filed a lawsuit but was told, despite his illness, there was really nothing that could be done. W.R. Grace has gone bankrupt. There is no one left to sue, no one left to compensate him for his illness. The current tort system has failed Rick Napier. Unless we pass this legislation for a national, privately funded trust for compensation based on illness and not on the solvency of the defendant company, we continue to fail Rick Napier and many others like him. Without it, we leave Rick Napier and the rest of the victims in Libby, MT, with no resource, no relief, and no hope.

What is wrong with asbestos litigation? Compensation for victims like Rick Napier under the current tort system is not always available if the company he could sue to receive some compensation is bankrupt. Under the FAIR Act, he would get compensation even though he is no longer with us. It is high time we put victims first.

I would be remiss not to mention the staggering toll the asbestos litigation problem has also inflicted on our economy. As the number of claims continues to rise, at least 70 companies to date have already been forced into bankruptcy. Meanwhile, the number of companies pulled into the web of this abusive litigation is on the rise, many of which have little, if any, culpability. These business bankruptcies translate directly into lost jobs, lost pensions, and weaker financial markets. It is a detriment to our country.

According to a letter from the nonpartisan Academy of Actuaries:

> . . . bankruptcies of corporate asbestos defendants have affected 47 states, resulting in the loss of 52,000–60,000 jobs, with each displaced worker losing $25,000-$50,000 in wages and 25% of their 401(k).

I ask unanimous consent this letter from the American Academy of Actuaries be printed in the RECORD.

AMERICAN ACADEMY OF ACTUARIES,
Washington, DC, March 24, 2004.

Re asbestos.

Senator BILL FRIST,
Marjority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: The Mass Torts Subcommittee of the American Academy of Actuaries published a monograph, "Overview of Asbestos Issues and Trends" in December 2001. The Academy monograph is currently being updated. Meanwhile, as S. 1125 nears debate on the Senate floor, I am pleased to provide this letter, which provides a brief summary of some of the key points regarding asbestos litigation.

The asbestos problem, initially recognized decades ago, is not going away.

Exposure to asbestos has been linked to malignant diseases including mesothelioma, lung and other cancers, as well as nonmalignant conditions such as asbestosis and pleural injuries.

Asbestos use was widespread in the United States for decades, and although exposure levels have declined significantly since OSHA requirements were implemented, asbestos use is still legal in the United States today.

The number of claimants filing lawsuits annually has increased dramatically in recent years and shows no signs of a return to prior levels experienced during the 1990s. Most of the increase in claim filings relate to individuals who are not functionally impaired.

Approximately 730,000 claims were filed through 2002 and estimates of the ultimate number of claimants range from 1 million to 3 million.

Many believe that some current claimants are not being compensated fairly or promptly. Additionally, there are widespread concerns that funds will not be available to compensate future claimants.

The size of recent awards made to settle claims has also increased. In turn, contributions paid by individual corporate defendants and their insurers/reinsurers have increased. Additionally, demands against solvent defendants have reflected upward pressure to cover amounts that are no longer funded by defendants that have sought protection from asbestos litigation through Chapter 11 bankruptcy petitions.

At least 70 companies have sought bankruptcy protection due to asbestos litigation to date. Further, recent bankruptcy filings (i.e., pre-packaged petitions) have exacerbated inequities in the asbestos litigation system.

The number of corporations named as defendants in the litigation has grown dramatically. Asbestos claimants typically name 60 to 70 defendants in each lawsuit. While approximately 300 companies were sued in the 1980s, RAND estimates that approximately 8,400 companies had been sued as of 2002. The potential culpability of this expanded list of defendants is significantly different from the initial group of companies that mined or manufactured asbestos products, knew of it dangers, and failed to protect and/or warn their workers.

Direct costs are significant—estimates of ultimate costs relating to U.S. exposure to asbestos range from $200 billion to $265 billion. More than half of the costs relate to plaintiff and defense attorney fees.

Indirect costs are also large: Bankruptcies of corporate asbestos defendants have affected 47 states, resulting in the loss of 52,000–60,000 jobs, with each displaced worker losing $25,000–$50,000 in wages and 25% of the value of their 401(k); For every 10 jobs lost in an asbestos-related bankruptcy, an additional 8 jobs are lost in the surrounding community; and Failure to enact legislative reform could reduce economic growth by $2.4 billion per year and cost 30,770 jobs annually.

The U.S. Supreme Court has twice overturned efforts to resolve the litigation through class action settlements (Georgine and Fibreboard) and has called upon Congress to address the situation.

Various reform measures have been enacted or are being considered at the state level, such as: Imposing medical criteria to bring a claim; Creating inactive docket systems to preserve the rights of individuals who are not currently impaired; and Addressing consolidation, joint and several liability, and venue issues.

However, it is difficult to implement meaningful changes on a state-by-state basis, and as long as some states are perceived as plaintiff friendly jurisdictions and claims remain portable, forum shopping will be a problem.

Several asbestos-related bills were introduced in the 108th Congress, and the issue of federal reform to the asbestos litigation crisis deserves careful attention. Thank you very much for your consideration of the information presented herein. Please do not hesitate to contact Greg Vass, the Academy's Senior Casualty Policy Analyst, at (202) 223-8196 if you have any questions or would like additional details.

Sincerely,

JENNIFER L. BIGGS, FCAS, MAAA,
Chairperson, Mass Torts Subcommittee.

Mr. HATCH. The Rand Institute estimates this litigation eventually will result in 430,000 lost jobs. These are pretty good jobs. In fact, very good jobs. It is because of the very serious problems that I stand here today to express my steadfast support for the legislation we are on the verge of considering, if our friends on the other side will allow us to consider.

We will make a motion to proceed, and hopefully they will not block a motion to proceed because we ought to debate, we ought to look at amendments, we ought to do what has to be done. We ought to perfect this bill if we can. It is about as perfect as I think we can get it under the process so far. It is a darn good bill and would certainly do a lot of good for people.

I turn for a moment to the comparison of the current tort system and the FAIR Act. This is why we should pass the FAIR Act. Under the current tort system, even the Supreme Court Justices have described it as jackpot justice; under the FAIR Act we have certainty.

Under the tort system, we have a litigation lottery really, in real terms. Under the FAIR Act, it is a no-fault system. You do not even need attorneys to recover. Under the tort system, you have "magic" jurisdictions; in other words, jurisdictions where you can go where the judges are corrupt and the juries do not care how much they award the people who don't deserve it. In other words, there are special jurisdictions in this country where that happens.

Under the FAIR Act, you have a system of fairness. Under the tort system, we are pushing companies into bankruptcy. Mr. President, 8,400 companies have been sued, with over 300,000 claims, as I have mentioned. Many of those companies are going to have to go into bankruptcy if we do not solve this problem, which even the Supreme Court has asked us to do. Under the FAIR Act, these companies would remain solvent.

Under the current tort system, we have decades of delays, as I have mentioned. Under the FAIR Act, we would have expedited payments in a number of months.

It is hard to imagine that anyone cannot see the benefits of the FAIR Act over the current system. I understand why the personal injury lawyers who are handling these asbestos cases do not want this to happen. Of course, they are going to make upwards of $60 billion, right out of the pockets of the people who deserve those moneys, where we give them to the people who are injured.

Let me talk about the particulars of what the bill does. S. 2290 would provide fair and timely compensation to asbestos victims and certainty to American workers, retirees, shareholders, and, of course, our whole U.S. economy. Hardly anything would do more for our economy than the FAIR Act right now. It would establish a privately funded, no-fault, national asbestos victims compensation fund to replace the broken tort system and ensure that individuals who are truly sick receive compensation quickly, fairly, and efficiently.

The legislation retains the bipartisan agreement on medical criteria that was approved by a unanimous vote in the Judiciary Committee. These criteria form the basis of a no-fault victims compensation fund that will stop the flow of resources to the unimpaired and ensure that the truly ill will be paid quickly and fairly. S. 2290 also contains improvements made to its predecessor, S. 1125, that have been developed over the last several months during extensive negotiations by the stakeholders.

S. 2290 includes a number of new provisions that ensure the fund will be set up, processing and paying claims quickly. First, it places the office within the Department of Labor in order to utilize its existing infrastructure and experienced personnel to facilitate a faster startup. In order to allow the office to begin accepting and processing claims in short order, the legislation requires the enactment of interim regulations and procedures within 90 days after the date of enactment, including the expedited processing of exigent claims.

To avoid potential delays associated with the appointment process, the legislation grants interim authority to an existing Assistant Secretary of the Department of Labor until the new Administrator is appointed. To ensure that adequate initial funding will be available to meet demand, the bill provides for up-front funding from fund participants, as well as increased borrowing authority. These new provisions address concerns that claimants must have speedy access to the fund while halting the admittedly broken tort system that continues to divert scarce resources away from the sick to the unimpaired.

S. 2290 also includes revised funding provisions. It establishes a fund that can pay $114 billion in claims, with an additional $10 billion in contingent funding available from defendant companies—these 8,400 companies. Money required to go to the fund from defendants and insurers is assured over a period of 27 years.

Defendant participants, for example, guarantee their funding obligations through a grant of authority to the Administrator to impose a surcharge in any year where moneys received fall short of the annual requirements. In addition, S. 2290 provides up to $300 million annually in hardship and inequity adjustments that may be granted by the Administrator among defendant participants. Money from insurers is front-loaded for the early years of the fund where the most stress on the system is anticipated.

Enforcement provisions have been strengthened to help the Administrator go after recalcitrant participants. Additional safeguards to insure the funding have also been added, such as establishing a priority for payment obligations to the fund in State insurance receivership proceedings.

Based on the funding now available under S. 2290, increased compensation will go to claimants. Claims values have been increased in several disease categories over the levels approved by the Judiciary Committee in an overwhelmingly bipartisan vote. We have even gone beyond those claims values. Furthermore, S. 2290 now provides reimbursement for out-of-pocket costs of physical examinations by claimants' physicians, as well as costs for x rays and pulmonary function testing for level I claimants.

Let me talk about the bill.

Unfortunately, some Members on the other side of the aisle want to block us from proceeding to the bill—even proceeding to the bill. Even on a motion to proceed, we have heard there may be a filibuster. Well, I am not surprised by these obstructive tactics. We have been getting used to them over the last 3½ years. I find it truly regrettable, given the tremendous importance of this legislation to our country.

I find this type of obstruction particularly troubling because without the FAIR Act more and more Americans are certain to lose their jobs. Anyone who is serious about preserving jobs should be actively helping us move forward to the consideration of this bill. I have heard a lot of mouthing off by Presidential contenders in this matter, that jobs are the most important issue. Where are they when it comes to voting for jobs that this bill would provide and for the preservation of jobs that this bill would provide?

Anyone who is serious about preserving jobs should be actively helping us on this bill. They should not be standing in its way. But the personal injury lawyers are a powerful force, and some on the other side of the aisle are willing to hear the voice of the personal injury bar over hard-working

Americans who want to keep their jobs and pensions.

I might mention that a lot of trial lawyers are very unnerved by this. They see the injustices going on here and they themselves decry it. It is a small percentage of the American Trial Lawyers Association who are doing this. Many other top-notch trial lawyers are very concerned.

Now, to legitimize the obstructive tactics of these lawyers and the other opponents, opponents of this bill argue the legislation is completely different from the one we reported from the committee last year. This argument particularly lacks merit because the bill retains the core features of the legislation that was introduced as S. 1125 and subsequently marked up in the Judiciary Committee.

Again, we have taken steps to ensure the solvency of the fund. As I mentioned, we replaced some contingent funding by calling for more up-front funding, extended borrowing authority and guarantees for funding, among other added funding safeguards—all of which are additional strengths to the bill that we passed out of the committee.

The fact is, this bill we are about to bring up continues to create a fair and efficient alternative compensation system to resolve the claims for injury caused by asbestos exposure. The fund is still capitalized through private contributions from defendants and insurers, and compensates victims under the very same medical criteria that we reached on a bipartisan basis last year. The bill still brings uniformity and rationality to a broken system so that resources are more effectively directed towards those who are truly sick.

Indeed, this bill still preserves no less than 53 compromise measures demanded by Democrats last year when this bill moved through committee—53 changes we made in the bill that we thought was pretty good to begin with, all to accommodate our friends on the other side. In fact, it adds many more provisions requested by Democrats and labor unions. And while this bill contains certain modifications from earlier versions, the modifications represent dramatic improvements to controversial measures that all interested parties had ample opportunity to discuss and work out after S. 1125 was reported from the Judiciary Committee.

While the Judiciary Committee reported S. 1125 favorably from the committee on a near party-line vote, the markup produced some measures that required retooling. These measures jeopardized any meaningful chances of getting the bill passed into law. If not for the tireless efforts of our distinguished majority leader and Senator SPECTER, this bill would have achieved what its opponents have yearned for all along—a dead bill.

But through the stewardship of Senator SPECTER and Chief Judge Emeritus of the Third Circuit, Edward R. Becker, we were able to provide a forum through which the major stakeholders provided invaluable expertise and solutions with respect to the remaining controversial issues left on the legislation, such as fund reversion, startup, and administrative process.

This group, which included representatives from labor unions and industry, among others, met dozens of times in the last 8 months. Our staff was there throughout working with them. This process proved to be not only insightful but also very helpful in resolving many of the key differences in this legislation. Through the leadership of Senator FRIST, we were able to get the insurers and the defendants to agree on an even more equitable funding allocation and, among other things, provide for more flexible borrowing authority and front-loaded funding to address the anticipated flood of claims that would come through the fund during its early years, something we would have liked to have done before but which we have done now.

Opponents of this bill have also justified their obstructive tactics by passing misinformation about this bill. First, some Members on the other side of the aisle have stated repeatedly that bill does not provide enough money. I find these statements to be misleading and a stark contrast to several studies of future asbestos-related costs under the current system. For example, one study shows the highest reasonable estimate of prospective costs, the Milliman study, would result in approximately $92 billion for victims after attorney's fees and expenses.

In yet another study, commissioned by Tillinghast-Towers & Perrin, future amounts to compensate victims are estimated at $61 billion after attorney's fees and expenses.

As you can see from this chart, Asbestos Victims Compensation, this is in billions. Under the current tort system, the dark blue, $41 billion—let's take the Tillinghast figure, the top circle on that side—will go to trial lawyers for fees. Twenty-eight billion will go to defendant lawyers for defending these cases. Better than half the money is going to go to lawyers. Those are the Tillinghast estimates, which I believe are quite accurate. Only $61 billion will go to potential future plaintiff compensation or to those who are really sick and some who aren't sick.

Let's take the bottom, the Milliman study, $61 billion will go to the attorneys, the personal injury lawyers; $42 billion would go to the defense lawyers, defending these companies and insurance companies, although there are very few insurance companies involved; $92 billion would go to the victims.

Under the FAIR Act, only $2.5 billion would go to the trial lawyers, and the full $111.5 billion would go to the victims. I don't see how anybody could argue against that. I might add, on top of that would be another $10 billion in contingencies, if the $111.5 billion or the total of the $114 billion does not solve the problem.

These other two say it would solve the problem, that lesser amounts—and these are estimates by top-flight actuarial firms—that it would solve the problem with lesser amounts than what we are willing to put in the trust fund. Under the FAIR Act it is estimated claimants will receive 95 percent or more of the total funds under the no-fault nonadversarial system this bill amounts to. This means the FAIR Act fund, which would be able to pay more than $120 billion in awards, will allow claimants to take home well over $100 billion. This is more total money than they are projected to receive under the current tort system.

But it is not just more money in the pockets of victims. It is faster and more compensation as well. The difference is, the personal injury lawyers won't get as much money out of it, but there is still $2.5 billion there for them for cases that are like rolling off a log. We anticipate the claimants will not have to endure years of discovery battles between the defense and plaintiffs' lawyers and endless litigation before they get paid. As I have shown in one case, 17 years old; others are up to 20 years old and still no compensation for the victims who have died long since and the families have suffered all those years.

Currently, whether some victims get paid depends on the solvency of the business. But under the FAIR Act, these victims will no longer have to go without payment. These are the ones where their companies were insolvent.

It is time to end the current system of jackpot justice where only some win and many lose. The some who win in many cases don't deserve to win because these personal injury lawyers go into renegade areas where they know the judges are either corrupt or totally in their pocket and they know there are runaway juries. That is how everybody loses except for those who are not sick or getting these huge multimillion dollar awards out of these unfair jurisdictions.

Opponents of this bill have also argued there are inadequate safeguards to insure the solvency of the fund. My response to this is very simple: Baloney. This fund, which is funded at the highest reasonable claim rate scenario, is equipped with many mechanisms to ensure the pay-in and payout requirements are met. Once again, this includes more flexible borrowing authority against future contributions, front-loaded contributions from insurers, and contingency funding of $10 billion additional to the $114 billion. To be absolutely certain, this bill also includes guaranteed surcharge and orphan-share reserve accounts which set aside money to grow and pay for unexpected shortfalls and empowers the Attorney General to enforce contribution obligations. On top of all these safeguards, if the fund still becomes insolvent, claims would revert back to the tort system, a provision Democrats insisted be part of the bill as the ultimate protection. It is not going to be needed, but it is in the bill, trying to accommodate, once more, demands on the other side.

Given that this bill is a clear net monetary gain for legitimate victims and provides payments faster and with more certainty, I am at a loss to explain why anybody would object to this bill. The unions that continue to oppose the bill risk throwing away the last best chance to compensate fairly those who are truly sick and provide some protection to those whose jobs and pensions are at risk because of the asbestos litigation crisis, because their pensions are going to be lost as more companies go into bankruptcy, forced into it by the phony system we currently are undergoing.

Quite frankly, the only entity that stands to lose under this bill is the handful—and it is a handful—of personal injury lawyers who have guzzled more than $20 billion of the costs incurred on this issue as of the last year—$20 billion. No wonder they want this gravy train to keep going. If the improved FAIR Act is passed, they will not be able to leverage unimpaired claims anymore to squeeze a projected $41 billion more for themselves from remotely connected companies by refusing a broken system. I am talking about the personal injuries lawyers. Defense lawyers who have to defend these cases are going to pull a huge amount of money out, too, as these cases go on for 20 years or more. I am all in support of compensating attorneys for the value of their work—no question about that—but when the lawyers get rich while diverting the valuable resources away from sick victims, something is wrong with the system.

You don't need me to tell you this. The Supreme Court thinks that is the case. Think tanks and other nonpartisan commentators have been saying that for years.

We have a serious problem on our hands that demands this body's full attention. I applaud our distinguished majority leader for his work in helping us this far and in bringing this bill to the floor because the time to act is now.

We have studied the asbestos problem at length for decades. We have held numerous hearings, considered various legislative proposals, and we even underwent several marathon markups in the Judiciary Committee last June. Over the past year, we met with our Democratic counterparts to assuage their concerns about the bill.

We have provided a meaningful 8-month mediation forum through which the major stakeholders could bridge different recommendations on issues critical to the bill. We provided one of the finest Federal judges in the country to preside over the negotiation. Judge Becker has done an excellent job. To the extent we were able to reach consensus on issues, the appropriate language is embodied in the bill before us. To the extent there are issues that remain unresolved, we ought to openly debate them on the floor of the Senate.

The time has come to stop talking about doing something and to take decisive action. Every day that passes is a day we withhold meaningful recovery to truly sick victims. Every day that passes is a day in which hard-working Americans at companies that had little or nothing to do with asbestos face decreased pensions and an uncertain employment future, with a real potential for loss of jobs. Every day that passes is a day we deny consideration of a comprehensive solution to one of the most plaguing civil justice issues of our time.

Mr. President, I have heard that some on the other side have said the one reason they really don't want to go ahead with the bill is not because they doubt its efficacy, or that it is right, or that they doubt the words I have been saying today; the real reason behind it, some have said, is that the personal injury lawyers are expected to put up at least $50 million or more for their Presidential candidate. It is not hard to figure out where they are going to get the money. It is going to be right out of the hides of these asbestos victims, many of whom have died. I hope that is not the case. I hope that is just a set of rumors, but it is coming up all too frequently.

Is that why we cannot even proceed to the bill? I have been here a long time and very few motions to proceed have been filibustered, except for a delay of a day or 2, and even then we have had very few. We have always been able to proceed to the bill.

I suspect the reason they are going to filibuster the motion to proceed is because it is a little more difficult to figure out by the general public that you are not on the bill yet, so a motion to proceed is just a procedural gimmick or gibberish. No, it is serious stuff. If we cannot proceed to the bill, we cannot get to the bill. Why would folks on the other side not want to get to the bill and try to improve it if they have improvements they would like to put up for a vote? We can vote on them. I am sure they will win on some of their improvements—if they are improvements—or even some things they want that are not improvements but might be deleterious to this bill.

Let's go to the bill and not continue this feckless filibustering of everything in the Senate, making a supermajority vote the absolute premise for everything they are doing. This is an important bill. We have worked as hard as we can with everybody concerned with it, from the trial lawyers, the personal injury lawyers, to the unions, businesses, insurance companies, to the victims. We have worked our tails off. There are some unions that support this bill. They realize their people will lose jobs and they will never get as much money. They realize the attorneys are taking too much out of this process. They realize it takes years and years to get just compensation—if that—to the women and children who are left behind from the mesothelioma victims. Most of those victims are already dead. Most of them work for companies that have already gone bankrupt. Their pensions are gone, their jobs are gone. Think about it.

In our medical criteria, we have provided hundreds of thousands of dollars for central categories of people who will never get mesothelioma, many of whom are not sick, many of whom have cancer but were ardent smokers most of their lives, where 99-to-1 their cancer came from smoking and not from exposure to asbestos. But in this bill, we give them the benefit of the doubt. Not only do those union members lose out on these moneys that will be very easy to obtain once they meet certain minimum medical criteria that everybody agreed to—Democrats and Republicans—but they will do it without huge attorney fees, and they will do it without knowing that their injuries came from asbestos exposure, when they probably did come from the excessive smoking they did all their lives. But we have given them the benefit of the doubt. They will do it without losing their pensions, their jobs. Their families will be better off.

To some of my colleagues on the other side, there is never going to be enough money, no matter what you do. But there are limits to what these companies can pay without going into bankruptcy. Like I said, 70 have already gone into bankruptcy and there will be many more if they don't resolve these problems. This bill will resolve them. It does it in a reasonable, decent, honorable way, and still provides $2.5 billion for lawyer fees. That is a lot of money for a no-fault system, even though those who have been raking in the billions of dollars—the very few lawyers—are giving other trial lawyers a bad image and are ripping off the system.

Having said that, there are trial lawyers in this country who deserve our respect, who are honest, who do not buy off judges, who do not abuse the system, who do not forum shop into these jurisdictions that you know are going to violate the basic strictures of society, giving huge verdicts to those who don't even deserve anything. These trial lawyers are people who basically help keep society straight.

Many of them were people who basically sued the companies that were most responsible for these problems.

But now we are coming down to a lot of personal injury lawyers who really should be ashamed of themselves. You have seen the ads in the newspapers and so forth. They are as trumped up as anything I have ever seen, and they are even on television. Nobody should exploit the suffering of others, including ourselves. We are trying to do our very best to make sure everybody who truly suffered gets just compensation under the circumstances. That is what this bill will do. We have worked hard to get it here and it is time that we pass it.

I hope my colleagues on the other side don't filibuster the motion to proceed. That should not be done on something this important.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GAS PRICES

Mr. WYDEN. Mr. President, like you, I was home over the last few days and very much enjoyed being with you, and I particularly enjoyed the honor we received from the Classroom Law Project. It has been a tremendous privilege to be able to team up with you on those kinds of initiatives.

I want to discuss one of the issues about which I heard a great deal and I am sure you did as well when we were home. Gas prices in Oregon have now hit an all-time high. Over this past weekend, folks in Eugene and Medford in particular were paying more than $2 a gallon. Of course in our State this works a tremendous economic hardship. Folks have to drive long distances in many communities, and particularly for small businesses it is of tremendous economic concern at this time.

In light of what I saw last night on the news program "60 Minutes," I want to talk for a few moments about a resolution I have introduced recently calling on President Bush to put some real heat on the Saudis and OPEC to increase oil production in order to help the kind of people I saw over this last week in Oregon who are getting mugged at the gas pump.

When I introduced this resolution recently, to put some real pressure, a full-court press on OPEC to increase oil production, I wrote a resolution that mirrored what a number of our colleagues offered during the years when Bill Clinton was President.

There was an objection to the Senate considering my resolution to start putting some pressure on OPEC and the Saudis to increase production. It seems to me given what a lot of us saw on "60 Minutes" last night, I hope some of our colleagues and friends on the other side of the aisle would now reconsider my resolution and reconsider their objection to it.

In an interview last night on the CBS news magazine, the Washington Post's Bob Woodward talked about the substance of a reported conversation between our President and Saudi Arabia's Ambassador to the United States, Prince Bandar. Reading a portion of Mr. Woodward's new book, correspondent Mike Wallace said last night, "Bandar wanted Bush to know that the Saudis hoped to fine-tune oil prices to prime the economy 2004. What was key, Bandar understood, were the economic conditions before a Presidential election."

I want to start my discussion this afternoon with the question, Should the United States allow a foreign power to decide our Nation's energy security? Certainly this is a troubling question.

It seems to me the pieces of the gas price puzzle are beginning to come together. I will tell you that I believe it forms a very troubling picture.

On March 31, the New York Times reported a senior official in an OPEC country as having said the United States is placing "very little" pressure on the oil cartel to increase gas prices. The Saudi official continued by saying of OPEC's discussions with the United States, "We're telling them, keep your mouth shut."

Days later, OPEC moved to ratify a 1-million-barrel-per-day production cut that would further drive up gasoline prices in our country. The Reuters news service then reported the Saudi Foreign Minister was asked whether the United States had expressed any disappointment over OPEC's production cut. The Saudi Foreign Minister said, "I didn't hear from this Bush administration. I'm hearing it from you that they are disappointed."

Last night on "60 Minutes," Bob Woodward told us the Saudi Ambassador indicated to the President that "certainly over the summer, or as we get closer to the election, they could increase production several million barrels a day and the price would drop significantly."

I can understand why the Saudis would want to cut production right before the heavy summer driving season, the period that is coming upon us. The Saudis want to boost their profits. I have always said OPEC is going to stand up for OPEC. Anybody who thinks OPEC stands up for the American consumer thinks Colonel Sanders stands up for chickens.

I understand the Saudis and that country are going to be interested in everything that will boost their profits. I can understand why any President would want gas prices to be low with an election coming fast. But what about what the American families want?

We know what the Saudis want. We know about the climate before a Presidential election. While the Saudis count the profits and the President counts on the word of the Saudis, American consumers are counting out more and more of their hard-earned dollars just to fill up at the gas pump.

When the market opened this morning, U.S. crude oil futures were $37.74 a barrel, which is about $8.50—or about 30 percent—higher than a year ago.

As I noted over this last weekend, Oregon families were paying an all-time high for gasoline. A number of our communities have seen prices of over $2 a gallon.

With gas prices through the roof, the administration should have pressured OPEC ahead of the cartel's planned reduction cut, and the President should have used his relationship with the Saudis to bring relief to American consumers.

Let me repeat that. You have the prices soaring through the roof. You have the administration with an opportunity ahead of time to put pressure on OPEC ahead of their planned production cut. Certainly the President has had the kind of relationship with the Saudis that would ensure they listen seriously, and yet we saw this morning's report indicating the White House had different priorities when it came to gasoline prices, OPEC, and the Saudis.

My view is there just isn't any substitute for leadership when our families are hurting financially. Unfortunately, we haven't seen it in recent days.

I call on the Senate once again to send a clear message that the American people come first. The President ought to be using his relationship with the Saudis to help reduce gasoline prices now—not at a time of his choosing or the Saudis' choosing. It ought to be at a time when it best meets the needs of our consumers, and that is right now.

I ask the Senate to once again consider my simple resolution. It parallels the one that was authored by our friends and colleagues now in the Cabinet, Senator Abraham and Senator Ashcroft, who were then serving in this distinguished body. The resolution I authored mirrors theirs to bring pressure to bear on OPEC and the Saudis to increase production. The Senate ought to be able to act at least as quickly on my resolution as it did on the one that passed in 2000. That was good enough for President Clinton, and it ought to be good enough for this President.

As I noted, we have had a number of our former colleagues in support of it. The previous resolution was introduced on February 28, 2000, and was passed on

March 27. I am very hopeful with crude oil prices at a 13-year record high the Senate will now apply the same principle in this administration that was applied in the Clinton administration. We ought to say on a bipartisan basis that every American President ought to have a full-court press in place in order to stand up for the consumer, to stand up to OPEC, and to speak up for our families who are getting clobbered at the gas pumps.

In conclusion, this morning I noted the White House had no comment on the Saudi promise to cut oil prices. They said, Well, you can ask Prince Bandar, and essentially said they weren't going to get involved.

I will say based on what I heard this weekend that standing on the sidelines isn't good enough. This is an area that the Senate ought to come together on in a bipartisan basis, the way it did in 2000. It is a key part of I think a comprehensive strategy to hold down gasoline prices.

I have been trying to get the Federal Trade Commission off the sidelines. Certainly a lot of these refinery shutdowns smell because they look more to be boosting profits than boosting competition. But today I come to the floor of the Senate, given that very troubling report last night on "60 Minutes" and say I think there needs to be a full-court press and a comprehensive push on OPEC in order to lower gasoline prices.

We have seen this troubling issue raised in the last 24 hours which makes me feel the question of how much pressure is being put on OPEC and when it is being put doesn't seem to be done in a way that is going to best get relief to the American consumer. The American consumer deserves to have a White House that is pushing now and pushing hard to get relief for the consumer at the gas pumps.

I hope my colleagues on the other side of the aisle will reconsider their objection to my resolution to urge OPEC to increase production and increase it quickly so it can be passed by this body on a bipartisan basis as soon as possible.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASBESTOS LITIGATION REFORM

Mr. DEWINE. Madam President, shortly, we hope to be taking up S. 2290, the asbestos bill. I have come to the Senate this afternoon to talk a little bit about the legislation. It is a good bill. It is a bill that, quite frankly, needs to be passed. I believe our civil justice system generally works very well. Like many of my colleagues on both sides of the aisle, I think our State and Federal courts are a vital part of our entire system of government. Our court system ensures a level of fairness and justice for our citizens that is second to none in the entire world.

Our civil justice system works well when we let juries decide disputes between two individuals or a limited number of parties. It usually works well in class action cases with large numbers of individuals with similar injuries caused by one or a handful of defendants. But we all have to admit our justice system is not perfect. It doesn't always work.

We all know our justice system has failed to deal with the asbestos crisis. I use the term "crisis" because that is exactly what it is. The system is not adequately protecting the rights of victims nor defendants. As things stand now, some victims are successful in getting jury verdicts that compensate them fairly. But many victims have no one to sue and receive perhaps 5 percent or 10 percent of the total value of their claims from asbestos bankruptcy trusts. That is not right. It is not fair.

On the other extreme, some victims receive huge awards or settlements that are way out of proportion to their injuries. The bottom line is, more and more victims face a risk of never being compensated for asbestos-related illnesses at all, ever.

It is our responsibility in the Senate to deal with this crisis. We must not wait any longer to act. I would like to take a moment to talk about why we have this asbestos crisis and why the courts are ill equipped to deal with it.

First, the sheer volume of claims is staggering. So far through the year 2002—the last figures we have—730,000 individuals have made claims for asbestos exposure, and the most recent Rand study estimates that anywhere between 1 million and 3 million total individuals could make claims in the future.

The second factor is the unusual nature of the illnesses caused by exposure to asbestos. As witnesses before the Senate Judiciary Committee testified, there is a long latency period between exposure to asbestos and the actual illness or impairment. People are exposed to asbestos for long periods of time and then don't show symptoms of illness for 25 or sometimes even 30 years. Not everyone exposed to asbestos ever gets sick, thank heavens. Yet our tort system requires a potential victim to file his or her claim for injury within a year or two from discovering the potential harm. What this means is the vast majority of people who are filing claims don't have any actual symptoms at that time, and many may not ever even get sick. Still they have to sue to protect their rights.

Third, many of those who are exposed to asbestos feel compelled to sue immediately because the number of financially sound potential defendants is rapidly diminishing. Someone who has been exposed to asbestos, even if he or she has no symptoms, may decide to sue now or take the risk that nobody will be left to pay a claim down the road.

Clearly, this system isn't meeting the needs of victims, and it also is causing tremendous problems for the business community. Candidly, asbestos liability is bankrupting many potential defendants as claims are now being brought against businesses that have a very remote connection to the manufacture of asbestos. So the impact of asbestos claims is overwhelming, not just to some of our Nation's largest companies but to our small businesses as well.

As a consequence, tens of thousands of workers, people employed by these businesses, are, in fact, being affected. Thousands and thousands and thousands of people are being affected. Employees and their families who never had any exposure to asbestos are, in fact, feeling the effects in lost wages, and for many of them lost jobs.

The impact in my State of Ohio is particularly severe. From 1998 to the year 2000, Ohio was one of the top five States in which asbestos litigants chose to file their suits. This is partly because Ohio is the home of many businesses that at one time or another used asbestos in products. It is also likely the result of a litigation strategy in which attorneys look for a court that has a history of allowing overly generous verdicts for claimants. This is known, of course, as forum shopping. But either way, literally thousands of companies have been named as defendants in our Ohio courts.

Out of 8,400 firms that have been named as defendants nationwide, over 7,000 have been named in cases filed in Ohio. Of the 66 or so companies that filed bankruptcy because of asbestos-related liability, more than 20 of these companies are headquartered or have significant facilities in Ohio.

Perhaps most important is the impact this has on jobs. More than 200,000 people worked for those bankrupt companies. Not every job was lost, but many were because of the bankruptcy and many employees were affected in other ways. It is simply devastating for an employee whose employer goes bankrupt—wages are cut, promotions are scaled back, and pension funds can be completely wiped out. Of course, many of these 200,000 employees are in Ohio.

Let me be clear—I believe that companies should be held accountable for their conduct. I am concerned, however, about the many companies that now find themselves held responsible for the actions of other companies. These companies employ thousands of people and contribute to our economy and tax base. No one, including the victims of asbestos, is served by the closure or dramatic reorganization of these companies. With both victims and employers at risk, we have no choice but to enact a legislative remedy to address this problem. We need to do something that protects the rights of those harmed by exposure to asbestos and allows businesses at least to predict how much this crisis will cost. "Predictability" is the key word for business. The FAIR Act provides that protection and predictability—protection for the victims and predictability for business.

Mr. President, I will respond to an ad campaign that paints the FAIR Act as nothing but a bailout for big companies that manufactured asbestos products. The ad includes some outrageous and indefensible quotes from asbestos company executives, and implies that Congress wants to bailout the companies that were the source of these quotes.

I want to try to set the record straight. But first, I want to say that I would not, under any circumstances, vote to bailout any company that intentionally harmed its employees. However, this bill is not about releasing big asbestos companies from liability simply because there are virtually no companies left that manufactured asbestos.

With one notable exception, they all went bankrupt. I'll talk about the exception in a moment, but let me tall you what the essential facts are with regard to asbestos manufacturing companies. Johns-Manville went bankrupt in 1982; 48 Insulations went bankrupt in 1985; Raymark went bankrupt in 1989; Celoteax went bankrupt in 1990; Eagle Picher went bankrupt in 1991; Armstrong World Industries went bankrupt in 2000; Babcock & Wilcox went bankrupt in 2000; Federal Mogul went bankrupt in 2001; Owens-Corning went bankrupt in 2000; U.S. Gypsum went bankrupt in 2001; and W.R. Grace went bankrupt in 2001.

Some of these companies had a lot to answer for with regard to the asbestos exposure; others manufactured asbestos products before the dangers were known. We don't need to judge their culpability, however. They no longer exist as companies that must account for their conduct with regard to asbestos. And, most importantly, this bill has little effect on these companies. It is clearly not a "bailout." Here's why.

In an asbestos liability bankruptcy, a majority of the assets of the company are put into a trust fund to compensate asbestos claimants. I want to note here that traditional creditors, such as banks, suppliers, and stockholders are the minority creditors and often get mostly shut out of recovery all together.

Please keep in mind that a company's stockholders often include the company's pension fund. This bankruptcy process eliminates all of a company's asbestos liability. If there is a "bail out" here, it is in the current bankruptcy code.

The Johns-Manville Company is a perfect example of an asbestos manufacturing company gone bankrupt. For years, Manville produced a whole range of products containing asbestos and had as much as one half the market share for manufactured asbestos products. They were the subject of intense asbestos litigation and filed for bankruptcy in 1982. All the assets of Johns-Manville were sold years ago and the proceeds are in the Manville Trust. Johns-Manville as it existed pre-bankruptcy is long gone. The Manville Trust exists solely to compensate victims of asbestos exposure.

In the real world, as it exists today, Johns-Manville's asbestos liability is limited to the assets which are held by the Manville Trust. Johns-Manville will never have to pay another dime for asbestos exposure, over what is currently in the trust. Under our bill, all the money in the Manville trust will be rolled into the national trust. Manville will not get a dime back; they will not save a single dime. And, they are not relieved from a single cent of their existing liability. This is true for all the asbestos manufacturing companies, which have gone bankrupt.

My point is that the suggestion that this bill bails out big asbestos manufacturing companies is almost silly—there are virtually no "asbestos" companies left to bail out.

And, I should note, the Manville Trust is currently paying claimants 5 cents on the dollar. So, the future victims of asbestos exposure whose only recourse will be against the Manville Trust do stand to benefit greatly by this bill. The truly sick individuals who only have claims against Manville will receive significantly more compensation under the national trust than they would from Manville.

Now, I mentioned an exception a minute ago. There is one company that could be considered an asbestos manufacturing company. The company is a large and diversified manufacturer. But, it had a small division that made pipe that included asbestos up until 1958, when the pipe manufacturing division was sold.

But, here is the key—to date, this company has paid more than $1.5 billion towards its asbestos liability—liability that is largely exhausted because it has not manufactured an asbestos product for 45 years. Nonetheless, under this bill, the company will pay hundreds of millions of additional dollars into the trust fund. Is this bill a "bailout" for this company? Clearly, it is not.

Mr. President, in addition to protecting the victims of asbestos exposure, at issue in this bill are small and mid-size businesses which did not manufacture asbestos products. These are businesses that provide needed jobs to Americans across the country—businesses that are being driven to bankruptcy themselves due to the remotest of connections to asbestos.

These are bankruptcies that will cost thousands of Americans their jobs and their pensions—bankruptcies that mean that fewer and fewer victims will receive compensation in the civil justice system. This is why the legal system is broken and why we need the bill before us to help fix it.

Mr. President, I will talk about just one example from my State of Ohio. In my State, there is a medium-sized company that employs over a thousand hardworking Ohioans. Before the dangers of asbestos were known—when the industry standard was to use asbestos in a variety of products—this company sold a home repair product for do-it-yourselfers; the product was a drywall paste. This product was not used in big commercial applications. Professional contractors did not use this product. It was sold in local hardware stores to average Americans who wanted to do things such as patch nail holes in their own homes or maybe finish the inside of a garage.

At its peak, this company had less than a 1-percent market share for this product and made less than $500,000 total. As soon as the dangers of asbestos were known, this company immediately stopped production of their product.

I would like everyone to keep in mind that the majority of harm caused by exposure to asbestos is a result of occupational exposure which is individuals who routinely work with asbestos products on the job over a long and continuous period of time. It was unlikely that anyone had any occupational exposure to the product made by this Ohio company.

Let's take these two important facts together. One, the product was not sold for use in commercial settings. By definition, then, an individual could not have been exposed to this product over time as part of his occupation and, two, a vast majority of asbestos-related diseases were only caused by occupational exposure over long periods of time. One would think this adds up to a pretty good defense in litigation. One would think this company should not fear defending themselves in court. One would think they would do OK in our civil justice system. Let me tell you what has happened over the last few years to this company.

They have been named in over 4,000 lawsuits that include something like 15,000 individual claimants. The company has actually won all of the few cases it has tried. However, in most of these cases, they have a number of codefendants ranging from 6 to 20 or sometimes 30 in a single case. Sometimes these codefendants settle early on. Sometimes codefendants are bankrupt companies which were, in fact, bad actors when it came to asbestos.

As litigation proceeds, this Ohio company finds itself in an extremely difficult position over and over. It may be one of three or four solvent defendants left in the case. Although it has a valid defense, other defendants may not have a good defense.

The problem is, many States have something called joint and several liability. What that means is if a jury finds another defendant liable and grants a huge jury verdict and that liable defendant is bankrupt, our Ohio company is on the hook for the entire amount. So instead of taking a chance, the company I am talking about in Ohio figures it is in their best interest to settle. They settle over and over again in cases in which they have a legitimate, significant defense.

In this example, this Ohio company has spent in excess of $175 million on asbestos litigation so far. They have a good defense. They have won 100 percent of the cases they have taken to trial. Yet they have spent $175 million on asbestos litigation.

The Senate is not a court. We are not in a position to judge liability or nonliability of every defendant. I am not asking my colleagues to do this, but I can say this Ohio company seems to have an extremely good defense to liability, and a jury has said so several times. I doubt all manufacturers that have been named in lawsuits have such a good defense. So I want to make it clear that the last thing I want is for a company that is legitimately liable for causing someone harm to get off free. There is really no chance of that under this bill, and I want to make that clear.

Under this bill, this Ohio company I described will be required to pay $450 million into a trust fund for people who have health problems caused by exposure to asbestos. That is $450 million in addition to $175 million already spent. That does not seem fair. It does not seem fair to them when they look at it. But this company and hundreds of others like it are willing to go along with this solution even though to them it does not seem fair. It does not seem fair to them when they look at it, but they are willing to do it because it is better than the status quo. It is better than the uncertainty they are facing today. It is going to be painful for the companies and their employees, but it is better than the uncertain future they face under the status quo today.

I have heard from several Ohio companies that, frankly, are not happy about some of the provisions of this bill. If we can debate this bill in the Senate, I plan to work with Senator HATCH and others to make some additional refinements to the bill. Still, I anticipate that many businesses will be concerned that we have gone too far and demand they pay too much into the trust fund. But it is what must be done, I believe, to guarantee that American owned and operated companies have the certainty and predictability they need in dealing with their potential asbestos liability. Hopefully, we will save companies from the bankruptcies that cost jobs and pensions.

I would like to conclude my remarks. I see my colleague from Tennessee is in the Chamber. I assure him I am wrapping up. I conclude my remarks by talking for a couple more minutes about the process that has led us to this point where we are actually debating whether to bring the asbestos reform bill to the Senate floor for debate.

I have been working on and supporting efforts to deal with the asbestos crisis for most of my time in the Senate. A little over a year ago, my staff and I had numerous meetings to discuss the issue. I met with a lot of folks from Ohio who told me stories that the impact of the asbestos crisis had on them. These meetings were not only happening in my office, but were happening all over the Senate in Democratic and Republican offices alike. My colleagues had similar experiences. They were experiences with companies, but, frankly, they were also experiences with victims.

We had a hearing in the Judiciary Committee in early March of 2003. Then I recall participating in a bipartisan asbestos summit which was organized by our friend and colleague, Senator DODD. That occurred April 1 of last year. A large number of Senators on both sides of the aisle participated in that summit. Then for months, through the spring and summer, we all worked intensely, meeting and negotiating. A point came when we decided the best approach to solving this problem was to create a privately funded trust which would be managed by the Federal Government to compensate victims.

This approach won out over the traditional-tort-reform-type approach that had been discussed previously. Some of my colleagues were not happy about that decision, and some outside businesses affected by asbestos were not happy about that decision either, but it was a compromise reached with the input of a number of Republican and Democratic Senators and with the input of industry and organized labor.

Our staff and outside groups representing organized labor, big and small manufacturers, and insurers met and worked for dozens of hours on the structure of the fund, medical criteria, claims values, and funding. They worked on nights and weekends. I recall when my staff reported to me about progress in an intense all-day session on a sunny Saturday in June, which included representatives from the AFL–CIO, the Asbestos Study Group, the Asbestos Alliance, the American Insurance Association, and staff from Senator LEAHY's office, Senator KENNEDY's office, Senator DODD's office, Senator HATCH's office, my office, and other offices as well.

I recall we had another meeting in the Judiciary Committee in early June. I recall that we welcomed the attendance of other Senators who were not on the Judiciary Committee at that hearing. I believe Senator DODD, Senator CARPER, and Senator MURRAY attended some of the hearings. I know staff from many other Senate offices were there as well.

My only point is this was a group effort, where virtually every Member of the Senate it seems like at one time or another has been involved.

Negotiations continued behind the scenes. Every Senate office and every party was not at every single meeting. That would not have been impractical, if not impossible. Yet countless suggestions, and suggestions from Senators and outside parties, were included in the discussions and negotiations. Then in June 2003, the Judiciary Committee began marking up a draft bill which we formulated from the earlier discussions—and what a markup it was. It was an unbelievable time. I think it took place during 4 full days over the course of several weeks. I think we adopted 35 bipartisan amendments, many of them making significant changes to the bill.

It is safe to say not a single Senator on the committee was entirely happy with the resulting bill we reported. While the final vote was not overwhelming, the process was bipartisan. Nobody got everything they wanted. In fact, we created a little bit of a mess. It is a large and complicated bill, and some of the amendments we adopted conflicted with others. Some of the amendments we adopted sounded very reasonable, but frankly did not withstand post-markup scrutiny. That is the way it works sometimes in the Senate.

So the negotiations and redrafting started again, as often happens in large, complex bills. Again, many Senators from both sides of the aisle and outside parties submitted input into the process. Meetings took place on at least two or three different tracks. Senator FRIST's office led staff negotiations that included representatives for Senator DASCHLE, Senator HATCH, Senator LEAHY, Senator SPECTER, Senator DODD, and others. Again everyone was not at every meeting. Many times more than one meeting was going on. It was not practical to have everyone who was interested in attendance at all times, but a range of political views was represented at these meetings.

At the same time, Senator SPECTER convened a series of very important meetings with the help of retired Circuit Judge Becker. These comprehensive meetings involved stakeholders in the asbestos issue, many of whom I have mentioned earlier. These meetings continued up until last week, as I understand it.

I have gone through this tedious history for one reason, to point out this bill is not a result of a single Senator's partisan effort to craft a biased asbestos reform bill. Anyone who thinks that just has not followed the laborious history of this bill. That is not the fact. That is not true. Thousands of hours have gone into creating this bill with input from all directions in this Senate. It is easy to say now, well, that was not or this was not put into the bill or that meeting was not attended or I was excluded from that meeting, or hundreds of other allegations that the process for this bill was insufficient or maybe not even fair. The fact is this has been a good process.

I conclude by saying in fact the process that led to this bill was comprehensive, it was fair, it was bipartisan. I do not think we should use complaints about process as an excuse to vote against proceeding to debate on this bill. We should bring this bill to the floor. We have been through a long, laborious, and a good process. It has gotten us this far.

If anyone would have said to me 2 years ago, 3 years ago, 18 months ago we would have been this far on this bill, I would have said, I do not think so; I do not think we can craft a bill that would be even this close. We have come a long way.

First of all, we owe it to the victims who are still not being compensated, either at all or adequately, to craft this bill and to report a bill. We owe it to the victims to debate this and give it our best efforts on the Senate floor. Too much work has gone into this. We have come too far. We owe it to the workers who will lose their jobs if more companies have to declare bankruptcy or if more companies go out of business. We owe it to those companies, but most of all we owe it to the victims.

So let's bring this bill to the floor. Let's give it the chance it deserves. We have put a great deal of effort in it. Let's do the right thing, bring this bill to the Senate floor.

I thank my colleague from Tennessee for his indulgence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I commend the Senator from Ohio for his comments on the asbestos legislation. This is a time when Americans are concerned about jobs, especially about manufacturing jobs. In the State of Tennessee, as in the State of Ohio, a large number of those jobs are in the automotive industry. About one-third of the manufacturing jobs in Tennessee is in the automotive industry. Making automobiles is a very competitive business. There are companies all over the world making cars. They are putting their assembly plants and their parts suppliers in Ohio and in Tennessee, but they can put them in Germany, South Korea, Mexico, and other places. If costs in manufacturing cars and trucks in America go a little bit higher, then we hear a lot about jobs going overseas.

All Senators who are worried about good manufacturing jobs going overseas, jobs in the automotive industry in Ohio and in Tennessee, should be wanting to come to the Senate floor and raise their hand and say, let's get on with this asbestos legislation because it is slowing down our economy, it is going to hurt the companies that produce the jobs and it is keeping the victims from getting a fair recovery. So I congratulate the Senator from Ohio. This helps Americans, and it is a piece of jobs legislation. I hear about it from auto parts suppliers. I hear about it, as I am sure the Senator does, from many manufacturers. I thank him for his leadership. I ask unanimous consent to be recognized as in morning business for the purpose of introducing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER and Mr. CHAMBLISS pertaining to the introduction of S. 2319 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ALEXANDER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FAIR ACT

Mr. CHAMBLISS. Madam President, I rise today to speak on the need to resolve the crisis in the asbestos litigation.

S. 2290, the Hatch-Frist-Miller FAIR Act of 2004—FAIR, of course, stands for Fairness in Asbestos Injury Resolution Act—is a bill that would solve many of these problems in an expedited fashion.

S. 2290 will secure fair and equitable compensation for asbestos victims who, right now, face uncertainty, delay, and risk in the court system. As things stand today, compensation for asbestos-related injuries is more likely to be determined by where and when your claim is filed and who your lawyer or judge is than by how sick you are.

Under the current system where companies can declare bankruptcy and substantially avoid paying damages, a truly injured victim might recover absolutely nothing for their actual harm, while a claimant with no physical impairment can recover his or her whole claim. That is simply not right.

The FAIR Act would cut down on delays in compensation to asbestos victims. Today, courts are being overwhelmed by a flood of asbestos cases, with some truly ill victims actually dying before they see their day in court. An estimated 300,000 claims are pending; 730,000 individuals have already brought claims; and 60,000 to 100,000 new claims are filed each and every year. However, at least three-quarters or more of current claims are from the unimpaired. Bankruptcies which often result from massive court filings by unimpaired claimants further delay and diminish compensation to truly injured victims.

S. 2290 would save American jobs and preserve pensions. American jobs are being lost because of this broken system. Asbestos-related bankruptcies have led to the direct loss of as many as 60,000 jobs, with each displaced worker losing up to $50,000 in average wages and an average of 25 percent of the value of their 401(k) accounts. Moreover, an estimated 423,000 new jobs will not be created because asbestos defendants will have to reduce capital investments by as much as $33 billion.

The FAIR Act would revive the economy, as asbestos litigation costs are currently wreaking havoc on American business. As approximately 8,400 companies in all industries have been targeted, the cost of capital for American businesses has increased by as much as 14 percent, annual capital investment has gone down $1.6 billion, and annual economic growth has been slowed by $2.4 billion. More than 70 American businesses have filed for asbestos-related bankruptcies, 35 of these just since the year 2000.

In sum, S. 2290 will provide fair and timely compensation to asbestos victims and certainly to American workers, retirees, shareholders, and the U.S. economy. Congress has never been more close to resolving the asbestos litigation crisis than it now is with S. 2290.

This bill provides for a privately funded, no-fault national asbestos victims' compensation fund that will step into the shoes of the Federal court system and ensure that individuals who are truly sick receive compensation quickly, fairly, and efficiently. The FAIR Act retains the bipartisan agreement on medical criteria that the Judiciary Committee approved last year. These criteria form the basis of a no-fault victims' compensation fund that will stop the flow of resources to the unimpaired and ensure that the truly ill will be paid quickly and fairly.

S. 2290 contains many improvements made to its predecessor, S. 1125. The new bill reflects several months of intensive negotiations by the stakeholders in this important debate and affirmatively addresses the major issues of concern identified by the stakeholders following the Judiciary Committee approval of the original bill S. 1125.

Let me take a minute to say that as a member of the Judiciary Committee, I have been a party to a lot of the negotiations—certainly not all of them. Chairman Hatch has done a great job of steering the negotiations, but this has been a bipartisan effort.

I take a minute to commend Senators on the other side of the aisle, some who are on the Judiciary Committee and some who are not, including Senator Feinstein, Senator Biden, Senator Dodd, Senator Kohl, and others, who have been strong proponents of trying to reach a conclusion of this asbestos litigation issue. I don't know how they will vote on the final bill. That is not important to me right now. But it is important they have negotiated in good faith and been a party to the negotiations in a fair and reasonable manner. I commend them for taking part and for their cooperative spirit as we have gone through these negotiations.

S. 2290 includes revised funding provisions. The new bill establishes a fund that can pay $114 billion in claims, with an additional $10 billion in contingent funding available from defendant companies. Money required to go to the fund from defendants and insurers is assured over a period of 27 years. Defendant participants, for example, guarantee their funding obligations through a grant of authority to the administrator of the fund to impose a surcharge in any year where monies received fall short of the annual requirements. S. 2290 also provides up to $300 million annually in hardship and inequity adjustments that may be granted by the administrator among defendant participants. Money from insurers is front loaded for the early years of the fund where the most stress on the system is expected. Enforcement provisions have been strengthened to help the administrator go after recalcitrant participants.

The new FAIR Act increases compensation going to claimants. Based on the funding now available under S. 2290, claims values have been increased in several disease categories. S. 2290 also now provides for reimbursement for out-of-pocket costs of physical examinations by claimants' physicians as well as costs for x-rays and pulmonary function testing at the lowest level of diseased-inflicted claimants or Level I claimants.

S. 2290 establishes a new streamlined administrative structure. Rather than administering claims in the U.S. Court of Federal Claims, as was the case when S. 1125 came out of the Judiciary Committee, the new bill creates a new executive Office of Asbestos Disease Compensation within the Department of Labor, which has 90 years of experience in administering similar compensation programs, to process claims as well as manage the fund. The new administrative structure will be more streamlined, more efficient, less adversarial, and less burdensome on claimants. The program can be effectively run at a fraction of the cost. The application process is faster, is more user friendly, and is fairer to claimants. To further ease the burden on claimants, S. 2290 also establishes a claimant-assistance program. The administrator of the new office will be appointed by the President with the advice and consent of the Senate.

S. 2290 ensures a quick start to processing and paying claims. S. 2290 includes a number of new provisions that ensure the fund will be set up and that processing and payment of claims occurs as quickly as possible. Placement of the claims-handling office within the Department of Labor will utilize DOL's existing infrastructure and experienced personnel to facilitate startup. S. 2290 requires implementation of interim regulations and procedures within 90 days after the bill is enacted to allow the office to begin accepting and processing claims in short order. Our new bill grants interim authority to an existing Assistant Secretary of the Department of Labor until the new administrator is appointed to avoid potential delays associated with the appointment process.

Lastly, S. 2290 provides for upfront funding, as early as 90 days after date of enactment, from fund participants, as well as increased borrowing authority, to ensure adequate initial funding will be available to fully meet demand. These new provisions are meant to insure that claimants will have speedy access to the fund while stopping any court actions in their tracks; this is to prevent any further, scarce resources from being siphoned away from the truly sick to the unimpaired claimants.

The new FAIR Act ensures that any risk of insufficient funds does not fall on claimants. S. 2290 establishes a fund that can pay $114 billion in claims, with an additional $10 billion in contingent funding available from defendant participants. It also provides the administrator with more management flexibility and increased borrowing authority to be able to address any short-term funding issues.

Under the terms of the new bill, if after 7 years it is determined that the fund will have insufficient resources to pay off 100 percent of all claims, the administrator is empowered to take actions to sunset the fund. In this event, S. 2290 fully protects the rights of claimants by creating a federal cause of action, so claimants will be able to pursue their claims in the U.S. District Court where they live or where they were exposed to asbestos.

In closing, it is important to note that asbestos victims, American businesses, workers, retirees, shareholders, and the U.S. economy cannot afford to wait any longer for asbestos litigation reform. Consideration of the FAIR Act on the floor will allow what I'm sure will be a spirited debate and consideration of any reasonable amendments to our new proposal. That being said, we need move forward with the debate on the FAIR Act and enact S. 2290 now. I ask that my colleagues join me in voting to move forward on this important bill.

NOW CAN WE TALK ABOUT HEALTH CARE

Mr. DASCHLE. Madam President, yesterday's New York Times Magazine contained a very insightful article written by our colleague from New York, Senator Clinton. This article, entitled "Now Can We Talk About Health Care?," is truly a call to action.

Senator Clinton could not be more right when she points out that if we were starting from scratch in designing a health care system, "none of us, from dyed-in-the-wool liberals to rock-solid conservatives, would fashion the kind of health care system America has inherited." She pointedly asks why we should carry this flawed system and its problems into the future. It is a rhetorical question, of course, but the answer, unfortunately, is that we are doing just that.

Last year, 43.6 million Americans were without health coverage—an increase of over 2 million from the year before. About 74,800 people in my State of South Dakota—12 percent of the population—are without health insurance. But statistics alone do not communicate the anguish felt by so many people in our country regarding an issue as personal as their health care.

Senator Clinton correctly notes that things will only get worse. Her article explains that the very manner in which we finance care is "so seriously flawed that if we fail to fix it, we face a fiscal disaster that will not only deny quality care to the uninsured and underinsured but also undermine the capacity of the system to care for even the well insured." This a sobering warning.

It does not have to be this way. The United States is the only major industrialized nation that fails to provide guaranteed health care to all its citizens. And, in many countries—Canada, the United Kingdom, Japan, France, and Sweden to name a few—they do it while spending less per capita than we do in the United States. Yet in each of those countries, citizens have greater life expectancies and lower rates of child mortality than we have in the United States.

We must act. The nonpartisan Institute of Medicine recently recommended that by 2010, everyone in the United States should be insured. That is no small task, and it won't come free. But, as Senator CLINTON points out, it will save us money in other ways. People will get the preventive care they need and deserve, and this will save us the cost of treating conditions and diseases that have progressed. And, certainly, it is a moral imperative when we are talking about people's health.

We must invest in our public health infrastructure, in preventive care, and in covering the care people need. We can save money by increasing our reliance on information technology with appropriate privacy protections. And we can use every tool we have—including genetic testing—to prevent and contain disease. We can encourage these tests by enacting the Genetic Information Nondiscrimination Act, a bipartisan bill that has already passed the Senate but awaits action in the House. We can reduce health disparities by passing the Healthcare Equality and Accountability Act, a bill I introduced with each of the House minority caucuses last year. And we can address the problem of the uninsured in a serious manner rather than proposing tax credits that will do little to help those most in need or pushing consumer-driven plans that shift cost and risk onto the individual.

I commend Senator CLINTON on her thoughtful article. It is something we all should read. Health care should not be a partisan issue. It is a necessity. Whether someone receives the health care they need should not depend on whether they are fortunate enough to access and afford adequate health insurance under our current system. I ask unanimous consent that Senator CLINTON's article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 18, 2004]

NOW CAN WE TALK ABOUT HEALTH CARE?

(By Hillary Rodham Clinton)

I know that you're thinking. Hillary Clinton and health care? Been there. Didn't do that!

No, it's not 1994; it's 2004. And believe it or not, we have more problems today than we had back then. Issues like soaring health costs and millions of uninsured have yet to fix themselves. And now we are confronting a new set of challenges associated with the arrival of the information age, the technological revolution and modern life.

Think for a moment about recent advances in genetic testing. Knowing you are prone to cancer or heart disease or Lou Gehrig's disease may give you a fighting chance. But just try, with that information in hand, to get health insurance in a system without strong protections against discrimination for pre-existing or generic conditions. Each vaunted scientific breakthrough brings with it new challenges to our health system. But it's not only medicine that is changing. So, too, are the economy, our personal behaviors and our environment. Unless Americans across the political spectrum come together to change our health care system, that system, already buckling under the pressures of today, will collapse with the problems of tomorrow.

Twenty-first-century problems, like genetic mapping, an aging population and globalization, are combining with old problems like skyrocketing costs and skyrocketing numbers of uninsured, to overwhelm the 20th-century system we have inherited.

The way we finance care is so seriously flawed that if we fail to fix it, we face a fiscal disaster that will not only deny quality health care to the uninsured and underinsured but also undermine the capacity of the system to care for even the well insured. For example, if a hospital's trauma center is closed or so crowded that it cannot take any more patients, your insurance card won't help much if you're the one in the freeway accident.

Let's face it—if we were to start from scratch, none of us, from dyed-in-the-wool liberals to rock-solid conservatives, would fashion the kind of health care system America has inherited. So why should we carry the problems of this system into the future?

21ST-CENTURY PROBLEMS

At the dawn of the last century, America was coping with the effects of the industrial revolution—crowded living conditions, dangerous workplaces, inadequate sanitation and infrastructure in cities and pollution and infectious diseases like typhoid fever and cholera that exacted a huge toll on the oldest and youngest in society.

Since then, a century's worth of advances yielded remarkable results. Antibiotics were developed. Anesthesia was improved. Public health programs like mosquito control and childhood immunizations succeeded in reducing or even eradicating diseases like malaria and polio in this country. Congress passed legislation regulating the quality of food and drugs and assuring that safety and science guided medical developments. Workplace and product-safety standards resulted in fewer deaths and injuries from accidents. Effective campaigns cut tobacco use and alcohol abuse. Employers began providing some workers with health care coverage, primarily for hospitalization costs. And to aid some of those left out, President Lyndon B. Johnson persuaded Congress to establish Medicare and Medicaid to address the poorest, sickest, oldest and highest-risk patients in our society. As a result of these accumulated gains, life expectancy grew from 47 years in 1900 to 77 years for those born in 2000.

As astounding as those changes were, we are likely to see even more revolutionary changes in the next 100 years. Advances in medicine coincide with advances in computers and communications. The American workplace is changing in response to global pressures. But even positive advances may come with a negative underside. Our affluence contributes to an increasingly sedentary lifestyle that, combined with a diet filled with sugar and fat-rich foods, undermines our ability to fend off chronic diseases like diabetes. And research is proving that the pollutants and contaminants in our environment cause disease and mortality.

It is overwhelming just thinking about the problems, never mind dealing with them. But we have to begin applying American ingenuity and resolve or watch the best health care system in the world deteriorate.

MEDICAL ADVANCES

The pace of scientific development in medicine is so rapid that the next hundred years is likely to be called the Century of the Life Sciences. We have mapped the human genome and seen the birth of the burgeoning field of genomics, offering the opportunity to pinpoint and modify the genes responsible for a whole host of conditions. Scientists are exploring whether nanotechnology can target drugs to diseased tissues or implant sensors to detect disease in its earliest forms. We can look forward to "designer drugs" tailored to individual genetic profiles. But the advances we herald carry challenges and costs.

Think about the potential for inequities in drug research. Today, pharmaceutical and biotech companies have little incentive to research and develop treatments for individuals with rare diseases. Never heard of progeria? That's the point. This fatal syndrome, also called premature-aging disease, affects one in four million newborns a year. It's rare enough that there is no profit in developing a cure. This is known as the "orphan drug" problem. Genetic profiles and individualized therapies have the potential to increase the problem of orphaned drugs by further fragmenting the market. Even manufacturers of drugs for conditions like high blood pressure might focus their efforts on people with common genetic profiles. Depending on your genes, you could be out of luck.

The increasing understanding and use of genomics may also undermine the insurance system. Health insurance, like other insurance, exists to protect against unpredictable, costly events. It is based on risk. As genetic information allows us to predict illness with greater certainty, it threatens to turn the most susceptible patients into the most vulnerable. Many of us will become uninsurable, like the two young sisters with a congenital disease I met in Cleveland. Their father went from insurance company to insurance company trying to get coverage, until one insurance agent looked at him and said, "We don't insure burning houses."

Many have worked to get laws on the books to protect people from genetic discrimination, but we have yet to pass legislation that addresses job security and health coverage. The challenges do not stop there. Health insurance will have to change fundamentally to cope with predictable, knowable risks. Will health insurance companies offer coverage tailored to a person's future health prospects? Right now, if you have asthma, or even just allergies, insurers in the individual market can exclude your respiratory system from your health insurance policy. Will all health plans stop offering benefits that relate to genetic diseases?

The ability to predict illness may overwhelm more than just the insurance system; it may overwhelm the patient and the provider. Studies in The Journal of the American Medical Association found that nearly 6 out of 10 patients at risk for breast and ovarian cancer declined a genetic test, and a similar fraction of those at risk for colon cancer also declined testing. Why? One reason is probably to avoid higher insurance premiums. But the decision to undergo genetic testing is a complex one that involves many issues. Positive test results often indicate increased risk but no certainty that a disease will occur. Negative results also come without guarantees. The development of genetic profiles and individual therapies will exponentially increase the amount of information a physician is expected to manage. Instead of remembering one or two drugs for any condition, a physician will have to analyze all the different genetic, demographic and behavioral variables to generate optimal treatment for a patient.

Medical advances have the potential to overwhelm the health care system top to bottom. At the very least, the pace of technological progress is so rapid that our antiquated health care system is ill equipped to deliver the fruits of that progress. But these advances are not occurring in isolation from other factors affecting both how we finance health care and how much care we need and expect.

GLOBALIZATION

The globalization of our economy has changed everything from how we work as individuals to what we produce as a nation to how quickly diseases can spread. American companies—and workers—compete not only with one another but all over the world. It is called competitive advantage, but it can put American businesses and workers at a disadvantage.

The United States' closest economic rivals have mandatory national health care systems rather than the voluntary employer-based model we have. Automakers in the United States and Canada pay taxes to help finance public health care. But in the United States, automakers also pay about $1,300 per midsize car produced for private employee health insurance. Automakers in Canada come out ahead, according to recent news reports, even after paying higher taxes.

At the same time, American companies are outsourcing jobs to countries where the price of labor does not include health coverage, which costs Americans jobs and puts pressure on employers who continue to cover their employees at home.

And many new jobs, especially those in the service sector and part-time jobs, don't include comprehensive health benefits. More uninsured and underinsured workers impose major strains on a health system that relies on employer-based insurance. In addition, the failure of government to help contain health costs for employers has led to a fraying of the implicit social contract in which a good job came with affordable coverage.

Gone are the days when a young person would start in the mail room and stay with the company until retirement. Employee mobility is now the rule rather than the exception. Those who pay for health care—insurance companies and employers—increasingly deal with employees who change jobs every few years. This has the effect of not only increasing the numbers of uninsured but also of decreasing the incentive for employers to underwrite access to preventive care.

At the same time, war, poverty, environmental degradation and increased world travel for business and pleasure mean greater migration of people across borders. And with people go diseases. The likes of SARS can travel quickly from Hong Kong to Toronto, and news of a strange flu in Asia worries us in New York. Welcome to the world without borders.

The Pulitzer Prize-winning science writer Laurie Garrett has described it as "payback for decades of shunning the desperate health needs of the poor world." No matter the blame, the need to act now to address issues of global health is no longer just a moral imperative; it is self-interest.

LIFESTYLE AND DEMOGRAPHIC CHANGES

One hundred years ago, who could have predicted that living longer would be a problem?

In three decades, the number of Medicare beneficiaries will double. By the year 2050, one in five Americans will be 65 or older. We will have to find a way to finance the growing demand not only for health care but also for long-term care, which is now largely left out of Medicare.

Our society's affluence is only half of the story. Widening disparities in wealth and in health care too often cleave along ethnic lines. Today, a Hispanic child with asthma is far less likely than a non-Hispanic white child to get needed medication. African-Americans are systematically less likely to get state-of-the-art cardiac care. As our country becomes more and more diverse, these disparities become more obvious and more intolerable.

Our changing lifestyles also contribute to behavior-induced health problems. We can shop online, order in fast food, drive to our errands. Entertainment—movies, TV, video games and music—is one click away. The physical activity required to get through the day has decreased, while the pace and stress of daily life has quickened, affecting mental health. Persistent poverty, risky behaviors like substance abuse and unprotected sex and pollution from cars and power plants all add to the country's health problems. As Judith Stern of the University of California at Davis so aptly put it, genetics may load the gun, but environment pulls the trigger.

OLD PROBLEMS PERSIST

If all we had to do was face these tremendous changes, that would be daunting enough. But many of the systemic problems we have struggled with for decades—like high costs and the uninsured—are simply getting worse.

In 1993, the critics predicted that if the Clinton administration's universal health care coverage plan became law, costs would go through the roof. "Hospitals will have to close," they said, "Families will lose their choice of doctors. Bureaucrats will deny medically necessary care."

They were half-right. All that has happened. They were just wrong about the reason.

In 1993, there were 37 million uninsured Americans. In the late 90's, the situation improved slightly, largely because of the improved economy and the passage of the Children's Health Insurance Program. But now some 43.6 million Americans are uninsured, and the vast majority of them are in working families.

While employer-sponsored insurance remains a major source of coverage for workers, it is becoming less accessible and affordable for spouses, dependents and retirees. In 1993, 46 percent of companies with 500 or more employees offered some type of retiree health benefit. That declined to 29 percent in 2001. When you think about the new economy and worker mobility, it's no wonder employees are dropping retiree health benefits. You can only wonder how many yet-to-retire workers are next.

Even those Americans not among the ranks of the uninsured increasingly find themselves underinsured. In 2003, two-thirds of companies with 200 or more employees dealt with increasing costs by increasing the share that their employees had to pay and dropping coverage for particular services. With rising deductibles and co-pays, even if you have insurance, you may not be able to afford the care you need, and some benefits, like mental health services, may not be covered at all.

The problem of the insured and underinsured affects everyone. A recent Institute of Medicine study estimates that 18,000 25- to 64-year old adults die every year as a result of lack of coverage. But even if you are insured, if you have a heart attack, and the ambulance that picks you up has to go three hospitals away because the nearby emergency rooms are full, you will have suffered from our inadequate system of coverage.

If, as a nation, we were saving money by denying insurance to some people, you could at least say there's some logic to it—no matter how cruel. But that's not the case. Despite the lack of universal coverage in our country, we still spend much more than countries that provide health care to all their citizens. We are No. 1 in the world in health care spending. On a per capita basis, health spending in the United States is 50 percent higher than the second-highest-spending country: Switzerland. Our health costs now constitute 14.9 percent of our gross domestic product and are growing at an alarming rate: by 2013, per capita health care spending is projected to increase to 18.4 percent of G.D.P.

What drives skyrocketing spending? The cost of prescription drugs rose almost twice as fast as spending on all health services, 40 percent in just the last few years.

Hospital costs have been rising as well, in large measure because more than one in four health care dollars go to administration. In 1999, that meant $300 billion per year went to pay for administrative bureaucracy; accountants and bookkeepers, who collect bills, negotiate with insurance companies and squeeze every possible reimbursement out of public programs like Medicare and Medicaid. Asthma and other pulmonary disorders linked to pollution contribute significantly to these costs, according to the health economist Ken Thorpe. Diabetes, high blood pressure and mental illness are also among the conditions that keep these costs rising.

If we spend so much, even after administrative costs, why does the United States rank behind 47 other countries in life expectancy and 42nd in infant mortality?

A lot of the money Americans spend is wasted on care that doesn't improve health. A recent study by Dartmouth researchers argues that close to a third of the $1.6 trillion we now spend on health care goes to care that is duplicative, fails to improve patient health or may even make it worse. A study in Santa Barbara, Calif., found that one out of every five lab tests and X-rays were conducted solely because previous test results were unavailable. A recent study found that for two-thirds of the patients who received a $15,000 surgery to prevent stroke, there was no compelling evidence that the surgery worked.

In situations in which the benefits of intervention are clear, many patients are not receiving that care. For example, few hospitalized patients at risk for bacterial pneumonia get the vaccine against it during their hospital stays. A recent study in The New England Journal of Medicine by Elizabeth McGlynn found that, overall, Americans are getting the care they should only 55 percent of the time.

As a whole, our ailing health care system is plagued with underuse, overuse and misuse. In a fundamental way, we pay far more less than citizens in other advanced economies get.

HOW WE DELIVER CARE

There is no "one size fits all" solution to our health care problems, but there are common-sense solutions that call for aggressive, creative and effective strategies as bold in their approach as they are practical in their effect.

First, the way we deliver health care must change. For too long our model of health care delivery has been based on the provider, the payer, anyone but the patient. Think about the fact that our medical records are still owned by a physician or a hospital, in bits and pieces, with no reasonable way to connect the dots of our conditions and our care over the years.

If we as individuals are responsible for keeping our own passports, 401(k) and tax files, educational histories and virtually every other document of our lives, then surely we can be responsible for keeping, or at least sharing custody of, our medical records. Studies have shown that when patients have a greater stake in their own care, they make better choices.

We should adopt the model of a "personal health record" controlled by the patient, who could use it not only to access the latest reliable health information on the Internet but also to record weight and blood sugar and to receive daily reminders to take asthma or cholesterol medication. Moreover, our current system revolves around "cases" rather than patients. Reimbursements are based on "episodes of treatment" rather than on a broader consideration of a patient's well-being. Thus it rewards the treatment of discrete diseases and injuries rather than keeping the patient alive and healthy. While we assure adequate privacy protections, we need care to focus on the patient.

Our system rewards clinicians for providing more services but not for keeping patients healthier. The structure of the health care system should shift toward rewarding doctors and health plans that treat patients with their long-term health needs in mind and rewarding patients who make sensible decisions about maintaining their own health.

HARNESSING MODERNIZATION

As paradoxical as it is that advances in medical technology could potentially break our antiquated system, advances in other technologies may hold the answer to saving it. Using a 20th-century health care system to deal with 21st-century problems is nowhere more true than in the failure to use information technology.

Ten years ago, the Internet was used primarily by academics and the military. Now it is possible to imagine all of a person's health files stored securely on a computer file—test results, lab records, X-rays—accessible from any doctor's office. It is easy to imagine, yet our medical system is not there.

The average emergency-room doctor or nurse has minutes to gather information on a patient, from past records and from interviewing the patient or relatives. In the age of P.D.A.'s, why are these professionals forced to rely on a patient's memory?

Information technology can also be used to disseminate research. A government study recently documented that it takes 17 years from the time of a new medical discovery to the time clinicians actually incorporate that discovery into their practice at the bedside. Why not 17 seconds?

Why rely solely on the doctor's brain to store that information? Computers could crunch the variables on a particular patient's medical history, constantly update the algorithms with the latest scientific evidence and put that information at the clinician's fingertips at the point of care.

Americans may not be getting the care they should 45 percent of the time, but the tools exist to narrow that gap. Research shows that when physicians receive computerized reminders, statistics improve exponentially. Reminders can take the form of an alert in the electronic health record that the hospitalized patient has not had a pneumonia vaccine or as computerized questions to remind a doctor of the conditions that must be fulfilled before surgery is considered appropriate.

Newt Gingrich and I have disagreed on many issues, including health care, but I agree with some of the proposals he outlines in his book "Saving Lives and Saving Money," which support taking advantage of technological changes to create a more modern and efficient health care system. I have introduced legislation that promotes the use of information technology to update our health care system and organize it around the best interests of patients. Improvements in technology will end the paper chase, limit errors and reduce the number of malpractice suits.

I strongly believe that savings from information technology should not just be diffused throughout the system, never to be recaptured, but should be used to make substantial progress toward real universal coverage. By better using technology, we can lower health care costs throughout the system and thereby lower the exorbitant premiums that are placing a financial squeeze on businesses, individuals and the government. At the same time, some of those savings should be used to make substantial progress toward real universal coverage. (I may have just lost Newt Gingrich.)

TAKING THE BROADER VIEW: PUBLIC HEALTH AND PREVENTION

While we focus on empowering the individual through technology, we also have to recognize the larger factors that affect our health—from the environment to public health.

If asthma and other pulmonary disorders are the main drivers of increased health spending, that argues strongly that we should rethink how social and environmental factors impact our collective health. Consider that over the last century we have extended life expectancy by 30 years but that only 8 of those years can be credited to medical intervention. The rest of our gains stem from the construction of water and sewer systems, draining mosquito-infested swamps and addressing spoilage, quality and nutrition in our food supply. Yet we continue to underinvest in these important systematic measures—resulting in expensive health consequences like the explosion of asthma among children living in New York City or the harmful levels of lead found among children drinking water from the District of Columbia water system.

Our neglect of public health also contributes to spiraling health costs. We tend to address health care—as a nation and as individuals—after the sickness has taken hold, rather than addressing the cause through public health. Public health programs can help stop preventable disease and control dangerous behaviors. Take obesity, for example. Individuals should understand that they put their lives at risk with unhealthy behavior. But let's face it—we live in a fast-food nation, and we need to take steps, like restoring physical-education programs in schools, that support the individual's ability to master his or her own health. Studies conducted by the Centers for Disease Control and Prevention have identified "Programs That Work," which should be financed. It comes down to individual responsibility reinforced by national policy.

The public health system also needs to be brought up to date. The current public health tools were developed when the major threats to health were infectious diseases like malaria and tuberculosis. But now chronic diseases are the No. 1 killer in our country. We need to be concerned not just about pathogens but also about carcinogens.

Over the last three years, I have introduced legislation to increase investment in tracking and correlating environmental and health conditions. I have met with people from Long Island to Fallon, Nev., who want answers about cancer clusters in their communities. The data we have seen about lead and mercury contamination in our food and water suggest that the effects they have on the fetus and children may have contributed to the increasing number of children in special education with attention and learning disorders. We need more research to determine once and for all if increasing pollution in our communities and increasing rates of learning-related disabilities are cause and effect.

We should also be looking at sprawl—talking about the way we design our neighborhoods and schools and about our shrinking supply of safe, usable outdoor space—and how that contributes to asthma, stress and obesity. We should follow the example of the European Union and start testing the chemicals we use every day and not wait until we have a rash of birth defects or cancers on our hands before taking action. And we should look at factors in our society that lead to youth violence, substance abuse, depression and suicide and ultimately require insurance and treatment for mental health.

After Sept. 11, mental health was a significant factor in the health toll on our nation's first responders. And yet our mental health delivery system is underfinanced and unprepared.

Finally, as a society, we need greater emphasis on preventive care, an investment in people and their health that saves us money, because when families can't get preventive care, they often end up in the emergency room—getting the most expensive care possible.

EXPANDING COVERAGE

All that we have learned in the last decade confirms that our goal should continue to be what every other industrialized nation has achieved—health care that's always there for every citizen.

For the first time, this year a nonpartisan group dedicated to improving the nation's health, the Institute of Medicine, recommended that by 2010 everyone in the United States should have health insurance. Such a system would promote better overall health for individuals, families, communities and our nation by providing financial access for everyone to necessary, appropriate and effective health services.

It will, as I have been known to say, take the whole village to finance an affordable and accountable health system. Employers and individuals would share in its financing, and individuals would have to assume more responsibility for improving their own health and lifestyles. Private insurers and public programs would work together, playing complementary roles in ensuring that all Americans have the health care they need. Our society is already spending $35 billion a year to treat people who have no health insurance, and our economy loses $65 billion to $130 billion in productivity and other costs. We are already spending what it would cost if we reallocated those resources and required responsibility.

In the post 9/11 world, there is one more reason for universal coverage. The anthrax and ricin episodes, and the continuing threat posed by biological, chemical and radiological weapons, should make us painfully aware of the shortcomings of our fragmented system of health care. Can you imagine the aftermath of a bioterrorism attack, with thousands of people flooding emergency rooms and bureaucrats demanding proof of insurance coverage from each and every one? Those without coverage might not see a doctor until they had infected others.

Insurance should be about sharing risk and responsibility—pooling resources and risk to protect ourselves from the devastating cost of illness and injury. It should not be about further dividing us. Competition should reward health plans for quality and cost savings, not for how many bad risks they can exclude—especially as we enter the genomic age, when all of us could have uninsurable risks written into our genes.

So achieving comprehensive health care reform is no simple feat, as I learned a decade ago. None of these ideas mean anything if the political will to ensure that they happen doesn't exist.

Some people believe that the only solution to our present cost explosion is to shift the cost and risk onto individuals in what is called "consumer driven" health care. Each consumer would have an individual health care account and would monitor his or her own spending. But instead of putting consumers in the driver's seat, it actually leaves consumers at the mercy of a broken market. This system shifts the costs, the risks and the burdens of disease onto the individuals who have the misfortune of being sick. Think about the times you have been sick or injured—were you able under those circumstances to negotiate for the best price or shop for the best care? And instead of giving individuals, providers and payers incentives for better care, this cost-shifting approach actually causes individuals to delay or skip needed services, resulting in worse health and more expensive health needs later on.

Meanwhile, proposals like those for individual health insurance tax credits, without reforms for the individual insurance market, leave individuals in the lurch as well. We know that asthmatics can have their entire respiratory systems excluded from coverage. Individual insurance companies can increase your premium or limit coverage for factors like age, previous medical history or even flat feet. Those in the individual market cannot pool their risk with colleagues or other members of the group. The coverage you can get and the price you pay for it will reflect individual risk, and you simply don't receive many of the benefits of what we consider traditional insurance when people pool risks. So the proposal to give individuals tax credits to buy coverage in the individual market, without any rules of fair play, won't provide much help for Americans who need health care. In the same way, the recent Medicare bill, which seeks to privatize Medicare benefits, long a government guarantee, threatens to leave the "bad risks" without any affordable coverage. With the new genetic information at our disposal, that could mean any one of us could one day be denied health insurance.

When many of those who opposed the Health Security Act look back, they are still proud of their achievement in blocking our reform plan. The focus of that proposal was to cover everybody by enabling the healthier to pool the "risk" with others. The plan was to redirect what we currently pay for uninsured care into expanding health coverage.

We could make cosmetic changes to the system we currently have, but that would simply take what is already a Rube Goldberg contraption and make it larger and even more unwieldy. We could go the route many have advocated, putting the burden almost entirely on individuals, thereby creating a veritable nationwide health care casino in which you win or lose should illness strike you or someone in your family. Or we could decide to develop a new social contract for a new century premised on joint responsibility to prevent disease and provide those who need care access to it. This would not let us as individuals off the hook. In fact, joint responsibility demands accountability from patients, employers, payers and society as a whole.

What will we say about ourselves 10 years from today? If we finally act to reform what we know needs to change, we may take credit in building a health care system that covers everyone and improves the quality of all our lives. But if we continue to dither and disagree, divided by ideology and frozen into inaction by competing special interests, then we will share in the blame for the collapse of health care in America, where rising costs break the back of our economy and leave too many people without the medical attention they need.

The nexus of globalization, the revolution in medical technology and the seismic pressures imposed by the contradictions in our current health care system will force radical changes whether we choose them or not. We can do nothing, we can take incremental steps—or we can implement wide-ranging reform.

To me, the case for action is clear. And as we work to develop long-term solutions, we can take steps now to help address the immediate problems we face. As Senator John Kerry has proposed, we should cover everyone living in poverty, and all children; allow people to buy into the federal employee health benefits program; and also help employers by reinsuring high-cost claims while assuming more of the costs from hard-pressed state and local governments.

We can pass real privacy legislation that will ensure that Americans continue to feel secure in the trust they place in others for their most intimate medical information. And we can realize the promise of savings through information technology and disease management by passing quality health legislation now.

If we do not fix the problems of the present, we are doomed to live with the consequences in the future. As someone who tried to promote comprehensive health care reform a decade ago and decided to push for incremental changes in the years since, I still believe America needs sensible, wide-ranging reform that leads to quality health care coverage available to all Americans at an affordable cost.

The present system is unsustainable. The only question is whether we will master the change or it will master us.

HONORING OUR ARMED FORCES

PFC CHANCE PHELPS, USMC

Mr. THOMAS. Madam President, I rise today to express our Nation's deepest thanks and gratitude to a special young man and his family. During this past recess, I attended funeral services in Dubois, WY for Marine PFC Chance Phelps. On April 9, 2004, Private First Class Phelps died in the line of duty while serving his country in the war on terrorism. He was shot and killed while fighting insurgents in the town of Ramadi, Iraq, west of Baghdad.

Private First Class Phelps was a member of the 3rd Battalion, 11th Marine Regiment, 1st Marine Division. He spent the early years of his life in Dubois, WY before moving to Colorado. He enjoyed the outdoors, hunting and fishing, and was an outstanding athlete. He was good natured, and loved his family and his country. Private First Class Chance had a profound sense of duty that led him to join the United States Marine Corps. He felt deeply compelled to serve and defend his country following the terrorist attacks of September 11.

It is because of people like Chance Phelps that we continue to live safe and secure. America's men and women who answer the call of service and wear our Nation's uniform deserve respect and recognition for the enormous burden that they willingly bear. Our people put everything on the line everyday, and because of these folks, our Nation remains free and strong in the face of danger.

The motto of the Marine Corps is "Semper Fidelis." It means "Always Faithful." Through his selfless and courageous sacrifice, PFC Chance Phelps lived up to these words with great honor.

Private First Class Phelps is survived by his mother Gretchen, his father John, his sister Kelley, and his brothers of the United States Marine Corps. We say goodbye to a son, a brother, a Marine, and an American. Our Nation pays its deepest respect to PFC Chance Phelps for his courage, his love of country and his sacrifice, so that we may remain free. He was a hero in life and he remains a hero in death. All of Wyoming, and indeed the entire Nation are proud of him.

So, one Marine to another, Private First Class Phelps, Semper Fi.

SP4 DENNIS MORGAN

Mr. JOHNSON. Madam President, I rise today to pay tribute to SP4 Dennis Morgan, a member of the South Dakota National Guard, who died on April 15, 2004, while serving in Operation Iraqi Freedom.

Specialist Morgan was a member of the 153rd Engineer Batallion, which is based in Wagner, SD. He was helping clear mines and explosives when a roadside bomb went off, killing him.

Answering America's call to the military, Specialist Morgan joined the National Guard immediately after graduating from Winner High School in 2000. He joined, along with his best friend from high school, Michael Lee. Their bond was special and they did everything together. Michael's father, Melvin, said of Dennis, "He was often at our place, working on cars with Michael, and here for dinners."

After high school, Morgan moved back to his original hometown of Valentine, NE, where he sometimes worked as an auto mechanic. Shortly before leaving for Iraq, he married his girlfriend, Cathy.

Specialist Morgan is the first member of the South Dakota National Guard to be killed in combat since World War II. Company A, which includes members from Wagner and Winner, was assigned to the 1st Marine Expedition Headquarters. Their Company is responsible for defusing roadside explosives. "They were very proud of their mission, and they still are, because those explosive devices are what are killing everybody," said Roger Anderson, information officer was the South Dakota Army National Guard.

Specialist Morgan served our country and died as a hero, fighting for it. He served as a model of loyalty and dedication in the preservation of freedom. The thoughts and prayers of my family, as well as our country's, are with his family during this time of mourning. Our thoughts continue to be with all those families who have children, spouses, fathers, and other loved ones serving overseas.

Specialist Morgan led a full life, committed to his family, his Nation, and his community. It was his incredible dedication to helping others that will serve as his greatest legacy. Our Nation is a far better place because of Specialist Morgan's contributions, and, while his family, friends, and Nation will miss him very much, the best way to honor his life is to remember his commitment to service and his family.

I join with all South Dakotans in expressing my sympathies to the friends and family of Specialist Morgan, I know that he will always be missed, but his service to our Nation will never be forgotten.

PFC DERYK L. HALLAL

Mr. BAYH. Madam President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Indianapolis, IN. PFC Deryk L. Hallal, 24 years old, died in the al-Anbar province, just west of Baghdad on April 6, 2004. He was struck by gunfire during an attack.

Deryk graduated from North Central High School in 1998 and studied computer programming at the Professional Careers Institute before joining the Marines last year, just months after the conflict in Iraq began. He was a rifleman assigned to the 2nd Battalion, 4th Marine Regiment, based at Camp Pendleton, CA. According to his mother, he was fulfilling the duty he felt compelled to do after the events of September 11. With his entire life before him, Deryk chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Deryk was the 27th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his father, Jeff; his mother, Pam; and four younger siblings. May Deryk's siblings grow up knowing that their brother gave his life so that young Iraqis will some day know the freedom they enjoy.

Today, I join Deryk's family, his friends, and the entire Indianapolis community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Deryk, a memory that will burn brightly during these continuing days of conflict and grief.

When looking back on the life of her late son, Deryk's mother, Pam, told the Indianapolis Star that her son "was a big jokester, he would light up the room." Deryk was known for his wonderful sense of humor, his big heart and his love of sports. His father, Jeff, said Deryk dreamed of one day becoming a sports announcer. Today and always, Deryk will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Deryk's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

> We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Deryk's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Deryk L. Hallal in the official RECORD of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Deryk's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless America.

HOLOCAUST REMEMBRANCE DAY

Mr. DEWINE. Madam President, yesterday was Yom HaShoah, Holocaust Remembrance Day. Holocaust Remembrance Day is the day that has been set aside for remembering the victims of the Holocaust and for contemplating what can happen to civilized people when bigotry, hatred, and indifference reign.

Between 1938 and 1945, the Nazis murdered over 11 million people throughout Europe, 6 million of them Jewish. On Holocaust Remembrance Day, we remember those who gave their lives because of their heritage, tradition, and beliefs. While the Jews of Europe were defenseless against the Nazi regime, many held on to their faith up until the last moments of their lives. Every year, on the Holocaust Remembrance Day, we remember those who sanctified the name of God in the death camps, the ghettos, and elsewhere.

Holocaust Remembrance Day occurs on the 27th day of the Jewish calendar's month of Nissan. This year, that was yesterday. When it falls on a weekend, it is commemorated on the following Monday. The date also marks the anniversary of the heroic Warsaw Ghetto uprising of 1943, which occurred 61 years ago to the day—April 19, 1943.

The Holocaust is not merely a story of destruction and loss. It is a remarkable story of the human spirit—of the life that flourished before the Holocaust, struggled during its darkest hours, and ultimately prevailed as the survivors and their progeny struggled to rebuild. Indeed, Holocaust Remembrance Day occurs just eight days before Israel's Independence Day. Today, in Israel, a morning siren sounds, stopping all activity—and people stand in honor of those who died. Indeed, people of all faiths around the world hold memorials and vigils, often lighting candles in honor of the Holocaust victims. Many hold name-reading ceremonies to memorialize those who perished.

It has been over 50 years since the last concentration camp was liberated and many of the Holocaust survivors are now succumbing to natural causes. It is our obligation to share their stories to ensure that this horrible tragedy never repeats itself. We must honor the lives of those who lived on and those who did not survive the Nazis and their murderous cohorts.

There are literally hundreds of excellent movies and documentaries on the events before, during, and after the Holocaust. They cover every possible topic from deepest tragedies to the pinnacle of one of the greatest forces of all—the human spirit. These films vary from Hollywood to amateur documentaries, and include the Shoah Foundation's valiant efforts to record living survivors. All should bear witness, so that this kind of inhumanity will never happen again. I also recommend visiting the U.S. Holocaust Memorial Museum here in Washington. It is a unique treasure that serves as a soulful reminder of the events of World War II.

Finally, seek out those with personal or family knowledge of this enormous tragedy. Nothing can replace the power of the first person accounts from a survivor, child of a survivor, liberator of the camps, or member of the resistance. Their stories teach us all.

ADDITIONAL STATEMENTS

RECOGNITION OF CALIFORNIA PHYSICIAN PHILIP C. HOPEWELL, M.D.

• Mrs. FEINSTEIN. Madam President, I rise today to recognize Philip C. Hopewell, M.D., of San Francisco, CA. A pioneer in pulmonary medicine, Dr. Hopewell is being awarded the Edward Livingston Trudeau Medal in recognition of his lifelong contributions to the prevention, diagnosis, and treatment of lung disease. Dr. Hopewell has dedicated over 30 years researching national and international tuberculosis control.

Dr. Hopewell's commitment to pulmonary disease serves as an example for all working to preserve the health of this Nation and the world. From the early 1970s, Dr. Hopewell has been concerned with those living with tuberculosis. Dr. Hopewell began his career as a consultant in tuberculosis control to the Nigerian government in the war-affected areas of eastern Nigeria. Later, his interest in tuberculosis control in developing countries was fostered by his work in the Pan-American Health Organization in 1980–1981 and with the Stop TB Partnership, based at the World Health Organization in Geneva in 2003.

Not only has Dr. Hopewell helped countless tuberculosis patients around the globe, he has been instrumental in addressing the problem here at home. Dr. Hopewell has been on the faculty at UCSF, based at San Francisco General, since 1973, where he served as chief of the Division of Pulmonary and Critical Care Medicine from 1989 to 1998 and Associate Dean 1998 to 2004. Today, Dr. Hopewell continues to practice clinical pulmonary and critical care medicine at San Francisco General Hospital, serving as an attending physician on the pulmonary consultation service and in the medical intensive care unit.

In addition to his clinical work, Dr. Hopewell spends a great deal of his time as a researcher. Dr. Hopewell's research has enabled more specific targeting of control interventions and has helped contribute to a nearly 60 percent reduction in the number of new cases of tuberculosis in San Francisco in the past decade. In 1981, Dr Hopewell became involved in the San Francisco tuberculosis control program through the Department of Public Health. From this association, the Frances J. Curry National Tuberculosis Center, directed by Dr. Hopewell was formed. The Curry Center is one of three CDC-funded model centers in the country and provides important opportunities for training and research in many aspects of tuberculosis and tuberculosis control.

Today, I acknowledge Dr. Hopewell for his lifelong accomplishments in tuberculosis research and tuberculosis control. I also acknowledge Dr. Hopewell's numerous leadership positions in pulmonary medicine. He served on the National Advisory Council of the National Institutes of Allergy and Infectious Disease, was president of the California Thoracic Society, the North American Region of the International Union against Tuberculosis and Lung Disease, and the American Thoracic Society.

I am pleased to take this opportunity to recognize Dr. Hopewell for his service to the medical community and to our Nation and to congratulate him on being selected to receive the American Lung Association's Edward Livingston Trudeau Medal.•

TRIBUTE TO JUDGE JOHN ROBERT PERRY

• Mr. BUNNING. Madam President, today I would like to take the opportunity to remember Judge John Robert Perry. He passed away tragically last Monday at age 72 and will be greatly missed by his surviving family and all the residents he served as the 36th District Court Judge of Wyoming.

Judge Perry was known in the legal community for his wit, his dedication to the law and his willingness to share his legal knowledge with up-and-coming attorneys and fellow judges. His friends considered him "even-tempered, level-headed and down-to-earth." He was a shining example of what makes this country great. Judge Perry will be missed, and our hearts go out to his family during this time.•

UNIVERSITY OF DENVER HOCKEY TEAM

• Mr. ALLARD. Madam President, today I wish to recognize the recent achievement of the University of Denver Hockey Team. On April 10, 2004, on the frigid ice of a Boston arena, two champion caliber teams faced one another in what will go down in history as one of the most exciting nights in college sports history. On this particular evening the University of Denver Pioneers came out on top, defeating the Black Bears of Maine and winning the Men's NCAA Division One Championship.

The University of Denver has a distinguished history of athletic excellence. While this is the university's sixth national title for hockey, it is the first since 1969.

The title game itself was decided by the narrowest of margins, a one-goal-to-none victory for DU. Pioneer forward Gabe Gauthier scored the games only goal on an assist from forward Connor James. Among its many outstanding scholar athletes the University of Denver can boast of senior goalie Adam Berkhoel, MVP of the Frozen Four championship round and one of college hockey's brightest stars. These outstanding individual efforts can not eclipse the most distinct aspect of the title game, the perfect team play exhibited by the Pioneers. Denver spent most of the last 2 minutes of the game down two players and fighting off an attack by six Maine players with only three defenders between the Black Bears and the Pioneer goalie. Never have 2 minutes of hockey seemed longer; never have 2 minutes of hockey ended more sweetly.

At the helm of the University of Denver hockey team is coach George Gwozdecky. Coach Gwozdecky came to DU in 1994 and has compiled an impressive record of 196–140–26 with the Pioneers. This year Coach Gwozdecky was named runner-up Division One Coach of the Year, an honor I know he shares with his dedicated staff.

Today I share my congratulations with the entire University of Denver community. Such an outstanding and rare achievement as a national title reflects the hard work and dedication of many people. Congratulations to all the DU Pioneers. Congratulations to Chancellor Daniel Ritchie, Provost Bob Coombe, President Mark Holtzman, Director of Athletics Dianne Murphy, Coach Gwozdecky and his staff, and especially the Pioneer players, students and fans. You have made us all very proud.•

VETERANS' UPWARD BOUND ANNIVERSARY

• Mr. LUGAR. Madam President, the Veterans Upward Bound program has provided assistance to over 4,300 veterans in Indiana since 1979 when Vincennes University began administering the program. Now, the National Association of Veterans Upward Bound Project Personnel, NAVUBPP, is celebrating its 25th anniversary this year and has asked that Wednesday, April 28, 2004, be proclaimed as National Veterans Upward Bound Day. This program, which began nationally in 1972, provides information and assistance to help low-income and first-generation college veterans access to postsecondary education.

I extend my congratulations to this organization, which celebrates its Silver Anniversary Conference on April 28, 2004.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, a treaty, and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-7037. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report entitled "Unmanned Aerial Vehicles Appropriations to Homeland Security Missions"; to the Committee on Armed Services.

EC-7043. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Boscalid; Pesticide Tolerance" (FRL#7353-1) received on April 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7044. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Support for the Tribal Pesticide Program Council (TPPC); Notice of Funds Availability" (FRL#7349-1) received on April 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7045. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Animal Welfare; Transportation of Animals on Foreign Air Carriers; Confirmation of Effective Date" (Doc. No. 02-012-2) received on April 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7046. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mesosulfuron-Methyl; Pesticide Tolerance" (FRL#7351-4) received on April 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7047. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fosthiazate; Pesticide Tolerance" (FRL#7339-4) received on April 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7048. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hygromycin B Phosphorransferase; Exemption from the Requirement of a Tolerance" (FRL#7352-8) received on April 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7049. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lambda-Cyhalothrin and an Isomer Gamma-Cyholathrin; Tolerances for Residues" (FRL#7353-4) received on April 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7050. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to a transfer of funds to the Defense Working Capital Fund; to the Committee on Armed Services.

EC-7051. A communication from the Principal Deputy General Counsel, Department of Defense, transmitting, a draft of proposed legislation relative to the National Defense Authorization Bill for Fiscal Year 2005; to the Committee on Armed Services.

EC-7052. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to Department of Defense purchases from foreign entities in Fiscal Year 2003; to the Committee on Armed Services.

EC-7053. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of an authorization to wear the insignia of brigadier general; to the Committee on Armed Services.

EC-7054. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report relative to Armed Services' aviation programs; to the Committee on Armed Services.

EC-7055. A communication from the Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "CHAMPUS/TRICARE; Implementation of the Pharmacy Benefits Program" (RIN0720-AA63) received on April 9, 2004; to the Committee on Armed Services.

EC-7056. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the implementation of the revised Office of Management and Budget Circular; to the Committee on Armed Services.

EC-7057. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report relative to the commissary and exchange store at Orlando, Florida; to the Committee on Armed Services.

EC-7058. A communication from the Acting Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the status of the Commission's licensing and regulatory duties; to the Committee on Environment and Public Works.

EC-7059. A communication from the Assistant Secretary of Defense for Health Affairs, Department of Defense, transmitting, pursuant to law, a report relative to the Department of Veterans' Affairs; to the Committee on Armed Services.

EC-7060. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Imposition of Special Measures Against Burma" received on April 9, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7061. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Imposition of Special Measures Against Myanmar Mayflower Bank and Asia Wealth Bank" (RIN1506-AA63) received on April 9, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7062. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Appraisals Required; Transactions Requiring a State Certified Licensed Appraiser" received on April 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7063. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Requests for Information Under the Freedom of Information Act and Privacy Act, and by Subpoena; Security Procedures for Classified Information" received on April 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7064. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "Organization and Operations of Federal Credit Unions; Benefits for Employees of Federal Credit Unions" received on April 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-7065. A communication from the Secretary, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ('Appliance Labeling Rule')" (RIN3084-AA74) received on April 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7066. A communication from the Contracting Officer, Department of Transportation, transmitting, pursuant to law, a report relative to Interagency Agreement No. DTTS59-99-X-00539; to the Committee on Commerce, Science, and Transportation.

EC-7067. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16-1" (RIN0648-AR36) received on April 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7068. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Foreign Fishing; Fisheries off West Coast States and in the Western Pacific; Pacific Groundfish Fishery; Annual Specifications and Management Measures" (RIN0648-AR54) received on April 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7069. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications; Pacific Sardine Fishery" (RIN0648-AP43) received on April 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7070. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Clay Center, KS Doc. No. 03–ACE–96" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7071. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Iowa Falls, IA Doc. No. 03–ACE–91" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7072. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Iowa City, IA Doc. No. 04–ACE09" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7073. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class D Airspace; Cannon Air Force Base, NM Doc. No. 03–ASW–4" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7074. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; Rapid City, SD Doc. No. 03–AGL–17" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7075. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class D Airspace; Little Rock Air Force Base, AR Doc. No. 03–ASW–2" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7076. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Angel Fire, NM Doc. No. 03–ASW–1" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7077. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Charleston, MO Doc. No. 04–ACE–12" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7078. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Fort Scott, KS Doc. No. 03–ACE–98" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7079. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class D Airspace; Altus Air Force Base, OK Doc. No. 03–ASW–3" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7080. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Colby, KS Doc. No. 03–ACE–97" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7081. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Independence, IA Doc. No. 03–ACE–90" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7082. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Marysville, KS Doc. No. 03–ACE–99" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7083. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Benton, KS Doc. No. 03–ACE–94" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7084. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Excelsior Springs, MO Doc. No. 04–ACE–13" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7085. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Chanute, KS Doc. No. 03–ACE–95" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7086. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Hays, KS Doc. No. 04–ACE–7" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7087. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Beloit, KS Doc. No. 03–ACE–93" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7088. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Plattsmouth, NE Doc. No. 03–ACE–76" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7089. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Anthony, KS Doc. No. 03–ACE–92" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7090. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Hamilton, MT Doc. No. 03–ANM–5" (RIN2120–AA66) received on April 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7091. A communication from the Secretary of the Interior and the Secretary of Energy, transmitting, pursuant to law, a report relative to the implementation of the Rocky Flats National Wildlife Refuge Act of 2001; to the Committee on Energy and Natural Resources.

EC–7092. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "New Mexico Regulatory Program" (NM–043–FOR) received on April 9, 2004; to the Committee on Energy and Natural Resources.

EC–7093. A communication from the Acting Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Determination of Endangered Status and Prudency Determination for Designation of Critical Habitat for Two Plant Species from the Commonwealth of the Northern Mariana Islands: Withdrawal of Proposed Rule to List Tabernamontana rotensis as Endangered" (RIN1018–AG09) received on April 9, 2004; to the Committee on Energy and Natural Resources.

EC–7094. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Subsistence Harvest in Alaska; Subsistence Harvest Regulations for Migratory Birds in Alaska During the Spring/Summer 2004 Subsistence Season" (RIN1018–AJ27) received on April 9, 2004; to the Committee on Energy and Natural Resources.

EC–7095. A communication from the Acting Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Establishment of an Additional Manatee Protection Area in Lee County, Florida" (RIN1018–AT65) received on April 9, 2004; to the Committee on Energy and Natural Resources.

EC–7096. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; Post-1996 Rate of Progress Plans and One-Hour Ozone Attainment Demonstrations" (FRL#7645–1) received on April 9, 2004; to the Committee on Environment and Public Works.

EC–7097. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 12(1) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of North Carolina" (FRL#7646–2) received on April 9, 2004; to the Committee on Environment and Public Works.

EC–7098. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters" (FRL#7633–9) received on April 9, 2004; to the Committee on Environment and Public Works.

EC–7099. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approvals Under the Paperwork Reduction Act; Technical Amendment" (FRL#7645–6) received on April 9, 2004; to the Committee on Environment and Public Works.

EC–7100. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pollution Prevention Grants and Announcement of Financial Assistance Programs Eligible for Review; Notice of Availability" (FRL#7342–6) received on April 9, 2004; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALEXANDER:

S. 2319. A bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAUCUS (for himself and Mr. BURNS):

S. Res. 340. A resolution expressing the sense of the Senate that the President should designate September 26, 2004, as "National Good Neighbor Day"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 533

At the request of Mr. SCHUMER, the names of the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 533, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 1115

At the request of Mrs. MURRAY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1115, a bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Indiana (Mr. LUGAR) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1544

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1544, a bill to provide for data-mining reports to Congress.

S. 1554

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1554, a bill to provide for secondary school reform, and for other purposes.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1833

At the request of Mr. DASCHLE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1833, a bill to improve the health of minority individuals.

S. 1840

At the request of Mr. CONRAD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1840, a bill to amend the Food Security Act of 1985 to encourage owners and operations of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States.

S. 2065

At the request of Mr. JOHNSON, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2065, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. 2106

At the request of Mr. BUNNING, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2106, a bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works.

S. 2141

At the request of Mr. LUGAR, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2141, a bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on soybean base acres.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2236

At the request of Ms. CANTWELL, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Oregon (Mr. WYDEN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 2236, a bill to enhance the reliability of the electric system.

S. 2265

At the request of Mr. ROBERTS, the names of the Senator from New York (Mrs. CLINTON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Ms. CANTWELL), the Senator from Delaware (Mr. BIDEN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2265 , a bill to require group and individual health plans to provide coverage for colorectal cancer screenings.

S. 2292

At the request of Mr. VOINOVICH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2292, a bill to require a report on acts of anti-Semitism around the world.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Maine (Ms. SNOWE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

S. RES. 332

At the request of Mr. FEINGOLD, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 332, a resolution observing the tenth anniversary of the Rwandan Genocide of 1994.

S. RES. 339

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 339, a resolution urging the President to immediately instruct the Secretary of State and the Secretary of Defense to respectively begin initiating consultations with other members of the United Nations Security Council concerning a United Nations Security Council Resolution for Iraq, and with the Secretary General of the North Atlantic Treaty Organization (NATO) concerning a mandate for a NATO commitment for security in Iraq, with the goal of securing both not later than May 15, 2004.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALEXANDER:

S. 2319. A bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project; to the Committee on Energy and Natural Resources.

Mr. ALEXANDER. Madam President, I rise to speak about an issue that concerns the Senator from North Carolina and her constituents. I know of her love for the Great Smoky Mountains and her concern for the outdoors, and while most of what I am about to say affects eastern Tennessee and the Great Smoky Mountains, anything that affects eastern Tennessee and the Great Smoky Mountains has something to do with western North Carolina and the Great Smoky Mountains. This is some good news for the outdoors men and women and all of the people who love the mountains, the valleys, and the rivers of east Tennessee and western North Carolina.

The legislation I have introduced will save thousands of good-paying jobs at the Aluminum Company of America plants in Blount County, which is my hometown, and at the same time provide recreational opportunities on thousands of acres of ALCOA mountain land for canoeists, hikers, and fisher men and women. Of importance to all of us who enjoy the outdoors in east Tennessee and North Carolina, this agreement should help to create fuller lake reservoirs during the summer recreation season.

This bill I have introduced today is necessary because since 1913, a little more than 90 years, the Aluminum Company of America has operated dams high on the Little Tennessee River adjacent to what is now the Great Smoky Mountain National Park near the border of Tennessee and North Carolina. These dams were built before either the Tennessee Valley Authority or the Great Smoky Mountain National Park were created. These four dams provide half of the electric power ALCOA uses to operate its plants in the valley below the mountains in Blount County, TN. ALCOA's license to operate these four dams expires next year. The company has applied to the Federal Electric Regulatory Commission for a 40-year license renewal.

ALCOA's license renewal application has created a lot of interest in the Tennessee Valley, and for two reasons. The first reason involves the economic well-being of thousands of current and retired ALCOA workers in the communities in which they live. The second reason is the application has attracted broad attention from conservation organizations because of the opportunity to create recreational opportunity on land ALCOA owns in the Little Tennessee River watershed adjacent to the Great Smoky Mountains National Park. Some of this ALCOA land is actually within the legislation boundaries of the park.

On this chart the darker area is the Great Smoky Mountains National Park. This is a unique park created in the mid-1930s and given by the people of North Carolina and Tennessee to the United States. It is the only national park in our system that was given to the Government and not bought by the Government. It has 500,000 acres, more or less, and it is visited each year by about 10 million Americans. It is by far the most visited national park in America. Yellowstone National Park, as an example, has about 3 million visitors a year.

This is the Little Tennessee River. It was the center of the Cherokee civilization when the European pioneers came. This is the river on which Alcoa began to build dams nearly a century ago.

Around these four dams on the river is the land we are talking about. This is approximately 10,000 acres that lie between the Great Smokey Mountain National Park and between the Cherokee National Forest and the Joyce Kilmer-Slickrock Wilderness Area. This is Tennessee. This is North Carolina. The Tennessee/North Carolina border runs right across the top of those 6,000-foot mountains. One of the most beautiful areas in America with virgin timber is right here in the Joyce Kilmer-Slickrock Creek Wilderness Area just across the line from Tennessee. So we are talking in my remarks and in this legislation about 10,000 acres that lie between the Great Smokies and the Cherokee National Forest.

One may wonder, just listening to this, what does that have to do with the Federal Energy Regulatory Commission. Under our rules, Alcoa now has to apply for a 40-year renewal to operate these four dams. The conservation organizations in the area and the neighboring communities began a discussion with Alcoa 7 years ago about what would happen when that application renewal came up. That 7 years of discussion between the Aluminum Company of America, the neighboring regions, and the various conservation organizations have come up with a settlement agreement on which people have worked long and hard. Basically it does this. Alcoa will basically swap or exchange this land here in exchange for community and conservation support for the license renewal.

We are going to hold a hearing on this whole subject on April 27 in the

Senate Energy Committee. I look forward to working with our chairman, Senator DOMENICI, and with the chairman of the National Park Subcommittee, Senator THOMAS, on that day.

We hear a lot about obstinate companies that are not interested in the environment. We hear a lot about conservation organizations that will not be reasonable. Here is a good story. Here is a textbook example of how a major American company can work with communities and conservation organizations to help Americans keep a high standard of living as well as to conserve the environment. Once approved, I expect it to become a model for many other companies, communities, and conservation groups.

I see on the floor now the Senator from Georgia, who spent a fair amount of his younger life in Tennessee, probably in these same mountains. He, as I, and the Senator from North Carolina, have visited and hiked in and enjoyed these mountains as thousands do. Let me say first a word about the jobs involved and then a word about the recreational opportunities.

On the jobs, looking back those 90 years, this is the story. In 1913 a group of men from Pittsburgh came quietly to Maryville, TN, to meet with the mayor. The businessmen were looking for a location for an aluminum smelter. They came to Maryville because alumina is extracted from bauxite ore in an electrolysis process requiring huge amounts of electricity, and the opportunity for producing huge amounts of electricity existed better in the Tennessee Valley than in almost any other part of the United States.

The Great Smoky Mountains rise to more than 6,600 feet above the valley in which Maryville is situated, and the rainfall in those mountains is more than 80 inches a year, one of the highest in America. So that combination, heavy rainfall and fast-running water, created a formula for making cheap hydroelectric power, so Alcoa built four dams along the Little Tennessee River: Calderwood, Cheoah, Chilhowee, and Fontana. Half of the electricity for the Alcoa operations in east Tennessee comes from those four dams. The rest of Alcoa's power is purchased from the Tennessee Valley Authority.

Here is what happened to the far-sighted mayor who visited with those Alcoa executives in 1913 and approved the location of that aluminum smelter in the Tennessee Valley. He was literally tarred and feathered and run out of town because the mountain people did not want to be disturbed by what they were afraid was about to come and disturb their lifestyle. What came was the largest aluminum smelter in the world, which, when combined with a fabricating plant and a rolling mill, employed as many as 14,000 during World War II. The Alcoa plants made the metal that helped win the war.

Meanwhile, the Alcoa jobs, those 14,000 jobs since 1913 until today, transformed one of the poorer parts of America. When Alcoa came to Appalachia, family incomes of these families of east Tennessee were about one-third of the national average. I know about this. Our family has been in that part of Tennessee for seven generations. But the Aluminum Company of America began to pay steelworker wages to these 14,000 families and those wages were national wages. So suddenly men and women from all over east Tennessee, and I imagine some from North Carolina, were driving dozens of miles to get one of those Alcoa jobs that brought with it good income, good health care, and a retirement income.

Some of those who went to work there included many African Americans who had been brought to Tennessee from Alabama to help build the plants. The changes that those Alcoa jobs brought to Blount County and to the surrounding counties is proof positive of what three generations of good jobs can do: good housing, low crime, strong families, some of the best public schools anywhere in America, almost nobody rich but almost everybody with a good job.

Today, there are 2,000 Alcoa jobs in east Tennessee. That means $140 million in salaries and benefits. It means $½ million a year in Alcoa Foundation education scholarships to children of those employees. It means $230 million each year in purchased goods and services; $7 million in State and local taxes—a total of $377 million a year just to Tennessee.

I must confess a personal interest in this story. I grew up hearing about Charles Martin Hall and the discovery of Aluminum. My father went to work for Alcoa in 1941, the year after I was born. The job the plant manager, Mr. Granville Swaney, offered to him as a safety engineer paid twice what my father was being paid as principal at West Side Elementary School, and one of those Alcoa Foundation scholarships went to me in 1958, making it possible for me to attend Vanderbilt University, something I never could have afforded to do otherwise.

So you can see why I believe, as well as I am sure almost all Tennesseans believe, it is critically important to renew this hydroelectric license for another 40 years and keep these good jobs in the Tennessee Valley. Without these four dams providing low-cost reliable power, these jobs would be gone overnight, probably to Alcoa plants in Quebec or Iceland where the hydroelectric power is plentiful and cheap.

The second reason and the final reason this settlement agreement has attracted such widespread interest is because of the recreation opportunities it will provide.

Tapoco is the name of the Alcoa subsidiary that owns the four dams I described along this Little Tennessee River. The acres contained within the Tapoco project are sandwiched between nearly 10,000 acres of nonproject lands owned by Alcoa. These nonproject lands are the 10,000 acres in green here. This is in the area I mentioned of the Great Smokies, the Cherokee National Forest, the Nantahala National Forest, the Citico Creek, and Joyce Kilmer-Slickrock Wilderness Areas.

A critical requirement in obtaining this 40-year license renewal is this settlement agreement negotiated by and with a large group of interested relicensing stakeholders. These stakeholders include the National Park Service, the U.S. Fish and Wildlife Service, the eastern band of Cherokees, State agencies representing Tennessee and North Carolina, numerous nongovernmental organizations, local government, homeowners associations, and individual citizens.

They began to discuss all of this 7 years ago. It has taken all of that time to work this out.

In order to make this effective, however, Congress must authorize the land exchanges in the settlement agreement. The terms and conditions under the settlement agreement will then become terms and conditions under Alcoa's hydroelectric license.

In order for the Federal Electric Regulatory Commission to have legal authority to put the settlement agreement terms and conditions in the license, legislation from Congress is required prior to the Federal Energy Regulatory Commission making a relicensing decision in August of 2004.

Much of the settlement agreement is focused on the transfer of land interests between the Great Smoky Mountains, the U.S. Forest Service, and Alcoa.

Let me see if I can describe it simply.

The first part of the land swap is between the Great Smokies National Park and Alcoa. The Great Smokies will transfer 100 acres of flood areas of land in exchange for 186 acres of biologically sensitive acreage that Alcoa owns.

All of us growing up always heard about people from Florida coming up and wanting to buy land and we would sell them land that was flooded, or they would sell us land that was flooded. But basically, flooded land—100 acres—is being swapped for 186 acres of land that is a biologically diverse area, and this will go into the Great Smoky Mountain National Park.

In fact, it was already within the legislative boundaries. But I suppose the park ran out of money back in the 1930s and couldn't buy it.

The second component is a big tract of land—6,000 acres between the Smokies and the Cherokee National Forest.

After a complicated set of arrangements, what can happen is this:

It involves the Nature Conservancy, but this legislation authorizes the Secretary of the Interior to purchase this land at a reasonable value from the Nature Conservancy after Alcoa gives it to the Nature Conservancy.

The long and short of it will be that after 3 years, hopefully the Great Smokies will be 6,000 acres larger and immediately people who live in this region will be able to enjoy this 6,000 acres.

There is one other part to this. There is a 4,000-acre tract over here. The Nature Conservancy will own this under the agreement, but it will also be open to outdoor recreation, to hunters, and to fishermen.

All of this is part of Alcoa's relicensing agreement. The people who work here get the jobs. Everybody who lives here gets to enjoy a national park with 6,000 more acres and an area that includes 4,000 more acres.

That is the legislation I have introduced today. The legislation will allow the settlement agreement worked on for 7 years to be implemented and for Alcoa's relicensing process at the Federal Energy Regulatory Commission to proceed.

Alcoa, American Rivers, Blount County, city of Alcoa, city of Maryville, eastern band of Cherokee Indians, Great Smoky Mountains National Park—I say particularly the Nature Conservancy and the National Parks Conservation Association—thank you for your hard work.

Also, North Carolina Department of Environment and Conservation, North Carolina Wildlife Resources Commission, Tennessee Clean Water Network, and various other organizations I want to mention have also been a part of this effort.

It gives me a great deal of personal pleasure to be able to come to the floor and compliment the hard work of others over the last 7 years.

The hard work of the Aluminum Company of America, the creativeness and reasonableness of the conservation organizations and communities will result in 2,000 good jobs being saved and all of us being able to enjoy up to 10,000 more acres adjacent to the Great Smoky Mountains National Park.

Mr. CHAMBLISS. Madam President, I overheard my good friend from east Tennessee as he spoke about life in the Great Smoky Mountains and the bill that he is presenting today. Knowing his passion for east Tennessee—not just east Tennessee but the whole State of Tennessee and that whole region—gives all of us great reason to examine exactly what he is proposing because I know what he is doing is not just right for that part of the country but for the country as a whole from a preservation and protection standpoint.

It is kind of interesting as I sat there and listened to him talk about the number of agencies and entities he has brought together in this one proposal and has everybody in the core. The Senator, obviously, has done an awful lot of work over the last year and a half that he served in the Senate to bring this coalition together in support of that project.

I wish to take the opportunity as somebody who spent a large part of my life in the mountains of east Tennessee to commend the Senator. I appreciate all of his hard work, his dedication, and the proposal he came up with relative to the Alcoa project.

I told him I feel better now about buying all of that aluminum foil over the years because I know it went to send him to Vanderbilt. What a great asset he is to Vanderbilt and to the University of Tennessee and now to the Senate.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 340—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD DESIGNATE SEPTEMBER 26, 2004, AS "NATIONAL GOOD NEIGHBOR DAY"

Mr. BAUCUS (for himself and Mr. BURNS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 340

Whereas our society has developed highly effective means of speedy communication around the world, but has failed to ensure meaningful communication among people living across the globe, or even across the street, from one another;

Whereas the endurance of human values and consideration for others are critical to the survival of civilization; and

Whereas being good neighbors to those around us is the first step toward human understanding: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL GOOD NEIGHBOR DAY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate September 26, 2004, as "National Good Neighbor Day".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating September 26, 2004, as "National Good Neighbor Day"; and

(2) calling on the people of the United States and interested groups and organizations to observe "National Good Neighbor Day" with appropriate ceremonies and activities.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Madam President, I ask unanimous consent that Kevin O'Scannlain, Harold Kim, Rene Augustine, Bruce Artim, Ryan Triplette, and Jay Greissing be granted the privilege of the floor for the duration of the debate on S. 2290.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. Madam President, I ask unanimous consent that privilege of the floor be granted to Sharon Segner during consideration of S. 2319.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE—REGISTRATION OF MASS MAILINGS

The filing date for 2004 first quarter mass mailings is Monday, April 26, 2004. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records office will be open from 9 a.m. to 5:30 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224-0322.

APPOINTMENT

The PRESIDING OFFICER. The Chair announces the following appointment made by the Democratic leader during the adjournment: Pursuant to Public Law 108-199, on behalf of the Democratic leader, the appointment of Douglas G. Ohmer of South Dakota to serve as a member of the Abraham Lincoln study Abroad Fellowship Program on April 14, 2004.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108-23

Mr. CHAMBLISS. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on April 19, 2004, by the President of the United States: Extradition Treaty with Great Britain and Northern Ireland, Treaty Document No. 108-23. I further ask consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland, and related exchanges of letters, signed at Washington on March 31, 2003.

In addition, I transmit for the information of the Senate the report of the Department of State with respect to the Treaty. As the report explains, the

Treaty will not require implementing legislation.

The provisions in this Treaty follow generally the form and content of modern extradition treaties recently concluded by the United States and will replace the outdated extradition treaty signed in 1972 and the supplementary treaty signed in 1985 that are currently in force between the two countries. The Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of the two countries. It will thereby make a significant contribution to international law enforcement efforts against serious offenses, including terrorism, organized crime, and money laundering offenses.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE W. BUSH.

ORDERS FOR TUESDAY, APRIL 20, 2004

Mr. CHAMBLISS. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m., on Tuesday, April 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the Democratic leader or his designee in control of the first 30 minutes and the majority leader or his designee in control of the final 30 minutes. I further ask consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAMBLISS. Tomorrow, following morning business, the majority leader will seek consent to begin consideration of calendar No. 472, S. 2290, the asbestos litigation bill. If we are unable to begin consideration of that measure, the majority leader is expected to move to proceed to the bill. Additional Senators have indicated their desire to speak on the bill during tomorrow's session. Unfortunately, if we are unable to begin consideration of the asbestos bill, we will be unable to begin the amendment process. Therefore, it appears unlikely that any rollcall votes will occur tomorrow. Members will be notified when the first vote is scheduled.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. CHAMBLISS. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:32 p.m., adjourned until Tuesday, April 20, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 2004:

DEPARTMENT OF STATE

THOMAS FINGAR, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (INTELLIGENCE AND RESEARCH), VICE CARL W. FORD, JR.

AFRICAN DEVELOPMENT FOUNDATION

CONSTANCE BERRY NEWMAN, ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2009, VICE WALTER H. KANSTEINER, RESIGNED.

DEPARTMENT OF STATE

ANNE W. PATTERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

ANNE W. PATTERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

SUZANNE HALE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATED STATES OF MICRONESIA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOHN D. ADAMS, 6635

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JERRY M. BROWN, 5656

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

FRANK G. ATKINS, 4890

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JAMES R. VANDERGRIFT 2650

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DAVID C. COX, 3294

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

SCOTT F. MURRAY, 8784

WITHDRAWAL

Executive message transmitted by the President to the Senate on April 19, 2004, withdrawing from further Senate consideration the following nomination:

WALTER H. KANSTEINER, ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2003, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 2003.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 20, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 21

9:30 a.m.

Foreign Relations

To hold hearings to examine the current state of society in Iraq.

SD-419

Indian Affairs

To hold hearings to examine S. 297, to provide reforms and resources to the Bureau of Indian Affairs to improve the Federal acknowledgement process.

SR-485

10 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for missile defense.

SD-192

Joint Economic Committee

To hold hearings to examine the economic outlook.

SH-216

2 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the nominations of Romolo A. Bernardi, of New York, to be Deputy Secretary of Housing and Urban Development, Dennis C. Shea, of Virginia, to be Assistant Secretary for Policy Development and Research, and Cathy M. MacFarlane, of Virginia, to be Assistant Secretary for Public Policy, both of the Department of Housing and Urban Development.

SD-538

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign assistance and to combat international terrorism.

SD-124

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold an oversight hearing to examine the implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.

SD-366

APRIL 22

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine U.S. Commission on Ocean Policy Report.

SR-253

Foreign Relations

To hold hearings to examine obstacles and opportunities regarding the Iraq transition.

SD-106

1:30 p.m.

Foreign Relations

To hold hearings to examine the nomination of Lauren Moriarty, of Hawaii, for the rank of Ambassador during her tenure of service as United States Senior Official to the Asia-Pacific Economic Cooperation Forum.

SD-106

2 p.m.

Appropriations

To hold hearings to examine the report of the U.S. Commission on Ocean Policy.

SD-138

2:30 p.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine U.S.—China relations and the status of reforms in China.

SD-106

Judiciary

Immigration, Border Security and Citizenship Subcommittee

To hold hearings to examine state and local authority to enforce immigration law relating to terrorism.

SD-226

Intelligence

Closed business meeting to consider certain intelligence matters.

SH-219

4 p.m.

Foreign Relations

To hold hearings to examine the nomination of Jendayi Elizabeth Frazer, of Virginia, to be Ambassador of the United States of America to the Republic of South Africa.

SD-419

APRIL 27

9:30 a.m.

Armed Services

Business meeting to consider the nominations of Dionel M. Aviles, of Maryland, to be Under Secretary of the Navy, Jerald S. Paul, of Florida, to be Principal Deputy Administrator, National Nuclear Security Administration, and Tina Westby Jonas, of Virginia, to be Under Secretary of Defense (Comptroller).

SR-222

10 a.m.

Energy and Natural Resources

To hold an oversight hearing to examine sustainable, low emission, electricity generation.

SD-366

APRIL 28

9:30 a.m.

Indian Affairs

To hold hearings to examine S. 2172, to make technical amendments to the provisions of the Indian Self Determination and Education Assistance Act relating to contract support costs.

SR-485

10 a.m.

Foreign Relations

To hold hearings to examine the nominations of James Francis Moriarty, of Virginia, to be Ambassador to Nepal, Michele J. Sison, of Maryland, to be Ambassador to the United Arab Emirates, and Thomas Charles Krajeski, of Virginia, to be Ambassador to Yemen.

SD-419

11:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

3 p.m.

Health, Education, Labor, and Pensions

Children and Families Subcommittee

To hold hearings to examine healthy marriage.

SD-430

MAY 4

2:30 p.m.

Armed Services

Airland Subcommittee

Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2005 for military activities of the Department of Defense.

SR-222

3:30 p.m.

Armed Services

SeaPower Subcommittee

Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2005 for military activities of the Department of Defense.

SR-232A

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

5 p.m.
Armed Services
Emerging Threats and Capabilities Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2005 for military activities of the Department of Defense.
SR–222

MAY 5

9 a.m.
Armed Services
Personnel Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2005 for military activities of the Department of Defense.
SR–232A

10 a.m.
Armed Services
Readiness and Management Support Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2005 for military activities of the Department of Defense.
SR–222

11:30 a.m.
Armed Services
Strategic Forces Subcommittee
Closed business meeting to markup those provisions, which fall within the jurisdiction of the subcommittee, of proposed legislation authorizing appropriations for fiscal year 2005 for military activities of the Department of Defense.
SR–232A

2:30 p.m.
Armed Services
Closed business meeting to markup proposed legislation authorizing appropriations for fiscal year 2005 for military activities for the Department of Defense.
SR–222

MAY 6

9:30 a.m.
Armed Services
Closed business meeting to markup proposed legislation authorizing appropriations for fiscal year 2005 for military activities for the Department of Defense.
SR–222

MAY 7

9:30 a.m.
Armed Services
Closed business meeting to markup proposed legislation authorizing appropriations for fiscal year 2005 for military activities for the Department of Defense.
SR–222

MAY 11

10 a.m.
Energy and Natural Resources
To hold hearings to examine the impacts and costs of last year's fires, focusing on the problems faced last year and what problems agencies and the land they oversee may face next season, including aerial fire fighting assets and crew, and overhead availability.
SD–366

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
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